

**OFFICIAL INFORMATION
OF THE CZECH NATIONAL BANK**

of 21 May 2010

**regarding the evaluation of management employees of banks, branches of foreign banks
from third countries, financial holdings and electronic money institutions**

I. Applicability and purpose

1. This Official Information relates to the evaluation of management employees¹⁾ of banks, branches of foreign banks from third countries, financial holdings and electronic money institutions (hereinafter only the “affected financial services providers”).
2. The Czech National Bank shall evaluate the trustworthiness and professional competency of the management employees of an affected financial services provider through the framework of administrative proceedings on granting or changing licences or permits for the activity of a financial services provider. During this it shall proceed pursuant to Act No. 500/2004 Coll., the Code of Administrative Procedure, as amended.
3. When evaluating management changes at an affected financial services provider, the already applicable Acts²⁾ do not require the approval of such persons, i.e. the prior consent of the Czech National Bank, within the framework of administrative proceedings. The affected financial services provider is, however, obligated to inform the Czech National Bank about proposed management changes, and the Czech National Bank has the option of making a statement in regard to such persons. From the procedural perspective, the Czech National Bank exercises the procedure given in the annex to this Official Information.
4. The content of an application for the approval of a management employee of an affected financial services provider during the granting of or changes to a licence or permit is stipulated in the legal regulations of the financial market (regulations to apply laws, see the annex). In the case of changes in the management of affected financial services providers, this represents information for the Czech National Bank, while the content of the information adequately corresponds to the content of the application for the granting of or changes to a licence or permit.

II. Final provisions

This Official Information shall come into effect on the date of its announcement in the Bulletin of the Czech National Bank.

Vice-Governor

Ing. Miroslav Singer, Ph.D. duly signed

¹⁾ A management employee is understood to be a natural person who formally or actually manages the activities of the affected financial services provider. The following shall be evaluated: a member of the board of directors of a bank, the director of a branch of a foreign bank from a third country and the person explicitly stipulated by law for a financial holding and an electronic money institution. Comp. Article 26g (5) of Act No. 21/1992 Coll., on Banks, as amended, (hereinafter only the “AoB”) and Article 2 (2) h) of Act No. 284/2009 Coll., on the Payment System (hereinafter only the “AoPS”).

²⁾ Article 16 (2) b) and Article 26g (6) of the AoB and Article 47 (1) of the AoPS.

Annex: Procedure for the evaluation of management changes at affected financial services providers

Financial Market Regulation and Analyses Department
Responsible employee:
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Procedure for the evaluation of management changes at affected financial services providers

1. Evaluation fundamentals

Information about proposed management changes is provided to the Czech National Bank by the financial services provider in question - in the case of a branch of a bank from a third country, then the foreign bank (hereinafter only the “Submitter”). This information shall include materials essential for the evaluation of the trustworthiness and professional competency of management employees within the scope pursuant to the applicable legal regulations.¹⁾

The Czech National Bank shall evaluate the trustworthiness and professional competency of management employees on the basis of:

- a) the materials sent by the Submitter,
- b) its own findings (e.g. information discovered during the performance of supervision and so on),
- c) a potential interview with the evaluated person,
- d) potentially from other facts that it has available in the case in question.

For the evaluation of a management employee a commission has been set up in the Czech National Bank, which is an advisory body of the executive director of the Financial Market Supervision Department. This commission shall sit with five members who are employees of the Czech National Bank.

The commission may, on the basis of an evaluation of the materials, findings or other facts, refrain from carrying out an interview with the evaluated person, in particular in the event that this person has successfully worked in the management of a financial services provider for a long period of time.

The commission must always evaluate the management employee without bias and on the basis of all the objectively demonstrated facts.

The members of the commission must maintain confidentiality regarding the content of materials, findings, other facts and the course of any interview with the evaluated person.²⁾

2. Interview

If an interview is carried out, its date shall be announced by the Czech National Bank to the Submitter in writing and a sufficient period of time in advance – as a rule two weeks before the interview is due to take place. This procedure need not be complied with if this is in the interest of the Submitter.

¹⁾ Decree No. 233/2009 Coll., on Applications, Approval of Persons and the Manner of Proving Professional Qualifications, Trustworthiness and Experience of Persons, and on the Minimum Amount of Funds to be Provided by a Foreign Bank to its Branch and Decree No. 374/2009 Coll., on the Pursuit of Business of Payment Institutions, Electronic Money Institutions, Small-Scale Payment Service Providers and Small-Scale Electronic Money Issuers.

²⁾ Comp. Article 50 (1) of Act No. 6/1993 Coll., on the Czech National Bank, as amended.

The commission shall carry out the interview with the evaluated person in Czech (it is also possible to carry out the interview in another language upon agreement, in particular in Slovak or in English). A person who is unable to converse in Czech must ensure the presence of an interpreter into Czech who has knowledge of expert financial terminology.

The content of the interview is:

- a) the acquisition of information about the scope of the evaluated person's general and specific knowledge of the financial market with a focus on the activity of the financial services provider in question, including related legal regulations, in particular the issue of the System of governance and
- b) a personal explanation of some facts, in the event doubts or discrepancies relating to them emerge on the basis of the submitted materials, the findings of the Czech National Bank or other facts that the Czech National Bank may have available.

3. Provision of the evaluation results

After the evaluation of all the materials and a potential interview the commission shall evaluate the person.

The subsequent procedure of the Czech National Bank shall be as follows:

- a) If the commission finds that the evaluated person is not competent, the result of the evaluation of this person shall be provided together with justification and the stipulation of a reasonable deadline for him/her to provide a statement,
- b) The executive director of the Financial Market Supervision Department, on the basis of the materials, the findings of the Czech National Bank or other facts and taking into account the recommendations of the commission and any eventual statements by the evaluated person, shall decide on the issue of a Czech National Bank notification on the result of the evaluation,
- c) The Czech National Bank notification on the result of the evaluation shall be sent to the Submitter; the evaluated person shall also receive a copy of this notification,
- d) If the Czech National Bank has no objections against the evaluated person operating in the management of the affected financial services provider, the Czech National Bank notification on the result of the evaluation shall be formulated as follows: "The Czech National Bank has no objections against this person for the performance of the function...".
- e) If the Czech National Bank finds that the evaluated person is not competent to perform as a management employee at the affected financial services provider, the Czech National Bank notification on the result of the evaluation shall be formulated as follows: "The Czech National Bank does not recommend this person for the performance of the function..." In this notification the Czech National Bank shall also indicate the reasons for this person's lack of competence.