

OFFICIAL INFORMATION OF THE CZECH NATIONAL BANK

of 12 January 2015

regarding certain provisions of the Act on Banks and the Act on Credit Unions relating to the single licence

The Czech National Bank hereby provides the following information on the conditions for carrying on cross-border activities under a single licence for banks and credit unions (hereinafter jointly “credit institutions”), foreign banks and eligible financial institutions¹ having their registered office in a Member State² in connection with the Commission regulation on passport notifications³ and the Commission regulation on information to be notified:⁴

I. Purpose of the Official Information

1. The purpose of this Official Information is to provide information on the procedure to be applied in connection with the intention of
 - a) a foreign bank⁵ having its registered office in a Member State which enjoys the advantages of the single licence in accordance with European Union law⁶ to carry on activities pursuant to Article 5d of the Act on Banks within the territory of the Czech Republic through its branch (a “foreign bank branch from another Member State”) or without establishing a branch,
 - b) a domestic bank to carry on activities pursuant to Article 5d of the Act on Banks within the territory of another Member State through its branch or without establishing a branch,
 - c) a domestic credit union to carry on activities pursuant to Articles 1(2)(a), 1(2)(b), 3(1) and 3(2)(d) to (f) of the Act on Credit Unions through its branch or without establishing a branch.

¹ Pursuant to Article 5c of Act No. 21/1992 Coll., on Banks, as amended, an eligible financial institution is a financial institution which may, on the basis of authorisation granted in its home state, carry on through its branches or without establishing a branch the activities listed in Article 5d within the territory of another Member State with the exception of accepting deposits from the public, provided that it also fulfils the conditions listed in Article 5e of the Act on Banks.

² Article 1(6)(a) of the Act on Banks; Article 1a(1)(v) of Act No. 87/1995 Coll., on Credit Unions and Certain Related Measures and on the Amendment of Czech National Council Act No. 586/1992 Coll., on Income Tax, as amended.

³ Commission Implementing Regulation (EU) No 926/2014 of 27 August 2014 laying down implementing technical standards with regard to standard forms, templates and procedures for notifications relating to the exercise of the right of establishment and the freedom to provide services according to Directive 2013/36/EU of the European Parliament and of the Council.

⁴ Commission Delegated Regulation (EU) No 1151/2014 of 4 June 2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards on the information to be notified when exercising the right of establishment and the freedom to provide services.

⁵ A credit institution from another Member State having the legal form of a cooperative shall also be regarded as a foreign bank.

⁶ Article 5a of the Act on Banks.

2. The same procedure as for banks is used for an eligible financial institution and for an entity controlled by an eligible financial institution.⁷

II. A branch of a bank and a branch of an eligible financial institution from another Member State

Scope of application of the Act on Banks and other regulations

1. The Act on Banks applies to the activities of a branch of a bank from another Member State within the territory of the Czech Republic to only a limited extent as stipulated in Article 5a of the Act on Banks. This includes, for example, provisions concerning corrective settlement by banks, regulations in the area of payments and cash handling, procedures relating to the designation of a branch as being significant, provisions on the provision of information on the conditions for accepting deposits and providing loans and other banking transactions and services, the participation of a branch of a bank from another Member State in payment systems, the conditions of deposit-claim insurance, the limits for payments of compensation for deposit claims and the manner of making claims with the deposit insurance scheme, and the procedures for dealing with clients' complaints, submitting information on the activities of a branch at the request of the Czech National Bank, bookkeeping, the obligation to report on matters concerning a client at the written request of authorised entities (law enforcement authorities, the Financial Analytical Unit at the Ministry of Finance, an executor etc.) and participation in the deposit insurance scheme in the case of supplementary insurance of deposit claims.
2. In addition, rules in the areas of monetary policy, private law, consumer protection, money laundering, accounting, statistics and so on apply to a branch of a bank from another Member State. A summary of the main relevant legal rules is available on the website of the Czech National Bank.⁸
3. With the exception of rules in the area of monetary policy, the rules referred to in paragraph 2 also apply *mutatis mutandis* to a branch of an eligible financial institution from another Member State or an entity controlled by such an eligible financial institution. In individual cases it is also necessary to apply sectoral rules depending on the nature of the business of the eligible financial institution and the entity it controls.
4. The Czech National Bank will provide a bank from another Member State or an eligible financial institution with a summary of the main relevant legal rules in writing within two months of receiving notification pursuant to Article 5h(1) of the Act on Banks.
5. The carrying-on of business by an eligible financial institution, or an entity it controls, in the Czech Republic is also conditional on verification and confirmation by the supervisory authority of the home state that the conditions laid down in Article 5e(2) of the Act on Banks have been met.

⁷ Article 5e(4) of the Act on Banks.

⁸ Summary of the main relevant rules:

http://www.cnb.cz/en/supervision_financial_market/legislation/banks_credit_unions/reg_single_licence.html.

Reporting (Article 5j of the Act on Banks)

6. For statistical and informative purposes and for the purposes of supervision, a branch of a bank from another Member State shall prepare and submit to the Czech National Bank regular reports on its business activities in the Czech Republic.⁹ The Czech National Bank may also require other information where necessary for a decision on the designation of a branch as being significant. A branch of a bank from another Member State shall also report information for the system for sharing data on selected debtors¹⁰ referred to in Article 38a of the Act on Banks (the Central Credit Register), and if it decides to use information from this system it shall protect the information received pursuant to Article 38(2) of the Act on Banks.¹¹
7. An up-to-date summary of the statements and reports and other required information to be submitted pursuant to Article 41(1) of the Act on the Czech National Bank is given in Decree No. 346/2013 Coll., on the submitting of statements by banks and foreign bank branches to the Czech National Bank, as amended, and in the related methodology, which are available on the website of the Czech National Bank.¹²
8. A branch of an eligible financial institution shall submit statements and reports for the purposes of statistics to the Czech National Bank in accordance with Article 41(1) of the Act on the Czech National Bank. The Czech National Bank will provide the eligible financial institution with a summary of the statements and reports.

Minimum reserves

9. A branch of a bank from another Member State shall maintain minimum reserves with the Czech National Bank. More detailed information regarding the fulfilment of obligations concerning minimum reserves is provided in a decree and related official information of the Czech National Bank.¹³

III. Conditions for commencing the business of a credit institution or eligible financial institution having a registered office in the Czech Republic within the territory of another Member State through a branch

1. A notification of the intention of a bank or eligible financial institution to open a branch in a Member State in accordance with Article 16a(2) of the Act on Banks or an application for the granting of consent to establish a branch of a credit union within the territory of a host Member State in accordance with Article 2d of the Act on Credit Unions (hereinafter

⁹ Decree No. 346/2013 Coll., on the submitting of statements by banks and foreign bank branches to the Czech National Bank, as amended.

¹⁰ Article 41 of Act No. 6/1993 Coll., on the Czech National Bank, as amended. Decree No. 273/2014 Coll., on compiling and submitting information for the Czech National Bank database – the Central Credit Register – by banks and foreign bank branches.

¹¹ Article 5a(5) of the Act on Banks.

¹² Decree No. 346/2013 Coll. and the related methodology:

http://www.cnb.cz/en/statistics/cnb_statistics_regulations/pnormy_mbstat/index.html

¹³ Decree No. 253/2013 Coll., stipulating the terms and conditions for creating minimum reserves. Official Information of the Czech National Bank of 22 October 2014 regarding Articles 24 and 25 of Act No. 6/1993 Coll., on the Czech National Bank, as amended by Act No. 227/2013 Coll., and regarding Decree No. 253/2013 Coll., stipulating the terms and conditions for creating minimum reserves, CNB Bull. 23/2014.

jointly the “application”) shall be submitted using the form for the submission of a branch passport notification pursuant to the Commission regulation on passport notifications and in accordance with the Commission regulation on information to be notified.¹⁴

2. An administrative proceeding, in which the Czech National Bank will decide in accordance with the Administrative Procedure Code, shall be opened upon delivery of the application. If the decision is positive, the Czech National Bank will hand over the branch passport notification to the competent supervisory authority of the host Member State within three months of receiving all the necessary information¹⁵ (and will inform the applicant of the said handover). If the conditions for establishing a branch of a credit institution or an eligible credit institution in the host Member State are not met, the Czech National Bank shall refuse the application.
3. As regards the particulars of the notification pursuant to the Commission regulation on passport notifications and the Commission regulation on information to be notified, the Czech National Bank wishes to clarify, in order to prevent ambiguity, that the details of professional experience of the persons responsible for the management of the branch¹⁶ should include the following:
 - a) a curriculum vitae specifying level of education, all jobs and engagements, entrepreneurial activities, other self-employment activities, memberships of professional associations and memberships of bodies of other companies, including those already terminated,
 - b) a copy of the certificate of highest level of education attained.
4. In the event of a change in activities or a change in particulars, a change in branch particulars notification shall be submitted.¹⁷ In the change in branch particulars notification, only those sections of the form which contain changed information shall be completed.
5. In the event of a planned termination of the operation of the branch, a change in branch particulars notification which concerns a planned termination shall be submitted.¹⁸
6. The Czech National Bank shall acknowledge the notification; no administrative proceeding shall be opened. If there is anything unclear, the Czech National Bank may call upon the notifying party to explain.

¹⁴ Annex I to the Commission regulation on passport notifications. Article 3 of the Commission regulation on information to be notified.

http://www.cnb.cz/cs/dohled_financni_trh/legislativni_zakladna/banky_a_zalozny/download/1_formular_pro_pr_edlozeni_pasoveho_oznameni_pobocky_nebo_oznameni_o_zmene_udaju.xlsx.

¹⁵ Article 5g(1) of the Act on Banks. Article 2d(4) of the Act on Credit Unions.

¹⁶ Item 2.2.4 of Annex I to the Commission regulation on passport notifications. Article 3(2)(c) of the Commission regulation on information to be notified.

¹⁷ Annex I to the Commission regulation on passport notifications. Article 4(1) of the Commission regulation on information to be notified.

http://www.cnb.cz/cs/dohled_financni_trh/legislativni_zakladna/banky_a_zalozny/download/1_formular_pro_pr_edlozeni_pasoveho_oznameni_pobocky_nebo_oznameni_o_zmene_udaju.xlsx.

¹⁸ Annex IV to the Commission regulation on passport notifications. Article 4(2) of the Commission regulation on information to be notified.

http://www.cnb.cz/cs/dohled_financni_trh/legislativni_zakladna/banky_a_zalozny/download/4_formular_pro_pr_edlozeni_oznameni_o_zmene_udaju_pobocky_k_ukonceni_cinnosti.xlsx.

IV. Conditions for commencing the business of a credit institution or eligible financial institution having a registered office in the Czech Republic within the territory of another Member State without establishing a branch

1. A notification by a bank or eligible financial institution in accordance with Article 5i of the Act on Banks or by a credit union in accordance with Article 2f of the Act on Credit Unions shall be submitted using the form for the submission of services passport notifications pursuant to the Commission regulation on passport notifications and in accordance with the Commission regulation on information to be notified.¹⁹
2. No administrative proceeding shall be opened upon delivery of a notification pursuant to the previous paragraph. The Czech National Bank shall open an administrative proceeding on its own initiative if it recognises circumstances which could justify refusal to perform notification of cross-border provision of services.

V. Common information regarding passport notifications

1. Passport notifications made by a domestic credit institution or domestic eligible financial institution shall be submitted in the Czech or Slovak language²⁰ and in a language accepted by the competent supervisory authority of the host Member State.
2. Passport notifications made by a foreign bank or eligible financial institution having a registered office in a Member State which enjoys the advantages of a single licence in accordance with European Union law shall be accepted by the Czech National Bank in the Czech, Slovak or English language.
3. A passport notification shall be submitted to the address of the Czech National Bank in the manner stipulated in the Administrative Procedure Code.

Address: Czech National Bank
Licensing and Enforcement Department
Na Příkopě 28, 115 03 Praha 1

Mailroom address: Senovážná 3, 115 03 Praha 1

Address for electronic submissions: passport.creditinstitutions@cnb.cz

Data box ID: 8tgaiej

4. Passport notifications sent to passport.creditinstitutions@cnb.cz must be signed using a recognised electronic signature (Article 37 of the Administrative Procedure Code).
5. For the avoidance of doubt, the signature on a written notification, and, where the notifying entity or applicant is represented, also on a power of attorney, must be officially authenticated.

¹⁹ Annex V to the Commission regulation on passport notifications. Article 5 of the Commission regulation on information to be notified.

http://www.cnb.cz/cs/dohled_financni_trh/legislativni_zakladna/banky_a_zalozny/download/5_formular_pro_pr_edlozeni_pasoveho_oznameni_sluzeb.xlsx.

²⁰ Article 16(1) in conjunction with Articles 158 and 154 of the Administrative Procedure Code.

6. If the person signed on a written notification is not the person authorised to act on behalf of the notifying entity or applicant according to information in the Companies Register or a similar foreign register, the authorisation of that person and the extent thereof must be documented.
7. The procedure followed when submitting official documents of other countries must be in accordance with the Administrative Procedure Code.²¹
8. In order to keep particulars correct and up to date, the notifying entity or applicant must notify the Czech National Bank without undue delay of any changes in the particulars contained in the notification and annexes thereto.
9. A copy (including a scanned document) may be submitted instead of the original.
10. If the nature of the matter rules out the submission of an annex to the notification or the inclusion of particulars, the notifying entity or applicant shall give the reasons why the annex cannot be submitted or the particulars included, unless the reasons are absolutely clear from the notification.

VI. Repealing provisions

Official Information of the Czech National Bank of 12 November 2007 promulgated in CNB Bulletin No. 49/2007, regarding certain provisions of the Act on Banks relating to the single licence, shall cease to be in force as from the date of promulgation of this Official Information in the CNB Bulletin.

Vice-Governor

Mojmír Hampl

Financial Market Regulation and International Cooperation Department
Responsible employee: Miloš Machač, tel. +420 224 413 053

²¹ Article 53(4) of the Administrative Procedure Code. More detailed information on authentication of documents issued by foreign authorities is available, for example, on the website of the Ministry of the Interior: <http://www.mvcr.cz/clanek/obcane-tretich-zemi-nektere-nalezitosti-zadosti-overeni-cizich-verejnych-listin.aspx>.