

A Public Notice

announcing a

PROVISION OF A GENERAL NATURE

on the application of the supervisory authority's overall discretion to exclude exposures from investment firms' limits with regard to concentration risk

of 21 July 2022

Pursuant to Article 199(4) of Act No. 256/2004 Coll., on Capital Market Undertakings, as amended by Act No. 96/2022 Coll., the Czech National Bank as a competent administrative authority hereby issues this provision of a general nature regarding Article 41(2) of Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014 (hereinafter referred to as the "IFR"):

An investment firm subject to the IFR and an entity referred to in Article 7(1) of the IFR supervised by the Czech National Bank (hereinafter referred to as "relevant entities") shall, for the purposes of the limit referred to in Article 37 of the IFR, exclude the following from the value of an exposure:

- a) an exposure in covered bonds pursuant to Article 41(2)(a) of the IFR, doing so up to 75% of the value of the exposure; this shall be without prejudice to the effects pursuant to points 1 and 2 of letter (b); and**
- b) where the conditions set out in Article 41(2)(b)(i) and (ii) of the IFR are met, also an exposure to**
 - 1. an entity having its registered office in the Czech Republic that is the parent undertaking of the relevant entity and is a credit institution pursuant to Article 4(1)(1) of Regulation (EU) No 575/2013, an investment firm pursuant to Article 4(1)(2) of Regulation (EU) No 575/2013 or an entity pursuant to Article 11(2)(a) to (c) of Regulation (EU) No 575/2013 and is subject to the same supervision on a consolidated basis in accordance with Regulation (EU) No 575/2013, the same supervision on a consolidated basis in accordance with Article 7 of the IFR or the same supervision for compliance with the group capital test in accordance with Article 8 of the IFR;**
 - 2. an entity that is a subsidiary of the relevant entity and is subject to the same supervision on a consolidated basis in accordance with Article 7 of the IFR or the same supervision for compliance with the group capital test in accordance with Article 8 of the IFR;**

3. **an entity that is a credit institution pursuant to Article 4(1)(1) of Regulation (EU) No 575/2013 or an investment firm pursuant to Article 4(1)(2) of Regulation (EU) No 575/2013 and is subject to the same supervision on a consolidated basis in accordance with Regulation (EU) No 575/2013, the same supervision on a consolidated basis in accordance with Article 7 of the IFR or the same supervision for compliance with the group capital test in accordance with Article 8 of the IFR or equivalent legal regulations in force in an EU non-Member State or a state that is party to the Agreement on the European Economic Area, doing so up to 50% of the value of that exposure; this shall be without prejudice to the effects pursuant to letter (a) and points 1 and 2.**

Justification

1. Pursuant to Article 199(4) of Act No. 256/2004 Coll., on Capital Market Undertakings, as amended by Act No. 96/2022 Coll., the Czech National Bank may issue a provision of a general nature based on, and within the limits of, the directly applicable legislative act of the European Union governing prudential requirements where that directly applicable legislative act allows a competent authority to grant an exemption or modify the application of the rules set forth for investment firms or a set of investment firms defined by type or other entities defined by type referred to in that directly applicable legislative act. The IFR is the directly applicable legislative act of the European Union governing prudential requirements.

2. In accordance with its legal mandate, the Czech National Bank exercises the power to modify the application of the rules based on, and within the limits of, the IFR. By issuing this provision of a general nature, the Czech National Bank applies an exemption pursuant to Article 41(2) of the IFR enabling other exposures to be excluded from the value of exposures for the purposes of the limits with regard to concentration risk pursuant to Article 37(1) of the IFR.

3. This provision of the Czech National Bank is based on Article 41(2) of the IFR, according to which competent authorities may, under the conditions stipulated in that same paragraph, fully or partially exempt selected categories of exposures from the value of exposures for the purposes of the limits with regard to concentration risk pursuant to Article 37(1) of the IFR. By issuing this provision of a general nature, the Czech National Bank exempts covered bond exposures up to 75% of the value of these exposures and also some intra-group exposures. Specifically, it is exempting 100% of the value of exposures to the parent bank, the parent investment firm, the parent investment holding company and the parent mixed financial holding company where those entities have their registered office in the Czech Republic. It also exempts 100% of the value of exposures to subsidiaries having their registered office in the Czech Republic or abroad which, together with the relevant entity, are supervised on a consolidated basis in accordance with Article 7 of the IFR or are supervised for compliance with the group capital test in accordance with Article 8 of the IFR. In addition, 50% of the value of exposures to the foreign parent credit institution, the foreign parent investment firm, affiliate credit institutions or affiliate investment firms where those entities are subject to the same supervision on a consolidated basis or supervision for compliance with the group capital test is excluded from the value of exposures. Intra-group exposures may be excluded if the conditions stipulated in Article 41(2)(b) of the IFR, which relate to the transfer of capital or repayment of liabilities by the parent undertaking and appropriate measurement, evaluation and control of risks, are met.

4. The use of this possibility will provide relief to the relevant entities, but will not reduce their capital for covering the risks to which they are or may be exposed. The use of this possibility will also ensure that the approach to the calculation of the value of exposures for the purposes of relevant entities' limits with regard to concentration risk is comparable to the approach to the calculation of the value of exposures for the purposes of the rules for large exposures in credit institutions' trading books pursuant to Regulation (EU) No 575/2013.

5. The conditions for exempting exposures pursuant to Article 41(2)(b) of the IFR must always be met.

6. Relevant entities shall systematically manage concentration risk pursuant to Article 35 of the IFR, regardless of whether or not the exposures concerned are exempt from the application of Article 37(1) of the IFR.

7. No appeal may be filed against a provision of a general nature.

8. The draft of this provision of a general nature was displayed on 16 June 2022 and removed on 19 July 2022. No comments were made regarding the draft.

Effect

This provision of a general nature shall take effect on 5 August 2022.

imprint of official stamp

Marek Mora
Deputy Governor

signed electronically

Vojtěch Belling
Executive Director, Financial Regulation and
International Cooperation Department

signed electronically

This provision of a general nature was displayed on 21 July 2022.

Removed on: 8 August 2022