

*PUBLIC DECREE,*  
announcing a

**MEASURE OF A GENERAL NATURE**  
**on calculating the net position**

The Czech National Bank, as the competent authority, issues pursuant to Article 20d(1) of Act No. 21/1992 Coll., on banks, as amended by Act No. 135/2014 Coll., Article 9a(1) of Act No. 87/1995 Coll., on credit unions and some related measures and on the amendment of Czech National Council Act No. 586/1992 Coll., on income taxes, as amended, as amended by Act No. 135/2014 Coll. (hereinafter the “Act on Credit Unions”) and Article 199(5) of Act No. 256/2004 Coll., on capital market undertakings, as amended by Act No. 135/2014 Coll., this measure of a general nature to Article 327(2) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012 (hereinafter the “Regulation”):

**If a convertible instrument that includes an option can be converted to an underlying instrument, a bank, credit union and investment firm pursuant to Article 8a(1), (2) and (3) of the Capital Market Undertakings Act may, for the purposes of calculating the capital requirement for position risk pursuant to Chapter 2 of Title IV of Part Three of the Regulation, net off the position in the underlying instrument determined as a delta equivalent value with an opposite position in the given underlying instrument. For the purpose of determining the delta equivalent of an option that is not traded on a regulated market, or where the delta parameter is not available from the relevant regulated market, Article 329(1) of the Regulation shall apply mutatis mutandis.**

Justification

1. Pursuant to Article 20d(1) of the Banking Act, Article 9(1) of the Act on Credit Unions and Article 199(5) of the Capital Market Undertakings Act, the Czech National Bank may issue a measure of a general nature on the basis of and within the bounds of the directly applicable European Union law governing prudential requirements where this directly applicable law allows the competent authority to grant a waiver or modify the use of the stipulated rules for banks or a group of type-designated banks, credit unions or a group of type-designated credit unions or investment firms or a group of type-designated investment firms. The Regulation is the directly applicable European Union law governing the prudential requirements.

2. In accordance with the statutory empowerment, the Czech National Bank exercises the power to modify, on the basis of and within the bounds of the Regulation, the application of stipulated rules that are relevant to credit institutions<sup>1</sup>, investment firms<sup>2</sup> or other entities<sup>3</sup>. The Czech National Bank, through this measure of a general nature, stipulates for the purposes of calculating the capital requirement for the position risk a condition that, if fulfilled, permits the netting of the position in the underlying instrument with an opposite position in the given underlying instrument.

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<sup>1</sup> Article 4(1) point 1 of the Regulation.

<sup>2</sup> Article 4(1) point 2 of the Regulation.

<sup>3</sup> For example, a financial institution pursuant to Article 4(1) point 26 of the Regulation or an ancillary services undertaking pursuant to Article 4(1) point 18 of the Regulation.

3. This measure is of a general nature sets out a procedure for determining the position in the underlying instrument generated by a convertible instrument in a manner that is economically justified and is consistent with the other provisions in the Regulation.

4. Pursuant to Article 327(1) of the Regulation, the absolute value of the excess of an institution's long (short) positions over its short (long) positions in the same equity, debt and convertible issues and identical financial futures, options, warrants and covered warrants shall be its net position in each of those different instruments. In calculating the net position, positions in derivative instruments shall be treated as laid down in Articles 328 to 330 of the Regulation.

5. The Czech National Bank is acting on the basis of Article 327(2) of the Regulation, which prohibits netting between a convertible and an offsetting position in the instrument underlying it, unless the competent authorities adopt an approach under which the likelihood of a particular convertible's being converted is taken into account or require an own funds requirement to cover any loss which conversion might entail. The position in the underlying instrument is determined using the delta equivalent, which is the product of the fair value of the underlying instrument and the delta of the option.

6. The draft of this measure of a general nature was being published from 25 August 2014 to 15 September 2014 on the notification board of the Czech National Bank and in a manner enabling remote access, while no comments were raised with regard to the draft.

#### Entry into force

This measure of a general nature shall enter into force on 3 November 2014.

Ing. Mojmír Hampl, MSc., Ph.D., duly signed  
Vice-Governor

Ing. Pavel Hollmann, MBA, duly signed  
Executive Director, Financial Market  
Regulation And International Co-Operation  
Department

*official stamp*

#### Issuing procedure

This measure of a general nature was published on 3 November 2014.