

## DECREE

No. 187/2012 Coll.amending Decree No. 123/2007 Coll.,

stipulating the prudential rules for banks, credit unions and investment firms, as amended

The Czech National Bank stipulates, pursuant, to Article 8b(5), Article 15 and Article 24(1) of Act No. 21/1992 Coll., on banks, as amended by Act No. 120/2007 Coll., pursuant to Article 7a(5), Article 11 (3) and Article 27(1) of Act No. 87/1995 Coll., on credit unions and certain other related measures and on the and on the amendment of Czech National Council Act No. 586/1992 Coll., on income taxes, as amended by Act No. 120/2007 Coll., and pursuant to Article 9c(d) and Article 199(2) of Act No. 256/2004 Coll., on conducting business in the capital market, as amended by Act No. 120/2007 Coll. and Act No. 230/2008 Coll.:

## Article I

Decree No. 123/2007 Coll., stipulating the prudential rules for banks, credit unions and investment firms, as amended by Decree No. 282/2008 Coll., Decree No. 380/2010 Coll., and Decree No. 89/2011 Coll., is amended as follows:

1. In Article 182(2)(d) the number "75" is replaced by the number "50"
2. In Article 201 paragraph 3 is added, which reads:
  - (3) A bank or credit union may, when determining a loss from impairment, take into account protection, if
    - a) the protection and the related principles applied and procedures used leading towards reduction of credit risk establish rights that are legally effective and enforceable in all relevant jurisdictions,
    - b) it properly manages the risks that it is or could be exposed to in connection with the protection that it is taking into account,
    - c) irrespective of the protection taken into account, it continues to perform the full evaluation of the credit risk connected with the receivable,
    - d) the collateral is realisable within a reasonable period of time, at least to the amount taken into account when determining the loss from impairment,
    - e) in the event of the failure of the debtor or, where applicable, of the entity that accepted the collateral into custody, into deposit, into storage, and/or into administration, in particular if a decision was issued on bankruptcy of any of these entities, or if another stipulated credit event occurred, it is authorised to collect its receivable within a reasonable period of time from the decisive fact,
    - f) the degree of correlation between the value of the collateral and the credit quality of the debtor is insignificant,
    - g) the provider of unfunded protection is sufficiently trustworthy to ensure sufficient certainty that the achieved level of reduction in credit risk corresponds to the level at which this reduction is taken into account during the determination of the loss from impairment, and
    - h) it has stipulated and exercises unequivocal criteria for evaluating the fitness of providers of unfunded protection."

3. New Articles 215a and 215b shall be inserted after Article 215. These, including their headings, read:

“Article 215a

Information on transactions within the group

- (1) The liable entity shall inform the Czech National Bank, without undue delay, of the arrangement of a transaction with a value exceeding 1% of the balance sheet total of the liable entity, which means that credit risk is transferred to the liable entity to which is exposed an entity
- a) controlled by the liable entity,
  - b) controlled by the same entity as the liable entity, or
  - c) which controls the liable entity.
- (2) The provisions of paragraph 1 shall apply in particular for
- a) the acquisition of assets that are not traded on an active market,
  - b) the acquisition of a portfolio of receivables that are not traded on an active market,
  - c) the acquisition of a securitised exposure,
  - d) the provision of a syndicated loan, sub-participation in credit risk, or a similar transaction, or
  - e) the provision of a guarantee or the arrangement of a credit derivative.
- (3) In the event of the transfer of credit risk to the liable entity as a consequence of more than one related transaction, for the purposes of the evaluation of whether the value exceeds 1% of the balance sheet total of the liable entity, such transactions shall be considered to be a single transaction.

Article 215b

Information about structural changes

The liable entity shall inform the Czech National Bank, without undue delay, of

- a) the arrangement of the purchase of a business, or its part, from an entity
  1. controlled by the liable entity,
  2. controlled by the same entity as the liable entity, or
  3. which controls the liable entity,
- b) the arrangement of a capital investment into an entity controlled by the same entity as the liable entity, if the capital investment exceeds 10% of the registered capital of that entity, and
- c) the decision to participate in the transformation of a company or co-operative.”
  4. In Annex No. 1 part 1 letter B point I the heading reads: “System for executing transactions”.
  5. In Annex No. 1 part 1 letter B, at the end of the text of point I.3 the following words are added: “, sub-participation in credit risk, structured products and similar transactions”.
  6. In Annex No. 1 part 1 letter B point I.5 reads:

“5. Depending on the type of product and counterparty, the following aspects shall be evaluated in the system for executing transactions, within a time schedule taking into account the maturity of the exposure, in particular:

- a) the financial and economic situation of the counterparty,
- b) the purpose of the transaction,
- c) repayment sources, including the ratio of the exposure to the free cash flows of the counterparty (loan to income ratio),
- d) the quality and adequacy of protection,
- e) the situation in the counterparty’s economic sector; if the exposure is protected through asset protection, the bank or credit union shall also assess the ratio of the value of the exposure to the value of the protection (loan to value ratio)
- f) the macroeconomic conditions in the state of the registered offices of the counterparty, including the phase of the economic cycle,
- g) the proposed conditions for executing the transaction,
- h) the governing law, including foreign law, where applicable, and
- i) in the event of the financing of a specific asset, also the ratio of the own resources used by the counterparty to the value of that asset.”.

7. In Annex No. 1 part 1 letter B, at the end of the text of point I.6 the following words are added: “ , cannot be considered, during the evaluation of the counterparty, as an alternative source of repayment of the exposure, or be taken into account in the internal credit evaluation (internal rating) of the counterparty”.

8. In Annex No. 1 part 1 letter B points III.1 and III.2 the words “Liable entity” shall be replaced by “Bank or credit union”.

9. In Annex No. 1 part 1 letter B point III.1, the introductory part of the provision, the words “ , or by the committee to which the board of directors delegated this authority,” shall be inserted after the words “by the board of directors”.

## Article II

### Effect

This Decree shall come into effect on 1 July 2012.

Governor:

Ing. Singer, PhD., in his own hand