COMMITTEE OF EXPERTS ON THE EVALUATION OF ANTI-MONEY LAUNDERING MEASURES AND THE FINANCING OF TERRORISM (MONEYVAL)

MONEYVAL(2011)1 ANN

Report on Fourth Assessment Visit - **Annexes**

Anti-Money Laundering and Combating the Financing of Terrorism

CZECH REPUBLIC

12 April 2011

The Czech Republic is a member of MONEYVAL. This evaluation was conducted by MONEYVAL and the report on the 4th Assessment Visit was adopted at its 35th Plenary (Strasbourg, 11 – 14 April 2011).

LIST OF ANNEXES

1. Details of all bodies met during the on-site visit and visit programme.
2. Czech Penal Code, Act N° 40/2009 Coll., English translation of the articles 216, 217, 311, 367, 368 and 410.
3. Czech Penal Code, Act N° 40/2009 Coll., English translation of the articles art. 42 and 135.
4. Czech Civil Code, exergues Proceedings in matters concerning the Companies Register, Section 200; Czech Commercial Code, exergues Companies Register Sections 27-38 and Decree on the Ministry of Justice N. 562/2006 Coll. on Digitalisation of the Companies Register.
5. Czech National Bank, Act N° 6/1993 Coll.
6. Banks, Act N° 21/1992 Coll. (20 December 1991).
7. Selected measures against legitimisation of proceeds of crime and financing of terrorism (AML/CFT Act), Act N° 253/2008 Coll. (5 June 2008).
8. Carrying Out of International Sanctions, Act N° 69/2006 Coll. (3 February 2005).
9. Governing State Inspection, Act N° 552/1991 Coll. (6 December 1991).
10. Reporting by credit unions of the CNB, CNB Provision N° 1/2010 Coll. (19 October 2010).
11. Applications, Approval of Persons and the Manner of Proving Professional Qualifications, Trustworthiness and Experience of Persons, and on the Minimum Amount of Funds to be Provided by a Foreign Bank to its Branch. CNB Decree N° 233/2009 Coll. (21 July 2009).
12. Prudential rules for banks, credit unions and investment firms, CNB Decree N° 123/2007 Coll., as amended by Decree No. 282/2008 Coll. (divided into parts, with links to official information and to questions and answers).
13. Plan of Measures in the Fight against Terrorism, annexed to Cabinet Decree No. 1466 of 16 November 2005 regarding National Action Plan to Combat Terrorism (2005-2007). "Chapter Three: International Commitments of the Czech Republic and Internal Legislative Arrangement Related to the Fight against Terrorism, with Special Regard to the Agenda of the Fight against Financing Terrorism".
14. References to guidance on various issues like: Collective investment; regulated markets, settlement and market abuse; issue and registration of securities, takeover bids and squeeze-outs; investments firms and investment intermediaries.

ANNEX I

I. Details of all bodies met on the on-site mission - Ministries, other government authorities or bodies, private sector representatives and others

- Financial Analytical Unit (of the Ministry of Finance)
- Ministry of Justice (including the Department of Supervision and Compliance, Department of Mutual Legal Assistance, Department of Legislation, Department of European Affairs, Department of International Affairs, Commercial Register)
- Prosecution services (Supreme Public Prosecutor's Office including its Department of Criminal Proceedings and International Department)
- Ministry of the Interior (Security Police Department, Intelligence Service, Organised Crime Unit of the Criminal Police and Investigation Service of the Police of the Czech Republic, Illegal Proceeds and Tax Crime Unit, of the Department of Seizure of Assets and Money Laundering of the Unit for Combating Corruption and Financial Crime of the Criminal Police and Investigation Service of the Police of the Czech Republic)
- Ministry of Finance (Tax Revenue Service, Department of Customs)
- Czech National Bank (Licensing and Enforcement Division, Banking Regulation and Supervision Department, Risk Management Department, Compliance Officer of the CNB)
- Credit Union Supervisory Authority
- Securities Commission (including the departments responsible for communication, pension funds, investment services, collective investment, legal affairs, and sanctions and monitoring)
- Office of the State Supervision over Insurance and Supplementary Pension Insurance (departments responsible for supervision, legal affairs, international affairs)
- State Supervision on Betting Games and Lotteries (Ministry of Finance)
- Chamber of Auditors
- Chamber of Notaries
- Bar Association
- Chamber of Tax Advisors and Association of Accountants' Unions
- Banking Association
- Czech Insurance Brokers Association and Czech Insurance Association
- Association of Real Estate Offices
- Casino Association
- Representative of a foreign exchange office and a MVT Service company (Travelex)
- Representative of an audit company (PWC)
- Representatives of two casinos
- Czech Gemological Association

ANNEX II

ENGLISH TRANSLATION OF SELECTED PROVISIONS OF THE CZECH PENAL CODE, ACT NO. 40/2009 COLL.[1]

Article 216
Legalization of Proceeds of Crime

(1) Who conceals the origin or otherwise endeavours to substantially aggravate or preclude the ascertainment of origin;

a) of a thing or another asset value acquired through crime committed in the Czech Republic or abroad or as a reward for it; or
b) of a thing or another asset value provided in exchange of a thing or another asset value as in letter;
c) or who enables to another person to commit such an act

shall be punished by imprisonment for up to four years or by a pecuniary penalty or by prohibition of business or by forfeiture of the thing or another asset value;

however, should he/she commit such act in relation to a thing or another asset value originating from a crime, which is subject by law to a moderate sentence, he/she shall be sentenced by such moderate sentence.

(2) The offender shall be sentenced to imprisonment for a period of six months to five years or by a pecuniary penalty,

a) he/she commits the act as in para (1) in relation to a thing or another asset value of major value or
b) by such act, he/she acquires a major benefit for him/herself or for another person.

(3) An offender shall be sentenced to imprisonment for a period of two to six years or to forfeiture of property if:

a) he/she commits the act as in para (1) as a member of an organised group
b) he/she commits the act in relation to a thing or another asset value originating from an especially serious crime
c) he/she commits the act in relation to a thing or asset value of a significant value
d) by such act, he/she acquires a significant benefit for him/herself or for another person or
e) he/she misuses his/her professional position or function in order to commit such act.

[1] *Please be advised the present paper has to only purpose to facilitate the understanding of the Czech AML/CFT legal framework. The Czech original of the Penal Code is the only binding wording.*

(4) An offender shall be sentenced to imprisonment for three to eight years or forfeiture of property if:

a) he/she commits the act as in para (1) in connection an organised group operating in several States
b) he/she commits the act in relation to a thing or asset value of great value or
c) by such act, he/she acquires a great benefit for him/herself or another person.

Article 217
Legalization of Proceeds of Crime by Negligence

(1) Who, by negligence, enables another person to conceal the origin or the ascertainment of origin of a thing or another asset value of a major value acquired by crime committed in the Czech Republic or abroad or as a reward for that, shall be sentenced by imprisonment for up to one year, prohibition of business, or by forfeiture of thing or another asset value.

(2) An offender shall be sentenced by imprisonment for up to three years if:

a) he/she commits the act as in para (1) because he/she has violated an important obligation arising from his/her employment, profession, position or function or imposed by law or
b) by such act, he/she she acquires a significant benefit for him/herself or another person.

(3) An offender shall be sentenced by imprisonment for one year to five years if:

a) he/she commits the act as in para (1) in relation to a thing or another asset value originating from a specially serious crime
b) by such act, he/she acquires a great benefit for him/herself or another person.

Article 311
Terrorist attack

(1) Who, acting with the intent to damage the constitutional order or defence capability of the Czech Republic, invade or destroy the ultimate political, economic or social structure of the Czech Republic or international organisation, seriously terrify the population, or illegally constrain the government or another state organ or international organization to do something, to omit something or to undergo something,

(a) carries out an attack threatening one's life or health with the aim to cause death or severe injury,

(b) captures hostages or carries out hijacking,

(c) destroys or damages to a major scale a public device, traffic or telecommunication system, including informational system, fixed shelf on a

continental shelf, energy, water, medical or other important device, public place or property with the aim to threaten human lives, safety of mentioned device, system or place or to expose the property to the danger of great damage,

(d) breaks or interrupts water or electricity delivery, or delivery of another basic natural resource with the aim to threaten human lives or expose the property to a danger of great damage,

(e) captures a plane, ship or another personal or loading vehicle, or executes control above it, or destroys or seriously damages navigating device or interferes in major scale with its operation, or imparts a false important information, and thereby threatens human life or health, safety of such vehicle or exposes the property to the danger of great damage,

(f) illegally produces or acquires otherwise, harbours, imports, transports, exports or supplies otherwise, or uses explosive, nuclear, biological, chemical or another weapon, or carries out illegal research and development of nuclear, biological, chemical or another weapon or militant device or explosive prohibited by law or an international treaty, or

(g) exposes people to a danger of death or severe injury (harm) to their health, or exposes another person's property to the danger of great damage by causing a fire or flood, or by causing damage by the use of explosives, gas, electricity or other similarly dangerous substances or powers, or commits any other similarly dangerous act (common danger), or increases such common danger or impedes any act averting or lessening such danger,

shall be punished by imprisonment for five to fifteen years, eventually, in addition to such punishment, also by forfeiture of property.

(2) Equally shall be sentenced

who threatens with the conduct mentioned in para (1), or

who supports such conduct, a terrorist or any member of a terrorist organization financially, materially or in another way.

(3) An offender shall be punished by imprisonment for twelve to twenty years, eventually, in addition to such punishment, also by forfeiture of property, or by exceptional sentence,

(a) if he/she commits the act as in para (1) as a member of an organised group,

(b) if he/she, by such act, causes severe injury to health or death,

(c) if he/she, by such act, causes that major number of people remains without shelter,

(d) if he/she, by such act, causes interruption of traffic of major scale,

(e) if he/she, by such act, causes a great damage,

(f) if he/she, by such act, acquires for him/herself or for another person a great benefit,

(g) if he/she, by such act, severely threatens international status of the Czech Republic or that of an international organisation, whose member the Czech Republic is, or

(h) if he/she commits such act during a state of peril or a state of war.

(4) The preparation is punishable.

Article 367
Failure to Act to Thwart a Crime

(1) Who reliably learns that another person is preparing or committing a crime of

[…]
legalization of the proceeds of crime terrorist attack (Art. 216 (4)),
[…]
terrorist attack (Art. 311),
[…]
and who does not thwart the completion or commission of any such crime shall be sentenced to imprisonment for up to three years; however, if this Law provides in case of any of these crimes for a lesser sentence, he/she shall be sentenced to such lesser punishment.

(2) Who commits an act as in para (1) shall not be liable to sentence if he/she could not thwart the crime without significant difficulties or without exposing him/herself or a close person to the danger of death, injury to health, some other serious detriment or criminal prosecution. However, exposure of a close person to criminal prosecution shall not relieve an offender of his/her liability to sentence if he/she fails to act to prevent any of the following crimes:
[…]
terrorist attack (Art. 311)
[…].

(3) A crime can also be thwarted by being timely reported to the state prosecutor's office or a police organ; a soldier may report the crime to his/her superior officer instead.

Article 368
Failure to Report a Crime

(1) Who reliably learns that another person has committed a crime of
[…]
terrorist attack (Art. 311),
[…]

and fails to report the crime without delay to the state prosecutor's office or a police organ, or in the case of a soldier, to his/her superior officer instead, shall be sentenced to imprisonment for up to three years; if this Law provides in case of any of these crimes for a lesser sentence, he/she shall be sentenced to such lesser punishment.

(2) Who commits an act as in para (1) shall not be criminally liable if he/she was unable to report the crime without exposing himself or a close person to the danger of death, injury to health or some other serious detriment or criminal prosecution.

(3) Reporting duty as in para (1) shall not apply to an attorney or his/her employee, who learns about the commitment of the crime in connection with execution of his legal profession. Reporting duty shall not apply also to a priest of a registered church and religious community with the authorization to execution of special rights, if he/she learns about the commitment of the crime in connection with execution of a confessional secret or a right similar to a confessional secret.

Article 410
Violation of International Sanctions

(1) Who in a major scale violates a prescript, prohibition or restriction stipulated for the purpose of keeping and building of international peace and security, protection of human rights or fight against terrorism, whose observation the Czech Republic is bound to on the basis of the membership in the United Nations or in the European Union, shall be sentenced to imprisonment for up to three years or by a pecuniary penalty.

(2) The offender shall be sentenced to imprisonment for six months to five years, if

(a) he/she causes significant damage by the act as in para (1),or

(b) he/she acquires by such act significant benefit for him/herself or another person.

(3) The offender shall be sentenced to imprisonment for three to eight years, if

(a) he/she commits the act as in para (1) in connection with an organized group operating in several States,

(b) he/she commits such act with the intention to acquire for him/herself or another person a benefit of a great scale, or

(c) by such act, he/she causes a great damage

(d) by such act, he/she causes a serious threat to the international position of the Czech Republic, or

(e) by such act, he/she contributes substantially to a disruption of international peace and security, of measures aiming at human rights protection or at fight against terrorism.

ANNEX III

§ 42
Aggravating circumstances

The court shall consider as an aggravating circumstance in particular the fact that the offender

(o) commited the crime as its organizer, a member of an organized group or a member of a conspiracy

§ 135
Thing and other property value belonging to offender

Thing or other property value belongs to offender if, at the time of the decision about it, he/she owns it, it is the part of his/her property or he/she actually disposes of it as its proprietor or owner, without the rightful proprietor, owner or holder of such thing or other property value being known.

ANNEX IV

I) CIVIL PROCEDURE CODE

Proceedings in matters concerning the Companies Register

Section 200a

(1) The court with jurisdiction for proceedings (hereafter "Registration Court") is the one in the district where the general court is of the natural person or legal entity to whom/which the entry in the Register refers (hereafter "entrepreneur"). If this is a foreign person/entity, the court with jurisdiction for proceedings is the one in the district where his/its business or an organisational unit of it is located.

(2) The court which has jurisdiction for proceedings concerning an entry under paragraph 1 also has jurisdiction for proceedings on another entry, if special regulations stipulate that there must be a joint decision on these entries.

(3) If there is a change in the circumstances under which local jurisdiction is adjudged, the court will make a ruling to transfer its jurisdiction to a new court; if this court does not consent to the transfer of jurisdiction, the court exercising control over it will decide. After the decision to transfer local jurisdiction comes into legal force, the entries concerned will be transferred to the Companies Register of the court that now has jurisdiction.

Section 200b

(1) Proceedings are commenced upon an application. If conformity of an entry in the Companies Register with the actual situation has to be achieved, proceedings may also be commenced without an application.

(2) Withdrawal of an application for commencement shall not be effective, unless it is entry of a fact the effectiveness or validity of which is in the entry in the Companies Register pursuant to a special legal regulation.

(3) Courts or other legal authorities shall always notify the Registration Court of a discrepancy between the actual legal status and the status of a record in the Companies Register as soon as this fact in their activity becomes clear.

Section 200c

(1) Parties to proceedings are the person/entity who/which submitted the application for which it is entitled pursuant to a special legal regulation and the entrepreneur; the provisions of Section 94 paras. 1 and 2 shall not be used.

(2) A special legal regulation specifies which facts shall be entered in the Companies Register, in what manner an application for entry, change or deletion of them shall be submitted and with what documents (appendices) they must be substantiated.

Section 200d

(1) The court will decide to reject an application if

a) it has been submitted by a person/entity who/which is not entitled to submit it pursuant to a special legal regulation

b) the application has not been submitted in the manner prescribed pursuant to a special legal regulation

c) the application does not contain all the particulars stipulated pursuant to a special legal regulation

d) the application is incomprehensible or ambiguous

e) documents by means of which details of facts entered are to be substantiated pursuant to a special legal regulation have not been attached to the application

(2) Paragraph 1 shall not apply if

a) a document has not been attached to the application because this document is not issued under the law governing the foreign person/entity who/which is to be entered

b) a document has been designated incorrectly or does not meet all the formal requirements stipulated by a special legal regulation, on the precondition that decisive facts have been substantiated by means of other documents which have been attached to the application

(3) By means of a ruling issued within 3 working days of receiving the application the court shall call upon the applicant to correct discrepancies in the application or to supply additional documents that are missing; a repeated call is not permissible. The provisions of Section 43 shall be applied mutatis mutandis. The time period under Section 200db para. 1 shall commence on the day following the day when the submission was delivered to the court through which defects have been corrected or additional documents supplied.

(4) In a decision in which the court rejects an application pursuant to paragraph 1, reasons shall be given for the rejection, including information on how the deficiencies can be corrected.

Section 200da

(1) If the application has not been rejected pursuant to Section 200d, the court shall examine whether details of facts to be entered in the Register are derived from documents which have to be submitted for the application pursuant to a special legal regulation, whether the company for which the application is made can be confused with an already existing company, or is false.

(2) If pursuant to a special legal regulation facts are entered in the Register on the basis of a decision by a court or administrative authority, the court shall make the entry without issuing a decision.

(3) The court shall also make an entry without issuing a decision if facts of the application to be entered are documented in an attached notarial deed; in such a case the court, in addition to ascertaining them pursuant to paragraph 1, shall examine only whether the notarial deed meets the requirements laid down for it in a special legal regulation. The procedure under the previous sentence shall be used only if the entrepreneur to whom the entry applies is the applicant and the sole party to the proceedings. A notarial deed shall be a legally valid source document for the entry, even if special legal regulations do not require this form of legal act.

(4) The court shall also make an entry in the Register without issuing a decision where the effectiveness or validity of facts in the application for entry does not become operative pursuant to a special legal regulation until entry of them in the Register. The procedure under the previous sentence shall be used only if the entrepreneur to whom the entry applies is the applicant and the sole party to the proceedings. In other cases the court shall decide on entry by means of a ruling. Proceedings may not be ordered.

(5) In the case of persons/entities who/which do not pursuant to a special legal regulation have to submit applications for entry on printed forms, the court will always decide by means of a ruling.

(6) The court shall make the entry on the date stated in the application, but at the earliest on the date of its execution. If the court has decided on entry by means of a ruling, it shall make the entry in the Register after this ruling comes into legal force. If conformity with the actual situation has to be achieved, the court may decide that the entry will be made just on the basis of an enforceable ruling.

(7) Errors in spelling and numbers, and also other obvious inaccuracies in the entry under paragraphs 2 and 3, shall be corrected by the chairing judge at any time even without an application, without issuing a decision on this, and he/she shall notify the parties to the proceedings of this by sending an extract from the Register containing this correction; the provisions of Section 200db para. 4 shall be applied mutatis mutandis.

Section 200db

(1) The court shall be obliged to make an entry in the Register or to decide on an application by means of a ruling within the time period stipulated by a special legal regulation, otherwise at the latest within five working days; in the case of an application for entry of conversion pursuant to a special legal regulation or in a case when a file is not available at the Registry court, because it has been submitted to another court, in particular for a decision on an appeal or on the jurisdiction of a court, the time period under this sentence shall be extended to 15 working days. If an application is not submitted in Czech, or documents which, pursuant to a special legal regulation substantiate details of facts to be entered, have not been translated into Czech, the time period pursuant to sentence one shall not commence until delivery of the translation.

(2) The time period pursuant to paragraph 1 shall commence on the day the application is submitted. If, however, the court fee for the application has not been paid until during the proceedings or there has been a change in the application, the time period pursuant to paragraph 1 shall not commence until the day the court fee is paid or the day when the court receives the amended application. If the court issues a decision which prevents it from continuing in the proceedings, in particular if it suspends the proceedings or if it decides on local jurisdiction, the time period pursuant to paragraph 1 shall recommence on the day the obstacle to the proceedings ceases to apply.

(3) If the court does not make an entry in the Register and/or decide on an application within the time period stated in paragraph 1, the entry applied for shall be deemed as made on the day following expiry of this time period; this shall not apply if the application has effectively been withdrawn prior to expiry of this time limit. The court shall deposit the entry in the Register within two days of the day when this entry is deemed as made pursuant to sentence one.

(4) An entrepreneur and persons/entities who/which are entered in the Register pursuant to a special legal regulation as part of entry of an entrepreneur may within 1 month of entry demand by means of an application deletion from the Register or a change in an entry made pursuant to paragraph 3; default of this deadline cannot be waived. The provisions of Section § 200b para. 1 sentence two shall not be affected by this.

(5) Persons/entities entered in the Register pursuant to a special legal regulation as part of entry of an entrepreneur may in the event of their deletion from the Register also demand change of the entry if it has been made otherwise than pursuant to paragraph 3; paragraph 4 shall be applied mutatis mutandis.

Section 200dc

(1) The court shall notify parties to the proceedings of an entry made pursuant to Section 200da para. 3 and para. 4 sentence 1 and Section 200db para. 3 by sending an extract from the Register containing this entry. The court shall also send notification pursuant to this provision to persons/ entities who/which are entered pursuant to a special legal regulation as part of entry of an entrepreneur. This extract must be sent at the latest within 3 days of the entry.

(2) The court shall make an entry in the Register without needless delay once the ruling on the content of the entry has come into legal force.

(3) The court shall always also notify the Czech Bar Association of entry of a foreign person/entity providing legal services pursuant to special legal regulation 72a, entry of an organisational unit of its business or entry of relocation of its registered office in the Czech Republic.

Section 200de

The chairing judge may also impose a procedural fine on an entrepreneur if he/she has not responded to a call of the court to acquaint it of a fact or submit documents to it required for a decision pursuant to Section 200b para. 1 sentence two or to submit documents to it which belong to the collection of documents pursuant to special legal regulations. The procedure here shall be similar to that pursuant to Section 53 and a procedural fine of up to CZK 20,000 may be imposed.

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72a) Section 35a para. 1 (d) of Act No. 85/1996 Coll., as amended.

73) Section 27a para. 2 of the Commercial Code.

II) THE COMMERCIAL CODE

Companies Register

Section 27

(1) The Companies Register is a public register in which details on entrepreneurs stipulated by law are entered. The Companies Register is maintained in electronic form.

(2) The Companies Register is kept by the court designated for this by a special legal regulation (hereafter "Registration Court").

(3) The Registration Court shall keep a separate file for every entrepreneur, organisational unit of a company, company of a foreign person/entity or organisational unit of it, unless the law stipulates otherwise. The Companies Register shall include a collection of documents.

(4) The Registration Court shall publish an entry, change in it or deletion of it in the Companies Register and also the depositing of a document in the collection without needless delay after entry, unless a legal regulation imposes this obligation on someone else. The Registration Court shall also notify the particular tax authority concerned, the state statistics authority and the authority which issued the trading permit or other business licence of the published data within one week of the day of its entry.

(5) The extent and manner of publication is regulated in a government order.

Section 28

(1) The Companies Register is accessible to everyone. Anyone may inspect it and provide themselves with a copy or extract of it.

(2) Upon request, the Registration Court shall issue a partial or complete officially verified documentary copy of an entry or a document deposited in the collection of documents or confirmation that a certain detail is not in the Companies Register, unless the applicant expressly requests a copy that has not been officially verified.

(3) If a partial or complete documentary copy pursuant to paragraph 2 has not been expressly requested, the Registration Court will always issue a partial or complete copy in electronic form. An applicant may only request an officially verified electronic copy if its request is signed by a recognised electronic signature pursuant to a special legal regulation. The Registration Court will always issue only a documentary copy concerning facts entered in the Companies Register and documents deposited in the collection of documents before 1 January 1997, unless these facts or documents are also already kept in electronic form.

(4) Conformity of the copy with the entry in the Companies Register or with a document deposited in the collection of documents will be confirmed by official verification.

(5) The Registration Court may request reimbursement of costs for issuing a copy; the amount of this may not exceed the actual and associated administrative costs.

Section 29

(1) The person to whom the entry applies may not lodge an objection against one who acts in trust in an entry in the Companies Register that this entry does not correspond to the facts.

(2) The facts entered in the Companies Register shall be operative for anyone from the day of their publication, unless the person/entity entered proves that execution of the entry was known to a third party beforehand.

(3) The person/entity entered may refuse to divulge to third parties details and content of documents, publication of which is imposed by law, to third parties, unless it can be proved that they were already known to the third party. The person/entity entered may not, however, invoke these details and content of documents until the sixteenth day following publication, if the third party proves that it could not have known about them.

(4) Where there is inconsistency between details entered and those published or between documents kept and those published, the published wording may not be

invoked against third parties. A third party may, however, invoke the published wording only unless the person/entity entered proves that the details entered or the content of documents deposited were known to this third party.

(5) Third parties may always invoke unpublished details and content of documents, if the fact of non-publication does not disqualify them from being effective.

(6) If the content of an entry in the Companies Register is contrary to a mandatory provision of the law and remedy cannot be achieved otherwise, the Registration Court shall call upon the entrepreneur to ensure remedy. If this is a legal entity and this entity does not ensure remedy within the stipulated time period, the court may, even without an application, if this procedure is in the interests of protecting third parties, decide to close it by putting it into liquidation.

(7) A third party may invoke details contained in documents deposited in the collection of documents in one of the official languages of the European Union (Section 38k para. 4), unless the party entered proves that this person/entity knew of the discrepancy with documents published in Czech. The person/entity entered may invoke only details contained in documents published in Czech.

Section 30

(1) From the moment entry of a person who is a body or member of a body of a legal entity is published, nobody may invoke breach of legal regulations, the Memorandum of Association or Articles of Association regarding third parties in election or appointment of these bodies or members of them, unless the person/entity entered proves that the third party knew of the breach. This shall not affect the provisions of Sections 131, 183 and 242.

(2) If the Registration Court rejects an application to permit the entry of a person who is a body or member of a body of a legal entity, his/her election or appointment shall be regarded as null and void; this shall not affect the rights of third parties acquired in good faith. The Registration Court shall publish negative decisions when they come into legal force. A legal entity may not lodge an objection before publication of the invalidity of an election or appointment concerning third parties, unless it proves that these parties knew of the invalidity.

Section 31

(1) Only a person/entity stated in Section 34, or a person/entity so stipulated by law, may submit an application for entry or change or deletion of an entry in the Companies Register (hereafter “application for entry”).

(2) If a person/entity does not fulfil pursuant to paragraph 1 the obligation to submit an application for entry within fifteen days of the day when it incurred this obligation, an application for entry may be submitted by a person/entity who/which proves a legal interest in it and attaches the prescribed documents (appendices) to the application.

(3) An applicant pursuant to paragraph 1 or 2 shall submit with the application the consent in writing of persons who pursuant to this Act or special legal regulation are entered as part of entry of the entrepreneur, unless this consent is inferred from other documents submitted for the application; consent shall not be required for deletion of a person entered as part of the entry of the entrepreneur. The signature for consent pursuant to the previous sentence must be officially verified, unless it is contained in a document executed as a notarial deed.

(4) If this Act stipulates conditions for permission of entry in the Companies Register, this means making an entry or a decision on entry pursuant to special legal regulation.

Section 32

(1) An application for entry may be submitted only on a printed form; the signature must be officially verified.

(2) An application for entry must be substantiated by means of documents concerning facts which are to be entered in the Companies Register and documents which shall be kept in the collection of documents.

(3) An application for entry of details to be entered must be submitted without needless delay upon occurrence of the decisive fact.

(4) The Ministry of Justice stipulates by Decree the obligatory forms for submitting applications for entry and a list of documents (attachments) which are attached to applications. The Ministry of Justice also publishes the forms and list of documents attached in a manner enabling remote access; no charge may be made for this service.

(5) The obligation to submit an application for entry on the form pursuant to paragraph 1 shall not apply for proceedings relating to state companies, legal entities of public law established by a special legal regulation and in cases when entry is made or amended as an official obligation.

Section 33

(1) An application for entry may be submitted in documentary or electronic form; this applies similarly to submission of documents proving facts stated in the application and documents deposited in the collection of documents.

(2) Only a person using a recognised electronic signature pursuant to a special legal regulation may submit an application in electronic form.

(3) The Registration Court will keep applications and documents only in electronic form, unless the nature of the application and document renders this impossible. The Registration Court will convert applications and documents delivered in paper form into electronic form without needless delay.

(4) The Ministry of Justice stipulates by Decree the method of converting documents into electronic form, and also the method of dealing with converted documents. It may also stipulate by Decree which applications and documents can be submitted only in electronic form.

Section 34

(1) Entries will be made in the Companies Register for:

a) companies and cooperatives

b) foreign entities pursuant to Section 21 para. 4

c) natural persons who are entrepreneurs and are citizens of the Czech Republic or one of the member states of the European Union or another state in the European Economic Area, if they request entry; this will apply similarly to natural persons who are entrepreneurs and have permanent residence in one of these states, and

d) other persons/entities, if a special legal regulation stipulates the obligation to enter them.

(2) A natural person who is an entrepreneur will always be entered in the Companies Register if

a) the amount of his/her revenues or earnings net of value-added tax, if this forms part of the revenues or earnings, has reached or exceeded during two immediately consecutive accounting periods an average of a hundred and twenty million CZK, or

b) operates a business in an industrial manner.

(3) A natural person who fulfils any of the conditions under paragraph 2 shall submit an application for entry in the Companies Register without needless delay.

(4) A natural person who has ceased to fulfil conditions on the basis of which he/she was obliged to submit an application for entry in the Companies Register pursuant to paragraph 3 may submit an application for erasure from the Companies Register.

Section 35

The Companies Register will record:
a) the business name, for legal entities its registered office, for natural persons their home address and place of business, if this is different from their home address

b) subject of business (activity)

c) legal form of a legal entity

d) for a natural person his/her personal identification code or date of birth, if no personal identification code has been assigned to his/her

e) the identification number which the Registration Court assigned to the entrepreneur; required identification numbers are notified to the Registration Court by the state administrative authority concerned

f) the name and home address or business name and registered office of a person who is a statutory body of a legal entity or a member of it, stating how he/she acts in the name of the legal entity, and the day his/her term of office starts and expires; if a statutory body or a member of it is a legal entity, also the names and home addresses of the persons who are its statutory body or members of it

g) the name and home address of the authorised signatory, and also how he/she acts

h) for legal entities the identification number, if it has been assigned

i) other facts stipulated by a legal regulation

Section 36

The Companies Register will also record the following details relating to legal entities:
a) for a public company the name and home address or business (name) and registered office of its partners

b) for a limited partnership company, the name and home address or business (name) and the registered office of its partners, stating which of the partners is a managing investor and which is a passive investor, the amount contributed by each passive investor and how much has been paid up

c) for a limited liability company, the name and home address or business (name) and the registered office of its partners, the amount of registered capital, the amount contributed by each partner to registered capital and how much has been paid up, the amount of the business share of each partner, security for the business share interest in the business, and also the names and home addresses of the members of the Supervisory Board, if one has been set up, and the day their term of office starts and expires

d) for a joint-stock company, the amount of registered capital, how much has been paid up, the number, type, form and nominal value of the shares, any restriction on transferability of registered shares, the names and home addresses of the members of the Supervisory Board and the day their term of office starts or expires; if the company has a sole shareholder, the name and home address or the business name and registered office of the sole shareholder are entered

e) for a cooperative, the amount of registered capital to be entered and the amount of registered member's contribution or contributions

f) for state companies, the founder, the amount of capital stock, the minimum amount of capital stock the state company is obliged to retain, and the designated assets.

Section 37

(1) The person/entity applying for an entry in the Companies Register shall prove that on the entry date at the latest it will obtain a trading licence or other authorisation for activity which is to be entered in the Companies Register as the subject of business (activity), unless stipulated otherwise by a special legal regulation. Activity which can pursuant to a special legal regulation be performed only by a natural person shall be entered as the subject of business of the company or cooperative only if the applicant proves that that this activity will be performed by persons who are authorised for it pursuant to a special legal regulation.

(2) When applying for entry in the Companies Register, the applicant shall prove the legal reason for use of the premises in which his/its registered office or place of business is located; this shall also apply for any change of these. For proving the legal reason for use of the premises a declaration in writing by the owner of the property, flat or non-residential premises where the premises are located, or a declaration by a person authorised to deal in other ways with the property, flat or non-residential premises that he/it consents to the location shall suffice.

(3) If the applicant is a foreign person/entity, he/it shall inform the Registration Court of the mailing address in the Czech Republic or the person(s) empowered to receive written materials with the mailing address in the Czech Republic; this shall also apply to each change of these details.

(4) A document proving fulfilment of the obligations under paragraphs 1 to 3 shall be attached to the application for entry.

Section 38

(1) In the case of a merger of legal entities (hereafter "entry of merger") a statement shall be entered in the Companies Register for each legal entity ceasing to exist of the fact that it has ceased to exist as a result of merger or amalgamation, stating the business name, registered office and identification number of the successor legal entity, or of all other legal entities ceasing to exist.

(2) For the successor legal entity an entry is made:
a) in the case of a merger, of the fact that the merger has occurred, that the equity of the legal entity (entities) that has (have) ceased to exist has been transferred to it, the business name, registered office and identification number of the legal entity (entities) that has (have) ceased to exist, and any changes of details previously entered concerning the successor legal entity

b) in the case of amalgamation, in addition to the details entered when the legal entity came into existence, of the fact that the amalgamation has occurred, that the equity of the legal entities that have ceased to exist have been transferred to it, the business name, registered office and identification number of the legal entities that have ceased to exist.

Section 38a

(1) In the case of transfer of equity to a partner (hereafter "entry of transfer of equity"), the fact that the company has ceased to exist and equity is being transferred to a partner, and the business name, registered office or home address and place of business, if this is different from the home address, and the identification number of the partner to whom the equity of the company ceasing to exist has been transferred, are entered in the Companies Register for the company that has ceased to exist.

(2) For the person to whom the equity of the company that has ceased to exist is transferred, details of the transfer, the business name, the registered office and the identification number of the company that has ceased to exist shall be entered.

Section 38b

(1) When a legal entity is split up (hereafter "entry of unbundling"), the fact that it has ceased to exist as a result of unbundling or that part of its equity has been hived off, stating the business name, the registered office and the identification numbers of all the successor legal entities, shall be entered in the Companies Register for the legal entities that have ceased to exist or been split up.

(2) For the successor entity, the following details are entered:

a) when there is unbundling with the establishment of new legal entities, in addition to the details entered when the legal entity comes into existence, the fact that it has come into existence as a result of unbundling, that equity of the legal entity that has ceased to exist stated in the unbundling project has been transferred to it, the business name, registered office and identification number of the legal entity which has come into existence as a result of unbundling, and the business name, registered office and identification numbers of other legal entities which have also been created by unbundling; this shall apply similarly for hiving off with the establishment of new companies (Section 69c para. 2)

b) in the case of unbundling by merging legal entities, the fact that equity of the legal entity that has ceased to exist stated in the unbundling project has been transferred to it, the business name, registered office and identification number of the legal entity which has ceased to exist as a result of unbundling, and the business name, registered office and identification number of other legal entities to which other parts of the equity of the legal entity that has ceased to exist have been transferred, and any change in details entered concerning the successor legal entity; this shall apply similarly for hiving off by merger (Section 69c para. 2).

Section 38c

In the case of a change in the legal form of a legal entity (hereafter "entry of change in legal form"), for the legal entity that is changing its legal form the fact that it has changed its legal form, stating the original and new legal forms, and also details entered upon the creation of the legal entity the legal form of which the existing legal entity acquires are entered in the Companies Register.

Section 38d

(1) All the legal entities ceasing to exist or unbundled and the successor legal entities together, or all persons who are statutory bodies of successor entities or members of them, shall jointly submit an application for entry of the merger or entry of unbundling.

(2) The legal entity ceasing to exist and the partner to whom the equity is being transferred shall jointly submit an application for entry of transfer of equity. The legal entity whose legal form is changed shall submit an application for entry of change.

Section 38e

(1) If entities ceasing to exist and unbundled and also the successor entities have registered offices in districts of different Registration Courts, an application shall be submitted for each of them.

(2) The Registration Court shall make an entry of the fact on the same day. If the court has decided upon entry by means of a ruling, then the other Registration Courts in whose districts the legal entities involved have registered offices shall not make the respective entries in the Companies Register until the decision to permit entry has come into legal force.

(3) The Registration Court shall permit entry of a merger, transfer of equity or unbundling for legal entities ceasing to exist and unbundled and also the successor legal entities only on the same day.

Section 38f

(1) For a branch unit or other organisational unit of a company, its designation, registered office (location), subject of activity, and name and home address of its manager shall be entered in the Companies Register.

(2) A branch unit or other organisational unit of a company shall be entered in the Companies Register at the Registration Court in whose district it is located in terms of its registered office or home address or place of business, if this is different from the home address entered by the entrepreneur.

(3) A branch unit or other organisational unit of a company located in the district of another Registration Court shall also be entered in the Companies Register at this court.

Section 38g

(1) Entry shall also be made in the Companies Register of the winding up of a legal entity and the legal reason for this, going into liquidation, the name and home address or the business name and the registered office of the liquidator (liquidators), or the name and home address of the person who will perform the activity of liquidator for the legal entity, declaration of bankruptcy with the name and home address or the business name and registered office of the bankruptcy administrator, or the name and home address of the person who will perform the activity of bankruptcy administrator for the legal entity, rejection of an application for declaration of bankruptcy because the debtor's assets are insufficient to pay for the costs of bankruptcy, commencement of settlement proceedings, a court decision on an order to enforce a decision by taking sanctions against the share of a partner in the company, by sale of the company or part of it, and also a court decision to stay enforcement of this decision, a distrainment order for taking sanctions against the share of a partner in the company, for sale of the company or part of it, and also a court decision to stay distrainment or provide notification that distrainment has terminated for reasons other than by staying it, a court decision on the non-validity of the legal entity, termination of liquidation and the legal reason for deletion of the entrepreneur.

(2) If there is a source document for entry of the decision of a court or an administrative authority, this fact shall be entered in the Companies Register without the Registration Court issuing a decision to permit entry, if this decision is required by a special legal regulation.

Section 38h

(1) For the company of a foreign person/entity and for an organisational unit of his/its company, the following shall be entered in the Companies Register:

a) designation and registered office (location) of the company or its organisational unit and identification number

b) subject of activity of the company or its organisational unit

c) law of the state by which the foreign person/entity is governed, and if this law stipulates an entry, then also the file in which the foreign person/entity is entered, and the entry number

d) business name or name of the foreign person/entity, its legal form and the amount of subscribed registered capital in the currency concerned, if this is required

e) entry details required by law for a statutory body or member of it

f) entry details required by law for the manager of an organisational unit of the company and his/her place of residence

g) winding up of the foreign entity, appointment, identification data and authorisation of the liquidator, termination of liquidation of the foreign entity

h) declaration of bankruptcy, permission of settlement or commencement of other similar proceedings relating to the foreign entity and

i) termination of the activity of the company or its organisational unit in the Czech Republic.

(2) For the company of a foreign person/entity and an organisational unit of the company of the foreign person/entity which has its registered office in one of the member states of the European Union or in another state in the European Economic Area, the following details are entered in the Companies Register:

a) designation and registered office (location) of the company or its organisational unit, if this is different from the name or the business name of the foreign entity, and the identification number

b) subject of activity of the company or its organisational unit

c) the file in which the foreign person/entity is entered, if it is entered, and the entry number

d) the business name or name of the foreign person/entity and its legal form

e) entry data required by law for a statutory body or member of it

f) entry data required by law for the manager of the organisational unit and his/her place of residence

g) winding up of the foreign entity, appointment, identification data and authorisation of the liquidator, termination of liquidation of the foreign entity

h) declaration of bankruptcy, permission of settlement or commencement of other similar proceedings relating to the foreign entity and

i) termination of activity of the company or its organisational unit in the Czech Republic.

Section 38i

(1) The collection of documents shall contain

a) the Memorandum of Association or founder's deed or foundation agreement of the company, a copy of a notarial deed containing the resolution of the constituting General Meeting of the joint-stock company or the constituting Meeting of the cooperative, the Articles of Association of the joint-stock company, the cooperative or the limited liability company, if they are to be issued pursuant to the Memorandum of Association and the founder's deed of a state company (hereafter "foundation documents") and subsequent changes in them; after each change in a foundation document or Articles of Association its full valid wording must be deposited

b) a decision on the election or appointment, dismissal or a document concerning other termination of the holding of office of persons who constitute a statutory body or are members of it, the liquidator, the bankruptcy administrator, the settlement administrator, the compulsory administrator or the manager of the organisational unit of the company (Section 13 para. 3) or who as a body regulated by the Act or as members of it are authorised to commit the company or represent it before a court or participate in this manner in management or control of the company

c) the Annual Reports, ordinary, special and consolidated financial statements if they do not form part of the Annual Report, if this Act or a special legal regulation requires their preparation, the proposal for distribution of profit and its final form or settlement of a loss if these do not form part of the ordinary financial statements, auditors' reports on the auditing of the financial statements, and a report on relations between related parties pursuant to Section 66a para. 9; in the document containing the balance sheet (balance) the identification details of the persons who audit it pursuant to the Act must also be given

d) a decision to wind up a legal entity, a decision by which a decision to wind up a legal entity is annulled and a decision to annul a decision on transfer, and a court decision on the invalidity of the company (Section 68a), report on the progress of liquidation under Section 75 para. 1, list of partners under Section 75a para. 1 or a report on dealing with assets under Section 75 para. 6

e) a decision on change of legal form and a report on change of legal form, agreement on a merger, on transfer of equity or on unbundling and drafts in writing of such agreements, an unbundling project, a report on a merger, on transfer of equity or unbundling, and an expert witness's report on a merger, on transfer of equity or unbundling

f) a court decision on the invalidity of a resolution of the General Meeting on change of legal form, merger, transfer of equity or unbundling and on the invalidity of an agreement on a merger, transfer of equity or unbundling or on the invalidity of an unbundling project

g) opinion of an expert witness or expert witnesses on valuation of a non-pecuniary contribution in the establishment of a limited liability company or joint-stock company or in increase of their registered capital, and the opinion of an expert witness on valuation of equity in conversions of legal entities (Section 69) and on valuation of assets under Section 196a para. 3

h) a court decision issued pursuant to the Bankruptcy and Settlement Act

i) agreement to transfer a company or part of it, and agreement to lease a company or part of it, including notification of its extension pursuant to Section 488f para. 1, and drafts of these agreements, or documents proving the termination of the lease, and a court resolution on the acquisition of the company through inheritance

j) a control agreement (Section 190b) and an agreement to transfer profit (Section 190a), including changes in them, and/or documents proving annulment of the agreement

k) evidence of the consent of a marital partner to use of assets when the marital partners have joint tenancy in the business pursuant to a special legal regulation, a copy of a notarial deed on an agreement to change the extent of joint tenancy or on reservations regarding its creation pursuant to a special legal regulation, if such agreement has been concluded, or court decision on reduction of joint tenancy, or an agreement to divide revenues from the business pursuant to a special legal regulation; in the case of a divorce, an agreement to settle joint tenancy pursuant to a special legal regulation or court decision or declaration of the entrepreneur that there has not been an agreement or court decision

l) an agreement to pledge a business share and an agreement to transfer a business share

m) resolution of the General Meeting under Section 210

n) a court decision to order enforcement of a decision imposing a sanction on the holding of any of the partners in the company, by sale of the company or part of it, and also a court decision to halt enforcement of a decision, a court resolution to order distrainment and issue a distrainment order to take sanctions against the business share of any of the partners in the company and to sell the company or part of it, and also a decision to halt distrainment or information that distrainment has finished other than by being halted

o) a decision of the appropriate state authority to grant state consent to operation as a private university pursuant to a special legal regulation

p) other documents stipulated by law

(2) The collection of documents shall also contain specimen signatures of the persons entered as persons authorised to act on behalf of a legal entity.

Section 38j

(1) The collection of documents regarding a foreign person/entity, its company and its organisational unit shall contain:

a) accounting records relating to the foreign person/entity in compliance with obligations for their checking, processing and publication pursuant to the legal code by which the foreign person/entity is governed; if this regulation is not in compliance with the requirements of this Act and special legal regulations, accounting records relating to the activity of the organisational unit stated in Section § 38i para. 1 (c) shall also be deposited in the collection of documents

b) the Memorandum of Association, Articles of Association and similar documents on the basis of which the foreign person/entity was established and changes in them and the full wording

c) verification of the records of the state where the foreign person/entity has its registered office to the effect that it has been entered in the records if the law of the state where it is based stipulates such records

d) details or evidence of a lien on assets of the foreign person/entity in another state, if validity of this security is bound to its publication, and

e) a specimen signature of the manager of the organisational unit

(2) For a foreign person/entity and an organisational unit of a foreign person/entity which has its registered office in one of the member states of the European Union or in another state in the European Economic Area, only the documents stated in paragraphs 1 (a), (b) and (c) shall be deposited in the collection of documents.

(3) The duty to deposit accounting records pursuant to paragraph 1 (a) and pursuant to paragraph 2 shall not apply for organisational units (branches) of foreign loan and financial institutions.

(4) If several organisational units of the company of one foreign entity operate in the Czech Republic, the documents stated in paragraphs 1 or 2 may be deposited in the section of the collection of documents of only one of these, as selected by the foreign entity. In such a case a reference has to be given in the section of the collection of documents for the other organisational units of the company of the same foreign entity to the Registration Court of the selected organisational unit, including the entry number.

Section 38k

(1) An entrepreneur entered in the Companies Register shall submit two copies of the documents filed in the collection of documents to the Registration Court without needless delay following the occurrence of a decisive fact. One copy shall be submitted of documents not proving the facts to be entered (Section 32 para. 2).

(2) Court decisions which are to be deposited in the collection of documents shall be deposited by the Registration Court. If a certain item is entered in the Companies Register but a corresponding document is not deposited in the collection of documents, the Registration Court shall note this fact in the collection of documents and call upon the entrepreneur to submit the document without needless delay.

(3) Documents prepared in a foreign language shall be submitted in the original wording and also in a Czech translation, unless the Registration Court informs the entrepreneur that this translation is not required; the Registration Court may also provide this information on its official bulletin board for an indefinite number of proceedings in future. If a translation is required and if it is a translation from a language which is not an official language or one of the official languages of a member state of the European Union or another state in the European Economic Area, the translation must be officially verified.

(4) Documents which are deposited in the collection of documents may also be submitted in one of the official languages of the European Union; paragraph 3 is not affected hereby.

(5) The provisions of paragraphs 3 and 4 shall also be used similarly for other documents in writing submitted by an entrepreneur to the Registration Court, unless the Act stipulates otherwise.

Section 38l

(1) A statutory body or a member of a statutory or other body of a legal entity which is an entrepreneur may not be one who has held any of the comparable positions in a legal entity against whose assets bankruptcy has been declared. The same shall apply if an application for declaration of bankruptcy submitted against this legal entity has been rejected for insufficient assets.

(2) The impediment pursuant to paragraph 1 shall operate against one who has held the position of a statutory body or member of a statutory or other body in a legal entity at least one year prior to submission of a petition for declaration of bankruptcy against its assets, or prior to the establishment of an obligation of this legal entity to submit a petition for declaration of bankruptcy against its assets.

(3) The impediment pursuant to paragraph 1 shall last for a period of three years from the date of legal force of
a) a resolution to terminate bankruptcy following fulfilment of the resolution on assets distribution or because the assets of the bankrupt are insufficient to pay the costs of bankruptcy or

b) a resolution to reject the petition for bankruptcy for insufficient assets.

(4) The impediment pursuant to paragraph 1 shall not be taken into account
a) if bankruptcy is terminated for reasons other than those stated in paragraph 3

b) if the person is a liquidator who has fulfilled the obligation pursuant to Section 72 para. 2

c) if it is a person who was elected to the office after declaration of bankruptcy against the assets of the legal entity, or

d) if it is a person who has been adjudged in proceedings pursuant to a special legal regulation to have performed his/her office to date with due diligence

(5) The impediment pursuant to paragraph 1 shall lapse
a) if the person on whose part it occurs was elected or appointed to the position with the consent of two thirds of the votes of the partners present at the General Meeting or two thirds of all members of the Supervisory Board or authorised employees of the company, if he/she is a member of the Supervisory Board elected by the employees, and

b) the body in question was advised of the existence of this impediment at the election or appointment of this person to the post.

(6) If a fact stated in paragraph 1 occurs at a time when a person to whom this fact applies is a statutory body or a member of a statutory or other body of the legal entity, the relevant body shall, as soon as it comes to its knowledge, dismiss him/her, or confirm his/her election or appointment. For confirmation of election or appointment the consent of two thirds of the votes of the partners present at the General Meeting or of two thirds of all the members of the Supervisory Board or authorised employees of the company shall be required, if he/she is a member of the Supervisory Board elected by the employees. If there is no confirmation of the election or appointment within three months of the date when the fact stated in paragraph 1 occurred, performance of office shall cease on the last day of this period.

(7) If it is a partner in a public company or a managing partner in a limited partnership, the impediment pursuant to paragraph 1 shall lapse or if the partner is confirmed in the position, the partners shall conclude an agreement in writing to this effect with officially verified signatures.

(8) A decision pursuant to paragraphs 5 and 6 for other legal entities which are entrepreneurs is within the competence of their supreme body.

III) DECREE OF THE MINISTRY OF JUSTICE No. 562/2006 Coll. ON DIGITALISATION OF THE COMPANIES REGISTER

The Ministry of Justice stipulates under Section 33 para. 4 of Act No. 513/1991 Coll., the Commercial Code, in the wording of Act No. 216/2005 Coll.:

Section 1
Method of converting documents into electronic form and method of dealing with converted documents

(1) The method of converting documents into electronic form is understood as their digitalisation, which is effected by means of computer technology. Digitalised documents shall be saved in Portable Document Format (pdf) and included in the document database.

(2) Documents will not be kept after 6 months have passed since they were digitalised.

Section 2
Obligatory electronic form of documents

Documents which are deposited in the collection of documents not providing evidence for facts stated in the application for entry or change or deletion of an entry in the Companies Register shall be submitted only in electronic form in Portable Document Format (pdf). These documents can be sent to the Registration Court by e-mail or using a Compact Disc Recordable (CD-R) data carrier. The Registration Court will not return data carriers delivered and shall shred them 6 months after they have been delivered.

Section 3
Effectiveness

This Decree shall come into effect on 1 January 2007.

Minister:

JUDr. Pospíšil in his own hand

ANNEX 5

Act No. 6/1993 Coll.
on the Czech National Bank,
as amended by
Act No. 60/1993 Coll., Act No. 15/1998 Coll., Act No. 442/2000 Coll., the Constitutional Court ruling promulgated under No. 278/2001 Coll., Act No. 482/2001 Coll., Act No. 127/2002 Coll., Act No. 257/2004 Coll., Act No. 377/2005 Coll., Act No. 57/2006 Coll., Act No. 62/2006 Coll., Act No. 230/2006 Coll., Act No. 160/2007 Coll., Act No. 36/2008 Coll., Act No. 124/2008, Act No. 254/2008 Coll., Act No. 295/2009 Coll., Act No. 285/2009 Coll., Act No. 156/2010 Coll., Act No. 281/2009 Coll. and Act No. 145/2010 Coll.

Note: This text is a working document for information only, and is not an official translation of the Czech legislation

The Czech National Council has passed this Act:

PART ONE
Basic provisions

Article 1

(1) The Czech National Bank shall be the central bank of the Czech Republic and the authority performing financial market supervision.
(2) The Czech National Bank shall be a legal entity governed by public law having its registered address in Prague; it shall not be incorporated in the Companies Register.
(3) The Czech National Bank shall be entrusted with the powers of an administrative authority to the extent defined in this Act and in special legal rules.[1)]
(4) The Czech National Bank shall independently and with due diligence manage the assets entrusted to it by the state.

Article 2

(1) The primary objective of the Czech National Bank shall be to maintain price stability. Without prejudice to its primary objective, the Czech National Bank shall support the general economic policies of the Government leading to sustainable economic growth. The Czech National Bank shall act in accordance with the principle of an open market economy.
(2) In accordance with its primary objective, the Czech National Bank shall:
   a) set monetary policy;
   b) issue banknotes and coins;
   c) manage the circulation of currency, administer payments and clearing between banks, foreign bank branches and credit unions, promote smooth and efficient operation thereof, and contribute to the safety, soundness and efficiency of payment systems and to the development thereof;
   d) supervise the activities of entities operating on the financial market, analyse the evolution of the financial system, see to the sound operation and development of the financial market in the Czech Republic, and contribute to the stability of its financial system as a whole;
   e) carry on other activities pursuant to this Act and pursuant to special legal rules.[1a)]

(3) When performing its tasks, the Czech National Bank shall co-operate with the central banks of other countries, with the authorities supervising the financial markets of other countries, and with international financial organisations and international organisations engaged in the supervision of banks, electronic money institutions and financial markets.

Article 3

(1) The Czech National Bank shall submit a report on monetary development to the Chamber of Deputies of Parliament at least twice a year for review. If the Chamber of Deputies so resolves, the Czech National Bank shall submit an extraordinary report on monetary development within thirty days. The resolution of the Chamber of Deputies must state what the extraordinary report should contain.
(2) The report on monetary development shall be submitted to the Chamber of Deputies by the Governor of the Czech National Bank, who in such an event shall be entitled to attend the session of the Chamber of Deputies and must be called upon to speak.[1c])
(3) The Chamber of Deputies shall acknowledge the report on monetary development or shall ask for a revised report.
(4) If the Chamber of Deputies asks for a revised report, the Czech National Bank shall within six weeks submit a revised report that complies with the requirements of the Chamber of Deputies.
(5) The Czech National Bank shall inform the public on monetary development at least once every three months.

Article 3a

The Czech National Bank shall submit a financial stability report to the Chamber of Deputies for information at least once a year.

PART TWO
Organisation of the Czech National Bank

Article 4

The Czech National Bank shall comprise:
a) a headquarters having its registered address at Prague;
b) branch offices;
c) special-purpose organisational units.

Article 5

(1) The supreme governing body of the Czech National Bank shall be the Bank Board of the Czech National Bank (hereinafter referred to as the "Bank Board"). The Bank Board shall set monetary policy and the instruments for implementing this policy, and shall decide upon the fundamental monetary policy measures of the Czech National Bank and measures in the area of financial market supervision.
(2) Furthermore, the Bank Board shall, in particular:
a) set forth the principles for the activities and transactions of the Czech National Bank;
b) approve the budget of the Czech National Bank;

c) set forth the organisational structure and fields of competence of the organisational units of the Czech National Bank;
d) define the types, amounts and uses of the funds of the Czech National Bank;
e) execute the rights and duties arising from labour-law relations in respect of the staff of the Czech National Bank. The Bank Board may delegate these activities to other members of staff;
f) grant its consent to the entrepreneurial activities of the staff of the CNB;
g) fix the salary and other emoluments of the Governor; the salaries and other emoluments of Vice-Governors and other members of the Bank Board shall be fixed by the Governor;
h) decide on appeals against the decisions of the Czech National Bank in the first instance.

Article 6

(1) The Bank Board shall consist of seven members, comprising the Governor of the Czech National Bank, two Vice-Governors of the Czech National Bank and four other members of the Bank Board of the Czech National Bank.
(2) The Governor, Vice-Governors and other members shall be appointed and relieved from office by the President of the Republic.
(3) cancelled
(4) No person shall be allowed to hold the position of member of the Bank Board more than twice.
(5) The members of the Bank Board shall be appointed for a term of six years.
(6) Membership of the Bank Board shall be incompatible with the position of member of a legislative body, member of the Government and membership of the governing, supervisory or inspection bodies of other banks or commercial undertakings, and the performance of any independent gainful occupation, except for scientific, literary, journalistic, artistic and pedagogical activities and except for management of own assets. Membership of the Bank Board shall be incompatible with any activity which might cause any conflict of interest between the performance of this activity and membership of the Bank Board.
(7) Any citizen of the Czech Republic who:
   a) is fully competent to perform legal acts,
   b) has completed a university education,
   c) is of integrity,
   d) is a person of recognised standing and professional experience in monetary matters and in the area of the financial market, may be appointed a member of the Bank Board.
(8) For the purposes of this Act, "of integrity" shall refer to a natural person who has not been lawfully convicted of a criminal offence.
(9) The members of the Bank Board shall be staff of the Czech National Bank.
(10) The performance of duties of a Bank Board member shall terminate:
   a) with the expiration of his term of office,
   b) on the day immediately following the day on which written notice of relief from office or of written notice of resignation from office is delivered, or at some later date given in the notice of relief or resignation from office.
(11) The President of the Republic shall relieve a member of the Bank Board from office:
   a) in the event of a breach of paragraph 6 or of paragraph 7(c),

b) on the day any judgement depriving the member of competence to perform legal acts or limiting his competence to perform legal acts enters into legal force.

(12) The President of the Republic may relieve a member of the Bank Board from office if the member fails to perform his duties for a period exceeding six months.

(13) The Governor shall be relieved from office by the President of the Republic if he no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct. The President of the Republic may also relieve the Governor from office if he fails to perform his duties for a period exceeding six months. A decision to this effect may be referred to the European Court of Justice by the Governor concerned or the Governing Council of the European Central Bank on grounds of infringement of the Treaty establishing the European Community or of any rule of law relating to its application.

Article 7

(1) The Governor, or, in his absence, a Vice-Governor nominated by him, shall chair the meetings of the Bank Board. The Bank Board shall act by a simple majority of the votes cast. The Bank Board shall have a quorum if the Governor, or his nominee, and at least three other members of the Bank Board are present. In the event of a tie, the chairperson shall have the casting vote.

(2) The Bank Board shall approve the Rules of Procedure of the Bank Board.

Article 8

The Governor shall represent the Czech National Bank externally. In his absence, a Vice-Governor nominated by him shall act on his behalf.

PART THREE
Relationship to the Government and to other bodies

Article 9

(1) When providing for the primary objective of the Czech National Bank and when carrying out other activities, neither the Czech National Bank nor the Bank Board shall seek or take instructions from the President of the Republic, from Parliament, from the Government, from administrative authorities or from any other body.

(2) The Czech National Bank and the Government shall inform each other on matters concerning the principles and measures of monetary and economic policy.

Article 10

(1) The Czech National Bank shall take a position on proposals presented to the Government for consideration that concern the fields of competence of the Czech National Bank.

(2) The Czech National Bank shall act in an advisory capacity vis-à-vis the Government in matters of monetary policy and the financial market.

Article 11

(1) The Minister of Finance or another nominated member of the Government may attend the meetings of the Bank Board in an advisory capacity and may submit motions for discussion.
(2) The Governor of the Czech National Bank or a Vice-Governor nominated by him may attend the meetings of the Government in an advisory capacity.

PART FOUR
Issuance of banknotes and coins

Article 12

The Czech National Bank shall have the exclusive right to issue banknotes and coins, including commemorative coins (hereinafter referred to as "banknotes and coins").

Article 13

The monetary unit in the Czech Republic shall be the Czech koruna (crown), abbreviated as "Kč". The Czech koruna shall be divided into one hundred hellers.

Article 14

The Czech National Bank shall manage the stocks of banknotes and coins, and shall organise the delivery of banknotes and coins from the manufacturers in keeping with the requirements for the circulation of money.

Article 15

The Czech National Bank shall organise the printing of banknotes and the minting of coins, and shall see to the protection and security of banknotes and coins that have not been released into circulation and to the safekeeping and destruction of printing plates, dies and invalid and withdrawn banknotes and coins.

Article 16

(1) Valid banknotes and coins issued by the Czech National Bank shall be legal tender at their par value in respect of all payments made within the territory of the Czech Republic.
(2) Coins made from precious metals, commemorative coins and special coins intended for collection may be sold at prices other than their par value.

Article 17

(1) Upon request, the Czech National Bank shall exchange any damaged banknotes and coins it has issued for undamaged banknotes and coins.
(2) The Czech National Bank may refuse to exchange banknotes or coins the design or relief of which is illegible or perforated, and the remains of banknotes smaller than one quarter of the original area of the banknote. Such banknotes and coins shall be taken from the presenter without compensation and shall be destroyed. In justified cases, the Czech National Bank may exceptionally provide compensation.

(3) The Czech National Bank shall not provide any compensation for banknotes or coins that have been destroyed or lost. It may withdraw without compensation banknotes the appearance of which has been altered, particularly those that have been written on, drawn on, overprinted, printed on or perforated, or which have been soiled by paint, glue or other such material.

Article 18

The Czech National Bank shall withdraw from circulation banknotes and coins suffering from wear and tear, destroy them and replace them with new banknotes and coins.

Article 19

(1) The Czech National Bank may declare invalid and withdraw from circulation any banknotes and coins it has issued. It shall refund their par value by exchanging them for other, newly issued banknotes and coins. The period over which such exchange may take place shall not be less than five years, save as otherwise provided in a special legislative act.
(2) At the end of the exchange period, the sum total of the banknotes and coins that have been declared invalid but have not been presented for exchange shall be deducted from the amount of money in circulation that appears in the accounts of the Czech National Bank. This sum shall be income to the Czech National Bank.

Article 20

Any kind of reproduction of banknotes, coins, cheques, securities or payment cards denominated in Czech korunas or in a foreign currency (hereinafter referred to as "money symbols"), or objects imitating them, may only be made under the terms and conditions set forth by the Czech National Bank in a legal regulation.

Article 21

(1) Legal entities shall withdraw counterfeit or altered banknotes and coins valued in Czech korunas or in a foreign currency, or banknotes and coins valued in Czech korunas or in a foreign currency for which reasonable suspicion arises that they are counterfeit or have been altered, (hereinafter referred to as "suspicious banknotes and coins") without compensation and shall hand them over to the Czech National Bank. Such entities shall be entitled to demand of the person who presented the suspicious banknotes or coins that this person prove his or her identity in a credible manner. The entity that accepted the suspicious banknotes or coins shall notify the criminal law enforcement authorities of the withdrawal of the suspicious banknotes and coins.
(2) Natural persons carrying on bureau-de-change activities or providing money services under the Foreign Exchange Act shall also have the duties and powers referred to in paragraph 1.

Article 22

The Czech National Bank shall set forth by decree:
a) the par values, dimensions, weight, material, appearance and other attributes of banknotes and coins and the manner of their issuance into circulation;

b) the steps to be taken by natural and legal entities when accepting and handling legal tender, including the steps to be taken upon withdrawal of suspicious banknotes and coins;
c) the manner of providing compensation for incomplete and damaged banknotes and coins;
d) the manner of terminating the validity of banknotes and coins and the manner and period of their exchange for other banknotes and coins;
e) the terms and conditions under which money symbols may be reproduced or objects imitating them may be produced.

PART FIVE
Instruments of monetary control of the Czech National Bank

Article 23

The Czech National Bank shall set the interest rates, structures, maturities and other terms and conditions for the transactions it performs pursuant to this Act and special legislative acts.[1)]

Article 24

The Czech National Bank shall set forth:
a) in a provision promulgated in the Bulletin of the Czech National Bank the prudential rules for banks, foreign bank branches, credit unions, electronic money institutions[1a)] and branches of foreign electronic money institutions operating in the Czech Republic under the single licence,
b) in a decree the prudential rules for other money market participants and the terms and conditions under which transactions may be performed on the money market.

Article 25

(1) The Czech National Bank may require banks, foreign bank branches and credit unions to hold a prescribed part of their funds on accounts with the Czech National Bank (hereinafter referred to as "required minimum reserves").
(2) The required minimum reserves may not exceed 30 per cent of the total liabilities of an institution required to hold reserves pursuant to paragraph 1, net of its liabilities owed to other such institutions.

Article 26

(1) Where a bank, a foreign bank branch or a credit union fails to maintain the required minimum reserves, the Czech National Bank may charge it interest at double the effective Lombard rate on the amount of the required minimum reserves which the bank fails to provide.
(2) When increasing the reserve requirement, the Czech National Bank shall set a deadline by which institutions subject to the requirement under Article 25 have to achieve the new level.

Article 26a

The Czech National Bank shall set rules for the fulfilment of the requirements laid down in

Articles 25 and 26 in a provision promulgated in the Bulletin of the Czech National Bank.

PART SIX
Transactions of the Czech National Bank
Transactions with Banks

Article 27

The Czech National Bank shall keep the accounts of banks and accept their deposits.

Article 28

The Czech National Bank may purchase from banks or sell to them:

a) bills of exchange maturing within six months of the date of their purchase by the Czech National Bank and bearing at least two signatures, of which at least one shall be on behalf of the bank;
b) government bonds or other securities underwritten by the Government.

Article 29

(1) The Czech National Bank may grant to banks for a maximum of three months credits guaranteed by the securities referred to in Article 28 or by government bonds or other securities underwritten by the Government, or by stock lists of bulk goods fully insured against loss and damage, or by other assets.
(2) In the interests of maintaining a bank's liquidity, the Czech National Bank may exceptionally provide short-term credit for a period of up to three months. When providing such credit, the Czech National Bank shall require adequate collateral.

Article 29a

Transactions conducted by the Czech National Bank pursuant to Part Six with banks may also be conducted with foreign bank branches and credit unions in a similar manner.

Transactions with the Czech Republic

Article 30

(1) The Czech National Bank shall keep accounts pursuant to the Act on Budgetary Rules and on the Amendment of Some Related Acts.
(2) The Czech National Bank may not provide returnable funds or any other financial support to the Czech Republic or its bodies, or to regional authorities, bodies governed by public law or legal entities under the control of the state, a regional authority or a body governed by public law, with the exception of banks, not even through the purchase of debt securities from such entities where such entities are the issuers thereof. Moreover, it may not carry on transactions with such entities that might give rise to a Czech National Bank claim against such entities.

Article 31

(1) The Czech National Bank shall offer government bonds for sale pursuant to a special legislative act3) and by agreement with the Ministry of Finance may perform on its behalf and for an agreed remuneration activities relating to the management, redemption and transfer of government bonds, the payment of interest on such bonds and other activities as required.

(2) The Czech National Bank shall be authorised to keep a record of the securities issued by the Czech Republic and maturing within one year, a record of the securities issued by the Czech National Bank (Article 33) and a record of bonds maturing within one year, and shall be authorised to operate a settlement system for these investment instruments.

Article 31a

Pursuant to a special legal rule governing budgetary rules[3a)], the Czech National Bank may, upon the request of the Ministry of Finance, deal in investment instruments3b). This shall be without prejudice to the provision of Article 31(1).

Other transactions of the Czech National Bank

Article 32

Save as otherwise provided in this Act, the Czech National Bank may purchase and sell securities in order to regulate the money market.

Article 33

The Czech National Bank may issue, and trade in, short-term securities maturing within six months.

Article 34

(1) The Czech National Bank may, under terms and conditions customary in the banking sector, keep the accounts of its staff and provide other banking services to them. It may also keep accounts and provide banking services for legal entities. The Czech National Bank shall publish a list of these legal entities in its annual financial report.

(2) A special legislative act4) shall apply *mutatis mutandis* to the carrying-on of the activities referred to in paragraph 1.

PART SEVEN

Powers of the Czech National Bank in respect of foreign exchange management

Article 35

The Czech National Bank shall:

a) after discussion with the Government stipulate the exchange rate regime of the Czech currency vis-à-vis foreign currencies, with the proviso that the primary objective of the Czech National Bank must not be jeopardised;
b) declare the exchange rate of the Czech currency vis-à-vis foreign currencies;
c) set the price of gold in the banking operations of the Czech National Bank;
d) hold, manage and dispose of monetary reserves in gold and foreign exchange.

Article 36

The Czech National Bank shall:

a) trade in gold and foreign exchange assets and conduct all types of banking transactions with domestic and foreign banks as well as credit unions and payments with other countries;
b) issue securities in foreign currencies.

PART EIGHT
Other activities and powers of the Czech National Bank

Article 37

(1) The Czech National Bank, together with the Ministry of Finance, shall prepare and submit to the Government draft legislation on the currency and the circulation of money, and draft legislation concerning the status, competence, organisation and activities of the CNB, save for financial market supervision, the payment system and electronic money issuance.
(2) The Czech National Bank shall co-operate with the Ministry of Finance in preparing draft legislation in the areas of the financial market, the payment system, regulation of electronic money issuance, foreign exchange management and the adoption of the single currency, the euro, in the Czech Republic.

Article 38

(1) The Czech National Bank shall be authorised to operate interbank payment systems. In addition to banks, credit unions[4a)] and foreign bank branches, participants in these systems may include entities which perform the role of a central counterparty, a settlement agent or a clearing institution within a settlement system pursuant to a special legal rule governing capital market undertakings[3b)], or in a settlement system stated in the list of the Commission of the European Communities, and which by their participation in the Czech National Bank's system shall be responsible for discharging the financial obligations arising from orders accepted by this system. Pursuant to a special legal rule, an account analogous to an interbank payment account shall be maintained for the aforementioned entities in the Czech National Bank's system, provided that the Czech National Bank concludes with these entities a contract on maintenance of a payment system account and submission of interbank payment data.
(2) Each contract referred to in paragraph 1 shall contain:
   a) the place, manner and time of submitting the payment system data,
   b) the essential elements, form and structure of the payment system data and the manner of safeguarding them from misuse,
   c) the responsibilities of the contracting parties,
   d) the interest-rate terms and conditions for the payment system account,
   e) the prices charged for executing interbank payments.
(3) In order to ensure uniform payments and settlement, the Czech National Bank shall set forth by decree:
   a) the manner of execution of payments between banks, credit unions and foreign bank branches, and account settlement at banks and credit unions,

b) the manner of use of payment instruments by banks, credit unions and foreign bank branches within the payment system.

Article 39

The Czech National Bank shall register the representative offices of foreign banks and financial institutions carrying on banking activities[7)] where such offices are active within the territory of the Czech Republic. The foreign bank or financial institution shall register its representative office prior to commencing its activities. The representative office shall not transact business and shall not be incorporated in the Companies Register.

Article 40

Within the scope of its fields of competence pursuant to this Act, the Czech National Bank shall negotiate payment and other agreements with foreign banks, financial market supervisory authorities and international financial institutions.

Article 41

(1) The Czech National Bank shall co-ordinate the development of the banking information system in the Czech Republic. For this purpose, it shall set forth the principles of the banking information system in a legal regulation.

(2) In order to undertake its tasks, the Czech National Bank shall demand the necessary information and documents from:
   a) banks, foreign bank branches, credit unions, electronic money institutions[1a)] and branches of foreign electronic money institutions operating in the Czech Republic under the single licence,
   b) other entities subject to its supervision (Article 44),
   c) other entities belonging to the financial institutions sector pursuant to European Communities Law[8)] or entities which have at their disposal information necessary for the compilation of the balance of payments of the Czech Republic.

This shall be without prejudice to the right of the Czech National Bank to request information pursuant to special legal rules and fulfilment of the information duty pursuant to special legal rules.[8a)]

(3) The Czech National Bank shall set forth in a provision promulgated in the Bulletin of the Czech National Bank the content, form, dates and manner of submission of the information and documents required from the persons specified in paragraph 2(a), and the organisational and communicational terms and conditions for submitting them to the Czech National Bank.

(4) The Czech National Bank shall set forth in a decree the group of entities referred to in paragraph 2(b) and (c), and the content, form, dates and manner of compilation and submission of the information and documents required from these entities.

(5) If the submitted information and documents do not comply with the requirements set pursuant to paragraph 3, or if reasonable doubts arise about the correctness or completeness of the information and documents submitted, the Czech National Bank shall be entitled to request relevant details or an explanation.

(6) The Czech National Bank may provide to the Czech Statistical Office for statistical purposes individual data which it has acquired for the performance of its tasks where such provision is necessary for the fulfilment of the obligations arising from an international treaty which is binding on the Czech Republic.

Article 42

The Czech National Bank shall be entitled to engage in commercial and investment activities insofar as is necessary to provide for its own operations.

Article 43

The issuance of securities by the Czech National Bank, the trading in securities and other investment instruments, their registration and the operation of a settlement system for them, as performed by the Czech National Bank, shall not be subject to licensing or supervision under special legal rules9).

PART NINE
Supervision

Article 44

(1) The Czech National Bank shall perform supervision of:
   a) banks, foreign bank branches, credit unions, electronic money institutions, branches of foreign electronic money institutions, small-scale electronic money issuers, payment institutions and small-scale payment service providers, and of the sound operation of the banking system;
   b) investment firms, securities issuers, the central depository, other entities keeping a register of investment instruments, investment companies, investment funds, settlement system operators, organisers of investment instrument markets and other persons specified in special legal rules governing capital market undertakings[9b)];
   c) insurance corporations, reinsurance corporations, pension funds and other entities active in insurance and private pension schemes pursuant to special legal rules9c);
   d) the safe, sound and efficient operation of payment systems pursuant to a special legal rule[9d)];
   e) the activities of other entities that have a licence or registration pursuant to special legal rules[9e)].
(2) Supervision shall include:
   a) decisions on licence, permit and registration applications and prior approvals pursuant to special legal rules;
   b) inspection of adherence to the conditions stipulated in licences and permits;
   c) inspection of adherence to laws and directly applicable EC regulations, insofar as the Czech National Bank has the power to conduct such inspections under this Act or special legal rules, and inspection of adherence to the decrees and provisions issued by the Czech National Bank;
   d) collection of the information needed to perform supervision pursuant to special legal rules and its enforcement, and verification of whether it is true, complete and up-to-date;
   e) the imposition of remedial measures and penalties pursuant to this Act or a special legal rule;
   f) proceedings regarding administrative offences.
(3) The Czech National Bank shall also perform supervision of the entities specified in paragraph 1 on a consolidated or group basis as well as supplementary supervision of such entities in financial conglomerates to the extent set forth in special legal rules[9f)].

Article 44a

(1) The Czech National Bank shall perform supervision of compliance with the obligations set out in the Civil Code as regards the remote conclusion of financial services agreements, supervision of observance of the prohibition of unfair business practices[9k)] and supervision of compliance with the obligations as regards the conclusion of consumer credit agreements[9m)] by persons referred to in Article 44(1). The Czech National Bank shall perform such supervision of payment institutions, small-scale payment service providers and small-scale electronic money issuers only within the scope of payment service provision, services related to payment service provision and electronic money issuance.

(2) In the case of cross-border co-operation, the Czech National Bank shall perform supervision under paragraph 1, proceeding in accordance with the relevant legal rule of the European Communities[9h)].

(3) If the Czech National Bank detects an infringement of an obligation or reasonably suspects that the collective interests of consumers[9i)] may be infringed by a person supervised under paragraph 1 which has committed unlawful conduct in a Member State of the European Communities or another state of the European Economic Area, it shall prohibit that person from carrying on the unlawful conduct.

Article 44b

In order to prove the integrity or credibility of a party to administrative proceedings conducted by the Czech National Bank, the Czech National Bank shall require an extract from the Criminal Register pursuant to a special legal rule[9j)] or, in cases stipulated by a special legal rule[9k)], a copy from the Criminal Register. The application for an extract or copy from the Criminal Register and the extract or copy from the Criminal Register shall be submitted in an electronic form, in a manner allowing remote access.

Article 45

(1) In the performance of supervision and supplementary supervision of banks and other entities in financial conglomerates to the extent set forth in a special legal rule[9l)] by way of on-site inspection, the relations between the Czech National Bank and the supervised entities shall follow the basic rules of inspection as set forth in a special legislative act[10)] for state administrative bodies, with the exception of the provisions on co-operation in the area of inspection.[11)]

(2) An employee of the Czech National Bank may not perform supervision in the form of an onsite inspection if he or she is a person close[11a)] to the supervised entity or to an entity which has a position in the supervised entity that enables it to influence the activity of the employee.

Article 45a
Financial Market Committee

(1) A Financial Market Committee (hereinafter the "Committee") shall be established as a advisory body to the Bank Board for the area of financial market supervision.

(2) The Committee shall consist of seven members:

a) a Chairman, a Vice-Chairman and another member of the Committee, elected by the Budget Committee of the Chamber of Deputies at the proposal of professional organisations or interest groups of financial market participants and after the Czech National Bank and the Ministry of Finance have issued their opinions on the proposed persons; these members of the Committee must be credible and recognised financial market experts;
b) a Bank Board member appointed and dismissed by the Bank Board;
c) two senior officers of the Ministry of Finance appointed and dismissed by the Minister of Finance;
d) the Financial Arbiter.

(3) The term of office of a member of the Committee who is elected by the Budget Committee of the Chamber of Deputies shall be three years. The member may be re-elected. The Budget Committee shall be obliged to elect a member no later than three months following the expiration of the term of office, death, resignation or dismissal of a previous member of the Committee by the Budget Committee due to loss of credibility.

(4) The members of the Committee shall perform their duties impartially and without compensation.

Article 45b

(1) The Committee shall meet regularly at least twice a year.

(2) The meetings of the Committee shall be chaired by the Chairman (or the Vice-Chairman in the Chairman's absence).

(3) The Governor of the Czech National Bank and the Minister of Finance shall be entitled to attend the meetings of the Committee.

(4) The Committee shall adopt rules of procedure specifying detailed rules for its meetings.

(5) A Czech National Bank employee approved by the Bank Board shall be the Secretary of the Committee.

Article 45c

(1) The Committee shall monitor and discuss:
a) general frameworks, strategies and approaches to financial market supervision;
b) significant new trends on the financial market and in the supervision or regulation thereof;
c) systemic national and international issues regarding the financial market and the performance of supervision thereof.

(2) The Committee shall be entitled to submit to the Bank Board opinions and recommendations in the areas specified in paragraph 1. In such cases, the Chairman (or Vice-Chairman in the Chairman's absence) shall be entitled to participate in the discussion of the Committee's opinion or recommendation in the Bank Board. The Committee shall also be entitled to submit similar opinions and recommendations to the Ministry of Finance.

(3) The Czech National Bank shall inform the Committee at least twice a year of its main financial market supervisory activities in the past period, including decisions made. It shall also do so at the request of the Committee. The Ministry of Finance and the Financial Arbiter shall be subject to the same information duty at the request of the Committee.

Article 45d

Report on the performance of financial market supervision

(1) The Czech National Bank shall each year compile and submit for information to the Chamber of Deputies, the Senate and the Government a report on the performance of financial market supervision. This report shall be submitted by 30 June of the following year.

(2) Before the report on the performance of financial market supervision is submitted, its content shall be discussed by the Committee, which shall be entitled to append its opinion to the report.

Article 46
Remedial measures

(1) Should the Czech National Bank detect any violation of this Act, another legal rule or a provision issued by the Czech National Bank by an entity specified in Article 24(b), it shall order the entity to abandon the incorrect procedure or terminate its operations.

(2) The entity referred to in paragraph 1 shall inform the Czech National Bank that the shortcomings have been eliminated without undue delay after the elimination of the shortcomings or immediately after the termination of its operations.

(3) The regulations on administrative proceedings shall not apply to the procedure referred to in paragraph 1.

Article 46a
Administrative offences in business and trading on the money market

(1) A legal entity that is not a bank, or a natural person carrying on business activities, shall be deemed to have committed an administrative offence if it breaches a prudential rule or the conditions for trading on the money market stipulated in Article 24(b).

(2) A fine of up to CZK 1,000,000 shall be imposed for an administrative offence under paragraph 1.

Article 46b
Administrative offences in the fulfilment of the information duty

(1) A legal entity or a natural person carrying on business activities as specified in Article 41(2), shall be deemed to have committed an administrative offence if it breaches the duty to submit the information or documents referred to in Article 41, or if it repeatedly submits incomplete or incorrect information or documents.

(2) A fine of up to CZK 1,000,000 shall be imposed for an administrative offence under paragraph 1.

Article 46c
Administrative offences in the reproduction of money symbols and imitations thereof

(1) A legal person or a natural person carrying on business activities shall be deemed to have committed an administrative offence in reproducing money symbols and imitations thereof if it produces a reproduction of a banknote, coin, means of payment or security denominated in Czech korunas or a foreign currency, or produces, sells, imports or disseminates for the purpose of selling or other business purposes an object whose form

imitates them in contravention of Article 20 or a directly applicable legal rule of the European Communities[11b)].

(2) A fine of up to CZK 500,000 shall be imposed for an administrative offence under paragraph 1.

(3) A natural person shall be deemed to have committed an offence in reproducing money symbols and imitations thereof if it produces a reproduction of a banknote, coin, means of payment or security, denominated in Czech korunas or a foreign currency, or produces, sells, imports or disseminates for the purpose of selling or other business purposes an object whose form imitates them in contravention of Article 20 or a directly applicable legal rule of the European Communities[11b)].

(4) A fine of up to CZK 500,000 shall be imposed for an offence under paragraph 3.

Article 46d
Administrative offences against the circulation of currency

(1) A legal entity or natural person who is an entrepreneur carrying on bureau-de-change activities or providing money services under the Foreign Exchange Act shall be deemed to have committed an administrative offence if it does not withdraw a suspicious banknote or coin, even though it is obliged to do so under Article 21 or a directly applicable legal rule of the European Communities[11c)], and does not hand over the counterfeits to the Czech National Bank.

(2) A fine of up to CZK 1,000,000 shall be imposed for an administrative offence under paragraph 1.

Article 46f
Joint provisions on administrative offences

(1) A legal entity shall not liable for an administrative offence if it proves that it made every effort that could possibly have been required to prevent the breach of its legal duty.

(2) The gravity of the administrative offence, particularly the manner in which it was committed and its consequences and circumstances, shall be taken into account in determining the amount of the fine to be imposed on a legal entity.

(3) A legal entity shall cease to be liable for an administrative offence if the Czech National Bank fails to open administrative proceedings on the offence within one year of the day the offence came to its knowledge, but no later than five years from the day the offence was committed.

(4) Administrative offences under Articles 46a to 46e shall be heard by the Czech National Bank.

(5) The Bank Board shall rule on appeals against decisions on administrative offences.

(6) The provisions of this Act regarding the liability of, and sanctions against, legal entities shall apply to liability for conduct arising from or directly related to the business activity of a natural person[11f)].

(7) Revenue from fines imposed shall constitute a state budget revenue.

PART TEN
Financial Management of the Czech National Bank

Article 47

(1) The Czech National Bank shall manage its finances in compliance with a budget broken down so as to show clearly the operating and investment expenditure of the Czech National Bank.
(2) The Czech National Bank shall defray the necessary costs of its operations from its income. The profit it generates shall be used to replenish its reserve fund and other funds created from profits and for other purposes in the budgeted amount. It shall transfer the remaining profit to the state budget.
(3) Within three months of the end of the calendar year, the Czech National Bank shall submit its annual financial report to the Chamber of Deputies for review. This report shall include information on the salaries of the members of the Bank Board of the Czech National Bank.
(4) The Chamber of Deputies may either:
a) approve,
b) acknowledge, or
c) reject
the financial report of the Czech National Bank.
(5) If the Chamber of Deputies rejects the financial report of the Czech National Bank, the Czech National Bank shall within six weeks submit a revised report that complies with the requirements of the Chamber of Deputies.

Article 48

(1) The Czech National Bank shall keep accounts in accordance with a special legal rule.[12a)]
(2) The annual accounts of the Czech National Bank shall be audited by one or more auditors appointed by agreement between the Bank Board and the Minister of Finance.
(3) As soon as the annual accounts are approved and audited, the Bank Board shall submit them to the Chamber of Deputies and publish them.
(4) The Czech National Bank shall publish an annual report containing basic information on monetary development.
(5) The Czech National Bank shall produce and publish every ten days a report on its financial position.

PART ELEVEN
General provisions

Article 49

All banking operations of the Czech National Bank, including balances on the accounts it keeps, shall be subject to banking secrecy.

Article 49a

(1) Administrative fees for acts by the Czech National Bank pursuant to a special legal rule[12b)] shall constitute income to the Czech National Bank.
(2) The reimbursement of the costs of administrative proceedings conducted by the Czech National Bank under this Act or any other act shall be collected by the Czech National Bank. The reimbursement of these costs shall constitute income to the Czech National Bank. The reimbursement of the costs of administrative proceedings conducted by the Czech National Bank shall be regarded as public budget funds for the purposes of administration of the payment thereof.[12c)]

Article 49b

(1) Within the limits of the law, the Czech National Bank shall issue provisions of the Czech National Bank (hereinafter referred to as "provisions") where it is authorised to do so by law. These provisions shall be binding on banks, credit unions, foreign bank branches, electronic money institutions1a) and branches of foreign electronic money institutions.
(2) Each provision shall be signed by the Governor of the Czech National Bank.
(3) Each provision shall enter into force on the date of its promulgation in the Bulletin of the Czech National Bank (hereinafter referred to as the "Bulletin").
(4) Each provision shall take effect on the date stipulated therein. However, the earliest it can take effect is on the date of its promulgation in the Bulletin, namely the date of issue of the relevant Volume of the Bulletin.
(5) The provisions shall be marked in the Bulletin with serial numbers, with the series terminating at the end of each calendar year.
(6) The Czech National Bank shall issue official information documents of the Czech National Bank, in which it shall provide information, for example, on the Bank Board's interest rate decisions, interpretative opinions of the Czech National Bank, the conditions for the transactions of the Czech National Bank and facts important to persons operating on the financial market. The official information documents shall be signed by a Bank Board member and issued in the Bulletin.
(7) he Bulletin shall be issued in sequentially numbered Volumes marked with serial numbers, with the series terminating at the end of each calendar year.
(8) The Czech National Bank shall publish a copy of the Bulletin in a manner enabling remote access. However, this copy shall not be deemed the Bulletin under paragraph 3 and it shall not be possible to refer to its wording in administrative or other proceedings.

Article 50

(1) The staff of the Czech National Bank shall maintain confidentiality in the performance of their duties. This obligation shall remain in effect even after the termination of their employment or any similar relation to the Czech National Bank. The obligation of confidentiality in matters encountered in the performance of their duties shall also apply to the members of advisory bodies and to auditors.
(2) The staff of the Czech National Bank and the members of advisory bodies may be exempted from this obligation by the Governor on the grounds of the public interest.
(3) The staff of the Czech National Bank may not engage in entrepreneurial activities, participate in the entrepreneurial activities of other persons or hold offices in the statutory or other bodies of any corporation without the prior approval of the Bank Board. This provision shall not apply to the management of own assets and scientific, literary, journalistic, artistic and pedagogical activities. In all these activities, the staff of the Czech National Bank shall be obliged to prevent any conflict of interest or abuse of information acquired while performing their duties in the Czech National Bank.
(4) The staff of the Czech National Bank shall be obliged to follow the principles of professional ethics set forth in the Code of Ethics of the Czech National Bank, which shall be approved by the Bank Board.

PART TWELVE

Transitional and final provisions

Article 51

The Czech National Bank shall be established by the division of the State Bank of Czechoslovakia.[13)]

Article 52

A limit of seven per cent of the revenues of the state budget in the previous year shall be set exceptionally for 1993 for the total stock of credits granted to the Czech Republic pursuant to Article 30(2).

Article 53

The rights and duties arising from the employment relations of the State Bank of Czechoslovakia with staff working within the territory of the Czech Republic shall be transferred to the Czech National Bank.

Article 54

The property of the State Bank of Czechoslovakia shall be transferred to the Czech National Bank to the extent set forth in a special legislative act.[14)]

Article 55

(1) Where the State Bank of Czechoslovakia is named in legal regulations issued prior to the date this Act takes effect and accepted into the legal order of the Czech Republic and in provisions, this shall be taken to mean the Czech National Bank as from the date this Act takes effect.
(2) Provisions issued by the State Bank of Czechoslovakia in force as of the date this Act takes effect shall be deemed provisions issued by the Czech National Bank.
(3) Legal acts performed by the State Bank of Czechoslovakia vis-à-vis persons having their registered address or permanent residence within the territory of the Czech Republic shall be deemed, as from the date this Act takes effect, legal acts performed by the Czech National Bank.

Article 56

Cancelled

Article 57

Accounts kept by the State Bank of Czechoslovakia within the territory of the Czech Republic as of the date of dissolution of the State Bank of Czechoslovakia shall be deemed accounts kept by the Czech National Bank in compliance with this Act.

Article 58

(1) The present senior officers of the State Bank of Czechoslovakia appointed to their posts by the President of the Czech and Slovak Federal Republic from among the citizens of the Czech Republic pursuant to Article 6 of Act No. 22/1992 Coll., on the State Bank of Czechoslovakia, shall perform their duties as members of the Bank Board of the Czech National Bank until the day the members of the Bank Board of the Czech National Bank are appointed pursuant to Article 6(2) and (3).
(2) The Bank Board may allow a derogation from the provisions of Article 6(5) for 1993.

Article 59

The Budgetary Rules of the Republic[16)] shall apply to the Czech National Bank, with the exception of the provisions governing the duties of the central bodies of the state administration and those governing the inspection of budgetary financial management.

Article 60

Act No. 22/1992 Coll., on the State Bank of Czechoslovakia, is hereby repealed.

Article 60a

Article 61

This Act shall take effect on 1 January 1993.

The position and competence of the Czech National Bank within the European Community, or the European Union, and in the European System of Central Banks is further regulated by Article II of Act No. 442/2000 Coll. (as amended by Article IV of Act No. 127/2002 Coll.)

Section II of Act No. 442/2000 Coll.

1. From the date the Treaty of Accession of the Czech Republic to the European Union enters into force:
   a) the Czech National Bank shall, without prejudice to its primary objective, support the general economic policies in the European Community with a view to contributing to the achievement of the objectives of the European Community;
   (b) the Czech National Bank shall be a part of the European System of Central Banks in accordance with the Treaty establishing the European Community and in accordance with the Protocol on the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as the "Statute") and shall observe the provisions of the Statute to the extent of the requirements for Member States of the European Union that have not yet introduced the euro as their national currency. In performing the tasks ensuing from this position, the Czech National Bank shall act in accordance with the legal acts of the European Central Bank;
   (c) when exercising the powers and carrying out the tasks and duties conferred upon them by this Act, the Treaty establishing the European Community and the Statute, neither the Czech National Bank, nor any member of its Bank Board shall seek or take instructions from European Community institutions or bodies, from any government of a Member State of the European Union or from any other body;

(d) the Czech National Bank may not provide returnable funds or any other financial support to the European Community or its institutions or bodies, or to Member States of the European Union, or to regional authorities, other bodies governed by public law or legal entities under the control of any of the Member States of the European Union, a regional authority thereof or a body governed by public law.

2. The prohibition referred to in paragraph 1(d) shall not apply to banks and other credit institutions owned by the entities referred to in paragraph 1(d), which, in the context of the provision of funds, shall be given the same treatment by the Czech National Bank as private credit institutions.

Provisions of the Czech National Bank

Section II of Act No. 127/2002 Coll.

Provisions issued after the date this Act takes effect may also cancel the provisions of the Czech National Bank promulgated prior to the date this Act takes effect in the Collection of Laws of the Czech Republic pursuant to Act No. 545/1992 Coll., on the Collection of Laws of the Czech Republic or pursuant to Act No. 309/1999 Coll. on the Collection of Laws and the Collection of International Agreements, by the promulgation of their complete wording.

1) e.g. Act No. 21/1992 Coll., on Banks, as amended, and Act No. 219/1995 Coll., the Foreign Exchange Act.
1a) Article 18b of Act No. 124/2002 Coll., on Transfers of Funds, Electronic Payment Instruments and Payment Systems (the Payment Systems Act), as amended by Act No. 257/2004 Coll.
1c) Article 52(2) of Act No. 90/1995 Coll., on the Standing Orders of the Chamber of Deputies.
3) Article 19(2) of Act No. 530/1990 Coll., on Bonds.
3a) Act No. 218/2000 Coll., on Budgetary Rules and on Amendment of Some Related Acts (The Budgetary Rules), as amended.
3b) Act No. 256/2004 Coll., on Capital Market Undertakings.
4) Act No. 21/1992 Coll.
4a) Act No. 21/1992 Coll.
Act No. 87/1995 Coll.
6a) Act No. 591/1992 Coll., on Securities, as amended.
7) Article 1(3) of Act No. 21/1992 Coll.
8) Council Regulation (EC) No. 2223/96 of 25 June 1996, on the European system of national and regional accounts in the Community.
8a) e.g. Act No. 21/1992 Coll. on Banks, as amended, Act No. 256/2004 Coll., on Capital Market Undertakings, as amended, Act No. 189/2004 Coll., on Collective Investment, Act No. 87/1995 Coll., on Credit Unions, as amended, Act No. 363/1999, on Insurance, as amended.
9) Act No. 15/1998 Coll., as amended. Act No. 256/2004 Coll., as amended.
9a) Act No. 21/1992 Coll., on Banks, as amended, Act No. 87/1995 Coll., on Credit Unions, as amended, and Part Three of Act No. 124/2002 Coll., the Payment Systems Act, as amended.
9b) Article 3(a) of Act No. 15/1998, on the Czech Securities Commission and on the Amendment of Other Acts, as amended.
9c) Act No. 363/1999 Coll., on Insurance, as amended, Act No. 42/1994 Coll., on Private Pension Insurance, as amended, and Act No. 38/2004 Coll., on Insurance Intermediaries and Independent Loss Adjusters.
9d) Part Four of Act No. 124/2002 Coll., as amended.
9e) Act No. 219/1995 Coll., the Foreign Exchange Act, as amended.
9f) Act No. 377/2005, on Supplementary Supervision of Banks, Credit Unions, Electronic Money Institutions, Insurance Corporations and Securities Dealers in Financial Conglomerates and on the Amendment of Certain Other Acts (Act on Financial Conglomerates), Act No. 21/1992 Coll., 27 as amended, Act No. 256/2004 Coll., on Capital Market Undertakings, as amended, and Act No. 363/1999, on Insurance and on the Amendment of Certain Related Acts.
9h) Regulation (EC) No. 2006/2004 of the European Parliament and of the Council of 27 October

2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation).
9i) Article 3(k) of the Regulation on consumer protection cooperation.
9j) Act No. 269/1994 Coll., on the Criminal Register, as amended.
9k) Article 2a(13) of Act No. 87/1995 Coll., Article 4(7) of Act No. 21/1992 Coll.
9l) Act No. 377/2005, on Supplementary Supervision of Banks, Credit Unions, Electronic Money Institutions, Insurance Corporations and Securities Dealers in Financial Conglomerates and on the Amendment of Certain Other Acts (Act on Financial Conglomerates).
9k) Articles 4 to 5a, Article 6 and Article 12 of Act No. 634/1992 Coll., on Consumer Protection, as amended by Act No. 36/2008 Coll.
9m) Act No. 145/2010 Coll., on Consumer Credit and on the Amendment of Certain Other Acts.
10) Part Three of Act of the Czech National Council No. 552/1991 Coll., on State Inspection.
11) Articles 21 to 23 of Act No. 552/1991 Coll.
11a) Article 116 of the Civil Code.
11b) Council Regulation (EC) No. 2182/2004 concerning medals and tokens similar to euro coins. Council Regulation (EC) No. 2183/2004 extending to the non-participating Member States the application of Regulation (EC) No. 2182/2004 concerning medals and tokens similar to euro coins.
11c) Council Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting and Council Regulation (EC) No 1339/2001 extending the effects of Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting to those Member States which have not adopted the euro as their single currency.
11d) Regulation (EC) No 2560/2001 of the European Parliament and of the Council of 19 December 2001 on cross-border payments in euro, OJ L 344, 28.12.2001, p. 13-16.
11e) Articles 4 and 6 of Regulation No 2560/2001.
11f) Article 2(2) of the Commercial Code.
12a) Act No. 563/1991 Coll., on Accounting, as amended.
12b) Act No. 634/2004 Coll., on Administrative Fees, as amended.
12c) Article 2(2) of Act No. 280/2009 Coll., Tax Procedure Code.
13) Article 14 of Constitutional Act No. 143/1968 Coll., on the Czechoslovak Federation, as amended.
14) Constitutional Act No. 541/1992, on the Division of the Property of the Czech and Slovak Federal Republic between the Czech Republic and the Slovak Republic and on its Transfer to the Czech Republic and the Slovak Republic.
16) Czech National Council Act No. 576/1990 Coll., on the Rules for Financial Management of the Budgetary Funds of the Czech Republic and of Municipalities in the Czech Republic (Budgetary Rules of the Republic), as amended.

ANNEX 6

Act No. 21/1992 Coll.

of 20 December 1991,

on Banks

As amended by:
Act No. 264/1992 Coll.,
Act No. 292/1993 Coll.,
Act No. 156/1994 Coll.,
Act No. 83/1995 Coll.,
Act No. 84/1995 Coll.,
Act No. 61/1996 Coll.,
Act No. 306/1997 Coll.,
Act No. 16/1998 Coll.,
Act No. 127/1998 Coll.,
Act No. 165/1998 Coll.,
Act No. 120/2001 Coll.,
Act No. 239/2001 Coll.,
Act No. 319/2001 Coll.,
Act No. 126/2002 Coll.,
Act No. 453/2003 Coll.,
Act No. 257/2004 Coll.,
Act No. 439/2004 Coll.,
Act No. 377/2005 Coll.,
Act No. 56/2006 Coll.,
Act No. 57/2006 Coll.,
Act No. 62/2006 Coll.,
Act No. 70/2006 Coll.,
Act No. 159/2006 Coll.,
Act No. 189/2006 Coll.,
Act No. 120/2007 Coll.,
Act No. 296/2007 Coll.,
Act No. 126/2008 Coll.,
Act No. 216/2008 Coll.,
Act No. 230/2008 Coll.,
Act No. 254/2008 Coll.,
Act No. 433/2008 Coll.,
Act No. 215/2009 Coll.,
Act No. 230/2009 Coll.,
Act No. 285/2009 Coll.,
Act No. 287/2009 Coll.,
Act No. 156/2010 Coll. (part),
Act No. 160/2010 Coll.,
Act No. 227/2009 Coll.,
Act No. 156/2010 Coll. (part),
Act No. 281/2009 Coll. and
Act No. 409/2010 Coll.

Note: This text is a working document for information only, and is not an official translation of the Czech legislation

The Federal Assembly of the Czech and Slovak Federal Republic has passed this Act:

PART ONE
Basic provisions

Article 1

(1) This Act incorporates the applicable regulations of the European Communities[1)] and governs certain relations associated with the establishment, business activities and dissolution of banks having their registered offices within the territory of the Czech Republic, including their activities outside the territory of the Czech Republic, as well as certain relations associated with the activities of foreign banks within the territory of the Czech Republic. For the purposes of this Act, "banks" shall mean legal entities having their registered offices in the Czech Republic, founded as joint-stock companies[1a)], which:
a) accept deposits from the public, and
b) provide loans
and which have been granted a banking licence (hereinafter referred to as the "licence") (Article 4) to carry on the activities referred to in subparagraphs a) and b). Where this Act provides otherwise, the provisions of the Commercial Code on joint-stock companies shall not apply to banks.

(2) For the purposes of this Act:
a) "deposit" shall mean any funds entrusted to the bank that constitute an obligation of the bank to the depositor to repayment thereof;
b) "loan" shall mean funds in any form provided temporarily.

(3) In addition to the activities referred to in Article 1(1)(a) and (b), a bank may carry on the following other activities, provided that it is authorised to do so in its licence:
a) investing in securities for own account,
b) financial leasing,
c) money transmission services,
d) issuing and administering means of payment, e.g. credit cards and travellers cheques,
e) providing guarantees,
f) opening letters of credit,
g) collecting payments,
h) providing investment services pursuant to a special legal rule,[1b)] where the licence specifies the principal investment services and activities and ancillary investment activities the bank is authorised to carry on and the investment instruments in relation to which they may be carried on pursuant to a special legal rule,[1b)]
i) money broking,
j) acting as a depository,
k) bureau-de-change activities,
l) providing banking information,
m) trading for own account or for account of clients in foreign exchange and gold,

n) renting safe deposit boxes,
o) activities directly associated with the activities listed in subparagraphs a) to n) and in paragraph 1.

(4) A bank may not carry on business activities other than those permitted in its licence. This shall not apply to activities carried on for another entity, provided that they are associated with safeguarding its operation and the operation of other banks, financial institutions and ancillary services undertakings controlled by the bank.

(5) The carrying-on of some of the activities listed in paragraph 3 may be subject to authorisation pursuant to a special legal rule. Where the carrying-on of any activity is subject to authorisation pursuant to a special legal rule, such activity may be permitted in the licence only after authorisation has been granted pursuant to the special legal rule.

(6) The banking activities listed in paragraphs 1(a) and 1(b) and in paragraph 3 may also be carried on by foreign banks through their branches, provided that they have obtained the required licence in accordance with Article 5.

(7) The licence shall name the permitted activities and may define the extent of the permitted activities, although not in the sense of limiting the number of individual business transactions, and may also stipulate the conditions that the bank or foreign bank branch must meet prior to commencing any permitted activity or adhere to when carrying on any permitted activity.

(8) The legal status of the Czech National Bank is governed by a special legislative act.[2)]

Article 2

(1) No person may accept deposits from the public without a licence, unless provided otherwise by a special legislative act.

(2) The continuing issuance of bonds and other comparable securities shall also be deemed acceptance of deposits where:
a) it constitutes the sole, or one of the main, activities of the issuer,
b) the issuer’s line of business is providing loans, or
c) the issuer’s line of business is one or more of the activities listed in Article 1(3).

Article 3

(1) The term “bank” or “savings bank”, translations thereof or terms derived therefrom may only be used in the commercial name of a legal entity that has been granted a licence, unless it is clear from the context in which the term “bank” or “savings bank” is used that such person is not engaged in the activities listed in Article 1(1).

(2) Paragraph 1 shall not apply to legal entities whose commercial name or designation is well established or recognised by law or pursuant to an international treaty which has been passed by Parliament, ratified and promulgated and which is binding on the Czech Republic, or

pursuant to any similar international treaty that entered into force before 1 January 1993 (hereinafter referred to as an "international treaty").

(3) The Czech National Bank may require:
a) a bank to change its proposed commercial name in cases where there exists a danger of its being confused with the commercial name of some other, already existing, legal entity or organisational unit thereof,
b) a foreign bank branch to change its commercial name by adding a distinguishing attribute in cases where there exists a danger of its being confused with the commercial name of some other, existing, legal entity or organisational unit thereof.

PART TWO
The licence

Article 4

(1) Licence applications shall be submitted to the Czech National Bank. A draft of the Articles of Association shall be submitted with the licence application. The minimum capital of a bank shall be CZK 500,000,000 and must comprise pecuniary contributions in at least this amount. The Czech National Bank shall set forth in a decree the essential elements of the licence application.

(2) Decisions concerning the granting of a licence shall be made by the Czech National Bank.

(3) Prior to making a decision concerning a licence, the Czech National Bank shall seek the opinion of the competent supervisory authority supervising banks, investment firms or insurance companies in a member state of the European Union or another state constituting the European Economic Area (hereinafter referred to as a "Member State", in the event that the entity to which the licence is to be granted is controlled by:
a) a foreign bank having its registered office in the Member State,
b) an entity having a permit from the competent supervisory authority in the Member State to provide investment services,
c) an insurance company having a permit from the competent supervisory authority in the Member State,
d) an entity having control over an entity listed in subparagraphs (a), (b) or (c).

(4) The Czech National Bank shall require that the opinions pursuant to paragraph (3) in particular contain information relevant for the assessment of whether the conditions listed in paragraph (5)(c) and (d) have been met.

(5) For the licence to be granted, the following conditions must be met:
a) the capital and other funds of the bank must be of transparent and unexceptionable origin, sufficient amount and appropriate structure;
b) the capital must be paid up in full;
c) persons having a qualifying holding (Article 17a(3)) in the bank must be trustworthy and competent to exercise shareholder rights in the bank's business activities;

d) the persons who are nominated for executive managerial positions in the bank with which are associated the powers and responsibilities laid down in the Articles of Association (hereinafter referred to as “bank officers”) must have sufficient trustworthiness, competence and experience;
e) the bank must have in place the technical and organisational prerequisites for pursuing its proposed activities and a functional and effective management and control system;
f) the bank must have a programme of operations proceeding from its proposed strategy of activities and based on realistic economic calculations;
g) any group of entities having close links with the bank must be transparent;
h) the close links within the group referred to in subparagraph g) must not impede the exercise of banking supervision;
i) in the state within whose territory the group referred to in subparagraph g) has close links, there must be no legal or factual impediment to the exercise of banking supervision;
j) the registered office of the future bank must be within the territory of the Czech Republic.

(6) For the purposes of this Act, “close links” shall mean:
a) a relationship between two or more entities where one has a direct or indirect holding in another, the sum of which totals 20% or more of the capital,
b) a relationship between two or more entities where one has a direct or indirect holding in another, the sum of which totals 20% or more of the voting rights,
c) a relationship between two or more entities where one has control over the other or others, or
d) a relationship between two or more entities that are controlled by the same entity.

(7) The Czech National Bank shall be entitled to request an extract from the Criminal Register concerning natural persons who are founders of the bank or who are nominated as bank officers. A person convicted lawfully in the past of a wilful criminal offence may not act as a bank officer.

Article 5

(1) A foreign bank wishing to establish a branch within the territory of the Czech Republic shall submit a licence application to the Czech National Bank.

(2) Together with the licence application, the foreign bank shall submit the opinion of the banking supervisory authority of the country in which the foreign bank has its registered office on its wish to establish a branch in the Czech Republic, as well as that authority’s declaration that the branch will be subject to banking supervision.

(3) Decisions concerning the granting of the licence referred to in paragraph 1 shall be made by the Czech National Bank.

(4) For the licence referred to in paragraph 1 to be granted, the following conditions must be met:
a) the funds provided by the foreign bank to its branch must be of sufficient amount and transparent origin, taking due consideration of the scope and risks of the branch’s business activities;

b) the foreign bank must be trustworthy and have sufficient financial strength, taking due consideration of the scope of the branch's business activities;
c) the persons nominated for executive managerial positions in the branch must have sufficient competence, trustworthiness and experience;
d) the branch must have in place the technical and organisational prerequisites for pursuing its proposed activities and a functional and effective management and control system;
e) the branch must have a programme of operations proceeding from its proposed strategy of activities and based on realistic economic calculations;
f) any closely linked group to which the foreign bank belongs must be transparent;
g) the close links within the group referred to in subparagraph f) must not impede the exercise of banking supervision;
h) in the state within whose territory the group referred to in subparagraph f) has close links, there must be no legal or factual impediment to the exercise of banking supervision;
i) the foreign bank wishing to carry on activities through a branch within the territory of the Czech Republic must have its registered office and its head office in the same state.

(5) The Czech National Bank shall set forth in a decree the essential elements of the application referred to in paragraph 1 and the minimum amount of funds to be provided.

(6) The fact that the legal form of the foreign bank does not correspond to the legal form of a joint-stock company shall not constitute grounds for rejecting the licence application.

(7) The procedure given in paragraphs 1 to 5 shall not apply to the cases referred to in Article 5a.

Article 5a

(1) Banks having their registered offices in Member States may, through their branches, carry on activities pursuant to this Act within the territory of the Czech Republic without a licence, provided that they have been granted authorisation to carry on those activities in the country in which they have their registered office and provided that the foreign bank has complied with the procedure laid down in European Community law and provided for in Articles 5c to 5m. Such branches shall be subject to the taxable person registration duty provided in a special legal rule[3)]. Banks having their registered offices in member states of the European Union shall moreover be authorised under the same conditions to carry on such activities without establishing a branch, provided that the carrying-on of such activities does not have the character of permanent economic activity.

(2) Paragraph 1 shall not apply to banks which do not enjoy the advantages of the single licence in accordance with European Community law or to banks having their registered offices in a state which does not enjoy the advantages of the single licence in accordance with European Community law.

(3) In compliance with an international treaty, the Czech National Bank may in a decree expand the group of countries whose banks enjoy the same advantages when pursuing their business within the territory of the Czech Republic as banks having their registered offices in Member States.

(4) Branches of foreign banks which, pursuant to paragraph 1, may carry on activities within the territory of the Czech Republic in accordance with this Act without a licence therefor being granted to the relevant foreign bank shall not be subject to this Act, save for the provisions of Article 11(3) and (5), the information duty referred to in Article 38(2) to (6), the provisions relating to bank liquidity, implementation of monetary policy and corrective accounting of banks (Article 20c), and the provisions of Article 41m(1) and (2).

(5) Where the foreign bank branch referred to in paragraph 1 decides to participate in the payment system administered by the Czech National Bank (Article 20b), it shall be subject to the legal rules governing the operation of that system. Where the foreign bank branch decides to make use of the possibility provided for in Article 38a(1), it shall be subject to Article 38a.

(6) The provisions of this Act relating to insurance of deposit claims shall apply to such branches only if they make use of the possibility provided for in Article 41m. The measures referred to in Article 26 may be taken against the foreign bank branches referred to in paragraph 1 only on condition that the branch is not itself taking remedial action at the behest of the Czech National Bank, nor has the banking supervisory authority of the country in which the relevant foreign bank has its registered office taken remedial action at the request of the Czech National Bank, and on condition that the irregular situation persists. This shall not apply in the event of violations of Article 11(3) and (5) and the provisions on corrective accounting; in the event of violations of the legal rules governing the operation of the payment system administered by the Czech National Bank (Article 20b) where the bank is a participant in that system; in the event of violations of Article 38a and the information duty referred to in Article 38(2) to (6); or in emergencies and where such action is necessary in the interests of depositors. The measures referred to in Article 26 taken in emergencies and because such action is necessary in the interests of depositors must be reviewed by the Czech National Bank at the earliest opportunity or within the time limit prescribed by the European Commission where the European Commission so decides in conformity with Article 5k(4); the Czech National Bank shall proceed likewise where the European Commission so decides in the case of the application of the procedure laid down in Article 26bb.

(7) In branches of foreign banks which, pursuant to paragraph 1, may carry on activities within the territory of the Czech Republic in accordance with this Act without a licence therefor being granted to the relevant foreign bank, or in entities comprising a consolidated group containing the foreign bank referred to in paragraph 1, the Czech National Bank may carry out on-site examinations if so requested by the supervisory authority of the country in which the foreign bank has its registered office. The supervisory authority of the country in which the foreign bank referred to in paragraph 1 has its registered office may, after having first informed the Czech National Bank, carry out an on-site examination within the territory of the Czech Republic at the foreign bank branch referred to in paragraph 1, or at a financial institution fulfilling the conditions listed in Article 5e(1).

Article 5b

The licence may not be granted if doing so would be in contravention of an international treaty.

The single licence principle

Article 5c

(1) Banks having their registered office within the territory of a Member State (hereinafter referred to as the "home state") may, through their branches, carry on the activities listed in Article 5d within the territory of another Member State (hereinafter referred to as the "host state") without a licence, provided that they have been granted authorisation to carry on those activities in their home state. Save for the activity provided for in Article 5d(a), the same authorisation shall apply to financial institutions fulfilling the conditions listed in Article 5e(1) (hereinafter referred to as "eligible financial institutions").

(2) The banks referred to in paragraph 1 shall moreover be authorised to carry on the activities listed in Article 5d without establishing a branch, provided that the carrying-on of such activities does not have the character of permanent economic activity. The same shall apply to the eligible financial institutions referred to in paragraph 1, save for the activity provided for in Article 5d(a).

(3) A bank or financial institution which does not enjoy the advantages of the single licence in accordance with European Community law, or a bank or financial institution having its registered office in a state which does not enjoy the advantages of the single licence in accordance with European Community law, may not carry on activities through a branch within the territory of the host state without a licence.

Article 5d

Banks or eligible financial institutions may carry on the following activities within the territory of a host state, provided that they fulfil the conditions provided for in European Community law and laid down in this Act:
a) acceptance of deposits from the public,
b) lending,
c) financial leasing,
d) providing payment services and issuing electronic money,
e) issuing and administering means of payment where this does not constitute providing payment services and issuing electronic money pursuant to subparagraph d),
f) providing guarantees,
g) trading for own account and for account of clients in:
1. money market instruments,
2. foreign exchange,
3. futures, options and instruments, the value of which relates to exchange rates, the interest rate or interest income,
4. investment securities,
h) participation in securities issues and the provision of services related to such issues,
i) advice on capital structure, industrial strategy and related questions and advice as well as services relating to mergers and the purchase of undertakings,
j) money broking,
k) portfolio management and advice,
l) safekeeping and administration of securities,

m) providing banking information,
n) safe custody services,
o) provision of investment services and activities pursuant a special legal rule[1a)].

Article 5e

(1) Financial institutions wishing to make use of the advantages provided for in Article 5c must also fulfil the following conditions:
a) the bank or banks referred to in Article 5c(1) must hold 90% or more of the voting rights and capital of the financial institution and must be governed by the law of the same state as the financial institution;
b) the activities that the financial institution intends to carry on within the territory of the host state it must carry on also within the territory of its home state;
c) the financial institution must be included in the consolidated supervision of the bank or banks referred to in Article 5c(1) in accordance with European Community regulations;
d) the bank or banks referred to in Article 5c(1) must, with the consent of the home supervisory authority, jointly and severally guarantee the commitments entered into by the financial institution;
e) the bank or banks referred to in Article 5c(1) must satisfy the home supervisory authority regarding the prudent management of the financial institution.

(2) Compliance with the conditions referred to in paragraph 1 must be verified by the supervisory authority of the home state, which must supply a certificate of compliance.

(3) Should an eligible financial institution cease to fulfil any of the conditions referred to in paragraph 1, the home supervisory authority shall immediately notify the host supervisory authority and the financial institution shall forfeit the advantages of the single licence.

Article 5f

A bank or eligible financial institution wishing to establish a branch within the territory of a host state shall notify the supervisory authorities of the home state and shall provide it with the following information in writing:
a) the member state within the territory of which it plans to establish a branch;
b) a programme of operations setting out, inter alia, the types of business envisaged;
c) the structural organisation of the branch;
d) the address in the host state from which documents may be obtained;
e) the names of those responsible for the management of the branch;
f) in the case of an eligible financial institution, also documents for verifying the information referred to in Article 5e(1).

Article 5g

(1) Unless the supervisory authority of the home state has reason to doubt the adequacy of the administrative structure and the financial situation of the bank or financial institution, taking due consideration of the activities envisaged, it shall within three months of receipt of the

information referred to in Article 5f communicate that information, together with information on the amount of capital of the bank or eligible financial institution, information on its capital adequacy, and particulars about deposit insurance and about the transfer of the certificate of compliance referred to in Article 5e(2), to the host supervisory authority and shall inform the bank or financial institution accordingly.

(2) Where the doubts referred to in paragraph 1 exist, the supervisory authority of the home state shall, within the time limit prescribed in paragraph 1, inform the bank or financial institution that it has not communicated the information to the host supervisory authority and shall give reasons for its course of action. In that event, or if the supervisory authority of the home state fails to inform the bank or financial institution within the time limit prescribed in paragraph 1, the bank or financial institution may apply to the courts for redress.

Article 5h

(1) The supervisory authority of the host state shall, within two months of receiving the information mentioned in Article 5g(1), prepare for the supervision of the bank or financial institution and if necessary notify it of those legal provisions of the host state that will apply to its activities within the territory of the host state on the basis of the authorisation granted by the supervisory authority of the home state.

(2) On receipt of the information referred to in paragraph 1, or in the event of the lapse of two months without receipt of such information, the bank or eligible financial institution may commence its activities within the territory of the host state.

(3) The bank or eligible financial institution shall notify the supervisory authorities of the home and host states of any changes in the particulars mentioned in Articles 5f and 5g(1) one month in advance.

Article 5i

If a bank or eligible financial institution wishes to carry on the activities listed in Article 5d within the territory of the host state without establishing a branch, it shall, prior to providing the service for the first time, notify the home supervisory authority of the activities which it wishes to carry on. The home supervisory authority shall, within one month, send that notification to the host supervisory authority.

Article 5j

(1) Supervision of the branches of banks or eligible financial institutions shall be performed by the supervisory authority of the home state. Supervision of the liquidity of the branches of banks or eligible financial institutions shall be performed by the supervisory authority of the host state. Branches shall be subject to the measures adopted by the host state as part of its monetary policy, or, in the case of the states that have introduced the euro as their currency, to the measures adopted by the European Central Bank. Such measures may not provide for discriminatory treatment.

(2) In discharging the responsibilities imposed on it in paragraph 1 and in the area of monitoring the risks arising from open positions on the financial market within the territory of that state, the host state may require that bank branches or eligible financial institutions provide the same information as it requires from banks or financial institutions having their registered offices within the territory of that state. The host state may require that banks or eligible financial institutions having branches within its territory report periodically on their business activities within its territory in the form of statistical data.

Article 5k

(1) Where the competent authority of a host state ascertains that a bank or eligible financial institution providing services within its territory is not complying with the legal rules in the areas falling within the powers of the host state, it shall require the bank or eligible financial institution concerned to put an end to that irregular situation.

(2) If the bank or eligible financial institution concerned fails to take the necessary steps, the competent authority of the host state shall inform the supervisory authority of the home state accordingly. The supervisory authority of the home state shall, at the earliest opportunity, take the necessary measures to ensure that an end is put to that irregular situation and shall communicate those measures to the competent authority of the host state.

(3) If, despite the measures referred to in paragraph 2, the bank or eligible financial institution persists in violating the legal rules referred to in paragraph 1, the competent authority of the host state may, after informing the supervisory authority of the home state, take the necessary measures to put an end to the irregular situation and, in so far as is necessary, to put an end to the activities of the bank or eligible financial institution within the territory of the host state.

(4) In emergencies, the competent authority of the host state may take measures to protect the bank’s clients. The competent authority of the home state shall inform the European Commission and the supervisory authorities of the states concerned of such measures. The European Commission may, after consulting the supervisory authorities of the states concerned, instruct the authority of the host state to abolish or amend the measures taken.

(5) The authorities of the host state may take the necessary measures to prevent or to punish conduct within the territory of that state which is contrary to the legal rules of that state in the public interest area. This shall include measures to put an end to the activities of the bank or eligible financial institution within the territory of that state. In this event, the provisions of the previous paragraphs shall not apply.

Article 5l

(1) In the event of withdrawal of the licence of a bank or eligible financial institution, the home supervisory authority shall inform the host supervisory authority at the earliest opportunity. The host supervisory authority shall take the necessary measures to put an end to the activities of the bank or eligible financial institution within its territory and to safeguard the interests of depositors.

(2) The supervisory authorities shall inform the European Commission of the number and type of cases where they have refused to communicate to a host state authority information on the establishment of a branch or where they have used their powers to put an end to any irregular situation pursuant to Article 5k(1) to (3).

Article 5m

Banks and eligible financial institutions may freely advertise their services in Member States, subject to any legal rules governing advertising adopted in the host state.

Article 6

The licence shall be granted for an indefinite period and shall not be transferable to any other entity.

Article 7

The Czech National Bank shall maintain a complete list of the banks and branches of foreign banks active within the territory of the Czech Republic. The list shall be made available for inspection in the headquarters and branches of the Czech National Bank. The Czech National Bank shall disclose it in a manner which allows remote access.

Article 7a

(1) The licence shall cease to be valid on the day:
a) on which a decision to withdraw the licence becomes effective,
b) on which the bank is wound up, where it is wound up and liquidated,
c) from which, in accordance with a decision adopted by the General Meeting, an existing bank will cease to carry on any activity for which a licence is required,
d) on which the bank is expunged from the Companies Register, where it is wound up without being liquidated.

(2) The licence granted to a foreign bank for its branch shall also cease to be valid on the day on which the foreign bank discontinues the activities of its branch within the territory of the Czech Republic and, moreover, on the day on which the foreign bank loses its authorisation to carry on the business of a bank in the state in which it has its registered office.

PART THREE
Bank organisation

Article 8

(1) A bank's statutory body shall consist of at least three members and shall be composed of bank officers.

(2) A member of the statutory body of the bank and an employee of the bank may not simultaneously be a statutory body or a member of a statutory body or a member of a supervisory board of any other legal entity which is an entrepreneur. This shall not apply to the membership of:
a) the statutory body or supervisory board, or to the performance of the duties of the statutory body, of another bank, foreign bank or financial institution that is part of the same consolidated group as the bank (Article 26d),
b) the supervisory board of another legal entity controlled by the bank,
c) the statutory body or supervisory board, or to the performance of the duties of the statutory body, of an operator of a regulated market in investment instruments,
d) the statutory body or supervisory board, or to the performance of the duties of the statutory body, of an ancillary services undertaking, or
e) the statutory body or supervisory board, or to the performance of the duties of the statutory body, of a housing cooperative or a similar foreign entity.

(3) The powers of the statutory body and the supervisory board shall be specified in the Articles of Association.

(4) The powers entrusted to the board of directors of a joint-stock company by the Commercial Code may not be transferred to the supervisory board of the bank.

Article 8a

Members of the statutory body of a bank who have infringed their duties as members of the statutory body of the bank ensuing from the legal rules or from the Articles of Association shall be liable jointly and severally for any damage caused to the creditors of the bank resulting from the bank not being able to meet its due commitments as a result of the infringement of duties by those members of the statutory body.

Article 8b
Management and control system

(1) A bank and a foreign bank branch which does not enjoy the advantages of the single licence in accordance with European Community law shall have a management and control system that includes:
a) prerequisites for the sound governance and management of the bank, which shall always include:
1. management policies and procedures,
2. organisational arrangements, with an adequate, transparent and comprehensive specification of responsibilities and decision-making powers, within which conflicting duties shall simultaneously be defined, and procedures for preventing potential conflicts of interest,
3. sound administrative and accounting procedures,

b) a risk management system, which shall always include:
1. the bank's rules of approach to the risks it is or might be exposed to, including risks arising from the external environment and liquidity risk,
2. effective processes to identify, evaluate, measure, monitor and report risks,
3. effective processes to adopt measures leading to the mitigation of any risks, and
c) an internal control system, which shall always include:
1. internal audit and
2. ongoing control of compliance with the bank's legal obligations and obligations arising from the bank's internal rules.

(2) The management and control system shall be comprehensive and proportionate to the nature, scale and complexity of the bank's activities.

(3) A bank and a foreign bank branch which does not enjoy the advantages of the single licence in accordance with European Community law shall have an obligation to establish and maintain a management and control system on a solo basis. A bank shall also have these obligations on a consolidated basis if it is:
a) a domestic parent bank [Article 26d(1)(k)],
b) a parent bank but not a domestic parent bank or a responsible bank in a financial holding entity group [Article 26d(1)(b), (k) and (o)] where a foreign bank or financial institution having its registered office in a non-Member State is a member of its consolidated group,
c) a responsible bank in a financial holding entity group [Article 26d(1)(o)], or
d) a responsible bank in a foreign parent bank group [Article 26d(1)(p)].

(4) A bank which has an obligation to establish and maintain a management and control system on a consolidated basis shall also ensure that the management policies and procedures, organisational arrangements, processes and mechanisms referred to in paragraph 1 used by the members of the consolidated group are mutually consistent and well-integrated and produce all the information needed for the purposes of the decision-making processes within the consolidated group and for the purposes of supervision.

(5) The Czech National Bank shall stipulate in a decree more detailed requirements for the management and control system of banks on a solo and consolidated basis within the limits given in paragraph 1.

(6) A foreign bank branch which does not enjoy the advantages of the single licence in accordance with European Community law shall be subject to the requirements for the management and control system mutatis mutandis.

Article 9

(1) The bank shall also specify in its Articles of Association:
a) the structure and organisation of the bank;
b) the powers and responsibilities of bank officers;
c) the powers and responsibilities of other employees of the bank's head office and branches and of any other organisational units of the bank authorised to execute banking transactions;
d) the organisational arrangements of its management and control system.

(2) Certified copies of the Articles of Association and amendments thereto shall be lodged with the Czech National Bank.

Article 10

Banks and branches of foreign banks shall be incorporated in the Companies Register and shall lodge their certificate of incorporation with the Czech National Bank

PART FOUR

Operational requirements

Article 11

(1) Banks and branches of foreign banks shall supply on their premises written information in the Czech language on the terms and conditions applying to the acceptance of deposits, the provision of loans and other banking transactions and services and on their participation in any payment systems. On request, they shall supply information on the rules of the relevant payment system. This shall be without prejudice to Article 273(1) of the Commercial Code.

(2) In the information on services consisting in accepting funds from clients, or when providing such services, the relationship of the service to the insurance of deposit claims, including the limits for payment to one eligible person, shall be stated explicitly and plainly. Banks and foreign bank branches shall supply written information in the official language or languages of the state in which they carry on their activities about the manner of payment of compensation from the Deposit Insurance Fund (Article 41a) or any other insurance scheme to which they belong, and about the manner of making a claim with the Deposit Insurance Fund or any other insurance scheme to which they belong.

(3) A bank or a foreign bank branch shall at the request of a legal or natural person in the context of its business provide at the earliest opportunity a written explanation of the credit assessment (rating) of that person for the purposes of assessment of a loan provided to it or its application for a loan. A bank and a foreign bank branch shall provide a written explanation of a credit assessment if the person to whom the credit assessment relates so requests. A bank and a foreign bank branch shall be entitled in respect of the applicant to compensation of reasonable costs associated with the provision of an explanation of a credit assessment.

(4) A bank and a foreign bank branch shall keep records of all agreements entered into with clients in such a way that it is able, at the request of the Czech National Bank, to submit the relevant documents at the earliest opportunity in a verified translation into the Czech language.

(5) Banks and branches of foreign banks shall introduce effective mechanisms for dealing with client complaints and supply clear written information about these mechanisms on their premises in the official language or languages of the states in which they carry on their activities.

Article 11a
Disclosure of information

(1) A bank and a foreign bank branch which does not enjoy the advantages of the single licence in accordance with European Community law shall disclose basic information on itself, its shareholder structure, the structure of the consolidated group to which it belongs, and on its activities and financial situation.

(2) A bank and a foreign bank branch which does not enjoy the advantages of the single licence in accordance with European Community law shall also disclose information on compliance with the prudential rules on a solo basis. This shall not apply if it is:
a) a parent bank [Article 26d(1)(b)],
b) a responsible bank in a European financial holding entity group [Article 26d(1)(o)],
c) a responsible bank in a foreign parent bank group [Article 26d(1)(p)], or
d) a subsidiary in a European parent bank group [Article 26d(1)(l)], in a European financial holding entity group [Article 26d(1)(n)] or in a foreign parent bank group [Article 26d(1)(i) and it is taken into consideration when disclosing information on a consolidated basis.

(3) A bank shall also disclose information on compliance with the prudential rules on a consolidated basis if it is:
a) a European parent bank [Article 26d(1)(l)], or
b) a responsible bank in a European financial holding entity group [Article 26d(1)(o)].

(4) A bank which has a significant position on the financial market of the Czech Republic but is not subject to the obligations laid down in paragraphs 2 and 3 shall disclose information on compliance with the prudential rules to a reduced extent. A bank's position on the financial market of the Czech Republic shall be deemed significant if at least one of the following criteria is met:
a) the average balance-sheet total of the bank amounts to at least EUR 500,000,000, where the average balance-sheet total is determined as the arithmetic average of the bank's balance-sheet totals given in the three most recent ordinary financial statements verified by a legal or natural person carrying on auditor activity under the act governing the activity of auditors[3a)] (hereinafter referred to as the "auditor"),
b) the bank is an issuer of listed securities,
c) the bank is a depository of a collective investment fund or a pension fund, or
d) the bank's position on the financial market of the Czech Republic in a particular area of business is dominant in relation to other entities of the financial market of the Czech Republic.[3b)]

(5) A bank and a foreign bank branch which does not enjoy the advantages of the single licence in accordance with European Community law and is not subject to the obligations laid down in paragraphs 2–4 shall disclose information on who discloses information on a consolidated basis on behalf of the European parent bank group or on behalf of the European financial holding entity group to which it belongs, and in what way.

(6) A bank and a foreign bank branch which does not enjoy the advantages of the single licence in accordance with European Community law need not disclose information on compliance with the prudential rules which:

a) is not material; information shall be material if its omission or misstatement could change or influence the assessment or decision of persons relying on that information when making their decisions; this possibility shall not apply to information on approaches for the calculation of capital requirements (Article 12a),
b) is sensitive; information shall be sensitive if its disclosure could undermine a bank's competitive position, especially in the case of information on products or systems which, if shared with other competitors, could render a bank's investment in such products or systems less valuable,
c) is confidential; information shall be confidential if there are obligations to customers or other counterparties binding a bank to confidentiality.

(7) If a bank and a foreign bank branch which does not enjoy the advantages of the single licence in accordance with European Community law exercises the option of not disclosing sensitive or confidential information, it shall disclose the disclosure requirement concerned and the reason for non-disclosure. A bank and a foreign bank branch which does not enjoy the advantages of the single licence in accordance with European Community law shall, however, state at least general information about the facts they were to have disclosed, except where this general information is also sensitive or confidential.

(8) The auditor shall verify information about the capital and capital requirements and the ratios of a bank.

(9) The Czech National Bank shall stipulate in a decree:
a) the content of the information meant for disclosure on a solo and consolidated basis, including the reduced extent of information on compliance with the prudential rules, as well as the form, manner, structure, frequency and dates of disclosure of information,
b) the content of the information verified by the auditor, and
c) the content of the information referred to in subparagraphs a) and b) meant for disclosure by a foreign bank branch which does not enjoy the advantages of the single licence in accordance with European Community law.

(10) A bank shall establish internal procedures and policies for complying with the disclosure requirements laid down in this Act or on the basis thereof and for assessing the appropriateness of the information disclosed, including their verification and frequency of disclosure.

Article 12

(1) A bank or a foreign bank branch shall carry on its activities with prudence and, in particular, pursue its business in a manner which is not detrimental to the interests of its depositors in respect of the recoverability of their deposits and which does not endanger the bank's safety and soundness.

(2) A bank may not conclude any agreements under conspicuously disadvantageous conditions for a bank or a foreign bank branch, especially such that bind it to economically unjustified performance or performance that fails conspicuously to correspond to the countervalue provided. Agreements concluded in contravention of this provision shall be invalid.

Article 12a
Capital

(1) A bank and a foreign bank branch which does not enjoy the advantages of the single licence in accordance with European Community law shall, on a solo basis, maintain capital which is always more than or equal to the sum of the individual capital requirements for the coverage of risks (hereinafter referred to as "capital adequacy"). A bank's capital may not fall below the threshold stipulated in Article 4(1).

(2) A bank shall continuously maintain capital adequacy on a consolidated basis if it is:
a) a domestic parent bank [Article 26d(1)(k)],
b) a parent bank but not a domestic parent bank or a responsible bank in a financial holding entity group [Article 26d(1)(b), (k) and (o)] where a foreign bank or financial institution having its registered office in a non-Member State is a member of its consolidated group,
c) a responsible bank in a financial holding entity group [Article 26d(1)(o)], or
d) a responsible bank in a foreign parent bank group [Article 26d(1)(p)].

(3) A bank shall use either a basic or a special approach for the calculation of individual capital requirements.

(4) If a bank intends to use a special approach for the calculation of a capital requirement, or if it intends to change the special approach it uses or the conditions of use of that approach, it shall apply to the Czech National Bank for prior consent. The Czech National Bank shall decide on the bank's application within six months. In the decision on the granting of consent, the Czech National Bank may stipulate binding conditions under which the bank is entitled to use the special approach.

(5) A bank which is a member of a European parent bank group [Article 26d(1)(l)] or a European financial holding entity group [Article 26d(1)(n)] or is controlled by a European parent investment firm under a special legal rule[1b)] shall also be entitled to use one of the special approaches for the calculation of a capital requirement or to change the special approach it already uses if it is a signatory to a joint application of a European parent bank and its subsidiaries, a joint application of the subsidiaries of a European financial holding entity or a joint application of a European parent investment firm and its subsidiaries for prior consent to the use of such special approach or to a change in the special approach it uses.

(6) The Czech National Bank shall be competent to decide on a joint application referred to in paragraph 5 provided that its performs banking supervision on a consolidated basis of the European parent bank group or the European financial holding entity group. Otherwise, the supervisory authority of the Member State which performs supervision on a consolidated basis of the consolidated group in question shall decide on the joint application. A bank shall use a special approach or change the special approach it uses pursuant to the decision of the Member State's supervisory authority on the joint application for prior consent to the use of a special approach or to a change therein in accordance with the conditions stipulated in that decision.

(7) The Czech National Bank shall decide on a joint application referred to in paragraph 5 within six months. The Czech National Bank shall, without delay, forward the complete application to the supervisory authorities of the members of the consolidated group which submitted the application and shall coordinate cooperation with those supervisory authorities in the assessment of the application. The Czech National Bank shall do everything within its power to ensure that the decision is issued by agreement with all the supervisory authorities concerned and that the reaching of an agreement is duly set out in the justification of the decision. If the supervisory authorities concerned fail to reach an agreement allowing a decision to be made within the time limit mentioned in the first sentence, the Czech National Bank shall take into account the views and comments made by the other supervisory authorities within that time limit when deciding on the joint application. In the decision on the granting of consent, the Czech National Bank may stipulate binding conditions under which the bank or other joint applicants are entitled to use the special approach. The Czech National Bank shall also send the decision on the granting of consent to all the supervisory authorities concerned.

(8) The Czech National Bank shall stipulate in a decree:
a) the rules for calculating capital adequacy, which shall include the procedures that a bank shall apply when calculating capital adequacy, and the rules for setting capital, determining individual capital requirements and defining the approaches for calculating them, including conditions for applying the basic and special approaches for the calculation of capital requirements,
b) a specification of the special approaches, the use or change of which requires consent pursuant to paragraph 4 or 5,
c) the essential elements of an application for prior consent to the use of a special approach or to a change in a special approach already in use as submitted to the Czech National Bank.

Article 12b

(1) For the calculation of capital requirements using a debtor’s credit assessment (rating) issued by another entity, a bank shall use such rating only where it has been issued by a rating agency registered or certified pursuant to a Regulation of the European Parliament and the Council (hereinafter the “regulation on credit rating agencies”), provided that the agency is entered in the list of credit assessment agencies kept by the Czech National Bank or the rating is a comparable credit assessment issued by another entity where the regulation on credit rating agencies allows the use of such a comparable credit assessment.

(2) The list of credit assessment agencies shall contain the commercial name, registered office and legal form of the listed entity, its identification number if assigned, the scope of application of external ratings used by the entity, an assignment of these credit assessments to the credit quality steps, and the date from which the credit assessments of the entity may be used. In the case of the expunction of an entity from the list of credit assessment agencies (paragraph 5), the Czech National Bank shall state in this list the date from which the credit assessments of the entity may not be used.

(3) A credit assessment entity may apply to the Czech National Bank for entry in the list of credit assessment agencies provided that it can demonstrate that at least one bank, credit union or non-bank investment firm plans to use its credit assessments for the calculation of capital requirements. The Czech National Bank shall issue a decision to enter this entity in the

list after it has verified that its assessment methods comply with the requirements of objectivity, independence, ongoing review and transparency, and that the resulting credit assessments meet the requirements of credibility and transparency. If a credit assessment entity is a registered or certified rating agency pursuant to the regulation on credit rating agencies, its methods of assessment shall be deemed compliant with the requirements of impartiality, independence and transparency and shall be deemed updated on an ongoing basis.

(4) The Czech National Bank shall be entitled to request from an entity entered in the list of credit assessment agencies information necessary for evaluating whether the entity continues to comply with the requirements laid down in this Act or on the basis thereof.

(5) The Czech National Bank shall issue a decision to expunge an entity from the list of credit assessment agencies if the entity ceases to meet the listing requirements laid down in this Act or if it requests expunction.

(6) The Czech National Bank shall issue a decision to enter or amend an entry or to reject an application for entry in the list of credit assessment agencies pursuant to paragraph 3 or to expunge an entity from the list pursuant to paragraph 5 within four months of the commencement of administrative proceedings.

(7) The Czech National Bank may enter in the list of credit assessment agencies an entity which is already entered in a similar list of credit assessment agencies kept by a competent supervisory authority of another Member State and which has applied for entry in the list of credit assessment agencies kept pursuant to this Act. In such case, the Czech National Bank shall not be obliged to verify the information referred to in paragraph 3. When entering such an entity, the Czech National Bank may use the assignment of the credit assessments used by the entity to the credit quality steps as performed by the competent supervisory authority of the other Member State. The time limit for issuing the decision laid down in paragraph 6 shall apply mutatis mutandis.

(8) The Czech National Bank shall stipulate in a decree:
a) the form and content of an entry in the list of credit assessment agencies,
b) the requirements for the assessment methods, credibility and transparency of the credit assessments of an entity that is to be entered in the list of credit assessment agencies.

Article 12c

(1) A bank shall adopt and apply sound, effective and complete strategies and processes to determine and assess and maintain on an ongoing basis the amounts, structure and distribution of internal capital to adequately cover the risks to which it is or might be exposed. This shall be without prejudice to the obligations laid down in Article 12a.

(2) A bank shall regularly review the strategies and processes referred to in paragraph 1 to ensure that they are functional, effective and proportionate to the nature, scale and complexity of its activities.

(3) The obligations laid down in paragraphs 1 and 2 shall apply on a solo basis only to a bank which:

a) is not controlled by a domestic parent bank [Article 26d(1)(k)] or a domestic financial holding entity [Article 26d(1)(m)],
b) is not a responsible bank in a foreign parent bank group [Article 26d(1)(p)] or another bank in such a group,
c) does not control another bank, financial institution or ancillary services undertaking, or
d) is exempt from the consolidated group.

(4) The obligations laid down in paragraphs 1 and 2 shall apply on a consolidated basis only to a bank which is:
a) a domestic parent bank [Article 26d(1)(k)],
b) a parent bank but not a domestic parent bank or a responsible bank in a financial holding entity group [Article 26d(1)(b), (k) and (o)] where a foreign bank or financial institution having its registered office in a non-Member State is a member of its consolidated group,
c) a responsible bank in a financial holding entity group [Article 26d(1)(o)], or
d) a responsible bank in a foreign parent bank group [Article 26d(1)(p)].

Article 13

A bank and a foreign bank branch which does not enjoy the advantages of the single licence in accordance with European Community law shall comply with rules that limit the amount of assets and off-balance-sheet items vis-à-vis an entity or group of entities in relation to capital (hereinafter referred to as the “exposure rules”) on a solo basis. A bank shall also comply with the exposure rules on a consolidated basis if it is:
a) a domestic parent bank,
b) a parent bank but not a domestic parent bank or a responsible bank in a financial holding entity group [Article 26d(1)(b), (k) and (o)] where a foreign bank or financial institution having its registered office in a non-Member State is a member of its consolidated group,
c) a responsible bank in a financial holding entity group [Article 26d(1)(o)], or
d) a responsible bank in a foreign parent bank group [Article 26d(1)(p)].

Article 14

(1) A bank and a foreign bank branch which does not enjoy the advantages of the single licence in accordance with European Community law shall maintain their solvency at all times. A bank shall adhere to the rules set forth in respect of liquidity and safe operation (Article 15). These rules may regulate:
a) the minimum level of liquid funds, or groups of such funds, relative to the bank’s assets or liabilities or to a group of assets or liabilities;
b) restrictions and conditions applying to certain types of loans or investments, deposits, guarantees and commitments;
c) the acquisition, financing and assessment of assets;
d) restrictions and conditions applying to foreign exchange positions.

Article 15

The Czech National Bank shall lay down the rules referred to in Article 13 and Article 14(c) in a decree. The Czech National Bank shall lay down the rules referred to in Article 12 and Article 14(a), (b) and (d) for banks and foreign bank branches in a provision of the Czech National Bank to be promulgated in the Bulletin of the Czech National Bank.[2)]

Article 16

(1) A bank shall have the prior consent of the Czech National Bank:
a) in order to conclude an agreement based on which the business or part thereof is disposed of in any way,
b) for a decision by the General Meeting to wind up the bank,
c) in order to merge or divide the bank or to transfer its assets to a bank acting as a partner,
d) in order to reduce the capital of the bank, unless the capital is being reduced to cover a loss,
e) for a resolution of the General Meeting pursuant to Article 7a(1)(c).
Legal acts and resolutions of the General Meeting adopted without the required prior consent shall be invalid. Only the applying bank shall be a party to the proceedings to grant prior consent. The counterparty in the case of the disposal of the business or part thereof under subparagraph a), other joint-stock companies participating in the merger or division or the partner to which the assets are being transferred under subparagraph b) shall also be parties to such proceedings.

(2) A bank shall notify the Czech National Bank:
a) of any intended change in its Articles of Association relating to facts that must be stated in the Articles of Association in accordance with the requirements of the Commercial Code or this Act;
b) of proposed personnel changes in the statutory body of the bank and in the positions of the bank's officers, including the submission of documents necessary for evaluating their competence, trustworthiness and experience; this obligation shall also apply to a foreign bank branch in respect of persons nominated for executive managerial positions in the branch;
c) of its wish to establish a legal entity abroad or to have a holding therein.

(3) The provisions of paragraphs 1(b) and 1(c) shall be without prejudice to the provisions of a special legal rule.[4)]

(4) A bank may transfer its business only to another bank or foreign bank branch; this shall also apply to the lease of a bank's business.

(5) A bank may also transfer its business to a joint-stock company whose sole shareholder is the Czech Republic, provided that the joint-stock company complies with the minimum capital requirement laid down in Article 4(1) (hereinafter referred to as a "special-purpose bank"). A special-purpose bank fulfils the conditions for granting a licence pursuant to Article 4(5) if the Czech National Bank grants its prior consent to the conclusion of an agreement to transfer the business to the special-purpose bank; in that case, the Czech National Bank shall grant it a licence covering the activities given in the licence of the bank transferring the business. A special-purpose bank shall not carry on the activities given in the licence before the day on which the agreement on the transfer of the business takes effect, which may be no sooner than on the day on which the licence is granted to the special-purpose bank.

(6) A bank that has transferred its business shall be dissolved and enter into liquidation on the day on which the agreement on the transfer of the business takes effect.

Article 16a

(1) A bank shall inform the Czech National Bank in writing of its wish to open a branch or representation abroad, of its wish to provide services abroad without establishing a branch, and of any discriminatory treatment by the state within the territory of which the branch or representation abroad operates or is to operate, or within the territory of which services are being provided or are to be provided without a branch being established.

(2) Where a bank wishes to open a branch or provide services without establishing a branch in a Member State, it shall proceed in accordance with Articles 5c to 5m. The same shall apply where it wishes to provide the services referred to in Article 5d through a financial institution fulfilling the conditions listed in Article 5e(1) which will provide the services through a branch or without establishing a branch. After receiving notification of the plan to open a branch or financial institution abroad, the Czech National Bank shall decide in administrative proceedings whether the conditions for such cases laid down in European Community law and provided for in Articles 5c to 5m have been fulfilled.

(3) Where the Czech National Bank decides in administrative proceedings that the conditions for such cases laid down in European Community law and provided for in Articles 5c to 5m have not been fulfilled, the decision shall be reviewable by the courts.

Article 17

(1) A bank may acquire a holding in another legal entity, establish another legal entity or participate in the establishment thereof, provided that
a) it does not become a partner with unlimited liability,
b) the entity does not have a qualifying holding in the bank, unless the entity's equity securities are held for trading and for a short period of time and the bank complies with the rules for the acquisition, financing and assessment of assets, laid down by the Czech National Bank in accordance with Article 14(c),
c) there are no legal or other obstacles relating to the provision of information to the bank by this entity or relating to the provision of information by the bank for the purposes of supervision of the bank's activities, the transparency of the consolidated group of which the bank is a member is maintained, and close links within the consolidated group do not prevent the performance of supervision of the bank's activities, or
d) the investment is in line with the bank's overall strategy and the bank manages risks associated with this investment above all from the point of view of potential liabilities arising therefrom.

(2) A bank's qualifying holding in an entity that is neither a bank pursuant to this Act, nor a foreign bank, nor a financial institution nor an ancillary services undertaking may not exceed
a) in a single legal entity 15% of the bank's capital,
b) in respect of all legal entities a total of 60% of the bank's capital.

(3) The obligation laid down in paragraph 2 shall apply on a solo basis only to a bank which:
a) is not controlled by a domestic parent bank [Article 26d(1)(k)] or a domestic financial holding entity [Article 26d(1)(m)],
b) is not a responsible bank in a foreign parent bank group [Article 26d(1)(p)] or another bank in such a group,
c) does not control another bank, financial institution or ancillary services undertaking, or
d) is exempt from the consolidated group.

(4) The obligation laid down in paragraph 2 shall apply on a solo basis only to a bank which is:
a) a domestic parent bank,
b) a parent bank but not a domestic parent bank or a responsible bank in a financial holding entity group [Article 26d(1)(b), (k) and (o)] where a foreign bank or financial institution having its registered office in a non-Member State is a member of its consolidated group,
c) a responsible bank in a financial holding entity group [Article 26d(1)(o)], or
d) a responsible bank in a foreign parent bank group [Article 26d(1)(p)].

(5) The limits set forth in paragraph 2 shall not apply to a bank's qualifying holding in an entity arising from a claim of the bank on that entity and where the bank holds the qualifying holding during a rescue operation or the financial reconstruction of that entity for no longer than three years from the date of acquiring it.

(6) The limits set forth in paragraph 2 shall not apply to any qualifying holding of the bank arising from its participation in the issue of securities and the provision of related services where the bank holds the qualifying holding for no longer than 12 months from the date of acquiring it, or arising from a holding which the bank holds in its own name for the account of another person.

(7) A bank shall notify the Czech National Bank of its acquisition of a qualifying holding pursuant to paragraph 2 at the earliest opportunity. At the request of the Czech National Bank it shall prove that it meets the conditions set forth in paragraphs 1 and 2.

(8) "Holding" shall also mean an indirect holding (Article 17a(1)) or the sum of indirect holdings.

Article 17a

(1) "Indirect holding" shall mean a holding held through an entity or entities which are controlled.

(2) For the purposes of this Act, "financial institution" shall mean an entity which is neither a bank or a foreign bank and whose principal or major activity is to acquire or hold holdings in legal entities or carry on one or more of the activities listed in Article 1(1) and (3) of this Act, or an investment company, investment fund, pension fund, insurance company or reinsurance company which carries on activities pursuant to special legislative acts, all including any foreign entities carrying on similar activities.

(3) “Qualifying holding” shall mean a direct or indirect holding in an entity’s capital or voting rights, or a sum thereof, which represents 10% or more, or which makes it possible to exercise a significant influence over its management.

(4) For the purposes of calculation of qualifying holdings in banks, shares in capital or voting rights shall be included
a) which are at the disposal of another entity acting in concert with an entity referred to in Article 20(3),
b) which are temporarily at the disposal of an entity referred to in Article 20(3) against consideration,
c) which have been provided to an entity referred to in Article 20(3) as security, where this entity declares publicly that it will exercise the voting rights,
d) for which an entity referred to in Article 20(3) has a lifelong right of use,
e) which are at the disposal, within the meaning of (a) to (d), of an entity controlled by an entity referred to in Article 20(3),
f) which are managed or administered by, or kept with, an entity referred to in Article 20(3), unless the owner has given the entity specific instructions regarding voting,
g) which may be exercised by another entity in its own name for the account of an entity referred to in Article 20(3), or
h) which are exercised by an entity referred to in Article 20(3) on the basis of a power of attorney, provided that it may exercise these rights at its discretion and the mandator has given it no specific instructions regarding voting.

(5) The calculation of shares in voting rights arising from participation in a bank shall not include voting rights from equity securities relating to securities that the bank or another entity authorised in another Member State to operate as a bank holds in direct connection with the underwriting or placing of securities,[4b)] provided that it neither exercises the voting rights nor influences the management of the issuer of these securities in any other way and it alienates the securities within one year of acquiring them.

(6) In accordance with an act governing business activities on the capital market, a market maker shall not include in the share in voting rights arising from participation in a bank such voting rights that do not exceed 5% of all voting rights in the bank, provided that it neither exercises the voting rights nor influences the management of the bank in any other way.

(7) An entity controlling an entity authorised to administer client assets in accordance with an act governing business activities on the capital market or a foreign entity authorised in another Member State to provide a similar investment service, shall not include in the share in voting rights arising from participation in a bank such shares in voting rights that relate to the assets administered by the subsidiary, provided that
a) the subsidiary exercises the voting rights solely on the basis of a written instruction of the client, or
b) the parent undertaking does not influence the exercise of the voting rights in any way.

(8) An entity controlling an investment company or foreign investment company shall not include in the share in voting rights arising from participation in a bank such voting rights that are connected with assets in collective investment funds administered by the subsidiary, provided that the parent undertaking does not influence the exercise of the voting rights in any way.

(9) The conditions set forth in paragraphs 7 or 8 shall apply to a parent undertaking only if it sends to the Czech National Bank without undue delay
a) information about the subsidiary listed in paragraph 7 or 8 to the extent stipulated in Article 20(16), specifying the authorities performing supervision thereof,
b) a declaration of fulfilment of the conditions under paragraph 7 or 8, and
c) any changes to the information under (a) or any changes to the declaration under (b).

(10) At the request of the Czech National Bank, a parent undertaking pursuant to paragraphs 7 or 8 shall prove without undue delay that
a) the organisational arrangements of the parent undertaking and the subsidiary enable voting rights to be exercised in accordance with paragraph 7(b) or paragraph 8,
b) where the parent undertaking is a client of its subsidiary, written documents confirm that their relationship is analogous to that with other clients.

(11) "Ancillary services undertaking" shall mean a legal entity providing services supporting the business activities of banks or foreign banks.

Article 18

(1) A bank may not enter into transactions with persons having a special relation thereto (Article 19) which would otherwise, owing to their nature, purpose or risk, not be entered into with other clients.

(2) A bank shall provide loans to, and secure the commitments of, the persons referred to in paragraph 1 only if its statutory body so decides after analysing the banking transaction in question and the applicant's financial standing.

(3) The provisions of the Commercial Code relating to conflict of interests and governing the granting of loans and credit and the securing of commitments by a joint-stock company to the members of its bodies and other persons shall not apply to banks.[4c)]

Article 19

(1) For the purposes of this Act, the following persons shall be deemed to have a special relation to a bank:
a) members of the statutory body and the bank officers of the bank;
b) members of the supervisory board of the bank;
c) entities controlling the bank, persons having qualifying holdings in those entities, and members of the management of those entities;
d) persons close[5)] to the members of the statutory body, the supervisory board, the bank officers and the persons controlling the bank;
e) legal entities in which any of the persons listed in subparagraphs a), b) and c) have a qualifying holding;
f) persons having qualifying holdings in the bank, and any entities controlled by them;
g) members of the Bank Board of the Czech National Bank,
h) entities which the bank controls.

Article 19a

(1) A bank may carry on trading in securities and trading in the rights attaching to securities or deriving from securities pursuant to a special legislative act[5a)] for its own account or from its own property only under the conditions most advantageous for the bank, and in particular at the best price that can be achieved with due diligence.

(2) A bank shall demonstrate due diligence by:
a) comparing the prices offered for individual sales, purchases and other trades, or by providing evidence of the unsuitability or impossibility of assessing more than one offer,
b) documenting the manner of execution of the trade, checking the objectivity of recorded data and taking steps to avoid the risk of own financial losses,
c) conducting an analysis of the economic benefits of the trades using publicly available information,d) developing investment and business strategies that provide the basis for executing individual transactions.

(3) The exercising of due diligence by a bank shall consist in carrying on trading within the framework of automated trading systems or in another manner, in which case, however, the bank must be able to substantiate the benefits of such a procedure to the bank and its clients.

(4) Paragraphs 1 to 3 shall also apply to foreign bank branches.

Article 19b

(1) The bank shall prevent the use of information received in the context of its lending transactions when carrying on transactions in investment instruments, and vice versa, unless this information is publicly available.

(2) In order to discharge the duties set out in paragraph 1, the bank shall implement measures in its organisational, management and control systems to ensure the separation of lending transactions and transactions in investment instruments.

(3) “Lending transactions” shall mean activities connected with the providing of loans and guarantees.

(4) Paragraphs 1 to 3 shall also apply to foreign bank branches.

Article 20

(1) A bank may issue shares to which voting rights are attached as book-entry (dematerialised) shares only.

(2) In addition to shares to which voting rights are attached, banks may issue preference shares. However, no voting rights shall be attached to such shares, even where the Commercial Code provides otherwise.

(3) An entity or entities acting in concert must have the consent of the Czech National Bank
a) to acquire a qualifying holding in a bank,
b) to increase a qualifying holding in a bank so that it reaches or exceeds 20%, 30% or 50%, or
c) to become entities controlling a bank,
even where these entities do not exercise the voting rights associated with the participation in the bank acquired in this way; failure to exercise voting rights shall not alter the share in the voting rights of these or any other entities.

(4) Within two working days of receiving an application for consent pursuant to paragraph 3, the Czech National Bank shall confirm receipt thereof to the applicant and inform the applicant of the date when the time limit for the assessment of the application referred to in paragraph 6 will expire. The application shall contain information about the entity or entities intending to acquire or increase their qualifying holding in the bank or take control of the bank, information about the bank in which the share is to be acquired or control taken over, the overall share the applicant will reach after acquiring or increasing the qualifying holding or taking control of the bank, and information about the entity transferring the share to the applicant. The applicant shall enclose with the application documents necessary to assess the application from the point of view of the conditions stipulated in paragraph 9. The application for consent may only be submitted on the prescribed form, to which the applicant shall attach documents confirming fulfilment of the conditions stipulated in paragraph 9. The Czech National Bank shall stipulate the specimen forms and the content of the annexes thereto in a decree.

(5) In cases referred to in paragraph 3, the Czech National Bank shall seek the opinion of the supervisory authority of another member state of the European Union where the entity having a qualifying holding in the entity applying for consent is an entity authorised by the supervisory authority of that Member State to operate as a bank, electronic money institution, insurance company, reinsurance company, investment company or investment services provider, or is the parent undertaking of such an entity.

(6) If the application is incomplete or suffers from other shortcomings, the Czech National Bank shall, no later than on the 50th day of the time limit stipulated in paragraph 7, call upon the applicant in writing to eliminate the shortcomings in the application or to supply additional information needed to assess the application. The Czech National Bank shall confirm receipt of such information to the applicant in writing within the time limit stipulated in paragraph 4. The running of the time limit stipulated in paragraph 7 shall be interrupted upon the sending of this call for a maximum of 20 working days. The running of the time limit stipulated in paragraph 7 shall be interrupted for a maximum of 30 working days if the applicant
a) has a permanent address, registered office or place of business in a state that is not a member state of the European Union,
b) is not subject to supervision by an authority of a member state of the European Union performing supervision of banks, electronic money institutions, insurance companies, reinsurance companies, investment services providers, investment companies or standard funds in accordance with a legal act governing collective investment.

(7) The Czech National Bank shall issue a decision on the application no later than 60 working days following the sending of the written confirmation of receipt of the application for consent pursuant to paragraph 3. If the Czech National Bank does not issue a decision

within this time limit, consent shall be deemed to have been granted. This shall not apply to an application for consent submitted pursuant to paragraph 11.

(8) When assessing the application, the Czech National Bank shall consider only the conditions stipulated in paragraph 9 and shall not take into account the economic needs of the market.

(9) The Czech National Bank shall grant its consent to an application where the following conditions are met with regard to the potential impact on the bank's operations:
a) the persons applying for consent must be trustworthy,
b) the persons proposed as bank officers must meet the conditions of trustworthiness, competence and experience with no apparent doubt,
c) the applicant's funds must be sufficient, transparent and unobjectionable with regard to the activities executed and planned in the bank,
d) the bank must be able to continue meeting the prudential rules on both a solo and consolidated basis,
e) the structure of the consolidated group in which the bank is to be included must not prevent efficient banking supervision and efficient exchange of information between the Czech National Bank and the authority of another Member State performing financial market supervision, or must not impede the execution of the powers of individual supervisory authorities concerning the consolidated group and entities that are a part thereof, and
f) reasonable concern must not arise that an act laying down measures against money laundering and terrorist financing could be, or has been, violated in connection with the intended acquisition of, or increase in, the qualifying holding in the bank.

(10) An entity acquiring or increasing a qualifying holding in a bank or taking control of a bank without the prior consent of the Czech National Bank shall notify the Czech National Bank thereof and apply for its consent pursuant to paragraph 3 without undue delay.

(11) The consent referred to in paragraph 10 may also be granted subsequently in cases deserving of special consideration.

(12) Acquiring or increasing a qualifying holding in a bank or taking control of a bank without the prior consent of the Czech National Bank shall not render invalid the legal act resulting in such changes in holdings in the bank, although the voting rights linked with the holding thus acquired shall not be executed until the consent is granted.

(13) In its decision on the application, the Czech National Bank may
a) restrict the time limit for the acquisition of the holding pursuant to paragraph 3,
b) state conclusions resulting from the opinions it received when proceeding in accordance with paragraph 5 prior to issuing the decision.

(14) An entity or entities acting in concert shall notify the Czech National Bank without undue delay that
a) they are reducing their qualifying holding in a bank so that it will fall below 50%, 30% or 20%, or are completely disposing of it, or
b) they are reducing their qualifying holding in a bank so that they will cease to control it.

(15) The notification pursuant to paragraph 14 shall include information about the entity or entities reducing or disposing of their qualifying holding in the bank or the entity or entities

ceasing to control it, information about the bank in which the share is to be reduced or disposed of completely or which is ceasing to be controlled, the overall share in this bank after its reduction, and information about the entity or entities acquiring or increasing their holding in the bank.

(16) For the purposes of the application pursuant to paragraph 4 and the notification under paragraph 14, information about the relevant entities shall mean
a) for legal entities the commercial name or name, registered office and identification number, if assigned, and
b) for natural persons the name and surname, date of birth, birth certificate number, if assigned, and permanent address; for entrepreneurs registered in the Companies Register the commercial name, or place of business, and identification number, if assigned.

(17) The bank shall notify the Czech National Bank in writing of any changes subject to the procedure referred to in paragraph 3 or 14 at the earliest opportunity after becoming aware of the material facts.

Article 20a

(1) Where a holding has been acquired in a bank without the Czech National Bank's prior consent referred to in Article 20(3) or after the time limit prescribed in Article 20(13) and the consent referred to in Article 20(11) was not granted, and furthermore where the entity fails to fulfil its notification duty pursuant to Article 20(10) or the Czech National Bank becomes aware that the influence exercised by the person or persons having a qualifying holding in the bank operates to the detriment of the sound and prudent management of the bank, or if such influence can reasonably be expected to be exercised, the Czech National Bank shall in administrative proceedings suspend the exercise of the following rights of the shareholder who alone or by acting in concert with other persons has a qualifying holding in the bank:
a) to attend and vote in a General Meeting,
b) to request the convening of an Extraordinary General Meeting.
It shall only be possible to suspend the exercise of all the above rights. The filing of a remedial action against the decision to suspend shareholder rights shall have no suspensory effect.

(2) Where a bank is controlled pursuant to in Article 20(3)(c) without the prior consent of the Czech National Bank or after the time limit prescribed in Article 20(10) and the consent referred to in Article 20(11) was not granted, and furthermore where the Czech National Bank becomes aware that the influence exercised by the parent undertaking operates to the detriment of the sound and prudent management of the bank, or if such influence can reasonably be expected, the Czech National Bank shall in administrative proceedings suspend the control agreement and the control agreement shall terminate on the earliest possible date allowed by the Commercial Code. The provisions of Article 26(5) and (7) shall apply mutatis mutandis. The Czech National Bank shall promulgate its decision to suspend the control agreement in the Commercial Bulletin.

(3) A bank shall submit to the Czech National Bank an extract of all shareholders and trustees from the bank's share issue as of the day preceding the date of the General Meeting by seven days. This extract must be delivered by the bank to the Czech National Bank no later than six days before the General Meeting. The Czech National Bank shall approve the list of

shareholders stated in the extract from the bank's share issue or, at the earliest opportunity, indicate in a written opinion on the extract from the bank's share issue those shareholders whose shareholder rights have been suspended or whose shareholder rights it has newly found reason to suspend, and it shall return the extract, together with its opinion, to the bank no later than on the day preceding the date of the General Meeting.

(4) The bank shall not permit any person indicated by the Czech National Bank in its opinion on the extract from the bank's share issue pursuant to paragraph 3, or any person not stated in the extract from the bank's share issue or persons standing proxy for those persons, to attend the General Meeting. If the Czech National Bank indicates persons whose shareholder rights it has newly found reason to suspend, administrative proceedings shall thereby be opened pursuant to paragraph 1, unless administrative proceedings have already been opened, and the indicating of those persons shall have the effect of a preliminary measure.[11)]

(5) The General Meeting of the bank may not be held without the Czech National Bank's written opinion on the extract from the bank's share issue.

(6) The Czech National Bank may propose that a court of law declare, under conditions laid down in a special legal rule, a resolution adopted by the General Meeting of the bank invalid if it is in contravention of the legal rules or the Articles of Association.

(7) The fact that the exercise of a shareholder's rights has been suspended under paragraph 1 shall not change the share in voting rights of the shareholder or other entities.

(8) The central depository[1a)] shall, at any time, upon request, provide the Czech National Bank with an extract from the bank's share issue, listing all shareholders of the bank, even in cases where the central depository maintains these shares on client accounts.

Article 20b

(1) The Czech National Bank shall maintain an interbank payment system account in Czech koruna for each bank which participates in the payment system operated by the Czech National Bank. The interbank payment system account may not be subject to the execution of a decision or preliminary measure.

(2) Paragraph 1 shall also apply to foreign bank branches.

Article 20c

(1) Where a bank or credit union within the territory of the Czech Republic has failed to settle an amount in the Czech currency or where it has failed to use the bank details as instructed by its client and has thereby caused incorrect execution of a payment transaction, the bank maintaining the account of the unauthorised beneficiary shall, at the request of the bank or credit union which caused the incorrect execution of the payment transaction, debit from this account the incorrectly settled amount and provide it to the bank or credit union which caused the incorrect execution of the payment transaction in order to correct the incorrectly executed payment transaction in accordance with the act governing the payment system; the bank shall also be entitled to restore the account of the unauthorised beneficiary to the position as if the

incorrect execution of the payment transaction had not taken place (hereinafter referred to as "corrective settlement").

(2) A request pursuant to paragraph 1 may be submitted within three months from the occurrence of the error resulting in the incorrect execution of the payment transaction.

(3) Corrective settlement involving the debiting of the accounts of tax authorities shall not be permitted; the bank which caused the incorrect execution of the payment transaction shall apply to the relevant tax authority for a refund of the amount in question.

(4) The Czech National Bank shall stipulate in a decree the technical procedures to be used by banks for corrective settlement.

(5) Paragraphs 1 to 4 shall also apply to foreign bank branches.

PART FIVE
Accounting and business documentation

Article 21

(1) Banks and foreign bank branches shall keep books and accounts in accordance with a special legislative act.[6)]

(2) Banks and branches of foreign banks shall keep separate records in their accounts of transactions made for a client's account and those made for the account of the bank or foreign bank. Records of transactions shall be kept by banks and branches of foreign banks for a period of at least ten years.

Article 22

(1) A bank shall arrange for an auditor to perform:
a) an audit of its financial statements;
b) an audit of its management and control system; the bank shall provide the auditor with an overview of the internal inspections conducted which relate to this audit;
c) preparation of reports on the audit of its financial statements and management and control system; the bank shall submit those reports to the Czech National Bank on the stipulated dates.
d) an audit of the disclosed data stipulated in Article 11a, within the scope set forth in a decree of the Czech National Bank pursuant to Article 11a(9)(b).

(2) The Czech National Bank shall stipulate in a decree the content of the reports on the audit of the bank's management and control system referred to in paragraph 1(b) and (c), the manner, structure and frequency of the preparation thereof and the date for submission thereof.

(3) The Czech National Bank may waive the requirement for an audit of the system referred to in paragraph 1(b) or limit it to only some of the parts thereof. The Administrative Procedure Code shall not apply to proceedings on the waiver or limitation of the audit requirement. The Czech National Bank shall inform the bank of the intention to waive or limit the requirement for an audit of the system referred to in paragraph 1(b) by 30 April of the relevant calendar year. The bank may provide reasoned comments on the intention of the Czech National Bank within 20 working days of receipt thereof. The Czech National Bank shall discuss comments received within the specified time limit and shall inform the bank by 30 June of the relevant calendar year as to whether it will waive the audit of the system referred to in paragraph 1(b) or limit the performance of this audit in some way.

(4) The bank shall notify the Czech National Bank of the auditor it has selected. The Czech National Bank shall be entitled to reject the auditor within 30 days of receiving this notification. The bank shall provide notification of a new auditor within 30 days of the Czech National Bank's rejection.

(5) The audit of the information referred to in paragraph 1 may not be performed in the bank by an auditor having a special relation to the bank as defined in Article 19(1). The same shall apply to natural persons performing auditing activities on behalf of the auditor.

(6) If any shortcomings are detected, the reports referred to in paragraph 1(c) shall describe the influence of those shortcomings on the performance and liquidity of the bank and on the creation and allocation of profits/losses.

(7) The duties ensuing from paragraphs 1 to 5 shall apply mutatis mutandis to branches of foreign banks.

Article 23

(1) Within four months of the end of the accounting period, a bank shall publish an annual report in the manner set forth in a special legal rule[6)] and a consolidated annual report pursuant to a special legal rule[6)]; these shall both include an audited financial statement, if the bank is obliged to draw one up . The bank shall also submit the annual report and the consolidated annual report to the Czech National Bank within the same time limit. If the General Meeting of the bank does not approve the financial statement or consolidated financial statement, the bank shall at the earliest opportunity publish and provide to the Czech National Bank its reasons for not approving the financial statement or consolidated financial statement and its method for dealing with the General Meeting's comments on them.

(2) If a bank posts a loss in the current year, the General Meeting shall decide on the covering of the loss from the bank's own funds when approving the financial statements of the bank for that year.

Article 24

(1) Banks and foreign bank branches shall produce and submit to the Czech National Bank information and documents the content, form, closing dates and manner of submission of

which shall be stipulated by the Czech National Bank in a decree. Banks and foreign bank branches shall submit to the Czech National Bank at its request other documents and other materials necessary for the exercise of supervision on a solo and consolidated basis and to provide all the information necessary therefor as required by the Czech National Bank.

(2) The Czech National Bank shall the stipulate information and documents referred to in paragraph 1 different for banks and foreign bank branches from the information and documents for other entities on the financial market in a provision to be promulgated in the Bulletin of the Czech National Bank.[2)]

(3) Where a bank has a holding of 20 per cent or more in one or more commercial companies or other legal entities, the information and documents referred to in paragraph 1 shall also include information concerning those commercial companies or other legal entities.

PART SIX

Banking supervision and the confidentiality obligation

Article 25

(1) The activities of banks, including branches thereof carrying on activities within the territory of another country, shall be subject to banking supervision by the Czech National Bank, including on-site examinations. The activities of branches of foreign banks shall be subject to supervision by the home country of the foreign bank and to the extent stipulated by law for the banking supervision exercised by the Czech National Bank. The activities of consolidated groups (Article 26d(1)(a)) containing a bank shall be subject to banking supervision on a consolidated basis by the Czech National Bank, including on-site examinations, save as where the law provides otherwise.

(2) The Czech National Bank may ask the supervisory authority of the relevant country for an on-site examination of the entities it supervises outside the territory of the Czech Republic. The Czech National Bank may meet the request of the home country supervisory authority of a bank or financial institution for the carrying-out of an on-site examination of an entity it supervises. Such entities shall allow the carrying-out of an on-site examination and give the necessary assistance to the competent authority. The Czech National Bank shall allow the home country supervisory authority of a foreign bank or financial institution to carry out on-site examinations on the basis of reciprocity. The supervisory authority that requested the on-site examination shall be entitled to participate in the examination, unless the examination is carried out by such supervisory authority itself.

(3) When exercising supervision, the Czech National Bank shall review and evaluate whether the arrangements, strategies, processes and mechanisms implemented by the bank and the capital of the bank ensure the safe and sound operation of the bank and coverage of the risks to which it is or might be exposed. The Czech National Bank shall establish the frequency and intensity of this review and evaluation in proportion to the size, significance and position of the bank on the financial market and the nature, scale and complexity of its activities, but shall perform such review and evaluation at least once a year.

Article 25a

(1) All persons exercising banking supervision or conservatorship shall maintain confidentiality regarding all information acquired in the context of the performance of their occupation, employment or duties. They may divulge to third parties information in aggregate form only such that the specific bank or person in question cannot be identified. The obligation of confidentiality shall persist even after their occupation, employment or duties have ceased.

(2) The persons referred to in paragraph 1 may use information acquired when performing their duties solely for executing the tasks of banking supervision and conservatorship or in judicial proceedings concerning the decisions or the exercise of banking supervision or in like proceedings before an international authority.

(3) Subject to compliance with the statutory conditions, disclosure of information acquired in the context of exercising banking supervision or supplementary supervision of entities in a financial conglomerate[6d)] to an authority responsible for supervising banks, financial institutions or financial markets in another state and disclosure of information to the Ministry of Finance for the purposes of state control of compliance with the conditions for providing state support pursuant to a special legal rule[6e)] shall not be deemed a breach of the confidentiality obligation. Disclosure of information acquired while exercising banking supervision to employees of the Czech National Bank who are involved in exercising supervision of the financial market for the performance of their duties shall not be deemed a breach of the confidentiality obligation referred to in paragraph 1.

(4) Subject to compliance with the statutory conditions, disclosure of information acquired in the context of exercising banking supervision to public authorities and other entities in the Czech Republic shall not be deemed a breach of the confidentiality obligation, provided that the information is disclosed for the performance of their duties:
a) as authorities involved in the liquidation or insolvency of a bank or financial institution,
b) of supervision of the authority referred to in subparagraph a),
c) as auditor of the statutory financial statements of a bank or financial institution,
d) of supervision of the auditor of the statutory financial statements of a bank or financial institution,
e) of supervision of compliance with company law,
f) in combating money laundering and terrorist financing, or imposing international sanctions for the purposes of maintaining international peace and security, protecting fundamental human rights and combating terrorism,
g) of supervision of payment or settlement systems,
h) as operator of a payment or settlement system,
i) as a law enforcement authority,
j) as a central bank responsible for monetary policy,
k) as systems of insurance of deposit claims and insurance of investors.
The same shall apply with respect to public authorities and other entities in Member States and, with the exception of the authorities and entities referred to in letters g) and h), in other states.

(5) Information acquired in the context of exercising banking supervision may also be disclosed to European Union bodies where necessary to meet the obligations of international treaties.

(6) Information acquired in the context of performing banking supervision may also be disclosed to international organisations operating in the area of combating criminal activities and also to law enforcement authorities of foreign countries to allow them to fulfil their functions.

(7) The information referred to in paragraphs 3, 4 and 6 may be disclosed only on condition that the institution concerned has in place an information protection regime at least within the scope of European Communities law.

(8) Information acquired from the authorities of foreign states may be used solely for the purposes for which it was provided and may not be disclosed to any other person without the consent of the provider.

(9) Information acquired during on-site supervision within the territory of another state may not be disclosed to any other person without the consent of the banking supervisory authority of that state.

Article 25b

Where a situation within a bank or a consolidated group subject to supervision by the Czech National Bank (Article 26e) might jeopardise the stability of the financial system in the Czech Republic, the Czech National Bank shall report this fact to the competent state administration authority responsible for preparing legal rules concerning banks, investment firms, insurance companies and other financial institutions.

PART SEVEN
Remedial measures and penalties

Article 26

(1) Should the Czech National Bank detect any shortcomings in the activities of a bank or a foreign bank branch, it shall be entitled, according to the nature of the shortcoming, to:
a) demand that the relevant bank or foreign bank branch remedy the situation within a specified period, or rectify the shortcoming in its activities, by
1. restricting some of its permitted activities, ceasing non-permitted activities or not executing certain transactions, money transfers or other operations,
2. restricting its distribution network, including reducing the number of business units,
3. replacing persons in the management of the bank or foreign bank branch,
4. replacing members of the bank’s supervisory board,
5. bringing its arrangements, strategies, processes and mechanisms into compliance with this Act,

6. adopting stricter liquidity rules, stricter rules for creating provisions for the bank's assets and reserves or for determining capital requirements,
7. creating adequate provisions and reserves,
8. maintaining capital above the threshold stipulated in Article 12a(1),
9. reducing its capital to a specified extent,
10. using its profit after tax preferentially to supplement its reserve funds or to increase its capital, or
11. reducing its share in another entity or transferring its share in the entity to another entity or otherwise limiting the risks ensuing from the bank's share in the entity,

b) change the licence by excluding or restricting some of the activities listed therein,
c) order an extraordinary audit at the expense of the bank or foreign bank branch concerned.
d) impose conservatorship,
e) impose a fine of up to CZK 50,000,000,
f) reduce the capital of the bank in order to cover the loss by an amount corresponding to the loss after clearance thereof with reserve funds and other funds, provided that the loss exceeds 20% of the bank's equity,
g) prohibit or restrict the execution of transactions with legal entities which have close links with the bank or which belong to the same consolidated group as the bank or which have a special relation to the bank (Article 19),
h) require a capital increase above the level referred to in Article 12a, especially if the bank has in place ineffective strategies, processes or mechanisms and imposition of the measures referred to in letters a) to g) seems inadequate to achieve remedy in a reasonable time,
i) require an increase in the liquid funds of the bank or foreign bank branch at least to the level required by the Czech National Bank.

(2) The measures referred to in paragraphs 1(b) to (f) shall be taken if the demand referred to in paragraph 1(a) is not complied with; depending on the nature of the shortcoming, and especially in emergencies, these measures may be applied even without the prior demand referred to in paragraph 1(a). The measures referred to in paragraphs 1(d) and (f) to (h) may not be taken against branches of foreign banks.

(3) "Shortcoming in the activities" shall mean:
a) failure to comply with the conditions stipulated in the licence or to fulfil the conditions under which the licence was granted pursuant to Article 4(5) or Article 5(4);
b) failure to comply with, or circumvention of, this Act, special legislative acts, legal rules and the provisions issued by the Czech National Bank;
c) failure to comply with, or circumvention of, the obligations or conditions set forth in a decision of the Czech National Bank or in a measure of a general nature under Article 26bb;
d) the execution of, or a decision to execute, a transaction or transactions, a money transfer or money transfers or any other operation or operations by the bank or foreign bank branch in a manner which is detrimental to the interests of its depositors or which endangers the safety and soundness of the bank or foreign bank branch;
e) management of the bank or foreign bank branch by persons who are not sufficiently competent or who are not trustworthy;
f) a situation where the total volume of reserves and provisions set aside by the bank is not sufficient to cover the risks arising from the volume of classified assets recorded by the bank;
g) contravention of a legal rule of the state within the territory of which the bank has a branch when carrying on business activities within the territory of that state;
h) a fall in capital below the minimum level (Article 12a(1));

i) breach of the obligations stipulated in a special legal rule[6a)] for remote concluding of financial services agreements;
j) use of a credit assessment to calculate capital requirements in contradiction with this Act.

(4) The only party to the proceedings shall be the bank concerned.

(5) Proceedings may also be opened by the serving of a decision.

(6) The Czech National Bank shall serve delivery into own hands by handing the decision over to a member of the bank's board of directors or a member of the bank's supervisory board or to the person authorised to manage the bank or foreign bank branch. If any of these persons refuses to take delivery of the decision, it shall be considered served as of the moment of refusal.

(7) An appeal may be filed against the decision. The appeal shall have no suspensory effect, unless it concerns a decision to impose a fine. Decisions concerning appeals shall be made by the Bank Board of the Czech National Bank.

(8) The time limit for execution of the decision served shall be at least 24 hours.

(9) The Czech National Bank may also impose the fine referred to in paragraph 1(e) on a person who fails to comply with the provisions of Article 3, Article 20(3) or Article 20(10).

(10) The imposition of the fine referred to in paragraph 1(e) shall be without prejudice to liability under other legal rules.

(11) The fine referred to in paragraph 1(e) shall constitute a state budget revenue. Such a fine may be imposed up to one year from the detection of the shortcoming, but no later than ten years from the date on which the shortcoming arose.

Article 26a

(1) If the Czech National Bank becomes aware that a bank's capital on a solo basis is lower than two thirds of the sum of the individual capital requirements within the meaning of Article 12a(1), it shall in administrative proceedings impose one or more of the following remedial measures on the bank:
a) to increase its capital such that the capital of the bank on a solo basis is at least equal to the sum of the individual capital requirements within the meaning of Article 12a(1),
b) to acquire assets which, according to the decree issued under Article 12a(8), have a risk weighting of less than 100% only,
c) not to acquire any share of the capital and voting rights of any legal entity, except for agreements concluded before the imposition of this measure, and not to establish or acquire any other legal entity or organisational unit thereof,
d) not to provide any loan to a person having a special relation to the bank,
e) not to offer interest rates on deposits exceeding the usual current interest rates on deposits of like amounts and with like maturity as ascertained by the Czech National Bank.

(2) Simultaneously with the measures referred to in paragraph 1, the Czech National Bank may apply the remedial measures and sanctions referred to in Article 26(1).

Article 26b

If the statutory body or supervisory board becomes aware that the bank is, or will become, insolvent or that the bank has incurred, or will probably incur, losses which have caused, or may cause, the bank's capital on a solo basis to fall below two thirds of the sum of the individual capital requirements, it shall notify the Czech National Bank of this fact at the earliest opportunity.

Article 26ba

(1) If a bank's capital decreases below the threshold stipulated in Article 12a and the bank increases its capital to meet the capital requirements laid down in this Act and a legal rule issued on the basis thereof:
a) this shall represent an important interest of the company to restrict or exclude the preferential right to subscribe for new shares; this shall be without prejudice to Article 29(2), second sentence;
b) the issue price shall be the same for all subscribers;
c) new shares may be subscribed for even if the shareholders have yet to pay the issue price of the formerly subscribed shares; however, the new shares shall not be subscribed for by a shareholder who has yet to pay the issue price of the formerly subscribed shares;
d) the right to preferential subscription shall not be separately transferable;
e) the bank shall publish an invitation to the General Meeting at least seven days before the General Meeting;
f) the Board of Directors shall file a proposal to enter the resolution of the General Meeting to increase the capital in the Companies Register within seven days of its adoption;
g) the time limit for subscribing for new shares using the preferential right shall be fourteen days from the day on which the resolution of the General Meeting to increase the capital is entered in the Companies Register;
h) the time limit for subscribing for new shares without using the preferential right shall be fourteen days from the lapse of the time limit under subparagraph g) or, if preferential right of shareholders to subscribe for new shares was excluded, from the day on which the resolution of the General Meeting to increase the capital is entered in the Companies Register;
i) the subscriber shall pay the issue price of the new shares within the time limit for subscription, otherwise his subscription shall be invalid;
j) the issue price of the new shares shall be paid in cash or by a non-cash deposit in the form of a cash receivable from the bank.

(2) The invitation to a General Meeting convened to decide on increasing the bank's capital under paragraph 1 shall state the reasons why this procedure was selected and how it differs from the capital increasing procedure laid down in the Commercial Code; however, failure to fulfil this obligation shall not render the subsequent resolution of the General Meeting invalid.

Article 26bb

(1) If the stability of the banking or financial system is jeopardised, the Czech National Bank shall issue a measure of a general nature where appropriate to eliminate the jeopardy. The Czech National Bank shall also issue a measure of a general nature if the stability of the

banking or financial sector has already been disrupted where this is appropriate to alleviate the consequences of such disruption.

(2) With respect to banks, foreign bank branches, a group of banks defined by type or a group of foreign bank branches defined by type, the measure of a general nature issued by the Czech National Bank shall:
a) stipulate a temporary exemption from the obligations laid down in Articles 4, 5, 11 to 24 or 26f, or from rules laid down on the basis of this Act,
b) temporarily prohibit or restrict some licensed activities or the execution of some transactions, money transfers or other operations, or
c) set time limits and a frequency for the disclosure duties of a bank or foreign bank branch at variance with this Act or a legal rule issued on the basis thereof.

(3) The measure of a general nature may take effect before proceedings on this measure are conducted according to the Administrative Procedure Code. The measure of a general nature shall cease to be effective six months after it takes effect, unless it ceases to be effective earlier.

(4) Banks and foreign bank branches shall be the only entities whose rights, obligations or justified interests may be affected by the measure of a general nature issued by the Czech National Bank. If there is danger of delay, the Czech National Bank may shorten to a minimum of three days the time limits laid down in the Administrative Procedure Code for the publication of the draft measure of a general nature, for the notification of the public discussion thereon and for the filing of comments on or objections to the draft measure of a general nature.

PART EIGHT
Banking supervision on a consolidated basis

Article 26c

(1) Banking supervision on a consolidated basis shall mean the monitoring and regulation of the risks of consolidated groups containing a bank in order to limit the risks to which the bank is exposed in respect of its membership of the consolidated group.

(2) Banking supervision on a consolidated basis shall not mean supervision of the individual entities belonging to a consolidated group, nor shall it substitute for banking supervision on a solo basis pursuant to this Act or for supervision of financial institutions pursuant to special legislative acts.

(3) Without prejudice to Article 25a, when exercising supervision on a consolidated basis the Czech National Bank shall cooperate with the authorities responsible for supervising banks and financial institutions in other countries and shall be entitled to exchange information with them.

(4) The Czech National Bank may, for the purposes of exercising supervision on a consolidated basis, carry out an on-site examination in the entities belonging to a consolidated group or ask the competent foreign supervisory authority to carry out such an examination. The Czech National Bank shall notify the foreign authority responsible for supervising the inspected entity of the commencement, purpose and results of the on-site examination. This shall apply without prejudice to Article 25a.

(5) Entities belonging to a consolidated group shall allow the carrying-out of the on-site examination referred to in paragraph 4 and to give the necessary assistance to the Czech National Bank.

(6) Where the Czech National Bank requires information necessary for exercising banking supervision on a consolidated basis and it knows that such information has already been given to another supervisory authority by a member of the consolidated group, it shall preferentially request that authority for such information.

(7) In order to ensure effective banking supervision on a consolidated basis, the Czech National Bank may conclude written coordination and cooperation arrangements with relevant supervisory authorities for the purposes of exchanging information.

Article 26d

(1) For the purposes of this Act:
a) “consolidated group” shall mean a parent bank (controlling bank) group, a foreign parent bank group, a financial holding entity group or a mixed-activity holding entity group, such consolidated group consisting of at least two entities,
b) “parent bank” (controlling bank) shall mean a bank, the subsidiary (controlled entity) or affiliate of which is a bank, a financial institution or an ancillary services undertaking,
c) “financial holding entity” shall mean a parent undertaking which
1. is a financial institution other than an investment firm, a foreign entity having its registered office in a Member State which is authorised to provide investment services in that Member State, an insurance or reinsurance company,
2. is not a mixed-activity holding entity pursuant to a special legal rule[6d)], and
3. controls exclusively or principally banks or financial institutions, where at least one of its subsidiaries is a bank,
d) “mixed-activity holding entity” shall mean a parent undertaking (controlling person) other than a bank, a foreign bank, a financial holding entity or a mixed-activity financial holding entity pursuant to a special legal rule[6d)], where at least one of its subsidiaries is a bank,
e) “parent bank group” shall mean a group which consists of a bank and its subsidiaries and affiliates,
f) “financial holding entity group” shall mean a group which consists of a financial holding entity and its subsidiaries and affiliates,
g) “mixed-activity holding entity group” shall mean a group which consists of a mixed-activity holding entity and its subsidiaries and affiliates,
h) “affiliate” shall mean an entity in which another entity exercises a significant influence, which shall mean such significant influence over the management or operation of the business activities of such entity which is other than control and other than only temporary in nature and the purpose of which is to participate in the business activities of such entity; a direct or

indirect holding treated separately or totalling 20% or more of the capital or of the voting rights shall be always considered a significant influence unless it is a case of control,
i) “foreign parent bank” shall mean a foreign bank which has a bank as a subsidiary,
j) “foreign parent bank group” shall mean a group which consists of a foreign parent bank and its subsidiaries and affiliates,
k) “domestic parent bank” shall mean a parent bank which is simultaneously not a subsidiary of another bank or financial holding entity having its registered office in the Czech Republic,
l) “European parent bank” shall mean a parent bank or foreign parent bank which is authorised to carry on business in a Member State and which is not a subsidiary of another bank or foreign bank which is authorised to carry on business in any Member State, or of a financial holding entity having its registered office in any Member State,
m) “domestic financial holding entity” shall mean a financial holding entity having its registered office in the Czech Republic which is simultaneously not a subsidiary of a bank or financial holding entity having its registered office in the Czech Republic,
n) “European financial holding entity” shall mean a financial holding entity having its registered office in a Member State which is not a subsidiary of a bank or foreign bank which is authorised to carry on business in any Member State, or of a financial holding entity having its registered office in any Member State,
o) “responsible bank in a financial holding entity group” shall mean a bank which is a subsidiary of a financial holding entity having its registered office:
1. in the Czech Republic,
2. in another Member State, where this financial holding entity simultaneously is not the parent undertaking of a foreign bank which is authorised to carry on business in this Member State, or of a foreign bank with a larger balance-sheet total which is authorised to carry on business in another Member State, or
3. in a non-Member State, unless the Czech National Bank has waived the exercise of banking supervision on a consolidated basis of this financial holding entity group pursuant to Article 26e(5),
4. where there is more than one bank in the consolidated group referred to in points 1 to 3, “responsible bank in a financial holding entity group” shall mean the bank with the largest balance-sheet total,
p) “responsible bank in a foreign parent bank group” shall mean a bank which is a subsidiary of a foreign parent bank which is authorised to carry on business in a non-Member State, unless the Czech National Bank has waived the exercise of banking supervision on a consolidated basis of this foreign parent bank group pursuant to Article 26e(5); where there is more than one bank in such consolidated group, “responsible bank in a foreign parent bank group” shall mean the bank with the largest balance-sheet total.

(2) Where the relationships within a consolidated group are such that it is not possible to determine unambiguously the parent undertaking or type thereof, the Czech National Bank shall be entitled to designate, by agreement with the competent foreign authority responsible for supervising banks or financial institutions, the parent undertaking of the consolidated group or type thereof.

(3) The Czech National Bank stipulate in a decree the criteria for exempting entities from a consolidated group for the purposes of compliance with the prudential rules on a consolidated basis.

(4) Investment firms not referred to in Article 8a (1) to (3) of the Capital Market Undertakings Act shall be exempt from supervision of the consolidated group.

Article 26e

(1) The Czech National Bank shall exercise banking supervision on a consolidated basis of a parent bank group and of a foreign parent bank group, the members of which include a responsible bank in a foreign parent bank group. A group of a parent bank which is a subsidiary of a domestic parent bank or a domestic financial holding entity shall be subject to banking supervision on a consolidated basis only if a foreign bank or financial institution having its registered office in a non-Member State is a member of this group.

(2) The Czech National Bank shall exercise banking supervision on a consolidated basis of a financial holding entity group, the members of which include a responsible bank in a financial holding entity group. A group of a financial holding entity which is a subsidiary of a domestic parent bank or a domestic financial holding entity shall be subject to banking supervision on a consolidated basis only if a foreign bank or financial institution having its registered office in a non-Member State is a member of this group.

(3) The Czech National Bank:
a) shall exercise supervision of a financial holding entity group which does not meet the conditions given in the first sentence of paragraph 2, or
b) shall waive the exercise of supervision of a financial holding entity group which meets the conditions given in the first sentence of paragraph 2 if it so agrees with the competent supervisory authority of a Member State and if it feels that the designation of the responsible bank in the financial holding entity group according to the criteria stipulated in this Act [Article 26d(1)(o)] is inappropriate, having regard in particular to the significance of the banks or foreign banks which are members of this consolidated group for the financial market in the Member States concerned. In such case, however, the Czech National Bank or the competent supervisory authority shall seek the opinion of the responsible bank in the group of the financial holding entity or the European financial holding entity group which is a member of consolidated group concerned. Where the Czech National Bank applies the procedure given in letter a), it shall designate the bank that will fulfil the obligations of responsible bank in the financial holding entity group.

(4) The Czech National Bank shall exercise banking supervision on a consolidated basis of a mixed-activity holding entity group.

(5) The Czech National Bank may waive the exercise of banking supervision on a consolidated basis of a consolidated group where the parent undertaking has its registered office in a non-Member State, provided that this consolidated group is subject to like banking supervision on a consolidated basis. Prior to making such a decision, the Czech National Bank seek the opinion of the authority supervising a foreign bank having its registered office in another Member State and belonging to the same consolidated group, and of the European Banking Committee. Should there be no like banking supervision on a consolidated basis of such consolidated group, the Czech National Bank may require the members of the consolidated group to establish a financial holding entity in the territory of the Czech Republic or another Member State. The Czech National Bank shall inform the authority supervising the bank having its registered office in another Member State and belonging to the same consolidated group, and the Commission of the European Communities, of the procedure referred to in the third sentence.

Article 26f

(1) A parent bank, a responsible bank in a financial holding entity group, a responsible bank in a foreign parent bank group and a bank in a mixed-activity holding entity group which are members of a consolidated group subject to banking supervision by the Czech National Bank shall comply on a consolidated basis with:
a) the requirements for the management and control system (Article 8b),
b) the rules for disclosure of information (Article 11a),
c) the rules for determination of capital and the rules for determination of capital requirements and capital adequacy (Article 12a),
d) the strategies and processes for assessing and changing internal capital (Article 12c),
e) the exposure rules (Article 13),
f) the restrictions on qualifying holdings (Article 17),
g) the requirements for operations within a consolidated group (Article 26g(4)).

(2) Entities belonging to a consolidated group shall supply the Czech National Bank, regularly or on request, either directly or via a bank referred to in paragraph 1, with all the information necessary for exercising supervision on a consolidated basis. The Czech National Bank shall stipulate in a decree the manner of submission of regular information and the scope, structure, frequency and dates of disclosure.

Article 26g

(1) Entities belonging to a consolidated group shall create adequate control mechanisms ensuring the correctness of information supplied for the purposes of banking supervision on a consolidated basis.

(2) A domestic parent bank, a responsible bank in a financial holding entity group and a responsible bank in a foreign parent bank group shall notify the Czech National Bank in advance of the auditors that will audit the entities belonging to the consolidated group subject to banking supervision by the Czech National Bank.

(3) A domestic parent bank, a responsible bank in a financial holding entity group, a responsible bank in a foreign parent bank group and a bank in a mixed-activity holding entity group shall arrange an audit of information that they submit for the purposes of banking supervision on a consolidated basis, in the manner and within the scope set forth in a decree of the Czech National Bank.

(4) A bank shall duly monitor its operations with members of the same consolidated group, manage the associated risks, and subject them to appropriate internal control mechanisms.

(5) A financial holding entity shall ensure that its statutory body, a member thereof or any other natural person that manages the business of the financial holding entity or of a legal entity that is its statutory body or a member thereof (hereinafter referred to as a “person in an executive managerial position”), either alone or together with other persons, is a trustworthy

person having enough experience to discharge the office and to meet requirements applying to the financial holding entity under this Act.

(6) A financial holding entity shall inform the Czech National Bank in advance of planned personnel changes in executive managerial positions and, at the same time, submit supporting documents proving the trustworthiness and experience of the nominated persons. An entity that has become a new financial holding entity shall be obliged to meet this requirement concerning the persons in executive managerial positions within two months from when it became a financial holding entity; otherwise the persons in executive managerial positions shall be deemed not to have complied with the set preconditions. The natural person concerned shall submit the necessary supporting documents and give assistance to the financial holding entity. The Czech National Bank shall specify the supporting documents proving the trustworthiness and experience of persons in executive managerial positions of a financial holding entity in a decree.

(7) The Czech National Bank may require a financial holding entity to change a person in an executive managerial position of the financial holding entity if such person is not sufficiently experienced or trustworthy.

Article 26h

(1) The Czech National Bank may in administrative proceedings impose a fine of up to CZK 50,000,000 on an entity which is not a bank and which belongs to a consolidated group if it does not supply the information required for the purposes of banking supervision on a consolidated basis or if it supplies incomplete, false or distorted information or it does not comply with the time limit for submission thereof.

(2) Should the Czech National Bank detect any shortcomings in the activities of an entity belonging to a consolidated group which might adversely affect the performance of a bank that belongs to the consolidated group, it shall be entitled, in respect of a parent bank, a responsible bank in a financial holding entity group, a financial holding entity, a responsible bank in a foreign parent bank group, a bank in a mixed-activity holding entity group or a mixed-activity holding entity, according to the nature of the shortcoming, to:
a) demand that it remedy the situation within a specified period,
b) order an extraordinary audit in the entity which belongs to the consolidated group, at the expense of the parent undertaking,
c) impose a fine of up to CZK 50,000,000,
d) prohibit or restrict the execution of transactions with entities that belong to the same consolidated group.

(3) A shortcoming in the activities of an entity which belongs to a consolidated group and which is not a bank shall mean:
a) failure to comply with, or circumvention of, this Act, special legislative acts, the legal rules issued by the Czech National Bank and the legal rules referred to in Article 5k
b) execution of transactions within or outwith the consolidated group in a manner which is detrimental to the interests of the depositors of a bank which belongs to the consolidated group or which endangers the safety and soundness thereof.

Article 26i

Where the Czech National Bank exercises banking supervision on a consolidated basis of a European parent bank group or a European financial holding entity group, it shall carry out the following tasks in addition to those laid down in this Act or a special legal rule[2)]:
a) coordination of the gathering and dissemination of relevant or essential information in normal and emergency situations, in relation to the supervisory authorities of other Member States,
b) planning and coordination of supervisory activities in normal as well as in emergency situations, including the supervisory activities in Article 25(3), in cooperation with the competent supervisory authorities,
c) communication to the supervisory authorities of other Member States exercising supervision of an entity which is a member of such a consolidated group of information essential for the exercise of supervision of this entity, having regard in particular to the significance of this entity for the financial market in the state concerned (Article 38h),
d) decision-making on joint applications for prior consent to the use of one of the special approaches or on applications to change an approach already in use pursuant to Article 12a(5)–(7).

Article 26j

The Czech National Bank shall provide notification as soon as is practicable of a situation arising in a consolidated group over which it exercises supervision on a consolidated basis to the central bank or other institution exercising the powers of a monetary institution in the Member State in which another member of this consolidated group which the competent supervisory authority of this Member State has authorised to carry on business has its registered office, where this situation might jeopardise the stability of the financial system in this Member State.

PART NINE
Conservatorship

Article 27

(1) A decision to impose conservatorship shall contain:
a) the reasons for imposing conservatorship,
b) the first name, surname and birth certificate number of the conservator and the first name, surname and birth certificate number of the deputy conservator,
c) any restrictions or prohibitions applying to acceptance of deposits, lending or other activities.

(2) The costs associated with conservatorship shall be covered from the bank’s assets and shall constitute an expense of the bank for achieving, maintaining and securing income for the purposes of legal entity income tax as defined in a special legislative act.[6c)]

(3) The deputy conservator shall deputise to the full extent for the conservator in his absence. The provisions of this Act relating to the conservator shall apply mutatis mutandis to the deputy conservator.

(4) Where the law requires a decision of the General Meeting to be verified by a notarial certificate, the decision of the conservator in such matter shall be in the form of a notarial certificate.

Article 28

(1) The conservator shall be an employee of the Czech National Bank. The Czech National Bank may dismiss the conservator or deputy conservator and appoint a new one.

(2) The conservator shall be entitled to take on additional persons to execute the conservatorship, except for persons having a special relation to the bank as defined in Article 19 of this Act. The persons taken on to execute conservatorship may not be persons who are in a debtor's position towards the bank or who are employed by another bank. The persons thus taken on shall be entitled to become privy to matters that are subject to banking secrecy in the relevant bank. At the same time, they shall maintain confidentiality regarding such matters.

(3) A person who was a bank officer on the day of imposition of conservatorship or at any time during the two years preceding that day shall give assistance to the conservator at his request. The Czech National Bank may impose a fine of up to CZK 1,000,000 on such a person if this duty is breached, and may do so repeatedly.

Article 29

(1) Save for the filing of legal remedies against the imposition of conservatorship, the duties of all bodies of the bank shall be suspended at the moment the written decision to impose conservatorship is served. The decision shall apply to all as of the moment it is served. The conservator shall act in the capacity of the statutory body.

(2) The General Meeting of the bank shall not take place and the conservator shall decide on matters falling within the powers of the General Meeting. Where the conservator decides to increase the bank's capital, he may exclude the shareholders' preferential right to subscribe for new shares only if the bank failed to comply within the prescribed time limit with a remedial measure requiring an increase in the bank's capital.

(3) If the bank's situation so requires, the bank under conservatorship may, with the prior consent of the Czech National Bank, suspend partially or fully the depositors' right of disposal of their deposits in the bank.

(4) A bank under conservatorship may suspend partially or fully, for a maximum of six months, payments to persons with a special relation to the bank resulting from legal titles arising before the imposition of conservatorship. The bank under conservatorship may extend this time limit only in the case of payments resulting from legal titles contested by the

conservator within this time limit for being invalid, ineffective or unenforceable with a court or any other relevant authority. In such case the time limit may be extended, even repeatedly, up to the day when the decision of the court or other relevant authority in the matter takes effect.

(5) If the conservator becomes aware that the bank is insolvent, he shall notify the Czech National Bank without delay and submit supporting documents proving such fact.

Article 29a

In order to conclude an agreement on the takeover of the debts[6i)] of a bank under conservatorship by another bank or foreign bank branch:
a) the consent of creditors shall not be required,
b) the prior consent of the Czech National Bank shall be required; the Czech National Bank shall grant its consent only if the entity taking over the debts ensures proper and smooth continuation of client relationships connected with the debts being taken over.

Article 29b

(1) If a bank under conservatorship sells the bank's business, the purchase price shall be determined as a result of a valuation of the business and related rights and obligations as of the day on which the agreement on the sale of the business takes effect (hereinafter referred to as the "valuation").

(2) The valuation shall be made impartially, in full, without undue delay after the commissioning of the valuation, with professional care and in accordance with generally recognised principles of valuation of businesses and other assets.

(3) The valuation shall not take into account state guarantees or any other blanket security for the liabilities of the bank under conservatorship provided by third parties to preserve its soundness and stability. Neither shall the valuation take into account insurance of deposit receivables under this Act and the guarantee system relating to the assets of clients of an investment firm under an act governing capital market undertakings. Any loans provided by the Czech Republic or the Czech National Bank shall be deemed due for the purposes of the valuation.

(4) The usual interest for the period from the day on which the agreement on the sale of the business took effect to the day on which the purchase price is due shall be added to the purchase price. If the result of the valuation is not a positive figure, a purchase price of CZK 1 shall be paid to the seller.

(5) The bank under conservatorship, the buyer and any other entities that hold items and documents or possess information needed to prepare the valuation properly shall provide them for that purpose to the entity preparing the valuation of the bank's business (hereinafter referred to as the "valuer"). The Czech National Bank may impose a fine of up to CZK 1,000,000 on an obliged person that is not a bank or foreign bank branch if this duty is breached, and may do so repeatedly.

Article 29c

(1) The valuer shall be appointed by the Czech National Bank. The person to be appointed valuer, the bank under conservatorship and the buyer of the business shall be parties to the proceedings on the appointment of the valuer.

(2) A person who has experience and knowledge in the area of valuation of financial institutions' businesses, has sufficient prerequisites for preparing a proper and independent valuation of the business of the bank under conservatorship and agrees to his appointment shall be appointed valuer.

(3) The valuer may not be a person who has a special relation to the bank, has been the bank's auditor in the last five years or does not represent a guarantee of impartial valuation.

(4) The person to be appointed valuer shall notify the Czech National Bank without undue delay of facts that could, in his opinion, cast doubt on his impartiality. The valuer shall also have this obligation if he discovers such facts during the performance of his duties.

(5) The Czech National Bank shall specify the valuer's remuneration or the method of determination thereof, as well as the due date thereof. The valuer's remuneration shall represent a cost associated with conservatorship pursuant to Article 27(2) and shall also include the valuer's necessary expenses. If the bank's assets are insufficient to cover the remuneration or part thereof, the Czech National Bank shall pay the remuneration or the said part thereof to the valuer; a claim of the Czech National Bank vis-à-vis the bank under conservatorship shall thereby arise.

(6) The Czech National Bank may dismiss the valuer if the valuer breaches the duties stipulated in this Act in a serious manner, and appoint a new valuer. For the same reason the Czech National Bank may reduce the valuer's remuneration. For serious reasons the Czech National Bank may also dismiss the valuer at his own request. Any appeal filed shall not have suspensory effect.

(7) The dismissed valuer shall provide the newly appointed valuer with all assistance needed to perform his duties. The Czech National Bank may impose a fine of CZK 1,000,000 on him if this duty is breached, and may do so repeatedly.

(8) The provisions of Articles 29b and 29c shall apply *mutatis mutandis* to the sale of a part of the business.

Article 30

(1) The Czech National Bank may impose conservatorship in the situation where shortcomings in a bank's activities endanger the stability of the banking or financial system.

(2) Should conservatorship be imposed on a bank that has a branch in a host state, the Czech National Bank shall inform the host supervisory authority of the intention to impose conservatorship and of any restricted disposal of deposits and any restricted payments to persons with a special relation to the bank pursuant to Articles 29(3) and 29(4); such

information shall be disclosed before the decision is taken or immediately thereafter if the matter brooks no delay. The information shall contain notification of the possible consequences of the imposition of conservatorship and/or the restricted disposal of deposits.

(3) The conservator shall exercise his powers laid down in this Act in the territories of other Member States, with the exception of the use of coercive means or any other use of force and the power to issue binding decisions on disputes and other proceedings falling within the jurisdiction of the courts and administrative bodies of the relevant state.

(4) The conservator shall show an authenticated, non-superlegalised copy of the decision to impose conservatorship, translated into the official language of the relevant state, where requested. The conservator shall, where possible, exercise his powers laid down in this Act in the territories of third states.

(5) In exercising his powers in the territories of Member States, the conservator shall comply with the law of the relevant state, in particular with regard to procedures for the realisation of assets and the provision of information to employees. Where necessary for the purposes of performing conservatorship in compliance with the legal rules of the relevant state, the conservator shall request that the information about the imposition of conservatorship be registered in the land register, the commercial register or any other public register. The registration costs shall be borne by the bank.

Article 31

(1) Conservatorship shall be recorded in the Companies Register.[7a)] Proposed entries relating to conservatorship shall be submitted by the Czech National Bank.

(2) A court of law shall, at the proposal of the Czech National Bank, record in the Companies Register the imposition of conservatorship, the termination of conservatorship, the dismissal of a conservator and the appointment of a new conservator.

(3) The court shall rule on the conservator’s proposals concerning the entry in the Companies Register within three days of delivery thereof.

Article 32

(1) During conservatorship, the Czech National Bank may render financial assistance to the bank in question to overcome any temporary shortage of liquidity.

(2) Claims for repayment of the financial assistance rendered by the Czech National Bank pursuant to paragraph 1 shall have priority over all other liabilities of the bank.

Article 33

(1) Conservatorship shall be terminated:

a) by the serving of a decision of the Czech National Bank to terminate conservatorship;
b) upon the appointment of a liquidator;
c) by declaration of bankruptcy; or
d) upon the lapse of 24 months from the imposition of conservatorship.

(2) Conservatorship shall not be terminated upon the termination of a bank's licence.

Article 33a

The provisions of this Act governing the imposition of conservatorship shall not affect the exercise of rights and the fulfilment of obligations stemming from financial collateral agreements pursuant to an act governing financial collateral agreements[15)] or pursuant to a comparable foreign legal regulation if financial collateral was agreed and originated before the imposition of conservatorship. This shall also apply where financial collateral was agreed on the day of, but after, the imposition of conservatorship, unless the financial collateral taker knew about this fact or should have and could have known about it. Neither shall the provisions of this Act governing imposition of conservatorship affect close-out netting pursuant to an act governing business activities on the capital market[16)] if close-out netting was concluded before the imposition of conservatorship.

PART TEN
Revocation of the licence

Article 34

(1) If serious shortcomings persist in the activities of a bank or foreign bank branch, or if a bank fails, the Czech National Bank shall revoke its licence; such a measure need not be preceded by the imposition of conservatorship.

(2) The licence may also be revoked if:
a) the bank does not start its activities within twelve months of being granted its licence or if it has ceased to accept deposits from, or provide loans to, the public for six months or more,
b) the licence was obtained through false information stated in the application.

(3) The Czech National Bank shall revoke the licence if it becomes aware that the bank's capital on a solo basis is lower than one third of the sum of its individual capital requirements. The Czech National Bank shall not be obliged to revoke the licence in this case if the bank is a bank under conservatorship or a special-purpose bank.

Article 35

(1) The decision to revoke a licence shall be published in the Commercial Bulletin; in addition, in the case of a foreign bank branch, notification shall be given to the competent banking supervisory authority in the relevant state.

(2) As from the date on which the decision to revoke the licence becomes legally valid, the legal entity concerned may not accept deposits or provide loans or carry on any other activities, except for those necessary for the settlement of its claims and liabilities; such an entity is regarded as a bank as defined by this Act until it settles its claims and liabilities.

(3) The Czech National Bank shall serve its decision to revoke the licence on the statutory body of the bank. At the same time, the Czech National Bank shall notify the banking supervisory authorities of the states in which the bank has branches of this decision.

(4) The Czech National Bank shall serve the decision to revoke a licence granted to a foreign bank branch on the person authorised to manage the branch.

PART ELEVEN
Bank liquidation

Article 36

(1) If a bank is wound up and liquidated, the Czech National Bank shall have exclusive authority to submit a proposal for the nomination of the liquidator. In addition, the Czech National Bank shall have exclusive authority to submit a proposal for the dismissal of the liquidator and for the nomination of a new liquidator or a proposal for the winding up of the joint-stock company if the bank's licence has been revoked. The court shall rule on the Czech National Bank's proposal the within 24 hours of the proposal being submitted.

(2) The liquidator may be a natural person or a legal entity. The liquidator may not be a person who has, or has had, a special relation to the bank, who is, or has been in the last five years, the bank's auditor, or who has contributed to the bank's audit in any way. The Czech National Bank shall set the amount and payment date of the liquidator's remuneration taking due consideration of the extent of the activities involved.

(3) Natural persons who have become privy to information subject to banking secrecy during the course of a bank's liquidation shall maintain confidentiality in accordance with Article 39 of this Act mutatis mutandis.

(4) The liquidator shall submit to the Czech National Bank at the earliest opportunity the financial statements and documents prepared during the course of liquidation in compliance with the Commercial Code and, at the written request of the Czech National Bank, other documents necessary for assessing the liquidator's activities and the course of the liquidation.

(5) The liquidator shall enforce performance in respect of invalid legal acts (Article 12(2)).

PART TWELVE
Common provisions

Article 37

(1) Banks shall provide services to their clients on a contractual basis. A bank may refuse to provide services should the client remain anonymous.

(2) For the purposes of banking transactions, banks and foreign bank branches shall collect and process the data on entities, including birth certificate number, where allocated (excluding sensitive data on natural persons) necessary to allow the banking transaction to be executed without the bank incurring undue legal and material risks. The data shall be adequate to the legal and material risks of the banking transaction with the subject of the data and relevant to the assessment of such risks. The data collected and processed in this manner are subject to the provisions on banking secrecy (Article 38).

Article 38

(1) All the banking transactions and financial services of banks, including account balances and deposits, shall be subject to banking secrecy.

(2) A bank shall submit a report on all matters that are subject to banking secrecy to the persons authorised to perform banking supervision. Exchange of information between the Czech National Bank and the banking supervisory authorities and like institutions of other countries shall not be deemed a breach of banking secrecy if the subject of exchange is information on entities which operate or wish to start operating within the territory of the relevant state. Disclosure of information on a client and on a client's transactions shall also not be deemed a breach of banking secrecy in the case of the reporting of a criminal act or the discharge of a notification duty under the Act on Certain Measures against Money Laundering and Terrorist Financing or under the Act on the Imposition of International Sanctions.

(3) Reports on matters concerning a client which are subject to banking secrecy may be submitted by a bank without the client's consent only upon the written request of:
a) a court of law for the purposes of civil proceedings;[8)]
b) a law enforcement authority under conditions laid down by a special legislative act;[9)]
c) the tax authorities under the conditions laid down by the Tax Administration Code;
d) the financial arbiter when making decisions pursuant to special legal rule[9c)] in disputes between a petitioner and an institution;
e) the Ministry of Finance under conditions laid down by the Act on Certain Measures against Money Laundering and Terrorist Financing or the Act the Imposition of International Sanctions;
f) the social security authorities, in matters of proceedings concerning social security payments and contributions to the state employment policy owed by the client, including outstanding additional premiums, late payment fees and fines, the health insurance authorities in matters of proceedings concerning overpayments of sickness benefits, compensation as a result of recourse and outstanding fines, the social security authorities or municipal authorities of municipalities with extended competence or authorised municipal authorities, in matters of proceedings concerning overpayments of social security benefits and outstanding fines, or state welfare bodies in matters of proceedings concerning overpayments of welfare benefits which the client is obliged to return; the same shall apply to the exaction of such insurance payments, contributions and overpayments;

g) health insurance companies in matters of proceedings concerning public health insurance payments owed by the client; the same shall apply to the exaction of such insurance payments;
h) a judicial executor authorised to perform execution pursuant to a special legislative act;[9b)]
i) a labour office in matters of proceedings concerning the return of funds provided to the client from the state budget; the same shall apply to the exaction of such funds.
j) cancelled;
k) cancelled;
l) the National Security Authority, the intelligence service or the Ministry of the Interior when carrying out security proceedings pursuant to a special legislative act[10c)]. The written request must contain information enabling the bank to identify the relevant matter.

(4) At the written request of the social security authorities or district authorities in matters of proceedings concerning the return of a benefit remitted to an account after the death of the recipient of the benefit, including exaction thereof, the bank shall communicate identification data on its client who is the account holder and on persons entitled to dispose of funds on that account and information on matters relating to that account, even without the consent of the client. The bank shall also communicate such information at the written request of a labour office after the death of a client.

(5) The bank shall be entitled to reimbursement of its material costs for providing the reports referred to in paragraphs 3(a) and (h).

(6) For the purposes of executing a decision or a tax execution the bank shall communicate to the competent person the bank connection of its client, i.e. the account number and the identification code of the bank or foreign bank branch and the identification data of its client who is the account holder, even without the consent of the client. The same duty of the bank shall apply in respect of persons who prove that they have suffered damage as a result of their own incorrect instruction to the bank or foreign bank branch and that without this information they cannot exercise their right to the surrender of this ungrounded enrichment within the meaning of the Civil Code. The bank shall be entitled to reimbursement of its material costs for providing the information.

(7) If a client is in default with meeting his financial obligations toward a bank for a period exceeding 60 days or fails to comply with his duties to the bank agreed in a contract or laid down by law, the duty of the bank to maintain banking secrecy shall be restricted in that the bank may inform other banks or third persons or the public of the breach of the contract by the client, although it may only state the name of the client and the duty with which the client failed to comply.

(8) The client may prevent this right from being exercised by concluding, within thirty days of the failure to comply with the relevant duties, an agreement with the bank to remedy the situation. The bank shall not be obliged to conclude such an agreement. If such an agreement is not concluded within this period or if the client subsequently fails to adhere to the agreement concluded, the bank may exercise its right under paragraph 7 without further notice. The client may use the possibility referred to in this paragraph only once in a calendar year.

(9) Paragraphs 1 to 8 and paragraph 11 shall also apply to foreign bank branches.

(10) In the context of its business activities within the territory of another state, a bank shall submit a report on matters relating to a client that are subject to banking secrecy even without the consent of the client in so far as is necessary to fulfil the obligations laid down by the law of the state within the territory of which the bank carries on those activities. This is without prejudice to the provisions of the special legislative act[10b)].

(11) Providing information to another payment service provider or within the payment system shall not constitute a breach of banking secrecy where it is necessary to prevent, investigate and detect fraud in the payment system.

Article 38a

(1) In fulfilling their obligation to act with prudence when carrying on their activities, banks and foreign bank branches may provide each other with bank account details, identification data on account holders and information on matters attesting to the financial soundness and trustworthiness of their clients, including via legal entities which are not banks. Holdings in such legal entities may only be held by banks, which shall see to it that such legal entities keep the information secret and protect it against misuse. Banks and foreign bank branches shall treat information on the clients of another bank or foreign bank branch as if it were information on their own clients.

(2) The Czech National Bank shall create a database (hereinafter referred to as the "register") from the information within the scope referred to in paragraph 1 obtained from banks, foreign bank branches[10a)] and other persons where a special legislative act so provides. Banks, foreign bank branches, the Czech National Bank for the purposes of financial market supervision and other persons where a special legislative act so provides shall have access to the information in the register. The transfer of information into and from the register under the conditions laid down by law shall not be deemed a breach of banking secrecy and the confidentiality obligation. However, banks and foreign bank branches shall treat information on the clients of another bank or foreign bank branch acquired from the register as if it were information on their own clients.

(3) The Czech National Bank shall be entitled to grant access to the information in the register under paragraph 2 on the basis of reciprocity to central banks and other institutions of EU Member States that create databases comparable to the register, provided that the conditions of access to this information and the manner of its protection in the Member State in question are at a level at least comparable to that required by this Act. The comparability requirement shall also be met where a broader group of entities has access to the information in the foreign database.

(4) The Czech National Bank shall stipulate in a decree cases where it shall be possible to request information pursuant to paragraphs 2 and 3 and detailed conditions for the provision of such information.

(5) The client shall have the right to have an extract of the information kept on him in the register made for the settlement of material costs.

(6) A bank's notification to a state prosecutor, to the police or to any other competent authority of its suspicion that a criminal act or offence has been committed may not be deemed a violation of Article 38.

Article 38b

A bank may disclose information that is otherwise subject to banking secrecy if such disclosure is necessary for the purposes of supervision on a consolidated basis or supplementary supervision[6d)] and for the purposes of compliance with the prudential rules. This shall be without prejudice to the provisions of the act governing the protection of personal data[10b)].

Article 38c

The Czech National Bank shall discharge its consultation and information duties vis-à-vis the banking supervisory authorities of other states, the bodies of international organisations and other persons within the scope of international treaties. A breakdown of the basic consultation and information matters is given in Articles 38d to 38i.

Article 38d

(1) The Czech National Bank shall inform the European Commission:
a) of the number and type of cases where it has refused to allow a bank or financial institution fulfilling the conditions listed in Article 5e(1) having its registered office within the territory of the Czech Republic to establish a branch in another Member State or where it has taken measures pursuant to Article 26 against a branch pursuant to Article 5a(1),
b) of licences granted and revoked,
c) of the fact that a bank has become a subsidiary of an entity which is governed by the laws of a state that is not a member of the European Union, and of the structure of the consolidated group to which that bank belongs,
d) of any discriminatory measures applied against banks establishing branches in states that are not members of the European Union,
e) of financial holding entities,
f) of any agreements pursuant to Article 26e(3),
g) of any measures pursuant to Article 26 taken against branches pursuant to Article 5a(1) in emergencies and where such action is necessary in the interests of depositors,
h) does not exist,
i) of the application of the procedure laid down in Article 26bb to a branch referred to in Article 5a(1).

2) The Czech National Bank shall inform the European Commission at its request of any request:
a) for a licence made by a subsidiary of an entity governed by the laws of a state that is not a member of the European Union,

b) to acquire a holding in a bank made by an entity which is governed by the laws of a state that is not a member of the European Union or by a subsidiary of an entity which is governed by the laws of a state that is not a member of the European Union such that the applicant would become the parent undertaking of the bank.

Article 38e

The Czech National Bank shall inform the competent supervisory authority of a Member State:
a) of all consolidated groups containing a bank as well as a bank having its registered office within the territory of the Member State or a financial institution fulfilling the conditions listed in Article 5e(1) having its registered office within the territory of the Member State,
b) of any notification from a bank or financial institution fulfilling the conditions listed in Article 5e(1) that it wishes to establish a branch within the territory of the Member State or to provide services there, and of any changes thereto,
c) of the fact that a financial institution has ceased to fulfil the conditions listed in Article 5e(1),
d) of measures pursuant to Article 26 taken against branches pursuant to Article 5a(1) in emergencies and where such action is necessary in the interests of depositors,
e) of the application of the procedure laid down in Article 26bb to a branch referred to in Article 5a(1),
f) of the granting of consent pursuant to Article 29(3) where the bank concerned has a branch within the territory of that state; in emergencies it shall provide such information to the competent supervisory authority before consent is granted or immediately thereafter.

Article 38f

(1) Prior to making any decision to change or revoke the licence of a bank which has a branch within the territory of a Member State, the Czech National Bank shall consult the banking supervisory authority of that state. In emergencies, the Czech National Bank shall inform the supervisory authority of its intention to change or revoke the licence. The Czech National Bank shall, at the earliest opportunity, inform the banking supervisory authorities of the states in which the bank has branches of the change or revocation of the licence. The same shall apply where it intends to revoke the licence of a branch of a foreign bank having its registered office outside the territories of the Member States if such bank has a branch within the territories of the Member States; in such case, the Czech National Bank shall endeavour to coordinate its activities with competent authorities in the Member States.

(2) The Czech National Bank shall without delay inform the competent supervisory authority of the member state of the European Union in which a bank or foreign bank has a branch of the issuance of an insolvency decision and the adjudication of bankruptcy on the assets of the bank or foreign bank having its registered office outside the territories of the Member States.

Article 38g

The Czech National Bank may, after having first informed the banking supervisory authority of the state concerned, carry out an on-site examination within the territory of a Member State, or may request it to carry out such an examination.

Article 38h

(1) In the framework of exercising banking supervision, the Czech National Bank shall collaborate with the banking supervisory authorities of other states, and in particular those within the territory of which a bank has a branch or within the territory of which a foreign bank having a branch carrying on activities within the territory of the Czech Republic has its registered office.

(2) On request, the Czech National Bank shall supply the supervisory authorities referred to in paragraph 1 with information:
a) on holdings in the bank or foreign bank,
b) on the management of the bank or foreign bank,
c) on the capital of financial institutions controlled by the bank or foreign bank**,**
d) on capital adequacy on a solo and consolidated basis,
e) on financial holding entities,
f) of relevance to the supervision of such banks or foreign banks, in particular with regard to liquidity, solvency, deposit insurance, capital adequacy, consolidated supervision, accounting, internal controls and monitoring of the risks arising from open positions on financial markets within the territory of the Czech Republic or within the territory of the state in which the bank has undertaken such risks.

(3) The Czech National Bank shall, on request or on its own initiative, also communicate to the supervisory authorities of other Member States information that materially influences the assessment of the financial situation of a foreign bank or financial institution in the Member State concerned, in particular information concerning:
a) identification of the structure of a consolidated group, all major banks in this consolidated group, and the authorities responsible for supervising the banks in this consolidated group,
b) procedures for the collection of information from the banks in a consolidated group, and the verification of that information,
c) developments in a bank or another entity in a consolidated group which could seriously jeopardise the financial situation of a bank in the consolidated group,
d) major sanctions and remedial measures of exceptional significance imposed on a bank in accordance with this Act, in particular a requirement for a capital increase under Article 26(1)(h), and the non-granting of consent to the use of a special approach for the calculation of a capital requirement under Article 12a(4) or (7) or the non-granting of consent to change a special approach already in use.

(4) The Czech National Bank shall ask the supervisory authority of another Member State exercising supervision of an entity which is a member of a consolidated group for the information referred to in paragraph 3. In addition, it shall ask the authority exercising supervision on a consolidated basis of a European parent bank for information regarding the approaches and methods applied in respect of compliance with the prudential rules.

Article 38i

(1) Prior to:
a) making a decision under Article 16(1) and Article 20(3),
b) imposing sanctions and remedial measures of exceptional significance, in particular a requirement for a capital increase under Article 26(1)(h),
c) refusing an application for consent to the use of a special approach for the calculation of a capital requirement under Article 12a(4) or (7)
the Czech National Bank shall consult with the supervisory authority exercising supervision on a consolidated basis of the consolidated group to which the bank concerned belongs, and with the other supervisory authorities also concerned.

(2) The Czech National Bank need not consult pursuant to paragraph 1 in cases of urgency or where such consultation may jeopardise the effectiveness of the decisions. In this case, it shall inform the other supervisory authorities without delay.

Article 38j

(1) The Czech National Bank shall disclose in a manner which allows remote access:
a) up-to-date texts of the acts and the decrees and provisions of the Czech National Bank governing the prudential rules for banks on a solo and consolidated basis, and related official information of the Czech National Bank; this shall be without prejudice to the provisions of special legal rules on the manner of promulgation of legal rules,
b) information on the manner of exercise of the options and discretions available to the Member States and their supervisory authorities under European Community legislation in the legal rules referred to in letter a),
c) information on the approach and methods used by the Czech National Bank in exercising banking supervision pursuant to Article 25(3),
d) aggregate statistical data on compliance with the prudential rules by banks in the Czech Republic,
e) the list of credit assessment agencies,
f) agreements to change the competent authority responsible for supervising a financial holding entity group on a consolidated basis pursuant to Article 26e(3).

(2) The Czech National Bank shall disclose and regularly update the information referred to in paragraph 1 in a manner which allows remote access in such a way as to enable comparison with information of the same nature disclosed by banking supervisory authorities in other Member States.

Article 39

(1) The employees of a bank and the members of its supervisory board are obliged to maintain confidentiality in business matters that concern the interests of the bank and its clients. The statutory body shall exempt the aforesaid from this obligation for the reasons listed in Article 38(2), (3), (4) and (6) and Article 38b. Provision of information in cases and for purposes referred to in Articles 41d(2) and 41n shall not be considered contravention of the obligation to maintain confidetiality in business matters.

(2) The obligation to maintain confidentiality shall persist even after the employment or like relationship has ceased.

Article 40

(1) Applications for a licence, for making changes thereto or for granting consent pursuant to this Act shall be submitted by the applicant in writing to the Czech National Bank.

(2) Decisions regarding the changing of a licence shall be made by the Czech National Bank.

(3) The Czech National Bank shall issue its decision to grant a licence or to change a licence or to reject an application for a licence or change in licence within six months of the date of opening of the administrative proceedings and shall deliver its decision within that time limit. If the application was incomplete and the Czech National Bank has asked for additions to be made thereto, the Czech National Bank shall issue its decision within twelve months of the date of opening of the administrative proceedings and shall deliver its decision within that time limit.

(4) If, following the Czech National Bank's request for additions to be made to the application, the applicant again submits an incomplete application or fails to adhere to the time limit set by the Czech National Bank for the additions to be made, the Czech National Bank shall be entitled to stop the administrative proceedings.

(5) The decision on the application for consent pursuant to this Act shall be made within three months of the date of opening of the administrative proceedings, save as otherwise provided in this Act.

(6) Proper reasons must be given for rejection of the application for a licence or for making changes thereto or for refusal to grant consent pursuant to this Act.

(7) In licensing proceedings and in proceedings to grant consent pursuant to Article 20(3) of this Act, the Czech National Bank may request the necessary information on the parties to the proceedings from the competent authorities.

(8) The Czech National Bank shall inform the Ministry of Finance of its final decisions pursuant to Article 4(2), Article 5(3), Article 16(1)(b) and (c), Article 27(1), Article 29(3), Article 34(1) and Article 40(2).

Article 41

(1) Appeals filed against decisions of the Czech National Bank shall be ruled on by the Bank Board of the Czech National Bank. Such appeals shall have no suspensory effect. The provision of the Administrative Procedure Code regarding the possible ways of terminating appeals proceedings[10)] shall not apply.

(2) Save as otherwise provided in this Act, the regulations on administrative proceedings[11)] shall apply to proceedings concerning applications and licence revocations pursuant to this Act.

PART THIRTEEN
Insurance of deposit claims

Article 41a

(1) The Deposit Insurance Fund (hereinafter referred to as the "Fund") is hereby established. The Fund shall be incorporated in the Companies Register as a legal entity.

(2) The Fund shall not be a state fund within the meaning of a special legislative act.[12)] No special legal rules governing the insurance business shall apply to the insurance of deposit claims.

(3) Without prejudice to Articles 5a(4) and 41l, all banks and branches of foreign banks (hereinafter referred to as "banks" in this Part) shall participate in the deposit-claims insurance scheme and contribute to the Fund to the extent laid down in this Act.

(4) The source of the Fund shall be contributions from banks and other income, in particular yields on investment of funds, funds raised by the Fund in accordance with Article 41l, repayable financial assistance, and proceeds from closed insolvency and liquidation proceedings.

(5) Drawings may only be made from the Fund to pay compensation for deposit claims to eligible persons under the conditions laid down by this Act, and for the repayment of debts. The costs of the Fund's activities shall be covered from the yields on the investment of funds.

(6) The financial statements of the Fund must be verified by an auditor.

(7) The Fund shall cooperate wit the Czech National Bank and the Ministry of Finance when carrying on its activities. The Czech National Bank shall notify the Fund in advance of a possible procedure pursuant to Article 41d(1).

Article 41b

(1) The Fund shall be managed by a Board of Directors consisting of five members.

(2) The Chairman, the Vice-Chairman and other directors of the Fund shall be appointed and dismissed by the Minister of Finance.

(3) The directors shall be appointed by the Minister of Finance for a five-year period, possibly repeatedly. One director shall be appointed each year. There shall be no remuneration for discharge of the office of director.

(4) A director shall perform his function with due professional care. In the event of a breach of this obligation, a director shall be liable for any damage he causes:
a) in full in the case of intentional conduct,
b) up to a total of CZK 600,000 per term of office in the case of negligence.

(5) If a director terminates his membership of the Board prior to the lapse of his period of office, a new director shall be appointed in his or her place. The new director's period of office shall end on the same date the period of office of his of her predecessor would have ended.

(6) At least one director shall be appointed from among the employees of the Czech National Bank and at the proposal of the Czech National Bank. At least two directors shall be appointed from among the members of boards of directors of banks. Directors shall be entitled to reimbursement of the expenses incurred in connection with the discharge of their office.

(7) Details concerning the activities and powers of the Fund shall be laid down in the Statute of the Fund to be issued by the Board of Directors after having first received the consent of the Ministry of Finance. The consent of the Ministry of Finance shall be also required for an amendment of the Statute of the Fund.

(8) Directors of the Fund, employees of the fund and other persons authorised to perform activities relating to the payment of compensation from the Fund shall maintain confidentiality regarding all information acquired in the context of the performance of their occupation, employment or duties. Provision of information in cases and for purposes referred to in Articles 38(2) to (4) and (6), 41g(1), 41n and 41o(2) shall not be considered contravention of the obligation to maintain confidentiality in business matters. The provisions of Articles 38(5) and 39(2) shall apply mutatis mutandis.

Article 41c

(1) Insured shall be all claims arising from deposits, including interest accrued, held in the Czech currency or in a foreign currency, registered as credit balances on accounts or deposit books or evidenced by a certificate of deposit, deposit slip or other comparable document, except for the claims referred to in paragraph 2 and subject to compliance with the identification requirements provided for in paragraph 3.

(2) Uninsured shall be the deposit claims of banks, foreign banks, financial institutions, health insurance companies and state funds. This shall not apply in the cases referred to in Article 41f. Also uninsured shall be the deposit claims that a bank is entitled to include partly in its capital (subordinated debt).

(3) A bank shall ensure identification of depositors when maintaining their accounts or when accepting their deposits in any other form and shall keep identification data on its depositors and information about the amount of and reason for the insured deposit claim in its files.
"identification data" shall mean:

a) in the case of natural persons: the first name, surname, address, birth certificate number, and if not allocated, date of birth or identification number,
b) in the case of legal entities: the commercial name or designation of the legal entity, its registered office and, for domestic legal entities, its identification number.

(4) The identification data referred to in paragraph 3 shall be stated in the account contract, in the deposit book and on the certificate of deposit, deposit slip or other comparable document evidencing the acceptance of the deposit.

(5) The deposit-claims insurance scheme shall not apply to bills of exchange and other securities.

(6) The contribution of a bank to the Fund shall be 0.04% of the average volume of insured deposit claims for the relevant calendar quarter. The bank shall calculate the average volume of insured deposit claims using the stock of insured deposit claims as of the last day of each calendar month of the relevant calendar quarter, including interest accrued to each depositor as of the same day. The calculation shall be made in the Czech currency. In the case of claims arising from deposits held in a foreign currency, the foreign exchange market rate announced by the Czech National Bank as of the date on which the calculation is made shall be used for conversion into the Czech currency.

(7) The contribution of a building savings bank to the Fund shall be 0.02% of the average volume of insured deposit claims for the relevant calendar quarter. The building savings bank shall calculate the average volume of insured deposit claims using the stock of insured deposit claims as of the last day of each calendar month of the relevant calendar quarter, including interest accrued to each depositor as of the same day, excluding advance payments of state support.

(8) If the volume of funds of the Fund falls below 1.5% of the total volume of deposit claims insured with the Fund, the Fund shall issue a notification thereof, which shall be published in a manner allowing remote access. In this case the contribution of banks shall be 0.01% of the average volume of insured deposit claims calculated in accordance with paragraph 6 and the contribution of building savings banks shall be 0.005% of the average volume of insured deposit claims calculated in accordance with paragraph 7 as from the calendar quarter following the notification publication date.

(9) If the volume of funds of the Fund falls below 1.5% of the total volume of deposit claims insured with the Fund and in cases other than those referred to in Article 41k, the Fund shall issue a notification thereof, which shall be published in a manner allowing remote access. In this case the amount of the contribution of
a) banks shall be subject to the rate referred to in paragraph 6;
b) building savings banks shall be subject to the rate referred to in paragraph 7,
as from the calendar quarter following the notification publication date.

(10) A bank shall pay its contribution to the Fund for the relevant calendar quarter by the end of the calendar month following the end of the calendar quarter at the latest. The contribution shall be paid in Czech koruna. The Fund shall inform the Czech National Bank of any non-payment of a contribution without any delay. If the bank is in default in payment, it shall be obliged to pay the Fund interest on late payment stipulated by civil regulations.

(11) The bank shall maintain a register of information pursuant to paragraph 3 and in cases stipulated in this Act (Articles 41d(2) and 41n) provide the Fund with this information. The Ministry of Finance shall stipulate the form, structure and manner of maintaining and providing information in a decree.

Article 41d

(1) Compensation for an insured deposit claim shall be paid from the Fund to an eligible person after the Fund receives notification in writing from the Czech National Bank, or, in the case of a foreign bank branch pursuant to Article 5a having supplementary insurance pursuant to Article 41m, from the home country banking supervisory authority, that the bank is unable to meet its commitments to eligible persons under the legal and contractual conditions. Such notification shall be issued at the latest five working days after the date on which the material fact was established, and the bank or former bank must be informed thereof in writing. The date on which the Fund receives this notification, shall be considered the record date. The Czech National Bank shall publish information about when the record date occurred in a manner allowing remote access.

(2) The bank or former bank, liquidator, trustee or insolvency trustee shall, within eight working days of the record date, provide the Fund with information kept pursuant to Article 41c(3).

(3) No later than 12 working days from the record date, the Fund shall determine the date, place and manner of payment of compensation, make this information publicly known in an appropriate manner and notify the Ministry of Finance and the Czech National Bank. The Fund must be able to pay compensation to eligible persons within 20 working days of the record date. In wholly exceptional circumstances and after receiving the consent of the Czech National Bank and the Ministry of Finance, the Fund may grant an extension of no more than ten working days.

(4) The Fund shall inform the Czech National Bank of any failure to fulfil the obligation referred to in paragraph 2 at the earliest opportunity.

(5) The liquidator, trustee or insolvency trustee shall commit an offence by failing to fulfil the obligation stipulated in paragraph 2. The Czech National Bank may impose a fine of up to CZK 500,000 for this offence. The Czech National Bank shall impose a fine of up to CZK 500,000 on a bank or former bank that breaches the obligation stipulated in paragraph 2.

Article 41e

(1) To calculate the compensation, all the eligible person’s insured deposit claims at the bank, including shares in accounts kept for two or more joint account holders, shall be summed according to the position as of the record date. The share of a joint account holder shall be equal to a fraction with the total amount in the account as the numerator and the number of joint account holders as the denominator, unless the eligible persons when opening or disposing of the account provide evidence of a different share. The bank shall note the different share in its records. Any different share specified after the record date shall not be

taken into consideration. The calculation shall be made in the Czech currency, conversion into the Czech currency shall be carried out for claims arising from deposits held in a foreign currency using the foreign exchange market rate announced by the Czech National Bank as of the record date. Interest calculated as of the record date shall form part of the insured deposit claim. The compensation shall be paid in the Czech currency. The right of an eligible person to payment of compensation from the Fund shall be a right associated with the deposit claim.
(2) The compensation paid to an eligible person shall be the sum calculated in accordance with paragraph 1 up to a maximum of EUR 100,000 per eligible person per bank, unless stipulated otherwise in a directly applicable regulation of the European Communities. The equivalent of the limit in Czech koruna shall be calculated using the foreign exchange market rate announced by the Czech National Bank as of the record date.

(3) The government may increase the amount referred to in paragraph 2 in a regulation based on relevant EC regulations[12a)].

Article 41f

(1) The funds of two or more persons deposited on a single account shall constitute a deposit claim with special treatment.

(2) On opening the account referred to in paragraph 1 or on the first occasion of disposing of such an existing account, the account holder shall notify the bank in writing of the fact that the funds of two or more persons are deposited on the account, provide evidence of the share of each of them, identify those persons to the extent laid down in Article 41c(3) and demonstrate the truthfulness of this information. The bank shall treat deposits in such an account as any other insured deposit claim and shall keep information on them in its records.

(3) For the purposes of calculating compensation from the Fund for a claim arising from a deposit on the account referred to in paragraph 1, the bank shall submit to the Fund a breakdown of the deposit claims by person and the amounts falling to each of them, and shall demonstrate the truthfulness of the information. It shall submit the information to the Fund.

(4) Compensation for a deposit claim with special treatment shall be paid to the eligible persons in an amount equal to that which would have been paid had each of the aforementioned eligible persons had the funds registered on their own accounts.

(5) Where the real owner of the funds differs from the account holder, the compensation shall be paid to the real owner. The account holder shall notify the bank of this fact on opening the account or on the first occasion of disposing of the account and shall identify the real owner of the funds to the extent laid down in Article 41c(3). The bank shall record this information in the account contract or in another document the issuance of which is associated with the acceptance of the deposit, and in its records.

(6) Any notification pursuant to paragraphs 2 and 5 made by the account holder after the record date shall not be taken into consideration.

(7) A payment institution or small-scale payment service provider on whose account are recorded funds entrusted to it by payment service users in order to execute a payment transaction[13)] shall notify the bank thereof in writing without undue delay; in such case it shall

not be subject to the obligation stipulated in the first sentence of paragraph 2 and the second sentence of paragraph 5. The identification of the real owner pursuant to paragraph 5 shall be based on the records of the payment institution or small-scale payment service provider as of the record date. A payment institution or small-scale payment service provider shall maintain a register of information pursuant to Article 41c(3) and submit it to the bank on demand without any delay in cases stipulated in Articles 41d or 41n.

(8) Paragraph 7 shall apply mutatis mutandis to an investment firm on whose account are recorded funds constituting client assets under the act governing capital market undertakings[14)].

(9) A bank is entitled to use information that it receives from an entity referred to in paragraphs 7 or 8 only to fulfil its duties to the Fund in accordance with this part of the Act and in cases referred to in Article 38(2) to (4) and (6).

Article 41g

(1) The Fund shall cooperate to the necessary extent to ensure the payment of compensation and exchange information with entities through which it ensures the payment of compensation.

(2) The following persons shall not be eligible for the payment of compensation from the Fund:
a) persons having a special relation to the bank concerned, except for the persons referred to in Article 19(e),
b) persons otherwise eligible if it has been proven by a final and conclusive judgment that the deposit originates from criminal activity.

(3) The Fund shall suspend the payment of compensation for those deposit claims regarding which it becomes clear during the course of criminal proceedings that they are deposit claims within the meaning of paragraph 2(b).

(4) The duty to render a contribution to the Fund from the deposit claims of the persons referred to in paragraph 2 shall remain unaffected.

(5) For the purposes of calculating the amount to be paid to an eligible person, no account shall be taken of accruals of insured deposit claims which occur:
a) on the basis of in-bank transfers made between individual accounts maintained with the same bank after the record date,
b) as a result of the assignment of a deposit claim made after the record date.

Article 41h

(1) As of the date of commencement of payments, the claim of an eligible person on a bank shall be decreased by an amount equalling his right to payment of compensation from the Fund.

(2) As of the date referred to in paragraph 1, the Fund shall become a creditor of the bank in the amount of the rights of eligible persons to payment of compensation from the Fund.

(3) The right of an eligible person to payment of compensation from the Fund shall be forfeited upon the lapse of three years from the date determined as the date of commencement of payments.

Article 41i

Wherever the resources of the Fund are not sufficient for payment of the compensation laid down by law, the Fund shall raise the necessary funds on the market. The Fund shall see to it that the conditions under which the funds are provided to the Fund are as advantageous to it as possible. If the Fund is not able to raise funds on the financial market before the date of commencement of the payment of compensation pursuant to Article 41d, it may be provided at its request with a subsidy or repayable financial assistance of the necessary amount from the state budget.

Article 41j

The Fund may only invest its funds in a safe manner in compliance with its Statute.

Article 41k

Where the Fund has been granted a loan or any other form of repayable financial assistance (Article 41i), the contribution of banks to the Fund shall, as from the calendar quarter following the granting of the loan or other forms of repayable financial assistance, be increased to double the percentage rate laid down in Article 41c(6) and (7). In the calendar quarter following the repayment of the loan or other forms of repayable financial assistance, the contribution shall be reduced to the percentage rate laid down in Article 41c(6) and (7).

Article 41l

(1) Foreign bank branches shall not be obliged to participate in the deposit-claims insurance scheme provided that they notify the Czech National Bank of their intention and at the same time demonstrate that the deposit-claims insurance scheme in which they do participate ensures eligible persons a level of protection at least the same as that required by European Community law.

(2) This shall be without prejudice to the obligation of the foreign bank branch to pay a contribution to the Fund for the relevant part of the calendar quarter in which it made the notification referred to in paragraph 1.

Article 41m

(1) Foreign bank branches may take out supplementary deposit-claims insurance under contract with the Fund. The supplementary insurance must be such that the amount up to which deposit claims are insured overall, including supplementary insurance, does not exceed the equivalent of EUR 100,000. The contribution to the Fund shall equal the contribution referred to in Article 41c multiplied by a fraction whose numerator shall be the difference between the amount up to which deposit claims are insured overall, including supplementary insurance and the limit for maximum compensation under the deposit-claims insurance scheme in which the branch participates, and whose denominator shall be the amount up to which deposit claims are insured overall, including supplementary insurance.

(2) The supplementary insurance referred to in paragraph 1 shall be terminated by agreement or by serving notice of withdrawal from the contract with a three-month notice period which shall start running on the first day of the calendar quarter following the date on which notice was served. The Fund may withdraw from the contract only if the foreign bank branch fails to fulfil its obligations toward the Fund, although in the case of a foreign bank branch pursuant to Article 5a it may do so only if Article 5a(6) was complied with. The foreign bank branch may withdraw from the contract without giving its reasons. The foreign bank branch shall inform clients of these facts on its premises.

(3) Banks may not make use in advertising of differences in deposit-claims insurance between Member States.

Article 41n

The Fund shall verify the functioning of the compensation payment system at least once a year. In doing so, it shall cooperate with the Czech National Bank, the Ministry of Finance and banks, which are obliged to provide the Fund at the Fund's request and within the time limit stipulated by the Fund with information maintained pursuant to Article 41c(3). The Fund shall be obliged to submit the report on the results to the Czech National Bank and the Ministry of Finance without any delay.

Article 41o

(1) The Fund shall cooperate with foreign deposit-claim insurance scheme operators when carrying on its activities.

(2) Where so stipulated by an agreement between the Fund and a foreign deposit-claim insurance scheme operator, in the event of failure of
a) a foreign bank carrying on business in the Czech Republic through a branch, the Fund may be involved in the payment of compensation from the foreign deposit-claim insurance scheme in which the foreign bank participates,
b) a bank having its registered office in the Czech Republic carrying on business abroad through a branch, the foreign deposit-claim insurance scheme may be involved in the payment of compensation from the Fund.

PART FOURTEEN

Transitional and final provisions

Article 42

Legal entities operating as banks or savings banks as defined in Act No. 158/1989 Coll., on Banks and Savings Banks, shall be deemed banks pursuant to this Act from the date on which this Act takes effect.

Article 43

Loans provided by banks in accordance with the existing regulations shall be deemed loans pursuant to this Act.

Article 44

cancelled

Article 44a

cancelled

Article 45

If a bank is obliged to grant loans under specified conditions in accordance with a legal rule issued prior to the entry into effect of this Act and if it thereby incurs a loss, the bank shall be entitled to reimbursement of this loss from the state budget to which it has a transfer or tax duty.

Article 46

Act No. 158/1989 Coll., on Banks and Savings Banks, is hereby repealed.

Article 47

This Act shall take effect on 1 February 1992.

x x x

1) Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes, as amended by Directive 2005/1/EC of the European Parliament and of the Council and Directive 2009/14/EC.
Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding up of credit institutions.

Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast), as amended by Directive 2007/18/EC of the Commission, Directives 2007/44/EC, 2007/64/EC and 2008/24/EC of the European Parliament and of the Council and Directive 2009/83/EC of the Commission.
Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions (recast), as amended by Directive 2008/23/EC of the European Parliament and of the Council and Directive 2009/27/EC of the Commission.
Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC, as amended by Directive 2008/22/EC of the European Parliament and of the Council.
Commission Directive 2007/14/EC of 8 March 2007 laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market.
Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector.
1a) The Commercial Code.
1b) Act No. 256/2004 Coll., on Capital Market Undertakings.
2) Czech National Council Act No. 6/1993 Coll., on the Czech National Bank, as amended by Act No. 60/1993 Coll.
3) Article 33 of Act No. 337/1992 Coll., on the Administration of Taxes and Fees, as amended.
3a) Act No. 254/200 Coll., on Auditors and on the Amendment of Act No. 165/1998 Coll., as amended by Act No. 209/2002 Coll., Act No. 169/2004 Coll., Act No. 284/2004 Coll., Act No. 56/2006 Coll., Act No. 57/2006 Coll., and Act No. 70/2006 Coll.
3b) Article 10(1) of Act No. 143/2001 Coll., on the Protection of Economic Competition.
3c) Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies.
4) Act No. 63/1991 Coll., on the Protection of Economic Competition, as amended.
4b) Article 4(2)(g) and (h) and Article 4(3)(f) of Act No. 256/2004 Coll., on Capital Market Undertakings, as amended by Act No. 230/2008 Coll.
4c) Article 196a of the Commercial Code
4d) Act No. 591/1992 Coll., on Securities, as amended.
5) Article 116 of the Civil Code No. 40/1964 Coll., as amended.
5a) Articles 14 and 15 of Czech National Council Act No. 591/1992 Coll., on Securities, as amended
Article 1(d) of Act No. 219/1995 Coll., the Foreign Exchange Act.

6) Act No. 563/1991 Coll., on Accounting.

6a) The Civil Code.
6e) Act No. 96/1993 Coll., on Building Savings Schemes and State Support for Building Savings Schemes, as amended.
6c) Act No. 586/1992 Coll., on Income Taxes, as amended.
6i) Article 531(1) of the Civil Code.
7a) Article 27a et seq. of the Commercial Code.
8) Civil Procedure Code No. 99/1963 Coll., as amended.
9) Act No. 141/1961 Coll., on Criminal Proceedings (Criminal Procedure Code), as amended.
9a) e.g. Act No. 530/1990 Coll., as amended.
9b) Act No. 120/2001 Coll., on Judicial Executors and Executory Activities (Executory Procedure Code) and on the Amendment of Other Acts.
10c) Act No. 412/2005 Coll., on Protection of Classified Information and on Security Clearance.
10b) Act No. 101/2000 Coll., on Personal Data Protection and to the Amendment of Other Acts, as amended
10a) Article 41(2) of Act No. 6/1993 Coll., on the Czech National Bank, as amended.
10) Article 152(5) of Act No. 500/2004 Coll., Administrative Procedure Code.

12) Czech National Council Act No. 576/1990 Coll., on the Rules for Financial Management of the Budgetary Funds of the Czech Republic and of Municipalities in the Czech Republic (the National Budget Rules), as amended.
12a) Article 7(7) of Directive 94/19/EC of the European Parliament and of the Council, as amended by Directive 2009/14/EC of the European Parliament and of the Council.
13) Article 19 of Act No. 284/2009 Coll., the Payment System Act.
14) Article 2(1)(h) of Act No. 256/2004 Coll., on Capital Market Undertakings, as amended by Act No. 120/2007 Coll. and Act No. 230/2008 Coll.
15) Act No. 408/2010 Coll., on Financial Collateral.
16) Article 193 of Act No. 256/2004 Coll., on Capital Market Undertakings, as amended by Act No.409/2010 Coll.

ANNEX 7

Act No. 253/2008 Coll.

June 5, 2008

on selected measures against legitimisation of proceeds of crime and financing of terrorism

as amended by:

- Act No. 285/2009 Coll., amending selected acts in relation to the adoption of the Act on Payment Transactions (in effect since November 1, 2009),

The Parliament of the Czech Republic has adopted this Act:

PART ONE
INTRODUCTORY PROVISIONS

Section 1

Subject of Law

This Act transposes the relevant European Community legislation[1)] and, in relation to the directly applicable European Community legislation[2)], shall regulate the following:

a) selected measures against legitimisation of proceeds of crime and financing of terrorism,
b) selected rights and responsibilities of natural and legal persons in enforcing measures against legitimisation of proceeds of crime and financing of terrorism,

in order to prevent abuse of the financial system for the purposes of legitimisation of proceeds of crime and financing of terrorism and to create appropriate conditions to detect such activities.

Section 2

Obliged Entities

(1) For the purposes of this act, the obliged entity shall be understood as:

a) a credit institution in a form of:
   1. a bank,
   2. a cooperative savings or credit union,
   3. an electronic money institution,
   4. an issuer of electronic money of small extent[3)],
b) a financial institution, which is an undertaking other than a credit institution, such as:
   1. the Central Depository, the entity maintaining a register related to the Central Register of Securities maintained by the Central Depository, the entity maintaining an independent register of investment instruments, the entity maintaining a register related to the independent register of investment instruments[4)],
   2. an administrator of investment tools market,
   3. a person licensed to provide investment services[5)] with the exception of an investment broker[6)],

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1) Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.
Commission Directive 2006/70/EC of 1 August 2006, laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of 'politically exposed person' and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis.

2) Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community.
Regulation (EC) No 1781/2006 of the European Parliament and of the Council of November 15, 2006 on information on the payer accompanying transfers of funds.

3) No. 284/2009 Coll., the Payment Transactions Act.

4) Sections 91 to 115, Act No. 256/2004 Coll., on Enterprising on the capital market, as amended.

5) Section 4, Act No. 256/2004 Coll., as amended.

6) Section 29, Act No. 256/2004 Coll., as amended by Act No. 56/2006 Coll.

4. an investment company, an investment fund, or a pension fund,
5. a payment institution, a provider of small extent payment services,
6. a person authorized to provide or trade with leasing, guarantees, credit or loans,
7. a person authorized to broker savings, leasing, credit or loans,
8. an insurance or re-insurance company, an insurance agent or an insurance settlement agent performing activities related to life insurance[7], with the exception or an insurance agent whose liability for damage is borne by their contracting insurance company,
9. a person authorised to buy and trade in debt and receivables,
10. a person licensed to perform foreign currency exchange pursuant to the Foreign Currency Act,
11. a person not mentioned in 1 to 10, licensed to provide or broker payment services or postal services intended to transfer funds,
12. a person licensed to provide consultancy services to private business in matters concerning equity, business strategy, merge, or acquisition,
13. a person providing services of financial brokerage,
14. a person providing services of safekeeping of valuables,

c) a holder of a licence to operate betting games in casinos in compliance with the Act on lotteries and other similar games,

d) a legal or natural person authorised to act as a real estate trader or broker,

e) an auditor, tax advisor, or chartered accountant,

f) a licensed executor performing other activities of an executor pursuant to the Executor's rules of procedure as well as safekeeping of money, securities, or other valuables,

g) a public notary providing notarized safekeeping services[8]; a lawyer or a public notary offering the service of safekeeping money, securities, or other customer's valuables; or a lawyer or a public notary required by the customer to represent them or to act on their behalf in the following:
   1. buying or selling real estate, business entity, or its part[9],
   2. managing of customer assets, such as money, securities, business shares, or any other assets, including representation of the customer or acting on their account in relation to opening bank accounts in banks or foreign financial institutions or establishing and managing securities accounts, or
   3. establishing, managing, or operating a company, business group, or any other similar entrepreneurial entity regardless of its status of a natural/legal person as well as receiving and gathering of money or other valuables for the purpose of establishing, managing, or controlling such entity, or
   4. providing services of collection, payments, transfers, deposits, or withdrawals in wire or cash transactions, or any other conduct aimed at or directly triggering movement of money,

h) a person not regulated by para a) to g), providing the following professional services to another person:
   1. establishing legal persons,
   2. acting as a statutory body or its member, or acting as person appointed to act in the name of or on behalf of a legal person, or another person in a similar position, should such service be only temporary and should it be related to establishing and administration of a legal person,
   3. providing a business location, address, and possibly other related services to another legal person,
   4. acting as an appointed shareholder on behalf of another person in case this person is not acting as a company whose securities have been accepted for trading at a regulated market and which is subject to information disclosure requirements equivalent to those laid down by the European Communities law, or
   5. acting in their name of or on their behalf in activities set forth in para g),

i) a person providing services under para h) in a framework of a trust or any other similar contractual relationship under a foreign law,

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7) Section 2, para (1v), Act No. 363/1999 Coll., on Insurance industry, as amended.
8) Section 81 an on, Act No. 358/1992 Coll., on Notaries and their activities (Notary Act), as amended.
9) Section 5, Commercial Code.

j) a person licensed to trade in items of cultural heritage[10], items of cultural value[11], or to act as intermediary in such services,
k) a person licensed to trade in used goods, act as intermediary in such trading, or receive used goods in pawn.

(2) In addition, an obliged entity is:
a) a foreign legal or natural person as defined in para 1, operating in the territory of the Czech Republic via its branch or subsidiary; such person meets the definition of an obliged entity in the extent of activities performed by such branch or subsidiary,
b) a foreign national operating in the territory of the Czech Republic should they perform activities set forth in para 1,
c) the Securities Centre,
d) entrepreneurs not listed in para 1, should they receive payments in cash in an amount of or exceeding EUR 15,000, or
e) a legal person which is not a business should it be licensed to provide, in a form of a service, any of the activities stipulated in para 1, or should it receive payments in cash in an amount of or exceeding EUR 15,000.

(3) A person is not considered an obliged entity should it not perform activities stipulated in para 1 as a professional business activity, with the exception of a person listed in para 2(d).

Section 3

Basic Definitions

(1) For the purposes of this Act, legitimisation of proceeds of crime shall mean an activity performed to conceal the illicit origin of proceeds of crime with the intention to present the illicit proceeds as legal income. The above activity may particularly be in the form of:
a) conversion or transfer of assets, knowing that such assets come from criminal proceeds, for the purpose of concealing or disguising the illicit origin of the assets or of assisting a person involved in the commission of a predicate offence to avoid the legal consequences of such conduct,
b) concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of assets, knowing that such assets derive from crime,
c) acquisition, possession, and use or handling of assets knowing that they originate from crime,
d) criminal association or any other type of cooperation serving the purpose of conduct stipulated in para a), b) or c) above.

(2) Financing of terrorism shall mean:
a) gathering or providing financial or other assets knowing that such assets will be, in full or in part, used to commit a crime of terror[12], terrorist attack[13], or a criminal activity intending to facilitate or support such crime[14], or to support an individual or a group of individuals planning such crime, or
b) acting with the intention to remunerate or compensate a person who had committed an act of terror, terrorist attack, or a crime intended to facilitate or support such crime[14], or to an individual close to such person as defined by the Criminal Code[15]; or collecting assets to pay such remuneration or compensation.

(3) For the purposes of this Act, activities set forth in para 1 or 2 may, fully or partially, take place in the territory of the Czech Republic or, fully or partially, outside the territory of the Czech Republic.

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10) Section 2, Act No. 20/1987 Coll., on Public protection of historical heritage.
11) Section 1, para 1, Act No. 71/1994 Coll., on Sale and exportation of items of cultural value, as amended by Act No. 80/2004 Coll.
12) Section 93, Criminal Code.
13) Section 95, Criminal Code.
14) Items 1 to 4, Council Framework Decision of June 13, 2002 on combating terrorism (2002/475/JHA).
15) Section 89, para 8, Criminal Code.

Section 4

Other Definitions

(1) For the purposes of this Act, a transaction shall mean any interaction of the obliged entity with another person should such interaction lead to attempted handling of the other person's property or providing services to such other person.

(2) For the purposes of this Act, a business relationship shall mean a relationship between the obliged entity and another entity established to handle assets of such other person or to provide services to such other person should it be obvious from the onset of the business relationship that such services will be provided repetitively.

(3) For the purposes of this Act, a customer's order shall mean any action made by the obliged entity to transfer or otherwise handle the customer's assets.

(4) For the purposes of this Act, the beneficial owner shall mean either:

a) for an entrepreneur:
   1. a natural person, having real or legal direct or indirect control over the management or operations of such entrepreneur, indirect control shall mean control via other person or persons,
   2. a natural person, holding in person or in contract with a business partner or partners more than 25 per cent of the voting rights of such entrepreneur; disposing of voting rights shall mean having an opportunity to vote based on one's own will regardless of the legal background of such right or an opportunity to influence voting by other person,
   3. natural persons acting in concert and holding over 25 per cent of the voting rights of such entrepreneur, or
   4. a natural person, who is, for other reasons, a real recipient of such entrepreneur's revenue,
b) for a foundation or a foundation fund:
   1. a natural person, who is to receive at least 25 per cent of the distributed funds, or
   2. a natural person or a group of persons in whose interest a foundation or a foundation fund had been established or whose interests they promote in case the beneficiary of such foundation or a foundation fund has not yet been determined,
c) for an association under lex specialis[16], public service organization, or any other person and a trusteeship or any other similar legal arrangement under a foreign law, natural person who:
   1. holds over 25 per cent of its voting rights or assets,
   2. is a recipient of at least 25 per cent of the distributed assets, or
   3. in whose interest they had been established or whose interests they promote, should it yet to be determined who is their future beneficiary.

(5) For the purposes of this Act, a politically exposed person shall mean:

a) a natural person in a prominent public position and with nation-wide responsibilities, such as a head of state, a head of government, a minister and deputy or assistant minister, a member of the parliament, a member of a supreme court, a constitutional court or another high-level judicial body, decisions of which are not subject to further appeal, except in exceptional circumstances, a member of a court of auditors or a central bank board, a high-ranking military officer, a member of an administrative, supervisory, or management board of a state-owned business, an ambassador or chargé d'affaires, or a natural person, having similar responsibilities on a Community or international level; all the above for the entire period of the position and for one year after the termination of such position, and provided the person:
   1. has residence outside the territory of the Czech Republic, or
   2. holds such important public position outside the Czech Republic,
b) a natural person, who:
   1. is the spouse, partner equivalent to the spouse or a parent of the person under a),
   2. is a son or a daughter of the person under para a) or a spouse or a partner of such son or daughter (a son or daughter in law),

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[16] Section 20f et seq., Civil Code.
Act No. 83/1990 Coll., on Public associations, as amended.

3. is a business partner or a beneficial owner of the same legal person, a trust, or any other business entity under a foreign law, as the person under para a) or is known to the obliged entity as a person in a close business relationship with a person under para a), or
4. is a business partner or a beneficial owner of the same legal person, a trust, or any other business entity under a foreign law known to have been established in benefit of a person under para a).

(6) For the purposes of this Act, an identification document shall mean an identity card issued by the public administration and bearing the holder's name, surname, and date of birth together with an image and potentially other identification features allowing for the identification of the bearer as the true holder.

(7) For the purposes of this Act, correspondent banking shall mean the contractual relationship between a local credit institution or a foreign credit institution having a branch in the Czech Republic, and a credit or similar institution in a foreign country allowing the local credit institution, a foreign credit institution having a branch in the Czech Republic, or a credit or similar institution in a foreign country to make or to receive payments from abroad via the other contractual party.

Section 5

Identification Data

For the purposes of this Act,

a) a natural person's identification data shall mean all names and surnames, a birth identification number (for a person with no birth identification number a date of birth), a place of birth, sex, permanent or other residence and citizenship; for a natural person as an entrepreneur it shall also mean the business name, an appendix to the business name or any other identification features, place of business, and business identification number,
b) a legal person's identification data shall mean the company name, including its appendices or other identification features, company's official address, business identification number or a business identification number given under foreign law; for individuals acting as statutory bodies or their members, identification data shall mean the data under para a).

Section 6

Suspicious Transaction

(1) For the purposes of this Act, a suspicious transaction shall mean a transaction the circumstances of which lead to a suspicion of legitimisation of proceeds of crime or financing of terrorism or any other circumstance supporting such a suspicion, such as:

a) cash deposits immediately followed by withdrawals or transfers to other accounts,
b) numerous transactions performed in one day or in a short period of time and not typical for the given customer,
c) a number of various accounts opened by the given customer which are in obvious discrepancy with their business activities and financial situation,
d) transfers of assets make no obvious economic sense,
e) assets handled by the customer which are in obvious discrepancy with their business activities and financial situation,
f) an account which is not used for the purposes for which it had been opened,
g) customer´s actions which seem to aim at concealing their or the beneficial owner's real identity,
h) the customer or the beneficial owner who are nationals of a country which does not enforce, or fails to fully enforce, measures to combat legitimisation of proceeds of crime and financing of terrorism, or
i) customer's identification data the correctness of which the obliged entity has reasons to doubt.

(2) A transaction shall always be perceived as suspicious, should:

a) the customer or the beneficial owner be a person against whom the Czech Republic had imposed international sanctions under the Act on Implementation of International Sanctions[17],
b) the goods or services involved in the transaction fall in the category against which the Czech Republic had imposed international sanctions under the Act on Implementation of International Sanctions[17], or
c) the customer refuses to reveal identification data of the person they are representing or to undergo the due diligence process.

PART TWO
RESPONSIBILITIES OF THE OBLIGED ENTITIES

CHAPTER I
CUSTOMER IDENTIFICATION AND DUE DILLIGENCE

Section 7

The Identification Requirement

(1) The obliged entity, should it be a party to a transaction exceeding EUR 1,000, shall always identify the customer prior to the transaction, unless stipulated otherwise by this Act.

(2) The obliged entity shall, without regard to the limit stipulated in para 1, always identify the customer in case of:

a) a suspicious transaction,
b) an agreement to enter into a business relationship,
c) an agreement to establish an account; an agreement to make a deposit into a deposit passbook or a deposit certificate; or an agreement to make any other type of deposit,
d) an agreement to use a safety deposit box or an agreement on custody,
e) a life insurance contract, should the customer have a right to pay extra premiums above the agreed limit of the one-of or regular premium payments,
f) a purchase or reception of cultural heritage, items of cultural value, used goods or goods without a receipt of to further trade in such goods, or reception of such items as pawn, or
g) withdrawal of a cancelled bearer passbook's final balance.

(3) The obliged entity shall, at the latest on the day of the payment, identify the individual entitled to receive the life insurance settlement.

Section 8

Identification

(1) The obliged entity shall perform the initial identification of a customer who is a natural person as well as any natural person acting on behalf of a customer in personal presence of the identified, unless stipulated otherwise by this act.

(2) When identifying a customer who is:

a) a natural person, the obliged entity shall take identification data of such customer, verify those which are on their identity card, take a record of the type and number of the identity card, country of issue, validity, and, if possible, the issuing body, and make sure that the identity card photo matches that of the holder,
b) a legal person, the obliged entity shall take a record of and verify such customer's identification data from their business registration documents, and, to the extent stipulated in para a), identify the natural person acting in the transaction on behalf of such legal person; should the statutory body, its member, or the person in control of such legal person be another legal person, the obliged entity shall also record such person's data.

(3) Should the customer be represented by a holder of a power of attorney, such holder's identification shall follow the procedure stipulated in para 2 and the holder shall submit the

[17] Section 2, Act No. 69/2006 Coll., on International Sanctions.

respective power of attorney; no power of attorney is required should the holder of a power of attorney be solely depositing cash to the customer's account and submitting to the obliged entity deposit forms that had been completed and signed by an authorized person.

(4) Should the customer be represented by a guardian, such a guardian ad litem shall be identified in accordance with para 2. The guardian ad litem shall present identification data of the represented entity.

(5) In a transaction with a customer, who had already been identified in line with para 2, the obliged entity shall properly verify the identity of the acting natural person. The obliged entity may identify such person even if the customer who is a natural person or the natural person acting on behalf of a legal person is not present.

(6) The obliged entity shall, when in business relationship with the customer or in further transactions, check the validity and completeness of the customer's identification data, information gathered in the course of the due diligence process (Section 9), or reasons for exempting the customer from the due diligence process (Section 13), and shall take record of any changes and modifications.

(7) Should the obliged entity detect or suspect that a party to the transaction is not acting on their own behalf or is attempting to conceal their acting for a third party, it shall require the customer to submit a power of attorney as stipulated in para 3. Everyone is obliged to honor such a request unless stipulated by lex specialis. Lawyers or notaries may fulfill this obligation by submitting to the obliged entity copies of the relevant parts of the documents which they had used to gather the identification data.

(8) The customer shall submit to the obliged entity any information necessary to perform identification and to check respective documents. The obliged entity may, for the purpose of this Act, make copies or excerpts from any of the above and process such information to enforce this Act.

Section 9

Customer Due Diligence

(1) The obliged entity shall, prior to a single transaction amounting to EUR 15,000 or more, a transaction subject to identification under Section 7(2) (a) to (d), a transaction with a politically exposed person, and as part of the business relationship, perform the customer due diligence process. The customer shall submit to the obliged entity any information and documents necessary for the due diligence. The obliged entity may, for the purpose of this Act, make copies or excerpts from any of the above and process such information to enforce this Act.

(2) a customer due diligence process entails the following:

a) collection of information on the purpose and intended nature of the business or business relationship,
b) identification of the beneficial owner, should the customer be a legal person,
c) collection of information necessary for ongoing monitoring of the business relationship, including scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions are consistent with the institution's knowledge of the customer, its business and risk profile,
d) scrutinizing of the sources of funds.

(3) The obliged entity shall perform customer due diligence under para 2 to the extent necessary to determine the potential risk of legitimisation of proceeds of crime and financing of terrorism depending on the type of customer, business relationship, product, or transaction. The obliged entity shall, vis a vis the persons empowered to supervise compliance of obligations under this Act (Section 35), justify the scope of customer due diligence or exception from the customer identification and due diligence requirements under Section 13, all the above with respect to the above risks.

Section 10

Customer Identification Performed by a Public Notary, or by Regional or Municipal Authority

(1) Should the initial customer identification by the obliged entity under Section 8(1) be, for serious reasons, impossible, such identification may be, upon request of either the customer or the obliged entity, performed by a public notary, a regional office, or a local authority in a municipality with extended powers.

(2) A public notary or an office in para 1 shall take a record of such identification; the record deed, which becomes an official document, shall include the following:

a) the name of the person performing the identification, name of the requesting person, and purpose of such identification,
b) customer's identification data,
c) a declaration of the identified natural person, the person acting on behalf of the identified legal person or a proxy, on the purpose and correctness of the identification performed, and/or on reservations to such identification,
d) the place and date of the record and the place and date of the identification, should they differ,
e) the signature of the identifying person, an official stamp, and a serial number in the log of identification deeds.

(3) As an appendix to the identification deed, the obliged entity shall make copies of relevant parts of documents used for the identification and bearing identification data, type and serial number of the identity card, issuing country and institution, and validity as well as, with requests filed in writing, a copy of the request. Should this procedure be used to identify a proxy, the power of attorney or its certified copy shall be attached as an appendix. All appendices shall be attached to the identification record to make a complete file.

(4) All copies shall be legible and capable of storage for the period stipulated in Section 16. The file of copies shall include a copy of the image of the identified person in their identity card which allows for visual identification.

(5) Both public notary and an institution under para 1 shall keep an internal log of identification deeds, in which it shall document the following:

a) a serial number and date of the record,
b) the following identified person's data:
    1. a natural person or persons acting on behalf of the identified legal person,
    2. in case of an identification of a legal person, its business or corporate name, an appendix to the business name or any other identification features, a business identification number, and a registered address,
c) the purpose of identification.

(6) The identification deed log shall be kept on a calendar year basis and complete logs shall be stored for a period of 10 years.

Section 11

Transfer of Identification

(1) The obliged entity may decide not to identify a customer or seek information on the purpose and nature of a transaction or a business relationship under Section 9(2) (a) and to identify a beneficial owner under Section 9(2) (b), provided these steps have already been performed by:

a) a credit or financial institution, with the exception of a person licensed to perform foreign currency exchange pursuant to the Foreign Currency Act, a holder of a postal licence pursuant to Act on Postal Services, a payment institution whose activity consists usually of providing payment services where for such transfer of funds neither the payer nor the payee use any account with the payment service provider of the payer, and a payment service provider of small extent pursuant to Payment Act, or
b) a foreign credit or financial institution, with the exception of a foreign person licensed to exchange foreign currency, foreign payment institution primarily providing transfers of funds, or a foreign provider of payment services having a similar status as the provider of small extent as

regulated by the Payment Act, should it be located in the territory of a country, which enforces equivalent identification, customer due diligence, and record keeping requirements and should it be subject to compulsory business licensing or registration and supervision to perform on and off-site control of its general performance as well as of its individual transactions.

(2) The obliged entity acting in accordance with para 1 shall make sure that it will receive, from the credit or financial institution, or a foreign credit or financial institution which had performed the identification, all relevant documents, including copies of all documents used in the customer identification, all data indicating the purpose and nature of the business transaction, and information on the identity of the beneficial owner. The credit or financial institution shall, upon consent of the person identified and without undue delay, submit all information including copies of the document hereinabove, to another obliged entity should such person decide to rely on it for the customer identification.

(3) The obliged entity shall refuse such customer identification information, data indicating the purpose and nature of the business transaction, and information on the identity of the beneficial owner under para 1 and 2, should it have a reason to doubt the correctness or completeness of such information.

(4) In case of a remote agreement on financial services under the Civil Code, the obliged entity shall identify the customer as follows:

a) the first payment from this agreement shall be made via an account kept on the customer's name in a credit institution or a foreign credit institution operating in the European Union or the European Economic Area,
b) the customer shall submit to the obliged entity a copy of a document verifying the existence of an account under para a) above together with copies of the relevant parts of their identity card and at least one more identification document from which the obliged entity may determine the customer's identification data, type and serial number of such identity cards, issuing country or institution, and validity. Such copies shall be made in line with requirements under Section 10(4).

(5) The credit or financial institution is not obliged to perform the customer identification and seek data indicating the purpose and nature of the business transaction under Section 9(2) (a) and information on the identity of the beneficial owner under Section 9(2) (b) should these steps had been performed prior to the transaction by a person acting on its behalf and on its account and bound by its internal regulations, and should such credit or financial institution bear responsibility for damages caused by such person. All information including copies of documents under the first sentence hereinabove shall be, if made, kept at the obliged entity.

(6) The credit or financial institution, when providing investment services, is not obliged to perform the customer identification and seek the data indicating the purpose and nature of the business transaction under Section 9(2) (a) and information on the identity of the beneficial owner under Section 9(2) (b) should these steps had been performed by an investment broker in line with this Act and its internal regulations. The obliged entity shall bear responsibility for such steps as if it had performed such steps itself.

(7) In cases under para 1, 4, 5 and 6, the obliged entity shall verify that all conditions required had been met and that none of the customers, products, or transactions represent a risk of legitimisation of proceeds of crime or financing of terrorism. In case of doubt, no exceptions shall be applied.

Section 12

Common Provisions on Identification under Section 10 and Section 11

In case of identification and other steps under Section 10 or Section 11(4) and 11(6), all identification data and other information and documents listed therein shall be deposited with the obliged entity prior to the transaction.

Section 13

Exceptions from the Identification and Due Diligence Requirement

(1) The obliged entity is not obliged to perform any identification or due diligence should the customer be:

a) a credit or financial institution,
b) a foreign credit or financial institution operating in the territory of a country imposing and enforcing anti-money laundering and financing of terrorism measures equivalent to those imposed by the European Communities acquis[1)] and supervised to that respect,
c) a company whose securities are traded at a regulated market and which is subject to reporting requirements equivalent to those enforced by the European Communities acquis,
d) a beneficial owner of assets deposited with a public notary, lawyer, licensed executor, or court,
e) a central Czech public authority, the Czech National Bank, or a higher self-governing territorial entity, or
f) a customer:
   1. holding important public positions under the European Communities acquis,
   2. whose identification data are publicly available and there is no reason to doubt their correctness,
   3. whose activities are transparent,
   4. whose books show a true and real picture of their accounting and financial situation,
   5. who is accountable either to a European Union body or bodies of a European Union or European Economic Area member state and who is subject to other relevant control mechanisms.

(2) The obliged entity is not obliged to perform any identification or due diligence should the product involved be:

a) a life insurance agreement or government subsidized pension insurance contract and should its one-off premium or deposit be below EUR 2,500 or should the annual premium or the total of regular premiums in a calendar year be below EUR 1,000,
b) employee pension insurance operated in the territory of the Czech Republic by institutions registered in the European Union or European Economic Area member state under their law[18)], should the premiums be paid as direct wage deductions and there is no option to assign the member's interest within the given system,
c) electronic money under other law[19)], should the highest sum deposited to a non-rechargeable electronic money device not exceed EUR 150, or, with rechargeable electronic money devices, should there be an annual limit of EUR 2,500, with the exception of cases when the owner converts back, in a calendar year, more than EUR 1,000, or
d) other products, should they pose low risk of abuse for the purposes of legitimisation of proceeds or financing of terrorism and meet the following conditions:
   1. are accompanied by a written contract,
   2. payments are made solely via an account held on the customer's name at a credit institution or a foreign credit institution operating in the territory of a country imposing and enforcing anti-money laundering and financing of terrorism measures equivalent to those imposed by the European Communities acquis[1)] and supervised to that effect,
   3. the product or individual payments are not anonymous and are transparent enough to readily detect a suspicious transaction,
   4. the product has a pre-set maximum value of transaction, which does not exceed EUR 15,000; savings products do not exceed the sum of EUR 2,500 in a single deposit or a total of EUR 1,000 in regular deposits,
   5. the final product balance cannot be transferred to a third party, with the exception of death, disability, certain contractually stipulated age limit, or other,
   6. the final balance of products allowing for investments into equity or receivables, including insurance or other types of conditional receivables, may be transferred only after a long

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18) Act No. 340/2006 Coll., on Employee pension insurance companies registered in the EU and operating in the territory of the Czech Republic and on the amendment of Act No. 48/1997 Coll., on Public medical insurance, as amended.

19) Act No. 124/2002 Coll., as amended.

period of time, cannot be used as guarantee, speeding up of payments is not allowed, there are no provisions on withdrawal and in the course of the business relationship there is no move possible for its preliminary termination.

(3) In cases stipulated in para 1 and 2 above, the obliged entity shall verify that all conditions required had been met and that based on the information available to the obliged entity none of the customers, products, or transactions represent a risk of legitimisation of proceeds of crime or financing of terrorism. In case of doubt, no exceptions under para 1 and 2 above shall be applied.

(4) No exceptions under para 2 shall be applied to a customer, who is a politically exposed person.

Section 14

Exception from the Obligation to Record Information on the Payer in Connection with Transfers of Funds

Obligations under the directly applicable European Communities Regulation stipulating the obligation to accompany transfers of funds with information on the payer[20] shall not apply to those payment services or transfers of funds which are used to make payments for goods and services provided that:

a) the transaction is made in the Czech Republic,
b) the payment service provider is always able to determine, via the payee, the individual payer and the reason for payment,
c) the transferred sum does not exceed EUR 1,000.

Section 15

Rejection of Transaction

(1) The obliged entity shall refuse to make a transaction or to enter into a business relationship should there be an identification requirement under Section 7(1) or 7(2) and should the customer refuse the identification process or fail to submit the power of attorney under Section 8(3), should they fail to assist the due diligence process under Section 9, should the customer identification or due diligence be impossible for other reasons, or should the person performing the customer identification or due diligence have a reason to doubt the correctness or authenticity of documents submitted.

(2) The obliged entity shall refuse a transaction for a politically exposed person should the origin of assets used in the transaction be unknown.

(3) No employee of the obliged entity shall make a transaction for a politically exposed person without consent of their direct supervisor or the statutory body of such obliged entity.

CHAPTER II
RECORD KEEPING

Section 16

Obliged Entity's Record Keeping

(1) The obliged entity shall, for the period of 10 years after having terminated its business relationship with the customer, keep record of all identification data taken under Section 8(1) and 8(2) or in accordance with the directly applicable European Communities Regulation stipulating the obligation to accompany transfers of funds with information on the payer[20], copies of documents submitted for identification (if any), records of the first identification (name and date), documents justifying potential exception from identification and due diligence under Section 13, and, in case of representation, the original or a certified copy of the power of attorney.

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20) Regulation (EC) No 1781/2006 of the European Parliament and the Council.

(2) The obliged entity shall, for the period of 10 years after the transaction or after having terminated its business relationship with the customer, keep record of all data and documents on transfers requiring identification.

(3) The obliged entity stipulated in Section 2(1j) and 2(1k) shall keep record of all data and documents for the period of at least 10 years after the transaction or after having terminated its business relationship with the customer should such transaction or relationship reach or exceed EUR 10,000; in other cases it shall keep its records for a period of 5 years.

(4) The statutory period under para 1 to 3 shall commence on the first day of the calendar year following the calendar year in which the obliged entity performed the last transaction.

Section 17

Cooperation in Record Keeping

Should more obliged entities take part in a single customer transaction, the record keeping may be shared. Data under Section 16 may be kept by one of these obliged entities provided the other involved obliged entities have access to all necessary information including copies of all documents.

CHAPTER III
SUSPICIOUS TRANSACTION

Section 18

Suspicious Transaction Report

(1) Should the obliged entity, in the course of its activities, detect a suspicious transaction, it shall, without undue delay and no later than 5 days after such detection, report such suspicious transaction to the Ministry of Finance (hereinafter the "Ministry"). Should circumstances require so, in particular should there be a danger of delay; the obliged entity shall submit a suspicious transaction report to the Ministry immediately after having uncovered such suspicious transaction.

(2) In its suspicious transaction report, the obliged entity shall report the identification data of the person concerned, identification data of all the parties to the transaction, available to the obliged entity upon the disclosure, information on all relevant features of the transaction and any other facts which may be important for an analysis of the suspicious transaction and potential application of measures against legitimisation of proceeds from crime and financing of terrorism.

(3) The suspicious transaction report shall not reveal any information about the obliged entity's employer or contractor who had identified the suspicious transaction.

(4) The Ministry shall receive the suspicious transaction report via the Financial Analytical Unit, which is a part of the organizational structure of the Ministry. In a remote-access fashion, he Ministry shall inform all obliged entities about its mailing address and other channels to be used to submit suspicious transaction reports.

(5) Should the suspicious transaction report under para 2 also concern assets which are subject to international sanctions declared with the purpose of keeping or building international peace and security, the obliged entity shall notify the authorities of such facts in the suspicious transaction report. The suspicious transaction report shall include a short description of given assets, information on its location and owner, should they be known to the disclosing entity, together with information on whether there is an immediate risk of damage,

(6) The disclosing entity shall communicate to the receiving authority the name, surname, and position of the contact person (Section 22) or the person who, on behalf of the contact person, drafted the suspicious transaction report, together with relevant telephone numbers or email addresses.

(7) Should a suspicious transaction be disclosed simultaneously by more obliged entities based on the information sharing provision under Section 39(2), the reporting obligation under para 2 to 4 shall be regarded as fulfilled by all obliged entities once at least one of them submits its suspicious transaction report listing the other obliged entities on whose behalf it reports.

Section 19

The suspicious transaction report may be submitted in writing via registered mail or orally in the form of a recorded statement at a previously agreed place. Suspicious transaction reports may also be submitted via the electronic mail provided the data transferred is properly protected.

Section 20

Suspension of a Transaction

(1) Should there be a danger that an immediate execution of a transaction would hamper or substantially impede securing of proceeds of crime or money intended for financing of terrorism, the obliged entity may execute the customer's transaction recognized as suspicious no earlier than 24 hours after the Ministry had received the suspicious transaction report. The obliged entity shall make sure that the respective assets will not be handled in violation of this Act. The obliged entity shall inform the Ministry in the suspicious transaction report that the transaction has been suspended.

(2) The para above shall not be enforced, should the suspension of the customer's transaction be rendered impossible, especially in transactions made via electronic means of payment, or should the obliged entity be aware of the fact, that suspension would hamper of otherwise pose a threat to the investigation of such suspicious transaction. The obliged entity shall inform the Ministry of such transaction immediately after it has been made.

(3) Should there be a threat under para 1 and the investigation of such suspicious transaction requires a longer period of time, the Ministry shall decide:

a) to extend the period of suspension of the customer's transaction for no more than 72 hours after having received the suspicious transaction report, or
b) to suspend the customer's transaction or to freeze the assets in such transaction for 72 hours in the obliged entity where the assets are located.

(4) The decision on suspension of a customer's transaction or on freezing of assets under para 3 shall become binding upon its declaration. The declaration is either oral, or by means of a telephone, fax, or electronic mail, all the above must be followed by a hard copy. There is no appeal against a decision on suspension of a customer's transaction or on freezing of assets and the only party to the proceedings is the obliged entity disclosing the suspicious transaction or holding the assets believed to be involved in such a transaction.

(5) The obliged entity shall notify the Ministry of the enforcement of its decision under para 3(b) and of the time of commencement of the period under para 3(b). The obliged entity shall inform the Ministry of all important facts related to the assets concerned.

(6) Should the Ministry not inform the obliged entity, prior to the end of the period under para 3, about having filed a criminal complaint, the obliged entity shall release and execute the transaction.

(7) Should the Ministry file a criminal complaint in the period stipulated in para 1 or 3 to the law enforcement body as stipulated in Section 32(1), the obliged entity shall perform the transaction in 3 calendar days after the criminal complaint had been filed unless the law enforcement bodies have decided to seize such transaction. The Ministry shall inform the obliged entity of the criminal complaint prior to the expiration of the period under para 1 or 3.

CHAPTER IV
ADDITIONAL OBLIGATIONS OF OBLIGED ENTITIES

Section 21

Internal Procedure

(1) To fulfill the obligations under this Act, the obliged entity shall establish and enforce adequate and appropriate procedures of internal control and communication.

(2) The obliged entity mentioned in Section 2(1a), (1b) to (1d), (1h) and (1i) shall create, to the extent of its activities regulated by this Act, written internal procedures, policies and compliance checks to fulfill its obligations under this Act (hereinafter only „internal procedures").

(3) The obliged entity mentioned in Section 2(1b) to (1d), (1h) and (1i) may decide not to create any written internal procedures provided, in the scope of activities regulated by this Act, it does not employ or contract any other persons.

(4) The obliged entity mentioned in Section 2(1b) to (1d), (1h) and (1i) contracted by another obliged entity to perform services regulated by this Act, is not obliged to have its own internal procedures provided it enforces internal procedures of the other obliged entity which adequately describe its activities.

(5) Internal procedures under para 2 shall include the following:

a) a detailed checklist of suspicious transaction indicators relevant for the given obliged entity,
b) a description of customer identification, including provisions to determine a politically exposed person and to recognize entities subject to international sanctions under the Act on Implementation of International Sanctions,
c) a description of the customer due diligence process and the system of determining the scope of such due diligence based on the type of customer and the nature of the business relationship, product, or service and the respective risk of legitimisation of proceeds of crime and financing of terrorism,
d) adequate and relevant methods and procedures to assess and manage risks and perform internal controls and supervision of compliance with this Act,
e) a procedure for reporting of data kept under Chapter II to the relevant authorities,
f) a description of steps taken by the obliged entity from the moment of the disclosure of the suspicious transaction to its reporting to the Ministry so that the statutory period under Section 18 (1) is complied with and so are rules of processing such suspicious transaction and appointment of persons to evaluate the transaction,
g) rules and procedures regulating the performance of persons offering services or products on behalf of or on the account of the obliged entity,
h) measures to prevent any immediate carrying out of a customer order which may substantially hamper or even render impossible the subsequent seizure of proceeds of crime,
i) logistical and HR measures to defer the customer order under Section 20 and to comply, in a statutory period, with all obligations under Section 24,
j) a description, in cases regulated by Section 25(4), of additional measures taken for the purpose of efficient management of risk of legitimisation of proceeds and financing of terrorism.

(6) A credit institution, financial institution under Section 2, (1) (b), points 5, 6, 10, and 11, and an obliged entity under Section 2(1) (c) shall submit their internal procedures to the Ministry within 60 days after having become an obliged entity. Changes of internal procedures shall be submitted to the Ministry in writing within 30 days after adoption. An obliged entity under Section 2, (1) (b), point 1 to 4 shall report to the Czech National Bank.

(7) A foreign credit or financial institution operating in the territory of the Czech Republic via its branch or a subsidiary may opt not to have separate internal procedures provided that operations of the branch or subsidiary are regulated by internal procedures of the mother foreign credit or financial institution; such internal procedures shall meet requirements at least equivalent to those stipulated by this Act and shall be available in Czech.

(8) Should the Ministry or the Czech National Bank reveal any deficiencies in the internal procedures submitted in accordance with para 6, they shall set a date for correction. The obliged entity shall, within the prescribed period, remove the deficiencies and report its steps in writing to the above authorities.

(9) An implementing regulation has been adopted determining, in accordance with para 5(c) and 5(d), requirements for implementing and enforcing internal procedures by selected obliged entities supervised by the Czech National Bank[21)].

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21) Section 44, Act No. 6/1993 Coll., on the Czech National Bank, as amended.

Section 22

Contact Person

(1) The obliged entity shall appoint one of its employees to report under Section 18 and to maintain regular contacts with the Ministry, unless it is decided to entrust such responsibilities on its statutory body. The Ministry shall be, with no undue delay, notified of such appointment and informed of the name, surname, position, and telephone number and email address of the appointee.

(2) No credit or financial institution shall appoint a member of its statutory body as a contact person unless it was necessary with regards to its size, management structure, or number of employees.

(3) No credit or financial institution shall appoint as a contact person a member of staff responsible for performing or settlement of its transactions or an employee participating in the performance of internal audit.

(4) The obliged entities which decide not to entrust the contact responsibilities on its statutory bodies shall provide for a direct contact in between the appointed contact person on one side and its statutory and supervisory bodies on the other.

Section 23

Staff Training

(1) The obliged entity shall organize, at least once every 12 calendar months, training of all members of its staff who may, in the course of their professional obligations, come in contact with suspicious transactions. All appointees to such positions shall be trained prior to taking their appointment.

(2) The obliged entity shall provide the training under para 1 above to all its contractors who may, in the course of their activities, come in contact with suspicious transactions.

(3) The training shall concentrate on types and features of suspicious transactions and steps to be taken in detecting such transactions. The obliged entity shall regularly update such training.

(4) The obliged entity shall keep record of participants and training agenda for a period of at least 5 years.

Section 24

Obligation to inform

The obliged entity shall, upon request and within a given period of time, report to the Ministry all information on transactions requiring identification or transactions investigated by the Ministry together with documentation and information on persons taking part in such transactions. Should the Ministry request so, the obliged entity shall provide access to documentation on site.

CHAPTER V
SPECIAL PROVISIONS RELATING TO SELECTED OBLIGED ENTITIES

Section 25

Special Provisions Relating to Credit and Financial Institutions

(1) A credit institution shall not enter into a corresponding bank relationship with a foreign credit or similar institution (hereinafter a "correspondent institution")

a) which is incorporated in the commercial or similar register in a country where it does not have a physical presence and its management is not physically located in that country, and which is not affiliated with any regulated financial group;
b) which is known for allowing the use of its account by an institution referred to in para a) above, or

c) which does not apply measures against legitimisation of proceeds of crime and financing of terrorism of the standard that is at the least required by the law of the European Communities[1)], and, if it had already entered into such a relationship, it must terminate it in the shortest practicable period.

(2) Prior to entering into a corresponding bank relationship with a correspondent institution, the credit institution shall

a) accumulate sufficient information about the correspondent institution and about the nature of its operations;
b) use public sources of information to establish the quality of supervision overseeing the correspondent institution;
c) evaluate measures applied by the correspondent institution against legitimisation of proceeds of crime and financing of terrorism.

(3) A statutory body of the credit institution or the director of the branch of the foreign credit institution with operations on the territory of the Czech Republic shall consent to the establishment of the corresponding bank relationship.

(4) A credit and financial institution shall, in its branches and subsidiaries which it has a controlling interest in and which are located in countries that are not members of the European Union or the European Economic Area, apply the practice of customer due diligence and record keeping in the scope that is at the least required by the law of the European Communities[1)]. To this end, it shall provide them with relevant information of the practice and procedures to be applied. Should the law of the country not allow for the application of the same practice as in the other countries, the institution shall inform the Ministry; in such a case, the obliged entity shall adopt appropriate supplementary measures to effectively mitigate the risk of exploitation for the legitimisation of proceeds of crime or financing of terrorism, and to prevent the transfer of these risks to the territory of the Czech Republic and other member states of the European Union or the European Economic Area.

(5) The statutory body of the credit or financial institution shall approve the system of internal rules of the institution.

(6) Upon request from the Ministry and by the deadline granted by the Ministry, the credit or financial institution shall disclose the information whether it maintains, or has in the previous 10 years maintained, commercial relations with a specific natural or legal person, whom it was obliged to identify, and any details of the nature of the relations. To this end, the credit or financial institution shall implement an effective system, whose scope is commensurate to the size of the institution and the nature of its business operations.

(7) Rights and obligations which are laid down herein and are binding on the institution are also binding on the Czech National Bank in its process of maintaining accounts and providing other banking services.

Section 26

Special Provisions Relating to Auditors, Chartered Accountants, Licensed Executors and Tax Advisors

(1) The provisions of Section 18(1) and Section 24 shall not apply to an auditor, chartered accountant, licensed executor or a tax advisor if the information is obtained from or about the customer during the process of establishing of the customer's legal standing, during the representation of the customer in court, or in connection with court proceedings, including the giving of advice to instigate or avoid such proceedings, regardless of whether the information was obtained prior to, during or after the proceedings.

(2) Should the auditor, chartered accountant, licensed executor or tax advisor suspect that the customer is seeking counsel for the purpose of legitimisation of proceeds of crime or the financing of terrorism, para 1 shall not apply.

(3) A suspicious transaction report in accordance with Section 18 shall be made by

a) an auditor to the Chamber of Auditors of the Czech Republic;

b) a licensed executor to the Chamber of Licensed Executors of the Czech Republic;
c) a tax advisor to the Chamber of Tax Advisors of the Czech Republic.

(4) The relevant professional chamber shall examine the suspicious transaction report made under para 3 as to whether it is not in conflict with para 1 or Section 18(1), and check whether it has all the particulars required by this Act. Should the suspicious transaction report not include all information required by this Act, the chamber shall notify the disclosing person. Should the suspicious transaction report meet all the conditions set out in the first sentence, the chamber shall refer the disclosure to the Ministry without undue delay, but no later than in 7 days from learning of the suspicious transaction.

Section 27

Special Provisions Relating to Lawyers and Public Notaries

(1) The provisions of Section 9, Section 18(1) and Section 24 shall not apply to a lawyer should the information pertaining to the customer be obtained from the customer or in any other way during or in connection with:
a) providing legal advice or the later determination of the customer's legal standing;
b) defending the customer in criminal law proceedings;
c) representing the customer in court proceedings, or
d) providing any legal advice concerning the proceedings referred to in para b) and c), regardless of whether the proceedings commenced or not, or were concluded or not.

(2) The provisions of Section 9, Section 18(1) and Section 24 shall not apply to a public notary should the information pertaining to the customer be obtained from the customer or in any other way during or in connection with:
a) providing legal advice or the later determination of the customer's legal standing[22]),
b) representing the customer in court proceedings subject to the mandate conferred on the public notary by law or any other legal statute[23]), or
c) providing any legal advice relating to the proceedings referred to in para b), regardless of whether the proceedings commenced or not, or were concluded or not.

(3) A suspicious transaction report under Section 18 shall be made by a lawyer to the Czech Bar Association, and by a public notary to the Chamber of Notaries of the Czech Republic. The Czech Bar Association or the Chamber of Notaries of the Czech Republic, whichever may apply (hereinafter the "Chamber"), shall examine the suspicious transaction report made by a lawyer or a public notary as to whether it is not in conflict with para 1 or 2, Section 2(1g) or Section 18(1), and check that it has all the particulars required by this Act. Should the suspicious transaction report not contain all the information required by this Act, the Chamber shall notify the disclosing lawyer or notary. Should the suspicious transaction report made by the lawyer or the notary meet all the conditions set out in the first sentence, the Chamber shall refer the disclosure to the Ministry without undue delay, but no later than in 7 days from the detection of the suspicious transaction.

(4) The Ministry shall request further detail, documents or information under Section 24 from the lawyer or the public notary via the Chamber. The lawyer or the notary shall supply to the Ministry the requested details, documents or information via the Chamber.

(5) For the purpose of this Act, lawyers shall also include European lawyers according to the Legal Profession Act.

Section 28

Special Provisions Relating to Persons Accepting Cash in the Value of EUR 15,000 or Higher

A business and a legal person as per Section 2(2) (e) becomes an obliged entity only if it accepts a cash payment in the value of EUR 15,000 or higher and in such instance, the person is obliged to:

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22) Section 3(1a) of the Act No. 358/1992 Coll.
23) Section 3(1b) of the Act No. 358/1992 Coll.

a) identify the customer according to Section 8; it may substitute this identification with identification according to Section 10 or 11, provided the transaction or customer in question is not exempt under Section 13,
b) refuse to make the transaction if it doubts the veracity of the identification details supplied by the customer about themselves, or if the customer refuses to be subjected to the identification or fails to produce a power of attorney according to Section 8(3); the obliged entity shall at the same time inform the Ministry,
c) perform customer due diligence according to Section 9(2),
d) retain data according to Section 16(1) and 16(2),
e) make a suspicious transaction report of the suspicious transaction according to Section 18,
f) inform under Section 24,
g) maintain professional confidentiality according to Section 38.

Section 29

Special Provisions Relating to the Operation of Money Remittance Services

(1) Activities whose purpose is to deliver a remittance of money based on a postal contract and under conditions laid down in the Postal Services Act, shall be performed only by a person authorized by the Ministry. The authorization shall be issued upon request of the person seeking to perform this activity.

(2) The Ministry shall issue the authorization as per para 1 on the condition that the applicant, the person who is the partner, statutory body, member of the statutory body of the applicant, the person who will managed the business of the applicant and the beneficial owner are persons with integrity.

(3) For the purposes of this law, a person of integrity shall be a person who has not been lawfully convicted of a crime committed
a) with intent, or
b) due to negligence, and the fact of the crime relate to the nature of the business,
unless the person shall be deemed as not having been lawfully convicted.

(4) For a natural person permanently or otherwise domiciled
a) in the territory of the Czech Republic, the integrity is verified on the basis of an extract from the Criminal Register, which shall not be older than 1 month; this provision shall not apply if the Ministry is able to procure the extract under some other legal regulation;
b) outside the territory of the Czech Republic and for a person who, in the period of the last 5 years stayed without an interruption outside the territory of the Czech Republic for a minimum of 6 months, on the basis of a document approximate to an extract from the Criminal Register issued by the competent authority of the country of permanent or other domicile of this person, or by countries where the person had stayed for a minimum of 6 months during the last 5 years; unless the country of permanent or other domicile of the person is not the same as the country where the person is a citizen, a document issued by the country where the person is a citizen shall also be required.

PART THREE
ACTIVITY OF THE MINISTRY AND OTHER AUTHORITIES

CHAPTER I
ACTIVITY OF THE MINISTRY AND OTHER AUTHORITIES

Section 30

Obtaining of Information

(1) The Ministry may request information necessary for the compliance with obligations under this Act from the Police of the Czech Republic, intelligence services and other public authorities.

(2) When investigating a suspicious transaction, the Ministry may, pursuant to the Tax Administration Act, request from the authorities competent under other laws governing tax administration information obtained in the course of tax administration; the authorities shall inform the Ministry immediately of any suspicion that a taxpayer is exploiting the tax administration system for the legitimisation of the proceeds of crime or financing of terrorism.

(3) In order to perform its responsibilities under this Act, the Ministry shall be provided with the following:

a) reference data from the Central register of inhabitants,
b) data on inhabitants from the inhabitant information system,
c) data on foreigners from the foreigners information system,
d) data on natural persons who have received a birth identification number but appear in neither b) nor c), from the Register of birth identification numbers.

(4) Technical circumstances permitting, the Ministry of Interior shall provide the information specified in para 3 to the Ministry in electronic format in a form allowing for remote access.

(5) Out of all the information provided, only the information which is necessary in the case in question shall be used.

(6) Based on a suspicious transaction report from an intelligence service, the Ministry shall commence investigation of the suspicious transaction; the Ministry shall notify the intelligence service of the conclusion.

Section 31

Processing of Information

(1) The Ministry collects and analyses information obtained in the course of performing its tasks under this Act. It shall have the right to store the information obtained in the course of performing its tasks under this Act in an information system, on the condition that all the requirements set out in the Personal Data Protection Act have been met. The Ministry shall have the right to collate the information and information systems serving different purposes.

(2) While complying with the Personal Data Protection Act, the Ministry shall not provide information to the affected person in respect of the information kept about the person in the information system maintained under this Act.

(3) The Ministry shall archive data and documents relating to suspicious transactions and the investigation of the suspicious transactions for a period of 10 years, commencing at the end of the year when the investigation was concluded. Registration of a new report or a renewal of an investigation pertaining to the same matter or the same person or entity, the period referred to in the first sentence is suspended pending the conclusion of the new investigation.

(4) The Ministry shall maintain, and publish at least once a year on its website, statistical reports on effectiveness and results of measures against the legitimisation of proceeds of crime and financing of terrorism. Law enforcement authorities shall provide the Ministry on a regular basis with summary statistics on matters relating to the legitimisation of proceeds of crime and financing of terrorism.

(5) The Financial Analytical Unit is technically separate from the other departments at the Ministry; it has implemented measures in the area of organisation and personnel to ensure that unauthorised persons do not come into contact with information obtained under this Act.

Section 32

Handling of Investigation Results

(1) Should the Ministry find facts suggesting that a crime had been committed, it shall lodge a criminal complaint under the Code of Criminal Procedure and provide the law enforcement authority with all the information that the Ministry had found in the course of its investigation.

(2) Should the Ministry find circumstances that may be of importance to regional tax or customs authorities, it shall inform the competent financial directorate or the General Directorate of Customs immediately of these circumstances, and provide these authorities with the results of its investigation, unless the disclosure of the information is in violation of the Act or the Ministry had acted under para 1.

Section 33

International Co-operation

(1) In the scope set out by an international treaty by which the Czech Republic is bound, or on the principle of reciprocity, the Ministry shall co-operate with third country authorities and international organisations of the same jurisdiction, in particular in the provision and obtaining information to deliver on the purpose of this Act.

(2) Provided that the information is used exclusively for the purpose of this Act and is protected at least in the scope laid down in this Act, the Ministry may co-operate also with other international organisations.

Section 34

Granting of Exemptions

(1) Upon request, the Ministry may decide that an obliged entity performing any of the activities listed in Section 2(1) only occasionally or in a very limited scope, and in a way that precludes or significantly reduces the risk of such person being exploited for the legitimisation of proceeds of crime and financing of terrorism, shall not be considered an obliged entity under this Act.

(2) The exemption as per para 1 shall be granted on the condition that:

a) the activity is a non-core activity directly relating to the core activity of the obliged entity, which otherwise under the exemption according to Section 2(2d) is not an obliged entity under this Act, and the activity is provided only as a sideline to the main activity of the obliged entity,
b) the total annual revenue from this activity do not exceed 5% from the total annual revenue of the obliged entity, and at the same time the total annual revenue from this activity does not exceed the limit set by the Ministry in its decision for the type of activity in question,
c) it is ensured that the value of an individual transaction or of multiple transactions with one customer of the activity referred to in point a) shall not exceed the amount of EUR 1,000 in the period of 30 consecutive days.

(3) The obliged entity shall attach a proof of compliance with the conditions set in para 1 and 2 to the application for an exemption.

(4) An exemption as per para 1 may be granted only for a definite period of time. In its decision, the Ministry shall specify any other obligations within the scope of obligations of obliged entities, in order to prevent the exploitation of the exemption for the legitimisation of proceeds of crime and financing of terrorism.

(5) The Ministry shall grant the exemption only on the condition that the risk of exploitation of the exemption for the legitimisation of proceeds of crime and financing of terrorism on the part of the obliged entity is eliminated or significantly reduced.

(6) For the period of validity of the exemption as per para 1, the obliged entity shall enable the supervisory authority (Section 35(1)) to control the compliance with the specified conditions, and to control that the exemption is not exploited for activities that would facilitate legitimisation of proceeds of crime and financing of terrorism. Supervisory authorities hold the same powers in this respect as they do for controlling obliged entities.

(7) The obligation of the obliged entity stipulated in Section 18, and the steps taken by the Ministry in respect of the obliged entity during an investigation of a suspicious transaction under Section 24, shall not be affected by the decision to grant an exemption as per para 1.

(8) The Ministry shall revoke the exemption granted under Section 1 when:

a) the risk of exploitation of the activity for the legitimisation of proceeds of crime and financing of terrorism has materially changed, or
b) the holder of the exemption had violated the specified conditions.

(9) An administrative remedy lodged against the decision in para 8 shall not suspend the given decision.

CHAPTER II
ADMINISTRATIVE SUPERVISION

Section 35

Performance of Administrative Supervision

(1) The Ministry shall act as the supervisory authority performing the administrative supervision of the compliance with obligations set out in this Act on the part of the obliged entities; the Ministry shall, at the same time, control whether obliged entities do not legitimize the proceeds of crime and finance terrorism. Compliance with obligations set out in this Act is in addition supervised by the following institutions:
a) the Czech National Bank in respect of persons subject to its supervision[21)],
b) administrative authorities with powers to supervise the compliance with the legislation regulating lotteries and other similar games, and in respect of holders of licences to operate betting games listed in Section 2 (1) (c),
c) the Czech Trade Inspection in respect of persons listed in Section 2 (1) (j) and (k).

(2) The Ministry also exercises control of the compliance with obligations according to the directly applicable instrument of the European Communities, which stipulates the obligation to attach the payer's details to any transfer of funds transaction[20)]; the Czech National Bank exercises control of the compliance with obligations under the same instrument in respect of persons subject to its supervision[21)].

(3) The Ministry shall provide information about its own activities, in the scope necessary for the performance of state control or supervision, to the other supervisory authorities.

(4) At its request, the other supervisory authorities shall provide to the Ministry their opinions or any other co-operation as per the request.

(5) Should the supervisory authority as per para 1, para (a) to (c) find facts that may be related to the legitimisation of proceeds of crime and financing of terrorism, it shall immediately inform the Ministry of these findings and provide it with all information in the scope as per Section 18(2).

Section 36

Motion to Revoke a Business Licence or a Licence to Perform another Independent Gainful Activity

Should the Ministry learn that a legal or a natural person with an income from business or other independent gainful activity had materially, grossly or repeatedly violated any of its obligations specified in this Act or in a decision issued under this Act, the Ministry shall lodge a motion to terminate or revoke a licence for business or other gainful activity to the authority, which, under another law, has the power to decide on the revocation. This authority is obliged to notify the Ministry of the steps it had taken and the result within 30 days from the making of the motion.

Section 37

Special Provisions Relating to Administrative Supervision of a Lawyer, Public Notary, Auditor, Licensed Executor, and a Tax Advisor

(1) Provisions of this Chapter do not apply to lawyers, public notaries, auditors, licensed executors, and tax advisors.

(2) Based on a written motion from the Ministry, the relevant professional chamber shall be obliged to check compliance with the obligations imposed by this Act on a lawyer, public notary,

auditor, licensed executor or a tax advisor, and notify the Ministry of the results within the deadline specified by the Ministry.

PART FOUR
CONFIDENTIALITY

Section 38

Obligation of Confidentiality

(1) Unless provided otherwise in this Act, the obliged entities and their employees, employees of the Ministry, employees of other supervisory authorities as well as natural persons working for an obliged entity, the Ministry or another supervisory authority on a basis of a contract other than an employment contract shall be obliged to keep confidential the facts relating to suspicious transaction reports and investigation, the steps taken by the Ministry or the obligation to report a suspicious transaction stipulated by Section 24.

(2) The obligation of confidentiality shall not expire should the persons referred to in para 1 above transfer to another job, terminate their employment or other contractual relationship to the obliged entity, the Ministry or other supervisory authority, or should the obliged entity cease to perform activities listed in Section 2.

(3) Any person who may learn facts referred to in para 1 shall be obliged to keep them confidential.

Section 39

Exemptions from Confidentiality

(1) The obligation of confidentiality stipulated in Section 38 cannot be invoked in respect of:

a) a law enforcement authority if it is conducting criminal proceedings related to the legitimisation of proceeds of crime and financing of terrorism, or if the matter concerns the compliance with the obligation to report a suspicious transaction in connection with any such crime,
b) specialised Police units involved in the identification of the proceeds of crime and financing of terrorism, provided the information had been obtained according to Section 42(3),
c) an authority of a third country referred to in Section 33 in the process of provision of information intended for the purpose of delivering on the intention of this Act, unless prohibited by another legal instrument,
d) the competent financial directorate or the General Directorate of Customs in relation to facts which are a part of information referred to in Section 32(2),
e) supervisory authorities referred to in Section 35(1), and the competent bodies of professional chambers of lawyers, public notaries, auditors, licensed executors or tax advisors,
f) administrative authorities performing tasks in the system of certification of raw diamonds subject to another legal instrument,
g) the administrative authority competent to perform state control or conduct an administrative procedure in the area of implementation of international sanctions;
h) an authority mandated by another law to decide on the revocation of a licence for business or other independent gainful activity upon the lodging of a motion filed by the Ministry,
i) a financial arbitrator deciding, according to another law, in a dispute of the claimant against an institution,
j) a person who could raise a claim for damages incurred as a result of the implementation of this Act, provided facts conclusive for the making of the claim are communicated ex post; the obliged entity may, in this instance, inform the customer that steps had been taken under this Act, but only after the decision of the competent law enforcement authority to secure or seize the subject of the suspicious transaction, or for which the period as per Section 20(7) had expired, was enforced; in all other instances only after the Ministry has granted its written consent,
k) a court adjudicating civil law disputes concerning a suspicious transaction or a claim for compensation for damages incurred as a result of complying with obligations under this Act,

l) the National Security Office, Ministry of Interior or an intelligence service in the process of a clearance procedure in accordance with to another legal instrument[24],
m) the competent intelligence service, provided the information is material for the meeting of the statutory tasks specified for the intelligence service.

(2) Provided that the disclosed information is used exclusively for the prevention of legitimisation of proceeds of crime and financing of terrorism, the obligation of confidentiality stipulated in Section 38 cannot be applied to the sharing of information between:
a) credit or financial institutions, including foreign credit and financial institutions, if they operate in the territory of the state which obliges them to comply with obligations in the area of legitimisation of proceeds of crime and financing of terrorism, which are equivalent to the requirements of the European Communities law, provided these institutions are part of the same group as per the act governing financial conglomerates[25],
b) obliged entities referred to in Section 2(1) (e) and (f), or persons of the same type, which operate in the territory of the state which obliges them to comply with obligations in the area of legitimisation of proceeds of crime and financing of terrorism, which are equivalent to the requirements of the European Communities law, provided these persons carry out their profession as employees or in a similar relationship within the same legal person and between legal persons which are related, either on the basis of a contract, or through persons,
c) credit or financial institutions, or between obliged entities referred to in Section 2(1) (e) and (f), or persons of the same type, which operate in the territory of the state which obliges them to comply with obligations in the area of legitimisation of proceeds of crime and financing of terrorism, which are equivalent to the requirements of the European Communities law, provided the disclosed information relates to the same customer and the same transaction, which two or more persons of the same professional category are a party to, and which persons are bound by equivalent obligations to keep a professional secret and protect personal data.

(3) The obligation of confidentiality cannot be invoked in a procedure under the Act on Implementation of International Sanctions.

Section 40

Special Provisions Relating to Confidentiality by a Lawyer, Public Notary, Auditor, Licensed Executor and a Tax Advisor

(1) The provisions of this Part shall not apply to lawyers and public notaries.

(2) With the exception of the provisions of Section 39(2), the provisions of this Part do not apply to auditors, licensed executors and tax advisors.

(3) A lawyer, public notary, auditor, licensed executor and a tax advisor shall be obliged to keep confidential, in respect of the customer, the facts referred to in Section 38(1); the foregoing does not apply if the facts, if disclosed to the customer, could prevent the customer from involvement in a criminal activity.

(4) para 1 to 3 shall apply to other persons who are obliged by other laws to keep the same confidentiality as lawyers, public notaries, licensed executors and tax advisors.

PART FIVE
CROSS-BORDER TRANSIT

Section 41

Obligation to Declare in Cross-border Transit

(1) Upon entry to the territory of the Czech Republic from a third country which is not the territory of the European Communities, and on exit from the Czech Republic to any such territory, a natural

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[24] Act No. 412/2005 Coll., on the protection of classified information and on security clearance, as amended.
[25] Act No. 377/2005 Coll., on supplemental supervision of banks, savings and credit co-operatives, electronic money institutions, insurance companies and securities traders in financial conglomerates, and on the amendment of some other laws (Financial Conglomerates Act), as amended.

person shall be obliged to declare to customs authorities in writing any transport of currency of the Czech Republic or another country, travel cheques or money orders convertible into cash, bearer or registered securities or any other investment instruments which are signed, but do not contain the name of the beneficiary, or any commodities of high value, such as precious metals or stones, in the value of EUR 10,000 or higher.

(2) The obligation as per para 1 shall apply also to a legal person transporting any of the items referred to in para 1. The natural person bearing these items upon crossing of the border of the European Communities shall be liable to make the declaration on behalf of the relevant legal person.

(3) Any person sending a postal or other consignment from the Czech Republic to a third country outside the territory of the European Communities, or accepting a postal or other consignment therefrom, which contains items referred to in para 1 in the value of EUR 10,000 or higher, shall declare the consignment to the competent customs authority and make it available for inspection by the customs authority.

(4) The obligation to declare stipulated in para 1 to 3 shall also be binding on a person who imports to the territory of the European Communities or exports therefrom, or receives or sends during a period of 12 consecutive months, items referred to in para 1 in the value of EUR 10,000 or higher. The obligation to declare shall begin to apply as of the person learning that the aforementioned limit will be reached.

(5) A declaration as per para 1 to 4 shall contain the declarant's identification details, the identification details of the owner and the intended recipient of the transported item, if known to the declarant, a description of the transported item, and a proof of origin of the exported or imported item, the intended route and means of transport.

(6) The declaration shall be made using a form which forms an Appendix to this Act. The form shall be available at the customs authority; the Ministry shall also publish the form in a way which allows for remote access. The declarant shall be liable for the veracity and completeness of the declared information.

(7) The exchange rate published by the Czech National Bank for whole calendar month, as valid on the last but one Wednesday of the previous calendar month, shall be used for the conversion of another currency to Euro for the purposes of para 1, 3 or 4. Upon verbal enquiry, the customs authority shall inform potential declarants of the applicable exchange rate for the purposes of compliance with the obligation to report a suspicious transaction as per para 1 to 4. The value of securities and commodities of high value shall be construed as their fair market value, or the value determined based on official market rates.

Section 42

Activities of Customs Authorities

(1) Customs authorities supervise the compliance with the obligation to declare as per Section 41.

(2) Customs authorities record and process declarations referred to in Section 41, including personal data contained therein. For the purposes of exercising control as per para 1, customs authorities may record and store information concerning the transport or delivery as per Section 41(1), whose value is lesser than EUR 10,000.

(3) Customs authorities shall forward to the Ministry immediately the information concerning the compliance with the obligation to declare under Section 41, including all cases of violation thereof.

(4) A customs authority may, upon learning of a violation of obligations set out in Section 41(1) to 41(4), seize items which were concerned by the violation. No appeal is permitted against the decision to seize the item made by the customs authority; the decision is enforceable as of the moment of its verbal promulgation, against the person bearing the items. A written execution of the decision shall be delivered to the bearer from whom the items were seized; the seizure shall also be notified by way of an original counterpart of the decision sent to the importer or exporter and the owner, provided these persons are different from the bearer and are known to the customs authority.

(5) The person who receives the decision of seizure as per para 4 shall relinquish the items to the customs authority. Should the items not be relinquished on demand, they shall be officially possessed. The customs authority shall issue a receipt to that effect to the person who had relinquished the items or from whom they were possessed.

(6) Should the seized items not be required for further procedure, a forfeiture or expropriation order is not issued in respect of them, and they cannot be used for the payment of a fine, cost of the procedure or enforcement, the customs authority shall return them without undue delay to the person who had relinquished them or from whom they were possessed.

PART SIX
ADMINISTRATIVE OFFENCES

Section 43

Violation of the Obligation of Confidentiality

(1) An employee of an obliged entity, employee of the Ministry or other supervisory authority, or a natural person who, based on other than an employment contract with an obliged entity, the Ministry or another supervisory authority, commits a minor offence by breaking the obligation of confidentiality stipulated in Section 38(1) or 38(2).

(2) A natural person who is not a person as per para 1 commits a minor offence by breaking the obligation of confidentiality stipulated in Section 38(3).

(3) An obliged entity commits an administrative offence by breaking the obligation of confidentiality stipulated in Section 38(1) or 38(2).

(4) A fine up to CZK 200,000 may be imposed for committing the minor offence according to para 1 and 2, and a fine up to CZK 200,000 shall be imposed for committing the administrative offence according to para 3.

(5) A fine up to CZK 1,000,000 may be imposed for committing the minor offence according to para 1 and 2, and a fine up to CZK 1,000,000 shall be imposed for committing the administrative offence according to para 3, if the violation had prevented or made more difficult the identification or seizure of the proceeds of crime, or made the financing of terrorism possible.

Section 44

Failure to Comply with the Requirement to Perform Customer Due Diligence

(1) An obliged entity commits an administrative offence by

a) failing to perform the customer identification procedure described in Section 7,
b) repeatedly failing to perform the customer's due diligence process as per Section 9,
c) realising a transaction or entering into a commercial relationships in violation of the ban stipulated in Section 15, or
d) failing to comply with the obligation of record keeping stipulated in Section 16.

(2) A fine up to CZK 1,000,000 shall be imposed for the administrative offence as per para 1(a) and (b).

(3) A fine up to CZK 10,000,000 shall be imposed for the administrative offence as per para 1(c) and (d).

(4) Should any action referred to in para 1(a), (b) or (d) prevent or make more difficult the identification or seizure of the proceeds of crime, or make the financing of terrorism possible, a fine up to CZK 50,000,000 shall be imposed.

Section 45

Failure to Comply with the Obligation to Inform

(1) An obliged entity commits an administrative offence by

a) failing to comply with the obligation to inform stipulated in Section 24, or

b) in a case according to Section 25(4), by not adopting the supplemental measures to effectively mitigate the risk of abuse for the legitimisation of proceeds of crime or terrorism financing, and the risk of transfer of these risks to the territory of the Czech Republic and other countries of the European Union or the European Economic Area.

(2) A credit or financial institution commits an administrative offence by

a) not informing, in breach with Section 25(4), its branch or majority-controlled subsidiary company in the country which is not a member state of the European Union or the European Economic Area, about the practices and procedures of customer due diligence and about the requirements of record keeping in those countries, or

b) not disclosing information as per Section 25(6).

(3) A fine up to CZK 10,000,000 shall be imposed for the administrative offence as per para 1 and 2.

(4) Should any action referred to in para 1 prevent or make more difficult the identification or seizure of the proceeds of crime, or make the financing of terrorism possible, a fine up to CZK 50,000,000 shall be imposed.

Section 46

Failure to Comply With the Obligation to Report a Suspicious Transaction

(1) An obliged entity commits an administrative offence by failing to report a suspicious transaction to the Ministry.

(2) A fine up to CZK 5,000,000 shall be imposed for the administrative offence as per para 1.

(3) Should any action referred to in para 1 prevent or make more difficult the identification or seizure of the proceeds of crime, or make the financing of terrorism possible, a fine up to CZK 50,000,000 shall be imposed.

Section 47

Failure to Comply with the Obligation to Suspend a Transaction

(1) An obliged entity commits an administrative offence by violating the obligation to suspend a transaction of the customer as per Section 20(1).

(2) An obliged entity commits an administrative offence by violating the obligation to suspend a transaction of the customer or to seize assets based on a decision issued by the Ministry under Section 20(3).

(3) A fine up to CZK 1,000,000 shall be imposed for the administrative offence as per para 1.

(4) A fine up to CZK 10,000,000 shall be imposed for the administrative offence as per para 2.

(5) Should any action referred to in para 1 prevent or make more difficult the identification or seizure of the proceeds of crime, or make the financing of terrorism possible, a fine up to CZK 50,000,000 shall be imposed.

Section 48

Failure to Comply with the Obligation of Prevention

(1) An obliged entity referred to in Section 2(1) (a) to (d), (h) and (i) commits an administrative offence by failing to elaborate a system of internal rules as per Section 21(2) to (5).

(2) An obliged entity referred to in Section 2(1) (a), (b) points 1 to 6, 10, 11 and (c) commits an administrative offence by failing to present the system of internal rules or any changes thereto as required by Section 21(6), or by failing to notify in writing of the implementation of remedies to issues found according to Section 21(8).

(3) An obliged entity commits an administrative offence by failing to ensure that its employees undergo regular training as required by Section 23.

(4) A credit institution commits an administrative offence by violating the obligations in the course of entering in a corresponding bank relationship according to Section 25(1), (2) or (3).

(5) An obliged entity referred to in Section 29(1) commits an administrative offence by carrying out activities based on a postal contract, under conditions laid down in the Postal Services Act, which activities serve the purpose of delivering a remittance of money and are carried out without an authorization as per Section 29.

(6) A fine up to CZK 1,000,000 shall be imposed for the administrative offence as per para 1 to 3.

(7) A fine up to CZK 5,000,000 shall be imposed for the administrative offence as per para 4 or 5.

(8) Should any action referred to in para 4 prevent or make more difficult the identification or seizure of the proceeds of crime, or make the financing of terrorism possible, a fine up to CZK 50,000,000 shall be imposed.

Section 49

Failure to Comply with Obligations Relating to a Transfer of Funds

(1) An obliged entity, being a provider of payment services or an agent provider of payment services, commits an administrative offence relating to transfer of funds if, in contravention to the directly applicable instrument of the European Communities which specifies the content of information accompanying a transfer of funds[20)], it

a) fails to ensure that the information on the payer accompany the transfer,
b) has not implemented effective procedures for identification of missing or incomplete information on the payer,
c) fails to take action against the provider of payment services of the payer who had failed to ensure that a transfer of funds is accompanied with information on the payer, or
d) fails to present upon request of the provider of payment services of the recipient information on the payer in cases when the transfer of funds does not include full information of the payer.

(2) A fine up to CZK 10,000,000 shall be imposed for the administrative offence as per para 1.

(3) Should any action referred to in para 1 prevent or make more difficult the identification or seizure of the proceeds of crime, or make the financing of terrorism possible, a fine up to CZK 50,000,000 shall be imposed.

Section 50

Failure to Comply with the Obligation to Declare a Cross-border Transport of Cash

(1) A natural person commits a minor offence by

a) failing to comply with the obligation to declare on entry to the Czech Republic from countries outside the European Communities, or on exit from the Czech Republic to such countries as per Section 41(1) or 41(4), or
b) failing to comply with the obligation to declare a postal or other consignment from the Czech Republic to countries outside the European Communities, or from the Czech Republic to such countries as per Section 41(3) or 41(4).

(2) A legal person commits an administrative offence by

a) failing to comply with the obligation to declare on entry to the Czech Republic from countries outside the European Communities, or on exit from the Czech Republic to such countries as per Section 41(2) or 41(4), or
b) failing to comply with the obligation to declare a postal or other consignment from the Czech Republic to countries outside the European Communities, or from the Czech Republic to such countries as per Section 41(3) or 41(4).

(3) A fine up to CZK 10,000,000 or a forfeiture of the item may be imposed for the administrative offence as per para 1.

(4) A fine up to CZK 10,000,000 or a forfeiture of the item shall be imposed for the administrative offence as per para 2.

Common Provisions Relating to Administrative Offences

Section 51

(1) A forfeiture may be ordered if the item belongs to the offender and
a) had been used to commit the administrative offence, or
b) had been acquired by committing the administrative offence or in exchange for an item acquired by committing the administrative offence.

(2) Should a forfeiture of the item as per para 1(a) or 1(b) not be ordered, a decision shall be issued to expropriate the item when it
a) belongs to an offender who cannot be prosecuted for the administrative offence,
b) does not belong to the offender in whole or in part, or
c) its owner is not known.

(3) Forfeiture cannot be ordered or expropriated if the value of the item is grossly disproportionate to the nature of the administrative offence.

(4) The state shall become the legal owner of the forfeited or expropriated item.

Section 52

(1) A legal person shall not be liable for an administrative offence if it proves that it had expended all reasonable effort to prevent the violation of the legal obligation.

(2) In assessing a fine for a legal person, the seriousness of the administrative offence shall be taken into consideration, especially the way it had been committed, and its consequences and circumstances.

(3) The administrative liability of a legal person shall cease if the competent administrative authority does not commence a procedure within 2 years from learning of the administrative offence, but no later than 10 years from the date it was committed.

(4) Liability for actions taken in the course of business of a natural person or in a direct relation thereto shall be governed by the provisions on liability and sanctions of a legal person.

(5) With the exception of administrative offences committed by an obliged entity as per Section 2(1) (j) and (k), and administrative offences as per Section 50, administrative offences under this Act shall in the first instance be decided upon by the Ministry.

(6) Administrative offences committed by an obliged entity as per Section 2(1) (j) and (k) shall in the first instance be decided upon by the supervisory authority.

(7) Administrative offences under Section 50 shall be decided upon by the customs authority competent on the basis of the offender's permanent domicile

(8) Fines and fees for the cost of proceedings shall be collected by the administrative authority that had imposed them. Fines and fees for the cost of proceedings shall be due in 30 days after the decision becoming final. Revenues from fines and fees constitute revenues of the state budget.

(9) Should a fine be overdue, the competent customs authority may use the seized items as per Section 41(1), 41(3) and 41(4), should any such items have been seized; the applicable provision is the provision on the right of lien under the Customs Act.

Section 53

Actions taken by a lawyer, public notary, auditor, licensed executor or a tax advisor in the capacity of an obliged entity, which bear the elements of an administrative offence according to Sections 43 to 48, shall be decided upon according to another law[26)]. The supervisory authority

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[26)] Act No. 85/1996 Coll., on the legal profession, as amended.

referred to in Section 35(1) shall immediately refer the matter to the authority competent under such other legal instrument, and shall take all necessary steps to secure evidence, as instructed by such competent authority.

PART SEVEN
COMMON AND FINAL PROVISIONS

Section 54

(1) The obligations imposed by this Act on the obliged entities shall concern only activities that are the purpose of their business or of the services they provide.

(2) Unless stipulated otherwise in this Act, obliged entities referred to in Section 2(2) (a) and 2(2) (b) shall be bound by the obligations stipulated by this Act for the relevant type of obliged entity according to Section 2(1).

(3) Unless stipulated otherwise in this Act (Section 41(7), the amount in Euro shall, for the purposes of this Act, be computed as an equivalent amount in any currency based on an exchange rate published by the Czech National Bank as for the day when the obligation under this Act is being complied with; if the exchange rate is not available for the day in question, the exchange rate valid on the day preceding shall be used. If a payment is divided into several installments, the value of the transaction shall be the sum of these installments, provided they are related.

(4) Payment in commodities of high value, especially precious metals or precious stones, shall be regarded as payment in cash.

(5) An obliged entity under whose name or on whose account products or services are marketed by third parties shall ensure that these third parties observe all the procedures against the legitimisation of proceeds of crime and financing of terrorism in the same scope as the obliged entity.

Section 55

(1) Proceedings conducted under this Act shall always be closed to the public.

(2) Based on a received suspicious transaction report or another motion, the Ministry shall investigate without undue delay.

(3) Upon the conclusion of the investigation, the Ministry shall, without undue delay, notify the person who reported the suspicious transaction in a suitable manner. No other person shall be notified of the investigation and its conclusions.

(4) In the course of their activities under this Act, authorised employees of the Ministry identify themselves with a service card issued based on the Act on Implementation of International Sanctions.

Section 56

Enabling Provision

The Czech National Bank shall pass a regulation to implement Section 21(9).

Section 57

Interim Provisions

(1) Proceedings commenced prior to this Act coming into effect shall be concluded according to this Act, with the exception of proceedings concerning an infraction or another administrative

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Act No. 358/1992 Coll., as amended.
Act No. 254/2000 Coll., on auditors and on the amendment of the Act No. 165/1998 Coll., as amended.
Act No. 120/2001 Coll., on licensed executor, execution rules, and on the amendment of some other laws, as amended.
Act No. 523/1992 Coll., on tax advisory and the Chamber of Tax Advisory of the Czech Republic, as amended.

violation committed prior to this Act coming into effect, if the earlier statute is more favourable for the offender.

(2) A person who, on the day of this Act coming into effect, performs activities based on a postal contract, under conditions laid down in the Postal Services Act, which activities serve the purpose of delivering a remittance of money, may continue to perform these activities without an authorisation as per Section 29 for a maximum period of 6 months after this Act becomes effective.

(3) An obliged entity referred to in Section 2(1) (a) – 2(1) (d), 2(1) (h) and 2(1) (i), who has a system of internal rules, procedures and controls compliant with the legislation valid to date, shall elaborate a system of rules, procedures and controls as per Section 21(2) within 60 days after this Act becomes effective.

(4) A credit institution, financial institution referred to in Section 2(1b) points 5, 6, 10 and 11, and an obliged entity referred to in Section 2(1c), which has a system of internal rules, procedures and controls compliant with the legislation valid to date, the person shall deliver to the Ministry a system of rules, procedures and controls as per Section 21(2) within 60 days after this Act becomes effective.

Section 58

Repealing Provisions

The following are repealed:

1. Act No. 61/1996 Coll., on certain measures against legitimisation of proceeds of crime and on the amendment and supplementation of related laws;
2. Regulation No. 343/2004 Coll., prescribing the format of the form according to Section 5(5) of the Act No. 61/1996 Coll., on certain measures against legitimisation of proceeds of crime and on the amendment and supplementation of related laws;
3. Regulation No. 344/2004 Coll., on compliance with the obligation to report according to Act No. 61/1996 Coll., on certain measures against legitimisation of proceeds of crime and on the amendment and supplementation of related laws;
4. Regulation No. 283/2006 Coll., amending the Regulation No. 344/2004 Coll., on compliance with the obligation to report according to Act No. 61/1996 Coll., on certain measures against legitimisation of proceeds of crime and on the amendment and supplementation of related laws.

Section 59

Effect

The Act becomes effective as of the first day of the second calendar month following the day of its promulgation.

(Published in Part 80 of the Collection of Laws of July 8, 2008; in effect since September 1, 2008)

ANNEX 8

ACT no. 69/2006 Coll.

of February 3, 2005

on Carrying Out of International Sanctions

The Parliament has adopted the following Act of the Czech Republic:

PART ONE
INTRODUCTORY PROVISIONS

Section 1

Purpose

In conjunction with directly applicable legislation of the European Communities[1)], this Act sets forth some obligations of physical and legal persons in carrying out of international sanctions imposed for the purpose of maintaining or restoring international peace and security, protecting fundamental human rights and fighting terrorism. Further, the Act sets forth some obligations of physical and legal persons in carrying out of international sanctions imposed for the purpose of maintaining or restoring international peace and security, protecting fundamental human rights and fighting terrorism by which the Czech Republic is bound in connection with its membership in the United Nations Organization.

Definition of Terms

Section 2

International sanctions under this law are understood to be an order, a prohibition or a restriction imposed for the purpose of maintaining or restoring international peace and security, protecting fundamental human rights and fighting terrorism, provided they stem

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1) For instance: Regulation (EC) No 2580/2001 of 27 December 2001, on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, as amended, Council Regulation (EEC) No 3541/92 of 7 December 1992 prohibiting the satisfying of Iraqi claims with regard to contracts and transactions the performance of which was affected by United Nations Security Council Resolution 661 (1990) and related resolutions, Council Regulation (EC) No 3275/93 of 29 November 1993 prohibiting the satisfying of claims with regard to contracts and transactions the performance of which was affected by the United Nations Security Council Resolution 883 (1993) and related resolutions, Council Decision no. 94/366/CFSP of 13 June 1994 on the Common Position defined by the Council on the basis of Article J.2 of the Treaty on European Union concerning prohibition of the satisfaction of the claims referred to in paragraph 9 of United Nations Security Council Resolution No 757 (1992), Council Regulation (EC) No 1733/94 of 11 July 1994 prohibiting the satisfying of claims with regard to contracts and transactions the performance of which was affected by the United Nations Security Council Resolution 757(1992) and related resolutions, Council Regulation (EC) No 2488/2000 of 10 November 2000 maintaining a freeze of funds in relation to Mr. Milosevic and those persons associated with him, Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, Council Regulation (EC) No 147/2003 of 27 January 2003. concerning certain restrictive measures in respect of Somalia, Council Regulation (EC) No 1210/2003 of 7 July 2003 concerning certain specific restrictions on economic and financial relations with Iraq and repealing Regulation (EC) No 2465/96, Council Regulation (EC) No 1727/2003 of 29 September 2003 concerning certain restrictive measures in respect of the Democratic Republic of Congo, Council Regulation (EC) No 131/2004 of 26 January 2004 concerning certain restrictive measures in respect of Sudan, Council Regulation (EC) No 234/2004. of 10 February 2004 concerning certain restrictive measures in respect of Liberia, Council Regulation (EC) No 314/2004 of 19 February 2004 concerning certain restrictive measures in respect of Zimbabwe, Council Regulation (EC) No 798/2004 of 26 April 2004 renewing the restrictive measures in respect of Burma/Myanmar and repealing Regulation (EC) No.1081/2000, Council Regulation (EC) No 872/2004 of 29 April 2004 concerning further restrictive measures in relation to Liberia.

a) from resolutions of the United Nations Security Council (hereafter „Security Council“) adopted under Article 41 of the Charter of the United Nations,
b) from common positions and joint actions or other measures adopted under the EU Treaty common foreign and security policy provisions, or
c) from directly applicable legislation of the European Communities which implements a common position or a common action adopted under the EU Treaty common foreign and security policy provisions.

Section 3

For the purpose of the Act, the following terms shall have the following meaning:

a) territory subject to international sanctions shall mean a certain territory which is fully or in part controlled by the entity or state which is subject to international sanctions, including air space and territorial waters;
b) entity subject to international sanctions shall mean the person against whom the sanctions set forth in the document under Section 2 are aimed;
c) person subject to international sanction shall mean,
   1. a state which is subject to international sanctions,
   2. a citizen of the state which is subject to international sanctions,
   3. member or representative of an entity which is subject to international sanctions,
   4. another individual who usually sojourns in the territory which is subject to international sanctions except for citizens of the Czech Republic,
   5. a legal person having its registered office in the territory which is subject to international sanctions, or
   6. persons listed on the lists published by the Sanctions Committees of the Security Council or in documents published by EU bodies and referred to in Section 2, Letter b) or c);
d) Czech person shall mean
   1. the Czech Republic,
   2. a citizen of the Czech Republic,
   3. an individual other than the citizen of the Czech Republic who usually resides in the territory of the Czech Republic,
   4. an individual having a permanent or temporary residence status in the territory of the Czech Republic [2)], or
   5. a legal person having its registered office in the territory of the Czech Republic, including the self-governing entities [3)];
e) usually residing in a certain territory shall mean residing in this territory for at least 183 days in one calendar year, either continually or in several periods; the 183-day time period includes all days which were spent in the given territory even in part;
f) assets which are subject to international sanctions shall mean any movable or immovable item owned, held or otherwise controlled by the entity which is subject to international sanctions, by a person who is subject to international sanctions, imported to the territory which is subject to international sanctions or earmarked for export to the territory which is subject to international sanctions;
g) goods shall mean material things, rights and other values, such as money in any form including deposits and receivables from deposits, other means of payment, securities and investment tools, and further any material designated for production of products, products, services, software and technologies and any other movable and immovable items which are subject to trade regardless of the manner and circumstances under which they are obtained;

[2)] Act No. 32/1999 on Residence of Aliens in the Territory of the Czech Republic and on Changes to Some Other Acts, as amended.

[3)] Section 18 of Act No. 40/1964 Coll., the Civil Code, as amended by Act No. 509/1991 Coll.

h) goods subject to international sanctions shall mean goods owned, held or otherwise controlled by an entity or person which is subject to international sanctions;
i) Czech goods shall mean goods owned, held or otherwise controlled by a Czech person;
j) other goods shall mean goods which is not Czech goods or goods subject to international sanctions;
k) means of transportation shall mean means used for transportation of persons, luggage, goods or postal shipments;
l) means of transportation subject to international sanctions shall mean a means of transportation
   1. sailing under the flag of a country subject to international sanctions or matriculated therein,
   2. owned, held or used by an entity subject to international sanctions, or for its benefit or otherwise controlled by it, or
   3. owned, held, used or otherwise controlled by a person subject to international sanctions;
m) Czech means of transportation shall mean a means of transportation
   1. sailing under the flag of the Czech Republic, matriculated, owned, held or used by the Czech Republic or for its benefit or otherwise controlled by it, or
   2. owned, held, used or otherwise controlled by a Czech person;
n) other means of transportation shall mean a means of transportation which is not Czech means of transportation or means of transportation subject to international sanctions;
o) an object of cultural value shall mean
   1. a work of art or an item of cultural value[4)],
   2. cultural monument, national cultural monument or a compound thereof[5)],
   3. museum collection or a collectable piece[6)], or
   4. public cultural production such as theatre, film, audiovisual or variety performance, a concert, dance or a discotheque, circus or variety or such similar shows, exhibition and the like;
p) oversight shall mean factual or legal possibility to control through one's actions the conduct of another person, use of a thing or a course of events at a certain territory.

PART TWO
SCOPE OF SANCTIONS

Section 4

General Provisions

(1) Restrictions or prohibitions set forth in Sections 5 through 8 shall apply in to the extent determined by the government's decree stemming from
a) a resolutions of the Security Council, or
b) a common position, joint action or another measure adopted under the EU Treaty common foreign and security policy provisions.

(2) Restrictions and prohibitions defined in Paragraph 1 may be applied in the area of
a) trade and services,
b) financial transfers, use of other payment means, purchase and sale of securities and investment tools,
c) transportation,
d) communications,
e) technical infrastructure,
f) scientific relations,

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4) Act No. 71/1994 Coll. on the Sale and Export of Items of Cultural Value, as amended.
5) Act No. 20/1987 Coll. on Managements of National Monuments, as amended.
6) Act no. 122/2000 Coll. on the Protection of Museum Collections and on Modifications of some other Acts, as amended.

g) cultural relations, or
h) sports relations.

(3) The government's decree under Paragraph 1 shall, in keeping with Section 3, Letter c), define the scope of persons subject to international sanctions.

Section 5

Trade and Services, Financial Services and Financial Markets

(1) In the area of trade and services, sanctions may consist of restrictions and prohibitions of:
a) imports and purchases of goods subject to international sanctions, its further sale and any other disposition thereof,
b) exports, sales or facilitation of other disposing of Czech goods by an entity subject to international sanctions or to a territory subject to international sanctions,
c) transits of Czech goods through a territory subject to international sanctions or of goods subject to international sanctions through the territory of the Czech Republic,
d) transfers of other goods to the territory subject to international sanctions, or of goods consigned to an entity subject to international sanctions, or to a person subject to international sanctions through the territory of the Czech Republic, or
e) any and all activities which would or may facilitate transactions described under Letters a) through d).

(2) In the area of financial transfers, use of other payment means, purchase and sale of securities and investment tools, sanctions may consist of restrictions and prohibitions on:
a) any type of transaction by a Czech person to benefit an entity subject to international sanctions or a person subject to international sanctions, as well as deals with such persons, including trading in foreign currency,
b) renting out of safety deposit boxes to an entity subject to international sanctions or a person subject to international sanctions, or receiving of goods subject to international sanctions for safe deposit, provided it is reasonably practicable to seek evidence of the fact that the goods is subject to international sanctions,
c) provision of money, investment tools or other securities or financial and economic sources to an entity subject to international sanctions or a person subject to international sanctions,
d) transfers of money, investment tools or other securities to or from an account controlled by an entity subject to international sanctions or a person subject to international sanctions, including payments from cashier's checks, provided it is reasonably practicable to seek evidence thereof,
e) disbursement of interest from deposits in the accounts controlled by an entity subject to international sanctions or a person subject to international sanctions, including disbursement of interest from securities and investment tools,
f) entering into an insurance contract with an entity subject to international sanctions or a person subject to international sanctions, or disbursement of insurance money to such persons, or
g) any and all activities which would or may facilitate transactions described under Letters a) through f).

Section 6

Transportation and Telecommunications

(1) In the area of transportation, sanctions may consist of restrictions and prohibitions of:
a) entry of Czech means of transportation to the territory subject to international sanctions,
b) transit of other means of transportation through the territory of the Czech Republic or exit thereof to the territory subject to international sanctions,
c) crossing of national borders of the Czech Republic by means of transportation subject to international sanctions for the purpose of entering or exiting the Czech Republic,

d) any physical or legal disposing of means of transportation subject to international sanctions and located in the territory of the Czech Republic,
e) provision of Czech means of transportation to an entity subject to international sanctions or a person subject to international sanctions,
f) doing repairs or providing spare parts, components or tools necessary for such repairs or modifications of means of transportation subject to international sanctions, or
g) any and all activities which would or may facilitate transactions described under Letters a) through f).

(2) In the area of telecommunications, sanctions may consist of restrictions and prohibitions of:
a) receiving for shipment or shipping postal cargo to the territories subject to international sanctions, or addressed to an entity subject to international sanctions or a person subject to international sanctions, from or via the territory of the Czech Republic,
b) provision of services of electronic communication for the purpose of connecting with an entity subject to international sanctions or a person subject to international sanctions, or with the territory subject to international sanctions,
c) providing other type of connection with an entity subject to international sanctions or a person subject to international sanctions, or with the territory subject to international sanctions,
d) radio, television or other broadcasting in the territory subject to international sanctions, or
e) any and all activities which would or may facilitate transactions described under Letters a) through d).

Section 7

Technical Infrastructure

In the area of technical infrastructure, sanctions may consist of restrictions and prohibitions of energy and raw-material supplies, supplies of machines or technologies needed for their production from or via the territory of the Czech Republic to an entity subject to international sanctions or a person subject to international sanctions, or to the territory subject to international sanctions.

Section 8

Scientific, Cultural and Sports Relations

(1) In the area of scientific relations, sanctions may consist of restrictions and prohibitions of:
a) participation in scientific or technical research programs or projects which involve both a Czech person and an entity or a person subject to international sanctions; provided the program or project is funded by an entity or person other that those subject to international sanctions the sanction shall be limited to excluding such entity or person from the research,
b) provision of equipment or devices by a Czech person or in the territory of the Czech Republic to an entity or person subject to international sanctions for the purpose of using the same for a research program or project,
c) provision of information about scientific or technical research, programs or projects carried out by a Czech person or about the results thereof to an entity or person subject to international sanctions or at the territory subject to international sanctions, unless such information or results are in the public domain,
d) provision of industrial or intellectual rights to an entity subject to international sanctions or a person subject to international sanctions, or
e) any and all activities which would or may facilitate transactions described under Letters a) through d).

(2) In the area of cultural relations, sanctions may consist of restrictions and prohibitions of:

a) provision of cultural objects by a Czech person or from a Czech territory to an entity or person subject to international sanctions or at the territory subject to international sanctions,
b) receiving of cultural objects by a Czech person or at the Czech territory from an entity or a person subject to international sanctions or at a territory subject to international sanctions, unless the objects are received temporarily for the purpose of saving, protecting or maintaining objects of cultural value which are under immediate threat from an armed conflict or a natural disaster or unless such objects are being returned to a person which is not subject to international sanctions,
c) provision of copyright or other such rights by a Czech person to an entity or a person subject to international sanctions, or for the use at the territory subject to international sanctions, or
d) any and all activities which would or may facilitate transactions described under Letters a) through c).

(3) In the area of sports relations, sanctions may consist of restrictions and prohibitions of:
a) participation of persons or groups representing an entity or a person subject to international sanctions at a sports match or another sports event held in the territory of the Czech Republic or organized by a Czech person,
b) participation of a Czech person or a group representing the Czech Republic at a sports event organized by an entity or a person subject to international sanctions or at the territory subject to international sanctions, or
c) any and all activities which would or may facilitate transactions described under Letters a) or b).

Section 9

Exclusions from Sanctions

(1) The Ministry of Finance (hereafter „Ministry“) may, provided the document defined under Section 2 hereof so permits, grant, in compliance with such a document and to the extent necessary, an exclusion from a prohibition or restriction:
a) for medical services and health care,
b) for humanitarian aid, unless restricted by provisions of a document under Section 2; humanitarian aid is understood to be supplies of foodstuff, clothing, medicine and medical supplies and other humanitarian deliveries necessary for protection of health, saving of lives and dignified housing of civilians and provision of related services, including organization and carrying out of rescue works,
c) for provision of social allowance and government social benefits, retirement, healthcare benefits, unemployment benefits, retraining support and for contributions to social insurance, unemployment insurance and health insurance,
d) for payment of wages, refund of wages, redundancy pay and other payments due under the employment or similar contract,
e) for alimony and child support,
f) for damages due to activities unrelated to international sanctions hereunder and for insurance payments thereto related,
g) for payment of outstanding debt by an entity subject to international sanctions or by a person subject to international sanctions, provided the debt was not incurred by violation of the international sanctions,
h) for payments to an entity subject to international sanctions or to a person subject to international sanctions due and payable on the basis of contracts, agreements or liabilities entered into prior to international sanctions against the entity or the person, provided these payments are made to an account held in the Czech Republic or another country of the European Union, to which account all deposits made are considered to be assets subject to international sanctions, or

i) for another purpose set forth in the document defined in Section 2, Letter c).

(2) The exclusion may be granted upon request or without request. In its decision on the exclusion, the Ministry shall set forth the terms of the exclusion in a manner which would allow for checking of proper application of its terms and which would not mar the international sanctions. In case of a grave violation of such terms, the Ministry shall revoke the exclusion.

PART THREE
DUTIES REGARDING ASSETS WHICH ARE SUBJECT TO INTERNATIONAL SANCTIONS

Section 10

Reporting Duty

(1) Who establishes in a credible manner that he or she has in possession assets which are subject to international sanctions, shall report the same to the Ministry without undue delay.

(2) In the event of a suspicion that a party to a proposed or drafted contract is subject to international sanctions or that the assets which are the object of a contractual relation are or are contemplated to be assets subject to international sanctions but the suspicion may not be reliably verified prior to or in the course of entering into a contract, the reporting duty under Paragraph 1 arises immediately upon execution of the contract.

(3) The report shall be submitted in a written form or delivered orally for the record and in case of danger in delay also electronically or by fax. An electronic transmission is considered to be a written report when signed by a guaranteed electronic signature based on a qualified certificate issued by a licensed provided of electronic services.

Section 11

Disposing of Assets Subject to International Sanctions

(1) Who establishes in a credible manner that he or she has in possession assets which are subject to international sanctions shall not dispose of such assets other than for the purpose of their protection from loss, devaluation, destruction or other damage, unless stipulated otherwise herein. He or she shall refrain from doing so as of the moment he or she has learnt that the assets are considered to be assets subject to international sanctions.

(2) Who has in possession assets which are subject to international sanctions has the right to claim from the government reimbursement of costs incurred in connection with the management and protection of the assets as of the moment of reporting to the Ministry under Section 10. The right to reimbursement of expenses hereunder shall not arise if it should benefit an entity subject to international sanctions or a person subject to international sanctions or persons cooperating with them, close persons or persons connected with them through business or otherwise.

(3) In case of doubt whether the person under Paragraph 1 provides sufficient protection of the assets subject to international sanctions, or if it appears necessary for their proper protection due to, for instance, the expected duration of the international sanctions imposed, the Ministry shall seek release of such assets. Who has in possession assets which are subject to international sanctions shall release such assets to the Ministry or to a person designated by it. Assets not released voluntarily may be forfeited. A written record shall be taken of such release or forfeiture of property which shall contain sufficiently precise description of the assets. A copy of the record shall be given to the person who released the property or from whom it was forfeited and that copy shall serve as a certification that the assets were taken over by the Ministry.

(4) Provisions of Paragraphs 1 through 3 apply to assets subject to the reporting duty under Section 10 Paragraph 1.

(5) The Ministry shall release to a qualified person, or to a person designated in keeping with Letters b) or c), assets which are subject to international sanctions, provided that

a) the person proves that he or she is not a person subject to international sanctions and that he or she is the owner or holder in due course of such assets,
b) that the document under Section 2 stipulates a specific person to whom the assets are to be released, or
c) there is a final judgment of a domestic government body of appropriate jurisdiction, a foreign government body or an international organization whose decision is enforceable in the Czech Republic under international law.

PART FOUR
RIGHTS AND OBLIGATIONS OF THE GOVERNMENT BODIES AND OF THE CZECH NATIONAL BANK

Section 12

Proceedings before the Ministry

(1) Having assessed whether the assets are to be considered assets subject to international sanctions, the Ministry may decide

a) on a restriction or a prohibition of disposing of such assets,
b) on a forfeiture of assets which were not released upon request in keeping with Section 11, Paragraph 3,
c) on taking over of such assets into custody for keeping and subsequent release to the qualified person,
d) on an appointment or removal of an administrator to manage such assets, and on his remuneration,
e) on a sale of the assets or any part thereof under Section 13, Paragraph 3,
f) on an extraordinary use of assets subject to international sanctions or any part thereof in keeping with Section 9 herein or with terms stipulated by directly applicable legislation of the European Communities,
g) on a release of such assets under Section 11, Paragraph 5, or
h) that the assets are not assets subject to international sanctions, provided
    1. it has been proved in a conclusive manner by the owner or qualified holder,
    2. it has been established through an inquiry conducted by the Ministry,
    3. such assets are demonstrably worthless or of minimum value, or
    4. international sanctions against such assets have been lifted.

(2) Within the deadline of 30 days as of the receipt of a report under Section 10, Paragraph 1, the Ministry shall inform the informant, whether the assets are to be considered assets subject to international sanctions, unless a decision has been made within the same deadline under provisions of Paragraph 1, Letters a), b), c), g) or h). The time deadline may be extended in justified cases.

(3) A remonstrance filed against the decision under Paragraph 1 Letters a) through d) does not have a deferring effect. The deferring effect may be excluded regarding the remonstrance filed against the decision under Paragraph 1 Letter e) in case of perishable assets.

(4) The enforceability of a decision against which a remonstrance does not have a deferring effect or against which the deferring effect has been excluded starts as of the day of service of the same to the last party to the proceedings. Parties to the proceedings are the person who motioned for such a decision to be adopted, the person who has in his or her possession the assets subject to

international sanctions, or the person who released the assets or from whom the assets were forfeited. In case of danger in delay, a decision against which a remonstrance does not have a deferring effect or against which the deferring effect has been excluded may be announced orally; in that case the enforceability of the decisions starts upon the oral announcement.

(5) Proceedings in matters covered by this Act are governed by the Rules of Administrative Proceedings, unless provided otherwise herein..

(6) The personnel authorized by the Ministry to act under this law are obliged to prove authority by showing government I.D.

(7) Who has in his or her possession assets which are subject to the inquiry by the Ministry shall provide the Ministry upon request and within a set deadline with any and all information he has about the assets or other circumstances thereto related and about persons who have some relation to the assets or have been involved in disposing of the assets in any manner whatsoever. Upon request of the Ministry, he or she shall produce documents about the assets, persons or other circumstances concerning the assets and shall allow access to it to authorized personnel of the Ministry.

(8) A failure to perform the duty in keeping with Paragraph 7 carries a procedural fine of up to CZK 100 000. The procedural fine may be imposed repeatedly if the duty has not been met after a previous fine. The total of such fines must not exceed the amount of CZK 500 000. The fines represent an income to the state budget.

Section 13

Safe Keeping of Released or Forfeited Assets

(1) Unless provided otherwise hereafter, the safe keeping of the released or forfeited assets is carried out by the Ministry. With respect to such assets, the Ministry is authorized to execute all acts and act in all proceedings in connection with the management of the assets which would be otherwise the right of the owner.

(2) To cover the cost of the safe keeping of the released or forfeited assets, revenues flowing from such assets shall be used in preference; if there are no such revenues and no other solution appears feasible, proceeds from the sale of such assets or any part thereof to the extent necessary shall be used.

(3) If it appears to be necessary, due to existing circumstances and in order to maintain the value of such assets, the Ministry shall decide on the sale of assets subject to international sanctions, or any part thereof; proceeds from such sale are considered to be assets subject to international sanctions.

(4) The Ministry shall keep separate accounts and records in connection with such released or forfeited assets and shall carry out their stock-taking.

(5) In connection with safe keeping of the released or forfeited assets, the Ministry shall duly protect the assets, take proper care of them, manage them in an effective and economical manner, guard them from damage, harm, loss, theft and abuse and it shall make claims for damages in a timely fashion or motion for release of an item of unjustified enrichment, it shall continuously monitor whether debtors pay their dues in a timely fashion and in particular apply and enforce the rights of the owner or creditor or holder of securities, and it shall make sure that such rights shall not be statute-barred and extinct. Further, the Ministry shall not enter into a contract, as a lessor, on the use of such assets for consideration coupled with an agreement on a subsequent transfer of an ownership title to such assets, it shall not enter into an agreement on the sale of an enterprise or its organizational component, use these assets as collateral or encumber immovable assets with an easement, or transfer rights attached to released or forfeited assets as security.

(6) Safe keeping of released or forfeited assets in the form of

a) radioactive material or waste shall be carried out by the Public Agency for Radioactive Waste Management,
b) tobacco products shall be carried out by the Czech Agriculture and Food Inspection Authority or the Czech Trade Inspection,
c) animals or plants shall be carried out by the Ministry of Environment,
d) weapons, ammunition and explosives shall be carried out by the Ministry of Interior.

(7) In dependence on the nature and the extent of items and rights that represent the released or forfeited assets, the Ministry may authorize the Office of the Government Representation in Property Affairs with its management.

(8) In the event the management of the released or forfeited assets cannot be carried out by the Ministry or the body authorized under Paragraph 7, the Ministry shall authorize another government department with the management in dependence on the nature of such assets.

(9) In the event the management of the released or forfeited assets cannot be carried out by the Ministry or the body authorized under Paragraph 7 or the government department under Paragraph 8, then the Ministry may enter into an asset management agreement with an entity experienced in the corresponding type of business. Such agreement must stipulate the consideration for such asset management and must cover liability for damage caused to the assets during its management. Otherwise, the agreement shall be considered null and void.

(10) The Ministry having appointed an administrator under Paragraph 7 or 8 or having signed an agreement under Paragraph 9, the administrator shall acquire the right with respect to the released or forfeited assets to represent the owner in all acts or proceedings in connection with the asset management which would otherwise be the right of the owner. The Ministry may specify the scope of such authorization to carry out owner's rights in its decision or agreement. Obligations and limitations set forth in Paragraph 5 apply to the administrator likewise; the administrator must comply with the instructions issued by the Ministry.

Section 14

Information and Data Gathering

(1) In order to fulfill the purpose of this Act, the Ministry has the right to process information including personal date. Personal data may be processed without the consent of the person concerned, however, taking regard of the duty to protect against unlawful interference with personal and private life.

(2) Public administration bodies including self-governing bodies responsible for carrying out the role of the state administration shall provide to the Ministry upon its request information, including personal data, from their respective information systems. In addition to meeting the purpose of this Act, the Ministry may use the information for the purpose of fighting money-laundering [7)].

(3) In order for the Ministry to perform its authority hereunder, the Ministry of Interior shall provide to the Ministry with remote access to the following information:

a) regarding citizens:
    1. name or names, surname, maiden name,
    2. date of birth,
    3. sex,
    4. place and district of birth, regarding citizens born in a foreign country, place and country of birth,

[7)] Act No. 61/1996 Coll., On Some Measures Against Legalisation of Proceeds from Criminal Activity, as amended.

5. I.D. number given at birth,
6. citizenship or citizenships,
7. address of permanent residence, including previous addresses of permanent residence,
8. date of commencement of permanent residence, or date at which the information about the place of permanent residence was cancelled, or the date of termination of permanent residence in the territory of the Czech Republic,
9. information about limited legal capacity or incapacitation,
10. prohibition of stay, place of prohibition of stay and its duration,
11. I.D. number given at birth of the father, mother, or another statutory representative; in the event that one of the parents or the statutory representative do not have the I.D. number given at birth, then the name or names, surname and date of birth,
12. marital status, date and place of entering into matrimony,
13. I.D. number given at birth of the spouse; in the event that the spouse does not have the I.D. number given at birth, then the name or names of the spouse, surname and date of birth,
14. I.D. number given at birth of a child; in the event that the child is a foreign national and does not have the I.D. number given at birth, then the name or names of the child, surname and date of birth,
15. regarding an adopted child, information about the type of adoption, the former and new name or names of the child, surname, former and new I.D. number given at birth, date and place of birth, I.D. numbers given at birth of the adoptive parents, date of the legal validity of the decision on the adoption or of the decision on the cancellation of the adoption of the child,
16. date, place and district of death, in the event of death outside of the Czech Republic, then date and country of death,
17. the date of death stated in the court ruling pronouncing a person dead;

b) regarding foreign nationals with a residence status in the Czech Republic or foreign nationals with an asylum in the Czech Republic:
1. name or names, surname, maiden name,
2. date of birth,
3. sex,
4. place and country of birth of the foreign national,
5. I.D. number given at birth,
6. citizenship or citizenships,
7. type and address of residence,
8. number and expiration of the residence permit,
9. date of commencement of permanent residence, or date at which the information about the place of permanent residence was cancelled,
10. information about limited legal capacity or incapacitation,
11. administrative expulsion and period for which entry to the Czech Republic is prohibited,
12. marital status, date and place of entering into matrimony
13. I.D. number given at birth of the spouse; in the event that the spouse is a foreign national and does not have the I.D. number given at birth, then the name or names of the spouse, surname and date of birth,
14. I.D. number given at birth of a child provided the child is a resident; in the event that the child is a foreign national and does not have the I.D. number given at birth, then the name or names of the child, surname and date of birth,
15. I.D. number given at birth of the father, mother, or another statutory representative, provided they are residents; in the event that one of the parents or the statutory representative do not have the I.D. number given at birth, then the name or names, surname and date of birth,
16. regarding an adopted child, provided the child is a resident, information about the type of adoption, the former and new name or names of the child, surname, former and new I.D.

number given at birth, date and place of birth, I.D. numbers given at birth of the adoptive parents, date of the legal validity of the decision on the adoption or of the decision on the cancellation of the adoption of the child,

17. expulsion and period for which entry to the Czech Republic is prohibited,
18. date, place and district of death, in the event of death outside of the Czech Republic, then date and country of death,
19. the date of death stated in the court ruling on pronouncing a person dead.

(4) For the period of five years, information identifying the Ministry employee who has requested particular information shall be stored in the information system of the Ministry.

(5) Information gathered in keeping with this Act shall be preserved for the time period necessary to meet its purpose. The Ministry may disclose such information only in keeping with its authorization granted under Section 16 Paragraph 3.

(6) In carrying out its activities and meeting the purpose hereof, the Ministry shall make use of records available under separate legislation regarding money laundering.

(7) The Ministry may store date gathered hereunder in a database and in keeping with terms stipulated by separate legislation[8)]. To that end, the Ministry may combine information gathered hereunder with information available under separate legislation regarding money laundering in a single database. Should it jeopardize the purpose hereof, the Ministry shall not provide upon request in keeping with a special law any information regarding data stored in a database hereunder.

(8) In the event the Ministry has knowledge of facts which support a probable cause to believe that a criminal offence was committed, it shall file a criminal complaint with the police in keeping with the Code of Criminal Procedure, and it shall provide the law-enforcement bodies with all information and evidence it has in connection with the complaint.

(9) In order to meet the purpose of international sanctions, the Ministry shall, in the course of exchanging and obtaining information to the extent stipulated by an international agreement binding on the Czech Republic or on the basis of reciprocity, cooperate with foreign bodies with the same or similar jurisdiction in the area of international sanctions. Provided that the information shall be used solely for the purpose of this Act and provided it will enjoy the same level of protection as herein granted, the Ministry may cooperate also with international organizations..

Section 15

Oversight

(1) Government bodies responsible for the oversight shall oversee also fulfillment of obligations hereunder; if there is no such government body, the oversight shall be carried out by the Ministry. If problems are uncovered in connection with obligations hereunder, then the respective government body shall provide available documentation for punitive proceedings to the Ministry of Industry and Trade in matters that fall under its jurisdiction and to the Ministry in all other matters. The responsible government body shall continue to cooperate with the said ministries in the punitive proceedings.

(2) The Czech National Bank shall oversee the performance hereunder in case of banks, branches of foreign banks and persons who have been issued a foreign-currency license by it; in case problems are uncovered the Czech National Banks shall proceed in keeping with Paragraph 1, second sentence.

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8) Act no. 101/2000 of the Coll., on the Protection of Personal Data and Modifications to Some Laws, as amended.

Section 16

Confidentiality

(1) Employees of the Ministry and of bodies mentioned in Section 15 shall maintain confidentiality regarding actions taken and information gathered hereunder. The confidentiality obligation extends to those who become aware of the information gathered hereunder in connection with inquires carried out by the Ministry.

(2) The confidentiality obligation of persons mentioned in Paragraph 1 does not become extinct upon termination of employment or another relation to the body mentioned in Section 15.

(3) The confidentiality obligation under Paragraphs 1 and 2 cannot be invoked with respect to

a) law enforcement bodies provided they investigate or prosecutes a crime in connection with enforcement of international sanctions or with terrorism or in connection with a reporting duty linked to such a crime,
b) offices of prosecution in carrying out their duties[9)],
c) government bodies responsible for enforcement of control regimes in connection with disclosure of information required for meeting of obligations under separate legislation governing exports and imports of goods and technologies subject to international control regimes,
d) persons conducting oversight in keeping with Section 15,
e) courts hearing civil or administrative cases in connection with claims hereunder,
f) person who could be entitled to make a claim for damages caused hereunder, provided such disclosure is subsequent; in such a case the information disclosed may be limited or its disclosure postponed until such time when the disclosure is not in jeopardy to the purpose of this law,
g) respective foreign body in connection with exchange of information required for the purpose of this law, unless prohibited under separate legislation,
h) intelligence services of the Czech Republic in connection with information required for their mission, or
i) financial arbitrator judging a dispute between a petitioner and an institution under separate legislation.

(4) In the event the Ministry has filed a criminal complaint in keeping with Section 14 Paragraph 8, it may provide information under Paragraph 3, Letters e) or f) only with the consent of the acting law enforcement body.

PART FIVE
ADMINISTRATIVE DELICTS

Section 17

Infractions

(1) An individual has committed an infraction by

a) violating a restriction or prohibition set forth in Sections 5 through 8 herein,
b) violating a restriction or prohibition set forth in directly applicable legislation of the European Communities whereby international sanctions have been imposed in keeping with Section 2, Letter c),
c) failing to meet the reporting duty under Section 10, Paragraph 1,

9) Section 42 Act no. 283/1993 Coll., on State Prosecution, as amended by Act. no. 261/1994 Coll., Section 66 Para. 2 of Act no. 150/2002 Coll., Rules of Administrative Procedure.

d) disposing of assets subject to international sanctions in conflict with provisions of Section 11, Paragraph 1, or
e) violating the confidentiality obligation under Section 16, Paragraph 1.

(2) The infractions under Paragraph 1, Letters a) through c) carry a fine of up to CZK 4 000 000.

(3) The infraction under Paragraph 1, Letter d) carries a fine of up to CZK 500 000, the infraction under Paragraph 1, Letter e) carries a fine of up to CZK 200 000

Section 18

Administrative Delicts of Legal Persons and Self-Employed Individuals

(1) Legal person or a self-employed individual[10)] have committed an administrative delict by

a) violating a restriction or prohibition set forth in Sections 5 through 8 herein,
b) violating a restriction or prohibition set forth in directly applicable legislation of the European Communities whereby international sanctions have been imposed in keeping with Section 2, Letter c),
c) failing to meet the reporting duty under Section 10, Paragraph 1, or
d) disposing of assets subject to international sanctions in conflict with provisions of Section 11, Paragraph 1.

(2) The administrative delicts under Paragraph 1, Letters a) through c) carry a fine of up to CZK 4 000 000 or confiscation of assets.

(3) The administrative delict under Paragraph 1, Letter d) carries a fine of up to CZK 500 000.

(4) Provided the legal person or the self-employed individual obtained, through the administrative delict under Paragraph 1, Letters a) through c), a personal gain or a gain for a third party in excess of CZK 5 000 000, or caused damage in excess of CZK 5 000 000 or other serious consequence, then the fine imposed shall be up to CZK 50 000 000.

Section 19

Confiscation

(1) In connection with an administrative delict under Section 18, assets may be confiscated if they belong to the perpetrator and

a) were used or designated for committing the delict under Section 18, or
b) were obtained through committing of the delict under Section 18 or in exchange for such assets.

(2) Confiscation of assets may be ordered in addition to a fine or singularly if it appears to be a sufficient sanction given the nature of the administrative delict.

(3) Assets must not be confiscated if their value is in sharp disproportion to the nature of the administrative delict..

(4) The assets are confiscated to benefit the state which becomes the legal owner of such assets.

Joint Provisions on Administrative Delicts

Section 20

(1) Legal person shall not be held liable for an administrative delict if it can prove that it exerted reasonable effort to prevent the violation.

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10) Section 2, Paragraph 2 of the Commercial Code, as amended by Act no. 85/2004 Coll.

(2) In assessing the fine for a legal person, the gravity of the administrative delict, in particular the way in which it was committed and its consequences, shall be taken into account as well as the extent, significance and time of jeopardizing the foreign-policy and security interests of the state.

(3) The liability of the legal person becomes statute-barred, provided the administrative body did not commence the proceedings within 3 years of being notified of the same but no later than within 10 years of its commitment.

(4) The liability for conduct in connection with a business activity of a self-employed person,[10)] or in direct relation to it, is governed by the provisions concerning liability of and sanctions against legal persons.

(5) This law governs also administrative delicts committed by a Czech person in a foreign country provided the person violated a restriction or a prohibition imposed by this Act or directly applicable legislation of the European Communities which carry out a common position or a joint action adopted under the EU Treaty common foreign and security policy provisions.

(6) Administrative delicts under this Act shall be heard by the Ministry of Industry and Trade, if the international sanctions which might have been violated by the said administrative delict concern foreign trade with military material or the regime of the European Communities to control exports of dual-use goods and technologies. Other administrative delicts shall be heard by the Ministry.

(7) Fines shall be collected and enforced by the Tax Administration Office having territorial jurisdiction according to a specific legislation. The fines represent revenue for the state budget of the Czech Republic.

(8) In connection with collection and enforcement of fines, the Tax Administration Law shall apply.

Section 21

Except for provisions of Sections 4 through 8, this law shall apply in connection with restrictions and prohibitions set forth in directly applicable legislation of the European Communities which implements a common position or a common action adopted under the EU Treaty common foreign and security policy provisions as of the date of effect of this legislation.

PART SIX
FINAL PROVISIONS

Section 22

(1) This Act is without prejudice to provisions of specific legislation concerning foreign trade with military material or the regime of the European Communities to control exports of dual-use goods and technologies.

(2) This Act is without prejudice to duties and obligations of central government bodies and the Czech National Bank to carry out other responsibilities to which they are obligated within their scope of authorization in connection with international sanctions, or to their duty to act as members of various international bodies. In the event it proves necessary that as a result of such acting or international sanctions a government decree should be issued regarding their authority hereunder, they shall cooperate with the Ministry on its drafting.

Section 23

Authority

(1) The government may issue a decree to specify procedures for fulfilling the EU legislation defined in Section 2 Letter c).

(2) Through an ordinance, the Ministry shall stipulate in detail how the reporting duty should be performed and shall publish a specimen of the government I.D. referred to in Section 12 Paragraph 6.

Section 24

The following regulations shall be revoked:

1. Act no. 48/2000 Coll., on measures regarding the Afghan movement of Taliban.
2. Act no. 98/2000 Coll., on implementation of international sanctions to maintain international peace and security.
3. Act no. 4/2005 Coll., on some measures regarding the Republic of Iraq.
4. Government Decree no. 164/2000 Coll., on measures regarding the Afghan movement of Taliban.
5. Government Decree no. 327/2001 Coll., on additional measures regarding the Afghan movement of Taliban.
6. Government Decree no. 334/2001 Coll., on measures against some individuals of the Federal Republic of Yugoslavia.
7. Government Decree no. 170/2003 Coll., on some measures regarding the Republic of Iraq.

Section 25

Effect

This Act comes into effect as of the first day of the month following the month of its publication.

(Published in the Collection of Laws, Chapter 29, 15 March 2006)

ANNEX 9

552/1991 Coll.

ACT
of the Czech National Council
dated 6 December 1991
governing State Inspection

Amendment: 166/1993 Coll.
Amendment: 148/1998 Coll.
Amendment: 132/2000 Coll.
Amendment: 274/2003 Coll.
Amendment: 392/2005 Coll.
Amendment: 501/2004 Coll.
Amendment: 314/2005 Coll.
Amendment: 230/2006 Coll.
Amendment: 281/2009 Coll.

The Czech National Council has approved the following law:

PART ONE
Fundamental provisions

Section 1

The purpose of this law is to regulate the performance of state inspection in the Czech Republic.

Section 2

For the purpose of this law a state inspection is performed by the following bodies:

a) Cancelled.
b) Ministries and other central bodies of state administration in the extent laid down in the special laws;
c) The local bodies of state administration and municipalities provided that they perform the state administration in the extent laid down in the special laws;
d) Other bodies of state administration within competence of which falls a specialized inspection pursuant to the special regulation, 1) (henceforth referred to only as “the inspection bodies”).
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1) For example, the Act No. 63/1986 Coll. governing the Czech Agricultural and Food Inspection, the Act No. 64/1986 Coll. governing the Czech Trade Inspection, the Act No. 174/1968 Coll. governing State Professional Supervision over the Safety of Work as subsequently amended.

Section 3

1) For the purpose of this law a state inspection means the inspection activity of bodies laid down in Section 2 which is focused on the management of financial and tangible of the Czech Republic and the fulfilment of duties resulting from the generally binding regulation or duties imposed based on this regulation.

2) For the purpose of this law a state inspection does not mean an inspection performed within the reporting line.

Section 4

Courts, the Public Prosecutor's Office and the State Notary's Office, except for their management of financial and tangible means of the Czech Republic, the decision-making activity of the state administration bodies including proceedings preceding them, the performance of competence of the armed safety corps and the corps of correcting facilities performed pursuant to the special regulation are not subject to the inspection performed pursuant to this law.

PART TWO

Cancelled

Section 5

Cancelled

Section 6

Cancelled

Section 7

Cancelled

PART THREE

Fundamental rules of an inspection activity
(the Inspection Order)

Section 8

1) This Inspection Order governs procedures for the performance of an inspection and relationship between the inspection bodies laid down in Section 2 of this law and bodies inspected, legal entities and natural persons (henceforth referred to only as “the persons inspected”) in the course of an inspection performed:

a) Based on own initiative of the inspection bodies;
b) Based on the request of the state bodies authorised to do so by the special laws, 2);
c) In other cases provided that it is laid down in the special law.

2) This Inspection Order is followed by the inspection bodies laid down in Section 2 of this law unless the special regulation sets the different procedure.

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2) For example, the Act No. 141/1961 Coll. on the Criminal Court Proceedings as subsequently amended, the Act No. 60/1965 Coll. on the Public Prosecutor’s Office as subsequently amended.

Section 9

Persons appointed to perform inspection activity

An inspection activity is performed by the officers of the inspection bodies (henceforth referred to only as ”the inspection officers”) based on the written authorisation of these bodies.

Section 10

Exclusion of the inspection officers

1) An inspection must not be performed by those inspection officers who with respect to their relation to persons inspected or the subject matter of the inspection are suspected of being bias.

2) The inspection officer it obliged to announce to his supervising officer any facts indicating him being bias immediately after he learns about them.

3) The persons inspected will announce to the inspecting body facts indicating that the inspection officer is bias immediately after they learn about them.

4) The head of the inspecting body or the staff member appointed by him (henceforth referred to only as “the head of the inspecting body”) will make a decision that the inspection officer is bias without unnecessary delay.

5) Until the decision whether the inspection officer is bias is made, the inspection officer makes only those acts which cannot be deferred.

6) The decision of the head of the inspecting body with respect to bias cannot be separately appealed.

Rights and duties of the inspection officers and the persons inspected

Section 11

In the course of an inspection the inspection officers are authorised as follows:

a) To enter buildings, plants, the land and other areas of persons inspected provided they relate to the subject matter of inspection; habitation is inviolable 3);
b) To require that the persons inspected submit original documentation and other material, data recorded on the memory media of information technology means, their extracts and software source codes and the samples of products or other merchandise (henceforth referred to only as "the documentation") be submitted by deadlines set;
c) To get acquainted with confidential facts provided that the inspection officer shows a certification for the appropriate degree of confidentiality of these facts issued pursuant to the special law.4);
d) Require that the persons inspected provide true and complete information with regard to the inspected and related facts;
e) To secure documentation under justified circumstances; the take over of this documentation must be confirmed in writing to the person inspected and the copies of this documentation have to be left with the person inspected;
f) To require that the persons inspected submit a written report with respect to the removal of insufficiencies identified in the period set;
g) To impose disciplinary penalties in cases laid down in this law;
h) To use the telecommunication devices of the persons inspected in cases when such use is necessary in order to secure an inspection.

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3) Article 12, Paragraphs 1 and 3 of the Charter of Human Rights and Freedoms (the Constitutional Act No. 23/1991 Coll.).
4) Act No. 412/2005 Coll. governing the Protection of Confidential Information.

Section 12

1. In the course of an inspection, the inspection bodies are obliged to determine the actual situation. The inspection officers are obliged to prove the observations of the inspection by the documentation.

2. The inspection officers are further obliged to:
a) Announce to the person inspected the commencement of an inspection and submit an authorisation to perform an inspection;
b) Maintain the rights and interests protected by rights of the persons inspected;
c) Return to the person inspected the documentation taken over when reasons for the take over of the documentation pass away without unnecessary delay;
d) Ensure the proper protection of the original documentation taken over against loss, destruction, damage or misuse;
e) Prepare reports with respect to the results of inspections;
f) Keep confidentiality with respect to all facts which they learned in the course of an inspection and not to misuse this information.

Section 13

The inspection officers may be deprived of their duty to keep confidentiality by the person in the interest of whom they are liable to keep confidentiality or, in case of public interest, the head of the inspecting body. The duty to announce certain facts to the bodies competent pursuant to the special regulation is not affected by this stipulation. 5)

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5) For example, Section 8 No. 141/1961 Coll. governing Criminal Court Proceedings (the Criminal Procedure Code) as subsequently amended.

Section 14

1. The persons inspected are obliged to create basic conditions for the performance of an inspection, namely to provide co-operation relevant to the competence of the inspection officers laid down in Section 11, Letter a) to f) and h) of this law. Natural persons are not obliged pursuant to Section 11, Letter d) of this law where the fulfilment of such obligation could potentially cause the criminal prosecution of them or persons related.6)

2. The persons inspected are obliged to provide material and technical equipment for the performance of an inspection in the extent necessary which corresponds with the nature of their activity and technical equipment.

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6) Section 116 of the Civil Code.

Report

Section 15

1. A report which is prepared with respect to the observations of an inspection includes namely description of observations with the enumeration of insufficiencies and reference to the regulations which were breached.

2. The report includes the designation of the inspecting body and the inspection officers participating in the inspection, the designation of the person inspected, the place and time of an inspection, the subject matter of an inspection, observations, the designation of the documentation and other materials on which the observations are based. The report is signed by two inspection officers who participated in the inspection.

Section 16

1. The inspection officers are obliged to acquaint the persons inspected with the content of the report and provide them with the original report.

2. By signing the report the persons inspected acknowledge that they were acquainted with the content of that report and also that they received that report.

3. Where the person inspected refuses to get acquainted with the inspection observations or to acknowledge that he was acquainted with those observations, then such facts are included in the report.

Section 17

The person inspected may submit in writing justified objections in the period of 5 days from the date when he was acquainted with the report unless the inspection officer sets longer period.

Section 18
Proceedings with respect to the objections of the persons inspected

1. The objections are decided upon by the head of the inspecting body unless it is stipulated otherwise by the law.

2. Inspection officer may decide upon objections only if the objections are fully satisfied; otherwise he submits the objections to the head of the inspecting body within 7 days from the date when they were delivered.

3. It is not possible to appellate the decision on objections.

4. In case that administrative procedure concerning imposing of penalty with inspected person is initiated within three months from delivery of objections inspection officer or head of the inspecting body may decide that objections will be decided within this procedure instead of the procedure according to the Para 1) or 2); in case that administrative body other than inspecting body is competent to administrative proceedings objections may be handed over to this administrative body. If administrative procedure was initiated in direct connection with just some

facts contained in report which can be separated the procedure according sentence one is used only for objections connected with facts to which the administrative procedure was initiated. It is not possible to appellate these decisions.

5. In case of decision according to Para 4) administrative body settle objectives within the reasoning of the decision.

Section 19

Disciplinary penalty

1. The inspecting body may impose a disciplinary penalty of up to CZK 50,000 on a natural person who caused that the inspecting body did not fulfil obligations pursuant to Section 14 of this law can be imposed.

2. The disciplinary penalty can be imposed repeatedly provided that the obligation was not fulfilled in the period set by the inspection officers. The total of such disciplinary penalties must not exceed the amount of CZK 200,000.

3. Disciplinary penalties can be imposed within one month from the date when the obligation was not fulfilled.

4. Disciplinary penalties represent an income to the state budget of the Czech Republic. Disciplinary penalties imposed by the municipality in the role of the inspecting body represent an income of the municipality.

5. Disciplinary penalties are enforced by the body which imposed them.

Section 20

Costs incurred for the inspection

1. Costs incurred by the inspecting body in connection with the performance of an inspection are borne by that inspecting body.

2. Costs incurred by the persons inspected in connection with the performance of an inspection are borne by the persons inspected except for expenses incurred in connection with the application of the entitlement pursuant to Section 11, Letter h) of this law. These costs are borne by the state. The state is responsible for the damage caused to the persons inspected in connection with the performance of an inspection and the state cannot be deprived of this obligation.

3. The entitlement to compensation of costs or damages pursuant to Paragraph 2 can be claimed with the inspecting body within 6 months from the date when they occurred at the latest, otherwise the entitlement expires.

Common provisions

Section 21

Where the inspection is performed simultaneously by several inspection bodies, those inspection bodies are obliged to co-operate with each other and work in the manner allowing the highest possible maintenance of the rights and interests protected by law of the persons inspected.

Section 22

The inspection bodies pass their observations with respect to insufficiencies to the competent bodies which in their competence take measures to improve the situation determined.

Section 23

Upon request, the inspection bodies provide the central bodies of the state administration of the Czech Republic with the results of an inspection. In such case, the officers of these bodies are appropriately subject to the provisions of Section 12, Paragraph 2, Letter f) and Section 13 of this law; they can also be deprived of the duty of confidentiality by the head of the competent central body of the state administration.

Section 24

The inspection bodies announce to the bodies acting in the criminal proceedings any suspicion with respect to the criminal activity detected in the course of an inspection. 5)

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5) For example, Section 8 of the Act No. 141/1961 Coll. governing Criminal Court Proceedings (the Criminal Procedure Code) as subsequently amended.

Section 25

Where the inspection bodies identify in connection with the performance of an inspection the need to alter or cancel valid regulations, they further stimulate the competent state bodies.

Sections 26

Proceedings pursuant to this law, except for Section 18 of this law, are governed by the administrative proceedings 7).

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7) The Act No. 71/1967 Coll. governing the Administrative Proceedings (the Administrative Procedure Code).

PART FOUR

Final provisions

Section 27

Inspections commenced before this law enters into force will be completed pursuant to the regulation valid at the moment when the inspection was commenced provided that the proceedings with respect to the explanations has already been commenced.

Section 28

The following is cancelled:

1. The Act of the Czech National Bank No. 116/1971 Coll. governing the Committees and Commissions of the People's Inspection,
2. Decree of the Government of the Czech Socialistic Republic No. 24/1973 Coll. governing the Commissions of the People's Inspection in the Factories.

Section 29

This law enters into force on 1 January 1992.

Burešová (with her own hand)

Pithart (with his own hand)

ANNEX 10

Provision
of the Czech National Bank

No. 1 of 19 October 2010

on reporting by credit unions to the Czech National Bank

Pursuant to Article 41(2) and (3) of Act No. 6/1993 Coll., on the Czech National Bank, as amended, the Czech National Bank stipulates the following:

Article 1
Subject

This Provision stipulates the content, form, dates and manner of compiling and submitting information and documents (hereinafter referred to as "statements") to the Czech National Bank by savings and loan associations[1] (hereinafter referred to as a "credit union").

Article 2
Definitions

For the purposes of this Provision:

a) "statement" shall mean a structured set of data that have significant material and formal links,
b) "dataset" shall mean a set of data with predefined data structures that are methodologically described, transmitted and processed as a whole by an information system,
c) "methodology" shall mean a formalised description of the content and structure of the datasets assigned to each of the statements with checks of the reported data and the reporting duties appended, as well as other formalised instruments used for such description.

Article 3
Content and time limits for compiling and submitting statements

(1) A credit union shall compile and submit to the Czech National Bank statements, a list of which, with assigned data files, periodicity and submission time limits, is given in Annex 1

[1] Article 1 of Act No. 87/1995 Coll., on Credit Unions and Certain Related Measures and on the Amendment of Czech National Council Act No. 586/1992 Coll., on Income Taxes, as amended, as amended.

hereto. If the last day of a statement submission time limit falls on a Saturday, a Sunday or a public holiday, this day shall be moved to the nearest following working day.

(2) The basic characteristics and content of the individual statements referred to in paragraph 1 are given in Annexes 2 and 3 hereto.

(3) The statements referred to in paragraph 1 shall be compiled by a credit union as of the following dates (hereinafter referred to as the "statement compilation date"):

a) for statements containing data for the actual situation, as of the last calendar day of the reference period (for example, the calendar month, quarter), except for statements DZ (ČNB) 31-01, DZ (ČNB) 76-01 and DZ (ČNB) 80-01,
b) for statements DZ (ČNB) 31-01 and DZ (ČNB) 76-01 containing data for previous years, as of 30 June of the current year and as of the last calendar day of the month within which the relevant event occurred,
c) for statement DZ (ČNB) 80-01, as of 1 January of the current year and as of the date of occurrence of the relevant event during the year,
d) for statements submitted upon request during the year, as of the date stipulated by the Czech National Bank.

(4) The statements referred to in paragraph 1 shall be compiled and submitted by a credit union with data on its business activities, on accounts receivable and other assets, and on liabilities and other funds relating to the credit union's activities in the Czech Republic, as well as to the activities of its organisational units abroad.

(5) Statements DZ (ČNB) 70-04, DZ (ČNB) 71-04, DZ (ČNB) 72-04, DZ (ČNB) 75-04, DZ (ČNB) 76-01, DZ (ČNB) 77-04 and DZ (ČNB) 80-01 for consolidated groups or regulated consolidated groups shall be submitted only by a credit union that is a responsible credit institution in a financial holding entity group or a responsible credit union in a foreign parent credit institution group. Statement DZ (ČNB) 80-01 shall be submitted also by a credit union that is a responsible credit union in a mixed-activity holding entity group. Statement DZ (ČNB) 81-04 shall be submitted only by a credit union that is a responsible credit union in a mixed-activity holding entity group.

Article 4

Commencement and termination of compiling and submitting statements

(1) A credit union that has been granted a new credit union licence[2] (hereinafter referred to as the "licence") shall commence compiling and submitting statements in compliance herewith immediately after it has been entered in the Commercial Register, unless the Czech National Bank stipulates a later date by agreement.

(2) A credit union shall commence or terminate compiling and submitting statements DZ (ČNB) 70-04, DZ (ČNB) 71-04, DZ (ČNB) 72-04, DZ (ČNB) 75-04, DZ (ČNB) 76-01 and DZ (ČNB) 77-04 for regulated consolidated groups or statements DZ (ČNB) 80-01 and DZ (ČNB) 81-04 for consolidated groups immediately after it has become or ceases to be a responsible credit union in a financial holding entity group or a responsible credit union in a

[2] Article 2a of Act No. 87/1995 Coll., as amended.

foreign parent credit institution group or, in the case of statements DZ (ČNB) 80-01 and DZ (ČNB) 81-04, also a responsible credit union in a mixed-activity holding entity group.

(3) A credit union shall terminate compiling and submitting the statements stipulated herein as of the date of termination of its licence.[2]

(4) A credit union that has transferred its assets and liabilities to another credit union shall submit statements pursuant hereto to the full extent and on the dates and in the form stipulated until the date of termination of its licence, unless the Czech National Bank stipulates otherwise by agreement.

Manner of compiling statements

Article 5

(1) A credit union shall compile the statements stipulated herein and submitted to the Czech National Bank according to the methodology issued by the Czech National Bank. A credit union that submits statements using the Czech National Bank's internet application for data collection (Article 7(1)(a)) or using the Czech National Bank's web service for data collection (Article 7(1)(c)) shall compile the statements according to the methodology published by the Czech National Bank in a manner allowing remote access. A credit union submitting statements via the EDI/EDIFACT application (Article 7(1)(b)) shall compile statements according to the methodology transmitted to them by the Czech National Bank in the form of a data message.

(2) Basic methodological information for compiling statement DZ (ČNB)81-04 is given in Annex 3 hereto.

Article 6

(1) A credit union shall compile statements using data from its information system and, where necessary, also from other information sources.

(2) When compiling statements, a credit union shall, commensurately with the nature of the statements, observe special legal rules concerning accounting and the compilation of financial statements[3] or international accounting standards laid down in European Union law (hereinafter referred to as "international accounting standards")[4], unless the methodology (Article 5(1)) stipulates otherwise. For statements DZ (ČNB) 30-12, DZ (ČNB) 31-12, DZ (ČNB) 40-12, DZ (ČNB) 41-12, DZ (ČNB) 75-04, DZ (ČNB) 76-01, DZ (ČNB) 77-04, DZ (ČNB) 80-01 and DZ (ČNB) 81-04 credit unions shall proceed in compliance with the decree on prudential rules for banks, credit unions and investment firms (hereinafter referred to as the "Decree"[5]).

[3] Act No. 563/1991 Coll., on Accounting, as amended, and Decree No. 501/2002 Coll., as amended.
[4] Article 2 of Regulation (EC) No. 1606/2002 of the European Parliament and the Council of 19 July 2002 on the application of international accounting standards.
[5] Decree No. 123/2007 Coll., on prudential rules for banks, credit unions and investment firms, as amended.

(3) A credit union shall include data for its organisational units abroad in data reported for the credit union in the Czech Republic pursuant to Article 3(4) herein in compliance with the applicable legal rules for the accounting area[3] and international accounting standards.[4]

(4) When compiling statements for regulated consolidated groups in accordance with the Decree, a credit union shall use the data consolidation methods laid down in the Decree. Unless the methodology stipulates otherwise, data for regulated consolidated groups shall be reported in compliance with international accounting standards.[4]

(5) Unless the methodology (Article 5(1)) stipulates otherwise, the reported data shall be valued using the methods laid down in the legal rules for the accounting area[3], in international accounting standards[4] and in the Decree.

(6) For the purposes of compiling statements pursuant hereto, a credit union shall convert data expressed in foreign currency into data reported in the Czech currency pursuant to a special legal rule[6] at the foreign exchange market rate declared by the Czech National Bank and valid as of the statement compilation date. For data in currencies for which the Czech National Bank does not declare foreign exchange market rates, a credit union shall use the exchange rates quoted by the reporting credit union as of the statement compilation date or shall proceed in accordance with a special legal rule.[7] In the case of data relating to prudential rules, a credit union may, in accordance with the Decree,[8] use the exchange rates declared by the European Central Bank.

Manner and form of submitting statements

Article 7

(1) A credit union shall transmit statements, except for statement DZ (ČNB) 81-04, to the Czech National Bank in electronic form as a data message[9] in the structure and form of data files that are available via:

a) the Czech National Bank's internet application for collection of data from non-banks (SDNS), which is available in a manner allowing remote access, or
b) the credit union's own application enabling electronic exchange of information (EDI/EDIFACT), or
c) the credit union's own application using the Czech National Bank's web services for data collection (SDNS-WS) for the submission of statements.

(2) A credit union shall furnish data reports transmitted using the applications referred to in Article 1(a) or (c), prior to dispatching them, with the person's secured electronic signature[10] based on a qualified certificate issued by an accredited provider of certification services.[11] The credit union shall determine the person delegated to approve and sign data

[6] Article 24(6) of Act No. 563/1991 Coll., as amended.
[7] Article 60(4) of Decree No. 500/2002 Coll., implementing certain provisions of Act No. 563/1991 Coll., on Accounting, as amended, for accounting units that are entrepreneurs keeping accounts in the system of double-entry bookkeeping, as amended.
[8] Article 53 of Decree No. 123/2007 Coll., as amended.
[9] Article 2(d) of Act No. 227/2000 Coll., on Electronic Signature and on the Amendment of Some Other Laws (the Electronic Signature Act), as amended by Act No. 440/2004 Coll.
[10] Article 2(b) of Act No. 227/2000 Coll., as amended by Act No. 440/2004 Coll.
[11] Article 2(j) of Act No. 227/2000 Coll., as amended by Act No. 440/2004 Coll.

reports pursuant to Article 10. The electronic signature shall express this person's agreement with the data in the submitted statement.

(3) A credit union shall furnish data reports transmitted using the application referred to in Article 1(b), prior to dispatching them, with a security mark based on a certificate issued by the Czech National Bank. The Czech National Bank shall, on request, issue a certificate for the creation of a security mark.

(4) The submitted data reports shall contain the name, surname and contact details of the person delegated to prepare the data of the relevant statement. "Contact details" shall mean contact information for such persons, i.e. telephone number, fax number and e-mail address.

(5) A credit union shall submit Statement DZ (ČNB) 81-04 to the Czech National Bank in electronic form. The basic methodological information for compiling the statement is given in Annex 3 hereto. This statement shall be furnished with the secured electronic signature of a delegated person authorised to act on behalf of the credit union pursuant to Article 10.

Article 8

(1) When submitting statements, a credit union shall be responsible for compliance of the reported data with the methodology referred to in Article 5(1) and with the true situation.

(2) After checks have been made and the statement has been received by the information service of the Czech National Bank, the Czech National Bank shall perform a check of observance of logical links and the occurrence of other discrepancies. Should there be any reasonable doubts concerning the accuracy or completeness of the statement data values arising from the outcome of this check, the Czech National Bank may ask the credit union to explain the reported data and/or to send a correction.[12]

(3) Should a credit union subsequently find that data given in a statement received by the Czech National Bank are not correct, it shall make corrections to the data of the said statement and, where necessary, to the data of related statements and shall submit these corrected statements to the Czech National Bank in the manner laid down in Article 7.

Article 9

(1) Where, on the basis of an audit of the financial statements by an auditor of a credit union, changes are made to data reported in statements compiled as of 31 December, the credit union shall submit in the manner stipulated in Article 7 a correction of all the statements concerned pursuant to Article 3(1) within 30 calendar days following the making of the corresponding changes in its accounts. The same procedure shall be followed in respect of consolidated statements where changes are made to data on the basis of an audit of the financial statements by auditors of other entities included in a regulated consolidated group or a mixed-activity holding company group. In such case, the responsible credit union shall, in accordance with the Decree[13], correct and resubmit the statements in the manner laid down in Article 7 with an aggregate adjustment after an audit has been conducted in all other entities

[12] Article 41(5) of Act No. 6/1993 Coll., on the Czech National Bank, as amended.
[13] Article 5 and Article 214(a) of Decree No. 123/2007 Coll., as amended.

included in the regulated consolidated group. The credit union shall inform the Czech National Bank about the changes made by means of a commentary.

(2) Where, because of post-audit changes to the data, the data in another statement or other statements as of subsequent time periods have been affected, a credit union shall revise and send all these related statements in the manner laid down in Article 7.

Article 10

Delegated persons

(1) Where statements are compiled and submitted to the Czech National Bank using the application referred to in Article 7(1)(a) or (c), a credit union shall delegate the preparation, signing and transmission of data reports to the Czech National Bank within the meaning of Article 7 to at least two persons (hereinafter referred to as "delegated persons").

(2) The credit union shall provide the following details to the Czech National Bank:
a) the name and surname of the delegated person,
b) the workplace address, telephone and fax numbers and e-mail address of the delegated person,
c) the number of the qualified certificate, including the name and identification number of the provider of certification services that issued it,
d) the requested role of the delegated person in the internet application for data collection (SDNS).

(3) Should the delegated persons' details change, the credit union shall inform the Czech National Bank about these changes.

Article 11

Additional information to submitted statements

(1) In relation to the reporting of exposure in statements DZ (ČNB) 40-12 and DZ (ČNB) 77-04, a credit union shall submit to the Czech National Bank in electronic form for each quarter a list of all cases of exceeding the exposure limits laid down in the Decree[14] which occurred during the past quarter, aggregated for the investment and trading portfolio. In the list, the credit union shall give the name of the person or the group of connected persons concerned, the amount by which the relevant limits were exceeded, and the reason for exceeding them. The credit union shall send the list to the Czech National Bank by the fifteenth calendar day of the month following the end of the quarter;

(2) Information submitted by a credit union in compliance with the notification duty laid down in the Decree[15] which does not form part of statement DZ (ČNB) 80-01 shall be sent to the Czech National Bank by the credit union in electronic form within the same time limit as that for submitting this statement. The structure and content of the additional information are given in Annex 4 hereto.

[14] Article 221a of Decree No. 123/2007 Coll., as amended.
[15] Article 214(a) of Decree No. 123/2007 Coll., as amended.

Article 12

Repealing Provisions

The following regulations are hereby repealed:

(1) Provision of the Czech National Bank No. 3 of 25 June 2007, stipulating the submitting of statements by credit unions to the Czech National Bank;
(2) Provision of the Czech National Bank No. 8 of 13 December 2007, amending Provision No. 3 of 25 June 2007, stipulating the submitting of statements by credit unions to the Czech National Bank;
(3) Provision of the Czech National Bank No. 1 of 11 November 2008, amending Provision No. 3 of 25 June 2007, stipulating the submitting of statements by credit unions to the Czech National Bank, as amended by Provision of the Czech National Bank No. 8 of 13 December 2007, amending Provision No. 3 of June 25 of 2007, stipulating the submitting of statements by credit unions to the Czech National Bank.

Article 13

Effect

This Provision shall take effect on 1 January 2011.

Governor

Miroslav Singer

Annexes 1–4

Financial Market Regulation and Analyses Department
Responsible employee:
Nataša Žulavská, tel. 224,412,719

Annex 1 to Provision of the Czech National Bank No. …of ……. 2010

List and time limits for submitting statements by credit unions

Statement code	Dataset	Statement – dataset name	Frequency	Time limits for submitting
DZ (ČNB) 10-12	ROZAS10	Monthly balance sheet of the credit union	Monthly	By the 29th calendar day of the following month; for the December statement, by 10 February of the following year
			Non-regular	Upon request during the year
DZ (ČNB) 11-12	ROZAS11	Additional information to the financial statements of the credit union	Monthly	By the 29th calendar day of the following month; for the December statement, by 10 February of the following year
			Non-regular	Upon request during the year
DZ (ČNB) 20-12	VYZAS20	Monthly profit and loss account of the credit union	Monthly	By the 29th calendar day of the following month; for the December statement, by 10 February of the following year
			Non-regular	Upon request during the year
DZ (ČNB) 30-12	DOZAS30	Report on the capital adequacy of the credit union	Monthly	By the 29th calendar day of the following month; for the December statement, by 10 February of the following year
			Non-regular	Upon request during the year
DZ (ČNB) 31-01	DOZAS31	Additional information for determining the capital requirement for operational risk of the credit union	Yearly	By 29 July (as of 30 June)
			Non-regular	By the 29th calendar day following the reference event
DZ (ČNB) 40-12	DOZAS40	Report on the exposure of the credit union	Monthly	By the 29th calendar day of the following month; for the December statement, by 10 February of the following year
			Non-regular	Upon request during the year
DZ (ČNB) 41-12	DOZAS41	Report on categorisation of receivables of the credit union	Monthly	By the 29th calendar day of the following month; for the December statement, by 10 February of the following year
			Non-regular	Upon request during the year
DZ (ČNB) 42-12	DOZAS42	Report on the liquidity of the credit union by residual maturity	Monthly	By the 29th calendar day of the following month; for the December statement, by 10 February of the following

				year
			Non-regular	Upon request during the year
DZ (ČNB) 43-04	DOZAS43	Report on the concentration of loans and deposits of the credit union	Quarterly	By the 29th calendar day of the month following the end of the quarter; for the December statement, by 10 February of the following year
DZ (ČNB) 50-04	DOZAS50	Report on the organisational structure of the credit union	Quarterly	By the 15th calendar day of the month following the end of the quarter
DZ (ČNB) 70-04	KOZAS70	Quarterly balance sheet of the regulated consolidated group of which the credit union is a member	Quarterly	By the 35th calendar day of the following quarter; for the Q4 statement, by 25 March of the following year
			Non-regular	Upon request during the year
DZ (ČNB) 71-04	KOZAS71	Additional information to the financial statements of the regulated consolidated group of which the credit union is a member	Quarterly	By the 35th calendar day of the following quarter; for the Q4 statement, by 25 March of the following year
			Non-regular	Upon request during the year
DZ (ČNB) 72-04	KOZAS72	Quarterly profit and loss account of the regulated consolidated group of which the credit union is a member	Quarterly	By the 35th calendar day of the following quarter; for the Q4 statement, by 25 March of the following year
			Non-regular	Upon request during the year
DZ (ČNB) 75-04	KOZAS75	Report on the capital adequacy of the regulated consolidated group of which the credit union is a member	Quarterly	By the 35th calendar day of the following quarter; for the Q4 statement, by 25 March of the following year
			Non-regular	Upon request during the year
DZ (ČNB) 76-01	KOZAS76	Additional information for determining the capital requirement for operational risk	Yearly	By 5 August (as of 30 June)
			Non-regular	By the 35th calendar day after the reference event
DZ (ČNB) 77-04	KOZAS77	Report on the exposure of the regulated consolidated group of which the credit union is a member	Quarterly	By the 35th calendar day of the following quarter; for the Q4 statement, by 25 March of the following year
			Non-regular	Upon request during the year
DZ (ČNB) 80-01	KOZAS80	Report on the structure of the consolidated group of which the credit union is a member	Yearly	By 31 January of the current year (as of 1 January)
			Non-regular	During the year, immediately after the reference event
DZ (ČNB) 81-04	KOZAS81	Report of the credit union on intra-group operations (mixed-activity holding entity)	Quarterly	By the 35th calendar day of the following quarter; for the Q4 statement, by 25 March of the following year

Basic characteristics and content of statements submitted using the data collection application

1. DZ (ČNB) 10-12 Monthly balance sheet of the credit union

The basic balance sheet of the reporting entity contains data on the credit union's economic situation on an individual basis, broken down by portfolio in relation to the valuation method, namely on assets, liabilities and equity in the basic breakdown derived from international accounting standards, granted undrawn facilities, guarantees, receivables from derivatives and received undrawn facilities, guarantees, liabilities from derivatives and similar items. Data on assets are given at gross book value (i.e. items designated at fair value are given at this fair value and items measured at amortised cost or acquisition price are given at the value not adjusted for allowances and accumulated depreciation) and net book value (i.e. items designated at fair value are given at this fair value and items measured at amortised cost or acquisition price are given at the value adjusted for allowances and accumulated depreciation). Allowances and accumulated depreciation are given separately.

2. DZ (ČNB) 11-12 Additional information to the financial statements of the credit union

This statement contains additional information on the main financial statements, i.e. the balance sheet and the profit and loss account, pertaining to receivables and selected financial liabilities broken down by sector and maturity, receivables and payables not broken down by sector, debt securities issued, debt securities held broken down by issuer sector, capital instruments held, financial assets broken down by sector and manner of impairment (due to credit risk), the amount, creation and use of allowances, the structure of interest income and interest expenses broken down by sector, and the amount of insured receivables from client deposits (pursuant to Article 14 of Act No. 87/1995 Coll., as amended).

3. DZ (ČNB) 20-12 Monthly profit and loss account of the credit union

The profit and loss account contains an overview of revenue, expenses, profit, loss and book profit or loss from the start of the calendar year to the end of the period under review. Revenue and expenses items are broken down by type of revenue or expenses.

4. DZ (ČNB) 30-12 Report on the capital adequacy of the credit union

This statement contains information pursuant to Decree No. 123/2007 Coll., on prudential rules for banks, credit unions and investment firms, as amended (hereinafter the "Decree"). This information relates chiefly to the structure of capital, overview of capital requirements by risk type and method of calculation, calculation of capital adequacy and other additional items. Information characterising the method of calculation of capital requirements for credit risk by type and category of exposure is also reported.

5. DZ (ČNB) 31-01 Additional data for determining the capital requirement for operational risk of the credit union

This statement contains the values of the relevant and alternative indicators for determining the capital requirement for operational risk using the basic indicator approach (BIA), the standardised approach (TSA) or the alternative standardised approach (ASA), in relation to part four, heading IV, section 4 of the Decree.

6. DZ (ČNB) 40-12 Report on the exposure of the credit union

This statement contains an overview of the exposures of the credit union on an individual basis pursuant to the Decree whose total for the investment and trading portfolios exceeds 10% of capital for the calculation of the reporting entity's exposure for individual persons and groups of connected persons. The statement also lists exposures for individual persons from the group of connected persons. Submission of exposures excluded from the limits laid down in Article 181 of the Decree is also required. The following is mainly reported: data identifying and classifying individual persons, the value of the exposures before any adjustments (in a detailed breakdown) and at book value, security (personal, by assets and by property), exposures after accounting for security and excluding selected exposures from the exposure limits, and the ratios of exposure value to capital.

7. DZ (ČNB) 41-12 Report on categorisation of receivables of the credit union

This statement contains basic information on the categorisation of selected exposures (receivables) from financial activities of the investment portfolio by debtor default vis-à-vis financial corporations (excluding central banks) and persons other than credit institutions (including general government). The report is based on part six, heading II of the Decree.

8. DZ (ČNB) 42-12 Report on the liquidity of the credit union by residual maturity

This statement contains information on the basic structure of assets broken down into standard, watch and default receivables, payables, selected off-balance sheet items and the net and cumulative balance sheet position by time band of residual maturity. The data are given at net book value, i.e. items designated at fair value are given at this fair value and items measured at amortised cost or acquisition price are given at the value adjusted for allowances and accumulated depreciation.

9. DZ (ČNB) 43-04 Report on the concentration of loans and deposits of the credit union

This statement contains information on the total amount of receivables and payables vis-à-vis the 15 largest credit institutions and the 15 largest non-credit institutions (i.e. general government and other clients). The data are given at the value before impairment (i.e. items designated at fair value are given at the fair value gross of the cumulative losses from impairment due to credit risk and items measured at amortised cost are given at the value gross of allowances).

10. DZ (ČNB) 50-04 Report on the organisational structure of the credit union

The statement includes basic identification and classification information on the credit union, on the number of its employees and organisational units, basic identification information on foreign branches, identification and classification information on elected bodies (the statutory body, the control committee and the credit committee), managers, contact persons and membership base. It also includes an overview of all members of the credit union whose share in the equity capital of the credit union exceeds 5% and information on qualifying holdings in the credit union and on the membership of the credit union's representatives in other legal entities.

11. DZ (ČNB) 70-04 Quarterly balance sheet of the regulated consolidated group of which the credit union is a member

This statement contains information on the economic situation of the regulated consolidated group of which the credit union is a member, where the credit union is also required to form a regulated consolidated group under Article 5(2)(b) of the Decree, broken down by portfolio in relation to the valuation method, namely on assets, liabilities and equity in the basic breakdown derived from international accounting standards, granted undrawn facilities, guarantees, receivables from derivatives and received undrawn facilities, guarantees, liabilities from derivatives and similar items. Data on assets are given at gross book value (i.e. items designated at fair value are given at this fair value and items measured at amortised cost or acquisition price are given at the value not adjusted for allowances and accumulated depreciation) and net book value (i.e. items designated at fair value are given at this fair value and items measured at amortised cost or acquisition price are given at the value adjusted for allowances and accumulated depreciation). Allowances and accumulated depreciation are given separately.

12. DZ (ČNB) 71-04 Additional information to the financial statements of the regulated consolidated group of which the credit union is a member

This statement contains additional information on the main financial statements, i.e. the balance sheet and the profit and loss account, of the regulated consolidated group of which the credit union is a member, where the credit union is also required to form a regulated consolidated group under Article 5(2)(b) of the Decree. This information pertains to receivables and selected financial liabilities broken down by sector and maturity, receivables and payables not broken down by sector, debt securities issued, debt securities held broken down by issuer sector, capital instruments held, financial assets broken down by sector and manner of impairment (due to credit risk), the amount, creation and use of allowances, and the structure of interest income and interest expenses broken down by sector.

13. DZ (ČNB) 72-04 Quarterly profit and loss account of the regulated consolidated group of which the credit union is a member

The profit and loss account of the regulated consolidated group of which the credit union is a member, where the credit union is also required to form a regulated consolidated group under Article 5(2)(b) of the Decree, contains an overview of revenue, expenses and profit or loss of the regulated consolidated group from the start of the calendar year to the end of the period under review. Revenue and expenses items are broken down by type of revenue or expenses.

14. DZ (ČNB) 75-04 Report on the capital adequacy of the regulated consolidated group of which the credit union is a member

This statement contains information on the capital adequacy of the regulated consolidated group of which the credit union is a member, where the credit union is also required to form a regulated consolidated group under Article 5(2)(b). This information relates chiefly to the structure of capital, overview of capital requirements by risk type and method of calculation, calculation of capital adequacy and other additional items. Information characterising the method of calculation of capital requirements for credit risk by type and category of exposure is also reported.

15. DZ (ČNB) 76-01 Additional information for determining the capital requirement for operational risk

This statement contains the values of the relevant and alternative indicators for determining the capital requirement for operational risk using the basic indicator on a consolidated basis for the regulated consolidated group of which the credit union is a member, where the credit union is also required to form a regulated consolidated group under Article 5(2)(b) of the Decree, using the basic indicator approach (BIA), the standardised approach (TSA) or the alternative standardised approach (ASA), in relation to part four, heading IV, section 4 of the Decree.

16. DZ (ČNB) 77-04 Report on the exposure of the regulated consolidated group of which the credit union is a member

This statement contains an overview of the exposures of the regulated consolidated group of which the credit union is a member, where the credit union is also required to form a regulated consolidated group under Article 5(2)(b) of the Decree, whose total for the investment and trading portfolios exceeds 10% of capital for the calculation of the reporting entity's exposure for individual persons and groups of connected persons. The statement also lists exposures for individual persons from the group of connected persons. Submission of exposures excluded from the limits laid down in Article 181 of the Decree is also required. The following is mainly reported: data identifying and classifying individual persons, the value of the exposures before any adjustments (in a detailed breakdown) and at book value, security (personal, by assets and by property), exposures after accounting for security and excluding selected exposures from the exposure limits, and the ratios of exposure value to capital. For reporting entities that use the IRB approach to calculate the capital requirement for credit risk, the report on a consolidated basis must contain at least 20 large exposures, or the 20 largest exposures.

17. DZ (ČNB) 80-04 Report on the structure of the regulated consolidated group of which the credit union is a member

This statement contains the information duties stipulated in part eight, Articles 214 and 215 of the Decree, and Annex 31 thereto. They pertain to basic identification and classification information on parent undertakings, subsidiaries, affiliates and joint ventures (above all basic data, equity capital, basic identification and classification information on the members of statutory, supervisory and other control bodies, qualifying holdings of parent undertakings in subsidiaries and affiliates, qualifying holdings in parent undertakings and qualifying holdings of other entities (except parent undertakings) in subsidiaries and joint ventures, inclusion in the regulated consolidated group and methods of consolidation). The information duties that are not part of this statement[1)] shall be sent by the credit union to the Czech National Bank in parallel with the submission of this statement.

[1)] See Annex 4 to this Provision.

Annex 3 to Provision of the Czech National Bank No. … of … 2010

Basic characteristics and content of statement DZ (ČNB) 81-04 Report of the credit union on intra-group operations (mixed-activity holding entity)

The report contains an overview of selected operations, i.e. transactions, services and other agreements between the credit union on the one hand and the mixed-activity holding entity or its subsidiaries on the other hand (hereinafter referred to as the "partner"), including guarantees provided and accepted and other off-balance-sheet transactions. The report captures the transactions concluded in the reporting period.

For each monitored transaction, at least the following shall be given:

- the total value of the transaction (in the negotiated currency and in CZK, or converted into CZK);
- the identification number (identification number/national identification number), name and registered office/address of the partner with which the credit union performed the transaction in question;
- the transaction type, based on the intra-group transaction classification, into which the given intra-group transaction falls;
- an indication of whether or not the transaction is significant.

An intra-group transaction shall be treated as significant if it exceeds 5% of the sum of the capital requirements determined on an individual basis by the credit union in the mixed-activity holding entity group[1)]. If there are less than five significant transactions under a given type, the five transactions with the highest value shall be given (provided that they occur in the given type and reporting period). For the purposes of the report, transactions concluded with the same partner in the same currency and of the same nature shall be treated as a single transaction – for instance three loans extended to the same partner shall be treated as a single loan.

The report also includes more detailed information about the reported transactions and the partners with which the credit union has concluded the reported transactions. The credit union shall also state whether and how it subdivides intra-group transactions within the individual transaction types.

The above-mentioned transaction type expresses the nature of the transaction, service or other agreement concluded between the credit union and the partner participating in the given transaction. To include a reported transaction in the relevant type, the credit union shall use the following classification:

Type 1 – transactions resulting in capital links between entities in the mixed-activity holding entity group, in particular the reporting entity's monetary or non-monetary contributions to the capital, reserve or capital funds, and the subordinated claims of the reporting entity;

Type 2 – transactions made as a result of capital links between entities in the mixed-activity holding entity group, in particular transfers of all or part of profit and transfers from the distribution of other own funds;

[1)] Article 28 of Decree No. 123/2007 Coll., as amended.

Type 3 – transactions in financial instruments, in particular securities transactions, derivatives trades, loans and deposits;

Type 4 – off-balance-sheet transactions, in particular credit commitments, insurance and reinsurance, guarantees and security;

Type 5 – services, in particular services in the fields of risk management, liquidity management, transaction settlement, asset administration, asset management and advice;

Type 6 – breach of a contractual obligation or a statutory duty to the partner;

Type 7 – performance vis-à-vis the partner which is performance without a legal cause (performance arising from an invalid legal act or performance arising from a legal cause which has disappeared) or performance of an obligation which was to be rightly performed by another entity in the mixed-activity holding entity group;

Type 8 – transactions other than those listed under Types 1 to 7.

The statement shall be completed by the credit union that is the responsible credit union in the mixed-activity holding entity group.

Annex 4 to Provision of the Czech National Bank No. ...of …2010

Additional information submitted to statement DZ (ČNB) 80-01 Report on the structure of the consolidated group of which the credit union is a member

In accordance with Article 11, the credit union shall submit the following additional textual and graphical information for Statement DZ (ČNB) 80-01 submitted for consolidated groups:

1. textual information about the parent undertaking, i.e. the parent bank, foreign parent bank, financial holding entity or mixed-activity holding entity:
   a) the object of business (activities) entered in the Commercial Register;
   b) a list of the activities it actually carries on;

2. textual information about subsidiaries:
   a) the object of business (activities) entered in the Commercial Register;
   b) a list of the activities they actually carry on;
   c) a list of the services the subsidiary provides to the parent bank, foreign parent bank, financial holding entity or mixed-activity holding entity;
   d) a list of the services the subsidiary provides to other entities in the consolidated group (not applicable to a mixed-activity holding entity group);
   e) a list of the services provided by the parent bank, foreign parent bank, financial holding entity or mixed-activity holding entity to the subsidiary (not applicable to a mixed-activity holding entity group);

3. textual information about affiliates:
   a) the object of business (activities) entered in the Commercial Register;
   b) a list of the activities they actually carry on;
   c) a list of the services the affiliate provides to the parent bank, foreign parent bank, financial holding entity or mixed-activity holding entity;
   d) a list of the services the affiliate provides to other entities in the consolidated group (not applicable to a mixed-activity holding entity group);
   e) a list of the services provided by the parent bank, foreign parent bank, financial holding entity or mixed-activity holding entity to the affiliate (not applicable to a mixed-activity holding entity group);

4. an ownership diagram of the consolidated group showing the entities included in the regulated consolidated group;

5. a management diagram of the consolidated group showing the entities included in the regulated consolidated group.

ANNEX 11

DECREE

No. 233/2009 Coll.

of 21 July 2009

on Applications, Approval of Persons and the Manner of Proving Professional Qualifications, Trustworthiness and Experience of Persons, and on the Minimum Amount of Funds to be Provided by a Foreign Bank to its Branch

Pursuant to Section 4 (1), Section 5 (5), Section 20 (4) and Section 26 (g)(6) of Act No. 21/1992 Coll., on Banks, as amended (hereinafter the "Act on Banks"), pursuant to Section 2 (a)(1) and (9), Section 2 (b)(4) and Section 25 (f)(8) of Act No. 87/1995 Coll., on Savings and Loan Associations and Certain Related Measures and on the Amendment to Act No. 586/1992 Coll. of the Czech National Council, on Income Taxes, as amended, as amended (hereinafter the "Act on Savings and Loan Associations"), and pursuant to Section 199 (2) of Act No. 256/2004 Coll., on Undertaking on the Capital Market, as amended by Act No. 230/2009 Coll., the Czech National Bank stipulates the following to implement Section 7 (2), Section 10 (4), Section 10 (d)(4), Section 19 (2), Section 20 (2), Section 28 (3), Section 30 (6), Section 32 (c)(8), Section 38 (2), Section 39 (5), Section 43 (4), Section 45 (2), Section 46 (2), Section 47 (1), Section 83 (4), Section 85 (2), Section 103 (3), Section 104 (a)(1), Section 106 (2), Section 107 (2), Section 155 (a)(2) and Section 198 (3) of Act No. 256/2004 Coll., on Undertaking on the Capital Market, as amended (hereinafter the "Act on Undertaking on the Capital Market"):

PART ONE

GENERAL PROVISIONS

Section 1

Subject of Regulation

(1) This Decree stipulates the essential elements of applications and specimens of application forms and the contents of their annexes, provided that an applicant applies for

a) a banking licence for a bank having its registered office in the Czech Republic (hereinafter the "licence for a bank");
b) a banking licence for a foreign bank that intends to establish a branch in the territory of the Czech Republic (hereinafter the "licence for a branch");
c) an authorization to establish and operate a savings and loan association (hereinafter the "authorization for a cooperative savings association");
d) an authorization to perform the activities of an investment firm;
e) an authorization to perform the activities of an operator of a regulated market;
f) an authorization to operate a settlement system;
g) an authorization to perform the activities of a central depository;
h) an authorization to provide investment services through a branch of a foreign entity having its registered office in a country that is not a Member State of the European Union or that is not a Member State of the European Economic Area (hereinafter the "Member State");

i) a prior consent to perform the duties of a senior officer pursuant to the Act on Undertaking on the Capital Market;
j) a consent to acquisition of or increase in a qualified holding in a regulated legal entity that is a bank, a cooperative savings association, an investment firm, a regulated market operator or a central depository (hereinafter the "regulated legal entity"), or a consent to control such entities;
k) an authorization to transform a company[1)] or to make an agreement on transfer, pledge or lease of a company's enterprise;
l) registration of an investment intermediary;
m) entry in the list of tied agents;
n) entry in the list of liquidators and receivers; and
o) registration of further business activities.

(2) Further, this Decree stipulates

a) the supporting documents proving the trustworthiness and experience of persons in executive managerial positions in a financial holding entity that comprises a bank or a cooperative savings association; and
b) the documents and their annexes to prove the professional qualifications and trustworthiness of persons elected as members of the board of directors, supervisory and credit committee, and of other persons proposed for executive managerial positions in a cooperative savings association.

(3) Further, this Decree stipulates the minimum amount of funds to be provided by a foreign bank having its registered office outside the territory of a Member State to its branch established in the Czech Republic.

Section 2

Definition of Terms

For the purposes of this Decree, the following definitions shall apply:

a) document on a business licence means
   1. for a legal entity and for a natural person operating a business who is registered in the Commercial Register, an extract from the Commercial Register that contains the data registered in the Commercial Register as at the date of lodging the relevant application, including any motion for entry in the Commercial Register that has not been resolved by the day of lodging the application, or information on such a motion;
   2. for a legal entity that is not registered in the Commercial Register, a document attesting to its existence and a document attesting to its business licence, if granted;
   3. for a natural person operating a business who is not registered in the Commercial register, the relevant business licence;
   4. for a foreign legal entity, a document attesting to its business licence, if granted; a public deed attesting, as a minimum, to the existence of the legal entity and information on its registration, legal form and name; provided that these deeds do not contain information

[1)] Act No. 125/2008 Coll., on Transformations of Business Companies and Cooperatives.

on the registered office address, statutory bodies or the manner of acting of the foreign legal entity, such information shall be provided in some other demonstrable manner; and

5. for a foreign natural person operating a business, a document attesting to its business licence or other similar document;

b) financial statements mean

1. the annual reports and financial statements either for the last 3 accounting periods or for the period during which the applicant has been carrying on business, if the latter period is shorter than 3 accounting periods; provided that the applicant is part of a consolidated group, the consolidated annual reports and financial statements for the same period shall also be submitted; provided that, pursuant to some other legal regulation[2)], the financial statements must be verified by an auditor, the audited financial statements shall be submitted;
2. documents similar to the documents described in subparagraph 1 above, provided that a foreign legal entity or a foreign natural person operating a business is concerned; and
3. documents on the income earned for the last 3 years, assets and liabilities, provided that a natural person is concerned;

c) document on having no criminal record means a document, not more than 3 months old, similar to an extract from the Criminal Register[3)], issued by a foreign country of which the natural person is a national, as well as by a foreign country where the natural person has resided for a period of more than 6 consecutive months during the last 3 years;

d) information on closely related persons[4)] means a list of persons that are closely related to the applicant, a description of the group's structure and the manner of relatedness, including a graphic representation of relations among the individual closely related persons, including an indication of whether the laws of the country in the territory of which the group has close relations do not impede the performance of supervision by the Czech National Bank; for persons closely related to the applicant, it shall also be specified the firm or corporate name, identification number or date of incorporation and the registered office, provided that a legal entity is concerned; or the first name(s) and surname, birth number or, as the case may be, the date of birth and address of permanent residence or of the point of business, provided that a natural person is concerned; and also the lines of business of the individual closely related persons;

e) business plan means a business plan for the first 3 years of activities of a regulated legal entity to the extent of the data contained in the financial statements pursuant to some other legal regulation[2)], along with comments on its individual items containing, in particular, the fundamental assumptions that the business plan is based on;

f) original counterpart means the original copy of a deed or an officially verified copy of a deed;

g) strategic plan means the plan of the applicant who applies for a consent to acquisition of or increase in a qualified holding in a regulated legal entity, or for a consent to control the same, as regards

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2) Act No. 563/1991 Coll., on Accounting, as amended.

3) Act No. 269/1994 Coll., on the Criminal Register, as amended.

4) Section 4 (6) of Act No. 21/1992 Coll., on Banks, as amended.
Section 1 (9) of Act No. 87/1995 Coll., on Savings and Loan Associations and Certain Related Measures and on the Amendment to Act No. 586/1992 Coll. of the Czech National Council, on Income Taxes, as amended, as amended.
Section 2 (1)(f) of Act No. 256/2004 Coll., on Undertaking on the Capital Market, as amended.

1. the period for which the qualified holding is to be held;
2. the expected changes in the extent of the qualified holding in the short term and in the long term;
3. the expected degree of involvement in the strategic management of the regulated legal entity;
4. any potential support for the regulated legal entity using the applicant's own additional funds, if necessary for the development of activities or for the maintenance of activities;
5. any agreements with other partners or members of the regulated legal entity; and
6. provided that the qualified holding exceeds 20 % of the registered capital or of voting rights of the regulated legal entity, also regarding the development of activities of the regulated legal entity with respect to the existing business plan, profit distribution and/or loss settlement policy, including the dividend policy, the manner of financing the further development of the regulated legal entity, its management and control system, and any potential personnel changes and the strategic development of the regulated legal entity;

h) information on professional experience means
   1. information on the type of professional experience;
   2. identification of the entity where the professional experience has been or was obtained;
   3. designation of the working assignment and, provided that the experience is relevant to activities in the financial market, also a description of the activities performed;
   4. specification of the period of time during which the activity pursuant to subparagraph 3 above has been or was performed; and
   5. a consent to performance of the working assignment required by other legal regulations, where such a consent was necessary;

i) information on education means
   1. the name and category or type of educational institution, learning programme, focus of the learning programme (field of study), duration of the learning programme, manner and date of completion of the learning programme, any academic degrees obtained; and
   2. a summary of training courses, short-term attachments and learning stays relevant to activities in the financial market, including their year, focus, duration and any academic degrees obtained;

j) senior officer means a person specified in
   1. Section 2 (1)(a) of the Act on Undertaking on the Capital Market;
   2. Section 4 (5)(d) or Section 5 (4)(c) of the Act on Banks; and
   3. Section 2 (a)(4)(a) of the Act on Savings and Loan Associations.

PART TWO

Chapter I

ENTRY TO THE SECTOR

Section 3

(1) An application for a licence for a bank pursuant to Section 4 (1) of the Act on Banks and an application for an authorization for a cooperative savings association pursuant to Section 2 (a)(1) of the Act on Savings and Loan Associations shall be lodged on the form a specimen of which is given in Annex No. 1 to this Decree.

(2) An application for an authorization pursuant to Section 7 (2), Section 38 (2), Section 83 (4) and Section 103 (3) of the Act on Undertaking on the Capital Market shall be lodged on the form a specimen of which is given in Annex No. 2 to this Decree.

(3) The applicant to whom the licence or authorization pursuant to paragraphs 1 and 2 above is to be granted shall lodge the application together with the annexes pursuant to Section 4.

Section 4

(1) Annexes containing the basic information on the applicant and information relating to the applicant's activities shall include

a) the original counterpart of the applicable and unabridged version of the founding documents;
b) the original counterpart of the document on the applicant's business licence [Section 2 (a)];
c) original counterparts of the documents on the origin of the applicant's initial capital or registered capital or, as the case may be, on other financial resources of the applicant, and on the extent to which the registered capital has been paid up, unless such information is clear from the document on the applicant's business licence;
d) financial statements [Section 2 (b)]; and
e) a list of proposals for declaring any resolutions of the applicant's general meeting invalid, where the court proceedings have not been terminated through a final decision by the day of lodging the application, provided that any such proposals have been raised and provided that they might have a significant effect on the further operation of the company.

(2) Annexes containing information on the applicant's senior officers shall include

a) the form pursuant to Annex No. 3 to this Decree, provided that an applicant pursuant to Section 3 (2) is concerned; or the form pursuant to Annex No. 4 to this Decree, provided that an applicant pursuant to Section 3 (1) concerned; which is to be completed and signed by each of the applicant's senior officers;
b) a curriculum vitae of each of the applicant's senior officers, containing
   1. information on education [Section 2 (i)]; and
   2. information on professional experience [Section 2 (h)]; and
c) the original counterpart of the document on having no criminal record [Section 2 (c)] of each of the applicant's senior officers.

(3) Annexes containing information on persons with a qualified holding in the applicant and on persons closely related to the applicant shall include

a) a list of persons with a qualified holding in the applicant and of persons who have a qualified holding in the applicant through acting in concert with another person, including a graphic representation of relations among these persons, including information[5)] on such persons with a specification of the amount of interest or other form of participation in the applicant, and in relation to persons acting in concert also the fact on the basis of which they do act in

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[5)] Section 2 (1)(j) of Act No. 256/2004 Coll., on Undertaking on the Capital Market, as amended.
Section 20 (16) of Act No. 21/1992 Coll., on Banks, as amended.
Section 2 (b)(13) of Act No. 87/1995 Coll., on Savings and Loan Associations and Certain Related Measures and on the Amendment to Act No. 586/1992 Coll. of the Czech National Council, on Income Taxes, as amended, as amended.

concert, and the form a specimen of which is given in Annex No. 13 to this Decree, which is to be completed and signed by each of the persons contained in the aforementioned list;

b) a list of persons who are the statutory body or members of the statutory body of the legal entity specified in subparagraph a) above, including an indication of the positions held by such persons, and the form a specimen of which is given in Annex No. 4 to this Decree, item 1 and part D, which is to be completed and signed for every such natural person;
c) the form a specimen of which is given in Annex No. 4 to this Decree, item 1 and part D, which is to be completed and signed for every natural person with a qualified holding in the applicant and for every natural person who has a qualified holding in the applicant through acting in concert with another person;
d) the original counterpart of the document on having no criminal record [Section 2 (c)] of each of the natural persons specified in subparagraph a) above and of every person who is the statutory body or a member of the statutory body of the legal entity specified in subparagraph a) above;
e) the original counterpart of the document on business licence [Section 2 (a)] of each of the persons specified in subparagraph a) above;
f) financial statements [Section 2 (b)] of each of the persons specified in subparagraph a) above;
g) information on persons closely related to the applicant [Section 2 (d)]; and
h) the original counterpart of a written statement of the authority that performs supervision over a person with a qualified holding in the applicant in the country of such a person's registered office, regarding the said person's intention to participate in property terms in the business activities of a regulated legal entity in the Czech Republic, provided that the person with a qualified holding in the applicant is a person having its registered office outside the territory of a Member State and provided that the person is subject to such supervision in the country of its registered office.

Chapter II

BANK, COOPERATIVE SAVINGS ASSOCIATION AND BRANCH OF A FOREIGN BANK

Section 5

Licence for a Bank and Authorization for a Cooperative Savings Association

(Re: Section 4 (1) of the Act on Banks, and Section 2 (a)(1) of the Act on Savings and Loan Associations)

In the case of an application for a licence for a bank or in the case of an application for an authorization for a cooperative savings association, the applicant shall proceed pursuant to Section 3 (1) and, in addition to the Annexes set out in Section 4, the applicant shall enclose

a) the business plan [Section 2 (e)];
b) a concept for the development of the activities of the bank or of the cooperative savings association, particularly with respect to the proposed business plan and with respect to its medium-term objectives;
c) the proposed management and control system of the bank or of the cooperative savings association containing, in particular,
    1. a strategy in respect of risk management;

2. a strategy in respect of the capital and capital adequacy;
3. a strategy in respect of the development of information systems;
4. principles of the internal control system, including the principles of preventing potential conflicts of interest and the principles of compliance; and
5. security principles, including the security principles for information systems;

d) the proposed organizational structure of the bank or of the cooperative savings association, containing information on the delimitation of responsibilities, powers, major information flows and relations among the bodies, employees and committees of the bank or of the cooperative savings association, if they are to be set up;

e) a brief concept for the performance of the duties of a senior officer in the bank or in the cooperative savings association; and

f) the proposed technical background for the performance of the individual activities and the expected number of employees to ensure the planned activities of the bank or of the cooperative savings association; the term "technical background" shall mean, in particular, an adequate computer system, information system[6)], accounting system and statistical record-keeping systems.

Licence for a Branch of a Foreign Bank

Section 6
(Re: Section 5 (1) and (5) of the Act on Banks)

(1) In the case of an application for a licence for a branch of a foreign bank, the application shall be lodged on the form a specimen of which is given in Annex No. 5 to this Decree. The applicant shall lodge the application together with the annexes pursuant to paragraphs 2 to 6 below.

(2) Annexes containing the basic information on the applicant shall include

a) the original counterpart of the document on the applicant's business licence [Section 2 (a)];

b) the original counterpart of the decision of the relevant body of the applicant regarding its intention to establish a branch in the Czech Republic;

c) the original counterpart of the document attesting to the applicant's existence and actual registered office, and specifying who may act on behalf of the applicant and in what manner;

d) original counterparts of the documents on the origin of the funds provided for the activities of the branch;

e) the applicant's audited financial statements [Section 2 (b)];

f) the original counterpart of a written statement of the supervisory authority in the country of the applicant's registered office, regarding the applicant's intention to establish a branch of the bank in the Czech Republic, and the said supervisory authority's declaration that it will exercise banking supervision over the branch; and

g) documents attesting to the fact that the applicant observes capital requirements comparable to the capital requirements set out for banks by the Act on Banks and by the implementing legal regulation[7)].

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6) Section 2 (1)(j) of Decree No. 123/2007 Coll., on Prudential Rules for Banks, Savings and Loan Associations and Investment Firms.

7) Decree No. 123/2007 Coll., as amended by Decree No. 282/2008 Coll.

(3) Annexes containing information on persons who are the applicant's statutory body or members of the applicant's statutory body shall include

a) a list of members of the applicant's statutory body;
b) forms pursuant to Annex No. 4 to this Decree, which are to be completed and signed by the individual members of the applicant's statutory body;
c) a curriculum vitae of each member of the applicant's statutory body, containing
   1. information on education [Section 2 (i)]; and
   2. information on professional experience [Section 2 (h)];
d) the original counterpart of the document on having no criminal record [Section 2 (c)] of each member of the applicant's statutory body.

(4) Annexes containing information on persons with a qualified holding in the applicant and on persons closely related to the applicant shall include

a) a list of persons with a qualified holding in the applicant, including a graphic representation of relations among these persons and including information on such persons[5)] with a specification of the amount of interest or other form of participation in the applicant; and
b) information on persons closely related to the applicant [Section 2 (d)].

(5) Annexes containing information on the executive manager of the branch shall include

a) the form pursuant to Annex No. 4 to this Decree, which is to be completed and signed by the executive manager of the branch;
b) a curriculum vitae of the executive manager of the branch, containing
   1. information on education [Section 2 (i)]; and
   2. information on professional experience [Section 2 (h)];
c) the original counterpart of the document on having no criminal record [Section 2 (c)] of the executive manager of the branch; and
d) a brief concept for the performance of the duties to be performed by the executive manager of the branch.

(6) Annexes containing information on the organizational preconditions of the branch for the performance of its activities shall include

a) the business plan of the branch;
b) principles of the applicant's management and control system;
c) a concept for and principles of the development of the branch in relation to its activities, particularly with respect to the proposed business plan of the branch and with respect to its medium-term objectives;
d) the proposed organizational structure of the branch and the delimitation of powers in the branch in deciding about banking operations and their execution; and
e) the proposed technical background for the performance of the individual activities and the expected number of employees to ensure the planned activities of the branch; the term "technical background" shall mean, in particular, an adequate computer system, information system[7)], accounting system and statistical record-keeping systems

Section 7

The volume of funds provided by the applicant to the branch must take into account the expected scope and risks of the business activities to be performed by the branch; however, it may not be less than CZK 150,000,000.

Chapter III

INVESTMENT FIRM, OPERATOR OF A REGULATED MARKET, OPERATOR OF A SETTLEMENT SYSTEM, AND CENTRAL DEPOSITORY

Section 8

Investment Firm

(Re: Section 7 (2) of the Act on Undertaking on the Capital Market)

(1) In the case of an application for an authorization to perform the activities of an investment firm, the applicant shall proceed pursuant to Section 3 (2) and, in addition to the annexes set out in Section 4, the applicant shall enclose the documents on its fulfilment of the statutory conditions of insurance pursuant to Section 8 (a) of the Act on Undertaking on the Capital Market, provided that the investment firm intends to use the option of lower initial capital pursuant to Section 8 (a) of the Act on Undertaking on the Capital Market, and also the annexes pursuant to paragraphs 2 and 3 below.

(2) Annexes containing information on the substantive preconditions for the performance of the activities of an investment firm shall include

a) documents on the technical and programming means for the processing and keeping records of information, keeping records of client assets, keeping the daybook of an investment firm, keeping accounts and economic records, and for keeping other records[8)] to the extent of the information on the properties, manner of use, administration and maintenance of the means submitted by their supplier;
b) the proposed technical background for the provision of services through the Internet;
c) ensuring a direct or intermediated connection with operators of regulated markets and with persons performing the settlement of transactions in investment instruments; and
d) the business plan [Section 2 (e)].

(3) Annexes containing information on the activities, on the personnel and organizational preconditions for the performance of the activities of an investment firm shall include

a) draft internal rules of the applicant including, in particular,
   1. the draft organizational structure of the investment firm[9)];
   2. draft rules for the prudent provision of investment services by the investment firm[10)]; and
   3. draft rules for the dealing of the investment firm with clients[11)];
b) a list of persons who will ensure, as heads of organizational departments or as independent persons,
   1. the provision of investment services;
   2. the continuous control of compliance with the statutory duties and with the obligations following from the internal regulations of the investment firm;
   3. the risk management; and

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8) Decree No. 237/2008 Coll., on the Details of Certain Rules in the Provision of Investment Services.
9) Section 6 of Decree No. 237/2008 Coll.
10) Section 6 (1)(d)(3) of Act No. 256/2004 Coll., as amended by Act No. 230/2008 Coll.
Part Two of Decree No. 237/2008 Coll.
11) Section 6 (1)(d)(4) of Act No. 256/2004 Coll., as amended by Act No. 230/2008 Coll.
Part Three of Decree No. 237/2008 Coll.

4. the performance of internal audit;

c) a curriculum vitae of each of the persons contained in the list pursuant to subparagraph b) above, containing
   1. information on education [Section 2 (i)]; and
   2. information on professional experience [Section 2 (h)];

d) the scope of activities that the investment firm intends to perform through a third party, and the manner of fulfilling the conditions pursuant to Section 12 (d) of the Act on Undertaking on the Capital Market; and

e) the intention to use investment intermediaries and tied agents in connection with the provision of investment services.

Section 9

Operator of a Regulated Market

(Re: Section 38 (2) of the Act on Undertaking on the Capital Market)

In the case of an application for an authorization to perform the activities of an operator of a regulated market, the applicant shall proceed pursuant to Section 3 (2) and, in addition to the annexes set out in Section 4, the applicant shall also enclose

a) the internal regulation(s) stipulating
   1. the authorizations, scope of powers, duties and responsibilities of senior officers[12)], their substitutability and control in performing the individual activities; and
   2. the contents of activities performed by the individual organizational departments and the approximate number of employees;

b) draft rules
   1. of trading on the regulated market;
   2. of access to the regulated market;
   3. for admission of investment instruments to trading on the regulated market; and
   4. for enforcement of the performance of the duties stipulated by the rules pursuant to subparagraphs 1 to 3 above, including the potential penalties for breaching these rules;

c) measures preventing market abuse;

d) the manner of settling the effected transactions;

e) the technical background for the provision of the proposed scope of services;

f) principles of and procedures for ensuring the due operation of trading and other systems, including any measures for the case of interference with the activities of such systems and for the case of any extraordinary situations;

g) rules for the administration of the information system, including the rules for securing and the rules for backing-up and archiving of data;

h) rules for the disclosure of information pursuant to Section 48 (i)(3) and (4) of the Act on Undertaking on the Capital Market to participants in the market operated by the applicant;

i) administrative, control and security procedures for the keeping of records and processing of data, handling of confidential information and personal data protected pursuant to some other legal regulation[13)] and ensuring the performance of the duties pursuant to the act stipulating

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12) Section 11 (4) of Act No. 262/2006 Coll., the Labour Code, as amended.

13) Act No. 101/2000 Coll., on the Protection of Personal Data and on Amendments to Certain Other Acts, as amended.

measures against the legitimization of proceeds of crime[14)], including the organizational, technical and personnel measures aimed to ensure the aforementioned;

j) organizational, technical and personnel measures to ensure the supervisory activities aimed at the monitoring of
   1. compliance with the relevant legal regulations, rules of trading and rules of access to the regulated market by participants in the market;
   2. compliance with the relevant legal regulations and internal regulations of the applicant by the applicant's employees;
   3. whether the investment instruments admitted to trading comply with the preconditions for admission of investment instruments to trading, as stipulated by the relevant act, and with the rules for admission of investment instruments to trading; and
   4. performance of the information duty, as stipulated by the Act on Undertaking on the Capital Market, by the issuer of investment securities admitted to trading or by a third party in the case of subsequent admission of an investment instrument to trading without the issuer's consent;

k) procedures for the monitoring of trading on the operated market and for the evaluation of occurrence of extraordinary situations on the market or of conduct that may be regarded as the use of inside information or as market manipulation, for analysis of the individual types of crisis situations in the development of the capital market and in the applicant's operations that may have an unfavourable impact on the functioning of the capital market, including the procedures for resolving such situations;

l) procedures for the management of risks associated with the proposed scope of services to be provided, for their evaluation and measures to reduce such risks; such measures shall include insurance policies, bank guarantees and similar instruments designed to cover these risks or documents attesting to third parties' willingness to assume the obligation of covering these risks, provided that the relevant legal acts have not been made yet;

m) procedures for the detection and resolution of potential negative impacts on the activities of the operator of a regulated market or on its participants that might result from a conflict of interest between the operator of the regulated market or its partners and the due functioning of the regulated market, including the internal regulation governing the transactions concluded by employees on their own account or on the account of their relatives; and

n) the business plan [Section 2 (e)].

Section 10

Multilateral Trading Facility

Provided that an investment firm or an operator of a regulated market applies for an authorization to operate a multilateral trading facility, in addition to the annexes set out in Section 8 or Section 9, the applicant shall enclose the following annexes with the application for such an authorization

a) draft rules
   1. of trading in the multilateral trading facility;

[14)] Act No. 253/2008 Coll., on Certain Measures against the Legitimization of Proceeds of Crime and Financing of Terrorism.

2. for admission of investment instruments to trading in the multilateral trading facility, including the potential information duty of the issuers of the investment instruments admitted to trading or of third parties that have applied for admission of an investment instrument to trading in the multilateral trading facility without the issuer's consent;
3. of access to the multilateral trading system; and
4. for enforcement of the performance of the duties stipulated by the rules pursuant to subparagraphs 1 to 3 above, including the potential penalties for breaching these rules;

b) the manner of disclosing the publicly available information to participants in the multilateral trading system (Section 69 (5) of the Act on Undertaking on the Capital Market);
c) organizational, technical and personnel measures to ensure the supervisory activities aimed at the monitoring of
   1. compliance with the relevant legal regulations and rules of trading in the multilateral trading facility by its participants; and
   2. whether the investment instruments admitted to trading in the multilateral trading facility comply with the preconditions for admission of investment instruments to trading in the multilateral trading facility;
d) procedures for the monitoring of trading in the multilateral trading facility and for the evaluation of occurrence of extraordinary situations on the market or of conduct that may be regarded as the use of inside information or as market manipulation;
e) the manner of ensuring the settlement of transactions concluded in the multilateral trading facility and the manner of providing information to participants in the multilateral trading facility while ensuring the settlement of transactions concluded in the multilateral trading facility pursuant to Section 70 (1) of the Act on Undertaking on the Capital Market;
f) administrative, control and security procedures for the keeping of records and processing of data, handling of confidential information and personal data protected pursuant to some other legal regulation [13)] and ensuring the performance of the duties pursuant to the act stipulating measures against the legitimization of proceeds of crime[14)], including the organizational, technical and personnel measures aimed to ensure the aforementioned; and
g) the business plan [Section 2 (e)].

Section 11

Operator of a Settlement System

(Re: Section 83 (4) of the Act on Undertaking on the Capital Market)

In the case of an application for an authorization to operate a settlement system, the applicant shall proceed pursuant to Section 3 (2) and, in addition to the annexes set out in Section 4, the applicant shall also enclose the following annexes with the application

a) draft rules of the settlement system pursuant to Section 83 (9) of the Act on Undertaking on the Capital Market;
b) draft rules for the functioning of the settlement system, containing a description of the roles of the individual participants, their duties and responsibilities;
c) the contractual background for the functioning of the settlement system, including a sample draft agreement to be entered into with a participant in the settlement system;
d) the proposed risk management system that must include, in particular, a determination of the methods for identifying, measuring, monitoring and management of risks following from the

individual activities; a determination of the duties and responsibilities in risk management; the manner of defining the limits; the frequency of measuring and continuous monitoring of the individual risks; and the procedure for resolving critical situations when exceeding the determined limit; furthermore, the applicant shall enclose any insurance policies and other instruments designed to cover such risks, and agreements with third parties involved in the process of measuring, monitoring, management or evaluation of such risks;

e) the technical background for the performance of the proposed scope of activities by the applicant's settlement system;

f) an analysis of the individual types of crisis situations, containing the procedures for resolving such situations and including the delimitation of responsibilities in such a situation;

g) administrative, control and security procedures for the keeping of records and processing of data, handling of inside information and personal data protected pursuant to some other legal regulation[13)] and the rules for ensuring the organizational, technical and personnel aspects of the performance of the duties pursuant to the act stipulating measures against the legitimization of proceeds of crime[14)], including the organizational, technical and personnel measures aimed to ensure the aforementioned;

h) internal regulation(s) stipulating
   1. the authorizations, scope of powers, duties and responsibilities of senior officers [12)], their substitutability and control in performing the individual activities; and
   2. the contents of activities performed by the individual organizational departments and the approximate number of employees; and

i) the business plan [Section 2 (e)].

Section 12

Central Depository

(Re: Section 103 (3) of the Act on Undertaking on the Capital Market)

In the case of an application for an authorization to perform the activities of a central depository, the applicant shall proceed pursuant to Section 3 (2) and, in addition to the annexes set out in Section 4, the applicant shall also enclose the following annexes with the application

a) the project of keeping records of investment instruments and any documentation thereon; the project shall include
   1. administrative, technical, control and security procedures for the keeping of records of investment instruments;
   2. the technical background for the performance of the proposed scope of activities;
   3. rules for the administration and ensuring security of the information system, including the technical and organizational solution of backing-up, archiving and control of data, and the documents on verification of such a solution's functionality and reliability;
   4. an analysis of the individual types of crisis situations that may occur in keeping records of investment instruments, and the procedures for resolving such situations;

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13) Act No. 101/2000 Coll., on the Protection of Personal Data and on Amendments to Certain Other Acts, as amended.

14) Act No. 253/2008 Coll., on Certain Measures against the Legitimization of Proceeds of Crime and Financing of Terrorism.

5. procedures for the management of risks in relation to the performance of the individual activities; and
6. the technical and organizational background to ensure communication with regulated markets, operators of settlement systems, participants in the central depository and with persons keeping records that are based on the central records, and the documents on verification of such a communication system's functionality and reliability;

b) draft operational rules of the central depository;

c) draft standardized contracts to be entered into by and between the applicant (on the one part) and the participants in the central depository, persons keeping records that are based on the central records, holders of accounts in the central depository, regulated markets and operators of settlement systems (on the other part);

d) the organizational arrangement and management structure of the company, specifying
1. the authorizations, scope of powers, duties and responsibilities of senior officers[12)], their substitutability and control in performing the individual activities; and
2. the contents of activities performed by the individual organizational departments and the approximate number of employees;

e) administrative, control and security procedures for the handling of confidential information and personal data protected pursuant to some other legal regulation[13)] and for ensuring the performance of the duties pursuant to the act stipulating measures against the legitimization of proceeds of crime[14)], including the organizational, technical and personnel measures aimed to ensure the aforementioned;

f) organizational, technical and personnel measures to ensure the supervisory activities aimed at the monitoring of compliance with
1. the legal regulations and operational rules by participants in the central depository; and
2. the legal regulations, internal regulations of the applicant and operational rules of the central depository by the employees of the central depository;

g) a specification of the investment instruments and types of transactions that may be settled in the settlement system operated by the applicant, and a specification of the applicant's position within the framework of the settlement system;

h) ensuring of assignment of identification numbers to investment instruments in accordance with the International Securities Identification Numbering (ISIN) system;

i) documents attesting to the applicant's preparedness to perform the activities specified in Section 100 (3) of the Act on Undertaking on the Capital Market in respect of the activities for which the applicant requests the authorization, including the project and documents mutatis mutandis pursuant to subparagraph a) above;

j) annexes set out in Section 11 (a) to (g); and

k) the business plan [Section 2 (e)].

Section 13

Branch of a Foreign Entity Providing Investment Services

(Re: Section 28 (3) of the Act on Undertaking on the Capital Market)

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13) Act No. 101/2000 Coll., on the Protection of Personal Data and on Amendments to Certain Other Acts, as amended.

14) Act No. 253/2008 Coll., on Certain Measures against the Legitimization of Proceeds of Crime and Financing of Terrorism.

(1) An application for an authorization to provide investment services through a branch of a foreign entity that has its registered office in a non-Member State shall be lodged on the form a specimen of which is given in Annex No. 6 to this Decree.

(2) With the application pursuant to paragraph 1 above, the applicant shall enclose the annexes pursuant to Section 14.

Section 14

(1) Annexes containing the basic information on the applicant shall include

a) the original counterpart of the document on the applicant's business licence [Section 2 (a)];
b) the document on the applicant's actual registered office;
c) the original counterpart of the authorization to provide investment services, issued by the supervisory authority in the country where the applicant has its registered office, specifying the scope of such authorization;
d) original counterparts of the documents on the origin of funds ensured for the activities of the applicant's branch;
e) the applicant's financial statements [Section 2 (b)];
f) a written statement of the supervisory authority in the country of the applicant's registered office regarding the applicant's intention to provide investment services in the Czech Republic through a branch or, as the case may be, a document attesting to the fact that this authority has been notified of the applicant's intention to provide investment services in the Czech Republic through a branch;
g) the document on participation in a guarantee system from which compensations are paid out to clients; provided that the applicant is a participant in such a system, it shall also document the amount of compensations paid out to clients, the range of clients and the scope of their assets covered by such a guarantee system, including the territorial scope of this guarantee system; and
h) documents attesting to the fact that the applicant observes capital requirements comparable to the capital requirements set out in Section 9 and Section 9 (a) of the Act on Undertaking on the Capital Market.

(2) Annexes containing information on the applicant's senior officers shall include

a) a list of members of the applicant's statutory body;
b) the form pursuant to Annex No. 3 to this Decree, which is to be completed and signed by each member of the applicant's statutory body;
c) a curriculum vitae of each member of the applicant's statutory body, containing
   1. information on education [Section 2 (i)]; and
   2. information on professional experience [Section 2 (h)];
d) the original counterpart of the document on having no criminal record [Section 2 (c)] of each member of the applicant's statutory body.

(3) Annexes containing information on persons with a qualified holding in the applicant and on persons closely related to the applicant shall include

a) a list of persons with a qualified holding in the applicant, including a graphic representation of relations among these persons, including information[5)] on such persons with a specification of the amount of interest or other form of participation in the applicant; and
b) information on persons closely related to the applicant [Section 2 (d)].

(4) Annexes containing information on the executive manager of the branch and on the personnel preconditions of the branch for the performance of activities shall include

a) the form pursuant to Annex No. 3 to this Decree, which is to be completed and signed by the executive manager of the branch;
b) a curriculum vitae of the executive manager of the branch, containing
   1. information on education [Section 2 (i)]; and
   2. information on professional experience [Section 2 (h)];
c) the original counterpart of the document on having no criminal record [Section 2 (c)] of the executive manager of the branch; and
d) the intention to use investment intermediaries and tied agents in connection with the provision of investment services.

(5) Annexes containing information on the substantive preconditions of the branch for the performance of activities shall include the documents on its fulfilment of the substantive preconditions pursuant to Section 8 (2).

(6) Annexes containing information on the organizational preconditions of the branch for the performance of activities shall include

a) the business plan [Section 2 (e)] of the branch;
b) a specification of the scope of activities that the branch intends to perform through a third party;
c) a list of persons to whom the applicant intends to give instructions concerning investment instruments; and
d) draft internal regulations of the branch including, in particular,
   1. the draft organizational structure of the branch[9)];
   2. draft rules of the prudent provision of investment services by the branch[10)]; and
   3. draft rules for the dealing of the branch with clients[11)].

Chapter IV
SENIOR OFFICERS AND PERSONS IN EXECUTIVE MANAGERIAL POSITIONS IN A FINANCIAL HOLDING ENTITY

Section 15

Approval of a Senior Officer
(Re: Section 10 (4), Section 43 (4), Section 104 (b), Section 155 (a)(2) of the Act on Undertaking on the Capital Market)

(1) An application for a prior consent to perform the duties of a senior officer shall be lodged on the form a specimen of which is given in Annex No. 3 to this Decree.

(2) Annexes to the application pursuant to paragraph 1 above shall include

a) a curriculum vitae of the senior officer, containing
   1. information on education [Section 2 (i)]; and
   2. information on professional experience [Section 2 (h)]; and

b) the original counterpart of the document on having no criminal record [Section 2 (c)] of the senior officer.

(3) The applicant shall submit the form of the application, along with its annexes, in the case of a new election, appointment or commencement of the office on the basis of some other fact associated with new competence or powers.

Section 16

Person in an Executive Managerial Position in a Financial Holding Entity

(Re: Section 26 (g)(6) of the Act on Banks, and Section 25 (f)(8) of the Act on Savings and Loan Associations)

(1) In order to prove the trustworthiness and professional experience of a person proposed for an executive managerial position in a financial holding entity, the financial holding entity shall provide the following supporting documents

a) the original counterpart of the document on having no criminal record [Section 2 (c)] of the natural person proposed for an executive managerial position in the financial holding entity (hereinafter the "proposed person");
b) the form pursuant to Annex No. 4 to this Decree, which is to be completed and signed by every proposed person;
c) a curriculum vitae of the proposed person, containing
   1. information on education [Section 2 (i)]; and
   2. information on professional experience [Section 2 (h)].

(2) The financial holding entity shall also provide a description of the job content of the office that the proposed person is to hold upon election or appointment, including its expected competence and powers. This document may be replaced by an internal regulation of the financial holding entity that regulates the job content of the office that the proposed person is to discharge, including the competence and powers associated with this office.

(3) Provided that the proposed person is not the statutory body or a member of the statutory body of the financial holding entity, or provided that the powers of the statutory body of the financial holding entity have not been delegated to the proposed person, the financial holding entity shall state upon which fact the proposed person manages the financial holding entity.

Section 17

Approval of a Senior Officer in a Cooperative Savings Association

(Re: Section 2 (a)(9) of the Act on Savings and Loan Associations)

(1) In order to prove the professional experience and trustworthiness of a senior officer, the cooperative savings association shall provide the following documents

a) the original counterpart of the document on having no criminal record [Section 2 (c)] of the senior officer;
b) a curriculum vitae of the senior officer, containing
   1. information on education [Section 2 (i)]; and
   2. information on professional experience [Section 2 (h)];

c) a specification of the job content of the position which the senior officer has been elected or appointed to hold;
d) a brief concept for the performance of the duties of the senior officer; and
e) the form pursuant to Annex No. 4 to this Decree, which is to be completed and signed by the senior officer.

(2) The specification of the job content of the position held by the senior officer shall also include the expected competence and powers. This document may be replaced by an internal regulation of the cooperative savings association that regulates the job content of the function that the senior officer is to discharge, including the competence and powers associated with this function.

Chapter V

CONSENT TO OWN A QUALIFIED HOLDING IN A REGULATED LEGAL ENTITY OR TO CONTROL A REGULATED LEGAL ENTITY

Section 18

Consent to Acquisition of or Increase in a Qualified Holding in a Regulated Legal Entity

[Re: Section 20 (3)(a) and (b) of the Act on Banks; Section 2 (b)(3)(a) and (b) of the Act on Savings and Loan Associations; Section 10 (d)(4), Section 47 (1) and Section 104 (a)(1) of the Act on Undertaking on the Capital Market]

(1) An application for a prior consent to acquisition of or increase in a qualified holding in a regulated legal entity shall be lodged on the form a specimen of which is given in Annex No. 7 to this Decree.

(2) Annexes to the application pursuant to paragraph 1 above shall include

a) the original counterpart of the document on the applicant's business licence [Section 2 (a)];
b) original counterparts of the documents on the origin of the funds to be used to finance the acquisition of or increase in the qualified holding;
c) the applicant's financial statements [Section 2 (b)];
d) information on persons closely related [Section 2 (d)] to the applicant;
e) a description of relations between the applicant and the regulated legal entity in which the applicant intends to acquire or increase its qualified holding, and of relations between the applicant and persons having a special relation to this legal entity, that is at least with respect to the persons who are senior officers, members of the supervisory board or members of the audit committee of the regulated legal entity and, for cooperative savings associations, also with respect to the persons elected to the credit committee;
f) the original counterpart of a written statement of the supervisory authority in the country of the applicant's registered office regarding the applicant's intention to acquire or increase its qualified holding in the regulated legal entity, provided that the applicant has its registered office outside the territory of a Member State and provided that the applicant is subject to such supervision in the country of its registered office;
g) the strategic plan [Section 2 (g)]; and

h) a list of persons who own, will acquire or increase a qualified holding in the regulated legal entity through acting in concert with the applicant, including information[5)] on such persons with a specification of the amount of interest or other form of participation in the regulated legal entity, and with a specification of the fact on the basis of which they do act in concert.

(3) Provided that the applicant is a natural person, it shall also enclose the following annexes with the application pursuant to paragraph 1 above

a) the original counterpart of the document on having no criminal record [Section 2 (c)]; and
b) the form pursuant to Annex No. 4 to this Decree, item 1 and part D, which is to be completed and signed by the applicant.

(4) Provided that the applicant is a legal entity, it shall also enclose the following annexes with the application pursuant to paragraph 1 above

a) a list of persons who are the applicant's statutory body or members of the applicant's statutory body, including a specification of the positions held by such persons;
b) the form pursuant to Annex No. 4 to this Decree, item 1 and part D, which is to be completed and signed for each of the natural persons specified in subparagraph a) above; and
c) the original counterpart of the document on having no criminal record for each of the natural persons specified in subparagraph a) above.

Section 19

Consent to Control a Regulated Legal Entity

[Re: Section 20 (3)(c) of the Act on Banks; Section 2 (b)(3)(c) of the Act on Savings and Loan Associations; Section 10 (d)(4), Section 47 (1) and Section 104 (a)(1) of the Act on Undertaking on the Capital Market]

(1) A person requesting a consent to control a regulated legal entity through acquisition or increasing its qualified holding, as a result of which it is to become a controlling person pursuant to the Commercial Code[15)], shall proceed pursuant to Section 18.

(2) A person requesting a consent to control a regulated legal entity on the basis of an agreement shall lodge the application on the form a specimen of which is given in Annex No. 7 to this Decree.

(3) Annexes to the application pursuant to paragraph 2 above shall include

a) the draft controlling or other agreement on the basis of which the regulated legal entity is to become controlled;
b) a justification for the intention to control the regulated legal entity;
c) original counterparts of the documents on the origin of the funds from which the duty with respect to outside-standing partners is to be fulfilled, provided that a controlling agreement has been made;
d) the strategic plan to the extent pursuant to Section 2 (g)(6);
e) documents specified in Section 18 (2)(a), (c) and (d), and in Section 18 (3) and (4); and
f) the original counterpart of a written statement of the supervisory authority in the country of the applicant's registered office regarding the applicant's intention to control the regulated legal entity, provided that the applicant has its registered office outside the territory of a

15) Section 66 (a)(2) to (6) of Act No. 513/1991 Coll., the Commercial Code, as amended.

Member State and provided that the applicant is subject to such supervision in the country of its registered office.

Section 20
Special Provisions

(1) Provided that the applicant who applies for a consent to acquisition of or increase in a qualified holding in a regulated legal entity is a person to whom the Czech National Bank has granted the consent to acquisition of or increase in a qualified holding in a regulated legal entity during the last 5 years, such an applicant shall lodge the application on the form a specimen of which is given in Annex No. 7 to this Decree and, with the application, the applicant shall only enclose the original counterpart of a written statement pursuant to Section 18 (2)(f) and the other documentary materials and supporting documents specified in Section 18 (2) to (4) in relation to which any change has occurred compared to the status under which the previous consent to acquisition of or increase in a qualified holding in a regulated legal entity was granted. In such case, the applicant shall also state in the application that the other information and supporting documents submitted to the Czech National Bank as part of the previous application for a consent to acquisition of or increase in a qualified holding remain unchanged.

(2) Provided that the applicant applies for a consent to control a regulated legal entity, it shall proceed mutatis mutandis pursuant to paragraph 1 above; that is, the person shall lodge the application on the form a specimen of which is given in Annex No. 7 to this Decree and, with the application, it shall only enclose the original counterpart of a written statement pursuant to Section 19 (3)(f) and the other documentary materials and supporting documents specified in Section 19 (3) in relation to which any change has occurred compared to the status under which the previous consent was granted to the applicant. In such case, the applicant shall also state in the application that the other information and supporting documents submitted to the Czech National Bank as part of the previous application for such a consent remain unchanged.

(3) Provided that the applicant who applies for a consent to acquisition of or increase in a qualified holding in a regulated legal entity, or the applicant who applies for a consent to control a regulated legal entity is an entity that

a) is a financial institution[16)] or a bank or other regulated entity on the financial market with its registered office in the territory of a Member State (hereinafter the "financial institution"); and
b) is subject to supervision by the competent authority in the country of its registered office and such authority informs the Czech National Bank that it has no objections to the applicant's intention to acquire or increase its qualified holding in or to control the regulated legal entity;

the applicant shall lodge the application on the form a specimen of which is given in Annex No. 7 to this Decree and, with the application, the applicant shall only enclose the original counterpart of the document on the applicant's business licence [Section 2 (a)], the strategic plan [Section 2 (g)] and original counterparts of the documents on the origin of the funds to be used to finance the acquisition of or increase in the qualified holding.

(4) Provided that the applicant is to acquire or increase its qualified holding in a regulated legal entity through a financial institution and such a financial institution is subject to supervision

16) Section 17 (a)(3) of Act No. 21/1992 Coll., as amended.

by the competent authority in the country of its registered office, the applicant shall lodge the application on the form a specimen of which is given in Annex No. 7 to this Decree and, with the application, the applicant shall only enclose the original counterpart of the final decision of the competent supervisory authority in the country of the financial institution's registered office, whereby it was granted a consent to acquisition of a qualified holding in the financial institution through which the applicant is now to acquire a qualified holding in the regulated legal entity. Provided that no such decision has been issued by the competent supervisory authority in the country of the financial institution's registered office, the applicant shall submit a statement of the competent supervisory authority in the country of the financial institution's registered office, stating that the applicant acquired a qualified holding in the financial institution through which it is now to acquire a qualified holding in the legal entity, with its knowledge and in accordance with the laws of the country of the financial institution's registered office, and that it has no objections to the applicant's acquisition of a qualified holding in the regulated legal entity.

PART THREE

PERMIT FOR TRANSFORMATION

Section 21

Permit for Transformation or Conclusion of an Agreement on Transfer, Pledge or Lease of an Enterprise

(Re: Section 19 (2), Section 20 (2), Section 45 (2), Section 46 (2), Section 85 (2), Section 106 (2) and Section 107 (2) of the Act on Undertaking on the Capital Market)

(1) An application for a permit for transformation or for a permit for conclusion of an agreement on transfer, pledge or lease of an enterprise or of a part thereof shall be lodged on the form a specimen of which is given in Annex No. 8 to this Decree.

(2) Depending on the type of the application, annexes pursuant to paragraph 1 above shall include

a) the document on the applicant's business licence [Section 2 (a)];
b) a list of participating and successor companies, specifying whether a terminating company, successor company, transferring company, acquiring company, pledgor, lessee or lessor is concerned, including their firm or corporate name, identification number, registered office address, amount of registered capital, amount of registered capital that has been paid up, including the number, amount and subject-matter of the individual contributions whereby the registered capital has been subscribed or paid up, and specifying also the shares or ownership interest including the number, nominal value, form and type of the shares or the number of ownership interests;
c) a list of senior officers of the participating, successor or acquiring companies, specifying their positions; for senior officers other than members of the statutory body or the statutory body, the applicant shall also specify in the list the fact on the basis of which such persons actually manage these companies;
d) the form a specimen of which is given in Annex No. 3 to this Decree, which is to be completed and signed by every senior officer of the successor or acquiring company;
e) a curriculum vitae of every senior officer of the successor or acquiring company, containing

1. information on education [Section 2 (i)]; and
2. information on professional experience [Section 2 (h)];

f) the original counterpart of the document on having no criminal record [Section 2 (c)] of every senior officer of the successor or acquiring company;
g) the project of transformation of the company or detailed information on the transfer, pledge or lease of the enterprise or of a part thereof and on the consequences of the aforementioned, containing particularly the applicant's intention, the changes that will be made to the business plan, the time schedule, a description of the effects on the provision of investment services, a description of the incorporation of organizational departments and their placement in the new organizational structure, including a description of the transfer of competence, unless such information is already contained in other submitted documents;
h) joint reports of the statutory bodies on the transformation, or reports on the transformation issued by the statutory bodies of the participating companies;
i) financial statements [Section 2 (b)] of the participating companies;
j) final financial statements of the participating companies and the initial balance sheet of the successor company and the auditor's reports on their verification (if required), or the interim financial statements and the auditor's reports on their verification (if required);
k) information on the set of things, rights and obligations maintained in the accounting records of the transferred, leased or pledged enterprise or of a part thereof; and
l) a specification of the groups of persons between whom and the legal successors of the persons involved in the transformation a close relation will be created as a consequence of the transformation, including information[5)] on persons who will as a result of the transformation acquire a qualified holding in the legal successor of the participating companies, including a specification of the amount of interest or other form of participation in the applicant.

PART FOUR

REGISTRATION AND ENTRY

Section 22

Registration of an Investment Intermediary

(1) An application for registration of an investment intermediary pursuant to Section 30 (6) of the Act on Undertaking on the Capital Market shall be lodged on the form a specimen of which is given in Annex No. 9 to this Decree.

(2) Provided that the applicant is a natural person, it shall enclose the following annexes with the application pursuant to paragraph 1 above

a) the form pursuant to Annex No. 4 to this Decree;
b) a curriculum vitae, containing
   1. information on education [Section 2 (i)]; and
   2. information on professional experience [Section 2 (h)];
c) the original counterpart of the document on having no criminal record [Section 2 (c)];
d) the original counterpart of the document on completed secondary education; and
e) the intention to use tied agents in connection with the provision of investment services.

(3) Provided that the applicant is a legal entity, it shall enclose the following annexes with the application pursuant to paragraph 1 above

a) the original counterpart of the document on the business licence [Section 2 (a)];
b) a list of the applicant's senior officers, including a specification of their positions;
c) the form pursuant to Annex No. 4 to this Decree, which is to be completed and signed by each of the applicant's senior officers;
d) a curriculum vitae of each of the applicant's senior officers, containing
   1. information on education [Section 2 (i)]; and
   2. information on professional experience [Section 2 (h)];
e) the original counterpart of the document on having no criminal record [Section 2 (c)] of each of the applicant's senior officers;
f) the original counterpart of the document on completed secondary education for each of the applicant's senior officers;
g) the intention to use tied agents in connection with the provision of investment services;
h) original counterparts of the documents on the origin of the applicant's registered capital; and
i) information on persons closely related to the applicant [Section 2 (d)].

Section 23

Entry in the List of Tied Agents

(1) An application for entry in the list of tied agents pursuant to Section 32 (c)(8) of the Act on Undertaking on the Capital Market shall be lodged on the form a specimen of which is given in Annex No. 10 to this Decree.

(2) The application shall be sent to the Czech National Bank in electronic form and with a guaranteed electronic signature[17)], in the form of a data report, to the address of the electronic filing department. The Czech National Bank shall publish the structure and the manner of compiling the data report in a manner enabling remote access.

Section 24

Entry in the List of Liquidators and Receivers

(1) An application for entry in the list of liquidators and receivers pursuant to Section 198 (3) of the Act on Undertaking on the Capital Market shall be lodged on the form a specimen of which is given in Annex No. 11 to this Decree.

(2) Annexes to the application pursuant to paragraph 1 above shall include

a) a curriculum vitae, containing
   1. information on education [Section 2 (i)]; and
   2. information on professional experience [Section 2 (h)]; and
b) the original counterpart of the document on having no criminal record [Section 2 (c)] of the applicant.

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17) Section 11 of Act No. 227/2000 Coll., on Electronic Signature and on Amendments to Certain Other Acts (Electronic Signature Act), as amended by Act No. 440/2004 Coll.

Section 25

Registration of Further Business Activities

(Re: Section 7 (2) and Section 39 (5) of the Act on Undertaking on the Capital Market)

(1) An application for registration of further business activities shall be lodged on the form a specimen of which is given in Annex No. 12 to this Decree.

(2) Annexes to the application pursuant to paragraph 1 above shall include

a) the estimated impacts of further business activities on the applicant's activities;
b) draft internal regulations reflecting the performance of further business activities, particularly internal regulations stipulating the procedures for risk management, evaluation of risks and measures to reduce such risks;
c) an analysis of the individual types of crisis situations in the performance of further business activities that may have an unfavourable impact on the due provision of services, and the procedures for resolving such situations; and
d) the document containing an authorization to perform further business activities, issued by the competent authority, unless this authority is the Czech National Bank.

PART FIVE

JOINT AND FINAL PROVISIONS

Joint Provisions

Section 26

(1) The Czech National Bank shall publish the specimens of the forms in a manner enabling remote access.

(2) Provided that the applicant is represented by a proxy, the original counterpart of the power of attorney or of a similar document attesting to the authorization of the proxy to represent the applicant shall be enclosed with the application.

(3) The authenticity of the applicant's signature attached to the power of attorney or to other similar document which is to be submitted pursuant to paragraph 2 above must be officially verified.

(4) In the case of an application for an authorization to perform further activities, the provisions of Part Two, Chapters II and III shall be applied mutatis mutandis.

Section 27

(1) Provided that the nature of a given matter does not make it possible to submit any annex required by this Decree to an application, or to state such information in the application form, and provided that this is not sufficiently implied by the application itself, the applicant shall state this fact in the application together with the reasons why such an annex cannot be submitted or why such information cannot be stated, and the applicant shall reasonably substantiate these reasons.

(2) Instead of submitting a prescribed annex, the applicant may refer to a precisely identified document that the applicant has submitted to the Czech National Bank during the last 3 years and that complies with the requirements set out by this Decree.

(3) Provided that public deeds issued by foreign countries are to be submitted, the applicant shall proceed pursuant to some other legal regulation[18)]. However, this does not apply to a public deed of a foreign country

a) issued in the territory of a Member State; or
b) issued by an administrative authority of a foreign country with which the Czech National Bank has concluded a cooperation agreement; a list of such authorities shall be published by the Czech National Bank in a manner enabling remote access.

(4) Provided that a legal entity with a qualified holding in the applicant is managed by a person other than the statutory body or a member of the statutory body, the applicant shall also enclose a list of such persons with a specification of the fact on the basis of which such persons manage the applicant, including information on their professional experience [Section 2 (h)], the original counterpart of the document on having no criminal record [Section 2 (c)] and the form pursuant to Annex No. 4 to this Decree, item 1 and part D, which is to be completed and signed for every such person.

Section 28
Repealing Provisions

It is hereby repealed:
1. Decree No. 90/2006 Coll., stipulating the essential elements of applications and notifications and the minimum amount of funds to be provided by a foreign bank to its branch;

2. Decree No. 272/2006 Coll., stipulating the list of documents and the essential elements thereof for proving the competence and trustworthiness of persons elected to or nominated for certain positions in savings and loan associations and for proving the competence of natural persons or legal entities with a qualified holding in savings and loan associations and members having some other membership contribution to exercise membership rights;

3. Decree No. 139/2007 Coll., regulating the supporting documents proving the trustworthiness and experience of persons in executive managerial positions in a financial holding entity; and

4. Decree No. 255/2008 Coll., on the forms for lodging applications and on the contents of their annexes pursuant to the Act on Undertaking on the Capital Market.

Section 29
Effective Day

This Decree shall become effective on 1 August 2009.

Governor:

doc. Ing. Tůma, CSc., signed in his own hand

[18)] Section 53 (4) of Act No. 500/2004 Coll., the Code of Administrative Procedure.

Annex No. 1 to Decree No. 233/2009 Coll.

SPECIMEN

Application
for a licence for a bank /
for an authorization for a cooperative savings association

pursuant to Act No. 21/1992 Coll., on Banks, as amended (hereinafter the "Act on Banks") and pursuant to Act No. 87/1995 Coll., on Savings and Loan Associations and Certain Related Measures and on the Amendment to Act No. 586/1992 Coll. of the Czech National Council, on Income Taxes, as amended, as amended (hereinafter the "Act on Savings and Loan Associations")

I.
ADMINISTRATIVE AUTHORITY

1. Name and address of the administrative authority

Name of the administrative authority	Czech National Bank
Registered office	Na Příkopě 28, Prague 1, postal code 115 03
Filing department	Senovážná 3, Prague 1, postal code 115 03

II.
APPLICANT

2. Identification of the applicant[1/]

Corporate name		
Identification number		
Telephone number	**E-mail address**	
Registered office address in the form municipality, part of municipality, street, street number, postal code, country		

III.
APPLICATION

3. Application for

☐ **licence** ☐ **authorization** ☐ **change in licence** ☐ **change in authorization**	☐ for a bank
	☐ for a cooperative savings association

A. Further details on the applicant

4. Information on the capital of the bank/cooperative savings association

Total amount of registered capital (in CZK thousand) **of which** **- monetary contribution** **- non-monetary contribution**	
Type, nominal value and form of the applicant's shares	
Number of shares (in pcs) **of which:** **- voting shares** **- priority shares**	
Amount of basic membership contribution per member **Other membership contribution** **no ☐ yes ☐** **Total amount of other membership contributions (in CZK thousand)**	

B. Description of the applicant's activities

a) Bank

The table shall include the activities specified in Section 1 (1)(a) and (b) and in Section 1 (3)(a) to (o) of the Act on Banks which the applicant applies for (licence, change in licensed activities – broadening or narrowing the scope of licensed activities):

Entry in the table: Registered facts - **Z**
Deleted facts - **V**

5a. Required activities

Name of activity		**Z/V**	**Expected date of commencement** (if licence is to be granted or broadened) **or termination of activity** (if licence is to be narrowed)
Acceptance of deposits from the public	☐		
Granting of loans	☐		
Investing into securities on its own account	☐		
Financial leasing	☐		

Payment transactions and clearing	☐		
Issuance and administration of payment means, e.g. payment cards and traveller's cheques	☐		
Provision of guarantees	☐		
Opening of letters of credit	☐		
Ensuring of encashment	☐		
Provision of investment services pursuant to some other legal regulation[2/] - see table 5aa	☐		
Financial brokerage	☐		
Discharge of the depository function	☐		
Exchange services	☐		
Provision of banking information	☐		
Dealing in foreign exchange values and in gold on its own account or on client's account	☐		
Lease of safe deposit boxes	☐		
Activities directly related to the activity specified in Section 1 (1) and Section 1 (3)(a) to (n) of the Act on Banks	☐		

5aa – Provision of investment services pursuant to special legislation[2/] – a list of investment services and supplementary investment services that the bank intends to provide (this is for information only; it is not an application pursuant to the Act on Undertaking on the Capital Market)

	Investment instruments pursuant to Section 3 (1), subparagraph:											
		a)	**b)**	**c)**	**d)**	**e)**	**f)**	**g)**	**h)**	**i)**	**j)**	**k)**
Main investment services pursuant to the Act on Undertaking on the Capital Market, Section 4 (2), subparagraph:	**a)**											
	b)											
	c)											
	d)											
	e)											
	f)											
	g)											
	h)											

Supplementary investment services pursuant to the Act on Undertaking on the Capital Market, Section 4 (3), subparagraph:	**a)**											
	b)											
	c)											
	d)											
	e)											
	f)											
	g)											

b) Cooperative savings association

The table shall include the activities specified in Section 3 (1) and (2) of the Act on Savings and Loan Associations which the applicant applies for (authorization, change in authorized activities – broadening or narrowing the scope of authorized activities):

Entry in the table: Registered facts - **Z**
Deleted facts - **V**

5b. Required activities

	Name of activity		**Z/V**	**Expected date of commencement** (if authorization is to be granted or broadened) **or termination of activity** (if authorization is to be narrowed)
Compulsory information	**Acceptance of deposits from members**	☐		
	Granting of loans to members	☐		
	Financial leasing for members	☐		
	Payment transactions and clearing, issuance and administration of payment means for members	☐		
	Provision of guarantees in the form of surety or bank guarantee for members	☐		
	Opening of letters of credit for members	☐		
	Ensuring of encashment for members	☐		
	Purchase and sale of foreign currency for members	☐		
	Lease of safe deposit boxes to members	☐		

Other activities that may be performed by a cooperative savings association solely for the purposes of ensuring the activities specified above				
Optional information	Making deposits with cooperative savings associations and banks and with branches of foreign banks	☐	x	
	Accepting loans from cooperative savings associations	☐	x	
	Acquiring and disposing of property	☐	x	
	Dealing in foreign exchange and in exchange-rate and interest-rate instruments on its own account in order to secure the risks following from the activities pursuant to Section 3 (1) of the Act on Savings and Loan Associations	☐	x	
	Dealing in registered securities on its own account, unless the Act on Savings and Loan Associations stipulates otherwise	☐	x	

C. Senior officer(s) of the bank/cooperative savings association

6. Basic identification of senior officer(s) of the bank/cooperative savings association

Name(s) and surname and maiden name	Birth number[3]/ date of birth	Place of birth in the form – country, district, municipality [4]	State citizenship	Address of residence in the form municipality, part of municipality, street, street number, postal code, country	Proposed position

D. Personnel interconnection of persons with a qualified holding in the bank/cooperative savings association with other legal entities

7. Personnel interconnection of a person with a qualified holding with other legal entities;

A natural person with a qualified holding shall provide a summary of its current and past membership in the statutory bodies of other legal entities over the last 10 years. A legal entity with a qualified holding shall provide such a summary for the members of its statutory and supervisory body.

a) Natural person with a qualified holding

Name(s) and surname and maiden name of the natural person with a qualified holding	**Identification of the legal entity which the person specified in column 1 is interconnected with in personnel terms (firm/corporate name, identification number or, as the case may be, the day of commencement of business licence, registered office address in the form municipality, part of municipality, street, street number, postal code, country)**	**Identification of the office held by the person specified in column 1 in the statutory or supervisory body of the legal entity specified in column 2, and specification of the term of this office**
1	2	3

b) Legal entity with a qualified holding

Firm/corporate name of the legal entity with a qualified holding	**Name(s) and surname of the natural person who is a member of the statutory body of the legal entity specified in column 1**	**Identification of the legal entity which the person specified in column 2 is interconnected with in personnel terms (firm/corporate name, identification number or, as the case may be, the day of commencement of business licence, registered office address in the form municipality, part of municipality, street, street number, postal code, country)**	**Specification of the office held by the person specified in column 2 in the statutory or supervisory body of the legal entity specified in column 3, and specification of the term of this office**
1	2	3	4

E. List of annexes

8. Numbered list of all annexes (numbers must be indicated on the very annexes, too);
for every individual annex, give a reference to the relevant provision of the Decree

IV.
DECLARATION

I hereby declare that the information specified in the application, in the documentary materials and documents and in the annexes is true, up-to-date and complete.

This application is lodged by the applicant ☐

9. Identification of the person acting for the applicant/on behalf of the applicant

Specification of the position	
Name(s) and surname	
Date of birth	
Address of residence in the form municipality, part of municipality, street, street number, postal code, country	
Delivery address, if different from the address of residence, in the form municipality, part of municipality, street, street number, postal code, country	

This application is lodged by the applicant's representative ☐

10. Identification of the person representing the applicant

Details on the representative[5/]	
Name(s) and surname / firm or corporate name[6/]	
Date of birth	
Identification number	
Address of residence / registered office in the form municipality, part of municipality, street, street number, postal code, country	
Delivery address, if different from the address of residence /registered office, in the form municipality, part of municipality, street, street number, postal code, country	

In	Date:	By:

[1/] The applicant to whom the licence for a bank or the authorization for a cooperative savings association is to be granted.
[2/] Act No. 256/2004 Coll., on Undertaking on the Capital Market, as amended.
[3/] Shall be stated if assigned.
[4/] To be completed only if the place of birth is in the territory of the Czech Republic.
[5/] For instance, a lawyer, notary or general proxy.
[6/] A legal entity shall also specify the person acting on its behalf.

Annex No. 2 to Decree No. 233/2009 Coll.

SPECIMEN

Application
for an authorization to perform activities

pursuant to Act No. 256/2004 Coll., on Undertaking on the Capital Market, as amended
(hereinafter the "Act on Undertaking on the Capital Market")

I.
ADMINISTRATIVE AUTHORITY

1. Name and address of administrative authority

Name of the administrative authority	Czech National Bank
Registered office	Na Příkopě 28, Prague 1, postal code 115 03
Filing department	Senovážná 3, Prague 1, postal code 115 03

II.
APPLICANT

2. Identification of the applicant[1/]

Firm or corporate name		
Identification number		
Telephone number	**E-mail address**	
Registered office address in the form municipality, part of municipality, street, street number, postal code, country		

III.
APPLICATION

3. Application for

☐ **authorization** ☐ **change in authorization**	☐ for the activities of an investment firm
	☐ for the activities of an operator of a regulated market
	☐ for the operation of a settlement system
	☐ for the activities of a central depository

A. Further details on the applicant

4. Capital

Amount of registered capital	

Amount of paid-up registered capital	
Amount of initial capital[2/]	
Amount of equity[3/]	
Type, number, nominal value and form of the applicant's shares[4/]	

B. Description of the applicant's activities

a) Investment firm

The table shall include the main investment services and activities pursuant to Section 4 (2)(a) to (h) of the Act on Undertaking on the Capital Market and the supplementary investment services pursuant to Section 4 (3)(a) to (g) of the Act on Undertaking on the Capital Market in relation to which the applicant applies for the authorization or for a change in the authorization in respect of the specified investment instruments pursuant to Section 3 (1)(a) to (k) of the Act on Undertaking on the Capital Market, with respect to which they will be provided.

Entry in the table: Registered facts - **Z**
Deleted facts - **V**

5. Activities of an investment firm

		Investment instruments pursuant to the Act on Undertaking on the Capital Market, Section 3 (1), subparagraph:										
		a)	**b)**	**c)**	**d)**	**e)**	**f)**	**g)**	**h)**	**i)**	**j)**	**k)**
Main investment services pursuant to the Act on Undertaking on the Capital Market, Section 4 (2), subparagraph:	**a)**											
	b)											
	c)											
	d)											
	e)											
	f)											
	g)											
	h)											
Supplementary investment services pursuant to the Act on Undertaking on the Capital Market, Section 4 (3), subparagraph:	**a)**											
	b)											
	c)											
	d)											
	e)											
	f)											
	g)											

b) Operator of a regulated market or investment firm

6. Operation of a multilateral trading facility

It shall be specified whether the applicant applies for an authorization to operate a multilateral trading facility.

YES	☐
NO	☐

c) Operator of a settlement system

It shall be specified what investment instruments may be the subject of claims and obligations resulting from the transactions in respect of which settlement will be possible in the settlement system operated by the applicant.

d) Central depository

A proposal shall be made for a specification of the scope of activities for which the applicant is to be authorized[5/].

C. Personnel interconnection of persons with a qualified holding in the applicant with other legal entities

7. Personnel interconnection of a person with a qualified holding with other legal entities;

A natural person with a qualified holding shall provide a summary of its current and past membership in the statutory bodies of other legal entities over the last 10 years. A legal entity with a qualified holding shall provide such a summary for the members of its statutory and supervisory body

a) Natural person with a qualified holding

Name(s) and surname and maiden name of the natural person with a qualified holding	**Identification of the legal entity which the person specified in column 1 is interconnected with in personnel terms (firm/corporate name, identification number or, as the case may be, the day of commencement of business licence, registered office address in the form municipality, part of municipality, street, street number,**	**Specification of the office held by the person specified in column 1 in the statutory or supervisory body of the legal entity specified in column 2, and specification of the term of this office**

	postal code, country)	
1	2	3

b) Legal entity with a qualified holding

Firm/corporate name of the legal entity with a qualified holding	Name(s) and surname of the natural person who is a member of the statutory body of the legal entity specified in column 1	Identification of the legal entity which the person specified in column 2 is interconnected with in personnel terms (firm/corporate name, identification number or, as the case may be, the day of commencement of business licence, registered office address in the form municipality, part of municipality, street, street number, postal code, country)	Specification of the office held by the person specified in column 2 in the statutory or supervisory body of the legal entity specified in column 3, and specification of the term of this office
1	2	3	4

D. List of annexes

8. Numbered list of all annexes (numbers must be indicated on the very annexes, too);
for every individual annex, give a reference to the relevant provision of the Decree

IV.
DECLARATION

I hereby declare that the information specified in the application and in its annexes is true, up-to-date and complete.

This application is lodged by the applicant ☐

9. Identification of the person acting for the applicant/on behalf of the applicant

Specification of the position	
Name(s) and surname	
Date of birth	

Address of residence in the form municipality, part of municipality, street, street number, postal code, country	
Delivery address, if different from the address of residence, in the form municipality, part of municipality, street, street number, postal code, country	

This application is lodged by the applicant's representative ☐

10. Identification of the person representing the applicant

Details on the representative[8/]	
Name(s) and surname / firm or corporate name[6/]	
Date of birth	
Identification number	
Address of residence / registered office in the form municipality, part of municipality, street, street number, postal code, country	
Delivery address, if different from the address of residence / registered office, in the form municipality, part of municipality, street, street number, postal code, country	

In	Date:	By:

[1/] The applicant to whom the authorization is to be granted.
[2/] To be completed only by an applicant who applies for an authorization to perform the activities of an investment firm.
[3/] To be completed only by an applicant who applies for an authorization to perform the activities of an operator of a regulated market.
[4/] To be completed only by an applicant who is a joint-stock company.
[5/] Section 100 (3) of the Act on Undertaking on the Capital Market.
[6/] A legal entity shall also specify the person acting on its behalf.
[7/] Shall be stated if assigned.
[8/] For instance, a lawyer, notary or general proxy.

Annex No. 3 to Decree No. 233/2009 Coll.

SPECIMEN

Application
for a prior consent to perform the duties of a senior officer

pursuant to Act No. 256/2004 Coll., on Undertaking on the Capital Market, as amended
(hereinafter the "Act on Undertaking on the Capital Market")

I.
ADMINISTRATIVE AUTHORITY

1. Name and address of the administrative authority

Name of the administrative authority	Czech National Bank
Registered office	Na Příkopě 28, Prague 1, postal code 115 03
Filing department	Senovážná 3, Prague 1, postal code 115 03

II.
APPLICANT

2. Identification of the applicant

Name(s) and surname				
Maiden name				
Birth number[1/]	**Date of birth**			
Place of birth (country, district, municipality)				
State citizenship				
Identification number[1/]				
Telephone number	**E-mail address**			
Address of residence in the form municipality, part of municipality, street, street number, postal code, country				
Delivery address, if different from the address of residence, in the form municipality, part of municipality, street, street number, postal code, country				

III.
APPLICATION

3. Application for

☐ **prior consent to**	☐ performance of the duties of a senior officer of an investment firm
	☐ performance of the duties of the executive manager of a branch
	☐ performance of the duties of a senior officer of an operator of a regulated market
	☐ performance of the duties of a senior officer of a central depository
	☐ performance of the duties of a senior officer of a financial holding entity
☐ **approval of a senior officer in relation to some other matter**	Specify the matter[2/].

A. Basic information:

4. Specification of the position to be discharged

Name of the position	
Expected date of appointment	

5. Identification of the entity where the position is to be discharged

Firm or corporate name	
Identification number	
Registered office address in the form **municipality, part of municipality, street, street number, postal code, country**	

Description of the placement of the position to which the assessed person is to be elected within the organizational structure of the entity or, as the case may be, draft changes to its organizational structure (if any), including a graphic representation of the organizational structure of the entity – this information may be attached as an annex.

Description of the job content of the senior position to which the assessed person is to be elected or appointed, including its expected competence and powers (duties, responsibility)[4/].

B. Previous applications

6. Information on a previous application

6.1. Have you (or some other person on your behalf) ever in the past lodged an application for a prior consent to performance of the duties of a senior officer with a supervisory authority in

the Czech Republic or in some other country?	
☐ **YES** ☐ **NO**	**If YES**, give details.

C. Further personal data and information

7. Information for the assessment of eligibility

7.1. Is your legal capacity limited?	
☐ **YES** ☐ **NO**	
7.2. Has any fact occurred in relation to you that is an obstacle to operation of a trade pursuant to the act that regulates business in trade?	
☐ **YES, it has** ☐ **NO, it has not**	**If YES**, give details.
7.3. What positions do you intend to hold concurrently with the position of a senior officer?	
☐ **None**	**If you intend to concurrently hold any other positions**, give the following details:

Name of the position	Corporate name	Identification number

D. Information on credibility of the person

8. Information on a decision on punishment in criminal, administrative or other similar proceedings

8.1. Have you been validly convicted for a criminal offence?	
☐ **YES** ☐ **NO**	**If YES**, give brief details and substantiate the stated facts with a final decision.
8.2. Have you been imposed a penalty exceeding CZK 20,000 or prohibition of activities or some other remedial measure or duty to provide indemnification, through a final decision during the last 10 years, for any misdemeanour or some other administrative tort resulting from infringement of any legal duty in connection with performance of your employment, office or business activities?	
☐ **YES** ☐ **NO**	**If yes**, give brief details.
8.3. Have you been the statutory body or a member of the statutory or supervisory body of a legal entity, or have you been a person authorized to act for a legal entity on the basis of some other fact, or have you been a person controlling a legal entity at the time when a penalty was imposed on the legal entity, through a final decision, for an administrative tort or when the duty to provide indemnification was imposed on the legal entity, through a final decision, in connection with its activities on the financial market?	
☐ **YES** ☐ **NO**	**If yes**, give brief details.

9. Information on prosecution in criminal, administrative or other similar proceedings that is not included in paragraph 8 above.

9.1. Has criminal prosecution been initiated against you during the last 10 years?

☐ **YES** ☐ **NO**	**If YES**, give brief details and substantiate the stated facts with the accusation or indictment.
9.2. Have misdemeanour proceedings or other similar proceedings been initiated against you during the last 10 years as a result of infringement of any legal duty in connection with performance of your employment, office or business activities, except for proceedings on misdemeanours or other similar proceedings where pecuniary fines not exceeding CZK 20,000 may be imposed?	
☐ **YES** ☐ **NO**	**If YES**, give brief details.

10. Details on a decision and on initiation of civil proceedings or arbitration proceedings

10.1. Specify whether a decision has been issued with respect to you during the last 10 years in civil proceedings or arbitration proceedings, provided that this is related to your activities on the financial market or provided that this may substantially endanger your financial situation, or whether such proceedings are in progress and have not yet been closed through a final decision.	
☐ **YES** ☐ **NO**	**If YES**, give brief details.
10.2. Has a decision on insolvency been issued with respect to you during the last 10 years, or has a court dismissed an insolvency petition because your assets did not suffice to cover the costs of insolvency proceedings, or has bankruptcy been declared against your assets, has such bankruptcy been cancelled, settlement permitted, forced settlement confirmed or a bankruptcy petition dismissed for insufficient assets during the last 10 years?	
☐ **YES** ☐ **NO**	**If YES**, give brief details.

11. Other facts that may affect credibility

11.1. Has a decision on insolvency been issued with respect to a legal entity controlled by you during the last 10 years, or has a court dismissed an insolvency petition because its assets did not suffice to cover the costs of insolvency proceedings, or has bankruptcy been declared against the assets of the legal entity controlled by you, has such bankruptcy been cancelled, settlement permitted, forced settlement confirmed or a bankruptcy petition dismissed for insufficient assets during the last 10 years?	
☐ **YES** ☐ **NO**	**If YES**, specify the firm / corporate name of the legal entity, identification number and details.
11.2. Have you performed activities as the statutory body or as a member of the statutory or supervisory body of a legal entity or as a person authorized to act for a legal entity on the basis of some other fact for a period of up to 3 years before a decision was issued on insolvency of this legal entity or before an insolvency petition was dismissed because its assets did not suffice to cover the costs of insolvency proceedings, or for a period of up to 3 years before bankruptcy was declared against the assets of this legal entity or before settlement was permitted, or within 3 years before receivership was imposed on this legal entity?	
☐ **YES** ☐ **NO**	**If YES**, specify the firm / corporate name of the legal entity, identification number and details.
11.3. Has your business licence or authorization for some other activities been suspended or revoked, or has a court or an administrative authority refused to grant a consent to your	

election or appointment to a position, provided that this election or appointment required such a consent?	
☐ **YES**	**If YES**, give brief details.
☐ **NO**	

12. Information on credibility of the person from the viewpoint of membership in professional chambers

12.1. Have you been expelled, during the last 10 years, from any professional union, chamber or association, including abroad?	
☐ **YES**	**If YES**, give brief details.
☐ **NO**	
12.2. Have you performed, during the last 10 years, activities as the statutory body or as a member of the statutory or supervisory body of a legal entity, or as a person authorized to act for a legal entity on the basis of some other fact at the time when this legal entity was expelled from any professional union, chamber or association, including abroad?	
☐ **YES**	**If YES**, give brief details.
☐ **NO**	

13. Further information on other facts that may affect your credibility; if appropriate, furnish the relevant documents.

E. List of annexes

14. Numbered list of all annexes (numbers must be indicated on the very annexes, too);
for every individual annex, give a reference to the relevant provision of the Decree

IV.
DECLARATION

I hereby declare that the information specified in the application and in its annexes is true, up-to-date and complete.

In	Date:	By:

This application is lodged by the applicant ☐

This application is lodged by the applicant's representative ☐

15. Identification of the person representing the applicant

Details on the representative[6/]	
Name(s) and surname / firm or corporate name[5/]	
Date of birth	
Identification number[1/]	
Address of residence / registered office in the form **municipality, part of municipality, street, street number, postal code, country**	
Delivery address, if different from the address of residence / registered office, in the form **municipality, part of municipality, street, street number, postal code, country**	

In	Date:	By:

[1/] Shall be stated if assigned.
[2/] For instance, an application for an authorization to perform the activities of an investment firm, including a specification of the date of lodging.
[3/] Not to be completed, if the applicant is a natural person applying for registration of an investment intermediary.
[4/] This description may be replaced by an internal regulation that regulates the duties to be performed by the assessed person, including the competence and powers following from this position.
[5/] A legal entity shall also specify the person acting on its behalf.
[6/] For instance, a lawyer, notary or general proxy.

Annex No. 4 to Decree No. 233/2009 Coll.

Questionnaire
for assessment of professional qualifications, trustworthiness and experience of a senior officer (bank, cooperative savings association, branch of a foreign bank, investment intermediary) or of a person proposed for an executive managerial position in a financial holding entity

I.
IDENTIFICATION OF THE SENIOR OFFICER OR OF THE PERSON PROPOSED FOR AN EXECUTIVE MANAGERIAL POSITION, AND INFORMATION TO PROVE PROFESSIONAL QUALIFICATIONS, TRUSTWORTHINESS AND EXPERIENCE

1. Basic details

Name(s) and surname				
Maiden name				
Birth number[1/]	**Date of birth**			
Place of birth (country, district, municipality)				
State citizenship				

2. Specify where the senior officer or the person proposed for an executive managerial position is to perform the duties

- ☐ **bank**
- ☐ **cooperative savings association**
- ☐ **branch of a foreign bank**
- ☐ **investment intermediary**
- ☐ **financial holding entity**

A. Basic information

3. Description of the placement of the position to which the assessed person is to be elected within the organizational structure of the entity or, as the case may be, draft changes to its organizational structure (if any), including a graphic representation of the organizational structure of the entity – this information may be attached as an annex.

4. Description of the job content of the position to which the assessed person is to be elected or appointed, including its expected competence and powers (duties, responsibility)[2/]

B. Previous applications

5. Information on a previous application

Have you (or some other person on your behalf) ever in the past lodged an application for a prior consent to performance of the duties of a senior officer with a supervisory authority in the Czech Republic and/or have you ever been a subject of assessment by a supervisory authority in the Czech Republic in connection with your nomination for performance of the duties of a senior officer?	
☐ **YES** ☐ **NO**	**If YES**, give details.

C. Further personal data and information

6. Information for the assessment of eligibility

6.1. Is your legal capacity limited?		
☐ **YES** ☐ **NO**		
6.2. Has any fact occurred in relation to you that is an obstacle to operation of a trade pursuant to the act that regulates business in trade?		
☐ **YES, it has** ☐ **NO, it has not**	**If YES**, give details.	
6.3. What positions do you hold or intend to hold concurrently with the position of a senior officer?		
☐ **None**	**If you intend to concurrently hold any other positions**, give the following details:	
Name of the position	Corporate name	Identification number

D. Information on credibility of the person

7. Information on a decision on punishment in criminal, administrative or other similar proceedings

7.1. Have you been validly convicted for a criminal offence?	
☐ **YES**	**If YES**, give brief details and substantiate the stated facts with a final decision.
☐ **NO**	
7.2. Have you been imposed a penalty exceeding CZK 20,000 or prohibition of activities or some other remedial measure or duty to provide indemnification, through a final decision during the last 10 years, for a misdemeanour or some other administrative tort?	
☐ **YES**	**If YES**, give brief details.
☐ **NO**	
7.3. Have you been imposed a penalty exceeding CZK 20,000 or prohibition of activities or some other remedial measure or duty to provide indemnification, through a final decision during the last 10 years, for any misdemeanour or some other administrative tort resulting from infringement of any legal duty in connection with performance of your employment, office or business activities?	
☐ **YES**	**If YES**, give brief details.
☐ **NO**	

8. Information on prosecution in criminal, administrative or other similar proceedings that is not included in subparagraphs 7.1 to 7.3 above

8.1. Has criminal prosecution been initiated against you during the last 10 years?	
☐ **YES**	**If YES**, give brief details and substantiate the stated facts with the accusation or indictment.
☐ **NO**	
8.2. Have misdemeanour proceedings or other similar proceedings been initiated against you during the last 10 years as a result of infringement of any legal duty in connection with performance of your employment, office or business activities, except for proceedings on misdemeanours or other similar proceedings where pecuniary fines not exceeding CZK 20,000 may be imposed?	
☐ **YES**	**If YES**, give brief details.
☐ **NO**	

9. Details on a decision and on initiation of civil proceedings or arbitration proceedings

9.1. Specify whether a decision has been issued with respect to you during the last 10 years in civil proceedings or arbitration proceedings, provided that this is related to your activities on the financial market or provided that this may substantially endanger your financial situation, or whether such proceedings are in progress and have not yet been closed through a final decision.	
☐ **YES**	**If YES**, give brief details.
☐ **NO**	
9.2. Has a decision on insolvency been issued with respect to you during the last 10 years, or has a court dismissed an insolvency petition because your assets did not suffice to cover the costs of insolvency proceedings, or has bankruptcy been declared against your assets, has such	

bankruptcy been cancelled, settlement permitted, forced settlement confirmed or a bankruptcy petition dismissed for insufficient assets during the last 10 years?	
☐ **YES**	**If YES**, give brief details.
☐ **NO**	

10. Other facts that may affect credibility

10.1. Has a decision on insolvency been issued with respect to a legal entity controlled by you during the last 10 years, or has a court dismissed an insolvency petition because its assets did not suffice to cover the costs of insolvency proceedings, or has bankruptcy been declared against the assets of the legal entity controlled by you, has such bankruptcy been cancelled, settlement permitted, forced settlement confirmed or a bankruptcy petition dismissed for insufficient assets during the last 10 years?	
☐ **YES**	**If YES**, specify the firm / corporate name of the legal entity, identification number and details.
☐ **NO**	
10.2. Have you performed activities as the statutory body or as a member of the statutory or supervisory body of a legal entity or as a person authorized to act for a legal entity on the basis of some other fact for a period of up to 3 years before a decision was issued on insolvency of this legal entity or before an insolvency petition was dismissed because its assets did not suffice to cover the costs of insolvency proceedings, or for a period of up to 3 years before bankruptcy was declared against the assets of this legal entity or before settlement was permitted, or within 3 years before receivership was imposed on this legal entity?	
☐ **YES**	**If YES**, specify the firm / corporate name of the legal entity, identification number and details.
☐ **NO**	
10.3. Has your business licence or authorization for some other activities been suspended or revoked, or has a court or an administrative authority refused to grant a consent to your election or appointment to a position, provided that this election or appointment required such a consent?	
☐ **YES**	**If YES**, give brief details.
☐ **NO**	

11. Information on credibility of the person from the viewpoint of membership in professional chambers

11.1. Have you been expelled, during the last 10 years, from any professional union, chamber or association, including abroad?	
☐ **YES**	**If YES**, give brief details.
☐ **NO**	
11.2. Have you performed, during the last 10 years, activities as the statutory body or as a member of the statutory or supervisory body of a legal entity, or as a person authorized to act for a legal entity on the basis of some other fact at the time when this legal entity was expelled from any professional union, chamber or association, including abroad?	
☐ **YES**	**If YES**, give brief details.
☐ **NO**	

12. Give information on other facts that may affect your credibility; if appropriate, furnish the relevant documents.

II.
DECLARATION

I hereby declare that the information specified in this questionnaire is true, up-to-date and complete.

In	Date:	By:

[1/] Shall be stated if assigned.

[2/] This description may be replaced by an internal regulation that regulates the duties to be performed by the assessed person, including the competence and powers following from this position.

Annex No. 5 to Decree No. 233/2009 Coll.

SPECIMEN

Application
for a licence for a branch of a foreign bank that has its registered office outside the territory of the European Union

pursuant to Act No. 21/1992 Coll., on Banks, as amended
(hereinafter the "Act on Banks")

I.
ADMINISTRATIVE AUTHORITY

1. Name and address of the administrative authority

Name of the administrative authority	Czech National Bank
Registered office	Na Příkopě 28, Prague 1, postal code 115 03
Filing department	Senovážná 3, Prague 1, postal code 115 03

II.
APPLICANT

2. Identification of the foreign bank – founder of the branch

Corporate name		
Telephone number	**E-mail address**	
Registered office address in the form municipality, part of municipality, street, street number, postal code, country		

III.
APPLICATION

3. Application for

☐ **licence** ☐ **change in licence**	for a branch of a foreign bank

3A. Further details on the applicant – founder of the branch

Amount of the foreign bank's registered capital	
Amount of the foreign bank's net corporate assets	
Amount of funds allocated to the branch	

3B. Details on the branch

Corporate name	
Registered office address in the form **municipality, part of municipality, street, street number, postal code, country**	

3C. Activities performed by the branch to be established

The table shall include the activities pursuant to Section 1 (1)(a) and (b) and Section 1 (3)(a) to (o) of the Act on Banks for which the applicant applies for the branch (licence, change in licensed activities – broadening or narrowing the scope of licensed activities).

Entry in the table: Registered facts - **Z**
Deleted facts - **V**

a) Activities pursuant to the Act on Banks

Name of activity		**Z/V**	**Expected date of commencement** (if licence is to be granted or broadened) **or termination of the activity** (if licence is to be narrowed)
Acceptance of deposits from the public	☐		
Granting of loans	☐		
Investing into securities on its own account	☐		
Financial leasing	☐		
Payment transactions and clearing	☐		
Issuance and administration of payment means, e.g. payment cards and traveller's cheques	☐		
Provision of guarantees	☐		

Opening of letters of credit	☐		
Ensuring of encashment	☐		
Provision of investment services pursuant to a special legal regulation [1/] – see table b)	☐		
Financial brokerage	☐		
Discharge of the depository function	☐		
Exchange services	☐		
Provision of banking information	☐		
Dealing in foreign exchange values and in gold on its own account or on client's account	☐		
Lease of safe deposit boxes	☐		
Activities directly related to the activity specified in Section 1 (1) and Section 1 (3)(a) to (n) of the Act on Banks	☐		

b) Provision of investment services pursuant to special legislation[1/] – a list of investment services and supplementary investment services that the branch of a foreign bank intends to provide (this is for information only; it is not an application pursuant to the Act on Undertaking on the Capital Market)

	Investment instruments pursuant to the Act on Undertaking on the Capital Market, Section 3 (1), subparagraph:											
		a)	**b)**	**c)**	**d)**	**e)**	**f)**	**g)**	**h)**	**i)**	**j)**	**k)**
Main investment services pursuant to the Act on Undertaking on the Capital Market, Section 4 (2), subparagraph:	**a)**											
	b)											
	c)											
	d)											
	e)											
	f)											
	g)											
	h)											
Supplementary investment services pursuant to the Act on Undertaking on the Capital Market, Section 4 (3), subparagraph:	**a)**											
	b)											
	c)											
	d)											
	e)											
	f)											
	g)											

Person proposed for an executive managerial position in the branch of a foreign bank[2/]

4. Basic identification of the executive manager of the branch

Name(s) and surname and maiden name	Birth number[3]/ date of birth	Place of birth in the form – country, district, municipality[4]	State citizenship	Address of residence in the form municipality, part of municipality, street, street number, postal code, country

List of annexes

5. Numbered list of all annexes (numbers must be indicated on the very annexes, too)

IV.
DECLARATION

I hereby declare that the information specified in the application, in the documentary materials, documents and in the annexes is true, up-to-date and complete.

This application is lodged by the applicant ☐

6. Identification of the person acting for the applicant/on behalf of the applicant

Specification of the position	
Name(s) and surname	
Date of birth	
Address of residence in the form **municipality, part of municipality, street, street number, postal code, country**	
Delivery address, if different from the address of residence, in the form **municipality, part of municipality, street, street number, postal code, country**	

This application is lodged by the applicant's representative ☐

7. Identification of the person representing the applicant

Details on the representative[6/]	
Name(s) and surname / firm or corporate name[5/]	
Date of birth	
Identification number	
Address of residence / registered office in the form municipality, part of municipality, street, street number, postal code, country	
Delivery address, if different from the address of residence / registered office, in the form municipality, part of municipality, street, street number, postal code, country	

In	Date:	By:

1/ Act No. 256/2004 Coll., on Undertaking on the Capital Market.
2/ Section 4 (5)(d) of the Act on Banks.
3/ Shall be stated if assigned.
4/ To be completed only if the place of birth is in the territory of the Czech Republic.
5/ A legal entity shall also specify the person acting on its behalf.
6/ For instance, a lawyer, notary or general proxy.

Annex No. 6 to Decree No. 233/2009 Coll.

SPECIMEN

Application for an authorization to provide investment services through a branch of a foreign entity having its registered office in a country that is not a Member State of the European Union

pursuant to Act No. 256/2004 Coll., on Undertaking on the Capital Market, as amended
(hereinafter the "Act on Undertaking on the Capital Market")

I.
ADMINISTRATIVE AUTHORITY

1. Name and address of the administrative authority

Name of the administrative authority	Czech National Bank
Registered office	Na Příkopě 28, Prague 1, postal code 115 03
Filing department	Senovážná 3, Prague 1, postal code 115 03

II.
APPLICANT

2. Identification of the foreign entity – founder of the branch

Firm or corporate name		
Identification number[1/]		
Telephone number	**E-mail address**	
Registered office address in the form municipality, part of municipality, street, street number, postal code, country		

III.
APPLICATION

3. Application for

☐ **authorization** ☐ **change in authorization**	to provide investment services through a branch of a foreign entity having its registered office in a country that is not a Member State of the European Union

3A. Further details on the applicant – founder of the branch

Amount of registered capital	
Amount of net corporate assets	
Amount of funds allocated to the branch	

3B. Details on the branch

Firm or corporate name	
Identification number	
Registered office address in the form **municipality, part of municipality, street, street number, postal code, country**	

3C. Description of activities of the branch

The table shall include the main investment services and activities pursuant to Section 4 (2)(a) to (h) of the Act on Undertaking on the Capital Market, and the supplementary investment services pursuant to Section 4 (3)(a) to (g) of the Act on Undertaking on the Capital Market in relation to which the applicant applies for the authorization or for a change in the authorization for the branch in respect of the specified investment instruments pursuant to Section 3 (1)(a) to (k) of the Act on Undertaking on the Capital Market, with respect to which they will be provided.

Entry in the table: Registered facts - **Z**
Deleted facts - **V**

	Investment instruments pursuant to the Act on Undertaking on the Capital Market, Section 3 (1), subparagraph:											
		a)	**b)**	**c)**	**d)**	**e)**	**f)**	**g)**	**h)**	**i)**	**j)**	**k)**
Main investment services pursuant to the Act on Undertaking on the Capital Market, Section 4 (2), subparagraph:	**a)**											
	b)											
	c)											
	d)											
	e)											
	f)											
	g)											
	h)											
Supplementary investment services pursuant to the Act on Undertaking on the Capital Market, Section 4 (3), subparagraph:	**a)**											
	b)											
	c)											
	d)											
	e)											
	f)											
	g)											
Details on any other business carried out by the applicant in the Czech Republic, if applicable:												

4. Numbered list of all annexes (numbers must be indicated on the very annexes, too)

IV.
DECLARATION

I hereby declare that the information specified in the application and in its annexes is true, up-to-date and complete.

This application is lodged by the applicant ☐

5. Identification of the person acting for the applicant/on behalf of the applicant

Specification of the position	
Name(s) and surname	
Date of birth	
Address of residence in the form municipality, part of municipality, street, street number, postal code, country	
Delivery address, if different from the address of residence, in the form municipality, part of municipality, street, street number, postal code, country	

This application is lodged by the applicant's representative ☐

6. Identification of the person representing the applicant

Details on the representative[3/]	
Name(s) and surname / firm or corporate name[2/]	
Date of birth	
Identification number[1/]	
Address of residence / registered office in the form municipality, part of municipality, street, street number, postal code, country	
Delivery address, if different from the address of residence / registered office, in the form municipality, part of municipality, street, street number, postal code, country	

In	Date:	By:

1/ Shall be stated if assigned; or a similar identification of the entity shall be specified.
2/ A legal entity shall also specify the person acting on its behalf.
3/ For instance, a lawyer, notary or general proxy.

Annex No. 7 to Decree No. 233/2009 Coll.

SPECIMEN

Application
for a consent to acquisition of or increase in a qualified holding in a regulated legal entity / to control a regulated legal entity

pursuant to Act No. 21/1992 Coll., on Banks, as amended (hereinafter the "Act on Banks"), Act No. 87/1995 Coll., on Savings and Loan Associations and Certain Related Measures and on the Amendment to Act No. 586/1992 Coll. of the Czech National Council, on Income Taxes, as amended, as amended (hereinafter the "Act on Savings and Loan Associations"), and pursuant to Act No. 256/2004 Coll., on Undertaking on the Capital Market, as amended (hereinafter the "Act on Undertaking on the Capital Market")

I.
ADMINISTRATIVE AUTHORITY

1. Name and address of the administrative authority

Name of the administrative authority	Czech National Bank
Registered office	Na Příkopě 28, Prague 1, postal code 115 03
Filing department	Senovážná 3, Prague 1, postal code 115 03

II.
APPLICANT

2. Identification of the applicant – natural person

Name and surname, incl. maiden name		
Birth number[1/] / date of birth		
Telephone number	**E-mail address**	
Address of residence in the form municipality, part of municipality, street, street number, postal code, country		
Delivery address, if different from the address of residence, in the form municipality, part of municipality, street, street number, postal code, country		

3. Identification of the applicant – legal entity

Firm or corporate name	
Identification number[1/]	
Telephone number and e-mail address	
Registered office address in the form municipality, part of municipality, street,	

street number, postal code, country	

III.
APPLICATION

4. Application for

☐ **consent to acquire or increase a qualified holding in**	☐ a bank
	☐ a cooperative savings association
	☐ an investment firm
☐ **consent to control**	☐ a central depository
	☐ an operator of a regulated market

A. <u>Details on the regulated legal entity in which the qualified holding is to be acquired or increased, and details on the amount of such a holding</u>

5. Details on the regulated legal entity in which the qualified holding is being acquired or increased, or which is to become a controlled entity on the basis of an agreement

Firm or corporate name	
Identification number[1/]	
Registered office address in the form municipality, part of municipality, street, street number, postal code, country	

6. Details on the existing, acquired/increased and total amount of the holding

Amount of the holding as at the day of lodging the application (%)		**Amount of the holding which is to be acquired/by which the holding is to be increased (%)**		**Expected total amount of the qualified holding after approval (%)**	
In total:		**In total:**		**In total:**	
of which:		**of which:**		**of which:**	
direct holding	**indirect holding**	**direct holding**	**indirect holding**	**direct holding**	**indirect holding**

Provided that the applicant has an indirect holding, it shall identify the entity through which it has the indirect holding, including the following information: corporate name, date of formation/ identification number, registered office address in the form – municipality, part of municipality, street, street number, postal code, country

B. Legal and other related aspects

7. Questionnaire for the applicant

7.1. Do you acquire the holdings in the regulated legal entity on your own behalf and on your own account?	
☐ **YES** ☐ **NO**	**If NOT**, give details.
7.2. Do you exercise or will you exercise voting rights in favour of a third party?	
☐ **YES** ☐ **NO**	**If YES**, specify the relevant party.
7.3. Do you intend to transfer the voting rights in the regulated legal entity to a third party on the basis of a concluded contract or agreement?	
☐ **YES** ☐ **NO**	**If YES**, specify the relevant party.
7.4. Has a contract been concluded with a third party on the basis of which you are a controlled entity? **Has a contract been concluded or will a contract be concluded on the basis of which you are to become a controlled entity?**	
☐ **YES** ☐ **NO**	**If YES**, give details.
7.5. Do you act in concert with a third party that has holdings in the regulated legal entity or to whom the exercise of the voting rights has been transferred or who is able to exercise a significant influence over the management of the regulated legal entity?	
☐ **YES** ☐ **NO**	**If YES**, give details on such a third party and on the manner of acting in concert.
7.6. Do you have any financial and/or other liabilities the amount of which exceeds 5 % of your equity/owned property or that may have an effect in this amount?	
☐ **YES** ☐ **NO**	**If YES** specify: the contractual counterparty, the amount of the obligation, the date of commencement of the obligation, the term of the obligation, the date of maturity of the obligation, including information on delay in performance of such obligations.
7.7. If you also apply for a subsequent consent to acquisition of a holding in the regulated legal entity, justify why you failed to apply for a prior consent with the Czech National Bank and prove that this was a case deserving special consideration. **Furthermore, specify whether you have exercised the voting rights associated with such holdings and whether you have exercised significant influence over the management of the entity in which you acquired the holdings.**	

C. Details on the shares and ownership interests being acquired

8. Identification of the person who the shares or ownership interests are being acquired from, the manner and date of their acquisition

Order	Name(s) and surname/firm or corporate name	Birth number[1/]/ date of birth/ identification number[1/]	Address of residence/ registered office in the form municipality, part of municipality, street. street number, postal code, country	Total amount of the holding that is being acquired	Manner of acquiring the holding	Expected date of acquisition of the holding
1.						
2.						
3.						

D. Personnel interconnection of persons with a qualified holding with other legal entities

9. Personnel interconnection of a person with a qualified holding with other legal entities;

A natural person with a qualified holding shall provide a summary of its current and past membership in the statutory bodies of other legal entities over the last 10 years. A legal entity with a qualified holding shall provide such a summary for the members of its statutory and supervisory body.

a) Natural person with a qualified holding

Name(s) and surname and maiden name of the natural person with a qualified holding	Identification of the legal entity which the person specified in column 1 is interconnected with in personnel terms (firm/corporate name, identification number or, as the case may be, the day of commencement of business licence, registered office address in the form municipality, part of municipality, street, street number, postal code, country)	Identification of the office held by the person specified in column 1 in the statutory or supervisory body of the legal entity specified in column 2, and specification of the term of this office
1	2	3

b) Legal entity with a qualified holding

Firm/corporate name of the legal entity with a qualified holding	**Name(s) and surname of the natural person who is a member of the statutory body of the legal entity specified in column 1**	**Identification of the legal entity which the person specified in column 2 is interconnected with in personnel terms (firm/corporate name, identification number or, as the case may be, the day of commencement of business licence, registered office address in the form municipality, part of municipality, street, street number, postal code, country)**	**Specification of the office held by the person specified in column 2 in the statutory or supervisory body of the legal entity specified in column 3, and specification of the term of this office**
1	2	3	4

E. List of documents

10. Numbered list of all annexes (numbers must be indicated on the very annexes, too);
for every individual annex, give a reference to the relevant provision of the Decree

IV.
DECLARATION

I hereby declare that the information specified in the application, in the documentary materials and documents and in the annexes is true, up-to-date and complete.

This application is lodged by the applicant ☐

11. Identification of the person acting for the applicant/on behalf of the applicant

Specification of the position	
Name(s) and surname	
Date of birth	
Address of residence in the form municipality, part of municipality, street, street number, postal code, country	

Delivery address, if different from the address of residence, in the form **municipality, part of municipality, street, street number, postal code, country**	

This application is lodged by the applicant's representative ☐

12. Identification of the person representing the applicant

Details on the representative[3/]	
Name(s) and surname / firm or corporate name[2/]	
Date of birth	
Identification number	
Address of residence / registered office in the form **municipality, part of municipality, street, street number, postal code, country**	
Delivery address, if different from the address of residence / registered office, in the form **municipality, part of municipality, street, street number, postal code, country**	

In	Date:	By:

1/ Shall be stated if assigned.
2/ A legal entity shall also specify the person acting on its behalf.
3/ For instance, a lawyer, notary or general proxy.

Annex No. 8 to Decree No. 233/2009 Coll.

SPECIMEN

Application
for a permit for transformation of a company or for conclusion of an agreement on transfer, pledge or lease of an enterprise or of a part thereof

pursuant to Act No. 256/2004 Coll., on Undertaking on the Capital Market, as amended
(hereinafter the "Act on Undertaking on the Capital Market")

I.
ADMINISTRATIVE AUTHORITY

1. Name of the administrative authority

Name of the administrative authority	Czech National Bank
Registered office	Na Příkopě 28, Prague 1, postal code 115 03
Filing department	Senovážná 3, Prague 1, postal code 115 03

II.
APPLICANT

2. Identification of the applicant

Firm or corporate name		
Identification number		
Telephone number	**E-mail address**	
Registered office address in the form municipality, part of municipality, street, street number, postal code, country		

III.
APPLICATION

3. Application for

☐ **permit to merge**	☐ in the form of a domestic merger
	☐ in the form of a cross-border merger
	☐ by formation of a new company
	☐ by acquisition
☐ **permit for division**	☐ with the creation of new business companies
	☐ by acquisition
	☐ through a combination of division with the creation of new business companies and division by acquisition
	☐ by split-off
☐ **permit for**	☐ transfer of assets to a member / shareholder
	☐ transfer of another person's assets to an investment firm, operator of a regulated market or central depository
	☐ change in the legal form
☐ **permit for**	☐ conclusion of an agreement on transfer of an enterprise or of a part thereof
	☐ pledge of an enterprise or of a part thereof
	☐ lease of an enterprise or of a part thereof

4. Numbered list of all annexes (numbers must be indicated on the very annexes, too);
for every individual annex, give a reference to the relevant provision of the Decree

IV.
DECLARATION

I hereby declare that the information specified in the application and in its annexes is true, up-to-date and complete.

This application is lodged by the applicant ☐

5. Identification of the person acting for the applicant/on behalf of the applicant

Specification of the position	
Name(s) and surname	
Date of birth	
Address of residence in the form municipality, part of municipality, street, street number, postal code, country	
Delivery address, if different from the address of residence, in the form municipality, part of municipality, street, street number, postal code, country	

This application is lodged by the applicant's representative ☐

6. Identification of the person representing the applicant

Details on the representative [3/]	
Name(s) and surname / firm or corporate name [1/]	
Date of birth	
Identification number [2/]	
Address of residence / registered office in the form municipality, part of municipality, street, street number, postal code, country	
Delivery address, if different from the address of residence / registered office, in the form municipality, part of municipality, street, street number, postal code, country	

In	Date:	By:

[1/] A legal entity shall also specify the person acting on its behalf.
[2/] Shall be stated if assigned.
[3/] For instance, a lawyer, notary or general proxy.

Annex No. 9 to Decree No. 233/2009 Coll.

SPECIMEN

Application
for registration of an investment intermediary

pursuant to Act No. 256/2004 Coll., on Undertaking on the Capital Market, as amended
(hereinafter the "Act on Undertaking on the Capital Market")

I.
ADMINISTRATIVE AUTHORITY

1. Name of the administrative authority

Name of the administrative authority	Czech National Bank
Registered office	Na Příkopě 28, Prague 1, postal code 115 03
Filing department	Senovážná 3, Prague 1, postal code 115 03

II.
APPLICANT

2. Identification of the applicant – natural person

Name(s) and surname			
Birth number[1/]	**Date of birth**		
Identification number[1/]			
Telephone number	**E-mail address**		
Address of residence in the form municipality, part of municipality, street, street number, postal code, country			
Delivery address, if different from the address of residence, in the form municipality, part of municipality, street, street number, postal code, country			

3. **Identification of the applicant – legal entity**

Firm or corporate name		
Identification number		
Telephone number	**E-mail address**	
Registered office address in the form municipality, part of municipality, street, street number, postal code, country		

III.
APPLICATION

4. Application for

☐ registration of an investment intermediary

5. Numbered list of all annexes (numbers must be indicated on the very annexes, too);
for every individual annex, give a reference to the relevant provision of the Decree

IV.
DECLARATION

I hereby declare that the information specified in the application and in its annexes is true, up-to-date and complete.

This application is lodged by the applicant ☐

6. Identification of the person acting for the applicant

Specification of the position	
Name(s) and surname	
Date of birth	
Address of residence in the form municipality, part of municipality, street, street number, postal code, country	
Delivery address, if different from the address of residence, in the form municipality, part of municipality, street, street number, postal code, country	

This application is lodged by the applicant's representative ☐

7. Identification of the person representing the applicant

Details on the representative [3/]	
Name(s) and surname / firm or corporate name [2/]	
Date of birth	
Identification number	
Address of residence / registered office in the form **municipality, part of municipality, street, street number, postal code, country**	
Delivery address, if different from the address of residence / registered office, in the form **municipality, part of municipality, street, street number, postal code, country**	

In	Date:	By:

[1/] Shall be stated if assigned.
[2/] A legal entity shall also specify the person acting on its behalf.
[3/] For instance, a lawyer, notary or general proxy.

Annex No. 10 to Decree No. 233/2009 Coll.

SPECIMEN

Application
for entry in the list of tied agents

pursuant to Act No. 256/2004 Coll., on Undertaking on the Capital Market, as amended
(hereinafter the "Act on Undertaking on the Capital Market")

I.
ADMINISTRATIVE AUTHORITY

1. Name of the administrative authority

Name of the administrative authority	Czech National Bank
Registered office	Na Příkopě 28, Prague 1, postal code 115 03
Filing department	Senovážná 3, Prague 1, postal code 115 03

II.
APPLICANT

2. Identification of the applicant – natural person

Name(s) and surname	
Birth number	
Date of birth	
Identification number	
Address of residence in the form municipality, part of municipality, street, street number, postal code, country	
Delivery address, if different from the address of residence, in the form municipality, part of municipality, street, street number, postal code, country	

3. Identification of the applicant – legal entity

Firm / corporate name	
Identification number	
Registered office address in the form municipality, part of municipality, street, street number, postal code, country	
Delivery address, if different from the registered office address, in the form municipality, part of municipality, street, street number, postal code, country	

4. Identification of the person authorized by the applicant (the represented person) to submit the data report

Name(s) and surname	
E-mail address	

III.
TIED AGENT

5. Identification of the tied agent – natural person

Serial number				
Type of entry (New, Change, Deletion)				
Name(s) and surname				
Date of birth				
Birth number				
Identification number				
Address of residence in the form municipality, part of municipality, street, street number, postal code, country				

6. Identification of the tied agent – legal entity

	Serial number	**Serial number**	**Serial number**	**Serial number**
Firm / corporate name				
Identification number				
Registered office address in the form municipality, part of municipality, street, street number, postal code, country				

SCOPE OF ACTIVITIES OF THE TIED AGENT

(the number of completed tables equals to the number of tied agents to be registered)

7. Activities of the tied agent

Ser. no.	**Identification number / birth number**			**Corporate name / name(s) and surname**										
				Investment instruments pursuant to the Act on Undertaking on the Capital Market, Section 3 (1), subparagraph:										
				a)	**b)**	**c)**	**d)**	**e)**	**f)**	**g)**	**h)**	**i)**	**j)**	**k)**
Activities pursuant to the Act on Undertaking on the Capital Market, Section 32 (a)(1), subparagraph:	**a)**	main services pursuant to Section 4 (2), subparagraph:	**a)**											
			h)											
	b)	main services pursuant to Section 4 (2), subparagraph:	**e)**											
	c)	main services pursuant to Section 4 (2), subparagraph:	**a)**											
			b)											
			c)											
			d)											
			e)											
			f)											
			g)											
			h)											
		supplementary services pursuant to Section 4 (3), subparagraph:	**a)**											
			b)											
			c)											
			d)											
			e)											
			f)											

Annex No. 11 to Decree No. 233/2009 Coll.

SPECIMEN

Application
for entry in the list of liquidators and receivers

pursuant to Act No. 256/2004 Coll., on Undertaking on the Capital Market, as amended
(hereinafter the "Act on Undertaking on the Capital Market")

I.
ADMINISTRATIVE AUTHORITY

1. Name of the administrative authority

Name of the administrative authority	Czech National Bank
Registered office	Na Příkopě 28, Prague 1, postal code 115 03
Filing department	Senovážná 3, Prague 1, postal code 115 03

II.
APPLICANT

2. Identification of the applicant

Name(s) and surname			
Birth number[1/]	**Date of birth**		
Identification number[1/]			
Telephone number	**E-mail address**		
Address of residence in the form municipality, part of municipality, street, street number, postal code, country			
Delivery address, if different from the address of residence, in the form municipality, part of municipality, street, street number, postal code, country			

III.
APPLICATION

3. Application for

☐ entry in the list of liquidators and receivers

IV.
CREDIBILITY

4. Information on credibility of the person

4.1. Is your legal capacity limited?	
☐ **YES** ☐ **NO**	
4.2. Has any fact occurred in relation to you that is an obstacle to operation of a trade pursuant to the act that regulates business in trade?	
☐ **YES, it has** ☐ **NO, it has not**	**If YES**, give details.

4.3. What positions do you intend to hold concurrently with the position of a liquidator or receiver?		
☐ **None**	**If you intend to concurrently hold any other positions**, give the following details:	
Name of the position	Corporate name	Identification number

5. Information on punishment in criminal, administrative or other similar proceedings

5.1. Have you been validly convicted for a criminal offence?	
☐ **YES** ☐ **NO**	**If YES**, give brief details and substantiate the stated facts with a final decision.
5.2. Have you been imposed a penalty exceeding CZK 20,000 or prohibition of activities or some other remedial measure or duty to provide indemnification, through a final decision during the last 10 years, for any misdemeanour or some other administrative tort resulting from infringement of any legal duty in connection with performance of your employment, office or business activities?	
☐ **YES** ☐ **NO**	**If YES**, give brief details.
5.3. Have you been the statutory body or a member of the statutory or supervisory body of a legal entity, or have you been a person authorized to act for a legal entity on the basis of some other fact at the time when a penalty was imposed on the legal entity, through a final decision, for an administrative tort or when the duty to provide indemnification was imposed on the legal entity, through a final decision, in connection with its activities on the financial market?	
☐ **YES** ☐ **NO**	**If YES**, give brief details.

6. Information on prosecution in criminal, administrative or other similar proceedings that is not included in paragraph 5 above

6.1. Has criminal prosecution been initiated against you during the last 10 years?	
☐ **YES** ☐ **NO**	**If YES**, give brief details and substantiate the stated facts with the accusation or indictment.
6.2. Have misdemeanour proceedings or other similar proceedings been initiated against you during the last 10 years as a result of infringement of any legal duty in connection with performance of your employment, office or business activities, except for proceedings on misdemeanours or other similar proceedings where pecuniary fines not exceeding CZK 20,000 may be imposed?	
☐ **YES** ☐ **NO**	**If YES**, give brief details.

7. Information on a decision and on initiation of civil proceedings or arbitration proceedings

7.1. Specify whether a decision has been issued with respect to you during the last 10 years in civil proceedings or arbitration proceedings, provided that this is related to your activities on the financial market or provided that this may substantially endanger your financial situation, or whether such proceedings are in progress and have not yet been closed through a final decision.	
☐ **YES** ☐ **NO**	**If YES**, give brief details.
7.2. Has a decision on insolvency been issued with respect to you during the last 10 years, or has a court dismissed an insolvency petition because your assets did not suffice to cover the costs of insolvency proceedings, or has bankruptcy been declared against your assets, has such bankruptcy been cancelled, settlement permitted, forced settlement confirmed or a bankruptcy petition dismissed for insufficient assets during the last 10 years?	
☐ **YES** ☐ **NO**	**If YES**, give brief details.

8. Other facts that may affect credibility

8.1. Has a decision on insolvency been issued with respect to a legal entity controlled by you during the last 10 years, or has a court dismissed an insolvency petition because its assets did not suffice to cover the costs of insolvency proceedings, or has bankruptcy been declared against the assets of the legal entity controlled by you, has such bankruptcy been cancelled, settlement permitted, forced settlement confirmed or a bankruptcy petition dismissed for insufficient assets during the last 10 years?	
☐ **YES** ☐ **NO**	**If YES**, specify the firm / corporate name of the legal entity, identification number and details.
8.2. Have you performed activities as the statutory body or as a member of the statutory or supervisory body of a legal entity or as a person authorized to act for a legal entity on the basis of some other fact for a period of up to 3 years before a decision was issued on insolvency of this legal entity or before an insolvency petition was dismissed because its assets did not suffice to cover the costs of insolvency proceedings, or for a period of up to 3 years before bankruptcy was declared against the assets of this legal entity or before settlement was permitted, or within 3 years before receivership was imposed on this legal entity?	
☐ **YES** ☐ **NO**	**If YES**, specify the firm / corporate name of the legal entity, identification number and details.
8.3. Has your business licence or authorization for some other activities been suspended or revoked, or has a court or an administrative authority refused to grant a consent to your election or appointment to a position, provided that this election or appointment required such a consent?	
☐ **YES** ☐ **NO**	**If YES**, give brief details.

9. Information on credibility of the person from the viewpoint of membership in professional chambers

9.1. Have you been expelled, during the last 10 years, from any professional union, chamber or association, including abroad?	
☐ **YES** ☐ **NO**	**If YES**, give brief details.
9.2. Have you performed, during the last 10 years, activities as the statutory body or as a member of the statutory or supervisory body of a legal entity, or as a person authorized to	

act for a legal entity on the basis of some other fact at the time when this legal entity was expelled from any professional union, chamber or association, including abroad?	
☐ **YES** ☐ **NO**	**If YES**, give brief details.

10. Give information on other facts that may affect your credibility; if appropriate, furnish the relevant documents.

11. Numbered list of all annexes (numbers must be indicated on the very annexes, too); for every individual annex, give a reference to the relevant provision of the Decree

IV.
DECLARATION

I hereby declare that the information specified in the application and in its annexes is true, up-to-date and complete.

In	Date:	By:

This application is lodged by the applicant ☐

12. Identification of the person acting for the applicant/on behalf of the applicant

Specification of the position	
Name(s) and surname	
Date of birth	

Address of residence in the form municipality, part of municipality, street, street number, postal code, country	

This application is lodged by the applicant's representative ☐

13. Identification of the person representing the applicant

Details on the representative[3/]	
Name(s) and surname / firm or corporate name[2/]	
Date of birth	
Identification number	
Address of residence / registered office in the form municipality, part of municipality, street, street number, postal code, country	

In	Date:	By:

[1/] Shall be stated if assigned.
[2/] A legal entity shall also specify the person acting on its behalf.
[3/] For instance, a lawyer, notary or general proxy.

Annex No. 12 to Decree No. 233/2009 Coll.

SPECIMEN

Application
for registration of further business activities

pursuant to Act No. 256/2004 Coll., on Undertaking on the Capital Market, as amended
(hereinafter the "Act on Undertaking on the Capital Market")

I.
ADMINISTRATIVE AUTHORITY

1. Name of the administrative authority

Name of the administrative authority	Czech National Bank
Registered office	Na Příkopě 28, Prague 1, postal code 115 03
Filing department	Senovážná 3, Prague 1, postal code 115 03

II.
APPLICANT

2. Identification of the person whose further business activities are subject to registration

Firm or corporate name		
Identification number[1/]		
Telephone number	**E-mail address**	
Registered office address in the form municipality, part of municipality, street, street number, postal code, country		

III.
APPLICATION

3. Application for

registration of further business activities	☐ of an investment firm
	☐ of a operator of a regulated market
	☐ of a central depository

4. Further business activities

Specification and description of further business activities	**Specification of the competent authority that is to permit the performance of activities or that is competent to register the activities – name of the administrative authority / municipality**

5. Numbered list of all annexes (numbers must be indicated on the very annexes, too);
for every individual annex, give a reference to the relevant provision of the Decree

IV.
DECLARATION

I hereby declare that the information specified in the application and in its annexes is true, up-to-date and complete.

This application is lodged by the applicant ☐

6. Identification of the person acting for the applicant/on behalf of the applicant

Specification of the position	
Name(s) and surname	
Date of birth	
Address of residence in the form municipality, part of municipality, street, street number, postal code, country	
Delivery address, if different from the address of residence, in the form municipality, part of municipality, street, street number, postal code, country	

This application is lodged by the applicant's representative ☐

7. Identification of the person representing the applicant

Details on the representative[3/]	
Name(s) and surname / firm or corporate name	
Date of birth	
Identification number	
Address of residence / registered office in the form municipality, part of municipality, street, street number, postal code, country	
Delivery address, if different from the address of residence / registered office, in the form municipality, part of municipality, street, street number, postal code, country	

In	Date:	By:

[1/] Shall be stated if assigned.
[2/] A legal entity shall also specify the person acting on its behalf.
[3/] For instance, a lawyer, notary or general proxy.

Annex No. 13 to Decree No. 233/2009 Coll.

SPECIMEN

Questionnaire
containing legal and other aspects relating to acquisition of a qualified holding

I.

1. Basic information on the person with a qualified holding

Name(s) and surname / firm or corporate name

2. Questionnaire

2.1. Do you acquire the holdings in the regulated legal entity on your own behalf and on your own account?	
☐ **YES** ☐ **NO**	**If NOT**, give details.
2.2. Do you exercise or will you exercise voting rights in favour of a third party?	
☐ **YES** ☐ **NO**	**If YES**, specify the relevant party.
2.3. Do you intend to transfer the voting rights in the regulated legal entity to a third party on the basis of a concluded contract or agreement?	
☐ **YES** ☐ **NO**	**If YES**, specify the relevant party.
2.4. Has a contract been concluded with a third party on the basis of which you are a controlled entity? **Has a contract been concluded or will a contract be concluded on the basis of which you are to become a controlled entity?**	
☐ **YES** ☐ **NO**	**If YES**, give details.
2.5. Do you act in concert with a third party that has holdings in the regulated legal entity or to whom the exercise of the voting rights has been transferred or who is able to exercise a significant influence over the management of the regulated legal entity?	
☐ **YES** ☐ **NO**	**If YES**, give details on such a third party and on the manner of acting in concert.

2.6. Do you have any financial and/or other liabilities the amount of which exceeds 5 % of your equity/owned property or that may have an effect in this amount?	
☐ **YES** ☐ **NO**	**If YES** specify: the contractual counterparty, the amount of the obligation, the date of commencement of the obligation, the term of the obligation, the date of maturity of the obligation, including information on delay in performance of such obligations.
2.7. If you also apply for a subsequent consent to acquisition of a holding in the regulated legal entity, justify why you failed to apply for a prior consent with the Czech National Bank and prove that this was a case deserving special consideration. **Furthermore, specify whether you have exercised the voting rights associated with such holdings and whether you have exercised significant influence over the management of the entity in which you acquired the holdings.**	

II.
DECLARATION

I hereby declare that the information specified in this questionnaire is true, up-to-date and complete.

In	Date:	By:

ANNEX 12

Česká národní banka

Contents of Decree No. 123/2007 Coll., as amended by Decree No. 282/2008 Coll.

CONTENTS

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  JOINT, TRANSITIONAL AND CLOSING PROVISIONS
  articles 224 – 237

Annexes to part three

- Annex 1 (pdf, 75 kB) Detailed specification of the criteria for the management of selected risks
- Annex 2 (pdf, 27 kB) Detailed specification of the criteria for internal audit
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Annexes to part four

- Annex 4 (pdf, 112 kB) Exposure classes and risk weights under the Standardised Approach
- Annex 5 (pdf, 13 kB) List of selected exposures and adjustments to the exposure value using prudential filters as part of the Standardised Approach
- Annex 6 (pdf, 18 kB) Classification of off-balance sheet items according to risk
- Annex 7 (pdf, 14 kB) List of derivatives
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- Annex 12 (pdf, 137 kB) The ways of the calculation of risk-weighted exposure amounts under the IRB Approach
- Annex 13 (pdf, 134 kB) Parameters of the IRB Approach
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- Annex 19 (pdf, 16 kB) Requirements for external credit assessments and their use in securitisation
- Annex 20 (pdf, 87 kB) Conversion factors, coefficients and methods applied in the calculation of capital requirements relating to credit risk in the trading portfolio and market risk
- Annex 21 (pdf, 46 kB) Criteria for using internal models
- Annex 22 (pdf, 78 kB) Detailed specification of the requirements for the individual approaches to the calculation of the operational risk capital charge
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Annexes to part seven

- Annex 24 (pdf, 80 kB) Content of the information about the liable entity, the shareholder or the member structure, the structure of the consolidated group to which it belongs, and about its activities and the financial situation
- Annex 25 (pdf, 104 kB) Content of the information about the fulfilment of the prudential rules disclosed on an individual basis
- Annex 26 (pdf, 15 kB) Content of the information about the fulfilment of the prudential rules disclosed on a

consolidated basis

- Annex 27 (pdf, 18 kB) Content of the abbreviated information about the fulfilment of the prudential rules
- Annex 28 (pdf, 65 kB) Content of the information disclosed by branches of foreign banks
- Annex 29 (pdf, 67 kB) Content of the information disclosed by organisation units of foreign investment firms
- Annex 30 (pdf, 18 kB) Content of the information verified by the auditor

Annex to part eight

- Annex 31 (pdf, 72 kB) Scope of the text part of the information about the consolidated group

Annex to part nine

- Annex 33 (pdf, 15 kB) Content of the information about the fulfilment of the prudential rules while applying the existing regulations

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DECREE

No. 123 of 15 May 2007,

stipulating the prudential rules for banks, credit unions and investment firms

as amended by Decree No. 282/2008 Coll.

Pursuant to Article 8b, 5, Article 11a, 9, Article 12a, 8, Article 12b, 8, Article 15, Article 22, 2, Article 24, 1 and Article 26d, 3 of Act No. 21/1992 Coll., on Banks, as amended by Act No. 120/2007 (hereinafter the "Act on Banks"), and pursuant to Article 1a, 3, Article 7a, 5, Article 7b, 9, Article 8, 9, Article 8b, 1, Article 11, 3 and Article 27, 1 of Act No. 87/1995 Coll., on credit unions and certain other related measures and on the amendment of Czech National Council Act No. 586/1992 Coll., on Income Taxes, as amended by Act No. 120/2007 Coll., (hereinafter the "Act on Credit Unions") and pursuant to Article 199, 2, s a) and b) and g) and t) of Act No. 256/2004 Coll., on conducting business in the capital market, as amended by Act No. 120/2007 (hereinafter the "Act on Business Activities on the Capital Market"), the Czech National Bank stipulates:

PART ONE

INTRODUCTORY PROVISIONS

Article 1

Subject of the Decree

The Decree[1)] incorporates the relevant regulations of the European Communities[2)] and governs

a) the requirements for the governance and the contents of the governance audit report, the manner, structure and periodicity of its preparation and the time of its submission,
b) capital adequacy, i.e.
   1. the rules for calculating capital adequacy including procedures implemented in the calculation, the rules for specifying capital, the definition of individual capital requirements, and the specification of procedures for their calculation, the stipulation of conditions for the use of basic and special approaches in calculating capital

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[1)] The Decree is issued on the basis of and within the parameters of acts in which the relevant directives of the European Communities have already been promulgated.

[2)] Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 on the taking up and pursuit of the business of credit institutions (recast).
Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions (recast).
Commission Directive 2007/18/EC of 27 March 2007, amending Directive 2006/48/EC of the European Parliament and of the Council as regards the exclusion or inclusion of certain institutions from its scope of application and the treatment of exposures to multilateral development banks.

requirements and the definition of special approaches that require the competent authority's approval,

2. the due particulars of the application for prior approval for the use of a special approach and for a change in the use of a special approach submitted to the Czech National Bank,
3. the form and content of an application for registration on the list of credit assessment agencies and the requirements for the methods of assessment, the credibility and transparency of a credit assessment of the person who is to be registered on the list of credit assessment agencies,

c) the rules of the exposure,

d) the rules for the acquisition, financing and evaluation of assets,

e) the content of data to be published on an individual and consolidated basis, including an abbreviated scope of the data on the observance of prudential rules, as well as the form, manner, structure, periodicity and time-limits for the disclosure of data and the content of the data verified by the auditor[3)] or auditing company[3)],

f) the content, form, time-limits and manner of submitting certain information and documents to the Czech National Bank, and

g) the criteria for the exclusion of persons from the consolidated group for the purpose of the observance of prudential rules on a consolidated basis.

Article 2

Definition of terms

(1) For the purposes of the Decree the following definitions shall apply:

a) 'Member State' shall mean a Member State of the European Union or other state comprising the European Economic Area,

b) 'delta equivalent of an option' means the fair value of the underlying instrument multiplied by the value of the option’s delta,

c) 'delta of an option' means the ratio of the change in the fair value of an option to the change in the fair value of the underlying instrument, i.e. the first derivative of the fair value of an option with respect to the fair value of its underlying instrument,

d) 'group of connected persons' means two or more natural or legal persons which, unless proven otherwise, constitute a single risk because

1. they are mutually connected in the relationship of a controlling and a controlled person, or
2. their mutual relations are such that the financial difficulties of one of the persons may cause repayment problems for at least one of the other persons,

e) 'exposure' means an asset or off-balance sheet item,

f) 'financial institution' means a person that is not an institution and which, as its decisive or fundamental activity, acquires or holds participations in legal persons or performs an activity that may be performed by a bank, and also an investment company, investment fund, pension fund, insurance undertaking and reinsurance undertaking which performs activities according to special legislation; all the aforementioned also relates to foreign persons with a similar scope of activity,

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[3)] Act No. 254/2000 Coll., on auditors, as amended.

g) 'gamma' means the ratio of the change in an option’s delta to the change in the fair value of the underlying instrument, i.e. the second derivative of the fair value of an option with respect to the fair value of its underlying instrument,

h) 'LGD value' means loss given default, which refers to the ratio of the loss on an exposure due to the default of a counterparty to the amount outstanding at default,

i) 'PD value' means the probability of default of a counterparty over a one year period,

j) 'information system' means the obtaining, processing, transmission, dissemination and storing of information in any form.

(2) For the purposes of the Decree the following definitions shall also apply

a) 'institution' shall mean
   1. a credit institution,
   2. an investment firm or foreign investment firm,

b) 'special purpose entity' means a person
   1. that is not an institution,
   2. that is established in order to provide securitisation or securitisations,
   3. whose activity is limited to acts that are essential to achieve the stated goal, and
   4. whose legal form and organisational arrangement ensure an absolute isolation of the unit from the credit risk of the originator,

c) 'capital investment' means participating securities, ownership interest, a participation in another legal person or a subordinated loan,

d) 'capital requirement' means the required capital coverage of the risk undertaken,

e) 'collateral' means a thing, right or other property value used to protect a receivable,

f) 'commodity' means a physical product traded on the market,

g) 'Macaulay duration' means the weighted average of the periods between the present time and the maturity dates of individual cash flows, where the weights represent the fair values of the corresponding cash flows,

h) 'small and medium-size entrepreneur' means an entrepreneur whose annual aggregate net turnover is less than an amount equivalent to EUR 50 000 000,

(3) For the purposes of the Decree the following definitions shall also apply

a) 'margin' means the value of financial instruments specified by a clearing house that must be transferred by the person to a clearing house account as a collateral for the duration period of stock market derivative contracts,

b) 'margin lending transaction' means a transaction by which an institution provides credit in connection with the transfer of securities or their trading, the credit being secured by securities,

c) 'monetary gold' means gold in the form of tradable ingots in accordance with the LBMA standard (London Bullion Market Association),

d) 'modified duration' means a quotient whose numerator is the Macauley duration and whose denominator is the sum of one and the yield to maturity,

e) 'investment firm' means an investment firm which meets the conditions specified in Article 8a (1), (2) or (3) of the Act on Business Activities on the Capital Market,

f) 'clean-up call option' means an option that gives the originator the right to repurchase or extinguish the securitised exposures before all the underlying exposures are extinguished, if the balance of unpaid exposures has fallen below the specified value,

g) 'operational risk' means the risk of loss due to deficiencies or failings in internal procedures, the human factor or systems, or the risk of loss due to external factors, including legal risk,

h) 'authority to act' means a bank licence, licence to act as a credit union or licence to act as an investment firm,

i) 'relevant competent authority' means the Czech National Bank or other competent authority of a Member State which decides on applications to use a special approach to calculate a capital requirement[4)].

(4) For the purposes of the Decree the following definitions shall also apply

a) 'subordinated loan' means a receivable from a granted deposit, credit, loan or another receivable whose repayment is bound by the condition of subordination[5)],

b) 'liable entity' means
   1. a bank,
   2. a credit union, or
   3. an investment firm,

c) 'AMA Approach' means an advanced approach for calculating the capital requirement for operational risk,

d) 'ASA Approach' means the Alternative Standardised Approach for calculating the capital requirement for operational risk,

e) 'BIA Approach' means the Basic Indicator Approach for calculating the capital requirement for operational risk,

f) 'IRB Approach' means an approach for calculating the capital requirement for the investment portfolio's credit risk and the risk of the investment portfolio's dilution based on an internal rating,

g) 'originator' means the person that
   1. participated, on its own or in concerted conduct, directly or indirectly, in creating the contractual obligation or future obligation of another person relating to securitised exposures, or
   2. acquired credit risk exposure from another person with the aim of its securitisation,

h) 'dilution risk' means the risk that the size of the receivable will decrease due to the provision of monetary or non-monetary payment to the obligor,

i) 'securitisation' means a transaction or a system of transactions by which the credit risk connected with one or more exposures is distributed over individual tranches, where
   1. the financial flows from this transaction or system of transactions depend on the quality of the underlying exposures, and
   2. the subordination of tranches defines the distribution of losses over the period for which the transaction or system of transactions are valid,

j) 'securitised exposure' means any exposure in securitisation,

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[4)] Article 12a of Act No. 21/1992 Coll., on Banks, as amended.
Article 8 of Act No. 87/1995 Coll., on credit unions and certain other related measures and on the amendment of Czech National Council Act No. 586/1992 Coll., on Income Taxes, as amended,
Article 9 of Act No. 256/2004 Coll., on Business Activities on the Capital Market, as amended.

[5)] For example, Article 34 of Act No. 190/2004 Coll., on Bonds, as amended.

k) 'jointly managed venture' means a person that is

1. an institution,
2. a financial institution other than an insurance undertaking, reinsurance undertaking, insurance holding entity or a mixed-activity insurance holding entity[6)], or
3. an ancillary services undertaking,

if a person included in the regulated consolidated group (Article 5) participates in the management of the relevant person, together with at least one person not included in the regulated consolidated group, whose liability or guarantee for the obligations of the relevant person are limited by the size of the participation in the capital stock of the relevant person.

(5) For the purposes of the Decree the following definitions shall also apply:

a) 'sponsor' means a person that is not the originator and which creates and administers a securitisation system such as an asset-backed commercial paper programme or another securitisation system, as part of which it purchases exposures from third persons,

b) 'spot transaction' means the purchase or sale of financial instruments or commodities with such a delivery date that the period from the conclusion of the transaction to its settlement is not longer than two days, or longer than another period according to the respective market conventions,

c) 'synthetic securitisation' means securitisation in which the credit risk is spread over individual tranches by means of credit derivatives or guarantees**,** while the exposure remains the asset of the originator,

d) 'traditional securitisation' means securitisation by which exposures are economically and legally transferred to a special purpose entity which issues securities in such a manner that the transfer is accompanied by the legal separation of the exposures from the originator and payments to investors are not a liability of the originator,

e) 'long settlement transaction' means a transaction in which a counterparty undertakes to deliver a security, a commodity or a foreign exchange amount against cash, other financial instruments, or commodities, or vice versa, at a settlement or delivery date that is contractually specified as a date later than the market standard for this particular transaction, or a date later than five business days after the date on which the counterparty enters into the transaction, if this time-limit is shorter,

f) 'tranche' means a contractually created segment of credit risk connected with exposures, where the position in this segment represents higher or lower credit risk than a position of the same size in any other segment, without taking into account credit protection provided by third parties to the holders of the position in the relevant segment or in other segments,

g) 'book value' means the amount in which an asset, liability or equity is stated in the balance sheet, or the amount in which the item is stated in the off-balance sheet, where in the case of an asset this refers to an amount reduced by accumulated depreciation and allowances,

h) 'value adjustment' means an allowance established for an asset, an accumulated write-off or an accumulated loss resulting from the valuation of an asset at fair value on the basis of credit risk,

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[6)] Article 38 of Act No. 363/1999 Coll., on insurance undertaking and a change to certain related acts (Act on Insurance Companies), as amended.

i) 'central counterparty' means the person that receives settlement instructions issued by the participants of the payment or settlement system and is their exclusive intermediary in settling instructions or transactions,

j) 'credit instruction' means

1. a bank or foreign bank,
2. a credit union, or
3. an electronic money institution or foreign electronic money institution.

(6) For the purposes of the Decree the following definitions shall also apply

a) 'nth-to-default credit derivative' means a credit derivate which relates to an exposure basket, on the condition that the nth default of any exposure is the reason for payment under the protection by this derivative,

b) 'first-to-default credit derivative' means a credit derivative that relates to an exposure basket, on the condition that the first default of any exposure is the reason for payment under the protection by this derivative, and this credit event terminates the contract,

c) 'credit enhancement' means a contractual arrangement under which the credit quality of a securitised exposure is increased; credit enhancement may be performed by assigning several subordinated tranches or by another type of protection,

d) 'recognised stock exchange' means an entity organising a market that is recognised by the relevant organs and which functions regularly and has rules issued or approved by the relevant organs of the country in which the entity has its registered office which define the conditions under which the stock market operates, the conditions of access to the stock market and the conditions which must be met by an instrument in order that such instrument can be traded in the stock market. In the case of a derivatives stock market the clearing mechanism shall stipulate that derivatives are subject to daily updates of margins which, in the view of the relevant organs, provide suitable protection for market participants;

e) 'recognised investment firm from a third country' means a person that fulfils the definition of an investment firm if it was established on the territory of a Member States, was authorised to conduct business in a third country and is subject to and satisfies prudential rules, which the competent authorities consider to be no less strict than the rules stipulated for investment firms,

f) 'weighted modified duration' means the total modified duration of individual instruments weighted by the fair values of these instruments,

g) 'vega' means the change in the fair value of an option per unit change in the volatility of the underlying instrument; i.e. the first derivative of an option’s fair value with respect to the volatility of the underlying instrument,

h) 'warrant' means a security which gives the holder the right to purchase an instrument at a stipulated price before or at the expiry date of the warrant. It may be settled by the delivery of the instrument itself or by cash settlement,

i) 'employee' means a person who is in a labour-law relationship or other similar relationship with the liable entity, or another person that is a member of the liable entity’s statutory or other body,

j) 'eligible rating agency' means a person that provides credit assessments and which is registered on a list of credit assessment agencies maintained by the Czech National Bank according to the Act on Banks.

PART TWO

SCOPE OF THE APPLICATION OF PRUDENTIAL RULES

Article 3

Persons subject to prudential rules

(1) The liable entity is subject to the rules stipulated by the Decree; an investment firm is not subject to the rules specified in Parts Three and Six.

(2) If the liable entity has a foreign branch or foreign organisational unit, these shall also be subject to the rules stipulated by this Decree.

Article 4

Branch or organisational unit of a foreign person

(1) The branch of a foreign bank which does not enjoy the benefits of a uniform licence under European Community law (hereinafter the „foreign bank branch“) is subject to the rules for disclosing information in the scope stipulated in Part Seven.

(2) The organisational unit of a foreign person which has its registered office in a third country and can provide investment services in the Czech Republic under licence granted by the Czech National Bank (hereinafter the „organisational unit of a foreign investment firm“) is subject to the rules for disclosing information in the scope stipulated in Part Seven.

Article 5

Regulated consolidated group

(1) For the purposes of observing the prudential rules on a consolidated basis, a regulated consolidated group means a consolidated group according to the Act on Banks, the Act on Credit Unions or the Act on Business Activities on the Capital Market, excluding persons who meet the criteria under Article 6.

(2) A regulated consolidated group must be formed by each of these entities:

a) a bank, which is
   1. a domestic parent bank,
   2. a parent bank, but which is not the domestic parent bank or the liable bank in a financial holding entity's group where a member of its consolidated group is a foreign bank, foreign investment firm or financial institution which has its registered office in a third country,
   3. the liable bank in a financial holding entity's group, or
   4. the liable bank in a foreign parent bank's group,
b) a credit union, which is
   1. the liable credit institution in a financial holding entity's group, or
   2. the liable credit union in a foreign parent credit institution's group,

c) an investment firm, which is
   1. a domestic parent investment firm,
   2. a parent investment firm, but which is not the domestic parent investment firm or the liable investment firm in a financial holding entity's group where a member of its consolidated group is a foreign investment firm, foreign bank or financial institution which has its registered office in a third country,
   3. the liable investment firm in a financial holding entity's group, or
   4. the liable investment firm in a foreign parent investment firm's group.

Article 6

Criteria for excluding persons from the consolidated group

[Re Article 26d, 3 of the Act on Banks, Article 1a, 3 of the Act on Credit Unions and Article 199, 2, b) of the Act on Business Activities on the Capital Market]

(1) The regulated consolidated group shall not include a person that

a) is not an institution, financial institution or ancillary services undertaking,
b) is an insurance undertaking, reinsurance undertaking, insurance holding entity, a mixed-activity insurance holding entity or a mixed-activity financial holding entity[7)],
c) is an affiliated person which is not a jointly managed venture, or
d) is in bankruptcy proceedings or liquidation.

(2) A regulated consolidated group does not have to contain a person that

a) has its registered office in a third country with legal impediments to the transfer of necessary information,
b) is not a liable entity or a financial holding entity and whose balance sheet total is lower than
   1. an amount equivalent to EUR 10 000 000, or
   2. 1% of the balance sheet total of the liable entity that forms the consolidated group; in the case of a financial holding entity´s group or foreign parent bank’s group 1% of the balance sheet total of the financial holding entity’s group or foreign parent bank’s group. If the financial holding entity is not obliged to compile a financial statement, 1% is stipulated from the liable entity’s balance sheet total.

   If, however, the aggregate balance sheet total of persons that would individually each meet this criterion is not less than the values given in points 1 or 2, these persons shall be included in the regulated consolidated group. In the period from 31 December of the calendar year to 30 December of the following year the amount in euros is converted into an amount in Czech koruna using the foreign exchange rate announced by the Czech National Bank as the last in October of the calendar year;
c) is a person in which an interest is held temporarily, in particular with a view to selling it within 12 months; if the interest has not been sold within 12 months of its acquisition or of the decision to sell it the criterion for excluding these persons from the consolidated

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7) Article 2 of Act No. 377/2005 Coll., on additional supervision of banks, credit unions, electronic money institutions, insurance undertakings and investment firms in financial conglomerates, and on a change to certain acts (Act on Financial Conglomerates), as amended.

group shall not apply. This criterion shall not apply to a liable entity that forms the regulated consolidated group, or to the financial holding entity; or

d) is not a jointly managed venture and is a subsidiary of a liable entity that forms a regulated consolidated group or financial holding entity on the basis of concerted conduct with a person not included in the regulated consolidated group, where the liable entity forming the regulated consolidated group or financial holding entity would not be the parent undertaking without the concerted conduct.

(3) If, in order to comply with the prudential rules, the liable entity that forms the regulated consolidated group excludes a person from the consolidated group it shall demonstrate to the Czech National Bank that the criteria pursuant to paragraph 2 have been fulfilled.

PART THREE

GOVERNANCE

Heading I

Requirements on the governance

(Re Article 8b, 5 of the Act on Banks and Article 7a, 5 of the Act on Credit Unions)

Section 1

Criteria for a company's governance

Article 7

(1) The governance of a bank or credit union shall cover all its activities.

(2) If a bank or credit union fulfils its governance obligations on a consolidated basis as well, the governance shall cover the activities of all persons in the regulated consolidated group. This provision shall apply *mutatis mutandis* to a jointly managed venture.

Article 8

A bank or credit union shall fulfil the requirements stipulated for the governance with regard to its size, type of management, number of employees, the character, scope and complexity of the activities that it performs or intends to perform; it shall also take into account the evolution of the environment in which the relevant person operates, including developments relating to the governance.

Article 9

(1) The requirements stipulated for the governance, and the procedures of the bank or credit union to comply with them, are promulgated in the organisational rules and other internal guidelines, principles and procedures of the bank or credit union and within the regulated consolidated group (hereinafter the „internal rules").

(2) In order to meet the criterion for the governance of the company through the implementation of proper procedures, the bank or credit union shall choose and promulgate in the internal rules the recognised and proven principles and procedures issued by recognised persons and used in activities of a similar character (hereinafter the „recognised standards"). A bank or credit union shall regularly verify that its chosen recognised

standards remain valid and relevant to the scope, character and complexity of the bank's or credit union's activities.

(3) In the Czech National Bank Bulletin the Czech National Bank shall publish

a) a list of the selected recognised standards and a list of the selected issuers of the recognised standards,
b) comparative standards (a benchmark) specifying the Czech National Bank's expectations for the fulfilment of the Decree's requirements.

(4) The promulgation of standards pursuant to paragraph 3 in the internal rules and their use by the bank or credit union is deemed to be compliance with the provision contained in paragraph 2, sentence one. This does not prejudice the right of the bank or credit union to choose and promulgate other recognised standards in the internal rules; however, their content or use may not be at variance with the provisions of the Decree and other legislation, nor shall they circumvent their purpose.

Article 10

A bank or credit union shall ensure that all approval and decision-making procedures and control activities, including related responsibilities, powers and internal rules, can be viewed retrospectively (reconstructed). This requirement shall also be ensured by the information storage system which the bank or credit union must implement and maintain.

Article 11

If an activity that would otherwise be performed by the bank or credit union is performed on its behalf by another person on a contractual basis (hereinafter „outsourcing"), the bank or credit union shall not thereby be relieved of any of its obligations towards the competent authorities and third persons in respect of the outsourced activities. The bank or credit union shall ensure that an outsourcing arrangement does not prevent the compliance of the outsourced activities with the relevant legislation, the possibility of their inspection by the bank or credit union, the fulfilment of information duties towards the Czech National Bank, the performance of supervision, including possible examination of the areas subject to supervision at the outsourcing provider's premises and the audit of the financial statement and other checks stipulated by legislation[8)].

Article 12

The supervisory board or control committee (hereinafter the „supervisory body") shall ensure that the governance is efficient and effective, and shall assess this at least once yearly. In fulfilling this duty the supervisory body shall also regularly act in matters concerning the strategic direction of the bank or credit union.

Article 13

[8)] For example, Article 22 paragraph 2 of Act No. 21/1992 Coll.

(1) The supervisory body shall participate in determining, planning and evaluating the activities of the internal audit and evaluating compliance (Article 32).

(2) The supervisory body shall comment in advance on the proposal by the board of directors of the bank or credit union for the internal audit to be entrusted to an individual or legal person. If the internal audit is performed by several employees the supervisory body shall only comment on the appointment or recall of their managerial employee.

(3) The supervisory body shall stipulate the rules for remunerating the members of the board of directors and the person on whose appointment to perform the internal audit it commented in advance pursuant to paragraph 2 (hereinafter the „person appointed to perform the internal audit“), unless this duty falls within the power of the general assembly or general meeting of the members.

Article 14

The board of directors shall be responsible for the creation and evaluation of the governance and shall ensure that it remains efficient and effective.

Article 15

(1) The board of directors shall stipulate the overall strategy, including the policies and targets for its fulfilment, and the ongoing and effective operation of the internal control system.

(2) The board of directors shall stipulate rules which clearly formulate the ethical principles and models by which employees are expected to act and behave in accordance with these principles, and their enforcement.

(3) The board of directors shall stipulate the rules for managing human resources, including rules governing the recruitment, remuneration, assessment and motivation of employees. The rules shall also require that all activities are performed by qualified employees with the relevant skills and experience.

(4) The board of directors shall ensure that all employees understand their role in the governance and play an active part in it. The board of directors shall also ensure that proper administrative and accounting procedures are applied.

(5) The board of directors shall ensure that management procedures are implemented which prevent undesirable activities, in particular the prioritisation of short-term results and goals which do not comply with the implementation of the overall strategy, a remuneration system which depends excessively on short-term performance, or other procedures which allow for the misuse of resources or conceal shortcomings.

Article 16

(1) The board of directors shall approve and regularly evaluate the

a) overall strategy,
b) organisational structure,
c) risk management strategy,
d) capital and capital adequacy strategy,
e) information systems development strategy,
f) rules for the internal control system, including rules to prevent a possible conflict of interests and rules for compliance, and
g) security policies, including security policies for information systems.

(2) The board of directors shall approve

a) new products, activities and systems of crucial importance for the bank or credit union, unless the board of directors designates this power to a committee appointed by the board,
b) the limits that the bank or credit union will employ in order to prevent risk; these shall always include credit, market, concentration and liquidity risk and shall also include requirements for the structure of assets, liabilities and off-balance sheet items, unless the board of directors designates this power to a committee appointed by the board,
c) the statute and subject of the internal audit and the personnel and technical aspects required to perform it, and
d) the strategic and the periodic plan for the internal audit.

(3) The board of directors shall, on a timely basis, assess regular reports and extraordinary findings which are submitted to it by, in particular, senior management (Article 17), as part of the internal audit, the supervisory body, auditor or auditing company (hereinafter the „auditor“) or competent authorities. On the basis of these assessments, the board of directors shall adopt the appropriate measures, which shall be implemented without needless delay.

(4) The board of directors shall regularly discuss matters concerning the governance with senior management.

(5) At least once yearly, the board of directors shall assess the overall efficiency and effectiveness of the governance and shall take measures necessary to remedy any shortcomings.

Article 17

(1) Senior management shall mean

a) managerial employees directly subordinate to the members of the bank’s board of directors,
b) managerial persons other than the members of the board of directors, control committee and credit committee in the case of credit unions, and
c) members of the board of directors who also perform activities stated in Article 18.

(2) The bank or credit union may also include other managerial employees or managerial persons in senior management. However, a person entrusted with performing the internal audit may not be a member of senior management.

Article 18

(1) Senior management shall be responsible for implementing the strategies, rules and targets approved by the board of directors, including the development of procedures for their implementation and the daily management of the bank or credit union.

(2) Senior management shall be responsible for maintaining an efficient and effective organisational structure, including the separation of mutually exclusive functions and the prevention of conflicts of interest.

(3) Senior management shall be responsible for creating and maintaining an efficient and effective system for obtaining, using and storing information.

Article 19

(1) The organisational structure must provide a clear and integrated specification of the responsibilities, powers, main information flows and connections

a) of the bodies, employees, departments and committees of the bank or credit union, if these have been established, and
b) within the regulated consolidated group.

(2) The organisational structure shall enable effective communication and cooperation at all levels and shall support efficient, effective and prudent management and the performance of other activities, including control activities.

Article 20

(1) A bank or credit union shall ensure that bodies, employees, departments and committees, if these have been established, are allocated responsibilities and powers at all management and organisational levels so as to prevent adequately a possible conflict of interests. Areas in which a conflict of interests may occur shall be promptly identified. Procedures are stipulated so as to prevent a possible conflict of interests. Areas of conflict of interest and areas of its possible occurrence are also subject to ongoing independent monitoring.

(2) The following measures are performed independently of activities which directly cause a bank or credit union to be exposed to credit or market risk (hereinafter the „business activities“):

a) the approval of systems and methods for evaluating credit protection,
b) the evaluation of credit protection,
c) the evaluation of transactions concluded in financial markets,

d) settlement and verification that data complies (hereinafter „reconciliation”) with credit transactions or transactions executed in financial markets,

e) the release of financial funds,
f) the approval of limits for the management of credit, market and concentration risk,
g) the approval of evaluation systems and models used to measure and monitor credit, market and concentration risk,
h) the management of credit, market and concentration risk, including verification that limits have been observed,
i) the production of quantitative and qualitative information on credit, market and concentration risk, which is reported to members of senior management and the board of directors,
j) the measurement and monitoring of the liquidity position and its reporting to members of senior management and the board of directors.

(3) A bank or credit union shall ensure that up to the senior management level there is a separation of responsibility between the management of business activities and the management of credit, market and concentration risk and the settlement and reconciliation of transactions conducted in the financial markets.

(4) Information systems are developed separately from the operation of these systems. The administration of information systems shall be separate from the evaluation of security audit records, control of allocated access rights and the generation and updating of security signatures for these systems.

(5) In its control mechanisms and activities a bank or credit union shall ensure the appropriate degree of independence and prevent conflicts of interest. The internal audit is conducted independently of all executive activities.

Article 21

(1) A bank or credit union shall ensure that the relevant bodies (including supervisory bodies), employees, departments and committees, if these have been established, have, in their decision-making and pursuing other laid down activities, access to up-to-date, reliable and comprehensive information.

(2) The board of directors shall be informed without needless delay

a) of all facts that could have a materially adverse effect on the bank’s or credit union’s financial situation, including the effects of changes in the internal or external environment, and
b) of all exceeded limits that threaten compliance with the accepted degree of credit, market and other significant risks, including liquidity risk; in cases where the liquidity situation deteriorates gravely the board of directors shall be informed without delay.

(3) The board of directors is regularly informed of

a) compliance with requirements stipulated by legislation and procedures stipulated by internal rules, including an overall assessment of whether the standards chosen and used by the bank or credit union (Article 9, 2) remain relevant and appropriate to the scope, character and complexity of the bank's or credit union's activities, including any important differences in the bank's or credit union's procedures compared with the requirements stipulated by legislation and procedures stipulated by internal rules,
b) compliance with the rules of the exposure and the risk of concentration,
c) the degree of credit, market and operational risk and of the liquidity situation,
d) the total degree of risk undertaken, also taking into account the impact of internal control mechanisms (total risk profile) and
e) capital adequacy.

(4) In the bank or credit union information shall be available

a) comparing the degree of risk undertaken with the internal limits and regulatory requirements,
b) on the results of credit portfolio analyses,
c) on the results of stress tests,
d) comparing previous risk estimates with actual results (back-testing), if the bank or credit union uses methods based on an estimate of the degree of market risk,
e) on the liquidity measurement results on a daily basis, in stipulated time bands, in the individual main currencies and as an aggregate for all currencies, and
f) comparing the actual development of liquidity with the relevant scenario and limits for liquidity risk management.

Article 22

A bank or credit union shall publish information on its current situation and on the anticipated development that is timely, accessible, sufficient and balanced.

Article 23

(1) The system for the production, verification and submission of information to the competent authorities is devised and maintained in such a manner that it provides information that is up-to-date, reliable and comprehensive.

(2) A bank or credit union shall ensure that internal control mechanisms are devised and maintained in a manner that guarantees the completeness and correctness of all calculations, data, reports and other information on an individual and a consolidated basis provided to the Czech National Bank regularly or at its request.

(3) Procedures used to generate and provide data to the Czech National Bank, including the submission of reports, must be able to be reconstructed within the regulated consolidated group as well.

(4) A bank or credit union shall store the data needed to monitor compliance with the limits stipulated by this Decree for at least five years.

Section 2

Risk management

Article 24

(1) The governance shall be established so as to permit the systematic management of risk.

(2) A bank or credit union shall introduce a risk management system that corresponds to the character, scope and complexity of activities and their associated risks in order to provide a true picture of the degree of the risks undertaken.

(3) The process for identifying risks is in place for all activities and at all managerial and organisational levels and enables the detection of new, as yet unidentified risks.

(4) When managing risk, a bank or credit union shall take into account all significant risks and risk factors to which it is or may be exposed with regard to the character, scope and complexity of activities. Risk management takes into account internal and external factors, and looks at future strategies of the bank's or credit union's business activity, the influence of the economic environment and cycle and the impact of the regulatory environment. Risk management shall take into account the quantitative and qualitative aspects of risks, the real possibilities of their management and the costs and benefits stemming from risk management.

Article 25

A bank or credit union shall stipulate

a) procedures to identify, evaluate or measure, monitor, report and also limit risks,
b) a set of limits used in risk management, including procedures and information flows where limits are exceeded,
c) the rules of control mechanisms and risk management activities, including the verification of compliance with the stipulated procedures and the limits for risk management and the verification of the outputs of risk evaluations or measurements.

Article 26

(1) A bank or credit union shall have a risk management strategy which is appropriate to the character, scope and complexity of its activities. A bank or credit union shall develop concrete procedures to implement this strategy.

(2) A bank or credit union shall ensure that the risk management strategy and all procedures and limits relating to risk management are regularly evaluated and, where necessary, adjusted.

(3) A bank or credit union shall ensure that all employees whose activity impacts on risk management have familiarised themselves with the approved strategy in the essential scope and that they proceed in accordance with the strategy and the procedures and limits stemming from it.

(4) The risk management strategy shall first and foremost specify

a) internal definitions of risks that the bank or credit union is or may be exposed to,
b) policies used to define (evaluate) materiality in the management of risk,
c) policies used to manage individual risks, which shall always include credit, market, operational, liquidity and concentration risk,
d) risk management methods, in which the risks covered shall always include credit and market risk (including stress testing), operational, liquidity and concentration risk,
e) an acceptable degree of risk, which shall always include credit, market, operational and concentration risk,
f) policies for preparing and revising an emergency plan in the case of a liquidity crisis, and
g) policies for defining licensed products, currencies, states, geographical areas, markets and counterparties.

Article 27

(1) A bank or credit union shall systematically manage

a) credit, market, operational, liquidity and concentration risk, and
b) other material risks which it is or may be exposed to, in particular the reputation and strategic risk related to capital sources and financing or related to participation in a consolidated group, including the risk from operations with members of the same consolidated group, unless this risk does not apply to the bank or credit union or it is not material.

(2) A more detailed specification of certain requirements for managing selected risks is given in Annex 1 to the Decree.

Article 28

(1) A bank or credit union in the group of a mixed-activity holding entity shall implement procedures that enable it properly to monitor the operations it has performed with the mixed-activity holding entity of whose group the bank or credit union is a member, or a subsidiary of the mixed-activity holding entity (hereinafter the „intra-group transactions“). Special attention shall be paid to important intra-group transactions.

(2) An intra-group transaction is considered important if it exceeds 5% of the total capital requirements, pursuant to Part Four, stipulated on an individual basis by the bank or credit union in the group of a mixed-activity holding entity; intra-group transactions which are of the same character and are conducted with the same counterparty are deemed to be one transaction.

Article 29

(1) A bank or credit union shall maintain adequate capital to cover the risks to which it is or may be exposed.

(2) Risk management strategies and procedures and the strategies and procedures to maintain the capital required to cover risks are integral and interconnected.

(3) When limiting and covering risks, a bank or credit union shall prudently take into consideration factors that influence the results of an evaluation or measurement of the risks undertaken, including the effects of

a) the establishment of allowances and other asset value adjustments and the establishment of provisions for off-balance sheet items,
b) the use of internal estimates and models,
c) taking into consideration test results, including the influence of test results for an interest rate shock and other stress tests, and
d) taking into consideration the effects of the diversification of risks, where relevant.

(4) If the overall level of risks undertaken, even when taking into account the impact of the internal control mechanism (overall risk profile), is not adequately covered by capital or other means, the bank or credit union shall adopt measures to remedy this state of affairs.

Article 30

(1) A bank or credit union shall identify risks associated with new products, activities and systems.

(2) A bank or credit union shall ensure that, before their introduction, new products, activities and systems have passed through the appropriate controls and authorisation procedures with a view to identifying their risk profile and allocating them to their appropriate position in the risk management process, in accordance with the policy of materiality.

(3) A bank or credit union shall define what constitutes a new product, activity or system and stipulate the responsibilities, powers and procedures for their introduction.

(4) A bank or credit union shall stipulate the due particulars contained in a proposal for a new product, activity or system. The proposal shall always contain

a) a description of the proposed product, activity or system, including a description of the accounting, tax and legal aspects and, where relevant, the requirements for the competent authority’s approval,
b) an analysis of the anticipated impacts of the introduction of the product, activity or system on the bank or credit union,
c) a proposal for the implementation procedure,
d) an analysis of risks, including proposals for their management,

e) an identification of the human and technical resources that need to be earmarked for due risk management, including information system requirements,
f) evaluation procedures,
g) a definition or list of proposed counterparties, and
h) methods for settling transactions.

A proposal shall contain items stated under letters f) or g) or h) only if these are relevant to the product, activity or system.

(5) A bank or credit union shall prohibit its employees from concluding transactions with unauthorised products.

Section 3

Internal control system

Article 31

(1) A bank or credit union shall introduce and maintain control mechanisms and procedures for control activities at all managerial and organisational levels.

(2) Control activities shall form part of the ordinary, usually daily activity of the bank or credit union, and shall include in particular

a) managerial oversight,
b) appropriate control mechanisms for individual processes, e.g. the observance of legislation and internal rules and limits, the control of the course of activities and transactions, the verification of transaction details, the verification of outputs used by risk management systems and models, regular reconciliation,
c) physical control; physical control focuses in particular on limiting access to tangible assets, securities and other financial assets and on a regular property inventory.

Article 32

(1) A bank or credit union shall introduce and maintain rules and procedures to ensure compliance; their chief objective is to ensure that

a) the bank's or credit union's internal rules (Article 9) comply with legislation,
b) there is mutual harmony among the internal rules, and
c) the bank's or credit union's activities comply with legislation and the internal rules.

(2) Compliance is ensured in such a manner that it is also guaranteed that

a) senior management is notified of all identified variances and discrepancies; the board of directors shall be informed of major variances and discrepancies,
b) senior management is notified of new or draft legislation and recognised standards concerning the bank’s or credit union’s activities, and

c) consultancy activity regarding compliance is provided to the board of directors and senior management.

(3) Policies and procedures for compliance shall cover all the bank's or credit union's activities in an integral and interconnected fashion.

Article 33

(1) A bank or credit union shall ensure the permanent and effective performance of internal audit.

(2) Internal audit is performed independently of all the bank's or credit union's executive activities.

(3) A bank or credit union shall arrange for internal audit to be performed by an internal audit department, or at least by an employee or by a third party on a contractual basis; an individual who performs internal audit may not be a member of the bank's or credit union's board of directors or supervisory board, or a member of another elected body of a credit union.

(4) All of a bank's or credit union's activities are subject to independent review by the internal audit, in particular

a) the observance of the prudential rules for a bank or credit union,
b) the observance of the stipulated policies, objectives and procedures,
c) the risk management system,
d) financial management,
e) full, cogent and correct accounting,
f) the reliability of accounting, statistical and operational information provided to the bodies of the bank or credit union,
g) the reliability of information provided to the bodies of the bank or credit union,
h) the reliability of the system for compiling and submitting reports to the Czech National Bank, and
i) the efficiency and security of the information systems.

(5) A bank or credit union shall ensure that the following activities are always performed as part of internal audit:

a) a risk analysis is prepared at least once a year,
b) a strategic plan and a periodic plan for internal audit are prepared,
c) a system is formulated and maintained to monitor remedial measures imposed in response to the internal audit findings,
d) an overall evaluation of the efficiency and effectiveness of the governance is performed at least once yearly.

(6) The person authorised to perform internal audit (Article 13) must inform the bank's or credit union's board of directors and the supervisory body of its findings; if there are

findings that could have a highly adverse effect on the financial situation of the bank or credit union it must suggest an exceptional meeting of the supervisory body.

(7) (7) A more detailed specification of the requirements for internal audit is given in Annex 2 to the Decree.

Article 34

(1) A bank or credit union shall ensure that the governance efficiency and effectiveness are monitored and evaluated regularly at all managerial and organisational levels.

(2) If the bank or credit union introduces a mechanism by which employees can communicate their concerns regarding the governance efficiency and effectiveness outside normal information flows, it shall ensure the availability of such mechanism to all employees and the right to the confidentiality of the source if the mechanism is used by an employee.

(3) If the bank or credit union establishes an audit committee its status and subject must be properly specified and all its members must be independent of all the bank's or credit union's executive activities and should have the relevant know-how and experience in areas constituting the governance, including internal audit.

(4) Shortcomings in the governance detected by the supervisory body, along the management line, within the framework of internal audit or on the basis of another internal control, by the auditor or by another means, must be communicated to the relevant managerial level without needless delay and resolved as quickly as possible.

(5) Significant shortcomings in the governance must be communicated to the board of directors, supervisory body and the audit committee, if one has been established.

(6) The system for detecting and reporting shortcomings in the governance must make it possible for the shortcomings to be remedied in a timely fashion. The effectiveness of the remedial measures shall subsequently be reviewed.

Heading II

Report on the testing of the governance by the auditor

(Re Article 22, 2 of the Act on Banks and Article 8b, 1 of the Act on Credit Unions)

Article 35

(1) The report is the result of a test that meets the following requirements:

a) the test was performed according to the situation as at 31 December of the calendar year,

b) the system was compared with the legal regulations and standards pursuant to Article 9 as follows:
   1. a fundamental part of the governance test was the comparison and evaluation of the governance's compliance with regulatory requirements stemming from legal regulations,
   2. in the auditor's opinion, the selected standards pursuant to Article 9 which were used to test the system best reflected the size, managerial method, number of employees, nature, scope and complexity of the activity performed by the bank or credit union; the auditor may also use recognised standards not stated in the list published by the Czech National Bank,
c) the efficiency and effectiveness of control mechanisms were evaluated, and missing mechanisms in the internal control were specified,
d) an appraisal was made of the risk that the ascertained shortcomings presented and present to the governance, and
e) the efficiency and effectiveness of the governance were evaluated in relevant areas as a whole.

(2) A more detailed specification of the structure and format of the governance test report is given in Annex 3 to the Decree.

Article 36

(1) The bank or credit union shall submit the governance test report to the Czech National Bank, together with the bank's or credit union's comments, where relevant, by 28 February of the following year.

(2) Following the submission of the governance test report the Czech National Bank may, where necessary, request an explanation to the submitted report and to the bank's or credit union's comments. If the Czech National Bank requires an oral explanation from the auditor it shall concurrently ask the bank or credit union for permission to meet with the auditor and shall permit the bank or credit union to attend the meeting.

(3) The bank or credit union shall inform the Czech National Bank immediately of any material events that were discovered after submitting the report to the Czech National Bank, and which relate substantially to its content.

PART FOUR

CAPITAL ADEQUACY

[Re Article 12a, 8 and Article 12b, 8 of the Act on Banks, Article 8, 9 of the Act on Credit Unions and Article 199, 2, a) and b) of the Act on Business Activities on the Capital Market]

Heading I

The calculation of capital adequacy

Capital adequacy on an individual basis

Article 37

The liable entity shall fulfil capital adequacy on an individual basis if it continually maintains capital on an individual basis (III, 1) in an amount, which at least corresponds to the sum of the capital requirements for credit, market and operational risks (IV, 2 to 4) stipulated on an individual basis; the provisions of Articles 38 and 39 are not affected hereby.

Article 38

An investment firm that is not authorised to provide any of the investment services stated in Article 4, 2, c) and **g)** of the Act on Business Activities on the Capital Market (hereinafter the „investment firm with a limited scope of investment services“) shall fulfil capital adequacy on an individual basis if it continually maintains capital on an individual basis (III, 1) in an amount, which at least corresponds to the higher of the following amounts:

a) the sum of the capital requirements for credit and market risks (IV, 2 and 3) stipulated on an individual basis, or
b) the capital requirement based on fixed overheads (IV, 5) stipulated on an individual basis.

Article 39

An investment firm that trades on its own account exclusively in order to follow or carry out the customer’s instructions, or so that it can become a participant of a settlement system or a member of a recognised stock exchange, if in so doing it only carries out the customer’s instructions (hereinafter the „investment firm with limited trading on own account“), shall fulfil capital adequacy on an individual basis if it continually maintains capital on an individual basis (III, 1) in an amount, which at least corresponds to the sum of

a) the capital requirements for credit and market risks (IV, 2 and 3) stipulated on an individual basis, and
b) the capital requirement based on fixed overheads (IV, 5) stipulated on an individual basis.

Capital adequacy on a consolidated basis

Article 40

(1) A liable entity which, when stipulating capital requirements on a consolidated basis, does not use the aggregation plus method (Article 51, 2), shall fulfil capital adequacy on a consolidated basis if it continually maintains capital on a consolidated basis (III, 2) in an amount, which at least corresponds to the sum of the capital requirements for credit, market and operational risks (IV, 2 to 4) stipulated on a consolidated basis; the provisions of Articles 41 and 42 are not affected hereby.

(2) A liable entity which, when stipulating capital requirements on a consolidated basis, uses the aggregation plus method shall fulfil capital adequacy on a consolidated basis if it continually maintains capital on a consolidated basis (III, 2) in an amount, which is at least equivalent to the sum of

a) the capital requirements for the credit risk of the investment portfolio and for operational risk stipulated on a consolidated basis (IV, 2 and 4) and
b) the capital requirements of the persons in the regulated consolidated group stipulated on an individual basis for the interest rate, equity and credit risks in the trading portfolio and for the foreign exchange and commodity risks in the investment and trading portfolios (IV, 3); the provisions of Articles 41 and 42 are not affected hereby.

Article 41

(1) An investment firm that forms a regulated consolidated group, part of which comprises exclusively investment firms with a limited scope of investment services, and which does not include a credit institution, and the investment firm when stipulating capital requirements on a consolidated basis does not use the aggregation plus method, shall fulfil capital adequacy on a consolidated basis if it continually maintains capital on a consolidated basis (III, 2) in an amount, which at least corresponds to the higher of the following amounts:

a) the sum of the capital requirements for credit and market risks (IV, 2 and 3) stipulated on a consolidated basis, or
b) the capital requirement based on fixed overheads (IV, 5) stipulated on a consolidated basis.

(2) An investment firm that forms a regulated consolidated group, part of which comprises exclusively investment firms with a limited scope of investment services, and which does not include a credit institution, and the investment firm when stipulating capital requirements on a consolidated basis uses the aggregation plus method (Article 51, 2), shall fulfil capital adequacy on a consolidated basis if it continually maintains capital on a consolidated basis (III, 2) in an amount, which at least corresponds to the higher of the following amounts:

a) the sum of the capital requirements for the credit risk of the investment portfolio (IV, 2) stipulated on a consolidated basis, and the capital requirements of the persons in the regulated consolidated group stipulated on an individual basis for the interest rate,

equity and credit risks in the trading portfolio and for the foreign exchange and commodity risks in the investment and trading portfolios (IV, 3); or

b) the capital requirement based on fixed overheads (IV, 5) and stipulated on a consolidated basis.

Article 42

(1) An investment firm that forms a regulated consolidated group, part of which comprises exclusively investment firms with limited trading on their own account or investment firms with a limited scope of investment services, and which does not include a credit institution, and the investment firm when stipulating capital requirements on a consolidated basis does not use the aggregation plus method, shall fulfil capital adequacy on a consolidated basis if it continually maintains capital on a consolidated basis (III, 2) in an amount, which at least corresponds to the sum of

a) the capital requirements for credit and market risks (IV, 2 and 3) stipulated on a consolidated basis, and
b) the capital requirement based on fixed overheads (IV, 5) and stipulated on a consolidated basis.

(2) An investment firm that forms a regulated consolidated group, part of which comprises exclusively investment firms with limited trading on their own account or investment firms with a limited scope of investment services, and which does not include a credit institution, and the investment firm when stipulating capital requirements on a consolidated basis uses the aggregation plus method (Article 51, 2), shall fulfil capital adequacy on a consolidated basis if it continually maintains capital on a consolidated basis (III, 2) in an amount, which at least corresponds to the sum of

a) the capital requirements for the credit risk of the investment portfolio (IV, 2) stipulated on a consolidated basis and the capital requirements of the persons in the regulated consolidated group stipulated on an individual basis for the interest rate, equity and credit risks in the trading portfolio and for the foreign exchange and commodity risks in the investment and trading portfolios (IV, 3), and
b) the capital requirement based on fixed overheads (IV, 5) and stipulated on a consolidated basis.

Article 43

Capital adequacy indicator

A capital adequacy indicator shall be employed to express capital adequacy pursuant to Articles 37 to 42 in percentage terms. This shall equal 8% of the quotient, in which the numerator equals the capital and the denominator equals the capital requirements.

Heading II

Procedures used to calculate capital adequacy

Article 44

Assigning instruments and positions to portfolios

(1) The liable entity shall assign its assets, liabilities and off-balance sheet items (hereinafter the „instruments“) to a trading portfolio or an investment portfolio in accordance with its strategy. In doing so, it uses its accounting or other demonstrable records as a basis, and takes into account all transactions conducted by midnight Central European time on the relevant day. If the liable entity uses accounting methods that do not comply with the international accounting standards regulated by European Community law[9)] (hereinafter the „accounting standards“) it shall record the instruments according to these accounting standards.

(2) Transfers of instruments from the investment to the trading portfolio and vice-versa are possible on condition that accounting methods are observed and such transfers are in compliance with the strategy and procedures for assigning instruments to the trading portfolio.

(3) The assignment of instruments to the trading and investment portfolios shall be the subject of regular screening as part of internal audit.

(4) Instruments are broken down into positions. Depending on the type of instrument, these may be interest rate, foreign exchange, equity or commodity positions. The liable entity shall have stipulated procedures for breaking down the instruments into positions. The Czech National Bank may demand these procedures and their arrangements to be submitted, especially if this is necessitated by the nature of the risks undertaken.

Article 45

Trading portfolio

(1) Instruments are assigned to the trading portfolio which are held in order to be traded or with the aim of hedging other trading portfolio instruments. These are instruments with no limit on their trading or which can be hedged.

(2) Instruments held with the intention of trading are instruments held deliberately for short-term resale or instruments held to exploit actual or anticipated short-term price differences between the purchase and the sale price or other price or interest rate fluctuations.

[9)] Article 2 of European Parliament and Council (EC) Order No. 1606/2002 of 19 July 2002 on the application of international accounting standards.

(3) Instruments held with the intention of trading are assigned to the trading portfolio upon fulfilment of the following requirements:

a) a clearly documented trading strategy exists for positions, instruments or portfolios of instruments or positions; this strategy shall have been approved by the liable entity's board of directors and shall also state the expected period for which they are to be held,
b) there shall be clearly stipulated procedures for the active management of positions, according to which
   1. positions are opened in the department responsible for trading,
   2. there are stipulated limits curbing the risk undertaken and their appropriateness is monitored,
   3. employees in the department responsible for trading are authorised to open and manage a position within the approved limits and in accordance with the approved trading strategy,
   4. positions are reported to senior management as an integral part of the risk management process,
   5. positions are actively monitored with regard to market information sources. The marketability or hedge-ability of a position or its risk components are evaluated, as well as the quality and accessibility of market data, the turnover and size of positions traded on the market;
c) there are clearly stated procedures to monitor positions with regard to the trading strategy, including the monitoring of turnover and static positions in the trading portfolio.

(4) The liable entity shall have a clearly stipulated strategy and procedures for the assignment of instruments in the trading portfolio and for its overall management; these shall

a) contain a list of activities that the liable entity regards as trading and which, in its view, influence the trading portfolio,
b) stipulate the principles according to which the positions of instruments are daily revaluated using market values sourced from an active and liquid market,
c) in case the positions of instruments are marked to model, stipulate the scope in which it is possible to
   1. identify all fundamental risks associated with the relevant position,
   2. hedge all major risks associated with the relevant position by means of instruments for which there exists an active and liquid market,
   3. reliably estimate the main parameters and assumptions used by the relevant model,
d) stipulate the scope in which it is possible to perform a full external check on the evaluation of the positions,
e) define the legal limitations or other operational requirements that may affect the ability to liquidate or hedge a position in the short term,
f) stipulate the method for managing risks associated with the relevant position within its trading operations, and
g) stipulate the principles and criteria for the transfer of instruments between the portfolios.

Article 46

Small trading portfolio

(1) The trading portfolio is deemed to be small if it meets the following criteria:

a) the proportion of transactions assigned to the trading portfolio as a rule does not exceed 5% of all transactions,
b) the total amount of positions assigned to the trading portfolio as a rule does not exceed an amount equivalent to EUR 15 000 000, and
c) the proportion of transactions assigned to the trading portfolio never exceeds 6% of all transactions and the total amount of positions assigned to the trading portfolio never exceeds an amount equivalent to EUR 20 000 000.

(2) When calculating the proportion of the transactions included in the trading portfolio to the overall transactions the liable entity may refer to either the balance sheet and the off-balance sheet or the income statement. When assessing the size of the balance sheet transactions and the off-balance sheet transactions it uses the book value of the instruments; in the case of derivatives the values of their underlying instruments are used. The absolute values of long and short positions shall be aggregated.

(3) The liable entity may stipulate capital requirements for instruments assigned to the small trading portfolio in the same way as capital requirements for instruments assigned to the investment portfolio are calculated. If the liable entity exercises this option it shall use the investment portfolio exposure rules for these instruments (Part Five, I).

(4) If the limit of 6%, or an amount equivalent to EUR 20 000 000, is exceeded, or if the limit of 5%, or an amount equivalent to EUR 15 000 000, is exceeded over a long period, the liable entity shall begin to stipulate capital requirements in accordance with the provisions for instruments in the trading portfolio and apply the trading portfolio rules of the exposure. It shall notify the Czech National Bank of such change without needless delay.

(5) In the period from 31 December of the calendar year to 30 December of the following year the amount in euros is converted into an amount in Czech Koruna using the foreign exchange rate announced by the Czech National Bank as the last in October of the calendar year.

Article 47

Investment portfolio

(1) Instruments not assigned to the trading portfolio are assigned to the investment portfolio.

(2) The liable entity that forms a regulated consolidated group may assign to the investment portfolio all the instruments of a person included in the regulated consolidated group, if that person is not obliged on an individual basis to divide up its portfolio of instruments for the purpose of assigning the instruments to the investment portfolio and the trading portfolio and stipulate for them capital requirements pursuant to special legislation or a foreign regulation equivalent to the relevant European Communities directive. The liable entity that forms the regulated consolidated group shall be able to document this procedure at the request of the Czech National Bank.

Article 48

Internal hedging

(1) Positions can be assigned to the trading portfolio which stem from transactions that represent internal hedging because these fully or materially offset the risk elements of a position or group of positions in the investment portfolio (hereinafter „internal hedging positions“).

(2) Internal hedging positions shall be used to calculate the capital requirements for instruments in the trading portfolio, if

a) they are held in order to be traded,
b) requirements are met for the instruments to be assigned to the trading portfolio and for prudential valuation, and
c) the following requirements are met for internal hedging:
   1. internal hedging is not realised in order to avoid or reduce capital requirements,
   2. internal hedging is duly documented and audited,
   3. internal hedging is realised under market conditions,
   4. the substantial part of the market risk covered by internal hedging is dynamically managed in the trading portfolio within the approved limits,
   5. internal hedging is carefully monitored.

(3) If an exposure in the investment portfolio is protected by a credit derivative assigned to the trading portfolio as part of an internal hedge, such credit derivative may be considered an eligible hedge for the exposure in the investment portfolio if

a) the liable entity is protected by a credit derivative and
b) the counterparty in the case of this credit derivative is an eligible provider of protection pursuant to the provisions regarding credit risk mitigation techniques (IV, 2, 3).

(4) Under the conditions stipulated in paragraph 3, neither the internal hedge nor the credit derivative concluded with a third party shall be included in the trading portfolio.

Article 49

Obligor default

(1) The liable entity shall evaluate investment portfolio exposures with regard to obligor default. Obligor default means a situation where at least one of the following conditions is met:

a) it may be assumed that the obligor will not fulfil its obligations in a proper and timely manner without the creditor seeking to collect its outstanding receivable through credit protection,
b) at least one payment of the principal or interest and fees of any obligation of the obligor towards the creditor is more than 90 days past the due date; the liable entity shall not take this condition into account if the amount past the due date is insignificant; the liable entity defines significance with regard to the amount it does not collect in writing off a receivable.

(2) If the obligor's obligations stem from

a) overdraft accounts and similar instruments, the days past the due date commence as of the time when the obligor exceeds the limit allocated to it, or when it is allocated a limit lower than the current drawdown, or it draws large volumes of credit without authorisation, if this concerns a significant amount,
b) credit cards, the days past the due date commence as of the time when the obligor should have paid the minimum instalment.

(3) A particular indicator that the obligor will probably not repay its obligation towards the creditor in a proper and timely manner without the creditor seeking to collect its outstanding receivable through credit protection is

a) the failure to apply the accrual principle to the exposure, or if the interest and fees of the exposure are not recognised at the period to which they relate both materially and in terms of time,
b) an adjustment to the exposure's valuation due to a significant fall in the credit quality recorded after the origin of the exposure,
c) the expectation that the exposure will be sold at a significant economic loss relating to the credit quality,
d) the creditor's consent to the compulsory restructuring of the exposure; compulsory restructuring becomes effective if the obligor is provided a dispensation because the creditor judges that a failure to do so would probably result in it incurring a loss. It thus granted the dispensation, which it would not otherwise have provided, on economic or legal grounds relating to the obligor's financial situation. This chiefly involves revising the repayment schedule, reducing the interest rate, waiving default interest, deferring payments of the principal or interest and fees;
e) the fact that a petition for bankruptcy proceedings has been filed against the obligor,
f) the fact that the obligor is, or will probably become, a person in bankruptcy, and this fact or expectation could threaten or delay the repayment of the obligor's obligation towards the liable entity or a person in the regulated consolidated group, or
g) the fact that other relevant and important factors exist, including the financial and economic situation of the obligor.

(4) If the liable entity uses external data which do not comply with the definition of obligor default it must be able to demonstrate that it has made adjustments in order to achieve broad equivalence with the definition of default.

(5) If the liable entity believes that an exposure which previously defaulted is now no longer affected by any circumstances that could cause an obligor default it may consider it an exposure without default. If circumstances subsequently arise which could cause an obligor default it shall regard this as the occurrence of another default.

(6) For retail exposures the definition of obligor default may be applied at the transaction level.

Data consolidation

Article 50

(1) For the data consolidation of persons in a regulated consolidated group the full method or the proportional method of consolidation shall be used according to accounting standards; the provisions of Article 51 shall not be affected hereby.

(2) The full method for consolidation is used for the data consolidation of

a) a bank and its subsidiaries which are not jointly managed ventures,
b) an investment firm and its subsidiaries which are not jointly managed ventures,
c) a financial holding entity and its subsidiaries which are not jointly managed ventures, or
d) a foreign parent bank and its subsidiaries which are not jointly managed ventures.

(3) The proportional method for consolidation is used for the data consolidation of

a) a bank and jointly managed ventures,
b) an investment firm and jointly managed ventures,
c) a financial holding entity and jointly managed ventures, or
d) a foreign parent bank and jointly managed ventures.

Article 51

(1) If the liable entity forms a regulated consolidated group it may, in order to consolidate the interest rate and equity positions of its trading portfolio instruments and the foreign exchange and commodity positions of its trading portfolio instruments and investment portfolio instruments, use the full method or the proportional method of consolidation, if the following criteria are met concurrently:

a) risks shall be managed on a consolidated basis,
b) persons included in the regulated consolidated group shall observe the rules of capital adequacy on an individual basis pursuant to this Decree or foreign regulation equivalent to the relevant European Communities directive[10)], and they shall abide by these rules,
c) no legal impediments shall exist to the transfer of individual capital components within the regulated consolidated group.

(2) In cases not stated in paragraph 1 the aggregation plus method shall be used instead of the full or the proportional method for the consolidation of interest rate and equity positions of the trading portfolio instruments and the foreign exchange and commodities positions of the trading portfolio instruments and the investment portfolio instruments. This method shall be used to stipulate capital requirements for the interest rate, equity and credit risks in the trading portfolio, or for the foreign exchange and commodity risks in the investment portfolio and the trading portfolio of the regulated consolidated group. This method means that the capital requirements of persons included in the regulated consolidated group which are stipulated on an individual basis pursuant to this Decree, or foreign regulation equivalent to the relevant European Communities directive shall be aggregated. The offsetting of long and short positions is not permitted.

[10)] For example, Directive of the European Parliament and Council 2006/49/EC.

(3) If the liable entity is authorised to combine the approaches for calculating the capital requirement for operational risk (Articles 173, 175 and 177) it shall, instead of the full or the proportional method of consolidating the data necessary for this calculation, calculate the partial capital requirements for operational risk pursuant to the individual approaches, which it combines and then aggregates.

Article 52

Valuation of instruments and positions

(1) With the exception of commodity instruments, the liable entity shall value its investment portfolio instruments in accordance with the valuation methods used in its accounting. If these valuation methods do not comply with accounting standards it shall value its investment portfolio instruments, with the exception of commodity instruments, in accordance with these accounting standards.

(2) The liable entity shall, on at least a daily basis, value at fair value the

a) trading portfolio instruments and the interest rate, foreign exchange, equity and commodity positions of these instruments,
b) investment portfolio commodity instruments and the commodity positions of these instruments.

(3) The liable entity may value at fair value the foreign exchange positions of its investment portfolio instruments denominated in foreign currencies. The liable entity shall proceed prudently when valuing instruments and positions. If possible, it shall use marking to market; in other cases it shall use marking to model.

(4) Marking to market commonly uses the current purchase price for assets and liabilities which are intended to be issued, and the current sale price for liabilities and assets which are intended to be purchased. If the institution has assets and liabilities with offsetting interest rate, equity, foreign exchange and commodity risks it may use the mid-market valuation as the basis for establishing the fair value of the offsetting risk positions and use the purchase or the sale price for the net open position.

(5) Marking to model is a valuation by extrapolation from a benchmark, or is otherwise calculated from market inputs. A mark-to-model valuation must meet the following requirements:

a) senior management shall be notified which instruments or portfolios of instruments are valued using the model, and shall be aware of the possible impact on reported risk and trading results,
b) where possible, inputs to the model shall be derived from market inputs; the appropriateness of the market inputs and the model’s parameters shall be regularly reviewed,
c) where possible, valuation procedures shall be used which are commonly adopted by the market for the relevant instrument,
d) if the model is developed by the liable entity it shall be based on the appropriate criteria, which are assessed and critically reviewed by qualified persons independent of the

model's development. The model must be developed or approved independently of the trading departments, and it must be independently tested, with regard to both the mathematical part and the software implementation;

e) relevant procedures shall be stipulated to supervise changes, and a back-up copy of the model shall be maintained which is regularly used to test valuations,

f) the risk management department shall be aware of the weaknesses of the model and shall know how best to reflect these weaknesses in outputs from the model,

g) the model shall be regularly tested in order to determine its quality and accuracy; in particular, reviews shall be performed of the ongoing suitability of the initial criteria, an analysis shall be made of profits and losses against risk factors, and a comparison shall be made between actual closing prices and the model's outputs.

(6) The accuracy and independence of available prices or inputs to the model shall be regularly reviewed by a department which is independent of the trading departments. The reviews are conducted at least once a month, or more frequently depending on the nature of the trading activities. If the mark-to-market sources are not independent, or they are notably subjective, the valuation may be adjusted. In duly justified cases, the Czech National Bank may permit the use of alternative valuation methods, which differ from marking to market or marking to model, on condition that they are sufficiently prudent.

(7) A liable entity shall have stipulated procedures regarding how prudently to adjust mark-to-market or mark-to-model valuations, where necessary. When determining the amount of the above prudential adjustments for marking to market or marking to model the liable entity shall take into account

a) unrecorded credit spreads, costs for closing a position, operational risk, early termination, costs for financing, future administrative costs and, if relevant, also the risk of the model,

b) less liquid positions. In this case, it shall consider the time that would be needed to hedge the position or risks related to the position, the volatility and the average of the bid/offer spread, the accessibility of market quotations (the number and identity of the market makers) and the volatility and the average of the transaction volumes, concentration in the market, the aging of positions, the extent to which the valuation depends on models, and the impact of other model risks.

(8) Material prudential adjustments in marking to market or marking to model are a deductible item from the sum of original and additional capital (Part Four III). Other than material prudential adjustments reduce the capital for the coverage of market risk (Part Four, III); if they exceed subordinated debt B (Part Four, III) the amount corresponding to this excess is deducted from the sum of original and additional capital.

Article 53

Conversion of values in foreign currencies

Unless this Decree stipulates otherwise, in order to convert values in foreign currencies into Czech Koruna the liable entity shall use either the exchange rate in accordance with a special act[11)], or the exchange rate set by the European Central Bank; the exchange rate valid

[11)] Act No. 563/1991 Coll., on accounting, as amended.

on the date of conversion shall apply. The choice of the exchange rate can only be altered in exceptional and justified cases.

Heading III

Capital

Section 1

Capital on an individual basis

Article 54

Definition of capital on an individual basis

(1) Capital on an individual basis is stipulated, pursuant to compliance with the limits stated in Article 63, as the sum of original capital on an individual basis (Tier 1) and additional capital on an individual basis (Tier 2), less the deductible items on an individual basis and increased by capital on an individual basis to cover market risk (Tier 3).

(2) Capital on an individual basis is derived from the liable entity's balance sheet. If the liable entity uses accounting methods that do not comply with accounting standards it shall use these accounting standards to record the equity and liabilities. Items included in capital on an individual basis may not be used more than once and must be stated in their amount after deducting liabilities arising from tax obligations, if relevant.

(3) Original capital on an individual basis must be immediately available to the liable entity, without limitation, in order to cover losses from risks to which it is exposed.

(4) Capital on an individual basis shall not include any profit or loss stemming from a valuation of the liable entity's liabilities at fair value in connection with changes to the liable entity's credit risk, i.e. profits or losses that are part of profit brought forward, after-tax profit, profit for the current year as per the interim financial statement, losses brought forward, including the loss for the previous year, and losses for the current year. Capital on an individual basis does not include valuation differences from hedging derivatives as part of the cash flow hedge.

Article 55

Original capital on an individual basis

Original capital on an individual basis comprises paid-up capital stock entered in the Companies Register (for credit unions the paid-up capital stock may or may not be entered in the Companies Register and the condition of compliance with accounting standards does not need to be met),

a) minus own shares (this item also includes items from transactions with own shares, in particular from forwards and options on own shares, reducing equity),

b) plus the share premium; this item includes the
   1. paid-up share premium relating to the paid-up capital stock entered in the Companies Register, and
   2. share premium from operations with own shares,

c) plus reserve funds and profit brought forward as the sum of the items in points 1 to 4, less the item in point 5:
   1. statutory reserve and risk funds,
   2. other funds created from distributed profit and which can only be used to cover the loss recorded in the liable entity's financial statement,
   3. profit brought forward recorded in the liable entity's financial statement confirmed by an auditor and approved by a general meeting or a meeting of members, where the general meeting or the meeting of members have not decided on its distribution and it was not included in settlement interests,
   4. after-tax profit recorded in the liable entity's financial statement confirmed by an auditor less estimated dividends and other estimated payments out of the distribution of the profit,
   5. losses brought forward, including the loss for the previous year,

d) plus profit for the current year as per the liable entity's interim financial statement confirmed by an auditor, less estimated dividends and other estimated payments out of the distribution of profit, provided that the Czech National Bank has been notified of the intention, accompanied by documentation confirming the auditor's consent, to include this profit in original capital and the Czech National Bank does not, within one month of the date of the submission of this documentation, reject the profit's inclusion in original capital, or within the aforesaid period it informs the liable entity that it reserves the right to reject the profit's inclusion in original capital in a period extended by up to one month and within this extension rejects the profit's inclusion in original capital,

e) plus the exchange rate differences from the data consolidation of a foreign branch or foreign organisational unit; if these are negative they shall be deducted,

f) minus loss for the current year,

g) minus goodwill,

h) minus intangible assets, excluding goodwill,

i) minus the valuation difference, if negative, from changes in the fair values of equity instruments assigned to the available for sale portfolio for accounting purposes,

j) minus net profit from the capitalisation of future income from securitisation, if it is part of item c) or d),

k) in the case of a bank, minus the participating securities issued by a person with a qualifying holding in the bank, acquired for the purpose of market making and assigned to the trading portfolio.

Article 56

Additional capital on an individual basis

Additional capital on an individual basis consists of the sum

a) of core additional capital on an individual basis, which corresponds to the excess in the coverage of expected credit losses on an individual basis, and

b) supplementary additional capital on an individual basis, which comprises
   1. subordinated debt A,
   2. the valuation difference from changes in the fair values of equity instruments, for which an active market exists and which are assigned to the available for sale portfolio for accounting purposes, if this is positive. The valuation difference is calculated after reducing it by any liabilities arising from deferred tax;
   3. the payment obligation of members of a credit union[12)], if receivables due from members arising from the payment obligation are not past their due date.

Article 57

Excess in the coverage of expected credit losses on an individual basis

(1) An excess in the coverage of expected credit losses arises if the liable entity uses the IRB Approach to calculate capital requirements for credit risk, and the aggregate of the value adjustments for the exposures, which are assets, and the provisions for the exposures, which are off-balance sheet items, is greater than the aggregate of the expected credit losses from these exposures (Part Four, IV). An excess in the coverage of expected credit losses according to the first sentence is not adjusted by the expected credit losses from equity exposures and their value adjustments; the expected credit losses from equity exposures which are not reduced by value adjustments for these exposures are a deductible item pursuant to Article 62.

(2) Value adjustments and provisions may be considered in a comparison with expected credit losses, irrespective of which exposures they relate to.

Article 58

Subordinate debt A in capital on an individual basis

(1) Subordinated debt A may be in the form of a granted credit, loan or deposit, and in the case of a bank or investment firm, also in the form of an issued subordinated debt instrument.

(2) Subordinated debt A can be included in additional capital on an individual basis if the following criteria are met:

[12)] Article 4a and Article 9 paragraph 2 of Act No. 87/1995 Coll.

a) the contract on subordinated debt A or the conditions of issue of the subordinated debt instrument contain a subordination clause pursuant to a special act[13)];
b) the full sum of subordinated debt A has been transferred to the account of the liable entity. Subordinated debt A does not comprise own subordinated debt instruments acquired by the liable entity before their maturity. Subordinated debt A is not directly or indirectly financed by the liable entity;
c) subordinated debt A is unsecured,
d) subordinated debt A has a fixed maturity of not less than five years after the date of its transfer to the account of the liable member. The principal of subordinated debt A is payable in one lump sum. If the contract on subordinated debt A or the conditions of issue of the subordinated debt instrument contain a provision under which such debt may be repaid before the agreed maturity date, this right may be exercised no sooner than five years after the date of the transfer of the subordinated debt to the account of the liable entity;
e) subordinated debt A may be repaid before the maturity date specified in letter d) provided that the intention to repay subordinated debt A has been communicated, with a documentation of its impacts on the liable entity's capital, to the Czech National Bank, and the Czech National Bank has not refused the early repayment within one month of the submission of the complete documentation or has not, within the aforesaid period, provided notification of an extension of the period by up to one month and in this extended period does not refuse the early repayment,
f) the contract on subordinated debt A or the conditions of issue of the subordinated debt instrument contain an agreement by the counterparties that it shall not be permitted to offset the creditor's receivables resulting from the subordinated debt against his obligations to the liable entity,
g) receivables by virtue of subordinated debt A may not be accepted by the liable entity as collateral, and
h) the intention to include subordinated debt A in additional capital, including the conditions of this debt and its amount, has been communicated and documented to the Czech National Bank, and the Czech National Bank has not refused this intention within one month of the submission of the complete documentation or has not, within the aforesaid period, provided notification of an extension of the period by up to one month and in this extended period does not refuse this intention.

(3) The conditions of the contract on subordinated debt or the conditions of issue of the subordinated debt instrument relating to the criteria stated in paragraph 2 may only be changed if the intention to introduce changes is communicated to the Czech National Bank and the Czech National Bank has not refused this intention within one month of the submission of the complete documentation on the proposal for changes to the conditions of the contract on subordinated debt or the proposal for changes to the conditions of issue of the subordinated debt instrument or has not, within the aforesaid period, provided notification of an extension of the period by up to one month and in this extended period does not refuse this intention. If a change is made to the contract on subordinated debt or the conditions of issue of the subordinated debt instrument which is at variance with the first sentence, the subordinated debt may not be included in capital.

[13)] Article 34 of Act No. 190/2004 Coll., on Bonds.

(4) Subordinated debt A included in additional capital shall be decreased by 20% annually over the last five years prior to its maturity, unless stipulated otherwise. It shall start decreasing on the day following the end of the fifth year prior to its maturity, which means that in the last year prior to its maturity date, 20% of the total debt shall be included. The part of subordinated debt A not included in additional capital may not be included in capital for the coverage of market risk.

(5) If the contract on subordinated debt A or the conditions of issue of the subordinated debt instrument contain a provision permitting the repayment of the debt before the agreed maturity date, the subordinated debt A included in additional capital shall be decreased over the last five years prior to the agreed maturity date only where the step-up rate of the subordinated debt A, if a call-option is not exercised, is not more than 1.5% p.a. If a step-up rate higher than 1.5% p.a. has been agreed, the subordinated debt A included in additional capital shall be decreased over the last five years prior to the date on which the call-option may first be exercised. In both such cases the subordinated debt A shall be decreased pursuant to paragraph 4.

Article 59

Capital on an individual basis for the coverage of market risk

(1) Capital on an individual basis for the coverage of market risk shall consist of subordinated debt B reduced

a) by other than significant prudential adjustments as part of marking to market or marking to model (Part Four, II), and
b) in the case of an investment firm further reduced by tangible assets, stock, capital investments in other persons which are not deductible items and which cannot be immediately sold on the market, and receivables with a residual maturity of more than 90 days, except for deposits used as collateral for transactions with derivatives traded on recognised stock exchanges.

(2) If the amount of the items under paragraph 1, a) and b) exceeds subordinated debt B, the amount of the corresponding excess shall be deducted from the sum of original capital and additional capital.

(3) Capital on an individual basis for the coverage of market risk shall only be used to cover foreign exchange, commodity and position risk, or exposure risk in the trading portfolio (Article 75).

Article 60

Subordinated debt B in capital on an individual basis

(1) Subordinated debt B may be in the form of a granted credit, loan or deposit, and in the case of a bank or investment firm, also in the form of an issued subordinated debt instrument.

(2) Subordinated debt B is deemed to be capital for the coverage of market risk, if the following criteria are met:

a) subordinated debt B must have a fixed maturity of not less than two years after the date of its transfer to the account of the liable entity. The principal of subordinated debt B shall be payable in one lump sum;
b) the principal, fees and interest of subordinated debt B may not be repaid, even within the maturity term, if such a payment would reduce capital adequacy or such a payment would mean a further decrease in capital on an individual basis, if capital adequacy is below the minimum level,

and also if the criteria are met pursuant to Article 58, 2, a) to c) and e) to h) and Article 58, 3 for subordinated debt A.

Article 61

Deductible items on an individual basis

Deductible items on an individual basis consist of

a) investment portfolio capital investments in
   1. institutions,
   2. insurance companies, reinsurance undertakings, insurance holding companies or mixed-activity insurance holding companies, or
   3. other financial institutions,

   if they exceed 10% of the capital stock of persons in which they are invested. However, the liable entity shall not assign such capital investments to deductible items if it maintains capital adequacy on a consolidated basis and it includes the persons in which it has a capital investment in the regulated consolidated group by the full or proportional method;

b) the sum of investment portfolio capital investments in
   1. institutions,
   2. insurance companies, reinsurance undertakings, insurance holding companies or mixed-activity insurance holding companies, or
   3. other financial institutions,

   in an amount that exceeds 10% of capital on an individual basis before the deduction of items pursuant to letter a) and points 1 to 3, if the individual capital investments represent a participation of up to 10%, including the capital stock of the persons in which the investment is made. The liable entity shall not assign such capital investments to deductible items if it maintains capital adequacy on a consolidated basis and it includes the persons in which it has a capital investment in the regulated consolidated group by the full or proportional method;

c) the value of exposures from securitisation with a risk weight of 1250%, unless this is included in the calculation of the capital requirement for credit risk according to the provision for securitisation (Part Four, IV). For the purposes of the rules of the exposure and the limitation of qualifying holdings, this item is not deemed a deductible item;

d) a shortfall in the coverage of expected credit losses. For the purposes of the rules of the exposure and the limitation of qualifying holdings, this item is not deemed a deductible item;

e) significant prudential adjustments as part of a marking to market or marking to model (Part Four, II),

f) items under Article 59, 1, a) and b) exceeding subordinated debt B,

g) deduction for free deliveries, from five business days past the due date of the second contractual payment or delivery until the termination of the transaction, in the amount of the sum of the transferred value and the difference between the agreed settlement price and the current mark to market, if this is positive.

Article 62

Shortfall in the coverage of expected credit losses on an individual basis

(1) A shortfall in the coverage of expected credit losses arises if the liable entity uses the IRB Approach to calculate capital requirements for credit risk, and the aggregate of the value adjustments for the exposures, which are assets, and the provisions for the exposures, which are off-balance sheet items, is less than the aggregate of the expected credit losses from these exposures (Part Four, IV). The expected credit losses from equity exposures which are not reduced by value adjustments for these exposures always form part of this deductible item (Part Four, IV).

(2) Value adjustments and provisions may be considered in a comparison with expected credit losses, irrespective of which exposures they relate to.

Article 63

Limits of capital items on an individual basis

(1) The sum of additional capital on an individual basis and capital on an individual basis to cover market risk shall not be considered where this exceeds original capital on an individual basis.

(2) Supplementary additional capital on an individual basis shall not be considered where this exceeds 50% of original capital on an individual basis.

(3) 50% of the value of deductible items is deducted from original capital on an individual basis, and 50% of their value is deducted from additional capital on an individual basis; the provisions of paragraphs 1 and 2 are not affected hereby. If 50% of the value of deductible items exceeds additional capital on an individual basis the amount equivalent to this excess shall be deducted from original capital on an individual basis.

(4) Capital on an individual basis for the coverage of market risk shall not be considered in an amount of more than 150% of the sum of original capital on an individual basis and additional capital on an individual basis reduced by deductible items on an individual basis and reduced by the sum of the capital requirements for credit risk in the investment portfolio, dilution risk in the investment portfolio and operational risk.

(5) An excess in the coverage of expected credit losses can be included in additional capital on an individual basis in an amount which is not greater than 0.6% of the sum of risk-weighted exposure amounts. For the purposes of calculating the limit for the excess in the coverage of expected credit losses, exposures from securitisation with a risk weight of 1250% shall not be included in the values of risk-weighted exposures.

Section 2

Capital on a consolidated basis

Article 64

Definition of capital on a consolidated basis

(1) Capital on a consolidated basis is stipulated, pursuant to compliance with the limits stated in Article 73, as the sum of original capital on a consolidated basis (Tier 1) and additional capital on a consolidated basis (Tier 2) less the deductible items on a consolidated basis and increased by capital on a consolidated basis to cover market risk (Tier 3).

(2) Capital on a consolidated basis is derived from the balance sheet of the regulated consolidated group compiled from the consolidated data of the persons in the regulated consolidated group. If the accounting methods employed do not comply with accounting standards these accounting standards shall be used to record equity and liabilities. Items included in capital on a consolidated basis may not be used more than once, may not be created directly or indirectly from transactions between persons in the regulated consolidated group, and their amount shall be stipulated after deducing liabilities arising from tax obligations, if relevant.

(3) Capital on a consolidated basis shall not include any profit or loss stemming from a valuation of the liabilities of persons in the regulated consolidated group at fair value in connection with changes to the credit risk of such persons, i.e. profits or losses that are part of profit brought forward, after-tax profit, profit for the current year as per the interim financial statement, losses brought forward, including the loss for the previous year, and losses for the current year. Capital on a consolidated basis does not include valuation differences from hedging derivatives as part of the cash flow hedge.

Article 65

Original capital on a consolidated basis

Original capital on a consolidated basis comprises paid-up capital stock entered in the Companies Register, or a similar register abroad, decreased by the sum of the nominal amounts of cumulative priority shares

a) minus purchased own shares and participations (this item also includes items from transactions with own shares, in particular from forwards and options on own shares, reducing equity),

b) plus the share premium; this item includes the
   1. paid-up share premium relating to the paid-up capital stock entered in the Companies Register, or a similar register abroad, and
   2. the share premium from operations with own shares and participations,

c) plus reserve funds and profit brought forward as the sum of the items in points 1 to 4, less the item in point 5:
   1. statutory reserve and risk funds,
   2. other funds which are created from distributed profit and can only be used to cover the loss recorded in the financial statements of the persons in the regulated consolidated group,
   3. profit brought forward recorded in the balance sheet of the regulated consolidated group; this shall not, however, exceed the sum of the profit brought forward recorded in the financial statements of the persons in the regulated consolidated group which has been confirmed by an auditor and approved by general meetings or meetings of members where the general meetings or the meetings of members have not decided on its distribution and it was not included in settlement interests**;** the profit brought forward recorded in the balance sheet of the regulated consolidated group is further adjusted by the profit and loss stemming from the equivalence valuation used to compile the balance sheet of the regulated consolidated group; **profit brought forward can be increased during the year to include dividends paid in the same year by a subsidiary in the regulated consolidated group to the liable entity or the financial holding entity.**
   4. after-tax profit recorded in the balance sheet of the regulated consolidated group; this shall not, however, exceed the sum of the after-tax profit recorded in the financial statements of the persons in the regulated consolidated group confirmed by the auditor and reduced by paid-out advance payments on shares in profit, estimated dividends and other estimated payments out of the distribution of the profit, the after-tax profit recorded in the balance sheet of the regulated consolidated group is further adjusted by the profit and loss from the equivalence valuation used to compile the balance sheet of the regulated consolidated group,
   5. losses brought forward, including the loss for the previous year,

d) plus after-tax profit for the current period stated in the balance sheet of the regulated consolidated group, but not more than an amount equivalent to the sum of the after tax profit for the current period stated in the interim financial statements of the persons in the regulated consolidated group, verified by an auditor, reduced by paid advances on shares in profit, estimated dividends and other estimated payments out of the distribution of the profit, adjusted by the profit or loss stemming from the equivalence valuation used to compile the balance sheet of the regulated consolidated group, if the intention, certified by a consent of the auditor, to include this profit in original capital has been communicated to the Czech National Bank, unless the Czech National Bank within one month of receiving the certification of the intention by a consent of the auditor refuses the inclusion of this profit in original capital, or within the aforesaid period, provides notification of an extension of the period by up to one month and in this extended period refuses the intention,

e) plus minority participations (participations of minority partners) relating to items included in original capital,

f) minus goodwill from the consolidation of data in the regulated consolidated group,

g) plus the exchange rate differences from the data consolidation of foreign branches and foreign persons in the regulated consolidated group; if these are negative they shall be deducted,

h) minus loss of the current year,

i) minus goodwill, excluding goodwill of persons in the regulated consolidated group,

j) minus intangible assets, excluding goodwill,

k) minus the valuation difference from changes in the fair values of equity instruments assigned to the available for sale portfolio for accounting purposes, if it is negative,

l) minus net profit from the capitalisation of future income from securitisation, if it is part of item c) or d),

m) in the case of a bank, minus the participating securities issued by a person with a qualifying holding in the bank, and acquired for the purpose of market making and assigned to the trading portfolio.

Article 66

Additional capital on a consolidated basis

Additional capital on a consolidated basis consists of the sum of

a) core additional capital on a consolidated basis, which correspond to the excess in the coverage of expected credit losses on a consolidated basis, and
b) supplementary additional capital, which comprises

1. subordinated debt A,
2. the valuation difference from changes in the fair values of equity instruments, for which an active market exists and which are assigned to the available for sale portfolio for accounting purposes, if this is positive. The valuation difference is calculated after reducing it by any liabilities arising from deferred tax;
3. the payment obligation of members of a credit union, if receivables due from members arising from the payment obligation are not past their due date.

Article 67

Excess in the coverage of expected credit losses on a consolidated basis

(1) An excess in the coverage of expected credit losses arises if the liable entity uses the IRB Approach to calculate capital requirements for credit risk, and the aggregate (calculated

on a consolidated basis) of the value adjustments for the exposures, which are assets, and the provisions for the exposures, which are off-balance sheet items, is greater than the aggregate of the expected credit losses from these exposures (Part Four, IV). An excess in the coverage of expected credit losses according to the first sentence is not adjusted by the expected credit losses from equity exposures and their value adjustments; the expected credit losses from equity exposures which are not reduced by value adjustments for these exposures are a deductible item pursuant to Article 71.

(2) Value adjustments and provisions may be considered in a comparison with expected credit losses, irrespective of which exposures they relate to.

Article 68

Subordinate debt A in capital on a consolidated basis

(1) Subordinated debt A may be in the form of a granted credit, loan or deposit, and in the case of a bank or investment firm, also in the form of an issued subordinated debt instrument, provided that

a) the obligor is a person in the regulated consolidated group, and
b) the creditor is a person that is not included in the consolidated group of which the obligor is a member.

(2) Subordinated debt A can be included in additional capital on a consolidated basis if the following criteria are met:

a) the contract on subordinated debt A or the conditions of issue of the subordinated debt instrument shall contain a subordination clause pursuant to a special act,
b) the full sum of subordinated debt A has been transferred to the account of a person in the regulated consolidated group. Subordinated debt A does not comprise own subordinated debt instruments acquired by a person in the regulated consolidated group before their maturity. Subordinated debt A is not directly or indirectly financed by a person in the regulated consolidated group;
c) subordinated debt A is unsecured,
d) subordinated debt A has a fixed maturity of not less than five years after the date of its transfer to the account of a person in the regulated consolidated group. The principal of subordinated debt A is payable in one lump sum. If the contract on subordinated debt A or the conditions of issue of the subordinated debt instrument contain a provision under which such debt may be repaid before the agreed maturity date, this right may be exercised no sooner than five years after the date of the transfer of the subordinated debt to the account of the person in the regulated consolidated group;
e) subordinated debt A may be repaid before the maturity date specified in letter d) provided that the intention to repay subordinated debt A has been communicated, with a documentation of its impacts on the capital of the regulated consolidated group, to the Czech National Bank, and the Czech National Bank has not refused the early repayment within one month of the submission of the complete documentation or has not, within the aforesaid period, provided notification of an extension of the period by up to one month and in this extended period does not refuse the early repayment,

f) the contract on subordinated debt A or the conditions of issue of the subordinated debt instrument contain an agreement by the counterparties that it shall not be permitted to offset the creditor's receivables resulting from the subordinated debt against his obligations to a person in the regulated consolidated group,
g) receivables by virtue of subordinated debt A may not be accepted by a person in the regulated consolidated group as collateral, and
h) the intention to include subordinated debt A in additional capital, including the conditions of this debt and its amount, has been communicated with documentation to the Czech National Bank, and the Czech National Bank has not refused this intention within one month of the submission of the complete documentation or has not, within the aforesaid period, provided notification of an extension of the period by up to one month and in this extended period does not refuse this intention.

(3) The conditions of the contract on subordinated debt or the conditions of issue of the subordinated debt instrument relating to the criteria stated in paragraph 2 may only be changed if the intention to introduce changes is communicated to the Czech National Bank and the Czech National Bank has not refused this intention within one month of the submission of the complete documentation on the proposal for changes to the conditions of the contract on subordinated debt or the proposal for changes to the conditions of issue of the subordinated debt instrument, or has not, within the aforesaid period, provided notification of an extension of the period by up to one month and in this extended period does not refuse this intention. If a change is made to the contract on subordinated debt or the conditions of issue of the subordinated debt instrument which is at variance with the first sentence, the subordinated debt may not be included in the capital.

(4) Subordinated debt A included in additional capital shall be decreased by 20% annually over the last five years prior to its maturity, unless stipulated otherwise. It shall start decreasing on the day following the end of the fifth year prior to its maturity, which means that in the last year prior to its maturity date, 20% of the total debt shall be included. The part of subordinated debt A not included in the additional capital may not be included in capital for the coverage of market risk.

(5) If the contract on subordinated debt A or the conditions of issue of the subordinated debt instrument contain a provision permitting the repayment of the debt before the agreed maturity date, the subordinated debt A included in additional capital shall be decreased over the last five years prior to the agreed maturity date only where the step-up rate of the subordinated debt, if a call-option is not exercised, is not more than 1.5% p.a. If a step-up rate higher than 1.5% p.a. has been agreed, the sum of the subordinated debt included in additional capital shall be decreased over the last five years prior to the date on which the call-option may first be exercised. In both such cases the subordinated debt A shall be decreased pursuant to paragraph 4.

Article 69

Capital on a consolidated basis for the coverage of market risk

(1) Capital on a consolidated basis for the coverage of market risk shall comprise subordinated debt B reduced

a) by other than significant prudential adjustments as part of marking to market or marking to model (Part Four, II), and
b) in the case of an investment firm further reduced by tangible assets, stock, capital investments in other persons which are not deductible items and which cannot be immediately sold in the market, and receivables with residual maturity of more than 90 days, except for deposits used as collateral for transactions with derivatives traded on recognised stock exchanges.

(2) If the amount of the items under paragraph 1, a) and b) exceeds subordinated debt B, the amount of the corresponding excess shall be deducted from the sum of original capital and additional capital on a consolidated basis.

(3) . Capital on a consolidated basis for the coverage of market risk shall only be used to cover foreign exchange, commodity and position risk, or exposure risk in the trading portfolio (Article 75).

Article 70

Subordinated debt B in capital on a consolidated basis

(1) Subordinated debt B may be in the form of a granted credit, loan or deposit, and in the case of a bank or investment firm, also in the form of an issued subordinated debt instrument, where

a) the obligor is a person in a regulated consolidated group, and
b) the creditor is a person that is not included in the consolidated group of which the obligor is a member.

(2) Subordinated debt B is deemed to be capital for the coverage of market risk, if the following criteria are met:

a) subordinated debt B must have a fixed maturity of not less than two years after the date of its transfer to the account of a person in the regulated consolidated group. The principal of subordinated debt B shall be payable in one lump sum;
b) the principal, fees and interest of subordinated debt B may not be repaid, even within the maturity term, if such a payment would reduce capital adequacy or such a payment would mean a further decrease in capital on a consolidated basis, if capital adequacy is below the minimum level,

and also if the criteria are met pursuant to Article 68, 2, a) to c) and e) to h) and Article 68, 3 for subordinated debt A.

Article 71

Deductible items on a consolidated basis

(1) Deductible items on a consolidated basis consist of:

a) investment portfolio capital investments in
   1. institutions,

2. insurance companies, reinsurance undertakings, insurance holding companies or mixed-activity insurance holding companies, or
3. other financial institutions,

if they exceed 10% of the capital stock of persons in which the investment is made,

b) the sum of investment portfolio capital investments in
1. institutions,
2. insurance companies, reinsurance undertakings, insurance holding companies or mixed-activity insurance holding companies, or
3. other financial institutions,

in an amount that exceeds 10% of capital on a consolidated basis before the deduction of items pursuant to letter a) and points 1 to 3, if the individual capital investments represent a participation of up to 10%, including the capital stock of the persons in which the investment is made,

c) the value of exposures from securitisation with a risk weight of 1250%, unless this is included in the calculation of the capital requirement for credit risk according to the provision for securitisation (Part Four, IV). For the purposes of the rules of the exposure and the limitation of qualifying holdings, this item is not deemed a deductible item;

d) a shortfall in the coverage of expected credit losses. For the purposes of the rules of the exposure and the limitation of qualifying holdings, this item is not deemed a deductible item;

e) significant prudential adjustments as part of a mark to market or mark to model (Part Four, II),

f) items under Article 69, 1, a) and b) that exceed subordinated debt B,

g) deduction for free deliveries, from five business days past the due date of the second contractual payment or delivery until the termination of the transaction, in the amount of the sum of the transferred value and the difference between the agreed settlement price and the current mark to market, if this is positive.

Article 72

Shortfall in the coverage of expected credit losses on a consolidated basis

(1) A shortfall in the coverage of expected credit losses arises if the liable entity uses the IRB Approach to calculate capital requirements for credit risk, and the aggregate (calculated on a consolidated basis) of the value adjustments for the exposures, which are assets, and the provisions for the exposures, which are off-balance sheet items, is less than the aggregate of the expected credit losses from these exposures (Part Four, IV). The expected credit losses from equity exposures which are not reduced by value adjustments for these exposures always form part of this deductible item (Part Four, IV).

(2) Value adjustments and provisions may be considered in a comparison with expected credit losses, irrespective of which exposures they relate to.

Article 73

Limits of capital items on a consolidated basis

(1) The sum of additional capital on a consolidated basis and capital on a consolidated basis to cover market risk shall not be considered where this exceeds original capital on a **consolidated** basis.

(2) Supplementary additional capital on a consolidated basis shall not be considered where this exceeds 50% of original capital on a consolidated basis.

(3) 50% of the value of deductible items is deducted from original capital on a consolidated basis, and 50% of their value is deducted from additional capital on a consolidated basis; the provisions of paragraphs 1 and 2 are not affected hereby. If 50% of the value of deductible items exceeds additional capital on a consolidated basis the amount equivalent to this excess shall be deducted from original capital on a consolidated basis.

(4) Capital on a consolidated basis for the coverage of market risk shall not be considered in an amount more than 150% of the sum of original capital on a consolidated basis and additional capital on a consolidated basis reduced by deductible items on a consolidated basis and reduced by the sum of the capital requirements for credit risk in the investment portfolio, dilution risk in the investment portfolio and operational risk.

(5) An excess in the coverage of expected credit losses can be included in additional capital on a consolidated basis in an amount which is not greater than 0.6% of the sum of risk-weighted exposure amounts. For the purposes of calculating the limit for the excess in the coverage of expected credit losses, exposures from securitisation with a risk weight of 1250% shall not be included in the values of risk-weighted exposures.

Heading IV

Capital requirements

Section 1

Definition and calculation of capital requirements

Subsection 1

Definition of capital requirements

Article 74

(1) In order to calculate capital adequacy, the liable entity shall stipulate the minimum capital requirements for credit, market and operational risk; the provisions of paragraph 2 are not affected hereby.

(2) Under the conditions laid down by the Decree (I), an investment firm with a limited scope of investment services and an investment firm with limited trading on own account shall stipulate the capital requirement based on fixed overheads.

Article 75

(1) Capital requirements for credit risk include capital requirements for

a) credit risk and dilution risk in the investment portfolio,
b) specific interest rate risk in the trading portfolio,
c) specific equity risk in the trading portfolio,
d) counterparty credit risk for repurchase transactions or the borrowing and lending of securities or commodities, derivatives, long settlement transactions and margin lending transactions,
e) settlement risk in the trading portfolio and free deliveries,
f) other instruments in the trading portfolio,
g) exposure risk in the trading portfolio.

(2) Capital requirements for market risk include capital requirements for

a) general interest rate risk in the trading portfolio,
b) general equity risk in the trading portfolio,
c) foreign exchange risk in the investment portfolio and the trading portfolio,
d) commodity risk in the investment portfolio and the trading portfolio.

(3) Capital requirements for general and specific interest rate risk in the trading portfolio and general and specific equity risk in the trading portfolio are also referred to as capital requirements for position risk in the trading portfolio.

(4) The capital requirement for options pursuant to section 3, 7, and the capital requirement for collective investment undertakings pursuant to section 3, 4 are assigned to capital requirements for position risk in the trading portfolio, foreign exchange risk and commodity risk.

Subsection 2

Approaches for the calculation of capital requirements

Article 76

Basic approaches for the calculation of capital requirements

The basic approaches for the calculation of capital requirements are:

a) a Standardised Approach to calculate the capital requirement for credit risk in the investment portfolio without using internal models to stipulate
   1. the exposure value (Article 87 and Annex 8 to the Decree), or
   2. the adjusted exposure value (Article 104 and Annex 16 to the Decree),
b) a Standardised Approach to calculate the capital requirement for specific interest rate risk in the trading portfolio,
c) a Standardised Approach to calculate the capital requirement for specific equity risk in the trading portfolio,
d) a Standardised Approach to calculate the capital requirement for counterparty credit risk for repurchase transactions or the borrowing and lending of securities or commodities, derivatives, long settlement transactions and margin lending transactions without using internal models to calculate the exposure value,
e) a Standardised Approach to calculate the capital requirement for settlement risk in the trading portfolio and free deliveries,
f) a Standardised Approach to calculate the capital requirement for other instruments in the trading portfolio,
g) a Standardised Approach to calculate the capital requirement for exposure risk in the trading portfolio,
h) a Standardised Approach to calculate the capital requirement for market risk,
i) BIA Approach,
j) a Standardised Approach to calculate the capital requirement for operational risk,
k) an approach to calculate the capital requirement based on fixed overheads, or
l) an approach to calculate capital requirements corresponding to the rules for the calculation of capital requirements effective before this Decree came into force (hereinafter the „approach for the calculation of capital requirements according to the former rules“).

Article 77

Special approaches for the calculation of capital requirements

(1) Special approaches for the calculation of capital requirements are

a) a Standardised Approach to calculate the capital requirement for credit risk in the investment portfolio using internal models to stipulate
   1. the exposure value (Article 87 and Annex 8 to the Decree), or
   2. the adjusted exposure value (Article 104 and Annex 16 to the Decree),
b) IRB Approach,
c) an approach to calculate the capital requirement for counterparty credit risk for repurchase transactions or the borrowing and lending of securities or commodities, derivatives or long settlement transactions and margin lending transactions using internal models to calculate the exposure value,
d) an approach to calculate the capital requirement for specific interest rate risk in the trading portfolio based on internal models,
e) an approach to calculate the capital requirement for specific equity risk in the trading portfolio based on internal models,
f) an approach to calculate the capital requirement for market risk based on internal models,
g) AMA Approach,
h) AMA Approach combined with other approaches to calculate the capital requirement for operational risk,
i) a Standardised Approach to calculate the capital requirement for operational risk in combination with the BIA Approach,
j) ASA Approach, or
k) ASA Approach combined with the BIA Approach.

(2) In order to calculate capital requirements the liable entity may use a special approach pursuant to paragraph 1, a) to h), on condition that it has co-signed a joint application for authorisation to use the special approach and the competent authority has approved it[14)]. Otherwise, the liable entity may use special approaches to calculate capital requirements pursuant to paragraph 1 if it has been authorised to do so by the Czech National Bank[15)], on condition that, if it is a member of a European parent bank group, European financial holding entity group, or European parent investment firm group in accordance with a special act, it has not co-signed the joint application for authorisation to use a special approach and that it has informed the relevant European parent bank, European financial holding entity or European investment firm of the intention to submit this application to the Czech National Bank. The Czech National Bank communicates its application to the competent authority of the Member State that performs supervision on a

[14)] Article 12a paragraph 5 of Act No. 21/1992 Coll.
Article 8 paragraph 6 of Act No. 87/1995 Coll.
Article 9 paragraph 5 Act No. 256/2004 Coll.
[15)] Article 12 paragraph 4 of Act No. 21/1992 Coll.
Article 8 paragraph 5 of Act No. 87/1995 Coll.
Article 9 paragraph 4 of Act No. 256/2004 Coll.

consolidated basis of the relevant consolidated group, if the liable entity is a part of such consolidated group.

Subsection 3

Application for approval to use a special approach or to a change in the approach employed

Article 78

(1) An application for approval to use a special approach to calculate the capital requirement or to a change in the approach used (hereinafter the „application for approval“) shall be submitted by the liable entity to the Czech National Bank.

(2) An application for approval contains fundamental data and annexes stating the facts and information to enable the Czech National Bank to review fulfilment of the requirements for the relevant special approach. If the application for approval is intended for the purposes of compliance with the prudential rules of the liable entities on the consolidated basis this fact shall be stated in the application and the requirements for the fundamental data and annexes shall apply to the regulated consolidated group.

(3) A separate application for approval is submitted to the Czech National Bank for each special approach to calculate a capital requirement.

Article 79

(1) In addition to the general particulars specified by a special regulation[16)] the basic details of an application for approval submitted to the Czech National Bank shall also define the type of special approach and the date from which the liable entity intends to use it, as well as

a) a list of annexes that form part of the application,
b) the applicant’s declaration that all the information and facts stated by it and the papers and documents attached are up-to-date, complete and true.

(2) If the liable entity applies to the Czech National Bank for approval to use two or more special approaches simultaneously and if the same papers and documents are required, the liable entity shall submit them only once, stating for which application for approval the papers and documents were submitted, and when.

[16)] Act No. 500/2004 Coll., administrative procedure code, as amended by Act No. 413/2005 Coll.

Article 80

(1) In the case of an application for approval to use a special approach to calculate a capital requirement pursuant to Article 77, 1, a) to h), the annexes stated in the list pursuant to Article 79, 1, a) submitted to the Czech National Bank shall comprise

a) documentation on the organisation, strategy, system and processes for managing the relevant risk,
b) documentation on the system for measuring the relevant risk,
c) documentation on the plan for implementing the relevant special approach,
d) self-assessment for the relevant special approach performed by the department responsible for managing the relevant risk, with the support, where necessary, of the internal audit department or with the support of the external auditor and/or consultants,
e) a list of all relevant external documentation and internal documents that are available at the liable entity and which apply to the system for the management and measurement of the risk for which the liable entity intends to use the special approach, and which the liable entity is able to provide at the request of the Czech National Bank.

(2) For an application for approval to use a special approach pursuant to Article 77, 1, i) to k) the annexes to the liable entity's application must clearly and fully document compliance with the Decree's requirements for the relevant special approach.

(3) If the method chosen by the liable entity to implement the special approach so requires, the liable entity shall submit additional documents to those stated in paragraphs 1 and 2 or in Article 79, 1 in order that the application clearly and fully documents compliance with the Decree's requirements for the relevant special approach.

(4) If the liable entity has previously submitted to the Czech National Bank the papers and documents required in the application for approval, or a part thereof, it shall submit only those papers and documents which have been changed in the meantime. The liable entity shall indicate those documents submitted previously which are still valid in the application. In an attached declaration the liable entity shall state that these documents and papers remain unchanged.

Article 81

(1) Documentation for the organisation, system and processes for managing the relevant risk shall include

a) the overall strategy and the strategy for managing the relevant risk,
b) a survey of the organisation structure, powers, responsibilities and information flows in the management of the relevant risk,
c) a survey of the review process for the special approach,
d) a survey and reports of assurance and consulting action taken by the internal audit department or other similar department of the regulated consolidated group, or by the external auditor,
e) minutes from meetings of the liable entity's management and advisory bodies on the relevant area, and

f) other documentation confirming compliance with requirements for the organisation, system and processes of managing the relevant risk.

(2) Documentation for the relevant risk measurement system includes

a) the relevant categorisation of risks, exposures or portfolios used for the relevant approach and its criteria,
b) a survey of all methodologies and models used and the means of their use by the liable entity taking into account relevant perspectives, e.g. the coverage of exposure classes, geographical areas, business units or business lines, types of risk or losses by measurement,
c) a description and explanation of all methodologies and procedures used,
d) a description of the information technology structures, the system and database environment, the software used, and
e) other documentation demonstrating compliance with the requirements for the system of measurement of the relevant risk.

(3) Documentation on the implementation procedure for the relevant special approach includes

a) a development of the methodology used to measure the relevant risk, if developed by the liable entity,
b) a description of the implementation of the information system used to measure and manage the relevant risk,
c) a survey of training events for employees, including senior managerial employees, and, in the case of credit unions, also managers related to the relevant special approach,
d) a description of the procedure employed to proceed from the existing system to a new system,
e) procedures used to change the scope in which methods or models are used, reflecting important changes in methods or models as part of the relevant approach,
f) procedures for the ongoing assessment of the suitability of the models employed, methods and procedures used, including a plan for audits of the suitability of the models,
g) a use test for the relevant special approach in the liable entity's processes, and
h) other documentation demonstrating the implementation procedure for the relevant special approach.

(4) The self-assessment for the relevant special approach includes

a) an assessment of the appropriateness of the strategy and organisation structure with regard to the governance requirements in the relevant area,
b) an assessment of the adequacy of the resources for the future development, introduction and use of the relevant special approach,
c) an evaluation of the links between the methodologies used and the integrity of the special approach,
d) an assessment of the information technology compatibility of the subjects in the regulated consolidated group, and
e) identified shortcomings and errors and the plan for their remedy and achieving compliance with the Decree's requirements for the relevant special approach.

Article 82

If the liable entity delivers papers or documents by electronic means it shall specify the type of medium used and the data format, in particular for the database, tables or diagrams, on which it shall agree in advance with the Czech National Bank. The liable entity shall agree in advance with the Czech National Bank on the currency used to express data in monetary units.

Section 2

Capital requirements for credit risk in the investment portfolio

Subsection 1

Standardised Approach

Article 83

The Standardised Approach to calculate the capital requirement for credit risk in the investment portfolio is one of the basic approaches for calculating capital requirements.

Article 84

Exposure Classes

(1) When using the Standardised Approach each investment portfolio exposure is assigned to one of the following classes:

a) exposures to central governments and central banks,
b) exposures to regional governments and local authorities,
c) exposures to public sector entities and other administrative bodies,
d) exposures to multilateral development banks,
e) exposures to international organisations,
f) exposures to institutions,
g) corporate exposures,
h) retail exposures,
i) exposures secured by real estate,
j) past due exposures,
k) regulatory high-risk exposures,
l) exposures in covered bonds,
m) securitisation exposures,
n) short-term exposures to institutions and short-term corporate exposure,
o) exposures to collective investment undertakings, or
p) other exposures.

(2) A more detailed definition of exposure classes is contained in Annex 4 to the Decree.

Article 85

Calculation of the capital requirement

The capital requirement for credit risk in the investment portfolio is 8% of the sum of risk-weighted exposure amounts.

Article 86

Calculation of the risk-weighted exposure amount

(1) The risk-weighted exposure amount is set for exposures assigned to individual classes unless these represent capital deductions, for which such amount is not calculated.

(2) The risk-weighted exposure amount is set according to the relation

Risk-weighted exposure = $E \cdot r$,

where: E denotes the exposure value,
r denotes the risk weight of the exposure.

(3) The calculation of the amount risk-weighted exposure amount of a securitised exposure is given in subsection 4.

(4) For the purpose of calculating the risk-weighted exposure amount of an exposure assigned to the class of exposures to institutions the external rating based method is used.

Article 87

Exposure value

(1) The exposure value for on-balance sheet assets corresponds to their book value adjusted for certain exposures according to Annex 5 to the Decree; the provisions of paragraphs 2 to 5 are not affected hereby.

(2) Where the Financial Collateral Comprehensive Method is used pursuant to subsection 3, the book value of an exposure represented by securities or commodities which

a) were sold, provided as collateral or loaned as part of repurchase transactions or the borrowing and lending of securities or commodities or
b) are the subject of margin lending transactions,

is increased by the relevant volatility adjustment for these securities or commodities pursuant to Annex 16 to the Decree.

(3) The exposure value of off-balance sheet items corresponds to their book value, after the deduction of provisions, multiplied by the conversion factor

a) 1.0 for full-risk off-balance sheet items,
b) 0.5 for medium-risk off-balance sheet items,

c) 0.2 for medium/low-risk off-balance sheet items,
d) 0 for low-risk off-balance sheet items.

The breakdown of off-balance sheet items by risk is stated in Annex 6 to the Decree.

(4) The exposure value of derivatives pursuant to Annex 7 to the Decree and of long settlement transactions is set using the

a) Mark-to-Market Method,
b) Standardised Method, or
c) Internal Model Method,

taking into account the impacts of contracts on novation and other agreements on offsetting for the purposes of these methods. The specification of the methods and the criteria for the model are given in Annex 8 to the Decree.

(5) The exposure value for repurchase transactions, the borrowing and lending of securities or commodities and margin lending transactions is set

a) in accordance with the methods and conditions for taking into account funded credit protection pursuant to Article 104 and Annex 16 to the Decree, or
b) the Internal Model Method pursuant to Annex 8 to the Decree.

(6) If an exposure is subject to funded credit protection pursuant to subsection 3 the exposure value may be adjusted in accordance with the credit risk mitigation techniques pursuant to subsection 3.

Article 88

Risk weight

(1) An exposure's risk weight is derived from its exposure class and credit quality.

(2) The risk weights for individual exposure classes are given in Annex 4 to the Decree, unless they are securitised exposures, for which the provisions of subsection 4 apply.

(3) Exposures for which no risk weight is given shall be assigned a risk weight of 100%.

(4) If an exposure is subject to credit protection the risk weight for the exposure may be adjusted in accordance with the credit risk mitigation techniques pursuant to subsection 3.

Article 89

Credit quality

(1) Credit quality is defined according to an external rating set by

a) an eligible rating agency,

b) an export credit agency which publishes its external ratings and observes the agreed methodology of the Organisation for Economic Cooperation and Development, whereby the external rating is linked to one of 8 minimum export insurance premiums (MEIP) stipulated by the agreed methodology of the Organisation for Economic Cooperation and Development, or

c) export credit agencies which adhere to the „Agreement on Rules for State-sponsored Export Credit“ as part of the Organisation for Economic Cooperation and Development.

(2) External ratings of eligible rating agencies and export credit agencies are used according to the relevant approach and in accordance with the requirements for external ratings and their use in the Standardised Approach stated in Annex 9 to the Decree. The external ratings should not be selected specifically for the purpose of reducing capital requirements.

(3) The credit quality is defined using solicited external ratings set by an eligible rating agency according to the assessed person's need. If these ratings are not available it is possible to use unsolicited external ratings set at the agency's own discretion pursuant to paragraph 1.

Subsection 2

Internal Ratings Based Approach

Article 90

The IRB Approach is a special approach for the calculation of capital requirements and can be used only after obtaining the prior approval of the competent authority.

Article 91

Requirements for using the IRB Approach

(1) As part of the application for approval to use the IRB Approach the liable entity must demonstrate to the competent authority that the credit risk management and rating systems are sound and have been implemented with integrity. The liable entity shall also demonstrate that

a) its rating systems provide a reasonable assessment of the obligor's characteristics and transactions, a meaningful and adequate differentiation of risk, and accurate quantitative risk estimates based on a consistent approach,

b) the internal ratings and estimates of losses and defaults used to calculate capital requirements and associated systems and processes play an essential role in the risk management and in decision-making processes, in approving credit, in internal capital allocation and in the liable entity's governance,

c) it has a department which manages credit risk and is responsible for its rating systems, which are appropriately independent and free from undue influences,

d) it collects and stores all relevant data which provide effective support to its credit risk measurement and management process,
e) it documents its rating systems and the rationale for their design and validates its rating systems.

A more detailed specification of the requirements for using the IRB Approach is given in Annex 10 to the Decree.

(2) The liable entity applying for approval to use the IRB Approach shall also demonstrate that for purposes of internal measurement and management it has been using for the relevant exposures rating systems which generally comply with the minimum requirements for using the IRB Approach for at least 3 years; the period of 3 years refers to the moment of the granting of approval to use the IRB Approach.

(3) The liable entity applying for approval to use its own estimates of the LGD value and/or conversion factors as part of the IRB Approach shall demonstrate that it has been performing and employing its own estimates of the LGD value or conversion factors in a manner which generally complies with the minimum requirements for using the IRB Approach for a period of at least 3 years; the period of 3 years refers to the moment of the granting of approval to use the IRB Approach. A conversion factor means the ratio of the part of the currently undrawn amount of the commitment that will be drawn and outstanding at the moment of default to the currently undrawn amount of the commitment; the extent of the commitment shall be determined by the advised limit unless the unadvised limit is higher.

(4) If a liable entity which has already been using the IRB Approach ceases to comply with the requirements for using the IRB Approach it shall inform the Czech National Bank of this fact and submit to it a plan for a timely return to compliance. It does not need to submit this plan if it demonstrates that the impact of non-compliance with the requirements to use the IRB Approach is immaterial.

Article 92

Implementation of the IRB Approach

(1) The liable entity implements the IRB Approach to calculate the risk-weighted exposure amounts and expected credit loss amounts for all exposures assigned to the investment portfolio, unless it has been granted approval to use the Standardised Approach for one or more exposure classes pursuant to Article 100.

(2) Unless it has been granted approval for sequential implementation, the liable entity shall implement the IRB Approach at once. Sequential implementation of the IRB Approach may be carried out

a) by the sequential addition of further exposure classes of the liable entity within one entity in the regulated consolidated group,
b) by the sequential addition of further persons in the regulated consolidated group,
c) for the use of own estimates of the LGD value or conversion factors to calculate the risk weights of corporate exposures and exposures to central governments, central banks and institutions, or

d) in the case of retail exposures through the sequential addition of further sub-classes reflecting the different correlations pursuant to Annex 12 to the Decree.

If the liable entity has a foreign branch it may treat this as an independent person when carrying out the sequential implementation of the IRB Approach according to letters a) and b).

(3) In the case of sequential implementation, the liable entity implements the IRB Approach within a reasonable period and subject to the conditions stipulated in the approval to use the IRB Approach. It should proceed so that the flexibility involved in the implementation and the time taken is not used selectively or misused with the purpose of achieving reduced capital requirements through the later implementation of the IRB Approach for some exposure classes or business units, or in respect of the use of own estimates of the LGD value or conversion factors.

(4) As soon as the liable entity implements the IRB Approach for any exposure class it shall also implement this approach for equity exposures; the provision of paragraph 1 on the possible use of the Standardised Approach is not affected hereby.

Article 93

Exposure classes

(1) A liable entity that is authorised to use the IRB Approach shall assign each investment portfolio exposure to one of the following classes:

a) exposures to central governments and central banks,
b) exposures to institutions,
c) corporate exposures,
d) retail exposures,
e) equity exposures,
f) securitised exposures, or
g) other exposures.

(2) A more detailed definition of the exposure classes is given in Annex 11 to the Decree.

(3) The approach the liable entity uses for assigning exposures to different exposure classes shall be consistent over time.

Article 94

Calculation of the capital requirement

The capital requirement for the credit risk in the investment portfolio and for the dilution risk in the investment portfolio equals 8% of the sum of risk-weighted exposure amounts.

Calculating the risk-weighted exposure amounts

Article 95

(1) The risk-weighted exposure amounts are calculated in order to set the capital requirement for credit risk in the investment portfolio and the capital requirement for dilution risk in the investment portfolio.

(2) The risk-weighted exposure amounts for credit risk are set for exposures assigned to individual classes, unless these involve capital deductions, for which no exposure amount is set.

(3) The risk-weighted exposure amount for dilution risk is set for purchased receivables. If the liable entity has full right of recourse for dilution risk or default risk to the seller of these receivables, it is not bound to set a capital requirement for dilution risk and the expected credit losses for dilution risk. If it exercises this option, it shall calculate the risk-weighted exposure amounts for credit risk and the amount of expected credit losses for the relevant class of exposures. If full recourse complies with the credit risk mitigation techniques pursuant to subsection 3, the liable entity may consider it unfunded credit protection.

(4) The risk-weighted exposure amounts are calculated according to Annex 12 to the Decree, unless these are securitised exposures, in which case subsection 4 applies.

Article 96

(1) The calculation of risk-weighted exposures for credit risk and for dilution risk is based on the relevant parameters associated with the exposure in question. These parameters include

a) the PD value,
b) the LGD value,
c) maturity,
d) the exposure value.

(2) A more detailed definition of the parameters is contained in Annex 13 to the Decree.

Article 97

(1) The liable entity sets internal estimates of the PD value in accordance with the requirements for using the IRB Approach stated in Annex 10 to the Decree for

a) exposures to central governments and central banks,
b) exposures to institutions,
c) corporate exposures,
d) retail exposures and
e) equity exposures,

if it applies the method for estimating PD and LGD values to them.

(2) The liable entity sets the LGD value and maturity in accordance with the requirements for using the IRB Approach stated in Annex 10 to the Decree.

(3) PD and LGD values can be stipulated separately or jointly, but only under the conditions stated in Annex 13 to the Decree.

(4) With the approval of the competent authority the liable entity, in accordance with the requirements for using the IRB Approach stated in Annex 10 to the Decree, shall set the risk-weighted equity exposure amounts by the

a) simple risk weight approach,
b) PD/LGD approach, or
c) internal models approach;

the provisions of paragraph 2 are not affected hereby.

(5) The liable entity may combine the methods stated in paragraph 4 for various equity exposure portfolios if it uses the different methods internally on a permanent basis and demonstrates to the competent authority that the choice of methods is made consistently and is not motivated by regulatory arbitrage considerations. With the competent authority's approval, the liable entity may also set the equity exposure value to ancillary services undertakings in the manner defined for other exposures.

(6) The liable entity sets the risk-weighted exposure amounts using the risk weights for individual classes of specialised exposures, which are stated in Annex 12 to the Decree, and in accordance with the methodology reviewed by the competent authority; the provisions of paragraph 2 are not affected hereby. The liable entity does not need to use this method if it is able to set its own PD value estimates for specialised lending exposures in accordance with the requirements for using the IRB Approach stated in Annex 10 to the Decree.

(7) The liable entity shall set its own estimates of LGD values and conversion factors in accordance with the requirements for using the IRB Approach stated in Annex 10 to the Decree and after the competent authority has granted its approval. Otherwise the liable entity uses the LGD values and conversion factors stated in Annex 13 to the Decree. For retail exposures assigned in accordance with the competent authority's approval to the IRB Approach the liable entity shall always set own estimates of the LGD values and conversion factors.

Article 98

Exposures to collective investment undertakings

(1) The assignment of exposures to collective investment undertakings, in particular exposures represented by unit certificates of unit trusts and investment fund shares, and the method of calculating risk-weighted exposure amounts, depend on the extent that the liable entity is aware of the collective investment undertaking's underlying exposures and whether the collective investment undertaking meets the criteria pursuant to Annex 4 to the Decree.

(2) If

a) the liable entity is aware of all the underlying exposures of the collective investment undertaking,
b) the liable entity meets the minimum requirements for using the IRB Approach stated in Annex 10 to the Decree for these exposures, and
c) the fund meets the criteria pursuant to Annex 4 to the Decree,

the liable entity shall assign the collective investment undertaking's underlying exposures to the individual exposure classes and, in order to calculate the risk-weighted exposure amounts and expected credit loss amounts, it shall use the method stipulated for the relevant exposure class.

(3) If the liable entity is aware of all the underlying exposures of the collective investment undertaking and the undertaking meets all the criteria pursuant to Annex 4 to the Decree, but the liable entity does not meet the requirements to use the IRB Approach for these exposures, it shall calculate the risk-weighted exposure amounts and expected credit loss amounts as follows:

a) for the underlying exposures assigned to the equity exposure class it shall use the simple risk weight approach and treat them in the same way as other equity exposures, unless it is able to differentiate between equity exposures that are not quoted in regulated markets, those which are quoted in regulated markets and others,
b) for all other underlying exposures it shall use an adjusted Standardised Approach:
   1. it shall assign each exposure to the appropriate exposure class and attribute to it the risk weight associated with the credit quality step which is immediately above the credit quality step to which the exposure would otherwise be assigned,
   2. exposures which would otherwise be attributed a risk weight of 150% shall be assigned a risk weight of 200%.

(4) If the liable entity is not aware of all the collective investment undertaking's underlying exposures, but the undertaking meets the criteria pursuant to Annex 4 to the Decree, the liable entity shall use the basic method according to paragraph 5 or an alternative method according to paragraph 6 to calculate the risk-weighted exposure amounts and expected credit loss amounts. If the undertaking does not meet the criteria according to Annex 4 to the Decree the liable entity shall use the basic method.

(5) A liable entity that uses the basic method

a) in order to calculate the value of the risk-weighted exposures and expected loss amounts shall assign the underlying exposures of the collective investment undertaking to the equity exposure class,
b) shall use the simple risk weight approach for the underlying exposures, and
c) shall treat the underlying exposures in the same way as other equity exposures, unless it is able to differentiate between private equities, equity exposures quoted in regulated markets and other equity exposures. For exposures other than units, particularly unit certificates, it uses the risk weight for private equities, equity exposures quoted in regulated markets or other equity exposures. For exposures that it is not aware of it uses the risk weight for other equity exposures.

(6) A liable entity that uses an alternative method may itself calculate the risk-weighted exposure amount or may rely on a third party to calculate and inform the liable entity of the average risk-weighted exposure amount based on the underlying exposures of the collective investment undertaking. The liable entity can use an alternative method if the undertaking meets the criteria pursuant to Annex 4 to the Decree and if the third party is aware of the underlying exposures and the correctness of the calculation and reporting is adequately ensured. In calculating the risk-weighted exposure amounts and expected credit loss amounts the liable entity proceeds as follows:

a) for the underlying exposures assigned to the equity exposure class it shall use the simple risk weight approach and treat them in the same way as other equity exposures, unless it is able to differentiate between private equities, equity exposures quoted in regulated markets and other equity exposures,
b) for all other underlying exposures it shall use the Standardised Approach adjusted as follows:
   1. it shall assign each exposure to the appropriate exposure class and attribute to it the risk weight associated with the credit quality step which is immediately above the credit quality step to which the exposure would otherwise be assigned,
   2. exposures which would otherwise be attributed a risk weight of 150% shall be allocate a risk weight of 200%.

Article 99

Expected credit loss amounts

(1) The liable entity sets expected credit loss amounts for exposures assigned to the classes

a) exposures to central governments and central banks,
b) exposures to institutions,
c) corporate exposures,
d) retail exposures, or
e) equity exposures.

(2) The methods for calculating the expected credit loss amounts and their treatment in respect of the individual exposure classes, the dilution risk of purchased receivables and exposures to collective investment undertakings are stated in Annex 14 to the Decree. The treatment of expected credit loss amounts in the case of securitised exposures is stated in subsection 4.

(3) To calculate the expected credit loss amounts the liable entity shall use the same PD and LGD values for each exposure and the same exposure value as for the calculation of risk-weighted exposure amounts.

(4) If the liable entity is authorised to use its own estimates of LGD values, the expected loss corresponds to the liable entity's best estimate of expected loss for defaulted exposures (EL_{BE}).

(5) The expected credit loss amounts for exposures assigned to the other exposures class are equal to zero.

Article 100

Using the Standardised Approach as part of the IRB Approach

A liable entity that implements the IRB Approach may, with the approval of the competent authority, use the Standardised Approach for one or more exposure classes as follows:

a) for exposures to central governments and central banks if the number of material counterparties is limited and it would be unduly burdensome for the liable entity to implement a rating system for these counterparties,
b) for exposures to institutions if the number of material counterparties is limited and it would be unduly burdensome for the liable entity to implement a rating system for these counterparties,
c) for exposures to non-significant persons in the regulated consolidated group or non-significant foreign branches,
d) for exposure classes which are immaterial with regard to the size and risk profile of credit risk. The equity exposures class shall be considered material for these purposes if the sum of the exposure values in this class exceeds, on average over the preceding calendar year, 10% of capital; the following are excluded from the sum of exposure values in this class:
   1. equity exposures pursuant to letter g)
   2. equity exposures included in legislative programmes pursuant to letter h) and
   3. equity exposures to entities pursuant to letter f).

   If the number of equity exposures is lower than 10 individual holdings then this limit amounts to 5% of capital;
e) for exposures to
   1. the government of the Czech Republic and the Czech National Bank,
   2. public sector entities registered in the Czech Republic, where exposures are treated under the Standardised Approach in the same way as exposures to the central government and these exposures are allocated a zero risk weight under the Standardised Approach,
f) for the liable entity's exposures to the parent undertaking, its subsidiary or a subsidiary that is controlled by the same person as the liable entity, on condition that these persons are an institution, financial holding entity, financial institution or ancillary services undertaking and are subject to the relevant prudential requirements on an individual or a consolidated basis,
g) for equity exposures to entities whose credit obligations qualify for a zero risk weight under the Standardised Approach, including public sector entities with a zero risk weight,
h) for equity exposures which are included in legislative programmes to support selected areas of the economy and where these programmes materially support the investments of the liable entities, require a certain form of state supervision and contain restrictions on investment in equity exposures. The use of the Standardised Approach for these exposures is conditional upon their limited scope (up to 10% of the sum of original capital and additional capital);

i) for exposures in the form of minimum reserves required by the European Central Bank or by the central banks of Member States under the conditions stated for these exposures when using the Standardised Approach,
j) for state and state-reinsured guarantees which comply with the credit risk mitigation techniques pursuant to subsection 3.

Article 101

Abandoning the IRB Approach

(1) A liable entity that has already been using the IRB Approach may not return to using the Standardised Approach in order to calculate the risk-weighted exposure amounts, unless it is able to demonstrate a sound reason for such a step and the competent authority has granted its approval to do so.

(2) A liable entity that is already authorised within the IRB Approach to use its own estimates of the LGD value or conversion factors shall not return to using the LGD value or conversion factors stipulated pursuant to Annex 13 to the Decree, unless it is able to demonstrate a sound reason for such a step and the competent authority has granted its approval to do so.

Subsection 3

Credit risk mitigation techniques

Article 102

Techniques used

(1) Techniques which are used to mitigate credit risk associated with exposures and which can be considered when setting the capital requirement for credit risk in the investment portfolio are funded credit protection and unfunded credit protection.

(2) Funded credit protection is a technique whereby the mitigation of credit risk from an exposure derives from the creditor's right, in the event of obligor default or another, previously stipulated credit event concerning the obligor,

a) to collect its outstanding receivable through the realisation or appropriation of the collateral, or
b) to reduce the value of the exposure to an amount, or to replace the exposure with an amount, which represents the difference between the value of the exposure to the counterparty and the value of the counterparty's claim on the liable entity or a person in the regulated consolidated group.

(3) Unfunded credit protection is a technique whereby the mitigation of credit risk from an exposure derives from a third party's obligation to pay the creditor a certain amount in the case of obligor default or another, previously stipulated credit event.

Article 103

Prerequisites for the eligibility of techniques

(1) When calculating the value of a risk-weighted exposure in order to calculate the capital requirements for credit risk and expected loss amounts from exposures it is possible to use credit risk mitigation techniques if the basic prerequisite for their eligibility is met and the conditions for the eligibility of the credit protection are fulfilled.

(2) The basic prerequisite for the eligibility of credit risk mitigation techniques is the liable entity's ability to demonstrate that

a) the techniques and associated policies and procedures used to mitigate credit risk constitute claims which are legally effective and enforceable in all relevant jurisdictions,
b) it takes all appropriate steps to manage risks to which it is or may be exposed in connection with using the credit risk mitigation techniques, and
c) irrespective of using credit risk mitigation techniques it continues to undertake full credit risk assessment of the exposures; in the case of repurchase transactions or securities or commodities lending or borrowing transactions full credit risk monitoring relates to the net exposure arising from these transactions.

(3) The conditions of eligibility for funded credit protection are met if

a) the collateral is sufficiently liquid and its value is sufficiently stable throughout the duration of the credit protection so as to provide appropriate certainty that the credit risk mitigation level corresponds to the degree at which the mitigation is recognised and applicable when calculating the value of a risk-weighted exposure,
b) the creditor, in the case of the default of the obligor or the person that took the collateral into custody, deposit, storage or administration, if so required by the relevant jurisdiction, especially in the case of a bankruptcy order upon the obligor's or the person's property, or another stipulated credit event, is authorised to collect its outstanding receivable in a reasonable period after the time of default or occurrence of another stipulated credit event, and
c) the degree of correlation between the value of the collateral and the obligor's credit quality is not significant.

(4) The conditions of eligibility for unfunded credit protection are met if

a) the person providing the protection is sufficiently reliable so as to provide appropriate certainty that the credit risk mitigation level corresponds to the degree at which the mitigation is recognised and taken into account when calculating the value of a risk-weighted exposure, and
b) the liable entity has clearly stipulated criteria concerning the unfunded credit protection providers.

(5) Annex 15 to the Decree contains a more detailed specification of funded credit protection and unfunded credit protection, a survey of persons eligible as unfunded credit protection providers, and a more detailed specification of eligibility conditions.

Article 104

Effects of the techniques used

(1) The value of a risk-weighted exposure or expected loss amount from an exposure with considering this technique is not higher than it would be in case this technique were not considered.

(2) The choice of the method for considering the effects of credit risk mitigation techniques depends on the type of funded credit protection or unfunded credit protection and on the fulfilment of the conditions relating to the individual methods. A specification of the individual methods and the related conditions is given in Annex 16 to the Decree.

(3) A credit risk mitigation technique is not recognised if it has already been taken into account in the calculation of the value of a risk-weighted exposure pursuant to the provisions for the Standardised Approach or IRB Approach and it would be considered in stipulating the capital requirement in a multiple manner.

Article 105

Maturity mismatch

(1) There is a maturity mismatch if funded or unfunded credit protection terminates before the secured exposure.

(2) Maturity of the protection means the time at which the protection terminates or may terminate.

(3) If the provider is authorised to stipulate the protection's maturity this shall terminate at the stipulated time, or the earliest date at which this option may be exercised. If the creditor is authorised to stipulate the protection's maturity this shall terminate at the stipulated time, or the earliest date at which this option may be exercised, on condition that the exercise of this right is to its benefit; otherwise this right shall not be considered.

(4) If the conditions of a credit derivative permit its termination before the expiry of the grace period required for a default on the relevant underlying instrument to occur as a result of a failure to pay, the maturity of the unfunded credit protection shall be reduced by the amount of this grace period.

(5) A maturity mismatch may result in the relevant credit risk mitigation technique becoming possible for consideration only after its value has been adjusted, or it may be excluded from consideration. A more detailed specification of the adjustments resulting from a maturity mismatch and the situations in which the relevant credit risk mitigation technique cannot be considered is given in Annex 16 to the Decree.

Article 106

Combination of the techniques used

(1) If several credit risk mitigation techniques apply to an exposure this shall be divided into parts according to the techniques used. These techniques are considered in accordance with the provisions on the combination of used techniques pursuant to Annex 16 to the Decree.

(2) If an exposure is covered by more than one form of unfunded credit protection provided by a single person, and these have different maturities, the secured part of the exposure shall be divided into parts according to the maturities of these forms of protection. The effects of credit risk mitigation techniques are considered in accordance with the provisions on the combination of used techniques pursuant to Annex 16 to the Decree. The provisions on maturity mismatches are also used for those parts of an exposure where there is a maturity mismatch between the secured exposure and the protection.

Article 107

Protection for a basket of exposures

If unfunded credit protection in the form of credit derivatives is used for more than one exposure it shall be considered in accordance with the provisions on protection for a basket of exposures pursuant to Annex 15 to the Decree.

Subsection 4

Securitisation

Article 108

The capital requirement for the credit risk of securitised exposures equals 8% of the sum of risk-weighted exposure amounts, unless they are capital deductions, for which this value is not stipulated.

Article 109

Traditional securitisation

(1) A liable entity that is the originator in traditional securitisation may, in order to calculate the values of risk-weighted exposures and expected loss amounts, exclude securitised exposures if a significant amount of their related credit risk is transferred to a third party and this transfer meets the following conditions:

a) the contractual documentation takes account of the economic nature of the transaction,
b) a qualified legal analysis certifies that neither the originator nor its creditors have any rights concerning the securitised exposures, even where a judicial decision on bankruptcy of any such persons is issued,
c) issued securities are not an obligation of the originator,
d) the transferee is a special purpose entity,
e) the originator does not have control, either actual or indirect. over the transferred exposures. Actual control means, in particular, the originator’s right to repurchase the transferred exposures from the transferee in order to realise benefits stemming from

them or its obligation to re-assume the risk already transferred. If the originator continues to manage the transferred exposures and is thus the servicer this is not in itself considered to be indirect control;

f) a clean-up call option, if it exists, shall meet the following criteria:
   1. it is exercisable at the discretion of the originator,
   2. it may only be exercised if the part of the securitised exposures not amortised is equal to or less than 10% of the original value of these exposures,
   3. it is not structured in such a way that it allows investors to avoid losses stemming from the positions they hold, and does not provide credit enhancement in some other way,
g) the contractual documentation does not contain provisions which require
   1. positions in the securitisation to be improved by the originator, in particular the altering of the underlying exposures or an increase in the yield paid by the originator to investors in the case of a deterioration in the credit quality of the securitised exposures, unless this concerns a provision on an early amortisation trigger,
   2. an increase in the yield paid to the holder of the securitised position in the case of a deterioration in the credit quality of the portfolio of underlying exposures.

(2) If the liable entity under paragraph 1 excludes securitised exposures it shall stipulate the value of risk-weighted exposures and expected loss amounts for positions that it holds in securitisation.

(3) If the liable entity that is the originator does not transfer a significant degree of credit risk in accordance with paragraph 1 it shall stipulate the risk-weighted securitised exposure value pursuant to the Standardised Approach or IRB Approach, if it is authorised to use the IRB Approach.

Article 110

Synthetic securitisation

(1) In order to calculate the values of risk-weighted exposures and expected loss amounts, a liable entity that is the originator in synthetic securitisation shall consider exposures to be securitised if a significant amount of the credit risk associated with these exposures is transferred to a third person by means of funded or unfunded credit protection and this transfer meets the following conditions:

a) the contractual documentation takes into account the economic nature of the transaction,
b) the protection by which the credit risk is transferred complies with the credit risk mitigation techniques pursuant to subsection 3; for the purposes of this point, special purpose entities are not eligible protection providers,
c) the protection used has no conditions or arrangements which
   1. stipulate material thresholds below which the protection is deemed not to be triggered even if a credit event occurs,
   2. permit the termination of the protection in the case of a deterioration in the credit quality of the underlying exposures,
   3. require positions in the securitisation to be improved by the originator, unless this concerns a provision on an early amortisation trigger,

4. require an increase in the cost of the credit protection or in the yield paid to the securitisation position holder in the case of a deterioration in the credit quality of the portfolio of underlying exposures,

d) a qualified legal **analysis** certifies the enforceability of the protection in all relevant jurisdictions.

(2) If the exposures are considered securitised exposures pursuant to paragraph 1,

a) the liable entity shall stipulate the values of risk-weighted exposures and expected credit losses for positions that it holds in securitisation,

b) the liable entity that is the originator

1. stipulates the values of risk-weighted exposures in accordance with this subsection and not pursuant to the provisions on the Standardised Approach or the IRB Approach,
2. proceeds in accordance with this subsection for all tranches, including those that relate to funded credit protection and unfunded credit protection. If a tranche is transferred by means of protection to a third party, the originator shall, when calculating the risk-weighted exposure amount, allocate this tranche the risk weight of the third person;
3. if it uses the IRB Approach it shall consider the expected loss amount of the relevant securitised exposures to be zero.

(3) If the liable entity that is the originator does not transfer a significant degree of credit risk in accordance with paragraph 1 it shall stipulate the values of risk-weighted exposures pursuant to the Standardised Approach or the IRB Approach, if it is authorised to use the IRB Approach.

Article 111

(1) If a position relates to various tranches in a securitisation framework the position connected with each tranche is considered an independent securitised position.

(2) The protection providers for a securitised position shall hold a position in securitisation.

(3) A securitised position includes the exposures related to the securitisation stemming from interest rate or foreign exchange derivatives.

Article 112

Implicit support for securitisation

(1) The originator or sponsor may not provide implicit support for securitisation; this shall mean any support exceeding contractual obligations stipulated in advance.

(2) If the originator or sponsor breaches the prohibition on providing implicit support for securitisation,

a) it shall stipulate capital requirements as if there had been no securitisation,

b) it shall disclose that it has provided implicit support, as well as the impact of the implicit support on capital.

Article 113

Value of a risk-weighted securitised exposure

(1) The value of a risk-weighted securitised exposure is stipulated as follows

Risk-weighted securitised exposure = $E \cdot r$,

where: E denotes the value of the securitised exposure,
r denotes the risk weight.

(2) If, for the exposure class to which the securitised exposure would be assigned, the liable entity uses

a) the Standardised Approach it shall calculate the risk-weighted securitised exposure amount pursuant to Annex 17 to the Decree,
b) the IRB Approach it shall calculate the risk-weighted securitised exposure amount pursuant to Annex 18 to the Decree.

(3) If the liable entity has two and more mutually overlapping positions, either fully or partly, it shall, up to the amount that these positions overlap, include in the calculation of the risk-weighted securitised exposure amount only that position or part thereof which forms the higher value of the risk-weighted exposure; overlapping means that the relevant positions fully or partly represent the same risk undertaken and thus can be considered one position up to the amount of this overlap.

(4) If the securitisation is of revolving exposures with an early amortisation trigger the liable entity that is the originator or sponsor stipulates an additional risk-weighted exposure amount pursuant to Annex 17 or Annex No.18 to the Decree; a revolving exposure means an exposure for which the obligor may change the amounts that it draws within an agreed limit; an early amortisation trigger means a contractual provision requiring, in the case of precisely specified events, the payment of investors' positions before the contractually stipulated maturity.

(5) In the case of synthetic securitisation a maturity mismatch between the securitised exposure and the protection used to transfer the credit risk shall result in the following procedure:

a) the protection's maturity shall be stipulated in accordance with the credit risk mitigation techniques pursuant to subsection 3,
b) the securitised exposure maturity shall equal the remaining maturity of the underlying exposure with the longest remaining maturity, although this shall not exceed 5 years,
c) when calculating the risk-weighted exposure amount the originator shall not take into account a maturity mismatch for those tranches which are allocated a risk weight of 1250%,

d) for those tranches which are not allocated a risk weight of 1250% the resulting risk-weighted exposure amount is set in accordance with credit risk mitigation techniques pursuant to subsection 3 and the relation

$$RW^* = \frac{RW(SP) \cdot (t - t^*)}{T - t^*} + \frac{RW(Ass) \cdot (T - t)}{T - t^*},$$

where: RW* denotes the resulting risk-weighted exposure amount,
RW(SP) denotes the risk-weighted exposure amount as if there were no maturity mismatch,
RW(Ass) denotes the risk-weighted amount for exposures as if they had not been securitised,
T denotes the maturity of the underlying exposures expressed in years,
t denotes the maturity of the credit risk protection expressed in years,
t* equals 0.25.

Article 114

Securitised exposure value

(1) If, for the exposure class to which the securitised exposure would be assigned, the liable entity uses,

a) the Standardised Approach, the value of the balance sheet securitised exposure equals its book value, which for selected exposures is adjusted by the prudential filters pursuant to Annex 5 to the Decree,
b) the IRB Approach, the balance sheet value of the securitised exposure equals its book value without value adjustments; for selected exposures it is adjusted by the prudential filters pursuant to Annex 13 to the Decree.

(2) The value of an off-balance sheet securitised exposure equals the book value multiplied by the conversion factor. Unless stipulated otherwise, the conversion factor is 100%.

(3) The value of a securitised exposure which is a derivative is stipulated pursuant to Annex 8 to the Decree.

(4) If funded credit protection relates to a securitised exposure this can be recognised in the securitised exposure value in accordance with the credit risk mitigation techniques pursuant to subsection 3.

Article 115

Risk weight

(1) The risk weight used to calculate a risk-weighted securitised exposure is stipulated according to the securitised exposure's credit quality. The credit quality is defined

a) according to an external rating stipulated by an eligible rating agency, or

b) by another method,

pursuant to Annex 17 or Annex 18 to the Decree.

(2) If a securitised position is the subject of funded or unfunded credit protection the risk weight that can be allocated to it may be adjusted in accordance with the credit risk mitigation techniques according to subsection 3 and Annexes Nos. 17 and 18 to the Decree.

(3) External ratings of eligible rating agencies are used on the basis of a consistent approach and in accordance with the requirements for external ratings and their use in securitisation stated in Annex 19 to the Decree. The external ratings should not be purposely selected with the aim of reducing capital requirements.

Subsection 5

Entry to the list of credit assessment agencies

Application for entry to the list

Article 116

(1) A person providing credit assessment (hereinafter a „rating agency“) submits an application for entry to the list of credit assessment agencies maintained by the Czech National Bank pursuant to the Act on Banks (hereinafter the „application for entry to the list“).

(2) An application for entry to the list contains fundamental data and annexes which shall enable the Czech National Bank, pursuant to the Act on Banks and this Decree, to verify the fulfilment of the requirements for the assessment methods and the credit assessments of the rating agency that is to be entered to the list.

Article 117

(1) The fundamental data for the application for entry to the list shall contain

a) the commercial name, registered office, legal form and identification number of the rating agency, if allocated,
b) the proposed scope of application of the external ratings assigned by the rating agency (market segments) for which an entry to the list is requested,
c) information on the rating agency’s activity and business; this shall include
   1. a description of the activities, including services provided by the rating agency,
   2. a definition and description of the market segments for whose external ratings allocated by the rating agency the entry to the list is requested,
   3. the Member States in which the rating agency has requested entry to similar lists maintained by the competent authorities,

4. the Member States in which the rating agency performs its activity, and the Member States in which it has been entered to similar lists maintained by the competent authorities,
5. the types of external ratings which the rating agency provides, whether solicited or unsolicited, with a brief description of their nature,
6. a proposal for the mapping of the rating agency's external ratings to the credit quality steps, including a substantiation for this mapping pursuant to the requirements stated in Articles 125 and 126,

d) a list of annexes to the application (Article 118)

(2) Article 82 is used for papers or documents submitted in electronic form accordingly.

Article 118

Annexes to the application for registration shall contain

a) a declaration by at least one liable entity that it intends to use the external ratings prepared by the rating agency which submits the application for entry to the list in order to calculate capital requirements,
b) a document stating the persons authorised to act on the rating agency’s behalf and the form in which they do so, especially the foundation deed, articles, statutes,
c) an extract from the Companies Register, or a document issued by a similar foreign public register, which is not older than one month and which describes the actual state on the date the application is submitted,
d) a self-assessment giving the rating agency’s account of how the requirements stated in Articles 122 and 123 are fulfilled, and
e) a declaration by the rating agency that all the information and facts stated by it and the papers and documents submitted by it are up-to-date, complete and true.

Article 119

If the application for entry to the list is submitted by a rating agency that has already been entered by the competent authority of another Member State to a similar list maintained by that authority, and it applies to the Czech National Bank for entry in the same or narrower scope of application for external ratings, it shall submit the application for entry to the list pursuant to Articles 116 to 118, apart from the self-assessment pursuant to Article 118 d) and the proposal for the mapping of its external ratings to the credit quality steps pursuant to Article 117, 1, c), 6. If the request is for a greater scope of application the rating agency shall submit information and facts to the Czech National Bank which shall enable it to verify the fulfilment of requirements beyond the scope of application in which the agency has already been entered.

Article 120

If a rating agency entered to the list submits an application for a change in the data registered in the list it shall state

a) the commercial name, registered office, legal form and identification number of the rating agency, if allocated,

b) the change that is to be registered, with papers and documents confirming this change, and
c) the date on which the change takes effect on the condition that the change may not be registered before the Czech National Bank's decision comes into force.

Article 121

If an eligible rating agency submits an application for a deletion from the list it shall state

a) the commercial name, registered office, legal form and identification number of the rating agency, if allocated, and
b) the date on which the deletion from the list takes effect on the condition that the deletion may not be enacted before the Czech National Bank's decision comes into force.

Assessment methods and credit assessments

Article 122

(1) The assessment methods used by a rating agency which is to be entered to the list (hereinafter the „rating agency methodology") shall meet the requirement for objectivity, independence, ongoing review and transparency. The rating agency methodology shall provide the Czech National Bank with sufficient comparable factors enabling it to map the external ratings allocated by the rating agency to the credit quality steps.

(2) The requirement for objectivity is met if the methodology for allocating external ratings is rigorous, systematic, based on a consistent approach and is subject to an assessment based on historical experience.

(3) The requirement for independence is met if the methodology for allocating external ratings is free from external political influences or pressures, or from economic pressures which may influence the external rating. For this purpose the rating agency shall demonstrate that it has

a) a clear ownership and organisation structure,
b) sufficient financial resources,
c) suitable personnel and experience,
d) the appropriate governance.

(4) The requirement for ongoing review is met if the rating agency continuously reviews the methodology and allocated external ratings, adapts them to changing conditions in the market and, in the case of individual ratings, to changes in the financial situation of the assessed entity. Ongoing review takes place after each significant event, although not less than once a year. The methodology for assessing individual market segments is stipulated in accordance with the following requirements:

a) the back-testing takes place at least once a year,
b) the review of external ratings conducted by the rating agency is documented so that it can be submitted to the Czech National Bank at any time,

c) the rating agency is able to submit to the Czech National Bank the extent of its contacts with the management bodies of the entities that it assesses.

The rating agency shall immediately inform the Czech National Bank of any substantial changes to the methodology that it uses to allocate external ratings.

(5) The transparency requirement is met if the rating agency makes publicly available the principles of the methodology employed to produce external ratings so that all potential users can decide whether the relevant assessment is reasonable.

Article 123

(1) Each individual external rating shall fulfil the credibility requirement, which includes market acceptance, and the transparency requirement.

(2) The external ratings credibility requirement, including the market acceptance requirement, is met if individual external ratings prepared by the rating agency in the segment for which the relevant rating agency is to be entered to the list are considered credible and reliable by the users of these external ratings in the market.

(3) Credibility is demonstrated in particular on the basis of

a) the rating agency’s market share,
b) the rating agency's financial resources, including its revenue,
c) the influence of its external ratings on pricing, and
d) the declaration of at least two liable entities, foreign banks or foreign investment firms that they use its ratings for bond issues or credit risk assessments.

(4) The external ratings transparency requirement is met if all the persons that have a legitimate interest in access to individual external ratings have access to them at equivalent terms. The applicant shall document that foreign parties have access to individual external ratings on equivalent terms as those domestic parties having a legitimate interest in access to these ratings.

Article 124

(1) The methodology of a rating agency that is to be entered to the list for the securitisation segment shall meet the requirements pursuant to Article 122, and external ratings issued by the rating agency shall meet the requirements pursuant to Article 123 and paragraph 2.

(2) An external rating prepared by a rating agency can be used to calculate the risk-weighted securitised exposure amounts according to the Ratings Based Method if it meets the following conditions:

a) there is compliance between the types of payments reflected in the external rating and the types of payment to which the bank is entitled from the relevant securitised positions under the contractual arrangements,

b) the external ratings are publicly available in the market; these are considered to be publicly available if they have been published in an accessible form and are included in the relevant agency's transition matrix. External ratings that are made available only to a limited number of users shall not be considered publicly available.

Article 125

(1) The principles stated in paragraphs 2 to 6 are applied when mapping external rating grades to credit quality steps for the purposes of the Standardised Approach.

(2) For the purposes of assigning individual external rating grades to credit quality steps the applicant shall submit the relevant

a) quantitative factors, in particular the long-term default rates associated with the individual external rating grades,
b) qualitative factors, in particular the pool of issuers that the relevant rating agency assesses, the range of allocated external ratings, the definitions of the individual external rating grades and the definitions of default.

(3) A rating agency that does not have a long history or has not yet collected default data for a sufficiently long period shall, in the case of quantitative factors, communicate to the Czech National Bank its expectations, in particular the expected long-term default rates associated with the individual external rating grades.

(4) The rating agency shall submit a comparison of realised or expected default rates for each external rating grade with the benchmark recommended by the Czech National Bank and built on default rates experienced by other rating agencies for the population of issuers which are expected to represent the same credit risk.

(5) If the rating agency experiences default rates for an external rating of its making which are systematically far higher than the benchmark it shall inform the Czech National Bank and propose allocating the external rating grades that it uses to a higher risk level expressed by the credit quality steps (6 steps).

(6) If the Czech National Bank has increased the credit quality steps to which the rating agency's external rating grades were allocated and this agency subsequently demonstrates that the default rates experienced for its external rating are no longer systematically far higher than the benchmark, the Czech National Bank may reallocate the external rating to the original risk level expressed by the relevant credit quality step.

Article 126

(1) The principles stated in paragraphs 2 and 3 are applied when mapping the external rating grades to the credit quality steps in order to calculate the risk-weighted exposure amounts of securitised exposures using the Ratings Based Method.

(2) The rating agency shall submit the realised or expected default rates for each external rating grade and propose a mapping of the individual external rating grades to the

credit quality steps for the securitisation segment. The mapping differentiates between the relative risk levels expressed by the individual external ratings, takes account of quantitative factors, in particular the default rate or loss rate, and the qualitative factors, in particular the range of transactions assessed by the rating agency and the real meaning of the external rating.

(3) Securitised positions to which the same risk weight is assigned on the basis of the external ratings prepared by the rating agencies entered to the list belong to the same credit quality steps. In justified cases the Czech National Bank can change the mapping of a particular external rating to its credit quality step.

Section 3

Capital requirements for credit risk in the trading portfolio and market risk

Subsection 1

The capital requirement for credit risk in the trading portfolio

Article 127

(1) The capital requirement for credit risk in the trading portfolio is set solely in relation to the instruments assigned to the trading portfolio. It is equal to the sum of the capital requirements stipulated by

a) the Standardised Approach for the calculation of the capital requirement for
   1. specific interest rate risk in the trading portfolio,
   2. specific equity risk in the trading portfolio,
   3. counterparty credit risk for repurchase transactions or securities or commodities lending and borrowing transactions, derivatives, long settlement transactions, margin lending transactions,
   4. settlement risk in the trading portfolio,
   5. free deliveries,
   6. other instruments in the trading portfolio,
   7. exposure risk in the trading portfolio,
b) the approach based on internal models to calculate the capital requirement for
   1. specific interest rate risk in the trading portfolio,
   2. specific equity risk in the trading portfolio, or
c) a combination of the two.

(2) The method for calculating the capital requirement for specific interest rate risk in the trading portfolio is stated in subsection 2.

(3) The method for calculating the capital requirement for specific equity risk in the trading portfolio is stated in subsection 3.

(4) In stipulating the capital requirement for credit risk in the trading portfolio the provisions on eligible financial collateral are likewise used in order to calculate the capital requirement for credit risk in the trading portfolio stated in section 2, 3.

Article 128

Capital requirement for counterparty credit risk

(1) The capital requirement for counterparty credit risk is equal to 8% of the sum of risk-weighted exposure amounts and is stipulated for

a) repurchase transactions or securities or commodities lending and borrowing transactions,
b) derivatives,
c) long settlement transactions, and
d) margin lending transactions.

(2) The risk-weighted exposure amount is equal to the product of the exposure value and the risk weight. The risk weight is stipulated in accordance with the Standardised Approach or IRB Approach.

(3) The exposure value for derivatives and long settlement transactions is stipulated by the

a) Mark-to-Market Method,
b) Standardised Method, or
c) Internal Model Method,

taking into account the impacts of contracts on novation and other agreements on netting for purposes of these methods. The specification of the methods and requirements for the model are stated in Annex 8 to the Decree.

(4) The exposure value for repurchase transactions or securities or commodities lending and borrowing transactions and margin lending transactions is stipulated

a) in accordance with the methods and conditions for recognising the effects of funded credit protection pursuant to Article 104 and **Annex No. 16** to the Decree, or
b) by the Internal Model Method pursuant to Annex 8 to the Decree.

(5) The liable entity may recognise eligible collateral in the risk-weighted exposure amount if it uses the Financial Collateral Comprehensive Method; for these purposes eligible collateral means financial and commodities instruments which are suitable for assignment to the trading portfolio. If this collateral is not stated among the forms of financial collateral used to calculate the capital requirement for credit risk in the investment portfolio then it is treated for the purpose of stipulating supervisory volatility adjustments in the same way as equity not included in the main index but quoted on **a recognised stock exchange**. The liable entity may stipulate volatility adjustments based on its internal estimates if the same criteria are met as when recognising the effects of credit risk mitigation techniques pursuant to Annex 16 to the Decree.

(6) Master netting agreements concerning the netting of positions in the trading portfolio and the investment portfolio can be recognised in the risk-weighted exposure amount if

a) the positions which are the subject of netting are daily marked to market, and
b) the securities or commodities received, purchased or lent in these transactions meet the eligibility conditions for funded credit protection pursuant to Annex 15 to the Decree.

Article 129

Capital requirement for settlement risk

(1) A capital requirement for settlement risk is set if transactions with financial or commodities instruments have not been settled (unsettled operations) within 4 business days after the stipulated settlement date. This does not apply to repurchase operations or securities or commodities lending or borrowing transactions.

(2) The capital requirement for settlement risk equals the difference between the agreed settlement price and the current mark to market value, if this difference represents a loss for the liable entity, multiplied by the conversion factor pursuant to Annex 20 to the Decree.

Article 130

Capital requirement for free deliveries

(1) Free deliveries shall mean

a) cases where the liable entity paid for securities, foreign currency or commodities before it received them, or delivered securities, foreign currency or commodities before it received payment for them, and
b) in the case of cross-border transactions, one or more days have passed since it made that payment or delivery.

(2) Depending on the type of transaction, the capital requirement for free deliveries is calculated as follows:

a) a capital requirement is not stipulated before the first contractual payment or delivery,
b) from the first contractual payment or delivery up to four days after the maturity of the second contractual payment or delivery the capital requirement is set in the same way as for an exposure in the investment portfolio,
c) from five business days after the maturity of the second contractual payment or delivery to the transaction's termination, the transferred value and the difference between the agreed settlement price and the current mark to market, if this is positive, are a deductible item from the sum of original and additional capital.

(3) If a transaction is in the period from the first contractual payment or delivery up to four days after the due date of the second contractual payment or delivery and

a) if the liable entity is authorised to use the IRB Approach, it can set the PD value for the counterparties to which it has no other exposure in the investment portfolio by using the relevant counterparty's external rating,
b) if the liable entity is authorised to use the IRB Approach with own LGD value estimates it can use an LGD value of 45%, on condition that it uses this for all such exposures.

(4) Alternatively, if the liable entity is authorised to use the IRB Approach it can either use the risk weights according to the Standardised Approach, if these are used for all such exposures, or it can use a risk weight of 100% for all such exposures.

(5) If the difference between the agreed settlement price and the current mark to market value resulting from free deliveries is not significant the liable entity may assign a risk weight of 100% to this difference.

Article 131

Capital requirement for other instruments

The capital requirement for other instruments is equal to 8% of the sum of the values of the risk-weighted exposures resulting from these instruments.

Article 132

In the case of a general breakdown in the payment or the settlement system, the liable entity does not have to comply with the capital requirements pursuant to Article 129 for the duration of this breakdown if the Czech National Bank has received evidence of the general breakdown in the payment or the settlement system. If a counterparty does not settle a transaction under these circumstances this will not be considered a counterparty default for the purposes of credit risk.

Subsection 2

Capital requirements for interest rate risk in the trading portfolio

Article 133

The capital requirement for interest rate risk in the trading portfolio is set solely on the basis of the trading portfolio instruments which have at least one interest rate position. These instruments chiefly comprise debt securities**,** drafts, repurchase transactions, fixed-term operations and credits, loans and deposits received or provided in the inter-bank market. 'Interest rate instruments' shall mean instruments that have only interest rate and foreign exchange positions.

Article 134

Offsetting instruments

(1) Before setting the capital requirement for interest rate risk, opposite interest rate instruments may be offset if they are issued by the same issuer, are equivalent in the case of the issuer's liquidation or bankruptcy, are denominated in the same currency and have the same coupon rate, residual maturity and coupon payment schedule.

(2) Fixed-term operations may be offset beyond the extent specified in the previous paragraph. However, the same kind of instrument and underlying instrument must be involved. These opposite instruments may be offset if the following conditions are met:

a) for interest rate futures the residual maturity may differ by 7 days,
b) for interest rate swaps or interest rate forwards the reference interest rates must be identical, the fixed interest rates may differ by not more than 15 basis points and the dates of the next setting of the reference interest rate may differ by not more than
   1. 0 days, for an instrument with a residual maturity of less than 1 month,
   2. 7 days, for an instrument with a residual maturity of 1 year or less but not less than 1 month,
   3. 30 days, for an instrument with a residual maturity of more than 1 year.

Interest rate positions

Article 135

(1) Long interest rate positions of instruments, including the underlying instruments of derivatives, shall be designated by a plus sign (+) and short interest rate positions of instruments, including the underlying instruments of derivatives, shall be designated by a minus sign (-). Long and short positions of fixed-term operations shall mean long and short positions of the underlying instruments of such contracts.

(2) The positions of debt securities or drafts with fixed interest rates shall be included in the maturity ladder or the duration ladder according to the residual maturity, and the positions of debt securities or drafts with floating interest rates shall be included according to the nearest date for setting the floating interest rate. For debt securities with fixed interest rates, individual coupons and nominal values may be deemed individual interest rate positions.

(3) Transfers of interest rate instruments as part of repurchase transactions and securities or commodities lending or borrowing transactions shall not change the original interest rate positions of the counterparties' transferred interest rate instruments. Cash to be provided in the future shall represent a short interest rate position, and cash to be received in the future shall represent a long interest rate position.

Article 136

(1) Interest rate forwards, interest rate futures and interest rate swaps shall be treated as a combination of long and short positions of the underlying instruments. If an obligation can be fulfilled by delivering several types of underlying instruments, the underlying instrument that can be delivered under the most advantageous terms by a broker who has a short instrument in his portfolio shall be used to calculate the capital requirement for interest rate

risk. One interest rate position shall be included in the time band corresponding to the maturity of the forward or the futures contract, and the other interest rate position shall be included in the time band corresponding to the sum of the maturity of the forward or the futures contract and the maturity of the relevant underlying instrument.

(2) For currency forwards, currency futures and currency swaps, their long interest rate positions shall be included in the maturity ladder or the duration ladder of the purchased currency and their short interest rate positions shall be included in the maturity ladder or the duration ladder of the sold currency. The foreign exchange positions shall be used to calculate the capital requirement for foreign exchange risk.

(3) For equity forwards, equity futures and equity swaps their interest rate positions shall be used to calculate the capital requirement for specific and general interest rate risk and their equity positions shall be used to calculate the capital requirement for specific and general equity risk. The foreign exchange positions shall be used to calculate the capital requirement for foreign exchange risk.

(4) For commodity forwards, commodity futures and commodity swaps their interest rate positions shall be included in the maturity ladder or the duration ladder, and their commodity positions shall be used to calculate the capital requirement for commodity risk. The foreign exchange positions shall be used to calculate the capital requirement for foreign exchange risk.

(5) For credit derivatives the nominal value of the credit derivative shall be used, unless specified otherwise. For credit derivatives, apart from total return swaps, the capital requirement for specific interest rate risk is calculated using the residual maturity of the credit derivative instead of the residual maturity of the reference instrument.

Article 137

(1) A liable entity which takes on credit risk (selling protection) shall, when calculating the capital requirement for the credit risk, set its positions according to the following paragraphs.

(2) A total return swap creates a long position in the general interest rate risk of the reference instrument and a short position in the general interest rate risk of a government bond issued with a maturity equal to the nearest fixing of the interest rate, which is allocated a risk weight of 0%. It also creates a long position in the specific interest rate risk of the reference instrument.

(3) A credit default swap does not create a position in general interest rate risk, it creates a synthetic long position in the specific interest rate risk of the reference instrument. If this swap has an external rating and meets the conditions for a qualifying instrument pursuant to Annex 20 to the Decree, the liable entity may instead create a long position in this swap’s specific interest rate risk. If premiums or interest rate payments are part of the credit default swap they shall be considered notional long positions in the general interest rate risk of a government bond.

(4) A credit linked note creates a long position in the general interest rate risk of the note itself, a synthetic long position in the specific interest rate risk of the reference instrument and a long position in the specific interest rate risk of the note itself. If a credit linked note has an external rating and meets the conditions for a qualifying instrument pursuant to Annex 20 to the Decree, the liable entity may instead create one long position in the credit linked note's specific interest rate risk.

(5) A credit derivative referencing a basket of reference instruments,

a) where the credit event stems from the first default in the basket of reference instruments (a first-asset-to-default basket credit derivative), creates a long position in the specific interest rate risk of each reference instrument in the basket. However, the total sum of the capital requirements for specific interest rate risk is limited to the maximum possible payment in the case of a credit event;
b) where the credit event stems from the second default in the basket of reference instruments (a second-asset-to-default basket credit derivative), creates a long position in the specific interest rate risk of each reference instrument in the basket except one, this being the reference instrument with the lowest capital requirement for specific interest rate risk. However, the total sum of the capital requirements for specific interest rate risk is limited to the maximum possible payment in the case of a credit event;
c) which provides proportional protection, creates a long position in the specific credit risk of each reference instrument. The derivative's total notional value is divided among the individual positions according to the share of each reference instrument. If more than one reference instrument of a relevant issuer can be chosen, the reference instrument shall be selected which attracts the highest risk weight.

(6) If a credit derivative referencing a basket of reference instruments has an external rating, and meets the conditions for a qualifying instrument pursuant to Annex 20 to the Decree, one long position can be created in the specific interest rate risk of this credit derivative or credit linked note, instead of positions in the specific interest rate risk of each reference instrument in the basket.

Article 138

If the liable entity sells credit risk (the protection buyer), when calculating the capital requirement for interest rate risk it shall set mirror positions to that of the purchaser of risk (the protection seller), unless this involves a credit linked note, where the protection buyer does not incur a short position in the specific interest rate risk of the note itself. If a call option exists in combination with a step-up the possible exercise date of the option is viewed as the date of the protection's maturity. For nth-to-default credit derivatives the protection buyer can offset specific interest rate risk for n - 1 of the underlyings (the n – 1 reference instruments with the lowest capital requirement for specific interest rate risk).

Capital requirement for specific interest rate risk

Article 139

(1) The capital requirement for specific interest rate risk is set as the sum of the products of the absolute values of interest rate positions and the corresponding coefficients list in Annex 20 to the Decree.

(2) The interest rate positions ensuing from derivatives based on the purchase or sale of debt securities or drafts, or from deposits placed or accepted and corresponding to such debt securities, drafts or deposits, shall be assigned the coefficients pursuant to paragraph 1. Other interest rate positions ensuing from derivatives shall be assigned a coefficient of zero.

(3) For securitised exposures which are a deductible item from the sum of original and additional capital, or which are assigned a risk weight of 1250%, the capital requirement for specific interest rate risk shall not be lower than if a deduction were made for them from the sum of original and additional capital or the risk weight of 1250% were used. **The capital requirement for the specific interest rate risk of a liquidity facility without an external rating shall not be lower than the capital requirement for the credit risk of such instrument if included in the investment portfolio.**

Article 140

(1) **In calculating the capital requirement for specific interest rate risk it is possible to offset positions in the trading portfolio hedged by a credit derivative.**

(2) **Positions can be fully offset if the values of the hedged and the hedging instrument always move in the opposite direction and broadly to the same extent, provided that**

a) both legs are made up of wholly identical instruments, or
b) the hedged instrument is protected by a total return swap and there is an exact match between the reference instrument and the hedged instrument, although the swap's maturity may differ from the maturity of the hedged instrument.

(3) **In the case of the procedure referred to in paragraph 2, capital requirements for specific interest rate risk are calculated for neither the hedged instrument nor the hedging instrument.**

(4) **An 80% offset is possible if**

a) the values of the hedged and the hedging instrument always move in the opposite direction, although not broadly to the same extent,
b) there is an exact match between the hedged instrument and the reference instrument, including the maturity of the credit derivative,
c) the credit derivative agreement does not contain provisions which would result in the credit derivative's price movements differing materially from the price movements of the cash position.

An 80% offset is applied to the side of the transaction with the higher capital requirement, while the capital requirement for the specific interest rate risk of the other

side of the transaction is zero; however, it is necessary to consider the extent to which the transaction actually transferred the risk.

(5) **Partial compensation is possible if the values of the two legs usually move in the opposite direction, provided that**

a) the conditions pursuant to paragraph 2, b) are met, but there is an asset mismatch between the reference instrument and the hedged instrument. However,
   1. **the reference instrument shall be *pari passu* or subordinate to the hedged instrument,**
   2. **the reference instrument and the hedged instrument are issued by the same obligor and are covered by a legally enforceable cross-default clause or cross-acceleration clause,**

b) the conditions pursuant to paragraph 2, a), or paragraph 4 are met, but there is a currency or maturity mismatch between the hedged instrument and the credit derivative, or

c) the conditions pursuant to paragraph 4 are met, but there is an asset mismatch between the hedged instrument and the credit derivative and the hedged instrument is included in the deliverable obligations arising from the credit derivative.

(6) **In the case of the procedure referred to in paragraph 5, the capital requirement for specific interest rate risk is calculated only for the side of the transaction with the higher capital requirement. The capital requirement is not calculated for the specific interest rate risk of the other side of the transaction and therefore has a zero value.**

(7) **In cases which are not stated in paragraphs 2 to 6, the capital requirement is calculated for the specific interest rate risk of the hedging instrument and the specific interest rate risk of the hedged instrument.**

Capital requirement for general interest rate risk

Article 141

(1) One of the two methods for measuring general interest rate risk, i.e. either the Maturity Method or the Duration Method, shall be selected for each currency.

(2) Long and short interest rate positions shall be included in the maturity ladder based on their residual maturity, or shall be included in the duration ladder based on their modified duration.

(3) For interest rate futures traded on recognised stock exchanges, the Margin Method may be used; the interest rate positions of such instruments shall not be included in the maturity or duration ladders.

(4) A more detailed specification of the Maturity Method, the Duration Method and the Margin Method is given in Annex 20 to the Decree.

Article 142

The capital requirement for general interest rate risk equals the sum of the capital requirements calculated in respect of each individual currency pursuant to the Maturity Method or the Duration Method, and the capital requirement for interest rate futures calculated pursuant to the Margin Method.

Subsection 3

Capital requirements for equity risk in the trading portfolio

Article 143

Equity instruments

The capital requirement for equity risk shall be set solely for equity instruments in the trading portfolio. 'Equity instruments' shall mean instruments that have at least one equity position. Such instruments include, in particular, shares, depository receipts (e.g GDRs) and derivatives. If depository receipts are interchangeable for settlement purposes, they may be converted into underlying shares, which shall be included in the equity positions of the relevant national market.

Article 144

Offsetting instruments

Before setting the capital requirement for equity risk, opposite equity instruments, apart from derivatives, may be offset if they are issued by the same issuer, are equivalent in the case of the issuer’s liquidation or bankruptcy, and are denominated in the same currency. In the case of equity derivatives, derivatives of the same nature that were concluded by the same two persons, have the same maturity and the same underlying instruments may be offset.

Article 145

Equity positions

(1) Long equity positions of instruments, including the underlying instruments of derivatives, shall be designated by a plus sign (+) and short equity positions of instruments, including the underlying instruments of derivatives, shall be designated by a minus sign (-). Long and short positions of fixed-term operations shall mean long and short positions of the underlying instruments of such operations.

(2) Equity positions whose issuers are registered in the Companies Register or other equivalent register in one country represent the equity positions of the national market.

(3) The gross equity position shall equal the sum of the absolute values of all equity positions. The net equity position of a national market shall equal the sum of long and short equity positions of that market.

(4) Transfers of equity instruments as part of repurchase operations and the borrowing and lending of securities and commodities shall not change the original equity positions of the counterparties' transferred equity instruments. Cash to be provided in the future shall represent a short interest rate position, and cash to be received in the future shall represent a long interest rate position.

(5) For equity forwards, futures and swaps their equity positions shall be used for calculating the capital requirement for specific and general equity risk, their interest rate positions shall be used for calculating the capital requirements for general and specific interest rate risk. Their foreign exchange positions shall be used for calculating the capital requirement for foreign exchange risk.

Article 146

Capital requirement for specific equity risk

(1) The capital requirement for specific equity risk shall equal the product of a coefficient of 0.04 and the gross equity position reduced by the gross equity position of the selected portfolio pursuant to the following paragraph.

(2) The selected portfolio must meet the following conditions:

a) it shall not contain equities of an issuer in whose case a coefficient of 0.08 according to Table 2 in Annex 20 to the Decree would be used for calculating the capital requirement for specific interest rate risk,
b) it consists of equities that are included in the stock indices in accordance with the list in Table 5 in Annex 20 to the Decree,
c) no individual absolute value of an equity position in the portfolio shall account for more than 5% of the gross equity position, or no individual absolute value of an equity position may exceed 10% of the gross equity position if the total absolute value of the equity positions accounting for 5% to 10% of the gross equity position does not exceed 50% of the gross equity position of such portfolio.

The capital requirement for the selected portfolio's specific equity risk shall equal the product of a coefficient of 0.02 and the gross equity position of such portfolio.

(3) The capital requirement for specific equity risk shall equal the sum of the capital requirements pursuant to paragraphs 1 and 2.

Article 147

Capital requirement for general equity risk

(1) The capital requirement for general equity risk shall equal the sum of the products of a coefficient of 0.08 and the absolute values of the net equity positions of the national markets.

(2) For the purposes of calculating the capital requirement for general equity risk, equity futures traded on recognised stock exchanges may be removed from the equity positions and the Margin Method may be used. The capital requirement for general equity risk shall then be equal to the sum of the capital requirement pursuant to the previous paragraph and the capital requirement for equity futures traded on recognised stock exchanges, which shall equal the total margins related to the equity futures. The Margin Method must provide an accurate measurement of the risk associated with the equity futures. The capital requirement thus calculated must be at least equal to the capital requirement calculated pursuant to the previous paragraph or the capital requirement based on the internal models approach. For the purposes of calculating the capital requirement for foreign exchange risk, equity positions in the foreign currencies of equity futures shall not be included in the foreign exchange positions.

Article 148

Stock indices

(1) Stock indices […] may be decomposed into individual equity instruments or may be deemed separate equity instruments.

(2) The equity position in a stock index shall be set either as the weighted sum of the fair values of the individual equity instruments, or as the fair value of the stock index.

(3) The stock indices listed in Table 5 in Annex 20 to the Decree shall not be included in the relevant equity positions for the purpose of calculating the capital requirement for specific equity risk.

Subsection 4

Capital requirement for collective investment undertakings in the trading portfolio

Article 149

(1) The capital requirement for the general and specific interest rate and equity risk of collective investment undertakings in the trading portfolio shall be equal to 32% of the sum of the values of the exposures to these funds represented by the instruments that such funds issue, in particular unit certificates. The aggregate of the capital requirements for general interest rate and equity risk, and specific interest rate and equity risk, and foreign-exchange risk, shall not exceed 40% of the sum of the exposure values to these funds.

(2) Instead of following the approach pursuant to paragraph 1, the liable entity may calculate the capital requirements for collective investment undertakings in the trading portfolio pursuant to Article 150 or Article 151, if the following conditions are met:

a) the statutes of the collective investment undertaking, or other document, shall contain
   1. the underlying exposures, which shall mean the exposure categories in which the collective investment undertaking is permitted to invest,

2. the limits for these exposures, including the methodologies for their calculation, if these are used,
3. the maximum possible leverage level, if leverage is permitted,
4. strategies to limit counterparty risk arising from repurchase transactions and derivatives, if the fund is authorised to conclude repurchase transactions and derivatives,

b) half-yearly and annual reports are published on the collective investment undertaking's business activity which shall make it possible to assess the undertaking's financial situation, in particular its assets, liabilities and the financial result for the relevant period,

c) at the request of a unit holder, in particular the holder of a unit certificate, the units of the collective investment undertaking are redeemable in cash, out of the undertaking´s assets, on a daily basis,

d) the collective investment undertaking's assets are segregated from the assets of the manager of the collective investment undertaking,

e) he liable entity assesses the risk associated with the collective investment undertaking in the relevant manner,

f) the collective investment undertaking is managed by a person who is subject to supervision in a Member State or who has a registered office in a Member State.

In the case of a collective investment undertaking which is managed by a person who is subject to comparable supervision by the relevant competent authority in a third country, the liable entity may employ the above procedure only if the Czech National Bank has been informed of this intention and has not rejected it within one month of the intention being fully documented, unless within this period it informs the liable entity of an extension of at most one month to the time-limit for comments.

(3) Unless further stated otherwise, positions in the underlying exposures of a collective investment undertaking shall not be offset by other positions held by the liable entity.

Article 150

(1) If the liable entity is aware of the underlying exposures of the collective investment undertaking on a daily basis, it may use for these positions the Standardised Approach to calculate the capital requirement for general and specific interest rate and equity risk or, if it is authorised to do so, an approach based on internal models using the value-at-risk methodology (hereinafter the "VaR model"). In this case, exposures to the collective investment undertaking are decomposed into positions in the undertaking's underlying exposures. Positions in the underlying exposures may be offset with other positions held by the liable entity on condition that the liable entity holds such a quantity of exposures to the undertaking that it is sufficient to be exchanged for the individual underlying exposures.

(2) If the liable entity uses the procedure pursuant to paragraph 1, it may, for the purpose of calculating the capital requirements for general and specific interest rate and equity risk, use hypothetical positions necessary to replicate the composition and performance of an externally generated index or fixed basket of equities or debt securities, if the following conditions are met:

a) the purpose of the collective investment undertaking is to match the composition and performance of an externally generated index or fixed basket of equities or debt securities, and
b) between the daily price movements of the instrument issued by the collective investment undertaking and the index or basket of equities or debt securities there is a correlation of at least 0.9 over a period of at least 6 months; 'correlation' shall mean the correlation coefficient between the daily returns on the instrument issued by the undertaking and traded on **a recognised stock exchange** and the index or basket of equities or debt securities which the undertaking tracks.

Article 151

(1) If the liable entity is not aware of the underlying exposures of the collective investment undertaking on a daily basis, it may, for these positions, use the Standardised Approach to calculate the capital requirement for general and specific interest rate and equity risk, if the following conditions are met:

a) the collective investment undertaking shall first invest to the maximum extent allowed under its mandate in the exposure classes attracting the highest capital requirement for general and specific interest rate and equity risk. It shall then invest in descending order until it reaches the maximum limit for total investments. The positions in the instruments of the collective investment undertaking are treated in the same way as if its hypothetical underlying exposures were held directly; and
b) in calculating the capital requirement for general and specific interest rate and equity risk, the liable entity takes into account the maximum possible level of risk undertaken that it could be exposed to if, through the collective investment undertaking, it took leveraged positions by proportionately increasing its position in the instruments of the collective investment undertaking up to the maximum possible exposure level to underlying exposures for which the collective investment undertaking is authorised.

(2) If the capital requirement for general and specific interest rate and equity risk pursuant to paragraph 1 exceeds the requirement pursuant to Article 149 (1), the capital requirement is reduced to a level pursuant to Article 149 (1).

(3) The liable entity may rely on a third party for the purpose of calculating the capital requirement for general and specific interest rate and equity risk. A precondition shall be that the third party is aware of the underlying exposures, and the correctness of the calculation and reporting by the third party are adequately ensured.

Subsection 5

Capital requirement for foreign exchange risk

Article 152

(1) The liable entity sets a capital requirement for foreign exchange risk if the total foreign exchange position pursuant to Article 153 exceeds 2% of capital according to Part Four, III.

(2) The capital requirement for foreign exchange risk shall be set on the basis of selected instruments in the trading portfolio and the investment portfolio having interest rate, equity or commodity positions in foreign currencies, including positions having the nature of a foreign currency. Such positions shall mean foreign exchange positions in foreign currency. Other positions shall mean foreign exchange positions in Czech Koruna. Foreign exchange positions shall mean foreign exchange positions in foreign currency and foreign exchange positions in Czech koruna. Foreign exchange instruments shall mean instruments that have at least one position in foreign currency.

(3) Monetary gold shall also be deemed foreign currency.

(4) A composite currency such as SDR, shall for the purposes of this Decree be deemed a special currency. This can be divided into individual currencies according to the valid composition ratio.

Article 153

Foreign exchange positions

(1) Long foreign exchange positions of instruments, including the underlying instruments of derivatives, shall be designated by a plus sign, and short foreign exchange positions of instruments, including the underlying instruments of derivatives, shall be designated by a minus sign. Long and short foreign exchange positions of fixed-term operations shall mean long and short foreign exchange positions of the underlying instruments of such operations.

(2) The net foreign exchange position in a foreign currency shall equal the sum of the long and the short foreign exchange positions in such currency. This position shall be long if the sum is positive and short if the sum is negative.

(3) The net foreign exchange position in Czech koruna shall equal the product of a coefficient of minus one and the net foreign exchange position in foreign currencies, which shall equal the sum of the net foreign exchange positions in individual foreign currencies. This position shall be long if the sum is negative and short if the sum is positive.

(4) The total foreign exchange position is the sum of

a) the higher of the figures expressing the sum of the long net foreign exchange positions in individual foreign currencies or the sum of the absolute values of the short net foreign exchange positions in individual foreign currencies, neither of which sums includes the net foreign exchange position in gold, and
b) the absolute value of the net foreign exchange position in gold.

Article 154

Closely correlated currencies

(1) Two currencies may be considered closely correlated if the loss incurred in relation to the matched foreign exchange positions in question over ten consecutive working days worth no more than 4% of the value of the matched foreign exchange positions, expressed in the reporting currency, has occurred with a probability of at least 99%, for a calculation based on a three-year observation period, or at least 95%, for a calculation based on a five-year observation period. Two currencies shall no longer be considered closely correlated starting from the day this condition ceases to exist. The currency correlation must be documented.

(2) 'Matched foreign exchange position' of two currencies shall mean the lower of the absolute values of the long net foreign exchange position in one currency and the short net foreign exchange position in the other. The sum of the long and the short net foreign exchange position shall be called an unmatched foreign exchange position. The unmatched foreign exchange position shall be deemed a net foreign exchange position in the currency where the absolute value of the foreign exchange position prior to matching is higher. For the purposes of calculating the total foreign exchange position, such unmatched foreign exchange position shall be included in either the long net foreign exchange positions or the short net foreign exchange positions.

Article 155

Foreign exchange positions and collective investment undertakings

(1) In the case of exposures to collective investment undertakings represented by instruments issued by these undertakings, foreign exchange positions of the underlying exposures of such undertakings are used. For the calculation of the capital requirement for foreign exchange risk the liable entity may rely on a third party, which reports the foreign exchange positions of the underlying exposures to it. A precondition shall be that the third party is aware of the underlying exposures, and that the correctness of the reporting of the foreign exchange positions is adequately ensured.

(2) If the liable entity is not aware of the foreign exchange positions resulting from the underlying exposures

a) it shall be assumed that the collective investment undertaking invests in foreign exchange instruments up to the maximum amount for which it is authorised,
b) in calculating the capital requirement for foreign exchange risk, it shall take into account the maximum possible level of risk undertaken that it could be exposed to if, through the collective investment undertaking, it held positions using leverage by proportionately increasing its position in the instruments of the collective investment undertaking up to the maximum possible exposure level to the underlying exposures resulting from the investment mandate.

(3) The assumed foreign exchange position of the collective investment undertaking pursuant to paragraph 2 is treated as a separate foreign currency according to the same principle as that applied to positions in gold. The only difference is that if the liable entity knows that the resulting total position is long or short it may add the total long position to the total long open foreign exchange position, or the total short position to the total short open foreign exchange position. Netting between these positions before the calculation of the capital requirement for foreign exchange risk is not permitted.

Article 156

Calculation of the capital requirement for foreign exchange risk

(1) The capital requirement for foreign exchange risk shall equal the sum of the product of a coefficient of 0.04 and the matched positions of closely correlated currencies and the product of a coefficient of 0.08 and the total foreign exchange position.

(2) For the purposes of setting the capital requirement for foreign exchange risk, the foreign exchange positions in foreign currencies of currency futures traded on recognised stock exchanges may be removed from the foreign exchange positions and the Margin Method may be used. The Margin Method must provide an accurate measure of the risk associated with the currency futures. The capital requirement thus calculated must be at least equal to the capital requirement pursuant to paragraph 1 or the capital requirement based on the VaR model. The capital requirement for foreign exchange risk shall be equal to the sum of the capital requirement pursuant to the preceding paragraph, and the capital requirement for currency futures traded on recognised stock exchanges, which shall equal the total margins related to such futures.

Subsection 6

Capital requirement for commodity risk

Article 157

Commodity instruments

The capital requirement for commodity risk shall be set on the basis of commodity instruments in the trading portfolio and the investment portfolio. 'Commodity instruments' shall mean instruments that have at least one commodity position.

Article 158

Offsetting instruments

Before calculating the capital requirement for commodity risk, opposite commodity instruments may be offset if they involve the same commodity, are in the same currency, have the same maturity and, in the case of derivatives, involve the same counterparty. Furthermore, opposite commodity instruments in closely correlated commodities and opposite commodity instruments traded on markets which have daily delivery dates, provided that their residual maturity dates differ by no more than 10 days, may also be offset.

Article 159

Commodity positions

(1) Long commodity positions of instruments, including the underlying instruments of derivatives, shall be designated by a plus sign, and short commodity positions of instruments, including the underlying instruments of derivatives, shall be designated by a minus sign. Long and short commodity positions of fixed-term operations shall mean long and short commodity positions of the underlying instruments of such operations.

(2) Transfers of commodity instruments as part of repurchase transactions or the borrowing and lending of commodities shall not change the original commodity positions of the counterparties' transferred commodity instruments. Cash to be provided in the future shall represent a short interest rate position, and cash to be received in the future shall represent a long interest rate position.

(3) For commodity forwards, futures and swaps, their commodity positions shall be used for calculating the capital requirement for commodity risk while their interest rate positions shall be used for calculating the capital requirement for specific and general interest rate risk. Their foreign exchange positions shall be used for calculating the capital requirement for foreign exchange risk.

(4) If a short commodity position falls due before a long commodity position the liable entity shall safeguard itself against the risk of liquidity shortage that may exist in some markets.

Article 160

Methods for measuring commodity risk

(1) One of the two methods for measuring commodity risk, i.e. either the Simplified Method or the Maturity Method, shall be selected for each commodity. For closely correlated commodities a common maturity ladder may be used.

(2) For commodity futures traded on recognised stock exchanges the Margin Method may be used, while the commodity positions of these instruments shall not be included in the commodity positions for the purposes of the calculation of the capital requirement for commodity risk pursuant to both the Simplified Method and the Maturity Method, and the foreign exchange positions of these instruments shall not be included in the foreign exchange positions for calculating the capital requirement for foreign exchange risk.

(3) A more detailed specification of the Simplified Method, the Maturity Method and the Margin Method is given in Annex 20 to the Decree.

Article 161

Closely correlated commodities

(1) Closely correlated commodities shall mean

a) commodities that are interchangeable pursuant to an agreement between the counterparties, or
b) similar commodities that are close substitutes and the correlation of price changes in these commodities over the 12 months prior to the conclusion of the contract is higher than 0.9.

(2) For the purposes of setting the capital requirement for commodity risk using the Simplified Method or Maturity Method, closely correlated commodities shall be deemed one commodity.

Article 162

Calculation of the capital requirement for commodity risk

The capital requirement for commodity risk shall equal the sum of the capital requirements for every individual commodity calculated using the Simplified Method, Maturity Method or Margin Method.

Subsection 7

Capital requirement for options

Article 163

Options

The capital requirement for options shall be set on the basis of options, including warrants, assigned to the trading portfolio and currency and commodity options, including warrants, assigned to the investment portfolio.

Article 164

Offsetting options

Before setting the capital requirement for options, opposite options may be offset if they are of the same nature, have been concluded between the same two persons, with the same strike price and residual maturity, and have the same underlying instruments.

Article 165

Option positions

Interest rate, equity, foreign exchange and commodity positions of options shall be expressed in delta equivalents of options. The delta equivalents of options shall equal the delta equivalents of the fair values of the underlying instruments. The delta equivalent of an underlying receivable’s fair value shall be designated by a plus sign (+) and the delta equivalent of an underlying liability’s fair value shall be designated by a minus sign (-).

Article 166

Calculation of the capital requirement for options

(1) One of the four methods for calculating the capital requirement for options, i.e. the Simplified Method, the Delta Plus Method, the Situation Analysis Method or the Margin Method shall be selected for each option. A more detailed specification is given in Annex 20 to the Decree.

(2) In justified cases, in particular for exotic options, the liable entity may use alternative methods for calculating capital requirements other than the Simplified Method, the Delta Plus Method, the Situation Analysis method or the Margin Method, on condition that such alternative methods are sufficiently prudent and that the Czech National Bank has not rejected their use.

Subsection 8

Capital requirements based on internal models

Article 167

Internal models

Approaches used for the calculation of the capital requirement for specific interest rate risk in the trading portfolio, specific equity risk in the trading portfolio, or market risk which are based on internal models are among the special approaches for calculating capital requirements and can be used only after prior authorisation by the relevant competent authority.

Article 168

Criteria for using internal models

(1) An internal VaR model may be used for calculating the capital requirement for market risk or specific interest rate or equity risk if the following requirements are met:

a) the model is conceptually correct and is used in compliance with the liable entity's risk management policy,
b) the model has been tested for at least one year and the liable entity is capable of documenting comparisons of the actual daily profit/loss in this period with the values calculated using the model,
c) the model meets the qualitative requirements,
d) the model meets the criteria for specifying market risk factors,
e) the model is demonstrably accurate and meets the quantitative requirements,
f) the liable entity performs regular stress testing and daily back-testing of the model,
g) the model is adequately verified.

(2) A more detailed specification of the criteria for using internal models is given in Annex 21 to the Decree.

Article 169

Combination of approaches

(1) The liable entity may use a combination of an approach based on an internal VaR model and the Standardised Approach for the calculation of capital requirements for market or specific interest rate or equity risk after obtaining prior authorisation from the relevant competent authority to use the internal VaR model and if it guarantees the inclusion of all categories of market and specific risk in the calculation of capital requirements.

(2) The following conditions apply for a combination of an approach based on an internal VaR model and the Standardised Approach for the calculation of capital requirements for market or specific interest rate or equity risk:

a) the capital requirement for each category of market and specific risk is calculated using a single approach; a combination of the approaches may not be used within one risk category, unless the liable entity demonstrates and gives due reasons why it is not possible to meet this condition,
b) the liable entity may change the combination of these approaches if the intention has been documented and announced to the relevant competent authority and this has not rejected the change. The liable entity shall also always notify the Czech National Bank of such intention,
c) the capital requirement for market and specific risk calculated using a combination of these approaches shall equal the sum of the capital requirements calculated by the internal VaR model and the capital requirements using the Standardised Approach.

Section 4

Capital requirements for operational risk

Article 170

Approaches for the calculation of the capital requirement

(1) The following approaches are employed to calculate the capital requirement for operational risk:

a) the BIA Approach,
b) the Standardised Approach,
c) the Standardised Approach in combination with the BIA Approach,
d) the ASA Approach,
e) the ASA Approach in combination with the BIA Approach,
f) the AMA Approach,
g) the AMA Approach in combination with other approaches.

(2) The liable entity shall cover all activities in the calculation of the capital requirement for operational risk.

Article 171

Basic Indicator Approach

(1) The BIA Approach is one of the basic approaches for the calculation of capital requirements and can be used without the prior approval of the Czech National Bank. This shall not prejudice the condition of prior approval of

a) the Czech National Bank in the case of
   1. a changeover from the Standardised Approach to the BIA Approach,
   2. a changeover from the ASA Approach to the BIA Approach,
   3. the use of the Standardised Approach in combination with the BIA Approach,
   4. the use of the ASA Approach in combination with the BIA Approach, or
b) the competent authority in the case of
   1. a changeover from the AMA Approach to the BIA Approach, or
   2. the use of the AMA Approach in combination with other approaches, if the BIA Approach is part of this.

(2) The capital requirement for operational risk based on the BIA Approach shall equal a fixed percentage of the value of the relevant indicator. A more detailed specification of this approach, including the fixed percentage and the manner of calculating the value of the relevant indicator is given in Annex 22 to the Decree.

Article 172

Standardised Approach

(1) The Standardised Approach for the calculation of the capital requirement for operational risk is one of the basic approaches for the calculation of capital requirements and can be used without the prior approval of the Czech National Bank. This shall not prejudice the condition of prior approval of

a) the Czech National Bank in the case of the use of the Standardised Approach in combination with the BIA Approach, or
b) the competent authority in the case of
   1. a changeover from the AMA Approach to the Standardised Approach, or
   2. the use of the AMA Approach in combination with other approaches, if the Standardised Approach is part of this.

(2) A precondition for the use of the Standardised Approach is the ability of the liable entity to demonstrate that it has met the conditions for the use of the Standardised Approach as stated in Annex 22 to the Decree.

(3) When using the Standardised Approach the liable entity shall classify activities into standardised business lines. It shall calculate the capital requirement for operational risk for individual business lines as a fixed percentage of the value of the relevant indicator for the relevant business line. A more detailed specification of the approach, including the manner

of calculating the relevant indicator, the specification of the business lines, the rules for the classification into business lines and the manner of calculating the total capital requirement when using the Standardised Approach is given in Annex 22 to the Decree.

(4) The liable entity may only change from the Standardised Approach to the BIA Approach in duly justified cases and with the prior approval of the Czech National Bank.

(5) If the liable entity uses the AMA Approach in combination with other approaches, it can make a change in the use of the Standardised Approach as part of such combination only with the prior approval of the competent authority.

Article 173

Standardised Approach in combination with the Basic Indicator Approach

(1) The Standardised Approach in combination with the BIA Approach is one of the special approaches used to calculate capital requirements and can only be used with the prior approval of the Czech National Bank and for a transitional period.

(2) The Standardised Approach in combination with the BIA Approach can only be used in connection with an extraordinary event, in particular the acquisition of an ownership interest in another person, which may require a transitional period to roll out the Standardised Approach.

(3) The liable entity that intends to use the Standardised Approach in combination with the BIA Approach

a) shall be able to demonstrate that it meets the criteria for using the Standardised Approach stated in Annex 22 to the Decree for the activities related to the Standardised Approach,
b) undertakes to switch fully to using the Standardised Approach according to a timetable agreed with the Czech National Bank.

Article 174

Alternative Standardised Approach

(1) The ASA Approach is one of the special approaches used to calculate capital requirements and can only be used with the prior approval of the Czech National Bank.

(2) The ASA Approach is equivalent to the Standardised Approach with the specific adjustments and additions stated hereunder.

(3) The liable entity that intends to use the ASA Approach shall be able to demonstrate that it meets the criteria for using the ASA Approach stated in Annex 22 to the Decree.

(4) Under the ASA Approach the capital requirement is calculated for the selected business line using an alternative indicator instead of the relevant indicator. A more detailed specification of the selected business lines, the alternative indicators for such business lines and the manner of calculating the total capital requirement when using the ASA Approach is given in Annex 22 to the Decree.

(5) The liable entity can only change from the ASA Approach to the BIA Approach or the Standardised Approach in duly justified cases and with the prior approval of the Czech National Bank.

(6) If the liable entity uses the ASA Approach in combination with other approaches, it can make a change in the use of the ASA Approach as part of such combination only with the prior approval of the competent authority.

Article 175

Alternative Standardised Approach in combination with the Basic Indicator Approach

(1) The ASA Approach in combination with the BIA Approach is one of the special approaches used to calculate capital requirements and can only be used with the prior approval of the Czech National Bank and for a transitional period.

(2) A use of the ASA Approach in combination with the BIA Approach is only possible in connection with an extraordinary event, in particular the acquisition of an ownership interest in another person, which may require a transitional period to unify the procedure for setting the capital requirement for operational risk.

(3) The liable entity that intends to use the ASA Approach in combination with the BIA Approach

a) shall be able to demonstrate that it meets the criteria for using the ASA Approach stated in Annex 22 to the Decree for the activities related to the ASA Approach,
b) undertakes to switch fully to using the ASA Approach according to a timetable agreed with the Czech National Bank, unless such roll-out is prevented by the criteria for using the ASA Approach. In this case, the liable entity undertakes to switch fully to using the Standardised Approach in the timetable.

Article 176

Advanced Measurement Approach

(1) The AMA Approach is one of the special approaches used to calculate capital requirements and can only be used with the prior approval of the competent authority.

(2) The capital requirement for operational risk pursuant to the AMA Approach is an output of the operational risk measurement system.

(3) The liable entity that intends to use the AMA Approach shall demonstrate that it meets the criteria for using the AMA Approach stated in Annex 22 to the Decree.

(4) If a European parent credit institution and its subsidiaries, or a European parent investment firm and its subsidiaries, or a European financial holding entity and its subsidiaries intend to use the AMA Approach on a unified basis, the competent authority can permit a joint fulfilment of the criteria for using the AMA Approach by such persons.

(5) If a European parent credit institution and its subsidiaries, or a European parent investment firm and its subsidiaries, or a European financial holding entity and its subsidiaries intend to use the AMA Approach on a unified basis, the application to the competent authority shall also describe the methodology used to distribute the capital to cover operational risk among the individual persons in the group and general information on whether, and in what manner, the effects of diversification shall be reflected in the risk measurement system.

(6) The liable entity may only change from the AMA Approach to the BIA Approach, the Standardised Approach, the ASA Approach or the AMA Approach in combination with other approaches, in duly justified cases and with the prior approval of the competent authority.

Article 177

Advanced Measurement Approach in combination with other approaches

(1) The AMA Approach in combination with other approaches is one of the special approaches used to calculate capital requirements and can only be used with the prior approval of the competent authority.

(2) The liable entity that intends to use the AMA Approach in combination with other approaches shall demonstrate that it

a) fulfils the criteria for using the AMA Approach stated in Annex 22 to the Decree, if this involves activities with the AMA Approach,
b) fulfils the criteria for using the Standardised Approach stated in Annex 22 to the Decree, if this involves activities with the Standardised Approach,
c) fulfils the criteria for using the ASA Approach stated in Annex 22 to the Decree, if this involves activities with the ASA Approach, and
d) covers all operational risk and uses appropriate procedures to cover operational risk according to the individual activities, geographical areas, legal entities or other internally stipulated areas.

(3) The competent authority may, in individual cases, demand that the liable entity

a) cover a significant part of operational risk in the implementation of the AMA Approach,
b) roll out the use of the AMA Approach to cover a material part of its activities according to the timetable agreed with the competent authority.

(4) The liable entity may only change from the AMA Approach in combination with other approaches to the BIA Approach, the Standardised Approach or the ASA approach in duly justified cases and with the prior approval of the competent authority.

Section 5

Capital requirement based on fixed overheads

Article 178

The capital requirement on the basis of fixed overheads shall equal 25% of the sum of the costs for the write-offs of tangible and intangible assets and the administrative costs for the previous financial year.

Article 179

(1) If an investment firm which calculates the capital requirement based on fixed overheads experiences a material change in its activities compared with the previous financial year the Czech National Bank may, in duly justified cases, permit it to adjust the calculation of this capital requirement.

(2) An investment firm that began its activity in the current financial year shall set the capital requirement based on fixed overheads in the amount of 25% of the sum of the costs for the write-offs of tangible and intangible assets and the administrative costs planned for the current financial year and, where relevant, adjusted according to the requirements of the Czech National Bank.

PART FIVE

LARGE EXPOSURE RULES

[Re Article 15 of the Act on Banks, Article 11, 3 of the Act on Credit Unions and Article 199, 2, b) of the Act on Business Activities on the Capital Market]

Heading I

Investment portfolio exposure

Article 180

Definition of the investment portfolio exposure

(1) In the application of the procedures pursuant to Articles 44 to 53, 'investment portfolio exposure to a person or group of connected persons' shall mean

a) in the case of a bank and a credit union, any exposure represented by an asset in its book value before this is reduced by allowances, or an off-balance sheet item in its book value without the deduction of provisions; this shall never involve the application of risk weights or conversion factors,
b) in the case of an investment firm, any exposure represented by an asset in its book value, or an off-balance sheet item in its book value after the deduction of provisions; this shall never involve the application of risk weights or conversion factors,

the provisions of paragraphs 3 and 4 are not affected hereby.

(2) The investment portfolio exposure does not include

a) in the case of foreign exchange transactions, exposures to the counterparty for such operation incurred in the ordinary course of settlement during the two working days following payment,
b) in the case of transactions for the purchase or sale of securities, exposures to the counterparty of such operation incurred in the ordinary course of settlement during the five working days following payment, or the delivery of securities, whichever is the earlier.

The investment portfolio exposure does not include exposures that are capital deductions.

(3) Derivatives pursuant to Annex 8 to the Decree, and long settlement transactions are included in the exposure in an amount stipulated by

a) the Mark-to-Market Method,
b) the Standardised Method, or
c) the Internal Model Method.

A specification of the methods and the requirements for the model are given in Annex 8 to the Decree.

(4) Repurchase transactions, the borrowing or lending of securities or commodities, and margin lending transactions are included in the exposure in an amount stipulated

a) subject to the methods and conditions for considering the effects of funded credit protection pursuant to Article 104 and Annex 16 to the Decree, or
b) the Internal Model Method pursuant to Annex 8 to the Decree.

Article 181

Exclusion of exposures from the exposure

(1) The liable entity can exclude, fully or partly, the following exposures, or their secured parts, from the investment portfolio exposure:

a) claims and credit commitments to central governments and central banks that, if unsecured, would receive a risk weight of 0% according to the Standardised Approach,
b) claims and credit commitments to international organisations or multilateral development banks that, if unsecured, would receive a risk weight of 0% according to the Standardised Approach,
c) exposures carrying the explicit guarantees of central governments, central banks, international organisations, multilateral development banks and public sector entities, if the unsecured claims against these unfunded credit protection providers received a risk weight of 0% according to the Standardised Approach,
d) exposures to central governments or central banks not stated in letter a), which are denominated in the obligors' domestic currency and are funded in this currency,
e) exposures secured by debt securities issued by central governments, central banks, international organisations, multilateral development banks, regional governments, local authorities or public sector entities of Member States, whose issuer would receive a risk weight of 0% according to the Standardised Approach,
f) exposures secured by
   1. cash collateral representing the obligation of the liable entity, including cash collateral obtained through the issue of credit linked notes by the liable entity, which is a credit institution,
   2. cash collateral placed with a third party, which is a credit institution and is the parent undertaking or subsidiary of the liable entity,
g) exposures that are the subject of an agreement on balance sheet netting pursuant to Annex 16 to the Decree,
h) exposures with a remaining maturity of one year or less to investment firms or foreign investment firms from a Member State, provided that the following conditions are met:
   1. the investment firms or foreign investment firms are subject to the supervision of the relevant authorities, and specialise in the inter-bank market and the market with debt securities issued by public institutions in their home Member State,
   2. the relevant authority in the Member State has made it possible to use a risk weight of 10% for exposures to these institutions,

3. the assets of these institutions are fully secured by items that are assigned a risk weight of 0% or 20% according to the Standardised Approach, and which have been recognised by the relevant competent authority as adequate protection,

i) drafts with a remaining maturity of one year or less which are guaranteed by credit institutions other than the liable entity,

j) covered bonds pursuant to Annex 4, or exposures secured by these debt securities, if they are covered by the following

1. exposures to central governments, central banks, public sector entities, regional governments and local authorities of Member States, or exposures protected by the guarantees of these persons,
2. exposures to central governments and central banks of third countries, multilateral development banks or international organisations, or exposures secured by the guarantees of these persons, if their external rating belongs to the first credit quality step,
3. exposures to public sector entities, regional governments and local authorities of third countries, or exposures secured by guarantees of these persons, if such exposures are risk-weighted pursuant to the Standardised Approach as exposures to institutions or central governments and central banks, and if their external rating belongs to the first credit quality step, or
4. exposures pursuant to points 1 to 3, if their external rating belongs to at least the second credit quality step pursuant to the Standardised Approach, and the volume of exposure in such debt securities does not exceed 20% of their unpaid nominal amount,

k) exposures secured by guarantees or debt securities issued by

1. multilateral development banks not stated in letter e),
2. regional governments or local authorities of Member States not stated in letter e), or
3. institutions.

The value of debt securities shall exceed the value of the secured exposure by 50%. Debt securities used for these purposes as collateral are tradable, and marked to market by means of publicly available closing prices, which are obtained from independent sources; these include, in particular, stock market prices, prices from financial information terminals or quotations from independent brokers. If there is a mismatch between the maturity of the exposure and the credit risk protection (the protection has a shorter maturity than the exposure), such protection shall not be recognised. Debt securities used as collateral shall not form part of the institution’s capital;

l) exposures secured by shares of multilateral development banks, if the unsecured claims on such banks have a risk weight of 0% according to the Standardised Approach and if the value of the shares exceeds the value of the secured exposure by 150%. Shares used for these purposes are tradable and marked to market by means of easily available closing prices, which are obtained from independent sources; these include, in particular, stock market prices, prices from financial information terminals or quotations from independent brokers;

m) exposures secured by shares, provided that the value of the shares exceeds the value of the secured exposure by 150%. Shares used for these purposes shall meet the following conditions:

1. it shall be traded on a recognised stock exchange (whose registered office is in a Member State) and is included in the main index of this stock market,
2. it is valued by prices published by a recognised stock exchange with its registered office in a Member State,
3. the stated excess of the value of the secured exposure can be verified at any time,

the provisions of letter l) are not affected hereby;

n) low risk off-balance sheet items pursuant to Annex 6 to the Decree, if an agreement has been concluded with a person or group of connected persons, under which an exposure may only be permitted if it has been proven that it does not cause the limits applied pursuant to Article 182 to be exceeded,

o) exposures to parent undertakings which have their registered office within the territory of the Czech Republic, and which are a bank or an investment firm,

p) exposures to recognised stock exchanges and recognised clearing houses which have maturity of one year or less, provided that these exposures do not form part of the capital of such persons.

(2) The liable entity may exclude the following exposures from the investment portfolio exposure:

a) claims
   1. secured by mortgages on residential real estate which is occupied or leased by the obligor,
   2. secured by shares in Finnish residential housing companies acting in accordance with the Finnish Housing Company Act of 1991, or subsequent equivalent legislation,
   3. from the residential real estate leasing transaction, if the lessor retains the unlimited title to the residential real estate, until the lessee uses its pre-emption right,

   up to 50% of the value of the residential real estate or shares. **The exclusion may be performed if** such claims are assigned a risk weight of 35% according to the Standardised Approach;

b) claims
   1. secured by mortgages on offices and other commercial premises on the territory of another Member State,
   2. secured by shares in Finnish housing companies acting in accordance with the Finnish Housing Company Act of 1991, or subsequent equivalent legislation,
   3. from the leasing transactions concerning offices and other commercial premises situated within the territory of another Member State, if the lessor retains the unlimited title to the offices and other commercial premises situated within the territory of another Member State, until the lessee uses its pre-emption right,

   up to 50% of the value of the shares, and in the case of offices and other commercial premises up to 50% of their value or another value set by the competent authority in another Member State, which considers offices and other commercial premises within its territory to be eligible as collateral and has assigned a risk weight of 50% to claims secured by offices and other commercial premises in accordance with the Standardised Approach,

c) 50% of the value of off-balance sheet items with medium-low risk pursuant to Annex 6 to the Decree,

d) 80% of the value of exposures to recognised stock exchanges and recognised clearing houses with a maturity of more than one year, but not more than three years, provided that such exposures do not form part of the capital of these persons,

e) 50% of the value of claims on recognised stock exchanges and recognised clearing houses, provided that such claims arise from debt securities with a maturity of more than three years and do not form part of the capital of such persons. The issue of the debt securities shall have been approved by the competent authority, or the debt securities are traded on recognised stock exchanges and are quoted on them on a daily basis.

(3) A bank may also exclude the following from the investment portfolio exposure

a) exposures to subsidiaries, if it includes them in the regulated consolidated group,
b) 80% of the value of exposures to credit institutions, investment firms, foreign investment firms from Member States and recognised investment firms with their registered office in a third country.

(4) A credit union may also exclude the following from the investment portfolio exposure

a) exposures to banks and foreign banks with a remaining maturity of one year or less, provided that such exposures do not form part of the capital of these persons,
b) 80% of the value of exposures to banks and foreign banks with a remaining maturity of more than one year but not more than three years, if such exposures do not form part of the capital of these persons,
c) 50% of the value of claims on banks and foreign banks, provided that such claims arise from debt securities with a remaining maturity of more than three years and do not form part of the capital of such persons. The issue of the debt securities shall have been approved by the competent authority, or the debt securities are traded on recognised stock exchanges and are quoted on them on a daily basis;
d) 80% of the value of exposures to credit unions, if such exposures do not form part of the capital of these persons.

(5) An investment firm may also exclude the following from the investment portfolio exposure

a) exposures to subsidiaries, if it includes them in the regulated consolidated group,
b) exposures to credit institutions, investment firms, foreign investment firms from Member States and recognised investment firms from a third country, whose remaining maturity shall not exceed one year, provided that such exposures do not form part of the capital of these persons,
c) 80% of the value of exposures to credit institutions, investment firms, foreign investment firms from Member States and recognised investment firms from a third country, whose remaining maturity exceeds one year, but is not more than three years, provided that such exposure does not form part of the capital of these persons,
d) 50% of the value of claims on credit institutions, investment firms, foreign investment firms from Member States and recognised investment firms from a third country, provided that such claims arise from debt securities with a remaining maturity of more than three years and do not form part of the capital of such persons. The issue of the debt securities shall have been approved by the competent authority, or the debt securities are traded on recognised stock exchanges and are quoted on them on a daily basis.

(6) If an exposure, or part thereof covered by the protection stated herein, is excluded from the investment portfolio exposure to a person or economically connected group of persons pursuant to paragraphs 1 to 5, the exposure or part thereof shall be handled as if it had arisen to the protection provider, issuer of a security, person with whom the cash collateral is deposited, or the person that guaranteed a draft, and not to the obligor.

(7) 'Large investment portfolio exposure to a person or economically connected group of persons' shall mean an exposure (or reduced exposure, pursuant to paragraphs 1 to 5), whose value is equal to or higher than 10% of sum of the original and additional capital reduced by deductible items in accordance with Part Four, III.

Article 182

Limits

(1) The investment portfolio exposure to a person or economically connected group of persons shall not exceed 25% of the sum of original and additional capital reduced by capital deductions in accordance with Part Four, III.

(2) The investment portfolio exposure to a person or economically connected group of counterparties shall not exceed 20% of the sum of original and additional capital reduced by capital deductions in accordance with Part Four, III, if the person or member of the economically connected group of persons is

a) the parent undertaking or a subsidiary of the liable entity, or a subsidiary of the parent undertaking, or
b) another person with close links.

(3) The total of large investment portfolio exposures to persons or economically connected groups of persons shall not exceed 800% of the sum of original and additional capital reduced by capital deductions in accordance with Part Four, III. If the person is a member of more than one economically connected groups of persons (with the exception of the cases where the investment portfolio exposure to this person is divided into halves pursuant to paragraph 4, sentence one) for the purposes of this limit the investment portfolio exposure to this person shall only be included in one economically connected group of persons. For the purposes of monitoring the 800% limit it is obligatory to include the type of investment portfolio exposure to an economically connected group where, for the purposes of this limit, the exposure to a given person has been excluded from the exposure to the economically connected group and the exposure to this economically connected group is not a large exposure.

(4) If interests in the relevant person are held by two persons included in different economically connected groups of persons, and the interests of such persons are equal, the investment portfolio exposure to this person can be divided into halves and included in the exposure to both economically connected groups of persons. In other cases, where the person is equally influenced by more than two persons, a decision can be made to which economically connected group of persons the total volume of exposure to the relevant person should be permanently assigned.

(5) The investment portfolio exposure limits pursuant to paragraphs 1 to 3 shall be observed at all times.

(6) If, in extraordinary cases, the investment portfolio exposure exceeds the limits pursuant to paragraphs 1 to 3, the liable entity shall notify the Czech National Bank of this fact without delay.

Article 183

Protection requirements

(1) Funded credit protection or unfunded credit protection is eligible for purposes of the large exposures rules if it complies with the eligibility conditions for credit risk mitigation techniques pursuant to Articles 102 to 107 for calculating the value of risk-weighted exposures according to the Standardised Approach.

(2) If the liable entity proceeds pursuant to Article 184, 2, the protection shall be eligible for purposes of the large exposure rules provided that the requirements pursuant to Articles 90 to 101 are met.

(3) The use of protection involves the following procedure:

a) the value of unfunded credit protection is adjusted by the currency mismatch pursuant to Annex 16 to the Decree, unless the protection and the exposure are in the same currency,
b) in the case of a maturity mismatch, Articles 105 and 106, and Annex 16 to the Decree shall apply,
c) partial protection of an exposure can be eligible pursuant to Articles 106 and 107, and Annex 16 to the Decree.

Article 184

The Financial Collateral Comprehensive Method, internal estimates of LGD values and conversion factors

(1) When applying the Financial Collateral Comprehensive Method pursuant to Annex 16 to the Decree, the values of exposures which are subject to the limits pursuant to Article 182 may be calculated by using, instead of full or partial exclusion according to

a) Article 181, 1, e) and k) and l) and m),
b) Article 181, 1, f) and g),

a lower value than the exposure value, which, however, shall not be lower than the sum of the fully adjusted values of the exposures (E*) to the person or group of economically connected persons stipulated pursuant to Annex 16 to the Decree.

(2) If the liable entity is authorised to use internal estimates of LGD values and conversion factors, the Czech National Bank can permit it to use internal estimates of the impact of financial collateral on the exposure value, and to reflect these values in the calculation of the value of exposures for purposes of the limits pursuant to Article 182, 1 to 3. This procedure can be permitted upon fulfilment of the following conditions:

a) the impacts of financial collateral on the exposure value are estimated separately from the impacts reflected in the LGD value,
b) the procedures used ensure that the estimates for the reduction in the exposure value are appropriate and reliable,

c) the procedures are used in accordance with the procedures used to calculate the capital requirements.

(3) If the liable entity is authorised to use internal estimates of LGD values and conversion factors, but it does not use internal estimates for the impact of financial collateral on the exposure value pursuant to paragraph 2, the Czech National Bank may permit it to use the procedure pursuant to paragraph 1, or the procedure pursuant to Article 181, in order to calculate the exposure value. Only one of these methods may be used.

(4) The use of the methods pursuant to paragraphs 1 to 3 for calculating the exposure value in order to monitor the limits pursuant to Article 182, 1 to 3 shall involve regular stress testing of credit risk concentrations, including the net realisable value of any received collateral, provided that

a) the stress tests encompass risks that arise due to potential changes in market conditions which may have an adverse effect on capital, and risks that arise as part of collecting outstanding receivables through protection in stressed situations,
b) at the request of the Czech National Bank it is possible to demonstrate that the implemented stress tests are relevant and appropriate for evaluating such risks,
c) the value of the eligible protection for the calculation of the exposure value is reduced accordingly if such tests suggest a lower realisable value for the received protection than the value that could be used pursuant to paragraphs 1 to 3.

(5) Part of the risk management strategy of the liable entity are the policies and procedures to address concentration risk, in particular

a) policies and procedures to address risks arising from maturity mismatches between exposures and any protection on those exposures,
b) policies and procedures in the event that a stress test demonstrates that the realisable value of received collateral is lower than it should be according to the procedure pursuant to paragraphs 1 to 3,
c) policies and procedures for dealing with concentration risk arising from the application of credit risk mitigation techniques, especially in the case of large indirect exposures, for example to a single issuer of securities taken as collateral.

(6) If the impacts of protection are recognised under the conditions of paragraphs 1 to 3, any secured part of the exposure can be handled as having been incurred to the protection provider and not to the obligor.

Article 185

Large exposures that are not stated in reports submitted to the Czech National Bank shall be maintained in the records of the liable entity, together with the reasons for their omission, for at least one year.

Heading II

Trading portfolio exposure

Article 186

Definition of the trading portfolio exposure

(1) Upon the implementation of administrative procedures pursuant to Articles 44 to 53, 'trading portfolio exposure to a person or economically connected group of persons' shall mean the sum of long positions pursuant to paragraph 2 a) to g).

(2) The following long (designated by a plus sign) and short (designated by a minus sign) positions shall be established in relation to a person or economically connected group of counterparties:

a) interest rate positions pursuant to Article 133,
b) equity positions pursuant to Section 143,
c) exposures to collective investment undertakings pursuant to Articles 149 to 151,
d) positions arising from free deliveries pursuant to Article 130,
e) differences between the agreed settlement price and the current mark to market of securities, foreign currencies and commodities for transactions not settled by the specified settlement date, if these differences represent a loss,
f) exposures from repurchase transactions, the borrowing and lending of securities or commodities, whose values are set pursuant to Annex 8 to the Decree,
g) exposures from derivatives, margin lending transactions and long settlement transactions, whose values are set pursuant to Annex 8 to the Decree,
h) differences between the long and short positions of other trading portfolio instruments arising from other transactions.

Each position is assigned to only one of the positions pursuant to letters a) to h).

(3) Capital deductions shall not be included in the trading portfolio exposure to a person or economically connected group of persons.

(4) For the purposes of paragraph 2, d) to g), the exposure values and risk-weighted exposure amounts are specified using the Standardised Approach.

Capital requirement for exposure risk in the trading portfolio

Article 187

(1) The difference between the investment portfolio exposure corresponding to the limit pursuant to Article 182, and the investment portfolio exposure to a person pursuant to Article 180 following the exclusion of exposures from the investment portfolio exposure

pursuant to Article 181 shall be calculated for each person. This positive difference shall be called a residual exposure to the person.

(2) **In order to determine whether to calculate the capital requirement for exposure risk in the trading portfolio, the long and short trading portfolio positions towards a person defined in Article 186, 2 shall be summed. Only in the case of an institution whose claims would receive a risk weight of not more than 20% in accordance with the Standardised Approach, the sum shall be multiplied by a coefficient of 0.2. If the sum is lower than the residual exposure to the person, the capital requirement for exposure risk in the trading portfolio shall equal zero. Otherwise, the capital requirement for exposure risk in the trading portfolio shall be calculated in accordance with the procedure stipulated in paragraphs 3 to 5 and Article 188, 1 and 2.**

(3) For the purposes of calculating the capital requirement for exposure risk in the trading portfolio, coefficients shall be assigned to the long positions pursuant to Article 186, 2 as follows:

a) to interest rate positions the coefficients in accordance with Table 2 in Annex 20 to the Decree,
b) to equity positions the coefficients of specific equity risk used to calculate the capital requirement for specific equity risk in the trading portfolio,
c) to exposures to collective investment undertakings a coefficient of 0.08,
d) to positions pursuant to Article 186, 2 d) to h) coefficients equal to the product of 0.08 and the risk weight in accordance with the Standardised Approach.

(4) **Only in the case of an institution whose claims would receive a risk weight of not more than 20% according to the Standardised Approach, these positions shall be multiplied by a coefficient of 0.2 pursuant to paragraph 3.**

(5) All the short positions defined in Article 186, 2 shall be summed. **Only in the case of an institution whose claims would receive a risk weight of not more than 20% according to the Standardised Approach, these positions shall be multiplied by a coefficient of 0.2.** The long positions shall be arranged by coefficient in ascending order. Further, the sum of the short positions shall be gradually offset with the long positions in sequence proceeding from the items with the highest coefficient. The result shall be a sequence of the remaining long positions.

(6) **The residual exposure to a person pursuant to paragraph 1 shall be gradually offset with the remaining long positions pursuant to paragraph 5, proceeding from the positions with the lowest coefficient**. A resulting sequence of long positions shall thus be obtained.

Article 188

(1) The capital requirement for the trading portfolio exposure risk towards a person shall be calculated as the sum of the products of the long positions of the resulting sequence

and the relevant coefficient in accordance with Article 187, 3 and the correction factor in accordance with Annex 23 to the Decree.

(2) The value of the correction factor depends on the frequency with which the sum of the long and short trading portfolio positions towards a person determined in accordance with Article 187, 2 exceed the residual exposure to the person during the nine working days before the reporting date and the size of the excess on the reporting day. The correction factor in column A of the Table in Annex 23 to the Decree shall be applied if the excess has occurred for all of the ten working days. If the excess lasted for less than the ten working days the correction factor in column B of the Table shall be applied.

(3) The procedure pursuant to Article 187 and according to paragraphs 1 and 2 shall be applied in relation to a person for each excess, in the trading portfolio, of the limits specified in Article 182. In the case of an economically connected group of persons, the procedure pursuant to Article 186, 2, and subsequently pursuant to Article 187 and according to paragraphs 1 and 2, shall be applied for each excess of the limits specified in Article 182. The individual capital requirements shall be summed, thus obtaining the capital requirement for exposure risk in the trading portfolio.

(4) The sum of the long and short trading portfolio positions of towards a person pursuant to Article 187, 2 shall not exceed 500% of the sum of original and additional capital reduced by capital deductions according to Part Four, III. This limit shall be applied only if the exposure limit pursuant to Article 182 has been exceeded for ten consecutive working days or less. If the limit has been exceeded for more than ten consecutive working days the sum of the excesses in the individual days must not exceed 600% of the sum of original and additional capital reduced by capital deductions according to Part Four, III.

Article 189

(1) Any operations leading to an artificial reduction in the capital requirement for exposure risk in the trading portfolio shall not be permitted.

(2) The liable entity shall have systems in place which ensure that each transfer that would result in an artificial reduction in the capital requirement for exposure risk in the trading portfolio is reported to the Czech National Bank without needless delay.

PART SIX

RULES FOR THE ACQUISITION, FINANCING AND ASSESSMENT OF ASSETS

(Re Article 15 of the Act on Banks and Article 11, 3 of the Act on Credit Unions)

Heading I

Rules for the acquisition and financing of assets

Article 190

Rules for the acquisition of certain types of assets by a bank

(1) A bank shall not acquire an interest in a person or a subordinated receivable towards a person that has a qualifying holding[17)] in the bank either separately or acting in concert with another person.

(2) A bank may only acquire participating securities[18)] issued by a person with a qualifying holding in the bank pursuant to paragraph 1 if the following conditions are met:

a) a bank that intends to acquire participating securities issued by a person with a qualifying holding in the bank pursuant to paragraph 1 (the „acquiring bank“), is in the position of a market maker and shall demonstrate its status as such to the Czech National Bank before the first acquisition of a participating security issued by a person with a qualifying holding pursuant to paragraph 1,
b) it shall acquire these participating securities for purposes of market making and assign them to its trading portfolio, and
c) the fair value of all the participating securities of one issuer, which is a person with a qualifying holding in the bank pursuant to paragraph 1, shall not exceed 1% of the capital of the acquiring bank stipulated on an individual basis.

(3) A bank shall not acquire unit certificates of a unit trust which is managed, or was established, by an investment company that is a person with a qualifying holding in the bank pursuant to paragraph 1.

Article 191

Rules for the acquisition of certain types of assets by a credit union

A credit union shall not acquire unit certificates of a unit trust that is managed or was established by an investment company that is a person with a qualifying holding in the credit union, either separately or acting in concert with another person.

[17)] Article 17a paragraph 4 of Act No. 21/1992 Coll.
[18)] Article 183a paragraph 1 of Act No. 513/1991 Coll., the Commercial Code, as amended.

Article 192

Rules for financing the acquisition of certain types of assets by a bank

(1) A bank may neither provide loans[19)] nor issue payment instruments or instruments of protection (guarantees, letters of credit, for example) for the purpose of borrowing to purchase participating securities or unit certificates issued by

a) that bank,
b) a legal person with a qualifying holding in the bank,
c) a legal person over which a person with a qualifying holding in the bank exercises control[20)],
d) a legal person over which persons acting in concert and exercising control of the bank exercise control,
e) a legal person that is one of the persons acting in concert referred to in letter d),
f) a legal person over which one or more of the persons acting in concert referred to in letter d) exercises control, or
g) a legal person over which the bank exercises control.

(2) The bank may neither provide loans nor issue payment instruments or instruments of protection for the purposes of borrowing to finance:

a) the acquisition of a participation in the persons referred to in paragraph 1 which is not in the form of securities,
b) the acquisition of a subordinated receivable towards a person referred to in paragraph 1, or
c) the creation of funds of the persons referred to in paragraph 1.

Article 193

Rules for financing the acquisition of certain types of assets by a credit union

(1) A credit union may neither provide loans nor issue payment instruments or instruments of protection (guarantees, letters of credit, for example) for the purpose of borrowing to purchase participating securities or unit certificates issued by

a) a legal person with a qualifying holding in the credit union,
b) a legal person over which a person with a qualifying holding in the credit union exercises control[21)],
c) a legal person over which persons acting in concert and exercising control of the credit union exercise control,
d) a legal person that is one of the persons acting in concert referred to in letter c), or
e) a legal person over which one or more of the persons acting in concert referred to in letter c) exercises control.

[19)] Article 1 paragraph 2 b) of Act No. 21/1992 Coll.
[20)] Article 17a paragraph 1 of Act No. 21/1992 Coll.
[21)] Article 2b paragraph 2 of Act No. 87/1995 Coll.

(2) The credit union may neither provide loans nor issue payment instruments or instruments of protection for the purposes of borrowing to finance:

a) the acquisition of a participation in the persons referred to in paragraph 1 which is not in the form of securities,
b) the acquisition of a subordinated receivable against the credit union or a person referred to in paragraph 1, or
c) the creation of funds of the credit union or of a person referred to in paragraph 1.

(3) The credit union may neither provide loans nor issue payment instruments or instruments of protection for the purposes of paying up the basic member's contribution or other member's contribution.

Heading II

Rules for the evaluation of assets

Section 1

Categorisation of selected exposures in the investment portfolio

Article 194

Subject of categorisation

(1) The bank or credit union categorises investment portfolio exposures pursuant to Article 47, in the form of receivables from activities performed under its business license, („receivables from financial activities"), regardless of whether it uses the Standardised Approach or the IRB Approach. Receivables from financial activities shall mean, in particular, loans, receivables from financial leasing, receivables from a deposit, receivables from guarantees, receivables from letters of credit, receivables from factoring, advance payments for the acquisition of securities provided for a period of more than 30 days, receivables from the sale of securities which have not been settled within 30 days of the stipulated date of settlement.

(2) The categorisation of selected investment portfolio exposures does not apply to receivables from holdings of securities, receivables from derivatives and receivables from other than financial activities, in particular receivables from labour-law and similar relations, operating advance payments or advance payments for the acquisition of tangible and intangible assets, receivables from the sale of stock, tangible and intangible assets.

Article 195

Basic categories

The bank or credit union shall assign receivables from financial activities to the following categories:

a) receivables without obligor default,

b) receivables with obligor default

according to the definition of obligor default in Article 49. If, for the purposes of capital adequacy, the bank or credit union applies to retail exposures the definition of obligor default at the transaction level, it shall apply it in the same manner for the categorisation of these exposures.

Article 196

Receivables without obligor default

(1) The bank or credit union shall assign receivables without obligor default to the following subcategories:

a) standard receivables,
b) watch receivables.

(2) The bank or credit union does not have to further classify receivables without obligor default pursuant to paragraph 1 if, when assessing whether their book value has decreased, it treats them as a portfolio of individually insignificant receivables (Article 204).

(3) A receivable is regarded as standard if there is no reason to doubt that it will be repaid in full without the bank or credit union having recourse to collecting outstanding debt through credit protection. Principal, interest and fees are being duly paid, none of them being more than 30 days past due. None of the receivables towards the obligor has been restructured in the last 2 years due to a deterioration in its financial situation.

(4) A receivable is regarded as watch if, given the obligor's financial and economic situation, it is likely to be repaid in full without the bank or credit union having recourse to collecting outstanding debt through credit protection. Principal, interest and fees are being paid with some problems, but none of them is more than 90 days past due. None of the receivables towards the obligor has been restructured in the last six months due to a deterioration in its financial situation.

Article 197

Receivables with obligor default

(1) Receivables with obligor default are considered non-performing receivables. The bank or credit union shall assign them to the following subcategories:

a) substandard receivables,
b) doubtful receivables,
c) loss receivables.

(2) A receivable is regarded as substandard if, given the financial and economic situation of the obligor, its full repayment is uncertain, but its partial repayment is highly likely without the bank or credit union having recourse to collecting outstanding debt

through credit protection. A receivable is also regarded as substandard if principal, interest and fees are being paid with some problems but none of them is more than 180 days past due.

(3) A receivable is regarded as doubtful if, given the financial and economic situation of the obligor, its full repayment is highly unlikely but its partial repayment is possible and likely without the bank or credit union having recourse to collecting outstanding debt through credit protection. A receivable is also regarded as doubtful if principal, interest and fees are being paid with some problems but none of them is more than 360 days past due.

(4) **A receivable is regarded as loss if, given the financial and economic situation of the obligor, its full repayment is impossible. The expectation is that such a receivable will not be repaid or will only be repaid in part in a very small amount without the bank or credit union having recourse to collecting outstanding debt through credit protection. A receivable is also regarded as loss if the principal, interest and fees are more than 360 days past due. A receivable towards an obligor who has been declared bankrupt, except in the case of a receivable against estate arising after the declaration of bankruptcy, is also regarded as loss.**

Article 198

Classification into categories and subcategories

(1) If a bank or credit union has several receivables from financial activities towards the same obligor, and at least one of these meets the criteria of obligor default, all the receivables towards the obligor shall be assigned to the category of receivables with obligor default, and within that, to the same subcategory of receivables. The bank or credit union shall not proceed in this manner in the case of receivables from financial activities assigned for the purposes of capital adequacy to the category of retail exposures, in which case obligor default is monitored at the level of transactions.

(2) If a receivable simultaneously meets the assignment criteria for several subcategories, the bank or credit union shall assign it to the worst such subcategory. The bank or credit union shall not proceed in this manner in the case of receivables from financial activities assigned for the purposes of capital adequacy to the category of retail exposures, in which case obligor default is monitored at the level of transactions.

(3) The bank or credit union shall assign a restructured receivable at the time of restructuring to the subcategory in which the receivable was or to which it should have been assigned before restructuring. If the bank or credit union is able to prove that the risk of non-payment of that receivable is lower than prior to restructuring, it may assign it to a better subcategory, as long as an equivalent approach to the receivable is used for the purposes of capital adequacy; this shall be without prejudice to the provisions that define a standard receivable and a watch receivable.

(4) The bank or credit union shall assign a receivable it incurs in connection with the cession of a group of its other receivables at inception to the subcategory in which a substantial majority of the receivables to be ceded was or to which it should have been assigned. If the bank or credit union is able to prove that the risk of non-payment of that

receivable is lower than prior to the cession, it may assign it to a better subcategory, as long as an equivalent approach to the receivable is used for the purposes of capital adequacy.

(5) At least once every quarter, the bank or credit union shall review the accuracy of the assignment of receivables to categories and subcategories, and shall make any relevant changes to their classification in accordance with the findings of the review. The bank or credit union can also review the accuracy of the assignment of individually insignificant receivables over a longer period than once a quarter, but not less than once a year, if this is appropriate to the character of the receivable or the obligor, and if it is able to demonstrate sufficient prudence in the application of such procedure.

Section 2

Losses from the impairment of selected exposures in the investment portfolio

Article 199

Individual and portfolio approach

(1) The bank or credit union shall evaluate whether credit risk has led to an impairment in the book value (the „impairment“) of individual receivables or a portfolio of receivables with similar characteristics (the „portfolio of homogenous receivables“).

(2) The Portfolio Approach

a) is applied by the bank or credit union for individually evaluated receivables for which it has not found impairment in individual cases. In this case, the bank or credit union shall still evaluate whether impairment has occurred in a portfolio of homogenous, individually undiminished receivables. If the bank or credit union does not have more than one homogenous receivable, the Portfolio Approach shall not be applied;
b) can be applied by the bank or credit union for individually insignificant homogenous receivables.

(3) An objective evidence of impairment in a portfolio of homogenous receivables resulting from an event that occurred after the inception of the receivables, is the existence of observable data indicating a decrease in the expected future cash flows from that portfolio, even though the decrease cannot yet be identified with the individual receivables in the portfolio.

(4) Indicators of a decrease in the expected future cash flows from a portfolio of homogenous receivables include, for example:

a) an increase in unemployment in relevant areas,
b) a decrease in property prices in relevant areas,
c) adverse conditions in the industries in which the obligors operate,

d) an increase in the number of obligors who have reached their limit and are repaying their debts in the minimum possible amount.

Article 200

Value adjustments

(1) If an impairment of a receivable occurs the bank or credit union shall make a value adjustment. If the bank or credit union does not charge off the receivable, or a part thereof corresponding to the loss from the impairment, it shall establish an allowance for this loss.

(2) At least once every quarter the bank or credit union shall evaluate the adequacy and appropriateness of the allowances established for receivables and adjust them accordingly.

(3) The bank or credit union must be able to demonstrate the adequacy and appropriateness of the allowances.

Article 201

Methods for determining the loss from impairment

(1) A loss from impairment is determined by means of

a) discounting expected future cash flows,
b) coefficients, or
c) statistical models.

(2) For the purposes of fulfilling the prudential rules, the bank or credit union shall determine the loss from impairment using the same method as that for keeping accounts and preparing financial statements.

Article 202

Discounting expected future cash flows

(1) Where a bank or credit union uses the discounting of expected future cash flows, it determines the loss from an impairment of a receivable as the difference between the book value and the current value of the expected future cash flows from the receivable discounted by the original effective interest rate; the original effective interest rate is determined at the time of the receivable’s inception.

(2) The effective interest rate shall correspond to the interest rate used to discount the expected future cash flows up to the maturity of the receivable, or, where more appropriate, for a shorter period, to obtain the book value of the receivable.

(3) When calculating the effective interest rate, the bank or credit union shall consider all contractual terms in estimating the expected future cash flows, in particular prepayment options and fees; if the expected future cash flows cannot be determined reliably, the contractual cash flows shall be used. When calculating the effective interest rate the bank or credit union shall not consider future losses from impairment due to credit risk.

Article 203

Coefficients

(1) If the bank or credit union uses coefficients, it shall determine the loss from an impairment of a receivable by multiplying the difference between the principal of the receivable plus the accrued interest and fees and the credit protection on that receivable taken into consideration by the bank or credit union by a coefficient of:

a) 0.01 in the case of a watch receivable,
b) 0.2 in the case of a substandard receivable,
c) 0.5 in the case of a doubtful receivable,
d) 1.0 in the case of a loss receivable.

(2) The bank or credit union shall also verify whether the loss from a correctly assessed watch, substandard or doubtful receivable is greater than the loss determined pursuant to paragraph 1. If the loss is greater than the loss determined pursuant to paragraph 1, the bank or credit union shall increase the coefficient; however, the coefficient for a

a) watch receivable must be lower than 0.2,
b) substandard receivable must be lower than 0.5, and for a
c) doubtful receivable must be lower than 1.0.

(3) Where the bank or credit union applies the accrual principle to a non-performing receivable, it shall use the principal of the receivable without the accrued interest and fees in the calculation pursuant to paragraph 1 and it shall add an amount equal to the accrued interest and fees to the computed loss.

(4) If the bank or credit union stipulates a loss from an impairment in the book value of a receivable valued at the time of the accounting transaction at the purchase price, in particular, a receivable acquired in return for payment, it shall proceed in the following way:

a) it shall ascertain whether, at the time of the accounting transaction, in particular, at the time the receivable is acquired, there exists a difference between the purchase price of the receivable and the principal of the receivable plus the accrued interest and fees,
b) if there exists a difference pursuant to letter a) and if it has the character of
    1. a discount, meaning that the purchase price of the receivable is less than the principal of the receivable plus the accrued interest and fees, the bank or credit union shall deduct the discount (or a portion of the discount, if the discount is greater than the loss**)**, from the loss determined pursuant to paragraph 1,
    2. a premium, meaning that the purchase price of the receivable is greater than the principal of the receivable plus the accrued interest and fees, the bank or credit union shall add the premium to the loss determined pursuant to paragraph 1,
c) if there exists no difference pursuant to letter a), the bank or credit union shall determine the loss pursuant to paragraph 1.

(5) The bank or credit union shall determine the loss from an impairment of a receivable that it incurs in connection with the cession of a group of its other receivables in such an

amount that the principal of the receivable plus the accrued interest and fees and minus the allowance is no greater than the sum of the principals of the ceded receivables plus the accrued interest and fees and minus the allowance in the case that the cession had not occurred and the bank or credit union had determined losses from the impairment of the individual receivables. This shall not apply if the bank or credit union proceeds in accordance with the last sentence of Article 198, 4.

Article 204

Statistical models

(1) When commencing the evaluation of portfolios of individually insignificant receivables the bank or credit union shall have:

a) created sufficiently large portfolios of individually insignificant homogenous receivables to ensure that the losses are statistically significant. For the purposes of applying a statistical model the bank or credit union shall assign all its receivables of a given type to a portfolio of individually insignificant homogenous receivables, including those which it decided to exclude from the portfolio of individually insignificant receivables because it had sufficient information to evaluate their impairment;
b) sufficiently long time series relating to the given receivables, these time series usually being comparable with the average maturity of the individually insignificant receivables. However, in the case of portfolios of individually insignificant receivables with an original maturity of over one year, the length of the time series is usually at least one economic cycle, or at least three years, and
c) a statistical model that considers the time value of money, all expected future cash flows associated with the portfolio of receivables and the maturity of the receivables in the portfolio, and does not give rise to a loss from an impairment of the receivables in the portfolio at the time of the accounting transaction.

(2) The bank or credit union shall monitor actual losses associated with the portfolio of individually insignificant receivables and test the correctness of the estimate of losses using new information on the actual defaults by obligors in the portfolio within a period appropriate to the repayment frequency; it shall also take into account information on individually insignificant receivables which it excluded from the portfolio of individually insignificant receivables because it had sufficient information to evaluate the impairment.

(3) The bank or credit union shall regularly verify the appropriateness of the statistical model and the correctness of the parameters thereof.

(4) The bank or credit union shall establish allowances for the portfolios of individually insignificant receivables according to the statistical estimate of losses from these portfolios calculated using statistical models, unless it charges off the receivables in this amount.

(5) The bank or credit union shall be able to demonstrate sufficient prudence when using the statistical models to calculate the size of losses for the portfolios of individually insignificant receivables.

Section 3

Provisions for off-balance sheet items

Article 205

(1) At least once a quarter, the bank or credit union shall evaluate the adequacy and appropriateness of the provisions established for off-balance sheet items in accordance with accounting methods, and shall adjust their levels accordingly.

(2) The bank or credit union must be able to demonstrate the adequacy and appropriateness of these provisions.

PART SEVEN

DISCLOSURE OF INFORMATION

[Re Article 11a, 9 of the Act on Banks, Article 7b, 9 of the Act on Credit Unions and Article 199, 2, t) of the Act on Business Activities on the Capital Market]

Content of information to be disclosed

Article 206

(1) The content of the information that the liable entity discloses about itself, the structure of its shareholders or members, the structure of the consolidated group of which it is a part, its activities and financial situation on an individual basis is given in Annex 24 to the Decree.

(2) The content of the information that the liable entity discloses on the fulfilment of the prudential rules on an individual basis is given in Annex 25 to the Decree.

(3) The content of the information that the liable entity discloses on the fulfilment of the prudential rules on a consolidated basis is given in Annex 26 to the Decree.

(4) The content of the information in an abbreviated scope that the liable entity discloses on the fulfilment of the prudential rules is given in Annex 27 to the Decree. If the liable entity forms a regulated consolidated group it can disclose this information either

a) on an individual basis, or
b) on a consolidated basis for the regulated consolidated group

provided that it uses the selected method on a long-term basis. If it changes the method it shall disclose the reasons for such change together with other disclosed information.

Article 207

(1) The content of information disclosed by the branch of a foreign bank is given in Annex 28 to the Decree.

(2) The content of information disclosed by the organisation unit of a foreign investment firm is given in Annex 29 to the Decree.

Frequency and time-limits for the disclosure of information

Article 208

(1) The liable entity shall disclose the information on a quarterly basis

a) pursuant to Annex 24 to the Decree, and
b) on capital and capital requirements pursuant to Annexes Nos. 25 and 27 to the Decree.

The liable entity shall disclose other information on an annual basis.

(2) The liable entity shall disclose information as at

a) 31 March, 30 June, and 30 September within six weeks after the end of the relevant calendar quarter,
b) 31 December within four months after the end of the calendar year.

(3) The liable entity shall disclose quarterly information on the financial situation and information on capital and capital requirements together with information related to the three previous quarters.

(4) The liable entity shall also always disclose the date on which it disclosed the information. Where it supplements or corrects previously disclosed information it shall give the date on which it disclosed the supplemented or corrected information.

Article 209

(1) The branch of a foreign bank or organisational unit of a foreign investment firm shall disclose information on a quarterly basis as at

a) 31 March, 30 June, and 30 September within six weeks after the end of the relevant calendar quarter,
b) 31 December within four months after the end of the relevant calendar year.

(2) The branch of a foreign bank or organisational unit of a foreign investment firm shall also always disclose the date on which it disclosed the information. Where it supplements or corrects previously disclosed information it shall give the date on which it disclosed the supplemented or corrected information.

Manner of disclosing information

Article 210

(1) The liable entity shall disclose the required information in the Czech language on its website in a downloadable document created in a commonly used format. The criteria for disclosing information as at 31 December of the calendar year shall also be met if the liable entity discloses such information directly as part of its fulfilment of obligations as an accounting unit, or as an issuer of quoted securities, in the annual report or the consolidated annual report.

(2) The liable entity shall also disclose on its website at least its most recent annual report and consolidated annual report, if it is bound to prepare it. Such report shall also comprise a financial statement verified by the auditor.

(3) The liable entity shall also notify the Czech National Bank of the exact website address where such information and the annual report or consolidated annual report are available, and of any changes thereto.

Article 211

(1) The branch of a foreign bank or organisational unit of a foreign investment firm shall disclose the information in the Czech language on its website in a downloadable document created in a commonly used format.

(2) The branch of a foreign bank or organisational unit of a foreign investment firm shall also notify the Czech National Bank of the exact website address where such information and the annual report or consolidated annual report are available, and of any changes thereto.

Article 212

Structure of disclosed information

If the information to be disclosed is subject to reporting duties to the Czech National Bank[22)], the liable entity shall disclose this in a similar structure to that used in reports submitted to the Czech National Bank.

Article 213

Content of information verified by the auditor

(1) The content of the information on an individual or a consolidated basis as at 31 December of the calendar year which is to be disclosed, and which is verified by an auditor, is given in Annex 30 to the Decree.

(2) The liable entity shall disclose the information pursuant to paragraph 1 in its annual report.

[22)] Article 41 of Act No. 6/1993 Coll., on the Czech National Bank, as amended.

PART EIGHT

CERTAIN INFORMATION AND DOCUMENTS SUBMITTED TO THE CZECH NATIONAL BANK

[Re Article 24, 1 of the Act on Banks, Article 27, 1 of the Act on Credit Unions and Article 199, 2, g) of the Act on Business Activities on the Capital Market]

Information on the consolidated group

Article 214

(1) Information on the consolidated group over which the Czech National Bank exercises supervision on a consolidated basis shall be submitted to the Czech National Bank by

a) a bank, which is
   1. a domestic parent bank,
   2. a parent bank, but which is not a domestic parent bank or corresponding bank in a group of a financial holding entity, provided that a member of its consolidated group is a foreign bank, foreign investment firm or financial institution whose registered office is in a third country,
   3. the liable bank in a group of a parent financial holding entity,
   4. the liable bank in a group of a foreign parent bank, or
   5. a bank in the group of a mixed-activity holding entity,
b) a credit union which is
   1. the liable credit institution in a group of a financial holding entity,
   2. the liable credit union in a group of a foreign parent credit institution, or
   3. a credit union in the group of a mixed-activity holding entity,
c) an investment firm which is
   1. a domestic parent investment firm,
   2. a parent investment firm, but which is not a domestic parent investment firm or corresponding investment firm in a group of a financial holding entity, provided that a member of its consolidated group is a foreign investment firm, foreign bank or financial institution whose registered office is in a third country,
   3. the liable investment firm in a group of a financial holding entity, or
   4. the liable investment firm in a group of a foreign parent investment firm, or
   5. an investment firm in the group of a mixed-activity holding entity.

(2) Pursuant to paragraph 1, the liable entity shall submit information on the consolidated group's situation as at 1 January by 31 January of the relevant year. In addition, the liable entity shall always promptly provide information on changes that have occurred since the previous report to the Czech National Bank.

Article 215

(1) Information on the consolidated group comprises both graphic and text parts.

(2) The graphic part of the information on the consolidated group depicts the structure of the consolidated group both in terms of its ownership and management. It shall always indicate the persons included in the regulated consolidated group.

(3) The scope of the text part of the information on the consolidated group is given in Annex 31 to the Decree. Where this concerns the information which has already been communicated to the competent authorities for purposes of supervision on an individual or consolidated basis of persons included in the consolidated group, the liable entity shall only state the name and address of the registered office of the competent authority to whom the information has been provided, and the date on which the information was provided.

Article 216

Information on outsourcing

If the liable entity outsources its important activities or their ancillary support it shall inform the Czech National Bank without needless delay. The information shall include a review of the activities that are outsourced, and the basic identification data on the person that provides the outsourcing. An important activity shall mean

a) an activity of such importance that a shortcoming or failure in its execution could have a material impact on the liable entity's ability to fulfil the prudential rules or on the continuity of its performance,
b) an activity whose provision is conditional upon the competent authority issuing a licence to perform it,
c) an activity that has a material impact on the risk management of the liable entity, or
d) the management of risks associated with activities pursuant to letters a) to c).

Information on capital requirements and approaches for their calculation

Article 217

(1) A liable entity that uses the Standardised Approach shall inform the Czech National Bank without needless delay of the eligible rating agency or export credit agency that it selected for the purposes of calculating credit quality pursuant to Article 89.

(2) A liable entity that uses an external rating for the purposes of calculating the credit quality of a securitised exposure pursuant to Article 115 shall inform the Czech National Bank of its choice of the eligible rating agency without needless delay.

Article 218

If the liable entity intends to change any of the approaches used to calculate capital requirements it shall inform the Czech National Bank of its intention without needless delay.

Article 219

(1) If the liable entity applies a phased implementation of the IRB Approach it shall inform the Czech National Bank without needless delay that it intends to include in the IRB Approach

a) another category of exposures,
b) other persons in the regulated consolidated group,
c) the use of internal estimates of the LGD value or conversion factors for the calculation of the risk weights of corporate exposures and exposures to central governments, central banks and institutions, or
d) other subcategories of retail exposures to which different correlations correspond pursuant to Annex 12 to the Decree.

(2) If, as part of the IRB Approach that it uses with the approval of the competent authority, the liable entity intends to implement a material change to any of the rating systems used, or rating models, or implement a material change or enlargement of the information systems or technologies, it shall inform the Czech National Bank of its intention without needless delay.

Article 220

The liable entity shall inform the Czech National Bank without needless delay
a) of the use of the option to calculate the capital requirements for instruments assigned to the small trading portfolio in the same manner as if they were instruments assigned to the investment portfolio,
b) of the termination of the procedure pursuant to letter a).

Article 221

Information on the risk of the non-fulfilment of an obligation

The liable entity shall inform the Czech National Bank without needless delay of all repurchase transactions and the borrowing and lending of securities and commodities where there has been a counterparty default.

Article 222

Information on the internal capital adequacy assessment system

(1) Information on the internal capital adequacy assessment system shall be submitted to the Czech National Bank by the liable entity which, pursuant to the Act on Banks, the Act on Credit Unions or the Act on Business Activities on the Capital Market, fulfils the obligations relevant to internal capital[23)].

(2) Pursuant to paragraph 1, the liable entity shall inform the Czech National Bank of the system which, as part of its governance, it has introduced and maintains for

[23)] Article 12c of Act No. 21/1992 Coll.
Article 8a of Act No. 87/1995 Coll.
Article 9a of Act No. 256/2004 Coll.

a) calculating and continually evaluating internally calculated capital needs and
b) planning and continually maintaining internal capital resources

in such amount, structure and distribution to adequately cover the risks to which it is, or could be, exposed (internally calculated and maintained capital adequacy). It shall always provide information on the management and organisational assumptions and structures, the procedures, outputs and their use, and the control mechanisms of its system.

(3) The scope and the detail of the information shall correspond to the scope and the complexity of the liable entity's internal capital adequacy assessment system pursuant to paragraph 1. Where this concerns information on this system on a consolidated basis, the liable entity, in accordance with paragraph 1, shall also state information on the structure of the individual persons that are members of the same consolidated group and which are included in its internal capital adequacy assessment system.

(4) The liable entity, pursuant to paragraph 1, shall inform the Czech National Bank of the internal capital adequacy assessment system for the previous financial year not later than on 30 June, unless it agrees otherwise with the Czech National Bank. Except where the nature of the matter dictates otherwise, the information on the internal capital adequacy assessment system shall contain information on the plan and events for the relevant financial year and on the plan for the further maintenance of internal capital adequacy.

(5) The liable entity, pursuant to paragraph 1, shall submit information on its internal capital adequacy assessment system in documentary and electronic form, unless agreed otherwise with the Czech National Bank. The liable entity, pursuant to paragraph 1, shall agree individually with the Czech National Bank on the data format used in submitting this information in electronic form.

Article 223

Information on foreign exchange positions

A bank shall inform the Czech National Bank without needless delay if

a) the absolute value of the bank's net foreign exchange position in any currency or in Czech Koruna exceeds 15% of the bank's capital on an individual basis, or
b) the total foreign exchange position of the bank exceeds 20% of the bank's capital on an individual basis.

PART NINE

JOINT, TRANSITIONAL AND CLOSING PROVISIONS

Article 224

Joint provisions

For the purposes of issuing decisions or proving the required facts pursuant to the Decree,

a) the signatures of persons on every application, declaration or notification shall be notarially verified, unless the application, declaration or notification is submitted by a person whose current specimen signature is recorded at the Czech National Bank. If such person is represented by power of attorney, the application, declaration or notification shall also be accompanied by the power of attorney with a notarially verified signature of the donor of the power of attorney;
b) the documents shall be submitted in their original versions, or their notarially verified copies shall be submitted.

Article 225

Transitional provisions on the governance

(1) If, as at 1 July 2007, the bank or credit union does not fully meet

a) requirements for the governance pursuant to Part Three, I,
b) more detailed requirements for the management of credit risk pursuant to Annex 1, 1,
c) more detailed requirements for the management of market risk pursuant to Annex 1, 2,
d) more detailed requirements for the management of operational risk pursuant to Annex 1, 3,
e) more detailed requirements for the management of liquidity risk pursuant to Annex 1, 4, or
f) more detailed requirements for the management of concentration risk pursuant to Annex 1, 5,

it shall remedy any non-compliance with these requirements not later than on 31 December 2007; this shall not prejudice the provisions of paragraph 2.

(2) By 31 December 2008, the bank or credit union shall use the information systems purchased or installed before the date on which this Decree enters into force, and which do not meet the requirement pursuant to Annex 1 to the Decree, so that only

tested software is used in them for which documented results of tests have demonstrated that the security functions comply with the approved security policies of information systems.

Article 226

Transitional provisions for the standardised approach

(1) Until 31 December 2012, the liable entity shall assign to exposures to central governments and central banks of Member States in the domestic currency of any Member State, if they are funded in the same currency, the same risk weight which it would assign pursuant to Annex 4 to the Decree to exposures to central governments and central banks in their domestic currency, if they are funded in the same currency.

(2) Until 31 December 2010, the liable entity shall no longer use the upper limit of 20% for senior units issued by the French funds Fonds Communs de Créances, or similar persons performing securitisation, if an external rating exists for these debt securities from an eligible rating agency which corresponds to the best rating grade that this rating agency issued for the covered bonds.

(3) Until 31 December 2010, covered bonds [Annex 4, 12, b)] which are covered by credits secured by ships, the requirement for a priority claim to satisfaction in a minimum amount of 60% of the ship's value is replaced with a requirement for a priority claim to satisfaction in a minimum amount of 70% of the ship's value.

(4) Until their maturity, covered bonds issued before 31 December 2007 can be treated pursuant to Annex 4 to the Decree.

(5) From 1 October 2007, exposures to the International Financial Facility for Immunisation and the Islamic Development Bank shall be allocated a zero risk weight [Annex 4, 4, b)].

Transitional provisions for the IRB Approach

Article 227

(1) Until 31 December 2010, the liable entity can use an LGD value of 11.25% for covered bonds pursuant to Annex 4 to the Decree, if

a) they are covered by
   1. exposures to central governments, central banks, public sector entities, regional governments and local authorities of Member States, or exposures guaranteed by these persons, if their external rating is assigned the first credit quality step,
   2. exposures to central governments and central banks of third countries, international development banks or international organisations, or exposures

secured by the guarantees of these persons, if their external rating is assigned the first credit quality step,

3. exposures to public sector entities, regional governments and local authorities of third countries, or exposures secured by the guarantees of these persons, if these exposures are risk weighted in accordance with the Standardised Approach as exposures to institutions or central governments and central banks and if their external rating is assigned the first credit quality step,
4. exposures pursuant to points 1 to 3, if their external rating is assigned at least the second credit quality step in accordance with the Standardised Approach, and the volume of the exposure in these covered bonds does not exceed 10% of their unpaid-up nominal amount, or
5. exposures to institutions, if their external rating is assigned the first credit quality step and the total value of the exposure in such covered bonds does not exceed 10% of their unpaid-up nominal amount. Exposures arising from the management or transfer of obligor payments from credits secured by real estate to the holder of the covered bonds, or arising from liquidation, are not included in the 10% limit. For exposures to institutions in a Member State, where the maturity is not more than 100 days, the institution does not have to meet the condition of its external rating being assigned the first credit quality step; however, the external rating must be assigned at least the second credit quality step;

b) they are not covered by credits secured by residential real estate or by interests in Finnish residential housing companies, and

c) they are evaluated by an external rating allocated by an eligible rating agency, and this agency has given the bonds the highest external rating grade that it can allocate for covered bonds.

(2) Until 31 December 2010, the liable entity shall use the average weighted LGD value not lower than 10% for all retail exposures that are secured by residential real estate and to which guarantees of central governments do not apply, where the weight is the value of the exposure, subject to a floor of 10%.

(3) Until 31 December 2017 a liable entity which is authorised to use the IRB Approach, but which is not authorised to use the procedure for equity exposures pursuant to Article 97, can use the Standardised Approach for its equity exposures or the equity exposures of persons in the regulated consolidated group with a registered office in a Member State, except where this involves an immaterial portfolio, up to not more than the extent of the exposure that it held as at 31 December 2007. The liable entity can increase this extent by the equity exposures whose acquisition derives directly from the holding of the relevant equity exposures, and where these do not cause the share in the equity of the person that issued them to increase; if such acquired equity exposures increase the share in the equity of the person to whom the equity exposure arises, it is impossible to exercise the option not to use the IRB Approach pursuant to this provision. However, the option to use the Standardised Approach as part of the IRB Approach cannot be exercised for equity exposures that have been sold and subsequently repurchased.

Article 228

(1) A liable entity is authorised to use the IRB Approach with own estimates of LGD values or conversion factors not before 1 January 2008.

(2) A liable entity that applies for the competent authority's approval to use the IRB Approach by 31 December 2009 may be granted this approval even though it has used rating systems for purposes of the internal measurement and management of risk for less than three years; however, the period of using these rating systems for the purposes of the internal measurement and management of risk shall not be less than one year.

(3) A liable entity that applies for the competent authority's approval to use the IRB Approach with own estimates of LGD values or conversion factors by 31 December 2009 may be granted this approval even though it has used these internal estimates for the purposes of the internal measurement and management of risk for less than three years; however, the period of using own estimates of the LGD value or conversion factors for the purposes of the internal measurement and management of risk shall not be less than two years.

(4) A liable entity that applies for the competent authority's approval to use the IRB Approach with own estimates of LGD values or conversion factors by 31 December 2007 may be authorised to use this approach with effect from 1 January 2008 at the earliest.

Article 229

Transitional provisions for capital requirements based on internal models

(1) A bank which, prior to the date on which this Decree enters into force, was authorised to use a model to calculate capital requirements for specific risk pursuant to Articles 62 to 69 of Decree No. 333/2002 Coll, stipulating the prudential rules for parent undertakings on a consolidated basis, in the wording effective prior to the date on which this Decree enters into force, may continue to use this model as a basic approach for the calculation of capital requirements even after the date on which this Decree enters into force, if it meets the criteria for using internal models pursuant to Articles 168 and 169 and Annex 21 to this Decree. By not later than on 31 December 2009, the bank may, instead of the additional criteria for calculating capital requirements for specific risk stated in Annex 21 to this Decree, fulfil the additional criteria for calculating capital requirements for specific risk stated in Annex 32 to this Decree, in accordance with the former rules.

(2) A bank which, prior to the date on which this Decree enters into force, was authorised to use a model to calculate capital requirements for market risk pursuant to Articles 62 to 69 of Decree No. 333/2002 Coll, stipulating the prudential rules for

parent undertakings on a consolidated basis, in the wording effective prior to the date on which this Decree enters into force, may continue to use this model as a basic approach for the calculation of capital requirements even after the date on which this Decree enters into force, if it meets the criteria for using internal models pursuant to Articles 168 and 169 and Annex 21 to this Decree.

Article 230

Transitional provisions for operational risk

(1) A liable entity is authorised to use the AMA Approach not earlier than on 1 January 2008.

(2) If the value of the relevant indicator for the trading and sales business line pursuant to Table 2 in Annex 22 to the Decree represents at least 50% of the sum of the values of the relevant indicators for all business lines, the liable entity shall, until 31 December 2012, use a β parameter of 15% for this business line instead of a β of 18% according to Table 2 in Annex 22 to the Decree.

Article 231

Transitional provisions for the exposure

(1) Until 31 December 2010, the liable entity can also exclude from the investment portfolio exposure, pursuant to Article 181, 2, b), 3, receivables from leasing transactions concerning offices or other commercial premises on the territory of another Member State up to 100% of their value, if

a) the lessor retains the unlimited title to the residential real estate, until such time as the lessee uses its pre-emption right, and
b) the relevant authority in another Member State permits this exclusion from the exposure.

(2) A credit union whose exposure, as at the date on which this Decree enters into force, exceeds at least one of the limits pursuant to Article 182,

a) shall not take steps that would further raise the level by which these limits are exceeded on the date that this Decree enters into force,
b) shall notify the Czech National Bank of any change in the plan for the procedure aimed at remedying the excesses of such limits and the relevant deadlines, which it was obliged to submit to the Czech National Bank in accordance with the rules of the exposure valid prior to the date on which this Decree enters into force, and
c) shall ensure that any excess of such limits is remedied not later than on 30 June 2008.

Article 232

Transitional provisions for the disclosure of information

(1) When disclosing information as at 31 March 2007 and 30 June 2007, the liable entity, branch of a foreign bank or organisational unit of a foreign investment firm shall proceed in accordance with the former legislation.

(2) For the disclosure of information pursuant to Article 208, 3

a) as at 30 September 2007 the liable entity is not obliged to state comparable information for the three preceding periods,
b) as at 31 December 2007 the liable entity is obliged to state comparable information only as at 30 September 2007,
c) as at 31 March 2008 the liable entity is obliged to state comparable information only as at 30 September 2007 and as at 31 December 2007.

Article 233

Transitional provisions for certain reporting duties

(1) Within one month of this Decree entering into force, the liable entity shall submit information to the Czech National Bank on the approaches that it uses for the calculation of capital requirements as at the date on which this Decree enters into force.

(2) Within one month of this Decree entering into force, the liable entity shall submit information to the Czech National Bank on its activities, the activities of the persons included in the regulated consolidated group, or the activities to support such activities which are the subject of outsourcing as at the date on which this Decree enters into force.

Article 234

Transitional provisions for capital adequacy

(1) A liable entity that uses the IRB Approach or AMA Approach shall,

a) during 2007 maintain capital in an amount of not less than 95% of the sum of the individual capital requirements stipulated according to the former rules,
b) during 2008 maintain capital in an amount of not less than 90% of the sum of the individual capital requirements stipulated according to the former rules,
c) during 2009 maintain capital in an amount of not less than 80% of the sum of the individual capital requirements stipulated according to the former rules.

(2) The provisions of Article 228, 1 and Article 230, 1 are not prejudiced by the provision of paragraph 1.

(3) The specification of the calculation of the capital requirements pursuant to the former rules is given in more detail in Annex 32 to this Decree. For the purposes of paragraph 1, the calculation of capital shall not take into account an excess or shortage in the coverage of expected credit losses.

Article 235

Transitional provisions for the use of the former rules

(1) In 2007, a liable entity may calculate the capital requirement for credit risk in the investment portfolio using the approach for calculating this capital requirement in accordance with the former rules (Annex 32).

(2) If the liable entity uses the option pursuant to paragraph 1, in 2007

a) it shall calculate the capital requirement for credit risk in the trading portfolio using the approach for calculating this capital requirement in accordance with the former rules,
b) it shall not calculate capital requirements using the credit risk mitigation techniques in Part Four of this Decree,
c) it shall reduce the capital requirements for operational risk by the amount that corresponds to the proportion of the value of the exposures for which the approach pursuant to paragraph 1 is used to the sum of the values of all exposures for which the capital requirement for credit risk in the investment portfolio is calculated; if the liable entity uses the approach in accordance with paragraph 1 for all exposures, the capital requirement for operational risk is not calculated and therefore equals zero,
d) it may use the rules of the exposure corresponding to the rules of the exposure valid prior to the date on which this Decree enters into force (their detailed specification is given in Annex 32 to this Decree),
e) it shall disclose information on the fulfilment of the prudential rules on an individual basis pursuant to Annex 33 to this Decree.

Article 236

The following regulations are hereby repealed:

1. Czech National Bank Decree No. 333/2002 Coll., stipulating the conditions for prudential rules of parent undertakings on a consolidated basis.
2. Decree No. 522/2004 Coll., amending Czech National Bank Decree No. 333/2002 Coll., stipulating the conditions for prudential rules of parent undertakings on a consolidated basis.
3. Decree No. 262/2004 Coll., on the rules for the calculation of the capital adequacy of an investment firm, which is not a bank, on an individual basis.
4. Decree No. 383/2004 Coll., amending the Securities Commission Decree No. 262/2004 Coll., on the rules for the calculation of the capital adequacy of an investment firm, which is not a bank, on an individual basis.

5. Decree No. 105/2006 Coll., amending Decree No. 262/2004 Coll., o on the rules for the calculation of the capital adequacy of an investment firm, which is not a bank, on an individual basis, as amended by Decree No. 383/2004 Coll.
6. Ministry of Finance Decree No. 387/2001 Coll., on the rules of liquidity and solvency of credit unions.
7. Ministry of Finance Decree No. 389/2001 Coll. on the statutory content of the annual report of a credit union.
8. Decree No. 319/2005 Coll., stipulating the rules for the classification of receivables and the creation of allowances and provisions of credit unions.

Article 237

Effect

This Decree shall enter into force on 1 July 2007.

Governor:

doc. Ing. Tůma, CSc. by his own hand

ANNEX 13

Digest – NGOs regulation with regard to terrorist financing

Taken from Plan of Measures in the Fight against Terrorism, annexed to Cabinet Decree No. 1466 of 16 November 2005 regarding National Action Plan to Combat Terrorism (2005-2007):

"Chapter Three: International Commitments of the Czech Republic and Internal Legislative Arrangement Related to the Fight against Terrorism, with Special Regard to the Agenda of the Fight against Financing Terrorism:

The fight against financing terrorism is one of the key aspects of the whole fight against terrorism. For this reason it is necessary to make more effective the system of cooperation of the responsible institutions. For the same reason attention will be paid to the legislative regulation of operation of foundations and other social organisations, with special regard to their financial management."

("" - strict translation, no change or abbreviation)

Task to make an analysis of legal regulation of foundations and other societal organizations with regard to their financial economy has been given to the ministries of interior and finance with deadline on the end of 2006.

Ministry of Interior drafted first version of analytical material, and encouraged all relevant subjects both from public authorities and non-governmental organizations to submit their comments. Based on further communication between the ministry and representatives of non-governmental sector a decision was made to transfer this topic to academic forum. Therefore a research project was prepared with the theme "**Increasing transparency of non-profit sector activities in the Czech Republic with particular emphasis on prevention of its misuse for financing of terrorism**".

In mid of 2006 a project prepared by Economics University in Prague has been selected. The project run until 2008, covering also supervision of use of money gathered at public beneficial collections etc. First outputs have been presented at the beginning of 2007. On 27 March 2007 a seminar has been held on focusing of further research activity.

Final research report has been submitted in 2009. The report pointed out these conclusions and observations (digest):

- There is a concern among the non-profit organizations (NPOs – the term used by report) that this may be a venue for undue state control over their activities, which would be especially dangerous given the communist past of the country, in the context of frequent antagonisms between state and various NPOs
- However, such concerns are not exclusive to Czech Republic and exist in Western Europe, USA and elsewhere, calling for maximum openness and communication

- It was found that only 1/3 of NPOs researched provide publicly available information on themselves (e.g. websites), very few adopted ethical and fundraising codes of conduct, less than 1/10 of them published annual reports
- Even among some NPO activists and among experts it is perceived as a significant problem that there is no official publicly accessible register of all NPOs, that would include financial reports, bylaws, registration notifications and that would at the same time avoid putting undue administrative burdens on small civil associations.
- Legal requirements differ based on legal forms of NPOs. While civil associations enjoy relatively less strict regulation, the strengthening of requirements there would carry high risk of impeding the emergence of associations (most common type of interest-based community, such as bee-keepers, modellers, sporting clubs etc.).
- On the other hand foundations and foundation funds are regulated relatively well from transparency viewpoint. The need to have financial reports and annual financial statement audited and filed to registry court eliminates certain risks caused e.g. by possibility of accepting small amounts from anonymous donors. However, compliance of foundations was not good, about 4/10 of foundations researched did not comply with legal requirements. While this is probably caused by lack of professionalism, there is some scope for misuse of this environment.
- No significant concerns appear to apply to misuse of schools for terrorist-related activities, including religious schools; however there are gaps in transparency requirements as regards funding of schools accredited in emerging economies, such as Eastern Europe, and active in Czech territory.

There is no substantial background for supporting particular terrorist activities in the Czech Republic, as the minorities that might in theory be radicalised are very small. The research did not indicate urgent or serious risk of misuse of NPOs in the Czech Republic for the purpose of terrorist financing, but found that deficiencies exist generally with regard to either state powers (e.g. foreign schools) or enforcement (e.g. foundations) of certain types of NPOs or aspects of their activities.

National Action Plan to Combat Terrorism (2007-2009) does not take over this issue in further detail, but reiterates (p. 6) that EU actively deals with many topics, which must be addressed in the Czech Republic as well, including “limiting the opportunities for misusing the non-governmental sector for terrorist financing”. This version of National Action plan also included other tasks directly related to terrorist financing:

- to increase capability of police to gain intelligence on “informal” or minority-based cross-border flows of money that may be misused for terrorist activity,

- to propose a mechanism enabling Police to identify in which financial institutions a suspect individual holds accounts. (Currently, there is no register of accounts and Police must mail to all financial institutions asking whether particular person holds an account there. If the response is positive, Police may ask prosecutor to lift banking secrecy. This practice increases the risks for both personal data and investigations.)

ANNEX 14

References to guidances on various issues like: Collective investment; regulated markets, settlement and market abuse; issue and registration of securities, takeover bids and squeeze-outs; investments firms and investment intermediaries.
(references to guidances on various issues_Collectiv inv_regulated markets_ securities and intermediaries.doc)

Addresses / scope: Collective investment
Web page:
http://www.cnb.cz/cs/dohled_financni_trh/legislativni_zakladna/kolektivni_investovani/metodiky_vyklady.html

Czech	English
Metodické a výkladové materiály	**Methodological and interpretative documents**
Úřední sdělení ČNB	**Official information**
Úřední sdělení ze dne 21. května 2010 (pdf, 267 kB) k výkladu pojmů důvěryhodnost a odborná způsobilost	Official Information of 21 May 2010 regarding the interpretation of the terms trustworthiness and competence
Úřední sdělení ze dne 25. března 2010 (pdf, 132 kB) o uznání některých makléřských zkoušek	Official Information of 25 March 2010 regarding the acknowledgement of some broker examinations
Úřední sdělení ze dne 18. února 2010 (pdf, 130 kB) o uznání některých odborných zkoušek organizovaných Institutem pro finanční trh Ekonomicko-správní fakulty Masarykovy univerzity	Official Information of 18 February 2010 regarding the acknowledgement of some professional examinations organised by the Institute for the Financial Market of the Faculty of Economics and Administration, Masaryk University
Úřední sdělení ze dne 16. června 2009 (pdf, 228 kB) k rozsahu potřebných znalostí osob, pomocí kterých provádí obchodník s cennými papíry a další osoby své činnosti	Official Information of 16 June 2009 regarding the necessary expertise of persons assisting investment firms and other persons in their activities
Úřední sdělení ze dne 7. července 2008, jímž se oznamuje praxe České národní banky k výpisu nebo opisu z evidence Rejstříku trestů	Official Information of 7 July 2008 providing information about the practice of the Czech National Bank regarding an extract or a copy from the Criminal Register
Úřední sdělení ze dne 12. ledna 2007 k některým otázkám kolektivního investování v souvislosti s novelou zákona o kolektivním investování č. 224/2006	Official information of 12 January 2007 regarding certain issues of collective investment in connection with an amendment to the Collective Investment Act (No. 224/2006 Coll.).
Odpovědi na dotazy	**Answers to enquiries**
K některým otázkám licencování nesamosprávných investičních fondů - 26.11.2009	Regarding some issues of licensing of non-autonomous investment funds – 26 November 2009

K omezení rozsahu činnosti depozitáře speciálního fondu kvalifikovaných investorů po novele zákona o kolektivním investování č. 230/2009 Sb. - 25.9.2009	Regarding the limitation of the scope of activities of the depository of a special fund for qualified investors following an amendment to Act No. 230/2009 Coll. on Collective Investment – 25 September 2009
K podmínkám investování fondů kvalifikovaných investorů do nemovitostí - 11.9.2008	Regarding the conditions for investing in real estate by funds for qualified investors – 11 September 2008
Schvalování účetní závěrky podílového fondu - 21.5.2008	Approval of the financial statements of a mutual fund – 21 May 2008
Zvyšování základního kapitálu investičního fondu započtením vzájemných pohledávek - 30.4.2008	Increasing the capital of an investment fund by netting-out mutual claims – 30 April 2008
Dopad MiFID na obhospodařování majetku fondu kolektivního investování jinou investiční společností - 27.3.2008	The impact of the MiFID on asset management for a collective investment fund by another management company – 27 March 2008
Četnost oceňování majetku fondu kvalifikovaných investorů ve vazbě na uveřejňování informace o aktuální hodnotě vlastního kapitálu - 12.3.2008	Frequency of valuation of assets of a fund for qualified investors in relation to disclosure of information about the current value of equity capital – 12 March 2008
Ostatní materiály	**Other documents**
Metodika Komise pro cenné papíry Zásady delegování činností (převzatá Českou národní bankou)	Czech Securities Commission methodology: Principles of delegation of activities (taken over by the Czech National Bank)
Metodika Komise pro cenné papíry k odborné péči (převzatá Českou národní bankou)	Czech Securities Commission methodology regarding professional care (taken over by the Czech National Bank)
Metodika zásady činnosti depozitáře (DEPZ) (převzatá Českou národní bankou)	Methodology: Principles of activities of a depository (DEPZ) (taken over by the Czech National Bank)
Metodika Komise pro cenné papíry ke kvalifikované účasti a úzkému propojení (převzatá Českou národní bankou)	Czech Securities Commission methodology regarding qualifying holdings and close links (taken over by the Czech National Bank)
Materiál Komise pro cenné papíry jednotná licence (tzv. Evropský pas) pro zahraniční investiční společnosti a zahraniční standardní fondy (UCITS fondy) (převzatý Českou národní bankou)	Czech Securities Commission document: The single licence (“European passport”) for foreign management companies and foreign standard funds (UCITS funds) (taken over by the Czech National Bank)
Informace k některým otázkám postupu ČNB při notifikacích veřejného nabízení cenných papírů zahraničních standardních fondů	Information regarding some issues of the CNB’s procedure for notifications of offerings of foreign standard funds’

	securities to the public

Addresses / scope: Regulated markets, settlement and market abuse
Web page:
http://www.cnb.cz/cs/dohled_financni_trh/legislativni_zakladna/trhy_vyporadani_a_ochrana_trhu/metodiky_vyklady.html

Czech	English
Metodické a výkladové materiály	**Methodological and interpretative documents**
Úřední sdělení ČNB	**Official information**
Úřední sdělení České národní banky ze dne 28. června 2010 (pdf, 89 kB) o spuštění internetové aplikace České národní banky pro sběr informačních povinností a registraci subjektů	Official Information of the Czech National Bank of 28 June 2010 regarding the launch of the Czech National Bank's internet application for data collection and registration of entities
Úřední sdělení ze dne 21. května 2010 (pdf, 267 kB) k výkladu pojmů důvěryhodnost a odborná způsobilost	Official Information of 21 May 2010 regarding the interpretation of the terms trustworthiness and competence
Úřední sdělení ze dne 6. dubna 2010 (pdf, 150 kB) o srovnatelnosti povinností emitenta ze třetího státu	Official Information of 6 April 2010 regarding the comparability of duties of an issuer from a third state
Úřední sdělení ze dne 18. prosince 2009 (pdf, 317 kB) o ochraně proti zneužívání trhu a transparenci	Official Information of 18 December 2009 regarding protection against market abuse and transparency
Úřední sdělení ze dne 8. prosince 2009 (pdf, 147 kB) k předpokladům zápisu do Seznamu internetových portálů a agentur	Official Information of 8 December 2009 regarding the conditions for entry in the List of Internet Portals and Agencies
Úřední sdělení ze dne 22. srpna 2006 (pdf, 166 kB) k vzniku oznamovací povinnosti při repo operacích s kótovanými akciemi	Official Information of 22 August 2006 regarding the commencement of the information duty for repo operations with listed shares
Odpovědi na dotazy	**Answers to enquiries**
Hlášení manažerských transakcí při portfolio managementu - 26.8.2009	Reporting of managers' portfolio management transactions – 26 August 2009
Ostatní materiály	**Other documents**
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Addresses / scope: Issues and registration of securities, takeover bids and squeeze-outs
Web page:
http://www.cnb.cz/cs/dohled_financni_trh/legislativni_zakladna/emise_evidence_cp_nabidky_prevzeti_vytesneni/metodiky_vyklady.html

Czech	English
Metodické a výkladové materiály	**Methodological and interpretative documents**
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Úřední sdělení České národní banky ze dne 28. června 2010 (pdf, 89 kB) o spuštění internetové aplikace České národní banky pro sběr informačních povinností a registraci subjektů	Official Information of the Czech National Bank of 28 June 2010 regarding the launch of the Czech National Bank's internet application for data collection and registration of entities
Úřední sdělení ze dne 6. dubna 2010 (pdf, 150 kB) o srovnatelnosti povinností emitenta ze třetího státu	Official Information of 6 April 2010 regarding the comparability of duties of an issuer from a third state
Úřední sdělení ze dne 18. prosince 2009 (pdf, 317 kB) o ochraně proti zneužívání trhu a transparenci	Official Information of 18 December 2009 regarding protection against market abuse and transparency
Úřední sdělení ze dne 8. prosince 2009 (pdf, 147 kB) k předpokladům zápisu do Seznamu internetových portálů a agentur	Official Information of 8 December 2009 regarding the conditions for entry in the List of Internet Portals and Agencies
Úřední sdělení ze dne 10. září 2007 k vydávání cenných papírů neupravených českým právním řádem	Official information of 10 September 2007 regarding the issuing of securities not regulated by Czech law
Úřední sdělení ze dne 20. července 2007 k povinnosti učinit veřejnou nabídku akcií při zvyšování základního kapitálu	Official information of 20 July 2007 regarding the obligation to make a public share offer in the event of a capital increase
Odpovědi na dotazy	**Answers to enquiries**
Adresáti povinné nabídky převzetí (pdf, 106 kB) - 31.5.2010	Addressees of takeover bids – 31 May 2010
Horní hranice doby závaznosti (pdf, 104 kB) - 31.5.2010 - 31.5.2010	The upper boundary of the period of binding effect – 31 May 2010
Jednání navrhovatele s cílovou společností (pdf, 108 kB) - 31.5.2010 - 31.5.2010	The offeror's negotiations with the target company – 31 May 2010
K ceně v dobrovolné nabídce převzetí (pdf, 85 kB) - 31.5.2010	Regarding the price in voluntary takeover bids – 31 May 2010
K souhlasům antimonopolních úřadů ze třetích zemí (pdf, 129 kB) - 31.5.2010	Regarding consents of antimonopoly offices from third countries – 31 May 2010
Měna peněžitého protiplnění při nabídce převzetí (pdf, 101 kB) - 31.5.2010	The currency of monetary payment in takeover bids – 31 May 2010
Nabídka převzetí podle cizího práva uveřejňovaná v ČR (pdf, 123 kB) - 31.5.2010	Takeover bids under foreign law published in the Czech Republic – 31 May 2010
Nabídka převzetí před podáním návrhu na povolení spojení antimonopolnímu úřadu (pdf, 111 kB) - 31.5.2010	Takeover bids before a petition for permission to consolidate is filed with the antimonopoly office – 31 May 2010
Odkaz na stanovisko cílové společnosti v nabídkovém dokumentu (pdf, 86 kB) -	Reference to the opinion of the target company in a bid document – 31 May 2010

31.5.2010	
Popis záměrů navrhovatele v nabídkovém dokumentu (pdf, 117 kB) - 31.5.2010	Description of the offeror's intentions in a bid document – 31 May 2010
Postup ČNB při dobrovolné nabídce převzetí (pdf, 141 kB) - 31.5.2010	The CNB's procedure in voluntary takeover bids – 31 May 2010
Pravidla pro přeshraniční nabídky převzetí (pdf, 132 kB) - 31.5.2010	Rules for cross-border takeover bids – 31 May 2010
Prodej cenných papírů navrhovatelem původní nabídky převzetí navrhovateli konkurenční nabídky (pdf, 115 kB) - 31.5.2010	Sales of securities by the offeror of the original takeover bid to the offeror of a competitive bid – 31 May 2010
Předběžná jednání s cílovou společností (pdf, 96 kB) - 31.5.2010	Preliminary negotiations with the target company – 31 May 2010
Stanovisko orgánů cílové společnosti I. (pdf, 85 kB) - 31.5.2010	Opinion of the target company's bodies – 31 May 2010
Stanovisko orgánů cílové společnosti II. (pdf, 83 kB) - 31.5.2010	Opinion of the target company's bodies II – 31 May 2010
Změny nabídkového dokumentu a stanovisko cílové společnosti (pdf, 87 kB) - 31.5.2010	Changes in the bid document and opinion of the target company – 31 May 2010
Zpětvzetí nabídkového dokumentu u dobrovolné nabídky převzetí (pdf, 104 kB) - 31.5.2010	Withdrawal of the bid document in voluntary takeover bids – 31 May 2010
Zveřejnění rozhodnutí ČNB (pdf, 109 kB) - 31.5.2010	Publication of the CNB's decision – 31 May 2010
Uveřejňování informací způsobem, od něhož lze rozumně očekávat, že se o nich veřejnost v EU dozví (pdf, 114 kB) - 17.5.2010	Disclosure of information in a manner which can be reasonably expected to make the public in the EU aware of such information – 17 May 2010
K pojmu osoba blízká ve výroční zprávě (§ 118 odst. 4 písm. g) ZPKT) - 17.9.2009	Regarding the term "next of kin" in an annual report (Article 118(4)(g) of the Capital Market Undertakings Act) – 17 September 2009
Ostatní materiály	**Other documents**
Informace ČNB k oceňování účastnických cenných papírů pro účely povinných nabídek převzetí, veřejných návrhů smlouvy a vytěsnění (OCE) (pdf, 316 kB)	Information of the CNB regarding the valuation of participating securities for the purposes of mandatory takeover bids, public contract offers and squeeze-outs (OCE)

Addresses / scope: Investment firms and investment intermediaries
Web page:
http://www.cnb.cz/cs/dohled_financni_trh/legislativni_zakladna/obchodnici_s_cp_inv_zprostredkovatele/metodiky_vyklady.html

Czech	English
Metodické a výkladové materiály	**Methodological and interpretative documents**
Úřední sdělení ČNB	**CNB Official Information**
Úřední sdělení ze dne 21. května 2010 (pdf, 267 kB) k výkladu pojmů důvěryhodnost a odborná způsobilost	Official Information of 21 May 2010 regarding the interpretation of the terms trustworthiness and competence
Úřední sdělení ze dne 25. března 2010 (pdf, 132 kB) o uznání některých makléřských zkoušek	Official Information of 25 March 2010 regarding the acknowledgement of some broker examinations
Úřední sdělení ze dne 4. března 2010 (pdf, 232 kB) k pravidlům obezřetného podnikání bank, spořitelních a úvěrních družstev, obchodníků s cennými papíry a institucí elektronických peněz - Uveřejňování informací	Official Information of 4 March 2010 regarding the prudential rules for banks, credit unions, investment firms and electronic money institutions – information disclosure
Úřední sdělení ze dne 18. února 2010 (pdf, 130 kB) o uznání některých odborných zkoušek organizovaných Institutem pro finanční trh Ekonomicko-správní fakulty Masarykovy univerzity	Official Information of 18 February 2010 regarding the acknowledgement of some professional examinations organised by the Institute for the Financial Market of the Faculty of Economics and Administration, Masaryk University
Úřední sdělení ze dne 18. září 2009 (pdf, 219 kB) k povolení k činnosti obchodníka s cennými papíry	Official Information of 18 September 2009 regarding the authorisation of an investment firm
Úřední sdělení ze dne 7. července (pdf, 145 kB), jímž se oznamuje praxe České národní banky k výpisu nebo opisu z evidence Rejstříku trestů	Official Information of 7 July 2008 providing information about the practice of the Czech National Bank regarding an extract or a copy from the Criminal Register
Úřední sdělení ze dne 16. června 2009 (pdf, 228 kB) k rozsahu potřebných znalostí osob, pomocí kterých provádí obchodník s cennými papíry a další osoby své činnosti	Official Information of 16 June 2009 regarding the expertise of persons assisting investment firms and other persons in their activities
Úřední sdělení ze dne 19. ledna 2007 (pdf, 143 kB) k povaze zápisu správce cenných papírů do evidence Střediska cenných papírů	Official Information of 19 January 2007 regarding the nature of records by a securities administrator in the Czech Securities Centre
Soubor úředních sdělení k pravidlům obezřetného podnikání	Set of official information documents regarding prudential rules
Odpovědi na dotazy	**Answers to enquiries**
K použití prostředků zákazníka obchodníkem s cennými papíry (pdf, 87 kB) - 30.3.2010	Regarding the use of client funds by an investment firm – 30 March 2010
K právní povaze Exchange Traded Funds (ETF) (pdf, 96 kB) - 26.2.2010	Regarding the legal nature of Exchange Traded Funds (ETF) – 26 February 2010

K informační povinnosti investičního zprostředkovatele dle § 32 odst. 7 zákona č. 256/2004 Sb. o podnikání na kapitálovém trhu, ve znění zákona č. 230/2008 Sb. - 6.8.2008	Regarding the information duty of an investment intermediary pursuant to Article 32(7) of Act No. 256/2004 Coll., the Capital Market Undertakings Act, as amended by Act No. 230/2008 Coll. – 6 August 2008
Emisní povolenky podle MiFID - 15.11.2007	Emission allowances under MiFID – 15 November 2007
Hlášení manažerských transakcí při portfolio managementu - 26.8.2009	Reporting of managers' portfolio management transactions – 26 August 2009
Přípustnost pobídek dle MiFID ve vztahu k investičním zprostředkovatelům - 18.2.2008	Acceptability of incentives under MiFID in relation to investment intermediaries – 18 February 2008
Přípustnost některých pobídek dle směrnice MiFID - 10. 1. 2008	Acceptability of some incentives under the MiFID Directive – 10 January 2008
Způsob informování klientů o provedených pokynech - 12.11.2007	Manner of informing clients about executed instructions – 12 November 2007
Otázky a odpovědi k vyhlášce č. 123/2007 Sb.	Questions and answers regarding Decree No. 123/2007 Coll.
Ostatní materiály	**Other documents**
Metodika k hlášení obchodů (HLOB) (pdf, 510 kB)	Methodology for reporting of transactions (HLOB)
Metodika Komise pro cenné papíry k delegování činností (převzatá Českou národní bankou)	Czech Securities Commission methodology on delegation of activities (taken over by the Czech National Bank)
Metodika Komise pro cenné papíry k odborné péči (převzatá Českou národní bankou)	Czech Securities Commission methodology regarding professional care (taken over by the Czech National Bank)
Metodika Komise pro cenné papíry k veřejným dražbám (převzatá Českou národní bankou)	Czech Securities Commission methodology on public auctions (taken over by the Czech National Bank)
Informace ČNB k poobchodní transparenci (pdf, 198 kB)	CNB information on post-trading transparency