

# Confirmation of compliance with Joint Guidelines

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Date:

24. 07. 2017

Member State<sup>1</sup>:

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

Name:

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Position:

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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 Insurance and Occupational Pensions Authority (EIOPA)** that it: *(please select one of the following options)*

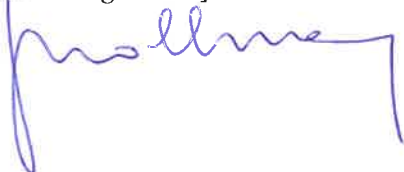
**complies** with the Joint Guidelines as of the date of this notification.

**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

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

## Annex

- (i) 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 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 Solvency II enables the CNB to assess only integrity of the proposed acquirer, not the professional competence. As of the time of this notification was submitted, no discussions with the Ministry of Finance have been initiated as regards amendments to Czech law transposing Solvency II and no immediate changes are envisaged to the legislation, in part due to the coming election period. Even though the CNB plans to comply with the Guideline in the medium term also in the area of Solvency II (the earliest estimated possible date would be end of 2018), the CNB currently *does not comply* with the point 10 of the Joint Guidelines to the extent the guideline requires assessing the professional competence of the proposed acquirer in the area of Solvency II.
- (iv) The CNB *complies* with the rest of the Joint Guidelines as of the time of the notification.