

DECREE

No. 474/2013 Coll.

of 23 December 2013

on the remuneration of liquidators, forced administrators and insolvency administrators of some service providers on the capital market and on the reimbursement of their cash expenditures

Pursuant to Article 199(2) of Act No. 256/2004 Coll., on Capital Market Undertakings, as amended, to implement Article 132(5) and Article 139(11) of that Act, pursuant to Article 110(1) of Act No. 426/2011 Coll., on Retirement Savings, as amended by Act No. 241/2013 Coll., to implement Article 99(5) of that Act, pursuant to Article 170(1) of Act No. 427/2011 Coll., on Supplementary Pension Savings, as amended by Act No. 399/2012 Coll., Act No. 403/2012 Coll. and Act No. 241/2013 Coll., to implement Article 70(8), Article 112(4) and Article 148(4) of that Act, and pursuant to Article 352(4), Article 379(4) and Article 565(3) of Act No. 240/2013 Coll., on Management Companies and Investment Funds, the Czech National Bank stipulates the following:

Article 1

Subject and scope

This Decree stipulates

- a) the manner of determining the remuneration and the manner of paying the remuneration of
1. the liquidator of a pension management company, a management company and an investment fund with legal personality appointed by the Czech National Bank or appointed by a court at the proposal of the Czech National Bank,
 2. the forced administrator of a pension management company, a management company, an autonomous collective investment fund, an investment firm that is not a bank (hereinafter referred to as a “non-bank investment firm”), an operator of a settlement system with irrevocability of settlement having its registered office in the Czech Republic (hereinafter referred to as a “settlement system operator”), a regulated market operator and a central depository, and
 3. the insolvency administrator of a pension management company, an investment firm and a mutual fund manager and anyone who, pursuant to the law of a foreign country, performs duties comparable with those of an insolvency administrator in the event of the bankruptcy of a mutual fund manager (hereinafter referred to as a “foreign insolvency administrator”), and
- b) the manner of determining the amount of reimbursement of the cash expenditures and the manner of paying reimbursement of the cash expenditures of a liquidator, a forced administrator, an insolvency administrator and a foreign insolvency administrator referred to in letter (a).

Article 2

Definitions

For the purposes of this Decree

- a) “liquidation assets” shall mean the asset balance remaining after all actions necessary to

execute liquidation have been performed and before the liquidator's remuneration has been settled, and

b) "realised assets" shall mean

1. in the case of a mutual fund or a trust fund, the value of its realised assets after all liabilities have been settled and before the units have been paid out to the unit-holders, or
2. In the case of a participation pension fund, the value of its realised assets after all liabilities have been settled and before the participant's funds have been transferred to a pension management company other than the one that managed the participation fund and is in liquidation or bankruptcy, or before benefits have been paid to participants that are entitled to them.

Article 3

Determination of the remuneration of a liquidator

(1) The base for determining the amount of remuneration of a liquidator of a pension management company, a management company or an investment fund with legal personality for executing liquidation (hereinafter referred to as the "base") shall be the value of the liquidation assets.

(2) If, as of the date of entry into liquidation, the pension management company or management company manages pension funds, a participation fund, a mutual fund or a trust fund and those funds are being transferred to another pension management company or management company for management, the base shall be increased by one tenth of

- a) the own fund capital of all managed pension funds and participation funds that the liquidator has transferred to the other pension management company, or
- b) the fund capital of all managed mutual funds or trust funds that the liquidator has transferred to the other management company.

(3) If, as of the date of entry into liquidation, the pension management company or management company manages at least one participation fund, mutual fund or trust fund and those funds are being wound up with liquidation, the base shall be increased by the realised assets in all the participation funds, mutual funds or trust funds that are being wound up.

(4) The liquidator shall be entitled to remuneration of

- a) CZK 50,000 plus 1% of the base if the base is less than or equal to CZK 10,000,000,
- b) CZK 150,000 plus 0.3% of the difference between the base and CZK 10,000,000 if the base is less than or equal to CZK 100,000,000,
- c) CZK 420,000 plus 0.07% of the difference between the base and CZK 100,000,000 if the base is less than or equal to CZK 1,000,000,000,
- d) CZK 1,050,000 plus 0.01% of the difference between the base and CZK 1,000,000,000 if the base is less than or equal to CZK 10,000,000,000, or
- e) CZK 1,950,000 plus 0.001% of the difference between the base and CZK 10,000,000,000 if the base is greater than CZK 10,000,000,000.

(5) The total remuneration of the liquidator pursuant to paragraph 4 shall not exceed CZK 6,000,000. If the liquidation assets are not sufficient to remunerate the liquidator of the pension management company, management company or investment fund with legal personality in full or in part, the state shall pay the liquidator the said remuneration that cannot be paid from

the liquidation assets, subject to a maximum amount of CZK 150,000, for the entire period of liquidation for which the liquidator did not receive remuneration due to insufficient assets.

(6) For the purposes of determining the base pursuant to paragraph 2, the most recent known values of the own fund capital of the pension fund and the participation fund, the fund capital of the mutual fund or the fund capital of the trust fund before the pension management company or management company went into liquidation shall be used.

(7) If the liquidation ends before the value of the liquidation assets has been ascertained, the liquidator shall be entitled to remuneration of CZK 25,000. Where the liquidator has carried out actions referred to in paragraphs 2 or 3, this remuneration shall be increased in accordance with the procedure laid down in paragraphs 2–6 *mutatis mutandis*.

Article 4

Payment of the remuneration of a liquidator

(1) The remuneration due to a liquidator shall be payable within 30 days of the date of deletion of the pension management company, management company or investment fund with legal personality from the Commercial Register.

(2) If more than one liquidator contributed in turn to the liquidation of the pension management company, management company or investment fund with legal personality, each of them shall be entitled to a share in the remuneration pursuant to Article 3 corresponding to the duration and difficulty of their work, the number and size of the funds transferred, and the degree and extent of realisation of the assets realised by the liquidator concerned.

(3) For the purposes of determining the amount of remuneration, the liquidator shall provide the Czech National Bank with the following no later than 30 days before the general meeting that is to decide on the motion to distribute the liquidation balance, or 30 days before the filing of the motion for deletion from the Commercial Register if a general meeting cannot take place:

- a) information on the proposed amount of remuneration of the liquidator,
- b) information on the amount of liquidation assets,
- c) information on the transfer of the managed pension funds, participation fund, mutual fund or trust fund to another pension management company or management company,
- d) information on the value of realised assets in participation funds, mutual funds or trust funds,
- e) current information on the balance of monetary funds of the pension management company, management company or investment fund with legal personality, and
- f) current information on the balance of monetary funds of the participation funds, mutual funds or trust funds that are being wound up.

(4) Paragraphs 2 and 3 shall apply *mutatis mutandis* to the payment of remuneration pursuant to Article 3(7). The remuneration due to the liquidator shall be payable within 30 days of the decision on the bankruptcy of the pension management company, management company or investment fund with legal personality. If the bankruptcy petition was dismissed due to a lack of assets, paragraph 1 shall apply *mutatis mutandis*.

Article 5

Determination of the remuneration of a forced administrator of a pension management company, a management company or an autonomous collective investment fund

(1) The forced administrator of a pension management company, a management company or an autonomous collective investment fund shall be entitled to monthly remuneration of

- a) CZK 50,000 if the own capital of the pension management company or management company or the fund capital of the autonomous collective investment fund is less than CZK 10,000,000,
- b) CZK 75,000 if the own capital of the pension management company or management company or the fund capital of the autonomous collective investment fund is equal to or greater than CZK 10,000,000 but less than CZK 100,000,000,
- c) CZK 100,000 if the own capital of the pension management company or management company or the fund capital of the autonomous collective investment fund is equal to or greater than CZK 100,000,000 but less than CZK 1,000,000,000,
- d) CZK 125,000 if the own capital of the pension management company or management company or the fund capital of the autonomous collective investment fund is equal to or greater than CZK 1,000,000,000 but less than CZK 10,000,000,000, or
- e) CZK 150,000 if the own capital of the pension management company or management company or the fund capital of the autonomous collective investment fund is equal to or greater than CZK 10,000,000,000.

(2) If the pension management company or management company manages pension funds, a participation fund or an investment fund, the value of the own capital of the pension management company or management company shall, for the purposes of determining the amount of remuneration pursuant to paragraph 1, be increased by the value of the own fund capital or fund capital of all the pension funds, participation funds or investment funds it manages.

(3) If the assets of the pension management company, management company or autonomous collective investment fund are not sufficient to remunerate the forced administrator of the pension management company, management company or autonomous collective investment fund in full or in part, the state shall pay the forced administrator the said remuneration that cannot be paid from its assets, subject to a maximum amount of CZK 300,000, for the entire period of forced administration for which the forced administrator did not receive remuneration due to insufficient assets.

(4) For the purposes of determining the amount of remuneration pursuant to paragraphs 1 and 2, the most recent known values of the following shall be used:

- a) the own capital of the pension management company or management company before the Czech National Bank decided to impose forced administration on them,
- b) the fund capital of the autonomous collective investment fund before the Czech National Bank decided to impose forced administration on it, and
- c) the own fund capital of the managed pension fund and participation fund or the fund capital of the managed investment fund before the Czech National Bank decided to impose forced administration on the pension management company or management company.

Article 6

Determination of the remuneration of a forced administrator of a non-bank investment firm

(1) The forced administrator of a non-bank investment firm shall be entitled to monthly remuneration of

- a) CZK 50,000 if the own capital of the non-bank investment firm is less than CZK 10,000,000,
- b) CZK 75,000 if the own capital of the non-bank investment firm is equal to or greater than CZK 10,000,000 but less than CZK 100,000,000,
- c) CZK 100,000 if the own capital of the non-bank investment firm is equal to or greater than CZK 100,000,000 but less than CZK 1,000,000,000,
- d) CZK 125,000 if the own capital of the non-bank investment firm is equal to or greater than CZK 1,000,000,000 but less than CZK 10,000,000,000, or
- f) CZK 150,000 if the own capital of the non-bank investment firm is equal to or greater than CZK 10,000,000,000.

(2) For the purposes of determining the amount of remuneration pursuant to paragraph 1, the value of the own capital of the non-bank investment firm shall be increased by the value of the assets of the client¹⁾ recorded in the accounts of the non-bank investment firm.

(3) If the assets of the non-bank investment firm are not sufficient to remunerate the forced administrator of the non-bank investment firm in full or in part, the state shall pay the forced administrator the said remuneration that cannot be paid from its assets, subject to a maximum amount of CZK 300,000, for the entire period of forced administration for which the forced administrator did not receive remuneration due to insufficient assets.

(4) For the purposes of determining the amount of remuneration pursuant to paragraphs 1 and 2, the most recent known values of the following shall be used:

- a) the own capital of the non-bank investment firm before the Czech National Bank decided to impose forced administration on it, and
- b) the assets of the client recorded in the accounts of the investment firm before the Czech National Bank decided to impose forced administration on it.

Article 7

Determination of the remuneration of a forced administrator of a settlement system operator, a regulated market operator or a central depository

(1) The forced administrator of a settlement system operator, a regulated market operator or a central depository shall be entitled to monthly remuneration of

- a) CZK 75,000 if the own capital of the settlement system operator, regulated market operator or central depository is less than CZK 50,000,000,
- b) CZK 100,000 if the own capital of the settlement system operator, regulated market operator or central depository is equal to or greater than CZK 50,000,000 but less than CZK 100,000,000, or
- b) CZK 125,000 if the own capital of the settlement system operator, regulated market operator

¹⁾ Article 128(12) of Act No. 256/2004 Coll., on Capital Market Undertakings, as amended by Act No. 230/2008 Coll.

or central depository is equal to or greater than CZK 100,000,000.

(2) If the assets of the settlement system operator, regulated market operator or central depository are not sufficient to remunerate the forced administrator of the settlement system operator, regulated market operator or central depository in full or in part, the state shall pay the forced administrator the said remuneration that cannot be paid from its assets, subject to a maximum amount of CZK 300,000, for the entire period of forced administratorship for which the forced administrator did not receive remuneration due to insufficient assets.

(3) For the purposes of determining the amount of remuneration pursuant to paragraph 1, the most recent known values of the own capital of the settlement system operator, regulated market operator or central depository before the Czech National Bank decided to impose forced administration on them shall be used.

Article 8

Payment of the remuneration of a forced administrator

(1) The remuneration of a forced administrator of a pension management company, a management company, an autonomous collective investment fund, a non-bank investment firm, a settlement system operator, a regulated market operator or a central depository shall be payable retroactively for the calendar month by the end of the following calendar month.

(2) If the forced administrator of a pension management company, a management company, an autonomous collective investment fund, a non-bank investment firm, a settlement system operator, a regulated market operator or a central depository ended its work in the course of a calendar month, it shall be entitled to pro rata remuneration for that month corresponding to the ratio of the number of working days during which it performed its duties to the total number of working days in the calendar month in which it ended its work.

(3) In the cases referred to in Article 5(3), Article 6(3) and Article 7(2), the remuneration shall be payable by the end of the calendar month immediately following the month in which the forced administrator ended its work.

Article 9

Determination of the remuneration of an insolvency administrator of a pension management company or a mutual fund manager or of a foreign insolvency administrator of a mutual fund manager

(1) If, as of the date of declaration of bankruptcy, the pension management company or mutual fund manager manages pension funds, a participation fund or a mutual fund and those funds are being transferred to another pension management company or manager for management, the base for determining the amount of remuneration shall be one tenth of

a) the own fund capital of all managed pension funds and participation funds that the insolvency administrator has transferred to the other pension management company, or

b) the fund capital of all managed mutual funds that the insolvency administrator or foreign insolvency administrator has transferred to the other manager.

(2) If the insolvency administrator or foreign insolvency administrator is going to realise the assets in the participation fund or mutual fund, the base for determining the amount of remuneration due to the insolvency administrator or foreign insolvency administrator shall be the realised assets of that participation fund or mutual fund.

(3) The insolvency administrator or foreign insolvency administrator shall be entitled to

remuneration of

- a) CZK 50,000 plus 1% of the base if the base is less than or equal to CZK 10,000,000,
- b) CZK 150,000 plus 0.3% of the difference between the base and CZK 10,000,000 if the base is less than or equal to CZK 100,000,000,
- c) CZK 420,000 plus 0.07% of the difference between the base and CZK 100,000,000 if the base is less than or equal to CZK 1,000,000,000,
- d) CZK 1,050,000 plus 0.01% of the difference between the base and CZK 1,000,000,000 if the base is less than or equal to CZK 10,000,000,000, or
- e) CZK 1,950,000 plus 0.001% of the difference between the base and CZK 10,000,000,000 if the base is greater than CZK 10,000,000,000.

(4) The total remuneration of the insolvency administrator or foreign insolvency administrator pursuant to paragraph 3 shall not exceed CZK 6,000,000. If the assets of the pension management company or mutual fund manager are not sufficient to remunerate the insolvency administrator of the pension management company or mutual fund manager or the foreign insolvency administrator of the mutual fund manager in full or in part, the state shall pay the insolvency administrator or foreign insolvency administrator the said remuneration that cannot be paid from the assets, subject to a maximum amount of CZK 150,000.

(5) For the purposes of determining the amount of remuneration pursuant to paragraph 1, the most recent known values of the own fund capital of the pension fund and the participation fund or the fund capital of the mutual fund before the pension management company or mutual fund manager was declared bankrupt shall be used.

(6) If the insolvency proceedings end before the amount of realised assets of the participation fund or mutual fund has been ascertained, the insolvency administrator or foreign insolvency administrator shall be entitled to remuneration of CZK 25,000; this shall be without prejudice to paragraph 1.

Article 10

Payment of the remuneration of an insolvency administrator of a pension management company or a mutual fund manager or of a foreign insolvency administrator of a mutual fund manager

(1) The remuneration due to an insolvency administrator of a pension management company or a mutual fund manager or to a foreign insolvency administrator of a mutual fund manager shall be payable by the end of the calendar month immediately following the month in which the work of the insolvency administrator or foreign insolvency administrator pursuant to the Act on Retirement Savings, the Act on Supplementary Pension Savings or the Act on Management Companies and Investment Funds²⁾ ended.

(2) If more than one insolvency administrator or foreign insolvency administrator contributed in turn to work pursuant to the Act on Retirement Savings, the Act on Supplementary Pension Savings or the Act on Management Companies and Investment Funds,²⁾ each of them shall be entitled to a share in the remuneration pursuant to Article 9 corresponding to the duration and difficulty of their work, the number and size of the funds transferred, and the degree and

²⁾ Article 99(5) of Act No. 426/2011 Coll., on Retirement Savings, as amended by Act No. 241/2013 Coll.
Article 112(4) of Act No. 427/2011 Coll., on Supplementary Pension Savings, as amended by Act No. 241/2013 Coll.
Article 379(1) of Act No. 240/2013 Coll., on Management Companies and Investment Funds.

extent of realisation of the assets realised by the insolvency administrator or foreign insolvency administrator concerned.

(3) For the purposes of determining the amount of remuneration, the insolvency administrator or foreign insolvency administrator shall provide the Czech National Bank with the following no later than 30 days before the payment of units to the unit-holders:

- a) information on the proposed amount of remuneration of the insolvency administrator or foreign insolvency administrator,
- b) information on the amount of assets of the pension management company or mutual fund manager,
- c) information on the transfer of the pension funds, participation fund or managed mutual fund to another pension management company or mutual fund manager,
- d) information on the value of realised assets in the participation fund or mutual fund, and
- e) current information on the balance of monetary funds of the pension fund, participation fund or mutual fund.

(4) Paragraphs 1–3 shall apply mutatis mutandis to the payment of remuneration pursuant to Article 9(6).

Article 11

Determination of the remuneration of an insolvency administrator of an investment firm

(1) The remuneration of an insolvency administrator of an investment firm shall comprise the sum of the remuneration determined from the value of the assets issued to clients and the remuneration determined according to the number of clients.

(2) The remuneration determined from the value of the assets issued to clients shall be

- a) CZK 50,000 plus 1% of the value of the assets issued to clients if the value of those assets is less than or equal to CZK 10,000,000,
- b) CZK 150,000 plus 0.3% of the difference between the value of the assets issued to clients and CZK 10,000,000 if the value of the assets issued to clients is less than or equal to CZK 100,000,000,
- c) CZK 420,000 plus 0.07% of the difference between the value of the assets issued to clients and CZK 100,000,000 if the value of the assets issued to clients is less than or equal to CZK 1,000,000,000,
- d) CZK 1,050,000 plus 0.01% of the difference between the value of the assets issued to clients and CZK 1,000,000,000 if the value of the assets issued to clients is less than or equal to CZK 10,000,000,000, or
- e) CZK 1,950,000 plus 0.001% of the difference between the value of the assets issued to clients and CZK 10,000,000,000 if the value of the assets issued to clients is greater than CZK 10,000,000,000.

(3) The remuneration determined according to the number of clients shall be CZK 500 per client subject to a minimum remuneration of CZK 25,000 and a maximum remuneration of CZK 3,000,000.

(4) The total remuneration of the insolvency administrator of an investment firm pursuant to paragraphs 2 and 3 shall not exceed CZK 6,000,000. If the assets of the investment firm are not sufficient to remunerate the insolvency administrator of the investment firm in full or in part,

the state shall pay the said insolvency administrator the said remuneration that cannot be paid from the assets, subject to a maximum amount of CZK 150,000.

(5) If the insolvency proceedings end before the value of the assets issued to clients has been ascertained, the insolvency administrator shall be entitled to remuneration of CZK 25,000.

Article 12

Payment of the remuneration of an insolvency administrator of an investment firm

(1) The remuneration due to an insolvency administrator of an investment firm shall be payable by the end of the calendar month immediately following the month in which the work of the insolvency administrator pursuant to the Act on Capital Market Undertakings³⁾ ended.

(2) If more than one insolvency administrator contributed in turn to work pursuant to the Act on Capital Market Undertakings,³⁾ each of them shall be entitled to a share in the remuneration pursuant to Article 11 corresponding to the duration and difficulty of their work and to the amount of assets issued to clients by the insolvency administrator concerned and the number of clients to which it issued assets.

(3) For the purposes of determining the amount of remuneration, the insolvency administrator or foreign insolvency administrator shall provide the Czech National Bank with the following no later than 5 days after ending work pursuant to the Act on Capital Market Undertakings:³⁾

- a) information on the proposed amount of remuneration of the insolvency administrator,
- b) information on the amount of assets issued to clients, and
- c) information on the number of claims of clients submitted in the insolvency proceedings.

(4) Paragraphs 1–3 shall apply mutatis mutandis to the payment of remuneration pursuant to Article 11(5).

Article 13

Cash expenditures of a liquidator, a forced administrator, an insolvency administrator or a foreign insolvency administrator

(1) A liquidator, a forced administrator, an insolvency administrator or a foreign insolvency administrator shall be entitled to reimbursement of cash expenditures, especially expenditures on court and other fees, travel, post and telecommunications fees, expert reports and opinions, translations, and duplicates and photocopies, incurred efficiently and reasonably in connection with

- a) the liquidation of a pension management company, a management company or an investment fund with legal personality,
- b) the forced administratorship of a pension management company, a management company, an autonomous collective investment fund, a non-bank investment firm, a settlement system operator, a regulated market operator or a central depository, and
- c) work pursuant to Article 99(5) of the Act on Retirement Savings, Article 112(4) of the Act on Supplementary Pension Savings, Article 379(1) of Act on Management Companies and Investment Funds, with the transfer of a managed mutual fund to another manager, or with work

³⁾ Article 132(1)–(4) of Act No. 256/2004 Coll., on Capital Market Undertakings, as amended.

pursuant to Article 132(1)–(4) of the Act on Capital Market Undertakings.

(2) The amount of reimbursement of travel expenses shall be governed by a different legal rule.⁴⁾

Article 14

Manner of reimbursement of the cash expenditures of a liquidator, a forced administrator, an insolvency administrator or a foreign insolvency administrator

(1) A liquidator, a forced administrator, an insolvency administrator or a foreign insolvency administrator shall send the Czech National Bank a breakdown of its cash expenditures for each month in which they were incurred. Reimbursement of cash expenditures shall be paid from the liquidation assets or assets of the pension management company, management company, investment fund with legal personality, investment firm, settlement system operator, regulated market operator or central depository after the Czech National Bank has agreed that the cash expenditures were incurred efficiently and reasonably.

(2) If the liquidation assets or assets of the pension management company, management company, investment fund with legal personality, investment firm, settlement system operator, regulated market operator or central depository are not sufficient to reimburse the cash expenditures of the liquidator, forced administrator, insolvency administrator or foreign insolvency administrator, the state shall pay the said expenses up to the amount that they cannot be paid from the liquidation assets or assets, subject to a maximum amount of CZK 300,000, for work referred to in Article 13(1). The reimbursement shall be paid within 30 days of the Czech National Bank agreeing that the cash expenditures were incurred efficiently and reasonably. The first sentence of paragraph 1 shall apply *mutatis mutandis*.

Article 15

Transitional and common provisions

(1) This decree shall be used solely for the determination and payment of remuneration and reimbursement of cash expenditures of liquidators, forced administrators or insolvency administrators appointed or installed since the date of effect of this decree; the determination and payment of remuneration and reimbursement of cash expenditures of liquidators, forced administrators or insolvency administrators appointed or installed before the date of effect of this decree shall be subject to previous legal regulations.

(2) In justified cases, the remuneration of a liquidator, a forced administrator, an insolvency administrator or a foreign insolvency administrator may be increased by up to 50%; this shall be without prejudice to Article 3(5), Article 5(3), Article 6(3), Article 7(2), Article 9(4) and Article 11(4). The grounds for increasing the remuneration of a liquidator, a forced administrator, an insolvency administrator or a foreign insolvency administrator shall include work of an unusually complex, difficult or lengthy nature or an unusually large number of actions that they had to perform efficiently and reasonably in connection with their work.

(3) This decree shall be without prejudice to the determination of the remuneration of an insolvency administrator of a pension management company or mutual fund manager or a foreign insolvency administrator of a mutual fund manager or an insolvency administrator of an investment firm pursuant to a different legal regulation.⁵⁾

⁴⁾ Act No. 262/2006 Coll., The Labour Code, as amended.

⁵⁾ Decree No. 313/2007 Coll., on the remuneration of insolvency administrators, on the reimbursement of their cash expenditures, on the remuneration of members and alternate members of committees of creditors and on the

Article 16

Repealing provisions

Decree No. 414/2004 Coll., on the remuneration of forced administrators, liquidators and bankruptcy administrators of some service providers on the capital market and on the reimbursement of their cash expenditures, is hereby repealed.

Article 17

Effect

This Decree shall take effect on 1 January 2014.

Governor:

Miroslav Singer, signed