

DECREE

of 12 September 2013

on bureau-de-change activity

Pursuant to Article 26 of Act No. 277/2013 Coll., on Bureau-de-change Activity, implementing Article 6(6), Article 8(2), Article 10(5) and Article 15(2) of that Act, the Czech National Bank stipulates the following:

Article 1

Subject matter

(1) This Decree stipulates

- a) the essential elements of an application for a bureau-de-change licence and the annexes thereto;
- b) the essential elements of a notice of any change in data specified in an application for a bureau-de-change licence and the annexes thereto;
- c) the essential elements of a notice of the location of business premises and a notice of any change in the location of business premises; and
- d) the form and manner of submission of an application and notice referred to in subparagraphs (a) to (c).

(2) The decree also stipulates the scope, form, time limits and manner of provision of information on the amount of bureau-de-change transactions executed in individual currencies.

Article 2

Definitions

For the purposes of this Decree:

- a) certificate of integrity issued by the foreign state shall mean a document analogous to an extract from the Criminal Register¹⁾ not older than three months, issued by the foreign state
 1. of which a natural person is a citizen and by any foreign state in which the natural person has resided continuously for more than six months in the last three years,
 2. in which the legal entity has, or has had in the last three years, its registered address and by any foreign state, in which the legal entity has, or has had in the last three years, an organisational unit, where the law of this state governs criminal liability of legal entities;
- b) business licence certificate shall mean a complete extract, or other document, from the register of entrepreneurs or other register pursuant to another legal rule, and/or from similar registers abroad, containing information valid at the time of submission of the application, including information on any proposal for entry into a relevant register submitted but not effected as of the date of submission of the application;
- c) document for an assessment of trustworthiness means an affidavit of a person which containing personal data for the purposes of obtaining an extract from the Criminal

¹⁾ Act No. 269/1994 Coll., on the Criminal Register, as amended.

Register and information on the professional and entrepreneurial integrity of the person in the last ten years and which relates in particular to

1. a final decision on the imposition of a sanction for an administrative offence, or a comparable foreign final decision relating to the performance of employment, the position, or the professional activity of such person,
 2. a final decision on insolvency or dismissal of an insolvency petition due to lack of assets,
 3. a decision on the suspension or withdrawal of an authorization to perform business or other activities, unless it is on the basis of an application by the person holding such a authorization,
 4. a refusal by a court or an administrative authority to grant a consent to the election, nomination or appointment to a position, or a consent to the acquisition of a qualified holding, or a consent to control an entity, if such a consent is required; and
 5. a decision on expulsion from a professional association or chamber;
- d) identification data shall mean
1. the name, or names, surname, date of birth, address or registered address where different from the address, and identification number if assigned in the case of a natural person, and
 2. the company name, registered address and identification number and, if not assigned, the date of establishment, in the case of a legal entity;
- e) memorandum of association shall mean a memorandum of association, articles of association, founder's deed or some other document of a similar nature depending on the legal form of the legal entity.

Article 3

Application of a natural person for a bureau-de-change licence

(1) The essential elements of an application of a natural person for a bureau-de-change licence shall be

- a) the identification data of the applicant,
- b) the identification data of the applicant's actual owner where the actual owner is different from the applicant, including a statement of the facts on the basis of which that person is the actual owner, and
- c) the identification data of the person who is the applicant's senior officer where the senior officer is different from the applicant or from the actual owner.

(2) The annexes to the application shall be

- a) a document for the assessment of the trustworthiness of the applicant and the person who is the applicant's senior officer where the senior officer is different from the applicant,
- b) a certificate of the level of education attained by the applicant's senior officer who actually manages the performance of bureau-de-change activity,
- c) a certificate of integrity of the applicant and any senior officer of the applicant issued by the foreign state, and
- d) a declaration by the applicant of competence to perform legal acts.

(3) Where the applicant is not the actual owner, the annexes to the application for a bureau-de-change licence shall also include

- a) a document for the assessment of the trustworthiness of the applicant's actual owner, and
- b) a certificate of integrity of the applicant's actual owner issued by the foreign state.

Article 4

Application of a legal entity for a bureau-de-change licence

(1) The essential elements of the application of a legal entity for a bureau-de-change licence shall be

- a) the identification data of the applicant,
- b) the identification data of the applicant's actual owner, including a statement of the facts on the basis of which that person is the actual owner, and
- c) the identification data of the applicant's senior officer.

(2) The annexes to the application shall be

- a) the business licence certificate of the applicant,
- b) a certificate of integrity of the applicant, any senior officer of the applicant and the actual owner issued by the foreign state,
- c) a document for the assessment of the trustworthiness of the applicant, any senior officer of the applicant and the actual owner, and
- d) a certificate of the level of education attained by the applicant's senior officer who actually manages the performance of bureau-de-change activity.

(3) Where the application for a bureau-de-change licence is submitted by a founder of a legal entity that has not yet been established, the memorandum of association of that legal entity shall be annexed to the application. Paragraphs 1 and 2(b) to (d) shall apply *mutatis mutandis* for the other essential elements of the application and annexes thereto. Where these provisions refer to the applicant, they shall mean the legal entity whose founder has submitted the application.

Article 5

Notice of any change in data specified in an application for a bureau-de-change licence

(1) The essential elements of a notice of any change in data specified in an application for a bureau-de-change licence and the annexes thereto shall be

- a) the identification data of the bureau-de-change,
- b) the change made in the data, and
- c) the identification data of the person in respect of whom the change is made, including a statement of whether that person is the applicant, the applicant's senior officer who actually manages the bureau-de-change activities, or the actual owner of the applicant.

(2) Depending on the nature of the fact being notified for the person to whom the change relates, the annexes to the notice shall be

- a) a certificate of integrity issued by the foreign state,
- b) a document for the assessment of trustworthiness,
- c) a certificate of the level of education attained, or
- d) a declaration of competence to perform legal acts.

Article 6

Notice of the location of business premises

(1) The essential elements of a notice of the location of business premises shall be

- a) the identification data of the operator;

- b) the address of the business premises or some other clear identification of the place in order to denote the location of the business premises where bureau-de-change activities will be performed; and
- c) the date on which activities will be commenced in the business premises, or the time range if the date of commencement and termination of the performance of bureau-de-change activities is known at the time of notification of the location of the business premises.

(2) The essential elements of a notice of a change in data provided in a notice of the location of business premises shall be

- a) the identification data of the operator; and
- b) the date of termination or the change in the date of commencement of activities.

Article 7

Form and manner of the submission of applications and notices

(1) The application for a bureau-de-change licence, including the required annexes, the notice of the location of business premises and the notice of a change in data provided in a notice of the location of business premises shall be submitted in electronic form via the Czech National Bank's internet application for registration of entities.

(2) The annexes to the application shall be in Portable Document Format (pdf) or, if it is not possible to use pdf format, in some other format commonly used in electronic communication that does not allow changes in the content.

(3) The notice of a change in data provided in an application for a bureau-de-change licence shall be submitted in electronic form.

Article 8

Information on bureau-de-change transactions executed

(1) An operator that purchased or sold foreign currency in an amount of at least CZK 20,000,000 in the previous calendar year shall, as at the end of each calendar quarter, compile statement DEV (CNB) 26 – 04 "Purchase and sale of foreign currency" by filling in an electronic form giving aggregate data on the amount of bureau-de-change transactions executed in individual currencies in the calendar quarter reported for all its business premises.

(2) The operator shall submit the statement referred to in paragraph 1 to the Czech National Bank by the 15th calendar day following the end of the calendar quarter via the Czech National Bank's internet application for data collection.

(3) Should the operator find that data given in a statement submitted are incorrect, it shall make corrections to the data of the said statement via the internet application without undue delay.

(4) The operator shall inform the Czech National Bank of the name and surname, telephone number and e-mail address of the contact person for submitting the statement referred to in paragraph 1.

(5) An operator that did not purchase or sell foreign currency in the amount referred to in paragraph 1 shall submit to the Czech National Bank once a year aggregate data on the total amount of bureau-de-change transactions for all its business premises for the calendar year reported according to the situation as of 31 December by delivery in written or electronic form by 20 February of the following calendar year.

(6) The submission of statements in the manner laid down in this Decree shall not apply to operators that regularly compile and submit to the Czech National Bank statements containing data on bureau-de-change transactions pursuant to other legal rules.

Article 9

Common provisions

(1) If the nature of the matter rules out the submission of an annex to a application or notice required by this Decree, and if the reasons are not sufficiently evident from the application or notice, the applicant or notifier shall justify the failure to submit the annex on a separate annex to the application or notice and shall give appropriate evidence of the reasons.

(2) If the foreign state does not issue an extract from the Criminal Register or an equivalent document, or if there are legal or other obstacles to the submission of an extract from the Criminal Register

- a) a natural person shall submit an affidavit of integrity made before a notary or an authority of the state of which the natural person is a citizen or of any foreign state in which the natural person has resided continuously for more than six months in the last three years,
- b) a legal entity shall submit an affidavit of integrity made before a notary or an authority of the state in which the legal entity has its registered address or of any state in which the legal entity has, or has had in the last three years, an organisational unit.

(3) The document referred to in paragraph 2 may not be more than three months old.

Article 10

Effect

This Decree shall take effect on 1 November 2013.

Governor

per pro V. Tomšík
Vice-Governor