

Confirmation of compliance with Joint Guidelines

Date:	24. 07. 2017
Member State ¹ :	Czech Republic
Competent authority:	Czech National Bank
Title of the Joint Guidelines:	Joint Guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector
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I am authorised to confirm compliance with the Joint Guidelines on behalf of my competent authority:

Yes

The competent authority informs the **European Banking Authority (EBA)** that it: *(please select one of the following options)*

complies with the Joint Guidelines as of the date of this notification.

does not comply, but intends to comply with the Joint Guidelines by _____ [*insert date*].

does not comply and does not intend to comply with **parts** of the Joint Guidelines and has provided a full explanation of the extent of non-compliance together with full reasons for this, as well as other details of the partial compliance, in the Annex to this notification.

the Joint Guidelines **do not apply** in my jurisdiction and full reasons for this have been provided in the Annex to this notification.

[insert signature]



[insert date]

24. VII. 2017

¹ or EU Institutions, EU Agencies, EEA-EFTA States, or European Territories under 355(3) TFEU

Annex

(i) The Czech National Bank *does not comply* and *does not intend to comply* with the point 6 of the Joint Guidelines to the extent the guideline requires employing the multiplication criterion for the assessment of indirect acquisition of the qualifying holding. The CNB is of a view that the legal basis as well as practical importance for multiplication criterion is questionable as it often identifies those who hold no real influence in a financial institution and thus renders many “false positives”. This results in higher administrative costs for supervisors as well as market participants however these costs are not outweighed by any significant benefits of a more complex methodology. The control criterion is sufficient as well as solely legally sound for the assessment of indirect qualifying holdings.

(ii) The CNB *does not partially comply* with the point 8 of the Joint Guidelines to the extent the guideline requires applying proportionality principle also to the composition of the required information proportionate to the nature of the acquirer and acquisition (point 8.2 in particular). Under the Czech legal system, the CNB is allowed to apply this principle only partially. It is not possible for the CNB to discretionary require different composition of information from different types of acquirers. The set of information that is required for the purposes of qualifying holdings assessment is fixed by the law that recognises only a certain level of proportionality and the CNB cannot consider the application that does not contain all the information required by the law as complete or accept it. The law partially distinguishes between different situations – for example there are less stringent requirements on the required information, if the proposed acquirer is already regulated and supervised entity in the EU. The scope of application of the proportionality principle to the type and breadth of the information required by the Joint Guidelines (ad hoc assessment based on nature of the acquirer, specificities of transaction, degree of involvement, the size of the holding etc.) is however not attainable. The CNB also notes that the set of required information will be regulated by the EU regulatory technical standards in the near future which also do not permit this level of proportionality.

(iii) The CNB *does not comply but intends to comply* with point 9.2 of the Joint Guidelines. Current Czech law in the area of CRD requires the CNB to acknowledge the receipt of the notification within 2 days both where the notification is complete and where it is incomplete. The law does not distinguish between notification of complete and incomplete application and the 60 days period for the assessment is triggered also by acknowledging of receipt of incomplete notification (which provides more certainty to applicants). However, Czech laws that transpose CRD are being currently amended in the parliamentary procedure. If these amendments are passed, acknowledgment of receipt of incomplete application will not trigger the 60 days assessment period. The CNB therefore *intends to comply* with the point 9.2 of the Joint Guidelines in the area of CRD when the relevant amendments become effective.

(iii) The CNB *does not partially comply* with the point 10 of the Joint Guidelines to the extent the guideline requires assessing the professional competence of the proposed acquirer. Current Czech law in the area of CRD enables the CNB to assess only integrity of the proposed acquirer, not the professional competence. However, Czech laws that transpose CRD which, if passed, will allow assessing also professional competence of the proposed acquirer, are currently in the parliamentary procedure. The CNB therefore *intends to comply* with the point 10 of the Joint Guidelines in the area of CRD when the relevant amendments become effective.

(iv) The CNB *complies* with the rest of the Joint Guidelines as of the time of the notification.