

374/2015 Coll.

ACT
of 10 December 2015
on Recovery and Resolution in the Financial Market

Note: This unofficial translation is only informative and is not legally binding.

This translation is based on the state of legislation in August 2017 and may not reflect future amendments.

The Parliament has adopted the following Act of the Czech Republic:

BODY ONE
BASIC PROVISIONS

Section 1

Subject Matter

This Act incorporates the applicable Directive of the European Union¹⁾ and at the same time is related to the directly applicable Regulation of the European Union²⁾ and regulates the following for the financial market:

- a) Recovery plans and procedures,
- b) Resolution planning,
- c) Status and powers of the Czech National Bank,
- d) Procedures in the event of a failure of a liable entity or group failure,
- e) Financing of the resolution, and
- f) Cross-border cooperation and procedures applied therein.

Section 2

Definitions

(1) For the purposes of this Act the following definitions apply:

- a) “Resolution action” means the exercise of powers in accordance with Section 82, Section 83, paragraph 1, Section 84, paragraph 1, Section 85, paragraphs 1 and 2, establishment of a resolution administration in accordance with Sections 86 to 95, the passage of activity to a private acquirer in accordance with Sections 96 to 101, the passage of activity to a bridge institution in accordance with Sections 102 to 112, the passage of activity to an asset management vehicle in accordance with Sections 113 to 119, the write down and conversion of liabilities in accordance with Sections 120 to 128 and Sections 137 to 156, government stabilisation tools in accordance with Sections 157 to 163 and the exercise of ancillary powers in accordance with Section 164,
- b) “Institution” means an entity in accordance with Article 4, paragraph 1, point 1 of Regulation (EU) No 575/2013 of the European Parliament and of the Council and an entity in accordance with Article 4, paragraph 1, point 2 of Regulation (EU) No 575/2013 of the European Parliament and of the Council, that is subject to the initial capital requirement of no less than EUR 730 000,
- c) “Financial institution” means an entity in accordance with Article 4, paragraph 1, point 26 of Regulation (EU) No 575/2013 of the European Parliament and of the Council, which is an entity owned by an institution or an entity in accordance with letters g), h) or i) and is subject to supervision on a consolidated basis,

- d) "Controlled entity" means an entity in accordance with Article 4, paragraph 1, point 16 of Regulation (EU) No 575/2013 of the European Parliament and of the Council,
- e) "Controlling entity" means an entity in accordance with Article 4, paragraph 1, point 15, letter a) of Regulation (EU) No 575/2013 of the European Parliament and of the Council,
- f) "Consolidated basis" means a consolidated situation in accordance with Article 4, paragraph 1, point 47 of Regulation (EU) No 575/2013 of the European Parliament and of the Council,
- g) "Financial holding company" means an entity in accordance with Article 4, paragraph 1, point 20 of Regulation (EU) No 575/2013 of the European Parliament and of the Council,
- h) "Mixed financial holding company" means an entity in accordance with Article 4, paragraph 1, point 21 of Regulation (EU) No 575/2013 of the European Parliament and of the Council,
- i) "Mixed-activity holding company" means an entity in accordance with Article 4, paragraph 1, point 22 of Regulation (EU) No 575/2013 of the European Parliament and of the Council,
- j) "EU controlling financial holding entity" means an entity in accordance with Article 4, paragraph 1, point 31 of Regulation (EU) No 575/2013 of the European Parliament and of the Council,
- k) "EU controlling mixed financial holding entity" means an entity in accordance with Article 4, paragraph 1, point 33 of Regulation (EU) No 575/2013 of the European Parliament and of the Council,
- l) "EU controlling institution" means an entity in accordance with Article 4, paragraph 1, point 29 of Regulation (EU) No 575/2013 of the European Parliament and of the Council,
- m) "EU controlling entity" means a EU controlling institution, a EU controlling financial holding entity, or a EU controlling mixed financial holding entity,
- n) "Group" means a controlling entity and its controlled entity,
- o) "European financial group" means a EU controlling entity and its controlled institutions and financial institutions,
- p) "Resolution authority" means an authority designated to execute the powers to resolve the financial market crisis,
- q) "Resolution authority of another Member State" means a resolution authority entrusted by the Member State to exercise the powers to resolve the financial market crisis in accordance with a comparable foreign legal norm,
- r) "Group-level resolution authority" means the resolution authority in the Member State the supervisory authority of which is the consolidating supervisor of the Group,
- s) "State aid" means state aid in accordance with Article 107 of the Treaty on the Functioning of the European Union, or another public financial support at the supranational level which is provided in order to preserve or restore the viability, liquidity or solvency of a liable entity or a group of which such entity forms part and which, if provided for at national level, would constitute State aid in accordance with Article 107 of the Treaty on the Functioning of the European Union,
- t) "Management body" means a statutory body, board of directors, supervisory board, control commission, or another body with a similar area of responsibility depending on the legal form of the entity,
- u) "Critical function" means such activity of a liable entity the discontinuance of which is likely in one or more Member States to lead to the disruption of services that are essential to the real economy or to the disruption of financial stability with particular regard to its difficult substitutability or replaceability due to the size, market share, external or internal interconnectedness or cross-border activities of an entity or group,
- v) "Central counterparty" means an entity as defined in Article 2, point 1, Regulation (EU) No 648/2012 of the European Parliament and of the Council dated 4 July 2012 on OTC derivatives, central counterparties and trade repositories,
- w) "Emergency liquidity assistance" from the Czech National Bank means the provision of funds of the Czech National Bank or any other assistance that may lead to an increase in the volume of receivables of the Czech National Bank, to a solvent liable entity or to a group of solvent liable entities that is facing temporary liquidity problems without such an operation being part of monetary policy,
- x) "Branch" means a branch as defined in Article 4, paragraph 1, point 17 of Regulation (EU) No 575/2013 of the European Parliament and of the Council,

- y) "Significant branch" means a branch that would be considered to be significant in a host Member State in accordance with the legislation of the European Union³⁾.
- (2) Furthermore, for the purposes of this Act, the following definitions apply:
- a) "Crisis prevention measure" means a measure in accordance with Section 11, paragraph 6, measure to remove impediments to resolvability under Sections 23 and 24, measure under Sections 37 to 40, write down and conversion of capital instruments under Sections 60 and 61 and reduction of Common Equity Tier 1 points under Section 65,
 - b) "Systemic crisis" means a disruption in the financial system with the potential to have serious negative consequences for the internal market and the real economy,
 - c) "Member State" means a state, member of the European Union or a state which is a contractual party to the Agreement on the European Economic Area,
 - d) "Bond" means an instrument giving the right to reimbursement of a certain outstanding amount in accordance with another legal regulation or in accordance with the general provisions of a comparable foreign legal norm,
 - e) "Covered bond" means an instrument as referred to Section 17, paragraph 2, letter c) of Government Order No. 243/2013, Coll.,
 - f) "Instrument of ownership" means a shareholder's share in a company with which a share in the share capital or in the voting rights in the company is associated, a security issued by a company giving the right to acquire a security with which a share in the share capital or in the voting rights of the company is associated and an independently transferable right connected with such security,
 - g) "Capital" means capital in accordance with Article 4, paragraph 1, point 118 of Regulation (EU) No 575/2013 of the European Parliament and of the Council,
 - h) "Common Equity Tier 1 instrument" means an instrument which complies with the conditions laid down in Article 28, paragraphs 1 to 4, Article 29, paragraphs 1 to 5 or Article 31, Section 1 of Regulation (EU) No 575/2013 of the European Parliament and of the Council,
 - i) "Additional Tier 1 instrument" is an instrument which complies with the conditions laid down in Article 52 of Regulation (EU) No 575/2013 of the European Parliament and of the Council,
 - j) "Tier 2 instrument" is an instrument which complies with the conditions laid down in Article 63 of Regulation (EU) No 575/2013 of the European Parliament and of the Council,
 - k) "Capital instrument eligible for write down" is Additional Tier 1 instrument and Tier 2 instrument,
 - l) "Secured debt" means a debt where someone provided a material security to the creditor or to the creditor's benefit that the debtor will discharge his/her debt and a debit according to the conditions laid down in Section 17, paragraph 2, letter c) of Government Order No. 243/2013, Coll., on investment fund investments and techniques and instruments used for the purpose of portfolio management, as amended,
 - m) "Authorization to carry out business" means a banking license in accordance with the Act governing the activities of banks, authorization to operate as a savings and credit cooperative society under the Act regulating the activities of savings and credit cooperative societies and the authorization to perform the activities of an investment firm in accordance with the Act on conducting business on the capital market,
 - n) "Micro, small and medium-sized enterprise" means an enterprise of an entrepreneur, whose annual turnover does not exceed an amount corresponding to EUR 50 000 000,
 - o) "Derivative" means a derivative as defined in Article 2, point 5 of Regulation (EU) No 648/2012 of the European Parliament and of the Council,
 - p) "Covered deposits" means a covered deposits in accordance with the Act governing the activities of banks,
 - q) "Persons in senior management" means natural persons who exercise executive functions in the institution and who are responsible for the everyday management of the institution.
- (3) For the purposes of this Act, "Financial contract" means especially
- a) Securities contract, including:
 - 1. Contracts for the purchase, sale or loan of a security, group or index of securities,
 - 2. Options on a security or group or index of securities,
 - 3. Repurchase or reverse repurchase transactions of any such security, group or index.
 - b) Commodities contracts, including

1. Contracts for the purchase, sale or loan of a commodity or group or index of commodities for future delivery,
 2. Options on a commodity or group or index of commodities,
 3. Repurchase or reverse repurchase transactions on any such commodity, group or index.
- c) Futures and forwards contracts, including contracts (other than a commodities contract) for the purchase, sale or transfer of a commodity or property of any other description, service, right or interest for a specified price at a future date,
- d) Swap agreements, including:
1. Options relating to interest rates, spot or other foreign exchange agreements, currency agreements, an equity index or equity, a debt index or debt, commodity indexes or commodities, weather, emissions or inflation,
 2. Swaps of total return, credit spread or credit swaps,
 3. Any agreements or transactions that are similar to a swap agreement referred to in letter a) points 1 and 2, which is the subject of recurrent dealing in the swaps or derivatives markets.
- e) Inter-bank borrowing agreement where the term of the borrowing is three months or less,
- f) Master agreement for any of the contracts or agreements referred to in letters a) to e).
- (4) The provisions of this Act on securities shall be also applied to booked securities unless this is excluded by their nature or by this Act.

Section 3 **Liable entities**

For the purposes of this act, a liable entity is an entity residing in the territory of the Czech Republic, which is

- a) An institution,
- b) A financial institution,
- c) A financial holding company, a mixed financial holding company and a mixed-activity holding company.

Section 4 **Failure**

- (1) A liable entity fails
- a) If it meets the conditions for the withdrawal of the authorization to carry out business, in particular if it has incurred loss which has caused or may cause a substantial decrease of its capital,
 - b) The amount of its liabilities exceeds the value of its assets,
 - c) It is unable to pay its outstanding debts, or
 - d) It is in a situation when it requires provision of State aid unless the aid is provided in accordance with the legal regulations⁴⁾ and legal acts⁵⁾ of the European Union relating to State aid, it is of a precautionary and temporary nature and is taken for the purpose of averting a serious disturbance of the real economy and protecting the financial stability, to an institution which does not comply with conditions under letters a) to c), it is proportionate to its purpose and is subject to a condition that the institution does not intend to use the aid to settle real or impending losses and the support shall have one of the following forms:
 1. State guarantee as a provision of financial aid of the Czech National Bank to remove a temporary shortage of liquidity,
 2. State guarantee for new debts of the institution, or
 3. Increase of capital under conditions which do not put the institution at an advantage if the condition under letters a) to c) is not met at the moment when the financial aid is granted or the condition for exercising the write down and conversion of capital instruments in accordance with Section 60 or Section 61; the aid shall not exceed the amount necessary to cover the shortage of capital established in stress tests, the assets quality evaluation or in a similar way.
- (2) A liable entity also fails if it can be reasonably expected that at least one of the conditions under paragraph 1, letters a) to c) is met.

Section 5
Resolution authority

- (1) The Czech National Bank is the resolution authority.
- (2) While exercising its powers in accordance with this Act, the Czech National Bank acts without any restrictions or agreements which would otherwise be required and is not subject to the notification and information duties in accordance with other legal norms unless provided for otherwise by this Act or by a directly applicable EU law.
- (3) The Czech National Bank is empowered to carry out simulated resolutions of unfavourable situations and simulated resolutions of crises.
- (4) The Czech National Bank maintains a list of liable entities in accordance with Section 3 and publishes it on its internet pages.

Section 6
Separation of functions

- (1) The Czech National Bank shall provide for a functional separation of the department which performs the function of the resolution authority from other functions of the Czech National Bank. This has no effect on the competencies of the Bank Board in accordance with the Act on the Czech National Bank.
- (2) The Czech National Bank shall ensure close cooperation, including exchange of information, among all departments in the exercise of activities in accordance with this Act, and in particular for the purposes of procedures under Sections 17, 19, 22 to 26, Sections 77 to 79, Sections 81, 98, 159, 160 and Section 168, paragraph 1.
- (3) The Czech National Bank shall regulate the rules applying to the separation of functions as specified in paragraph 1 through its internal policy, including the rules that relate to the exchange of information among departments in accordance with paragraph 2, having regard to the requirements of other legal norms. It shall publish this policy or a part thereof which contains the rules in question on its internet pages.
- (4) The Czech National Bank informs the European Commission and the European Supervisory Authority (the European Banking Authority) (hereinafter the European Banking Authority) about the separation of functions under paragraph 1 and it shall indicate the manner of separating the duties and responsibilities.

Section 7
Decision making

- (1) When taking decisions in accordance with this Act, the Czech National Bank
 - a) Shall take into regard the possible effects of the decision in other Member States, in which the entity to whom the decision is addressed is located, or in which other entities of the group of which the entity is a member operate, and
 - b) Shall aim to minimise the negative effects of the decision on the financial stability and negative economic and social effects in those Member States.
- (2) The Czech National Bank takes decisions under this Act on the basis of information available at the time of assessing the need to take such decision, if taking into account of such information is evidently well founded and on the basis of a level of assessment of information that can be reasonably requested under the circumstances. This provision shall be similarly applied to decisions taken by a special manager and by a temporary administrator appointed under this Act.
- (3) The Czech National Bank may require any entity to provide information required for its decision making under this Act including updates and supplement information provided in the resolution plan and obtain information through on-site inspections at the liable entity. The provision of information to the Czech National Bank is not a violation of a contractual or legal obligation to maintain confidentiality. The Czech National Bank is empowered to invite an auditor, audit firm, expert or other persons to the inspection.

- (4) If appropriate, the Czech National Bank may require the liable entity to maintain detailed records of financial contracts of which it is a party, including the specification of the data format and of other essentials of these records. The same time-limit for the delivery of these records shall apply to all liable entities. If it is appropriate for ensuring the resolvability of the liable entity the Czech National Bank is empowered to require it to keep and update a set of documents and information needed to prepare a valuation. The specific scope and detailed specification of materials shall be defined by a decision. This provision is without prejudice to the powers of the Czech National Bank to request information or cooperation from the liable entities.
- (5) Information under paragraph 3 is provided free of charge; where the entity which provided cooperation is not a public administration authority, it is eligible for a compensation of costs efficiently incurred.
- (6) Entities and authorities under paragraph 3 which are obliged to provide information to the Czech National Bank are responsible for damage or other harm caused by them if they do not provide this information properly and in time.
- (7) The liable entity shall appoint a member of the management body or a senior manager directly reporting to the management body who is responsible for providing information to the Czech National Bank under this Act.

BODY TWO
PLANNING, RESOLVABILITY AND INTRA GROUP SUPPORT
TITLE I
RECOVERY PLANS
Volume 1
Simplified obligations for certain institutions
Section 8

- (1) The Czech National Bank, having regard to the impact that the failure of an institution with its registered office in the Czech Republic could have on the financial system, on other institutions including their funding conditions and on the wider economy, may, also without request, limit the scope of applying requirements as specified in Sections 9, 17 to 19 and set the target date for drawing up recovery plans and the frequency for their regular updates differently; in doing so it shall have regard to the nature of the business of the institution, its shareholding structure, its legal form, its risk profile, size and legal status, its interconnectedness to other participants in the financial system, its membership of an institutional protection system, or other similar system in accordance with the directly applicable EU law²⁾ and any exercise of investment activities provided by this institution. If circumstances change the Czech National Bank may, also without request, terminate the effectiveness of the decision on limiting the requirements by issuing a decision which sets a new scope of obligations for the institution in accordance with Sections 9, 17 to 19.
- (2) The Czech National Bank informs the European Banking Authority about the decision adopted by it in accordance with paragraph 1.
- (3) Decisions under paragraph 1 cannot be issued if it is an institution with
 - a) the total value of its assets exceeding an amount corresponding to EUR 30 000 000 000, or
 - b) the ratio of its total assets over the GDP exceeding 20 % and at the same time the total value of its assets exceeding an amount corresponding to EUR 5 000 000 000.

Volume 2
Recovery plan
Section 9
Requirements for the recovery plan

- (1) An institution with its registered office in the Czech Republic which is not part of a group subject to consolidated supervision performed by the Czech National Bank or a supervisory authority of another Member State draws up and maintains a recovery plan which is part of the

managing and control system of the institution in accordance with another legal norm⁶⁾; the institution shall include in the recovery plan:

- a) A broad range of possible recovery measures which the institution would be able to take following a significant deterioration of its financial situation in order to restore its financial stability,
 - b) Conditions and procedures to ensure the timely implementation of recovery actions,
 - c) Analyses based on a range of scenarios of the origin and development of severe macroeconomic phenomena affecting the performance of the bank and of severe financial difficulties of the institution, including system-wide events, and stress specific to the group of which the institution is part and stress specific to individual entities of the group.
- (2) The institution has an obligation to update its recovery plan at least annually and additionally without any undue delay after each change of facts which have a significant effect on the contents or implementation of the recovery plan, especially after a change of its legal form, or organisational structure, its business or financial situation. The Czech National Bank may, especially with regard to conditions specified in Section 8, paragraph 1, set a duty on the institution to update its recovery plan more frequently, including specification of the frequency of such updates.
- (3) The recovery plan of the institution shall be based on realistic assumptions and shall not assume any public financial support or rely on access to or receipt of any credit or effecting any other transactions with the Czech National Bank; the recovery plan of the institution, however,
- a) Includes an analysis of how and when the institution may effect transactions with the Czech National Bank in the conditions addressed by the plan and apply for credits from it,
 - b) Shall identify those assets which in cases under letter a) would be usable as collateral, and
 - c) Describes how the institution would proceed when proposing to effect these transactions and when granted credits.
- (4) The recovery plan of the institution shall include at least:
- a) A summary of the key elements of the plan and a summary of overall recovery capacity,
 - b) A summary of the material changes to the institution since the latest recovery plan submitted to the Czech National Bank,
 - c) A communication and disclosure plan outlining how the institution intends to manage any potentially negative reactions of the market,
 - d) A range of capital and liquidity actions required to maintain or restore the viability and financial situation of the institution,
 - e) An estimation of the timeframe for executing each material aspect of the plan,
 - f) A detailed description of any material impediment to the effective and timely implementation of the plan, including consideration of impact on the rest of the group, customers and counterparties,
 - g) Identification of critical functions of the institution,
 - h) A detailed description of the processes for determining the value and potential transfer or sale of the core business lines, operations and assets of the institution to other entities,
 - i) A detailed description of how recovery planning is integrated into the corporate governance structure of the institution, policies and procedures governing the approval of the recovery plan and identification of the persons in the institution responsible for preparing and implementing the plan,
 - j) Arrangements and measures to conserve or restore the institution's own capital,
 - k) Arrangements and measures to ensure that the institution has adequate access to contingency funding sources, including potential liquidity sources; a part of this is an assessment of available collateral and an assessment of the possibility to transfer liquidity across group entities and business lines, to ensure that it can continue to carry out its operations and meet its obligations as they fall due,
 - l) Arrangements and measures to reduce risks and leverage,
 - m) Arrangements and measures to restructure debts,
 - n) Arrangements and measures to restructure business lines,

- o) Arrangements and measures necessary to maintain continuous access to financial markets infrastructures,
 - p) Arrangements and measures necessary to maintain the continuous functioning of the institution's operational processes, including infrastructure and IT services,
 - q) Preparatory measures to facilitate the sale of assets or the transfer of business lines in a timeframe appropriate for the restoration of financial stability,
 - r) Other management actions or strategies to restore financial soundness and the anticipated financial effect of those actions or strategies,
 - s) Preparatory measures that the institution has taken or plans to take in order to facilitate the implementation of the recovery plan, including measures necessary for the timely recapitalisation of the institution,
 - t) A framework of indicators in accordance with paragraph 5, and
 - u) A description of measures which the institution is willing to take if it finds out a deficiency in its activities or a pending deficiency in accordance with Section 37.
- (5) The institution shall be required to establish and include in each recovery plan a framework of indicators which identifies situations when it may be purposeful to adopt one or more actions referred to in the recovery plan or group recovery plan. The indicators may be of a qualitative or quantitative nature relating to the institution's financial position and shall be capable of being monitored easily. The institution shall monitor and evaluate the values or statuses of the indicators regularly and with sufficient frequency to be able to establish a possible deterioration of its financial position and adopt corresponding recovery measures in time.
- (6) The recovery plan shall not preclude the right of the institution to:
- a) Take action under its recovery plan where the relevant indicator has not reached the required threshold value or status, or
 - b) Refrain from taking such action under its recovery plan where the relevant indicator has reached the required threshold value or status.
- (7) The institution shall inform the Czech National Bank in writing and without any undue delay that the indicator has reached the threshold value or status and about the decision to adopt or refrain from adopting the action under its recovery plan in accordance with paragraph 6.

Section 10

Other requirements for the recovery plan

- (1) Wherever appropriate for the drawing up of an effective recovery plan of the institution, the Czech National Bank may set specific requirements to the institution's recovery plan and impose other requirements for its contents and form.
- (2) Before the institution presents the recovery plan to the Czech National Bank for assessment the recovery plan shall be approved by the management body of the institution.
- (3) Wherever appropriate for ensuring the efficiency of recovery plans the Czech National Bank may lay down details of the requirements under Section 9, paragraph 4 in a decree or other requirements for the recovery plan, the timeframes for its preparation, requirements for its maintenance and the format of submitting it to the Czech National Bank.

Section 11

Assessment of the recovery plan

- (1) The institution shall submit a recovery plan to the Czech National Bank for review always within 7 days at the latest upon drawing them up or updating them and further upon the request of the Czech National Bank to submit a recovery plan within the time framework specified in the request. Together with submitting the recovery plan institution shall submit documents to the Czech National Bank proving that the recovery plan satisfies the requirements specified in paragraph 2.
- (2) The Czech National Bank shall, within 6 months of the submission of the institution's plan, review it and assess whether it satisfies the requirements laid down in Section 9 and whether

the framework of indicators under Section 9, paragraph 5 enables a timely identification of risks and further, whether:

- a) The implementation of the proposed measures is reasonably likely to maintain or restore the viability of the financial position of the institution or of the group of which it is part and its ability to continue its activities, taking into account the preparatory measures that the institution has taken or has planned to take, and
 - b) The plan and the specific measures within the plan are reasonably likely to be implemented quickly and effectively in situations of financial stress and avoid to the maximum extent possible any significant adverse effect on the financial system of the Czech Republic or the European Union, including in scenarios which would lead other institutions to implement recovery actions in the same period.
- (3) When assessing the recovery plan under paragraph 2, the Czech National Bank shall also take into account
- a) The appropriateness of the institution's capital and funding structure, the level of complexity of its organisational structure and its risk profile, and
 - b) A possible adverse impact of any actions in the recovery plan on the resolvability of the institution.
- (4) Where the Czech National Bank assesses that there are material deficiencies in the institution's recovery plan or that there are material impediments to its implementation, it shall notify the institution or the controlling entity of its assessment and direct the institution to submit, within two months, a revised plan demonstrating how those deficiencies or impediments are resolved. The time framework may be extended by the Czech National Bank by not more than one month upon the request of the institution, if it is not possible to submit the revised plan within the originally established time framework. If the deficiencies or impediments are not addressed satisfactorily in the revised plan the Czech National Bank may direct the institution to make specific changes in the recovery plan.
- (5) If the institution fails to submit a revised recovery plan within the set timeframe or if the Czech National Bank determines that the revised recovery plan does not adequately remedy the deficiencies and impediments identified in the assessment of the original plan, and it is not possible to adequately remedy or remove the deficiencies or impediments through a direction to make specific changes to the plan in accordance with paragraph 4, the Czech National Bank shall require the institution to communicate to it within a specified period of time changes it can make to its business in order to remove the deficiencies in or impediments to the implementation of the recovery plan.
- (6) If the institution fails to communicate the required changes in accordance with paragraph 5 to the Czech National Bank within the specified period of time or if the Czech National Bank assesses that the changes identified by the institution would not adequately address the deficiencies or impediments, it may direct the institution to take corrective measures proportionate to the seriousness of the identified deficiencies and impediments, including under a different legal norm⁶⁾, taking into account the effect of the measures on the institution's business, particularly
- a) Reduce the risks associated with its activities, products, or systems, including liquidity risk,
 - b) Enable timely recapitalisation measures,
 - c) Make changes of the institution's strategy and structure,
 - d) Make changes to the funding strategy so as to improve the resilience of the core business lines and critical functions, or
 - e) Make changes to the governance structure of the institution.
- (7) The Czech National Bank shall consult the assessment of a part of the institution's recovery plan to the extent necessary with the relevant supervisory authority of the Member State in the territory of which the institution operates through a significant branch (hereinafter the supervisory authority of the significant branch).

Section 12 Group recovery plan

- (1) The group recovery plan shall consist of measures that may be required to be implemented at the level of the controlling entity and each individual controlled entity; Section 9, Section 10, paragraphs, 1 and 3, and Section 11 shall be applied similarly unless provided for otherwise by this Act.
- (2) The group recovery plan shall consist of a plan for stabilisation of the affected group as a whole, or any institution which is part of the group, when it is in a situation of stress, so as to address or remove the causes of the distress and restore the financial stability of the affected group or institution in question, taking into account the financial position of other group entities.
- (3) The group recovery plan shall include measures to ensure consistency of recovery measures at the level of the controlling entity and the recovery measures at the level of its controlled entities and, if relevant, also at the level of significant branches of the controlling entity or of the controlled entities.
- (4) The group recovery plan and the recovery plan drawn up on an individual or sub-consolidated basis in accordance with Section 14 shall also include measures for adoption or provision of intra-group financial support pursuant to an agreement for intra-group financial support that has been concluded in accordance with Sections 27 to 36.
- (5) In connection with each scenario of the origin and development of unfavourable macroeconomic phenomena and severe financial stress of the group in question or of its members the group recovery plan shall identify whether there are obstacles to the implementation of recovery measures within the group or at the level of its individual entities and whether there are substantial practical or legal impediments to the prompt transfer of own funds or the repayment of debts or claims within the group.

Section 13

Procedure of the Czech National Bank as the consolidating supervisor in creation of the group recovery plan

- (1) If the Czech National Bank is the consolidating supervisor of a group, the relevant EU controlling entity shall draw up and submit a group recovery plan for the group as a whole to the Czech National Bank as the consolidating supervisor. The EU controlling entity shall update the group recovery plan; Section 9, paragraph 2 shall be applied similarly to the conditions of updating the group recovery plan.
- (2) The management body of the entity liable to prepare the group recovery plan shall approve it before submitting it to the Czech National Bank as the consolidating supervisor; this applies also in the case when the entity liable to prepare the group recovery plan is a foreign entity.
- (3) The Czech National Bank as the consolidating supervisor shall, provided that the confidentiality requirements laid down in Section 244 are in place, transmit the group recovery plan drawn up by the EU controlling entity to:
 - a) The supervisory authorities of the Member States where the controlled entities which are members of the group have their registered office (hereinafter the „supervisory authority of the controlled entity“),
 - b) The supervisory authorities of a significant branch in so far as is relevant to that branch, and
 - c) The resolution authorities of the Member States where the controlled entities are located which are part of the group (hereinafter the „resolution authority of the controlled entity“).

Section 14

Procedure of the Czech National Bank as the supervisory authority of the controlled entity in the creation of the group recovery plan

If conditions laid down in Section 15 are satisfied the Czech National Bank as the supervisory authority of the controlled entity may impose a duty on a member of a European financial group with its registered office in the Czech Republic to draw up and submit the recovery plan on an individual or sub-consolidated basis.

Section 15

Procedure of the Czech National Bank as the consolidating supervisor in the assessment of the group recovery plan

- (1) The Czech National Bank as the consolidating supervisor shall assess the extent to which the group recovery plan satisfies the requirements of this Act together with the supervisory authorities of the controlled entities and after consulting other members of the relevant supervisory college while taking into account the potential effects of the recovery measures on financial stability of Member States where the group operates; during the assessment it shall attempt to reach a joint decision on:
 - a) Approval of the group recovery plan;
 - b) Imposing a duty on the EU controlling entity of the group to revise the group recovery plan in accordance with Section 11, paragraph 4;
 - c) Imposing a duty on an institution which is part of the group to draw up an individual recovery plan , or
 - d) Application of one or more measures in accordance with Section 11, paragraph 6 to a member of the group.
- (2) The Czech National Bank as the consolidating supervisor shall notify the decision to the EU controlling entity or shall apply measures in accordance with paragraph 1, letters c) or d) to members of the group in question that it supervises in accordance with the joint decision under paragraph 1.
- (3) In the absence of the joint decision in accordance with paragraph 1 within 4 months of the date when the Czech National Bank as the consolidating supervisor transmitted the group recovery plan to other supervisory authorities of the controlled entity referring to certain matters in accordance with paragraph 1, the Czech National Bank as the consolidating supervisor shall be authorized, even without agreement with the other supervisory authorities of the controlled entity, to make a decision in accordance with paragraph 2; in doing so it shall take into account the views of the authorities expressed during the time limit specified in the first sentence, and it shall send a counterpart of a written copy of the decision to these authorities. This does not prejudice the powers of the Czech National Bank as the consolidating supervisor to agree in accordance with paragraph 1 in relation to controlled entities located in Member States whose respective supervisory authorities agreed with such joint decision.
- (4) If it is likely that a joint decision in accordance with paragraph 1 shall not be reached within the time limit in accordance with paragraph 3, the Czech National Bank as the consolidating supervisor may request the European Banking Authority within the last 7 days before the time limit expires to mediate the dispute in accordance with the directly applicable regulation of the European Union governing the supervision of the financial market in the area of banking⁷⁾, if the dispute relates to measures under paragraph 1, letter a) or to impose measures on a member of the group under Section 11, paragraph 6, letters a), b) or d).
- (5) If the Czech National Bank as the consolidating supervisor or if another supervisory authority of the controlled entity request mediation of the dispute in accordance with paragraph 4, the Czech National Bank as the consolidating supervisor shall defer the decision in accordance with paragraph 3 until a decision is taken by the European Banking Authority, however for no longer than within a period of 1 month from the commencement of the procedure to mediate the dispute.

Section 16

Procedure of the Czech National Bank as the supervisory authority of a controlled entity when assessing the group recovery plan

- (1) The Czech National Bank as the supervisory authority of the controlled entity shall assess the extent to which the group recovery plan satisfies the requirements of this Act together with the consolidating supervisor and with the supervisory authorities of the controlled entities and after consulting other members of the relevant supervisory college while taking into account the potential effects of the recovery measures on financial stability of Member States of the European Union where the group in question operates; during the assessment it shall attempt to reach a joint decision on:
 - a) Approval of the group recovery plan of the group,

- b) Imposing a duty on the EU controlling entity of the group to revise the recovery plan in accordance with Section 11, paragraph 4,
 - c) Imposing a duty to draw up an individual recovery plan for an institution which is part of the group, or
 - d) Application of 1 or more measures in accordance with Section 11, paragraph 6 to a member of the group.
- (2) The Czech National Bank as the supervisory authority of the controlled entity shall notify the decision in accordance with paragraph 1, letters c) and d) to the determined controlled entity which it supervises in accordance with the joint decision under paragraph 1.
 - (3) In the absence of a joint decision in accordance with paragraph 1 within a period of 4 months of the date when the Czech National Bank as the consolidating supervisor of the affected group submitted the group recovery plan to the Czech National Bank, the Czech National Bank shall be authorized to make its own decision in accordance with paragraph 2. This does not prejudice the authority of the Czech National Bank as the supervisory authority of the controlled entity to agree in accordance with paragraph 1 in relation to entities located in Member States whose supervisory authorities agreed with such joint decision.
 - (4) If it is likely that the joint decision under paragraph 1 shall not be reached within the time limit pursuant to paragraph 3, the Czech National Bank as the supervisory authority of the controlled entity shall be authorized within the last 7 days before the time limit expires to request the European Banking Authority to mediate the dispute in accordance with the directly applicable regulation of the European Union governing the supervision of the financial market in the area of banking⁷⁾, if the dispute relates to measures under paragraph 1, letter a) or to impose measures on a member of the group under Section 11, paragraph 6, letters a), b) or d).
 - (5) If the Czech National Bank as the supervisory authority of the controlled entity or if another supervisory authority of a member of the affected group request a mediation of the dispute in accordance with paragraph 4, the Czech National Bank shall defer the decision in accordance with paragraph 3 until a decision is taken by the European Banking Authority, however for no longer than within a period of 1 month from the commencement of the procedure to mediate the dispute.

TITLE II
RESOLUTION PLANS
Volume 1
Resolution plan
Section 17

- (1) If it is purposeful after consulting the resolution authorities of other Member States, in the territory of which a member of the group is operating through a significant branch (hereinafter the resolution authority of a significant branch) the Czech National Bank shall draw up a resolution plan for the institution with its registered office in the Czech Republic that is not part of a group subject to consolidated supervision and shall at the same time assess its resolvability pursuant to Sections 22, 23 and in accordance with the criteria contained in Annex No. 2 to this Act.
- (2) The Czech National Bank shall make available a summary of the key elements of its resolution plan to the institution concerned.
- (3) When drawing up the resolution plan, the Czech National Bank shall have regard to the possible impact that the failure of the institution and the subsequent resolution of the failure in accordance with the insolvency law could have on the financial system, on other institutions, including their funding conditions and on the wider economy; in doing so it shall have regard to the nature of the business of the institution, its shareholding structure, its legal form, its risk profile, size and legal status, its interconnectedness to other participants of the financial system, its membership in an institutional protection system, or another similar system in accordance with the directly applicable EU law¹⁾ and to any exercise of investment activities provided by the institution.
- (4) The resolution plan shall set out possible situations under which failure may happen including that the event of failure may occur at a time of broader financial instability or following preceding system wide events and shall identify possibilities for applying resolution actions. The resolution

plan shall not assume any provision of emergency liquidity assistance from the Czech National Bank or use of public funds except for use of funds from the Resolution Fund and the Deposit Insurance Fund.

- (5) The resolution plan shall include at least:
- a) A summary of the key elements of the plan,
 - b) A summary of the material changes to the institution that have occurred after the latest information was filed in accordance with paragraph 6,
 - c) A description showing how critical functions and core business lines could be legally and economically separated, so as to ensure their continuity upon the failure of the institution,
 - d) An estimation of the timeframe for executing each material element of the plan,
 - e) A description of the assessment of the resolvability of the institution,
 - f) A description of measures required to remove impediments to resolvability,
 - g) A description of processes for determining the value and assessing the possibilities for transfer or marketability of the critical functions, core business lines and assets of the institution,
 - h) Setting up the scope of information duties of the institution in relation to the Czech National Bank,
 - i) A description of how the resolution could be financed,
 - j) A description of potential failures of the institution and of their resolution within the framework of the crisis resolution,
 - k) A description of critical links and interdependencies of the institution,
 - l) A description of possible procedures for preserving access to payments and clearing services and other infrastructures and assessment of the portability of clients' and customers' positions,
 - m) A description of the impact of the plan on the employees including an assessment of associated costs, possibly a procedure of consultation of employees and their representatives during the crisis resolution,
 - n) A plan for communicating with the media and the public,
 - o) Information about the minimum requirements in accordance with Section 129 and where applicable about contractual instruments in accordance with Section 137 and a time limit to reach them,
 - p) A description of processes and systems essential for maintaining the continuous functioning of the institution's operational system,
 - q) Where applicable, any opinion expressed by the institution in relation to the resolution plan and
 - r) An analysis of a situation where the institution could do business with the Czech National Bank and identification of assets that could qualify as collateral.
- (6) If the Czech National Bank does not have available information required for drawing up the resolution plan contained in Annex No. 1 to this Act the institution is obliged to provide it with any necessary information upon request including analyses or simulations in accordance with Annex No. 2 to this Act. The institution is also under obligation to provide the Czech National Bank with any other cooperation which is required for drawing up the resolution plan.

Section 18

- (1) The resolution plan shall be updated annually or after any changes to the legal or organisational structure of the institution or to its business or its financial position that could decrease the effectiveness of the resolution plan or otherwise necessitates an update of the resolution plan. The institution shall communicate any such change to the Czech National Bank without any undue delay.
- (2) The Czech National Bank shall, together with drawing up the resolution plan in accordance with Section 17 or with updating it, assess the resolvability of the institution.
- (3) Based on the assessment of the institution in accordance with Section 17, paragraph 3, the Czech National Bank shall set out the scope and other requirements for the resolution plan, the scope of information provided by institutions, the frequency of its updates and the scope of the assessment of resolvability.

- (4) Where the Czech National Bank comes to a conclusion that in accordance with assessment under paragraph 3 a resolution plan applying simplified obligations will be sufficient for the resolution it shall communicate this to the European Banking Authority. The resolution plan applying simplified obligations may assume that a failure of an institution shall be resolved under the insolvency law without using the resolution powers under this Act. The resolution plan applying simplified obligations may be updated less frequently than as specified in paragraph 1. The application of simplified obligations shall not impede the application of a crisis prevention measure or a resolution action.
- (5) The resolution plan applying simplified obligations under paragraph 4 cannot be drawn for an institution
- a) With the total value of its assets exceeding an amount corresponding to EUR 30 000 000 000, or
 - b) With the ratio of its total assets over the GDP exceeding 20 % and at the same time the total value of its assets exceeding an amount corresponding to EUR 5 000 000 000.

Volume 2
Group resolution plan
Section 19

Requirements for the group resolution plan

- (1) A plan for resolution of an European financial group (hereinafter a „group resolution plan“) shall be drawn up by a group-level resolution authority in cooperation with the resolution authorities of the controlled entities and where appropriate with the resolution authorities of significant branches, within the resolution college and after consulting the consolidating supervisor and the supervisory authorities of the controlled entities, including the supervisory authorities of significant branches.
- (2) The group resolution plan shall include a plan for resolution of the group headed by the EU controlling entity either through resolution at the level of the EU controlling entity or at the level of the individual entities of the group, including controlled entities with their seats in a territory of a state other than a Member State; Section 17, paragraphs 4 to 6 and Section 18, paragraphs 4 and 5 shall be applied similarly to the group resolution plan unless provided for otherwise by this Act; the group resolution plan shall identify:
- a) Resolution action which could be taken in relation to the entities of an EU controlling financial group individually or through coordinated resolution actions in respect of controlled entities,
 - b) Possibilities for coordinated resolution, including measures to facilitate the transfer to a another entity of the European financial group, the group entities or separate business lines that are delivered by particular group entities and at the same time identify any potential impediments to a coordinated resolution,
 - c) Measures of cooperation and coordination with the authorities of a state other than a Member State where a group includes controlled entities or branches of an institution with its registered office in a territory of a state other than a Member State,
 - d) Measures, which may include the legal and economic separation of particular functions or business lines, that are necessary to facilitate group resolution,
 - e) Any additional actions, which it may be necessary to take in connection with the group resolution, above the framework of measures referred to by this Act,
 - f) The way of financing the group resolution and potential principles for sharing the costs between the individual resolution financing arrangements of Member States taking into regard their financial stability and the principles for setting up the amount of the share of the participating resolution financing arrangement in the overall amount of funds needed for group resolution financing.
- (3) A part of the group resolution plan is a detailed description of the group resolution plan and of the assessment of the resolvability of the EU controlling financial group. The group resolution plan shall not have a disproportionate impact on any Member State. In addition, the group resolution shall not assume any use of public financial support or any central bank emergency liquidity assistance besides the use of the financing measures and the deposit insurance schemes.

Section 20

Procedure of the Czech National Bank as the group-level resolution authority in drawing up a group resolution plan

- (1) The EU controlling entity shall submit to the Czech National Bank as the group-level resolution authority information about all entities of the EU controlling financial group similarly as under Section 17, paragraph 5; if conditions under Section 244 are met, the Czech National Bank as the group-level resolution authority shall transmit the information to
 - a) The European Banking Authority to the extent that is necessary to ensure its role in relation to the group resolution plan,
 - b) The resolution authorities of the controlled entities, the resolution authorities of significant branches, the resolution authorities of entities under Section 3, letter c), the supervisory authorities of controlled entities and the supervisory authorities of significant branches at least to the extent that is relevant to the appropriate controlled entity, significant branch or entity under Section 3, letter c).
- (2) If conditions under Section 244 are met, the Czech National Bank as the group-level resolution authority may consult during the drawing up of the group resolution plan with resolution authorities in states other than Member States where the controlled entities or financial holding companies have its registered office or in the territories of which entities of the EU controlling financial group perform through a significant branch (hereinafter third-country resolution authorities).
- (3) The Czech National Bank as the group-level resolution authority shall attempt to reach a joint decision with the resolution authorities of the controlled entities relating to the group resolution plan within 4 months of the date of the transmission of the information under paragraph 1, letter b), to the appropriate authorities within the resolution college; in the absence of a joint decision within this time-limit:
 - a) The Czech National Bank as the group-level resolution authority shall be authorised to make a fully reasoned decision on the group resolution plan in relation to entities with its registered office in Member States, the resolution authorities of which agreed with the joint position; in doing so it shall take into account the views expressed by the resolution authorities within this time limit, or
 - b) The Czech National Bank as the group-level resolution authority may request the European Banking Authority within the last 7 days before the time limit expires to conciliate the dispute in accordance with the directly applicable regulation of the European Union governing the supervision of the financial market in the area of banking⁷⁾, unless the dispute relates to a matter under paragraph 5.
- (4) If the Czech National Bank as the group-level resolution authority or as the resolution authority of the controlled entity requests the European Banking Authority to mediate the dispute, the Czech National Bank as the group-level resolution authority shall defer the drawing up of a group resolution plan under paragraph 3, letter a) until a decision is taken by the European Banking Authority, however for no longer than for a period of 1 month from commencing the procedure to mediate the dispute.
- (5) If in the process of taking the joint decision on the group resolution plan any resolution authority of a controlled entity informs the Czech National Bank as the group-level resolution authority that the group resolution plan impinges on the fiscal responsibilities of a Member State, the Czech National Bank as the group-level resolution authority shall reassess the group resolution plan including the minimum requirement under Section 129. The Czech National Bank as the group-level resolution authority shall also reassess the group resolution plan including minimum requirements under Section 129 if it itself assesses that the group resolution plan may have a direct impact on the public budgets of the Czech Republic.
- (6) The Czech National Bank as the group-level resolution authority shall be obliged to transmit the group resolution plan and its updates to the relevant supervisory authorities of controlled entities, the supervisory authorities of significant branches and it shall notify the EU controlling entity about the drawing up and updating the group resolution plan without any undue delay.

- (7) The Czech National Bank as the group-level resolution authority shall assess the resolvability of the EU controlling financial group at the same time as drawing up and updating the group resolution plan.

Section 21

Procedure of the Czech National Bank as the resolution authority of a controlled entity in the drawing up of a group resolution plan

- (1) The Czech National Bank as the resolution authority of a controlled entity shall endeavour to reach a joint decision relating to a group resolution plan for an EU controlling financial group. In the absence of a joint decision between the Czech National Bank as the resolution authority of a controlled entity and the group-level resolution authority within four months of the date when the group-level resolution authority transmitted information necessary to draw up the group resolution plan to the Czech National Bank as the resolution authority for a controlled entity, the Czech National Bank shall be authorised to draw up the resolution plan for the entities which have their registered office in the territory of the Czech Republic. The Czech National Bank shall notify its decision to draw up the resolution plan to the other members of the resolution college and shall set out the reasons for disagreement with the group resolution plan proposed by the group-resolution authority; the reasoning shall take into account the views and reservations of other supervisory authorities and resolution authorities. This does not prejudice the authority of the Czech National Bank as the resolution authority of a controlled entity to agree on the group resolution plan only in relation to the entities which have their registered office in Member States whose resolution authorities agreed with such joint decision.
- (2) The Czech National Bank as the resolution authority of a controlled entity shall be authorised to request within the last seven days before the time limit under paragraph 1 expires the European Banking Authority to mediate the dispute in accordance with the directly applicable regulation of the European Union governing the supervision of the financial market in the area of banking⁷⁾ provided that the dispute does not relate to a matter under paragraph 3. If the Czech National Bank as the resolution authority of a controlled entity or if another resolution authority of an entity of the respective group requests a conciliation of the dispute, the Czech National Bank as the resolution authority of the controlled entity shall defer the drawing up of a resolution plan until a decision is taken by the European Banking Authority, however for no longer than within a period of one month from the day of commencing the procedure to mediate the dispute.
- (3) If in the process of taking a joint decision on the group resolution plan the Czech National Bank assesses that the group resolution plan may affect the public budgets of the Czech Republic it shall notify this to the group-level resolution authority for the purpose of reassessing the group resolution plan, including also reassessment of minimum requirements under Section 129.
- (4) The Czech National Bank as the resolution authority of the controlled entity shall, together with drawing up and updating the group resolution plan, assess the resolvability of the respective controlled entity.

TITLE III

RESOLVABILITY

Volume 1

Definition of resolvability

Section 22

- (1) Resolvability of an institution means a state of an institution which enables to resolve the institution's failure by liquidation, procedures under the insolvency law, or in accordance with this Act, while avoiding any significant adverse effect on the financial system of the Czech Republic, or of another Member State of the European Union as a whole, including circumstances of an already existing broader financial stability of system and of preceding system-wide events and while at the same time ensuring the continuity of critical functions which the institution carries out. Assessment of resolvability shall not assume any emergency liquidity assistance of

the Czech National Bank, or any use of public funds except for use of funds from the Resolution Fund and the Deposit Insurance Fund.

- (2) Resolvability of a group means a state of the group entities which enables to resolve their failure by liquidation procedures under the insolvency law, or in accordance with this Act, or pursuant to a comparable foreign legal norm, while avoiding any significant adverse effect on the financial systems of Member States in which the group entities have their registered office, or of another Member State or the European Union as a whole, including circumstances of an already existing broader financial stability of the system and of preceding system-wide events and while at the same time ensuring the continuity of critical functions carried out by the group entities, where they can be separated in a timely manner or by other means. The assessment of resolvability for groups shall not assume any emergency liquidity assistance of the Czech National Bank, or another central bank or use of public funds, except for use of funds from the Resolution Fund or from similar resolution financing arrangements and from the Deposit Insurance Fund or from similar deposit insurance schemes of another Member State.

Volume 2
Removing of impediments to the resolvability of an institution
Section 23

- (1) If the Czech National Bank finds out that there are substantive impediments to the resolvability of an institution which is not a group entity which is not included in the supervision on a consolidated basis, it shall commence a procedure to remove the impediments of the resolvability and communicates this to the European Banking Authority. It shall notify the commencement of the procedure in writing to the supervisory authority of a significant branch and to the resolution authority of the significant branch. The requirement to draw up a resolution plan under Section 17, paragraph 1 and the running of the time limit under Section 20, paragraph 3, or Section 21, paragraph 1 are suspended for the time of persisting impediments to the resolvability. The institution shall propose measures to remove the impediments in question within four months of the date of receipt of the notification. The Czech National Bank shall assess whether the proposed measures will lead to removing the impediments.
- (2) Where the Czech National Bank assesses that the proposed measures are sufficient it shall require the institution with its registered office in the Czech Republic to apply them. This decision is not subject to the right of appeal.
- (3) Where the Czech National Bank assesses that the proposed measures are not sufficient it shall require the institution to take alternative measures or to take the measures proposed by the institution together with other measures and shall require the institution to propose a plan for implementing these measures within one month. At the same time it notifies its decision to the European Banking Authority. In its decision, the Czech National Bank shall name the reasons why the proposed measures would not remove the impediments to resolvability and shall state the reasons for imposing the obligation to apply other or additional measures; in doing so it shall take into account the threat to financial stability of those impediments to resolvability and the effect of the imposed measures on the business of the institution, its stability and its ability to contribute to the economy.
- (4) The Czech National Bank may require in the decision the institution to:
- a) Revise any intra-group financial support agreements in accordance with Section 27 or draw up service agreements, whether within the EU controlling financial group or with third parties, to cover the provision of critical functions,
 - b) Limit the individual and aggregate exposure of the institution,
 - c) Impose more frequent provision of information or provision of information relevant for resolution purposes,
 - d) Sell or divest specific assets,
 - e) Limit or cease specific activities,
 - f) Restrict or prevent the development of new or existing business activities and provision of certain products or services,

- g) Require changes to legal or operational structures of any group entity, either directly or indirectly controlled by the institution, so as to ensure that critical functions may be legally and operationally separated or separable from other functions for the purposes of a possible resolution or for otherwise providing for the accessibility the continuance of critical functions,
 - h) Or require the controlling entity to set up a financial holding company,
 - i) Or require an entity referred to in Section 3, letter b) or c) to issue eligible liabilities to meet the minimum requirements in accordance with Section 129,
 - j) Or require an entity referred to in Section 3, letter b) or c), to take other steps to meet the minimum requirements in accordance with Section 130, including in particular to attempt to renegotiate any eligible liability of which it is party for the purpose of enabling its write down or conversion,
 - k) Or require a mixed-activity holding company where the institution is controlled by a mixed-activity holding company to set up a separate financial holding company if necessary in order to facilitate the implementation of measures for the resolution of the institution and to avoid the application of the measures for the resolution having an adverse effect on the non-financial part of the company.
- (5) The Czech National Bank shall take into account the effect of the measures referred to in paragraph 4 on the institution in question, the internal market of financial services and the financial stability of other Member States and the European Union as a whole.

Volume 3

Procedure of the Czech National Bank as the group-level resolution authority in removing impediments to resolvability of an EU controlling financial group

Section 24

- (1) The Czech National Bank as the group-level resolution authority together with the resolution authorities of controlled entities, after consulting the affected members of the supervisory college and the resolution authorities and with the resolution authorities of significant branches in so far as it is relevant to the affected significant branch shall assess the resolvability of the EU controlling financial group in accordance with Section 22 and Annex No. 2 to this Act.
- (2) If the Czech National Bank as the group-level resolution authority shall deem that the EU controlling financial group is not resolvable it shall notify the European Banking Authority without any undue delay.
- (3) The Czech National Bank as the group-level resolution authority in cooperation with the European Banking Authority and in accordance with the directly applicable regulation of the European Union governing the supervision of the financial market in the area of banking⁷⁾ shall prepare an analysis of the substantive impediments to the resolvability of the EU controlling financial group together with proposed measures to remove the impediments and informs the EU controlling entity, the resolution authorities of controlled entities and the resolution authorities of significant branches.
- (4) Within four months of the date of receipt of the analysis in accordance with paragraph 2 the EU controlling group authority may propose alternative measures to remedy the impediments to the Czech National Bank as the group-level resolution authority.
- (5) The Czech National Bank as the group-level resolution authority shall communicate in accordance with paragraph 4 the proposed measures to the European Banking Authority, the resolution authorities of the controlled entities and the resolution authorities of the significant branches and shall do everything within its power to reach a joint decision regarding the removal of the material impediments to the resolvability with the resolution authorities of the controlled entities within 4 months of the date of the receipt of the proposal in accordance with paragraph 4, or if no proposal in accordance with paragraph 4 is made, within four months of the date of the submission of the analysis in accordance with paragraph 3 and shall take into account the potential impact of the proposed measures on the entities of the EU controlling financial group. The Czech National Bank as the group-level resolution authority shall do everything possible within the resolution college to reach a joint agreement on the proposed measures within assessing the resolvability of the European financial group in relation to all its members.

Section 25

- (1) If the joint decision is reached in accordance with Section 24, paragraph 5, the Czech National Bank as the group-level resolution authority shall impose measures to remove the impediments to resolvability on the EU controlling entity and on other group entities with their registered office in the territory of the Czech Republic in accordance with the joint decision.
- (2) In the absence of the joint decision within four months of the date of receipt of the proposal in accordance with Section 24, paragraph 4, or if such communication was not made through the lapse of the time-limit in accordance with Section 24, paragraph 5, the Czech National Bank as the group-level resolution authority shall be authorized to impose separately its own measures to remove impediments to resolvability on the EU controlling entity and on other group entities with their registered office in the territory of the Czech Republic. The Czech National Bank as the group-level resolution authority shall provide reasons for this procedure and shall take into account the views and reservations of other members of the college.
- 3) If no joint decision is reached regarding the imposition of these measures in accordance with Section 23, paragraph 4, letters g), h) and k), the Czech National Bank as the group-level resolution authority may request the European Banking Authority within the last 7 days before the time limit in accordance with paragraph 2 expires to conciliate the dispute in accordance with the directly applicable regulation of the European Union governing the supervision of the financial market in the area of banking⁷⁾. If the Czech National Bank as the group-level resolution authority or if the resolution authority of the controlled entity request the European Banking Authority to conciliate the dispute the Czech National Bank as the group-level resolution authority shall defer issuing its independent decision in accordance with paragraph 2 regarding the imposing of these measures until a decision is taken by the European Banking Authority, however for no longer than within a period of one month from the day of commencing the procedure to conciliate the dispute.

Volume 4

Procedure of the Czech National Bank as the resolution authority of a controlled entity in removing impediments to resolvability at the group level

Section 26

- (1) If the Czech National Bank as the resolution authority of a controlled entity receives an analysis of the substantive impediments to the resolvability of the European financial group from the group-level resolution authority together with proposed measures to remove the impediments it shall inform the affected group entities with their registered office in the territory of the Czech Republic about the analysis without any undue delay. It shall at the same time do everything to reach a joint decision with the group-level resolution authority regarding the adoption of measures to remove the impediments to resolvability of the European financial group.
- (2) The Czech National Bank as the resolution authority of the controlled entity shall impose measures to remove the impediments to resolvability of the European financial group on the group entities with their registered office in the territory of the Czech Republic in accordance with the joint decision in accordance with paragraph 1.
- ((3) In the absence of the joint decision in accordance with paragraph 1 within four months of the submission by the group-level resolution authority of the analysis of the substantive impediments to the resolvability of the European financial group together with proposed measures to remove the impediments to the Czech National Bank, the Czech National Bank as the resolution authority of the controlled entity shall take its own independent decision to impose measures to remove the impediments to the resolvability on the group entities with their registered office in the territory of the Czech Republic. The decision shall be reasoned and shall take into account the views and reservations of other resolution authorities. It shall notify the respective group-level authority of the decision.
- (4) The Czech National Bank as the resolution authority of the controlled entity may request the European Banking Authority within the last seven days before the time limit as specified in

paragraph 3 expires to mediate the dispute in accordance with the directly applicable regulation of the European Union governing the supervision of the financial market in the area of banking⁷⁾ if no joint decision is reached regarding measures in accordance with Section 23, paragraph 4, letters g), h) and k). If the Czech National Bank as the resolution authority of the controlled entity or if another resolution authority of the respective group entity request the European Banking Authority to mediate the dispute the Czech National Bank as the resolution authority of the controlled entity shall defer issuing its independent decision in accordance with paragraph 3 regarding the imposing of these measures until a decision is taken by the European Banking Authority, however for no longer than within a period of one month from the day of commencing the procedure to mediate the dispute.

TITLE IV
INTRA GROUP FINANCIAL SUPPORT
Group financial support agreement
Section 27

- (1) Provided that the conditions of this Title are met the liable entity which is subject to the consolidated supervision has the right to enter into a written agreement with one or more institutions or with financial institutions which are entities of the same group and are subject to the consolidated supervision performed by the same supervisory authority, which contains an obligation to provide financial support to a party of the agreement that meets the conditions for imposing remedial measures under Section 35 or under similar conditions of a comparable foreign legal norm (hereinafter group financial support agreement). The financial support may be in a form of a loan, the provision of guarantees of assets for use as collateral (hereinafter group financial support).
- (2) The provisions of this Title do not apply to financial arrangements and to other transactions among group entities performed outside the framework of agreements concluded under paragraph 1. The liable entity may take part in the financial arrangements and in other transactions aimed to support a group entity provided that conditions under other legal norms are met⁸⁾, if this is in compliance with the internal rules of the respective group and if the group entity which intends to participate in a financial arrangement or in another transaction assesses with regard to the circumstances of the case that participation in the financial arrangement or in another transaction is needed and does not represent a risk for the respective group.
- (3) The right to claim provision of group support based on a group financial support agreement may not be ceded to another entity and it does not pass to the legal successor of the party to the group financial support agreement.

Section 28

- (1) A group financial support agreement may be concluded only if the following conditions are met:
 - a) Conclusion of the group financial support agreement must be an expression of free will of each of the parties to the agreement,
 - b) The consideration for the provision of group financial support shall not be determined before the time of adopting the decision to provide the group financial support,
 - c) In entering into the agreement and in determining whether to enter into the group financial support agreement and determining the consideration for the provision of group financial support each party to the agreement shall be acting in its own best interests and may take account of any direct or any indirect benefit that may accrue to a party as a result of provision of the group financial support,
 - d) Group financial support agreement shall contain a commitment of each of the parties to the agreement which may be the beneficiary of the financial support to provide all information to a party which should provide the financial support which is relevant for the decision to provide financial support before the determination of the consideration for the provision of group financial support and prior to any decision to provide it,

- e) Conditions for the provision of group financial support are laid down in accordance with the requirements specified in Section 32.
- (2) A group financial support agreement contains principles for the calculation of the consideration for the provision of financial support. The principles do not have to take account of any anticipated temporary impact on market prices arising from events external to the group. In determining the consideration for the provision of group financial support account may be taken of information in the possession of the party providing financial support based on it being in the same group as the party receiving financial support and which is not available to the market. The group financial support agreement which does not comply with the requirements laid down in paragraphs 1 or 2 is invalid. The court shall take into account its invalidity even without a motion.
- (3) A group financial support agreement cannot become effective before the decision of the consolidating supervisor to authorise the agreement becomes enforceable and before its approval in accordance with Section 31, paragraph 1.

Section 29

Procedure of the Czech National Bank as the consolidating supervisor in the review of group financial support agreement

- (1) In the event that a group financial support agreement was concluded between two or more group entities, the EU controlling entity of the group shall submit an application for authorization of the agreement to the Czech National Bank as the consolidating supervisor. The fulfilment of every condition for concluding the group financial support agreement shall be properly described and reasoned in the application. Information contained in the application shall be properly documented. An annex to the application shall consist of the group financial support agreement and confirmations issued by the respective supervisory authorities attesting that at the moment of conclusion of the agreement none of the parties to the agreement meets the conditions for early intervention pursuant to Section 37 or similar conditions of a comparable foreign legal norm of a state in the territory of which the respective party has its registered office . Together with the application, the EU controlling entity shall submit its translation into English language. The application shall be submitted in a number of copies corresponding to the number of the supervisory authorities of entities which are parties to the agreement.
- (2) If the Czech National Bank as the consolidating supervisor receives the application in accordance with paragraph 1 it shall forward without any undue delay a counterpart of the application to the supervisory authorities of the entities which are parties to the group financial support agreement. In doing so it shall make efforts to reach a joint decision with these authorities with regard to the group financial support agreement which is consistent with the conditions set out in Sections 28 and 32 and taking into account the potential impact of such decision, including any fiscal consequences of the execution of the group financial support agreement in the Member States where the group operates.
- (3) The Czech National Bank as the consolidating supervisor shall take a decision in accordance with the joint decision in accordance with paragraph 2.
- (4) In the absence of the joint decision in accordance with paragraph 2 within four months of the receipt of the application, the Czech National Bank as the consolidating supervisor shall make its own decision on the application in accordance with paragraph 1. In doing so it shall take into account the views and reservations of the supervisory authorities of entities of which the applicant is a controlling entity and which are parties to the group financial support agreement. The Czech National Bank as the consolidating supervisor shall forward the decision also to these authorities.
- (5) The Czech National Bank as the consolidating supervisor may request the European Banking Authority within the last seven days before the time limit as specified in paragraph 4 expires to mediate the dispute in accordance with the directly applicable regulation of the European Union governing the supervision of the financial market in the area of banking⁷⁾. If the Czech National Bank as the consolidating supervisor or another supervisory authority of an entity which is a party to a group financial support agreement requests the European Banking Authority to mediate the dispute, the Czech National Bank as the consolidating supervisor shall defer issuing its decision in accordance with paragraph 4 until a decision is taken by the European Banking Authority,

however for no longer than within a period of one month from the day of commencing the procedure to mediate the dispute.

Section 30

Procedure of the Czech National Bank as the supervisor of a controlled entity in the review of group financial support agreement

- (1) If the Czech National Bank as the supervisor of a controlled entity which is a party to a group financial support agreement receives a copy of an application for authorization of the group financial support agreement from the respective consolidating supervisor it shall make efforts to reach a joint decision regarding the authorization of this application within four months of the receipt of the application by the consolidating supervisor.
- (2) The Czech National Bank as the supervisor of a controlled entity may request the European Banking Authority within the last seven days before the time limit as specified in paragraph 1 expires to mediate the dispute in accordance with the directly applicable regulation of the European Union governing the supervision of the financial market in the area of banking⁷⁾.
- (3) The decision of the consolidated supervisor with regard to the authorization of the application in accordance with paragraph 1 shall be binding for the Czech National Bank as the supervisor of a controlled entity.

Section 31

Approval of a group financial support agreement by partners or by entities in a similar position

- (1) After authorization of the group financial support agreement by the consolidated supervisor the parties to the group financial support agreement shall submit the agreement for approval to the general meeting or to a similar supreme body. The group financial support agreement shall take effect only in respect to the parties of the agreement whose general meeting or a similar supreme body have approved it and have authorised the statutory body to make a decision to approve or to provide group financial support in accordance with the terms of the group financial support agreement and the conditions laid down in this Title. The general meeting or a similar supreme body of any of the parties may revoke the authorization granted to the statutory body at any time; in such a case the group financial support agreement ceases to be in effect in respect of such a party.
- (2) Each group entity which is a party to the group financial support agreement or which has received or provided group financial support shall report each year to the partners or to entities in a similar position on the performance of the agreement and on the implementation of any decision taken pursuant to the agreement.

Section 32

Conditions for group financial support

Group financial support by a group entity in accordance with Sections 27 and 28 may only be provided if the following conditions are met:

- a) There is a reasonable prospect that the support provided significantly redresses the financial difficulties of the beneficiary of the financial support,
- b) The provision of group financial support has the objective of preserving or restoring the financial stability of the group as a whole or any of the entities of the group and is in the interests of the group entity providing the support,
- c) The group financial support is provided on terms in accordance with Section 28 and in accordance with the conditions laid down in the group financial support agreement,
- d) There is a reasonable prospect, on the basis of the information available to the group entity providing group financial support at the time when the decision to grant group financial support is taken, that the consideration for the support will be reimbursed and
 1. If the group financial support is given in the form of a loan, that the loan will be reimbursed by the beneficiary of the support within the agreed time limit,

2. If the group financial support is given in the form of a guarantee, that the provider shall receive consideration corresponding to the amount of the fulfilment provided under the guarantee and to the agreed interest within the agreed time limit after claiming the rights arising from the guarantee,
 3. If the group financial support is provided in the form of providing another form of security, the provider shall receive consideration corresponding to the amount of pecuniary injury suffered by the provider as a result of the realization of the security and to the agreed interest within the agreed time limit after the realization of the security.
- e) The provision of the group financial support would not jeopardise the liquidity or solvency of the group entity providing the support,
 - f) The provision of the group financial support would not create a threat to the financial stability, in particular in the Member State of the group entity providing group financial support;
 - g) The group entity providing the group financial support complies at the time the support is provided with the requirements relating to capital or liquidity imposed by other legal norms or based on them⁶⁾, and the provision of the group financial support shall not cause the group entity to infringe those requirements, unless the supervision authority agrees with non-fulfilment of these requirements on an individual basis,
 - h) The group entity providing the group financial support shall comply, at the time when the support is provided, with the requirements relating to the maximum admissible level of credit exposure laid down in another legal norm and in Regulation (EU) No 575/2013 or based on them and the provision of the group financial support shall not cause the group entity to infringe those requirements, unless the supervision authority agrees with non-fulfilment of these requirements on an individual basis, and
 - i) The provision of the group financial support would not undermine the resolvability of the group entity providing the support.

Section 33

Provision and receipt of group financial support

- (1) The decision to provide group financial support shall be taken by the management body of the group entity intending to provide financial support. The decision shall be made out in writing, signed by the person or persons who are authorized to represent the provider of support in this matter and shall at least contain proper reasons, including a description of how the provision of the financial support complies with the conditions laid down in this Act, especially with the conditions laid down in Sections 28 and 32, and it shall indicate the objective or the objectives of the provided group financial support.
- (2) The decision to accept group financial support shall be taken by the management body of the group entity receiving financial support. This applies also if the beneficiary of the group financial support is a foreign entity. The decision to receive the group financial support shall be made out in writing and signed by a person or persons authorised to represent the beneficiary of the group financial support in this matter.
- (3) The entity specified in paragraph 1 shall transmit the decision to provide group financial support to:
 - a) The Czech National Bank,
 - b) The consolidating supervisor,
 - c) The supervisory authority of the beneficiary of group financial support, and
 - d) The European Banking Authority.
- (4) If the Czech National Bank is the consolidating supervisor of the group within which group financial support is to be provided it shall notify the decision in accordance with paragraph 1 without any undue delay to the other authorities within the respective supervisory college and the authorities of the respective resolution college.
- (5) Before providing or receiving group financial support, the group entity shall verify whether the condition in accordance with paragraphs 1 or 2 imposed on the counterparty has been met; if the counterparty with its registered office in another Member State it shall verify whether the corresponding condition laid down by the legal order of that Member State has been met.

Section 34

Procedure on granting agreement for group financial support

- (1) The group entity that intends to provide group financial support shall notify its intention prior to providing the financial support to:
 - a) The Czech National Bank,
 - b) The consolidating supervisor,
 - c) The supervisory authority of the beneficiary of group financial support, and
 - d) The European Banking Authority.
- (2) The group entity shall enclose a detailed description of all other relevant aspects of the intended group financial support to the notification in accordance with Section 33, which are not contained in the decision as well as a copy of the group financial support agreement and a confirmation that the group financial support agreement is binding in relation to all entities among which the group financial support is to be provided.
- (3) The Czech National Bank shall agree with the provision of group financial support provided that the conditions set out in this Act for providing the group financial support are met. Otherwise, it shall restrict or prohibit the provision of group financial support. Administrative proceedings shall start on the day when the Czech National Bank received the notification which meets the requirements specified in paragraph 2. The time limit for the issuance of the decision is five business days from the date of receipt by the Czech National Bank of a notification which meets the requirements specified in paragraph 2.
- (4) Where the Czech National Bank does not make a decision that prohibits or restricts the provision of group financial support within the specified period it is considered that it has taken an affirmative decision and the group financial support may be provided in accordance with the conditions specified in the notification and in its annexes in accordance with paragraph 1.
- (5) The Czech National Bank shall notify its decision to permit, prohibit or restrict the provision of group financial support without any undue delay to:
 - a) The consolidating supervisor,
 - b) The supervisory authority of the beneficiary of group financial support, and
 - c) The European Banking Authority.

Section 35

- (1) Where the Czech National Bank is the consolidating supervisor of the group it shall notify without any undue delay the decision to permit, prohibit or restrict the provision of group financial support which it has taken or which has been transmitted to it by another supervisory authority to other members of the respective college and to the members of the respective resolution college.
- (2) Where the Czech National Bank is a supervisory authority of the beneficiary of group financial support or if it is the consolidating supervisor of the respective group it may notify its objections against such decision within two days from the date of receipt of notification of the decision to restrict or prohibit group financial support to the European Banking Authority and request its assistance in accordance with Article 31 of Regulation (EU) No 1093/2010.
- (3) Where the Czech National Bank is the consolidating supervisor of a group where the group recovery plan makes reference to group financial support and if any of the supervisory authorities of the group entities decided to prohibit or restrict the provision of group financial support among the group entities, the Czech National Bank as the consolidating supervisor may start a reassessment of the group recovery plan; where the Czech National Bank is requested by the competent authority of the group entity in relation to whom the support is restricted or prohibited it shall be obliged to carry out the reassessment of the group recovery plan. The Czech National Bank as the supervisory authority may further request a group entity in relation to whom group financial support is prohibited or restricted and which is subject to its supervision on an individual basis to update its individual recovery plan.
- (4) Where the group recovery plan makes reference to group financial support and where any of the supervisory authorities of the group entities decided to prohibit or restrict the provision of group

financial support to a group entity with its registered office in the territory of the Czech Republic, the Czech National Bank as the supervisory authority of the controlled entity may

- a) Request the consolidated supervisor to start a reassessment of the group recovery plan, or
- b) Request the group entity in relation to which group financial support is prohibited or restricted to update its individual recovery plan.

Section 36

Disclosure

- (1) A group entity shall make public on its internet pages without any undue delay
 - a) Whether it has entered into the group financial support agreement, and
 - b) A description of the general terms of the group financial support agreement which it has entered into and the identification data of the other parties to the agreement.
- (2) Information published in accordance with paragraph 1 shall be updated by the group entity without any undue delay when a change occurs in it but at least annually. Articles 431 to 434 of Regulation (EU) No 575/2013 shall apply to the publishing of information.

BODY THREE

EARLY INTERVENTION

Early intervention measures

Section 37

- (1) Where an institution with its registered office in the Czech Republic infringes in accordance with this Act or in accordance with another legal norm^{2), 6)}, or where the Czech National Bank has a reason to believe that a deficiency in the performance of the institution is likely to occur in the near future, particularly due to its rapidly deteriorating financial position, the Czech National Bank may request the institution to
 - a) Implement one or more measures set out in the recovery plan or to update the recovery plan in accordance with the current situation and to implement one or more of the measures set out in the updated recovery plan,
 - b) Draw up an analysis of its position, identify measures to overcome any problems identified and draw up an action programme to overcome those problems, including a timetable,
 - c) Ensure the convocation of the general meeting or of a similar supreme body which will discuss the information and proposals set out by the Czech National Bank; if the institution fails to comply, the Czech National Bank is authorised to convene the general meeting or of a similar supreme body at the institution's costs while the provisions of the statutes and the law which governs the legal relations of commercial companies and cooperatives shall apply proportionally,
 - d) Remove a member of the management body of the institution, persons in the senior management of a branch of a foreign institution or other responsible persons, if it continues to be unfit to perform its duties in accordance with other legal norms⁹⁾,
 - e) Draw up a realistic plan for negotiation of the restructuring of its debts with one or more creditors,
 - f) Make changes in its business strategy, or
 - g) Make changes to its legal form set up by other legal norms or its legal or operational structures.
- (2) While assessing whether the financial position is rapidly deteriorating in accordance with paragraph 1, the Czech National Bank shall use a set of indicators reflecting in particular the liquidity situation, leverage, the ratio of non-performing loans and concentration of credit exposures of the entity which is subject to its supervision; it shall further take regard of whether the entity's own funds requirement exceeds the capital requirement in accordance with the legal norms regulating own funds of the institution^{2), 6)} by at least 1,5 percentage point taking into regard the prescribed manner of fulfilling this capital requirement.
- (3) The Czech National Bank shall set an appropriate deadline for completion of early intervention measures in accordance with paragraph 1, adequately to the circumstances and to the seriousness

of the deficiency in the performance, so as to enable evaluation of the effectiveness of the remedy.

- (4) Paragraphs 1 to 3 do not prejudice the powers of the Czech National Bank to impose measures or sanctions on the liable entity in accordance with another legal norm¹⁰⁾.

Section 38

Where conditions for the application of an early intervention measure are met and if the general meeting or a similar body have an increase of capital on their agenda which is necessary to avoid the fulfilment of conditions for the application of an early intervention measure the notice period for the convocation of the general meeting or of a similar body under another legal norm¹¹⁾ may be shortened to at least 11 days.

Section 39

Replacement of senior management and management body

- (1) Where there is a significant deterioration in the financial situation of an institution or where there are serious deficiencies in its activity and measures under Section 37 were not or are not implemented, the Czech National Bank may recall members of the management body of the institution and decide that the election or appointment of new persons is subject to the prior approval of the Czech National Bank. Where the Czech National Bank decided that the election or appointment of new persons to the position of members of the management body is subject to its approval and if the member of the body is appointed by the court in accordance with the law regulating the legal relations of business corporations and cooperatives, the court may appoint the member of the body only with a prior agreement of the Czech National Bank. The agreement is requested by the proposer.
- (2) Where the Czech National Bank took a decision in accordance with paragraph 1 it is obliged to take a decision on the request for the prior consent with the elections or with the appointment; the request shall contain information and documents required for the assessment of the credibility and the competencies to perform the functions.
- (3) Paragraphs 1 and 2 shall not prejudice the power of the Czech National Bank to impose measures or sanctions on the liable entity in accordance with another legal norm⁶⁾.

Section 40

Temporary administration

- (1) The Czech National Bank may impose temporary administration of the institution where, taking regard of the circumstances, it shall be deemed that the measure under Section 39 would not remedy the situation. In the decision on the introduction of the temporary administration it appoints one or more temporary administrators of the institution. Only a person with sufficient qualifications, ability and knowledge required to carry out his or her functions may be appointed temporary administrator, who is free of any conflict of interests in relation to the fulfilment of these functions. A temporary administrator cannot be a person with a special relation to the institution in accordance with the legal regulations regulating the activity of the liable entity⁶⁾ and a person in the case of which a conflict of interest is likely to occur in relation to the institution.
- (2) The right to appeal against the decision to impose the temporary administration shall belong to persons who were authorised to act on behalf of the liable entity on a similar matter as at the day which precedes the day of the decision to impose the temporary administration. For this purpose, the Czech National Bank or the temporary administrator shall provide copies of the documentation of the liable entity to these persons upon the request of the entitled persons to the extent necessary and enable such persons to make copies and extracts therefrom.
- (3) Provisions relating to influential persons in accordance with the law regulating the legal relations of commercial companies and cooperatives shall not be applied in relation to the temporary administration.

Section 41

- (1) The Czech National Bank shall, taking into regard the circumstances, specify the scope of the rights and responsibilities of the temporary administrator in its decision to impose the temporary administration, including specification of actions which the temporary administrator has the power to take only subject to the prior consent of the Czech National Bank.
- (2) Such powers of the temporary administrator may include in particular:
 - a) Ascertaining the financial position of the institution,
 - b) Providing consultations to members of the management body of the institution or to persons in the senior management of the institution in questions relating to its management,
 - c) Granting prior consent to draft decisions of the management body of the institution and persons in the senior management of the institution in questions relating to its management; decisions taken by the management body without a prior consent of the temporary administrator shall not be taken regard of,
 - d) Managing the business or part of the business and taking measures with a view to preserving or restoring the financial stability of the institution and its prudential business,
 - e) Exercising the powers of the management body of the institution, or of its individual competencies, exercising the functions of the members of this body or of persons in the senior management of the institution.
- (3) A temporary administrator may not convene a general meeting or a similar supreme body of the institution or set the agenda of its meeting without a prior consent from the Czech National Bank,
- (4) A temporary administrator may not be authorized to exercise the rights reserved for the general meeting or a similar supreme body,
- (5) The exercise of temporary administration shall be regarded as official procedure for the purposes of liability for damages in accordance with the law regulating State liability for damage caused by maladministration.

Section 42

- (1) Where a temporary administrator is entrusted with the powers in accordance with Section 41, paragraph 2, letters b) or c), the Czech National Bank shall request in its decision the members of the management body of the institution or the persons in the senior management of the institution to always obtain an opinion or consent of the temporary administrator prior to adopting specified decisions or measures. This duty is always enforceable as at the moment of the delivery of the decision to appoint the temporary administrator to the institution.
- (2) Where a temporary administrator is entrusted with powers in accordance with Section 41, paragraph 2, letters d) or e), the corresponding powers of the members of the management body of the institution or of persons in the senior management are discontinued as at the moment of the delivery of the written decision to impose temporary administration with the exception of the right to initiate appeal against the decision to impose the temporary administration. Where certain decisions which would otherwise pertain to the management body are reserved in the articles of the institution for the general meeting or for a similar supreme body of the institution or if they are conditioned by its consent the same limitation applies also to the temporary administrator.
- (3) The Czech National Bank is required to make the decision to impose temporary administration public except where the temporary administrator does not have the power to represent the institution. The Czech National Bank shall make its decision to impose temporary administration and the scope thereof public on its internet pages.

Section 43

- (1) Where a temporary administrator is authorized to represent an institution temporary administration is entered in the Commercial Register and the decision to impose temporary administration shall be filed in the registry of documents of the Commercial Register. Applications for entries relating to temporary administration shall be filed by the Czech National Bank.
- (2) The following shall be entered in the Commercial Register:

- a) The day of the introduction of temporary administration,
- b) Name, address of the registered office or place of stay, or also place of residence, if different from the place of stay of the temporary administrator and indication of the manner in which he or she represents the institution, the day of commencement and the day of termination of the exercise of the function, and
- c) The day of termination of temporary administration.

Section 44

Where a temporary administrator is authorised to represent the institution, the institution makes the decision to impose temporary administration and the scope thereof public on its internet pages.

Section 45

Employees of the liable entity and persons who were members of the management body of the liable entity as at the day of the decision to impose temporary administration or at any time within the period of two years before that day are obliged to provide cooperation to the temporary administrator upon request.

Section 46

A temporary administrator shall inform the Czech National Bank upon its request about the current position of the institution and about the measures that he or she took during the temporary administration.

Section 47

- (1) The exercise of the function of a temporary administrator shall end by:
 - a) Appeal of a temporary administrator,
 - b) Termination of temporary administration,
 - c) The expiry of a period of 24 hours upon the moment of the delivery of a written notification of a temporary administrator regarding his or her resignation from the function to the Czech National Bank, or
 - d) The death of a temporary administrator.
- (2) The Czech National Bank may appeal a temporary administrator or change the scope of his or her tasks and powers. The Czech National Bank shall appeal a temporary administrator especially if he or she seriously or repeatedly violates his or her duty or if he or she ceases to meet the requirements for the exercise of this function. In that case it shall appoint a new temporary administrator without any undue delay. It shall proceed similarly also in the cases in accordance with paragraph 1, letters a), c) and d).

Section 48

- (1) Temporary administration shall end by
 - a) The delivery of a decision to end temporary administration to the institution or to a temporary administrator,
 - b) The delivery of a decision to impose resolution administration,
 - c) Appointing a liquidator,
 - d) Declaring bankruptcy, or
 - e) The expiry of a period of 12 months upon the day of the introduction of temporary administration unless the Czech National Bank decides that the temporary administration shall continue before the expiry of the period of time.
- (2) The Czech National Bank has the power to decide that the temporary administration shall continue if the conditions for appointing the temporary administrator continue to be met and if the continuance of the temporary administration is purposeful. The institution shall make the decision

regarding the continuance of the temporary administration available to its partners and to persons in a similar position.

Section 49

- (1) Costs efficiently incurred connected with the exercise of temporary administration, including the remuneration of the temporary administrator, shall be settled from the assets of the institution in which temporary administration has been imposed. The settlement of expenses shall be set in accordance with Section 178.
- (2) Where the assets of the institution in which temporary administration has been imposed are not sufficient for the settlement in accordance with paragraph 1 the expenses shall be reimbursed by the State.
- (3) The amount of remuneration of the temporary administrator and its due date shall be determined by the Czech National Bank with account being taken of the scope of activity of the temporary administrator.

Section 50

Individual early intervention measures and appointment of temporary administrator in relation to groups

- (1) Where the conditions for the imposition of measures in accordance with Section 37 are met in relation to a EU controlling entity or for the appointment of a temporary administrator in accordance with Section 40, the Czech National Bank as the consolidating supervisor shall notify the European Banking Authority prior to taking any decision on the future course of action and it shall consult other members of the respective college.
- (2) When imposing measures in accordance with paragraph 1 the Czech National Bank as the consolidating supervisor shall take into account the impact of those measures on the group entities with their registered office in other Member States. The Czech National Bank as the consolidating supervisor shall notify other members within the respective college and the European Banking Authority.
- (3) If the Czech National Bank as the consolidating supervisor receives a notification from a supervisory authority of a controlled entity requesting consultation regarding the imposition of a measure corresponding to a measure in accordance with Section 37 or regarding the appointment of a temporary administrator in accordance with Section 40 it shall assess the likely impact of the proposed measure on the group entity or group entities in other Member States and on the group as a whole. The Czech National Bank as the consolidating supervisor shall communicate the result of this assessment to the supervisory authority which requested the consultation within three days.
- (4) Where the conditions for the imposition of measures in accordance with Section 37 or for the appointment of a temporary administrator in accordance with Section 40 are met by a controlled entity with its registered office in the territory of the Czech Republic, the Czech National Bank as the supervisory authority of a controlled entity shall notify the European Banking Authority before taking a decision on further action and it shall consult with the consolidated supervisor. When taking the decision whether it will impose such corrective measures, the Czech National Bank as the supervisory authority of a controlled entity shall take into account the assessment of the impact of those measures provided to it by the consolidated supervisor. The Czech National Bank as the supervisory authority of a controlled entity shall communicate this decision to the consolidated supervisor, other members within the respective supervisory college and the European Banking Authority.
- (5) The duty to inform the European Banking Authority in accordance with paragraph 4 shall not be applied where all group entities are with their registered office in the territory of the Czech Republic.

Section 51

Coordination of early intervention measures and appointment of temporary administrator in relation to groups

- (1) Where at least two competent supervisory authorities from another Member State of group entities in whose entity is supervised by the Czech National Bank inform in parallel about their intention to impose measures corresponding to measures in accordance with Section 37 on two or more entities in the group or to appoint a temporary administrator in accordance with Section 40 the Czech National Bank as a consolidated supervisor or a supervisory authority of a controlled entity shall consult a possibility of a coordinated corrective measure for more group entities with the other competent authorities within the college and shall make efforts to reach a joint decision in respect of the assessment of the impacts of those measures with other competent supervisory authorities of the group entities within five days from the date when the consolidated supervisor notified other competent authorities that the controlling entity in the group meets conditions for the imposition of measures corresponding to measures in accordance with Section 37 or for the appointment of a temporary administrator in accordance with Section 40.
- (2) The decision to impose measures in accordance with Section 37 or to appoint a temporary administrator in accordance with Section 40 shall be issued by the Czech National Bank as a supervisory authority of a controlled entity or as a consolidated supervisor pursuant to the joint decision in accordance with paragraph 1.
- (3) In the absence of a joint decision of supervisory authorities in accordance with paragraph 1 within five days the Czech National Bank as a supervisory authority of a controlled entity or as a consolidated supervisor shall take an independent decision to impose measures in accordance with Section 37 or to appoint a temporary administrator of an entity with its registered office in the territory of the Czech Republic in accordance with Section 40.
- 4) Where the Czech National Bank as a supervisory authority of a controlled entity or as a consolidated supervisor does not agree with the measure proposed by another authority within the college which corresponds with any of the measures in accordance with Section 37 paragraph 1 letter a) in respect of requirements laid down in Section 9 paragraph 4 letters d), j), k) and s), measures in accordance with Section 37 paragraph 1 letters e) or g), which was communicated to the authorities within the college or in the absence of a joint decision in accordance with paragraph 1 and if the matter relates to its responsibilities it may request the European Banking Authority before the end of the period in accordance with paragraph 1 to mediate the dispute in accordance with the directly applicable regulation of the European Union⁷⁾. Where the Czech National Bank as a supervisory authority of a controlled entity or as a consolidated supervisor or where any of the supervisory authorities request the mediation of the dispute the Czech National Bank as a supervisory authority of a controlled entity or as a consolidated supervisor shall defer issuing its independent decision in respect of the corrective measure until a decision is taken by the European Banking Authority, however for no longer than within a period of 3 days from the day of commencing the procedure to mediate the dispute.
- (5) When taking a decision to impose measures in accordance with Section 37 or to appoint a temporary administrator in accordance with Section 40 of an entity which is subject to its supervision the Czech National Bank as a supervisory authority of a controlled entity or as a consolidated supervisor shall take into account the views of the other supervisory college authorities which were communicated to it during the consultation in accordance with paragraph 1 or 4 or during efforts to reach a joint decision in accordance with paragraph 1 as well as the potential impacts of its decision on financial stability of other Member States.

BODY FOUR

Section 52

VALUATION OF ASSETS AND LIABILITIES AND PROVISIONAL VALUATION

- (1) Before taking resolution action or writing down and converting capital instruments eligible for write down the Czech National Bank shall ensure that a valuation of the assets and liabilities of the liable entity is carried out or a provisional valuation is performed in accordance with Section 56. Unless provided for otherwise by the law, the valuation or preliminary valuation are carried out for the purpose of establishing whether the conditions for applying a resolution action, write down and conversion of capital instruments are met and subsequently determining an appropriate

procedure and the manner of applying a resolution action or write down and conversion of capital instruments. For this purpose, the Czech National Bank may specify the contents of the valuation in more detail.

- (2) The valuation shall be prepared fairly, in full, with professional care, in accordance with the generally recognized principles of valuation of business enterprises or other assets and by a person independent from the Czech National Bank or from any other relevant public authority and from the liable entity (hereinafter the valuer).

Section 53

- (1) The valuer shall be appointed by the Czech National Bank. A person registered in the list of experts, the list of valuation institutes, or another appropriate person can be appointed as a valuer. Another appropriate person may be appointed only with his or her consent. Only a person may be appointed as a valuer who has experience and knowledge in the field of valuation of assets and liabilities of liable entities and who has sufficient prerequisites for carrying out a proper and independent valuation. Appointments of valuers from the list of experts or from the list of valuation institutes¹²⁾ shall be performed in accordance with the law governing the valuation activity.
- (2) A person to be appointed a valuer is obliged to notify the Czech National Bank of facts that could lead to doubts with regard to his or her independence without any undue delay. The valuer who establishes those facts in the course of the exercise of his or her function has the same duty.
- (3) The Czech National Bank may remove the valuer where the valuer violates the duties laid down in this law in a serious manner, where he or she is unable to carry out the valuation or if it becomes apparent that the valuer does not meet the condition of impartiality and it may appoint a new valuer.
- (4) The removed valuer is obliged to provide all cooperation to the newly appointed valuer which can be reasonably expected for the accomplishment of his or her task.
- 5) While carrying out the valuation the valuer is authorized in particular to:
 - a) Request communications, information and documents for his or her activity from the liable entity,
 - b) Inspect the accounts of the liable entity.
- (6) The liable entity shall provide all cooperation to the valuer required for the proper carrying out of the valuation.

Section 54

- (1) The valuation shall be based on prudent assumptions, including as to rates of default and severity of losses and shall not assume any provision of public financial support, emergency liquidity assistance of the Czech National Bank or any other liquidity assistance from the Czech National Bank.
- (2) Furthermore, the valuation shall take account of the fact that, if any resolution action is applied,
 - a) The Czech National Bank may require the recovery of cash expenses properly incurred in connection with the application of the resolution action from the liable entity in accordance with Section 178,
 - b) The resolution fund may require a reimbursement of interests or payments from the liable entity where the duty to reimburse them originated in connection with the provision of a loan or guarantee to that entity.
- (3) The valuation also contains
 - a) An updated balance sheet and a report on the financial position of the liable entity as appearing in the accounting books and other records of the liable entity,
 - b) An analysis and the accounting value of the assets as appearing in the accounting books and other records of the liable entity,
 - c) The list of outstanding liabilities as appearing in the accounting books of the liable entity with an indication of creditors and owners of instruments of ownership, their categories and their

hierarchy in accordance with the insolvency law and with the law regulating the legal relations of commercial companies and cooperatives, and

- d) An estimate of the satisfaction that the creditors and owners of instruments of ownership would have received from the liable entity if the entity had been wound up under the insolvency law, including their division in classes; this is without prejudice to Section 177, paragraph 1.
- (4) Where the valuation is prepared for the purposes of a passage in accordance with Sections 96, 102 or 113, the valuation shall also contain an estimate of the market value of the assets unless determined otherwise by the Czech National Bank taking regard of the circumstances of the case.

Section 55

- (1) The Czech National Bank shall determine the remuneration of the valuer or the method of determining it as well as its due date. The remuneration of the valuer shall be reimbursed by the Czech National Bank.
- (2) Where a resolution action was applied vis-a-vis the liable entity before preparing the valuation in accordance with Section 52 or where a resolution action was applied in connection with the result of the valuation the Czech National Bank is entitled to the reimbursement of costs efficiently incurred in connection with the valuation from the assets of the liable entity in relation to which the resolution action was applied.
- (3) Where the assets of the liable entity are not sufficient for the reimbursement of costs in accordance with paragraph 2 the costs shall be reimbursed by the State to the extent to which the assets of the liable entity are not sufficient.

Section 56

- (1) Where due to urgency or other serious circumstances it is not possible to conduct an independent valuation in accordance with Section 52, paragraph 2 or to comply with the requirements of the valuation in accordance with Section 54, paragraphs 3 and 4, or Section 136, paragraph 2, the Czech National Bank shall provide for carrying out a provisional valuation of the assets and liabilities of the liable entity.
- (2) The provisional valuation shall include a buffer for additional losses. Provisions of Section 54, paragraphs 3 and 4 and Section 136, paragraph 2 shall be applied adequately to the circumstances of the case. Provisions of Section 53, paragraphs 4 to 6 shall be applied for conducting the preliminary valuation in a similar way.

Section 57

- (1) Where a provisional valuation was conducted the Czech National Bank shall provide for the carrying out of a valuation in accordance with Section 45, paragraph 1 without any undue delay and in compliance with all conditions under Sections 53 and 54. This valuation may be carried out separately from the valuation in accordance with Section 177, paragraph 2 or simultaneously with it by the same valuer but the valuation in accordance with Section 177, paragraph 2 cannot be used for the purposes of this provision.
- 2) In the event that the net asset value of the liable entity assessed by a valuation in accordance with paragraph 1 is higher than the provisional valuation's estimate of the net asset value of the liable entity and where an owner of instruments of ownership or a creditor register in accordance with Section 222, paragraph 3, the Czech National Bank shall, upon the expiration of the time-limit in accordance with Section 222, paragraph 3:
 - a) Decide to increase the value of claims of registered owners of instruments of ownership in the liable entity and of registered creditors of the liable entity whose claims or instruments of ownership were written down in the event that instruments of ownership or claims of creditors of the liable entity were written down,
 - b) Impose a duty on a bridge institution or asset management vehicle to pay further consideration to registered owners of instruments of ownership in the liable entity in the event that a passage

of the instruments of ownership in the liable entity has been made to a bridge institution or to an asset management vehicle.

- (3) In the event that the net asset value of the liable entity assessed by valuation in accordance with paragraph 1 is higher than the provisional valuation's estimate of the net asset value of the liable entity and in the event that the assets and liabilities of the liable entity were passed to a bridge institution or to an asset management vehicle the Czech National Bank shall impose a duty on the bridge institution or an asset management vehicle to provide further compensation to the liable entity.
- (4) In the event that the net asset value of the liable entity assessed by valuation in accordance with paragraph 1 is higher than the provisional valuation's estimate of the net asset value of the liable entity but the claim in accordance with paragraph 2 letter a) cannot be increased the Czech National Bank shall not increase it.
- (5) In the event that the net asset value of the liable entity assessed by valuation in accordance with paragraph 1 is lower than the provisional valuation's estimate of the net asset value of the liable entity the value of claims is not increased and the registered owners of instruments of ownership in the liable entity and the registered creditors of the liable entity do not have any right to further compensations.
- (6) In the event that the value of the subject of passage in accordance with Section 96, paragraph 1, Section 102, paragraph 1 or Section 113, paragraph 1 assessed by valuation in accordance with paragraph 1 is lower than the value of compensation under Section 96, paragraph 7, Section 103, paragraph 6 or Section 114, paragraph 6, assessed during the provisional valuation, the Czech National Bank shall require the liable entity or the original owner of the instrument of ownership to return the corresponding part of compensation to the acquirer, the bridge institution or the asset management vehicle.

Section 58

The valuation and the estimate shall not be subject to a separate right of appeal or to a separate legal action within administrative judicial proceedings but they shall be judged within the appeal proceedings or within judicial proceedings in respect of the action against the decision of which they are part.

BODY FIVE WRITE DOWN AND CONVERSION OF CAPITAL INSTRUMENTS

TITLE I BASIC PROVISIONS

Section 59

Relation to provisions on resolution actions

- (1) The Czech National Bank shall write down or convert the capital instruments eligible for write down of the liable entity prior to applying any of the resolution actions in relation to the liable entity in accordance with the provisions of this Act on the passage of activity to a private acquirer, the passage of activity to a bridge institution, asset management vehicle or on the write down and conversion of liabilities eligible for write down or simultaneously with the application of the action.
- (2) Where the liable entity does not have capital instruments eligible for write down the Czech National Bank shall reduce Common Equity Tier 1 items of the liable entity for the purpose of the reimbursement of the losses of the liable entity prior to applying any of the resolution actions in accordance with the provisions on the passage of activity to a private acquirer, the passage of activity to a bridge institution, asset management vehicle or on the write down and conversion of liabilities eligible for write down or simultaneously with the application of the action. Provisions of Section 65, paragraph 2, Section 68, paragraph 1 and Section 70, shall be applied in a similar way.

TITLE II

CONDITIONS FOR THE WRITE DOWN OR CONVERSION OF CAPITAL INSTRUMENTS ELIGIBLE FOR WRITE DOWN

Section 60

Conditions at the level of the liable entity

The Czech National Bank shall write down or convert capital instruments eligible for write down of the liable entity where the liable entity

- a) Meets the conditions for a resolution action,
- b) Unless the write down or conversion of capital instruments eligible for write down are effected it will no longer be viable, or
- c) It is in a position requiring the provision of public financial support unless it is public financial support provided in a form and in accordance with the conditions described in Section 4, paragraph 1, letter d), point 3.

Section 61

Conditions at the group level

- (1) The Czech National Bank shall write down or convert capital instruments eligible for write down also where:
 - a) The liable entity is a controlled entity and the capital instruments which are to be written down or converted are included in its own funds on an individual basis and in the own funds of the controlling entity on a consolidated basis, and
 - b) The group of which the liable entity is a group entity will no longer be viable unless the write down or conversion of capital instruments eligible for write down is effected.
- (2) The Czech National Bank shall also write down or convert capital instruments eligible for write down of the liable entity where:
 - a) The liable entity is a controlling entity and the capital instruments eligible for write down which are to be written down or converted are included in its own funds on an individual or consolidated basis and
 - b) The group of which the liable entity is a group entity will no longer be viable unless the write down or conversion of capital instruments eligible for write down is effected.
- (3) In assessing the conditions in accordance with paragraph 1, letter b) or with paragraph 2, letter b), the Czech National Bank shall proceed from the joint decision made with the appropriate authority of another Member State. Provisions of Section 188, paragraph 2 and Section 191, paragraphs 1 and 3 shall be used in a similar way in relation to this joint agreement. In the absence of a joint decision on the fulfilment of conditions in accordance with paragraph 1, letter b), these conditions cannot be regarded as being met in relation to the group.

Section 62

Assumptions

- (1) The liable entity or group of which the liable entity is a group entity shall be deemed no longer viable unless the write down or conversion capital instruments eligible for write down is effected if it is failing and if, having regard of all circumstances, there is no reasonable prospect that any other action than the write down or conversion of capital instruments eligible for write down, independently or in combination with another measure, would prevent its failure within a reasonable timeframe.
- (2) A group shall be deemed to be failing where its group entity infringes its consolidated prudential requirements in a way that justifies action by the Czech National Bank. A group shall be also deemed to be failing if, having regard to all circumstances, it can be reasonably expected that this condition will be met in the near future.

Section 63

Impacts in other Member States

- (1) In considering the conditions in accordance with Section 60, letter c) or Section 61, paragraph 1, letter b), or Section 61, paragraph 2, letter b), the Czech National Bank shall take into account the impacts which the write down or conversion of capital instruments eligible for write down of the liable entity may have on the situation in other Member States, where the liable entity or a group entity of which the liable entity is a group entity operate.
- (2) Paragraph 1 shall be applied in a similar way where the Czech National Bank participates in assessing the conditions for the write down or conversion of the capital instruments of a foreign entity in accordance with a comparable foreign legal norm.

Section 64

Notification duty towards the authorities in other Member States

- (1) Where the Czech National Bank deems that the conditions in accordance with Section 60, letter b) or c) or with Section 61, paragraph 1, letter b) are met by a liable entity which is a controlled entity and the capital instruments eligible for write down of which are included in its own funds on an individual basis and are included in the own funds of its controlling entity on a consolidated basis it shall notify without any undue delay
 - a) The consolidating supervisor of the group of which the liable entity is a group entity, and
 - b) The authority of a Member State mentioned in letter a) which is competent to assess the conditions for the write down or conversion of capital instruments in accordance with a comparable foreign legal norm.
- (2) Where the Czech National Bank deems that the conditions in accordance with Section 61, paragraph 1, letter b) are met by a foreign entity which is a controlling entity of the liable entity in accordance with a comparable foreign legal norm it shall notify without any undue delay
 - a) The supervisory authority of the controlled entity, and
 - b) The authority of a Member State mentioned in letter a) which is competent to assess the conditions for the write down or conversion of capital instruments in accordance with a comparable foreign legal norm.
- (3) The Czech National Bank shall accompany a notification made in accordance with paragraph 1 or 2 with the explanation of the reasons why it considers that conditions for the write down or the conversion of capital instruments are met and shall ask the authorities to which the notification is addressed for their views on these reasons.

TITLE III

EXECUTION OF WRITE DOWN OR CONVERSION OF CAPITAL INSTRUMENTS ELIGIBLE FOR WRITE DOWN

Section 65

Reduction of Common Equity Tier 1 items

- (1) The Czech National Bank shall reduce Common Equity Tier 1 items of the liable entity for the purpose of the reimbursement of the losses of the liable entity before the write down or conversion of capital instruments eligible for write down.
- (2) The reduction of Common Equity Tier 1 items in accordance with paragraph 1 leads within the scope of this reduction to
 - a) A permanent reduction of the nominal value of Common Equity Tier 1 instruments corresponding to these items and
 - b) Extinction of liabilities to the owners of Common Equity Tier 1 instruments corresponding to these items arising as a result of the ownership of these instruments.

Section 66

Other powers of the Czech National Bank

In the event of the reduction of Common Equity Tier 1 items the Czech National Bank may request

- a) A person keeping a register of investment vehicles or another list containing instruments corresponding to these items to make or change an entry in the register or in another list containing these instruments.
- b) The organiser of the regulated market or a dealer in securities to withdraw an instrument issued by the liable entity from trading on markets in investment vehicles, admit a newly issued instrument issued by the liable entity to trading on markets in investment vehicles or readmit an instrument which corresponds to the reduced item to trading on markets in investment vehicles without the necessity to publish the prospectus again in accordance with the law governing business on the capital market, or
- c) The liable entity to provide for a withdrawal of securities which correspond to the reduced item from circulation for the purpose of exchanging them, denoting the new nominal value or destroying them.

Section 67

Write down or conversion of capital instruments eligible for write down

- (1) If the reduction of Common Equity Tier 1 items of the liable entity is not enough for a full reimbursement of the loss of the liable entity the Czech National Bank shall write down Additional Tier 1 instruments of the liable entity for the purpose of the reimbursement of the loss. Where the loss of the liable entity is fully reimbursed the Czech National Bank converts Additional Tier 1 instruments of the liable entity into Common Equity Tier 1 items of the liable entity or with the consent of the resolution authority of its controlling entity into Common Equity Tier 1 instruments of the controlling entity to the extent which is necessary for achieving the purpose of the resolution.
- (2) If the write down in accordance with paragraph 1 is not enough for a full reimbursement of the loss of the liable entity the Czech National Bank shall write down Tier 2 capital instruments of the liable entity for the purpose of the reimbursement of the loss. If the conversion in accordance with paragraph 1 is not enough to achieve the purpose of the resolution the Czech National Bank shall convert Tier 2 capital instruments of the liable entity into Common Equity Tier 1 instruments of the liable entity or with the consent of the resolution authority of its controlling entity into Common Equity Tier 1 instruments of the controlling entity to the extent which is necessary for achieving the purpose of the resolution.

Section 68

Sequence of reduction, write down or conversion

- (1) When reducing Common Equity Tier 1 items and writing down or converting capital instruments eligible for write down the Czech National Bank shall proceed in accordance with the hierarchy pursuant to which the rights corresponding to these items or tools would be satisfied in the event of distribution of the liquidation balance in accordance with the law regulating the legal relations of commercial companies and cooperatives and in normal insolvency proceedings. An item or instrument with a corresponding right of an earlier position in the hierarchy may be lowered, written down or converted only after a total reduction, write down or conversion of an item or instrument with a corresponding right of a following position in the hierarchy. Items or instruments with the corresponding rights of the same rank shall be lowered, written down or converted to the same extent pro rata to their value.
- (2) In the event of a write down or conversion of capital instruments eligible for write down in accordance with Section 61, paragraph 1, the capital instruments eligible for write down issued by the liable entity shall not be written down or converted to a greater extent or on worse terms than the capital instruments eligible for write down issued by its controlling entity which are equally ranked.

Section 69

Conversion rate

- (1) The Czech National Bank shall set a conversion rate so that it represents an appropriate compensation for the loss incurred by the owner of the capital instrument eligible for write down by virtue of the write down or conversion of the instrument.
- (2) The Czech National Bank may use different conversion rates for the individual groups of capital instruments eligible for write down. A less favourable conversion rate may not be applied to a capital instrument eligible for write down with a corresponding right of an earlier position in the succession in the event of a distribution of the liquidation balance in accordance with the law regulating the legal relations of commercial companies and cooperatives and in normal insolvency proceedings than to a capital instrument eligible for write down with a corresponding right of a following position in the succession during such distribution or during such proceedings.

Section 70

Certain requirements for measures of a general nature

- (1) In the operative part of a measure of general nature, by which
 - a) Common Equity Tier 1 items are reduced the Czech National Bank shall determine at least which Common Equity Tier 1 items are reduced and to what extent,
 - b) Capital instruments eligible for write down are written down the Czech National Bank shall determine at least which capital instruments eligible for write down are written down and to what extent, or
 - c) Capital instruments eligible for write down are converted to Common Equity Tier 1 instruments it shall determine at least which capital instruments eligible for write down are converted and to what extent, by which conversion rate and to which Common Equity Tier 1 instruments.
- (2) Common Equity Tier 1 items, Common Equity Tier 1 instruments and capital instruments eligible for write down shall be determined in the holding of a measure of a general nature mentioned above in paragraph 1 at least in general terms by attributes characterising the individual classes of items or instruments.

Section 71

Changes in qualifying holding

- (1) The Czech National Bank shall take a decision on giving its consent required in accordance with another legal norm⁶⁾ for the acquisition of or increase in a qualifying holding in the liable entity or for an entity whose liabilities or instruments of ownership correspond to the capital instruments eligible for write down which were or are to be written down to become a controlling entity of the liable entity without any undue delay upon learning about the scope of the write down or conversion and about the entities whose liabilities or capital instruments correspond to the capital instruments or liabilities eligible for write down which were or are to be written down or converted.
- (2) The procedure with regard to providing consent in accordance with paragraph 1 shall be commenced ex officio.
- (3) The write down or conversion becomes effective irrespective of the decision of the Czech National Bank in accordance with paragraph 1.
- (4) Provisions of Section 99, paragraphs 2 to 4 shall be applied in a similar manner.

TITLE IV

EFFECTS OF WRITE DOWN OR CONVERSION OF CAPITAL INSTRUMENTS ELIGIBLE FOR WRITE DOWN

Section 72

Reduction of nominal value

- (1) A write down or conversion of a capital instrument eligible for write down results, within the scope of the write down or conversion, in
 - a) A permanent reduction in the nominal value of the written down or converted instrument, and in
 - b) Termination of any claims arising to the owner of the written down or converted instrument on account of ownership of this instrument with the exception of income accrued in the period prior to the execution of the write down or conversion.
- (2) Reduction of the nominal value of the written down or converted instrument to zero leads to a termination of securities which represent the written down or converted instrument.

Section 73

Acquisition of the right of ownership

- (1) As a result of the conversion of the capital instrument eligible for write down the owner of the instrument becomes an owner of the share in the company to whose Common Equity Tier 1 instrument the capital instrument eligible for write down was converted to the extent of the conversion and at the determined rate of conversion.
- (2) Where the share in accordance with paragraph 1 is represented by a security the Czech National Bank shall require the liable entity to issue securities to the extent necessary and to confer them to their owners.
- (3) Where the Czech National Bank requests the liable entity to issue securities the issuance of which is not admitted by virtue of the founding legal proceedings in the establishment of that liable entity it shall decide at the same time and to the extent necessary about a change in the founding legal act of the liable entity. The change in the founding legal act of the liable entity shall take effect on the enforceability date of the decision of the Czech National Bank.

Section 74

Other powers of the Czech National Bank

In the event of a reduction or conversion of capital instruments eligible for write down the Czech National Bank may request

- a) A person keeping a register of investment vehicles or another list containing these vehicles to make or change an entry in the register or in another list containing these instruments,
- b) The organiser of the regulated market or a dealer in securities to withdraw an instrument issued by the liable entity from trading on markets in investment vehicles, admit a newly issued instrument issued by the liable entity to trading on markets in investment vehicles or readmit an instrument which was a subject of write down to trading on markets in investment vehicles without the necessity to publish the prospectus again in accordance with the law governing business on the capital market, or
- c) The liable entity to provide for a withdrawal of securities which represent the reduced or converted instrument from circulation for the purpose of exchanging them, denoting the new nominal value or destroying them.

BODY SIX

RESOLUTION OF LIABLE ENTITIES

TITLE I

BASIC PROVISIONS

Section 75

Resolution objectives

- (1) The objectives of the resolution are
 - a) To ensure the continuation of critical functions,
 - b) To avoid and prevent the threatening or disruption of financial stability, in particular by preventing the crisis to spread including to market infrastructures, and by maintaining market discipline,

- c) To minimise the volume of State aid which might be necessary for the resolution and thus protect public funds, or
 - d) To protect the funds of persons covered by deposit claims insurance or by a similar right to compensation in accordance with other legal norms and to protect the assets of clients and customers which is held by liable entities.
- (2) Unless provided for otherwise by the law the individual objectives are of equal significance and the Czech National Bank shall balance them as appropriate to the nature and circumstances of the situation which has arisen.

Section 76

Resolution principles

The application of resolution actions is based on the following principles in particular:

- a) The Czech National Bank shall not be obliged to apply resolution actions if it cannot be assumed that the resolution of the failure of the liable entity and the subsequent liquidation or procedure in accordance with the insolvency law would have any significant adverse effect on the financial system of the Czech Republic, or of another Member State or of the European Union as a whole.
- b) The Czech National Bank shall apply resolution actions that are appropriate for the achievement of the objective of the resolution taking regard of the nature and circumstances of the given case; at the same time it shall aim to minimise the losses and costs connected with the application of resolution actions and shall take regard of the impact of the resolution on the proper functioning of the financial market.
- c) When selecting and applying resolution actions the Czech National Bank shall take account of the nature of business of the liable entity or branch of an institution from other than Member State through which the institution carries out its activity in the territory of the Czech Republic, its shareholding structure, its legal form, its risk profile, size and legal status, its interconnectedness to other participants in the financial system, its membership of an institutional protection scheme or another similar system that meets the requirements of Regulation (EU) No 575/2013 and to investment or other services³⁾ provided by this entity or branch,
- d) Owners of instruments of ownership in the liable entity shall bear first losses when resolution actions are applied; creditors of the liable entity, who according to the insolvency law are on principle in the same or in a similar position shall be treated in an equitable manner and bear losses after the owners of instruments of ownership with the order of priority of their claims in accordance with the insolvency law, unless provided for otherwise by the law; this is without prejudice to the provisions of letter g),
- e) Creditors and owners of instruments of ownership shall be satisfied at least to the extent to which they would have been satisfied under the proceedings in accordance with the insolvency law;
- f) Management body and senior management members of the liable entity shall be replaced except where their retention is necessary for the achievement of the resolution objectives,
- g) Insured deposit claims up to the amount of compensation from the Deposit Insurance Fund in accordance with another legal norm¹⁴⁾ (hereinafter covered deposit claim) shall enjoy full protection,
- h) Where an institution is a European financial group entity, the Czech National Bank shall also take regard of minimising the impact of the resolution action on other group entities, on the group as a whole and on the financial stability in the European Union and its Member States, in particular, in the countries where the group operates,
- i) Resolution action shall be taken in accordance with the legal norms⁴⁾ and acts⁵⁾ of the European Union in the area of State aid,
- j) The Czech National Bank shall inform employee representatives of the liable entity about the resolution actions where appropriate in view of the circumstances and where it can be reasonably required in view of time available and it shall consult their application with them; it

shall ensure at the same time that the resolution complies with provisions on the employee representation in the management body of the liable entity.

Section 77

Conditions for resolution

The management body or members of the management body of the liable entity shall inform the Czech National Bank without any undue delay about facts which indicate that the liable entity is failing.

Section 78

- (1) The Czech National Bank shall apply resolution actions in relation to the liable entity if it
 - a) Determines that the liable entity is failing,
 - b) If there is no reasonable prospect, taking into regard all circumstances, that other than a resolution action would prevent its failure, and
 - c) The resolution is in public interest.
- (2) Imposition or application of an early intervention measure in accordance with Section 37 is not a condition for the application of a resolution action.
- (3) Valuation or provisional valuation in accordance with Section 52, paragraph 1, is a binding basis for the application of resolution actions.

Section 79

Where the liable entity is failing and the conditions in accordance with Section 78, paragraph 1, letter b) or c) or Section 81 are not met, the Czech National Bank shall stop the proceedings on the application of a resolution action. A part of the decision to stop the proceedings is providing the reasons for non-fulfilment with these conditions.

Section 80

Public interest

For the purposes of this Act resolution action is in the public interest if an application of a resolution action is necessary for and proportionate to the achievement of one or more of the resolution objectives and if a potential liquidation of the liable entity or winding up under insolvency proceedings would not lead to the achievement of the above-said objectives to the same extent.

Section 81

Additional conditions for application of resolution actions on certain liable entities

- (1) A resolution action in relation to the liable entity in accordance with Section 3, letter b) may be applied only where conditions in accordance with Section 78, paragraph 1, letters a) to c) are met also in relation to an entity which is subject to supervision on a consolidated basis and at the same time controls the entity in accordance with Section 3, letter b).
- (2) A resolution action in relation to the liable entity in accordance with Section 3, letter c) can be applied where conditions in accordance with Section 78, paragraph 1, letters a) to c) are met also in relation to an institution of which the entity under Section 3 letter c) is a controlling entity. Where the institution controlled by an entity under Section 3, letter c) is incorporated in a territory of other than a Member State a resolution action in relation to an institution under Section 3, letter c) may be applied if a certificate proving that it meets conditions for the resolution of entities in accordance with a similar provision of a comparable foreign legal norm is issued by a competent authority of other than a Member State.
- (3) Such tool may be applied also where in relation to the entity under Section 3, letter c) conditions in accordance with Section 78, paragraph 1, letters a) and b) are not met, if it is in the public interest.

- (4) A resolution action in relation to the liable entity in accordance with Section 3, letter c) may be applied also where conditions in accordance with Section 78, paragraph 1, letters a) to c) are not met in relation to such entity, but
 - a) Conditions in accordance with Section 78, paragraph 1, letters a) to c) are met in relation to an institution, of which the entity in accordance with Section 3, letter c) is a controlling entity,
 - b) Application of a resolution action in relation to the liable entity in accordance with Section 3, letter c) is necessary to resolve the failure of the controlled institution or for the resolution of the group, and
 - c) A potential failure of the controlled institution would jeopardise another institution or the group as a whole.
- (5) For the purposes of determining whether conditions in accordance with Section 78, paragraph 1, letters a) to c) are met it is possible, based on agreement between the resolution authority of the entity in accordance with Section 3, letter c) and the resolution authority of the controlled institution, to disregard any intragroup transfers of capital or losses including the exercise of write down or conversion.
- (6) Where the institution is concurrently controlled, either directly or indirectly, by a mixed-activity holding entity and a financial holding company and where the financial holding company is at the same time controlled by the mixed-activity holding entity resolution actions shall be applied in relation to the financial holding company, not in relation to the mixed-activity holding entity.

TITLE II
RESOLUTION ACTIONS
Volume 1
Certain powers of the Czech National Bank
Section 82

The Czech National Bank may

- a) Remove or replace members of the management body and senior management of the liable entity and set conditions for the exercise of their function or post,
- b) Provide that the convocation of the general meeting or of a similar supreme body or that the validity of certain or of all decisions of the general meeting or of a similar supreme body is subject to the consent of the Czech National Bank,
- c) Prohibit the liable entity to dispose of its assets to the extent and for such a period, as is strictly necessary,
- d) Require the liable entity or its controlling entity to issue new instruments included in own funds including priority shares and subordinated or convertible bonds or similar debt instruments,
- e) Request the court to suspend judicial proceedings to which the liable entity is a party or to suspend criminal proceedings against a legal entity and propose the duration of the suspension period.

Section 83

- (1) The Czech National Bank may suspend the contractual obligation from the time of the publication of the suspension in accordance with the procedure specified in Sections 222 and 223 until the end of the closest business day following the day of publication while the conditions for suspension shall form a part of the holding of the decision or a measure of general nature. At the same time, the duties of the counterparty to perform under the contract shall be suspended for the same period.
- (2) Where the contractual obligation starts during the period of suspension in accordance with paragraph 1 it is considered that it has arisen immediately after its end.
- (3) Suspension of the duty in accordance with paragraph 1 shall not relate to:
 - a) Covered deposits,
 - b) Debts to payment systems with settlement finality, foreign payment systems with settlement finality, settlement systems with settlement finality, foreign settlement systems with settlement finality and operators of these systems, central counterparties and central banks.
 - c) Debts associated with potential rights to payments of compensations arising from the inability of the dealer in securities to fulfil his obligations in accordance with the law on conducting business in the capital markets.

Section 84

- (1) The Czech National Bank may suspend the exercise of the right of creditors of the liable entity to satisfaction from the collateral provided to the liable entity from the time of the publication of suspension in accordance with Sections 222 and 223 until the end of the closest business day following the day of publication while the conditions for suspension shall form a part of the holding of the decision or a measure of a general nature.
- (2) The suspension of the right in accordance with paragraph 1 shall not relate to the collateral provided to the liable entity by way of margin or collateral if it is provided to payment systems with settlement finality, foreign payment systems with settlement finality, settlement systems with settlement finality, foreign settlement systems with settlement finality and operators of these systems, central counterparties and central banks.
- (3) The Czech National Bank shall suspend the exercise of the right in accordance with paragraph 1 in a consistent manner in relation to members of the group on which resolution actions are applied where protection of payment and settlement systems is applied in accordance with Section 172.

Section 85

- (1) The Czech National Bank may suspend the exercise of the right of a contractual party to a withdrawal, settlement or netting or a right which, if applied, would or could result in the maturity of debt or in a final settlement, or a right which, if applied, would or could result in a generation, change, suspension or termination of other rights and obligations of contracting parties, if such right is laid down in the contract with the liable entity or by virtue of a legal norm and is linked to contractually or otherwise determined facts of law (hereinafter the right to terminate liability) and provided that the fulfilment of obligations which create the substance and purpose of the contract, including payment obligations and the provision of collateral, continue to be performed from the time of the publication of the suspension in accordance with Sections 222 and 223 until the end of the closest business day following the day of publication while the conditions for suspension shall form a part of the holding of the decision or a measure of general nature.
- (2) The Czech National Bank may suspend the right to terminate liability with a controlled entity of the liable entity from the time of the publication of the suspension in accordance with Sections 222 and 223 until the end of the closest business day following the day of publication in a State in which the controlled entity is incorporated while the conditions for suspension shall form a part of the holding of the decision or a measure of a general nature provided that
 - a) Debts arising from the contract are secured or corroborated by the liable entity,
 - b) The contractual conditions of the right to terminate liability are based solely on the financial condition or insolvency of the liable entity, and
 - c) Where the decision may be taken or was taken to transfer the instruments of ownership of the liable entity or its assets and debts in accordance with Section 96, paragraph 1, letters a) and b), Section 102, paragraph 1, letters a) a b) or Section 113, paragraph 1, letters a) and b), and if
 1. All the assets and debts of the entity controlled by the liable entity were transferred and acquired or their transfer or acquisition can be reasonably expected taking regard of all circumstances, or
 2. Adequate protection of the assets and debts is provided by the Czech National Bank in another manner.
- (3) Where on the expiry of the period in accordance with paragraph 1 or 2 and while at the same time applying Section 169, paragraph 2
 - a) The liable entity continues to be a contractual party and the Czech National Bank did not write down or convert the liabilities eligible for write down covered by the contract in accordance with Section 120, paragraph 1, letter a) the counterparty may exercise the right to terminate liability in accordance with the terms of the contract, or
 - b) The rights and liabilities covered by the contract have been transferred from the liable entity to another entity the counterparty may exercise the right to terminate liability in accordance with

the terms of that contract only on the occurrence of any continuing or subsequent agreed enforcement event by the recipient entity even after their transfer.

- (4) The right to terminate liability may be exercised before the expiry of the period specified in paragraph 1 or 2 only if the Czech National Bank notifies the relevant party that the rights and liabilities covered by the contract are not a subject of
 - a) Passage to another entity, or
 - b) Write down or conversion during the write down or conversion of liabilities eligible for write down in accordance with Section 120, paragraph 1, letter a).
- (5) The suspension of the right to terminate liability in accordance with paragraph 1 or 2 does not relate to payment systems with settlement finality, foreign payment systems with settlement finality, settlement systems with settlement finality, foreign settlement systems with settlement finality and operators of these systems, central counterparties and central banks.

Volume 2

Resolution administration

Section 86

- (1) The Czech National Bank may impose resolution administration to resolve the liable entity. Resolution administration may be exercised through direct administration of the liable entity in accordance with Section 92 or through special administration in accordance with Section 93. Where no special administrator has been appointed in the decision to impose resolution administration it is considered that it is exercised through direct administration of the liable entity. The Czech National Bank shall publish the decision to impose resolution administration and the scope thereof on its internet pages.
- (2) Provisions relating to influential persons in accordance with the law regulating the legal relations of commercial companies and cooperatives shall not be used in relation to the Czech National Bank or to the special administration during the resolution administration.
- (3) The right to appeal or any other remedy against the decision to impose the resolution administration shall belong to persons who were authorised to act on behalf of the liable entity on a similar matter as at the day which precedes the day of the decision to impose resolution administration. For this purpose, the Czech National Bank or the special administrator shall provide copies of the documentation of the liable entity to these persons upon the request of the entitled persons to the extent necessary and enable such persons to make copies and extracts therefrom.
- (4) Provisions relating to the invalidity of the resolutions of the general meeting in accordance with the law regulating the legal relations of commercial companies and cooperatives shall not be applied within the framework of resolution administration.

Section 87

Where the exercise of resolution administration constitutes a different resolution action the provisions of this Act relating to valuation and provisional valuation and of Section 56 shall be applied in a similar manner. Where the exercise of resolution administration constitutes a transfer of activity to a private acquirer Section 97 shall be applied in a similar manner. Where the exercise of resolution administration constitutes public equity support Section 159 shall be applied in a similar manner. This is without prejudice to Section 92, paragraph 1 and Section 93, paragraphs 1 and 2. The exercise of resolution administration shall be regarded as official procedure for the purposes of liability for damages in accordance with the law regulating State liability for damage caused by maladministration.

Section 88

Persons participating in the exercise of resolution administration shall have sufficient qualifications, ability and knowledge required to carry out the tasks that have been entrusted to them. Persons with a special relation to the liable entity in accordance with the legal norms regulating the activity of the

liable entity⁶⁾ and persons in the case of which there is a danger of conflict of interest shall not take part in the exercise of resolution administration.

Section 89

- (1) Resolution administration shall be registered in the Commercial Register and the decision to impose resolution administration shall be filed in the registry of documents of the Commercial Register. Applications for entries relating to resolution administration shall be filed by the Czech National Bank.
- (2) The following shall be entered in the Commercial Register:
 - a) The day of the imposition of resolution administration,
 - b) Name, address of the seat or place of stay, or also place of residence, if different from the place of stay of the temporary administrator and indication of the manner in which he or she represents the institution, the day of commencement and the day of termination of the exercise of the function, and
 - c) The day of termination of resolution administration.

Section 90

The liable entity shall publish the decision on the imposition of resolution administration and the scope thereof on its internet pages.

Section 91

Where the Czech National Bank intends to impose resolution administration on the liable entity which is a group entity it shall take a decision on imposing resolution administration after consultation with the resolution authorities in the Member States in which group entities are incorporated taking view of a potential need to impose joint resolution administration on more group entities.

Volume 1

Direct administration

Section 92

- (1) The exercise of the powers of the management body and of the supreme body of the liable entity is suspended by virtue of the imposition of direct administration. The responsibilities which would otherwise belong to these bodies are exercised by the Czech National Bank. The Czech National Bank is not bound by the duties of the management body arising from the memorandum of association, the statutes or another document with a similar relevance (hereinafter founding legal acts) in the exercise of direct administration.
- (2) The Czech National Bank may appoint one or more persons authorised to exercise the powers in accordance with paragraph 1. Such a person shall be an employee of the Czech National Bank and shall produce his or her authorisation of the Czech National Bank in his or her dealings.
- (3) Direct administration ends on the day set out in the decision of the Czech National Bank on terminating direct administration.
- (4) Expenses efficiently incurred connected with the exercise of direct administration shall be settled from the assets of the liable entity on which direct administration has been imposed.
- (5) Where the assets of the liable entity on which direct administration has been imposed are not sufficient for the settlement of expenses in accordance with paragraph 4 the expenses shall be reimbursed by the State to the extent to which the assets of the liable entity are lacking.

Volume 2

Special administration

Section 93

- (1) The exercise of the powers of the management body and of the supreme body of the liable entity is suspended by virtue of appointment of a special administrator. The responsibilities which would otherwise belong to these bodies are exercised by the special administrator. In the exercise of

special administration the special administrator is not bound by the duties of the management body arising from the founding legal acts.

- (2) In its decision, the Czech National Bank may specify the acts and duties that the special administrator is authorised to perform only subject to the prior consent of the Czech National Bank.
- (3) The Czech National Bank may vary the scope of the responsibilities in accordance with paragraphs 1 or 2 through its decision at any time.

Section 94

- (1) The special administrator shall act in accordance with the decision on the imposition of special administration, on resolution actions and in accordance with the instructions of the Czech National Bank. He or she shall communicate all information which is at his or her disposal and which is relating to the financial or economic position of the liable entity to the Czech National Bank upon its request. The special administrator shall further draw up a report on the financial and economic position of the liable entity as at the day of the appointment and as at the day of the termination of his or her function.
- (2) A person registered in the special part of a list of insolvency administrators can be appointed as special administrator. Another suitable person which has sufficient qualifications for the exercise of the function and which agrees with the appointment can also be appointed as special administrator. Where a special administrator is appointed from the special part of a list of insolvency administrators procedures shall be taken in compliance with the insolvency law.
- (3) Employees of the liable entity and persons who were members of the management body of the liable entity as at the day of the decision to impose resolution administration or at any time within the period of two years before that day are obliged to provide cooperation to the special administrator upon request.

Section 95

- (1) The exercise of the function of a special administrator shall end by
 - a) Removal of a special administrator,
 - b) Termination of special administration,
 - c) The expiry of a period of 24 hours upon the moment of the delivery of a written notification of a special administrator regarding his or her resignation from the function to the Czech National Bank, or
 - d) The death of the special administrator.
- (2) The Czech National Bank shall recall a special administrator especially if he or she seriously or repeatedly violates his or her duty or if he or she ceases to meet the requirements for the exercise of the function. In that case it shall appoint a new special administrator without any undue delay. It shall proceed similarly also in the cases in accordance with paragraph 1, letters c) and d).
- (3) Special administration shall end on the day set out in the decision of the Czech National Bank to end special administration, however not later than within 12 months since its imposition,
- (4) Special administration may be prolonged for not more than 12 months by a decision and may be prolonged repeatedly.
- (5) Expenses efficiently incurred connected with the exercise of special administration, including the remuneration of the special administrator, shall be settled from the assets of the liable entity on which special administration has been imposed. The special administrator may request a reasonable advance payment.
- (6) Where the assets of the liable entity on which special administration has been imposed are not sufficient for the settlement in accordance with paragraph 5 the expenses shall be reimbursed by the State to the extent to which the assets of the liable entity are lacking.
- (7) The amount of remuneration of the special administrator and its due date shall be determined by the Czech National Bank with account being taken of the scope of activity of the special administrator.

Volume 3
Transfer of activity to a private acquirer
Section 96

- (1) The Czech National Bank may take a decision to transfer the following to an acquirer who is not an entity in accordance with Section 102, paragraph 2 or Section 113, paragraph 3:
 - a) An instrument of ownership in the liable entity, or
 - b) The assets or debts of the liable entity or a part thereof.
- (2) The Czech National Bank may also take a decision to transfer the activity to a private acquirer more than once.
- (3) The Czech National Bank may take a decision on a transfer of ownership in the liable entity back to the original owners or of the assets and debts of the liable entity back to the liable entity only with the consent of the acquirer in accordance with paragraph 1 and the liable entities or original owners shall be obliged to take back any such assets or debts.
- (4) Prior consent of the private acquirer is required for the transfer of activity to a private acquirer. For this purpose, the Czech National Bank may provide a valuation or provisional valuation to the acquirer in accordance with Section 52.
- (5) Consent of the owners of the instruments of ownership in the liable entity or of any other persons, whose rights have been affected by a decision on the transfer of activity to a private acquirer or by a decision on the transfer back are not required; other legal requirements governing transfers of participating interests, assets and debts shall not be taken into regard.
- (6) The Czech National Bank shall take a decision on the transfer of activity to a private acquirer under the conditions which correspond to prevailing market conditions of the subject of the transfer determined in accordance with Section 52, paragraph 1 and according to the circumstances of the transfer. Unless provided otherwise by the Czech National Bank the acquirer shall pay a compensation to the benefit of the owners of the instruments of ownership in the liable entity in the case of a transfer in accordance with paragraph 1, letter a), to the benefit of the liable entity in the case of a transfer in accordance with paragraph 1, letter b). The Czech National Bank shall determine the amount of the compensation within the decision on the transfer taking regard of the valuation or provisional valuation in accordance with Section 52 and shall require the acquirer to pay the compensation within a period which shall be no longer than 1 year upon the enforceability of the decision.
- (7) Where there are defects of the subject of the transaction which become apparent subsequently and which the acquirer could not reasonably expect the liable entity or the original owner of the instrument of ownership shall return a part of the compensation in the amount in accordance with Section 57, paragraph 6 to the acquirer. In order to secure this liability the Czech National Bank may request the Guarantee System to issue collateral in accordance with Section 212, paragraph 1, letter a).

Section 97

- (1) During the transfer of activity to a private acquirer the Czech National Bank shall:
 - a) Offer the subject of the transaction to a wider range of potential interested parties;
 - b) Observe the principles of transparency and of prohibition to misrepresent the data relating to the subject of the transaction having regard to the circumstances and a potential impact on financial stability,
 - c) Establish procedures in order to prevent a potential conflict of public interest with personal interests so that the persons authorised to exercise the resolution powers have no relation to the subject of the transfer of activity or to members of the management body and persons in the senior management of the liable entity which would give rise to reasonable doubt with regard to a proper exercise of conferred powers,
 - d) Observe the principles of equal treatment and a prohibition to discriminate between the interested parties and ensure that no unfair advantage is conferred on any of the interested party or parties,
 - e) Proceed without any undue delays,

- f) Aim at carrying out the transfer of activity for a maximum possible compensation.
- (2) Where the procedure of a public offering of the subject of the transfer to a private acquirer requires disclosure of internal information in accordance with Article 17, paragraph 1 of Regulation (EU) of the European Parliament and of the Council No. 596/2014 any disclosure in accordance with Article 17, paragraph 4 or paragraph 5 of the European Parliament and of the Council No. 596/2014 may be delayed.
 - (3) Where it can be reasonably expected that compliance with the procedure for a transfer of activity in accordance with paragraph 1 would be likely to undermine the resolution objective particularly where a disruption of or a threat to financial stability would occur as a result of a failure of the liable entity and where at the same time the procedure in accordance with paragraph 1 would not ensure a proper protection of financial stability it is possible to derogate from the procedure in accordance with paragraph 1.

Section 98

- (1) Where the acquirer in accordance with Section 96, paragraph 1, does not have the appropriate authorisation to carry out the business or another authorisation granted by the Czech National Bank he or she shall submit an appropriate application to the Czech National Bank.
- (2) The decision on the transfer of activity in accordance with Section 96, paragraph 1, letter b), is exercisable at the earliest on the day of the exercisability of the decision to grant the authorisation to carry out the business or of another authorisation to the acquirer.
- (3) Where the transfer of the right of ownership to an instrument of ownership to the acquirer is effected by virtue of a paper security the original owner shall transmit the security to the acquirer immediately upon the effective day of the exercisability of the decision on the transfer of the right of ownership. The liable entity whose assets and debts were transferred to the acquirer shall transmit the assets in question and the necessary documents to the acquirer immediately after the effective day of the exercisability of the decision on the transfer of activity in accordance with Section 96, paragraph 1, letter b) and shall inform him or her about everything that is required for the operation or management of the assets or debts which were the subject of the transaction.
- (4) From the moment of the publication of information in accordance with Section 175 debtors cannot release themselves from their obligations corresponding to the liability which has been transferred to the acquirer by fulfilment in favour of the original owner. The transfer of activity has effect on persons who provided collateral for liabilities which were transferred to the acquirer and also on third persons from the same moment.

Section 99

- (1) Where the acquisition of the subject of the transfer in accordance with Section 96, paragraph 1, letter a) requires consent of the Czech National Bank in accordance with another legal norm⁶⁾ the acquirer shall submit an application for such consent.
- (2) Where the decision on the transfer in accordance with Section 96, paragraph 1, letter a) has become exercisable without a prior consent granted by the Czech National Bank the exercise of the acquirer's voting rights shall be suspended until the day of the exercisability of the decision on the application in accordance with paragraph 1 or until the expiry of the time limit in accordance with paragraph 3 and the Czech National Bank may exercise the voting rights at its own discretion. The Czech National Bank shall have no liability for damage caused by exercising or refraining from exercising any such voting rights. Sanction provisions of other legal norms⁶⁾ for non-fulfilment or violation of duties in the case of an acquisition of or change in a qualified holding in the liable entity or of gaining the control of the liable entity shall not be applied until the publication of the decision in accordance with paragraph 1 or the expiry of the time limit for the transfer from the acquirer to another person in accordance with paragraph 3, if it comes later than the publication of the decision in accordance with paragraph 1.
- (3) Where the decision on the transfer in accordance with Section 96, paragraph 1, letter a) has become exercisable without a prior consent of the Czech National Bank and the Czech National Bank did not approve the application in accordance with paragraph 1 it may specify a time limit for the

transfer from the acquirer to another person taking regard of the market conditions and the acquirer shall carry out the transfer within the specified time period.

- (4) If the acquirer does not meet the requirement in accordance with paragraph 3 the Czech National Bank may impose sanctions or measures in accordance with another legal norm⁶⁾ for not complying with or infringing the requirements for acquisition or increasing the qualifying holding in the liable entity or gaining control of the liable entity.
- (5) Where the transfer in accordance with Section 96, paragraph 1, letter a) has become exercisable without a prior consent granted by the Czech National Bank and the Czech National Bank approves the application in accordance with paragraph 1 the acquirer shall gain the voting rights to the subject of the transaction by virtue of notification of the decision on the application.

Section 100

- (1) The acquirer shall assume a legal position of the liable entity within the scope of the exercise of activities connected with the operation of the subject of the transfer, including membership in the clearing system, participation or indirect participation in payment and settlement systems, in the European regulated market, the Securities Traders Compensation Fund and the Deposit Insurance Fund on the day on which the transfer in accordance with Section 96, paragraph 1, letter b) takes effect.
- (2) Membership of the acquirer in the clearing system, its participation or indirect participation in payment and settlement systems, the European regulated market or in the multilateral trading system, in the Securities Traders Compensation Fund and the Deposit Insurance Fund shall not be made conditional on the rating of the acquirer from a rating agency.
- (3) Where the acquirer does not meet membership criteria for the clearing system, participation or indirect participation in payment and settlement systems, the European regulated market, or in the multilateral trading system, the Securities Traders Compensation Fund and the Deposit Insurance Fund, the Czech National Bank may specify a period of time during which the acquirer may be a member of such systems without meeting the membership or participation criteria. The period of time shall not exceed 24 months. The Czech National Bank may prolong the period of time upon request of the acquirer.

Section 101

Owners of the instruments of ownership in the liable entity or creditors of the liable entity and other persons whose assets or debts were not transferred in accordance with Section 96, paragraph 1, shall lose all rights in relation to the assets and debts which were the subject of the transfer. This is without prejudice to their right to adequate compensation and Section 171 to 173 and Section 177.

Volume 4

Transfer of activity to a bridge institution

Section 102

- (1) The Czech National Bank may take a decision to transfer the following to a business corporation with the ownership participation of the State, the purpose of which is the acquisition, holding and transfer of an instrument of ownership, assets or debts in accordance with letter a) or b) to a third person, for the purpose of maintaining critical functions of one or more liable entities:
 - a) Instrument of ownership in the liable entity, or
 - b) Any assets, or debts of the liable entity or a part thereof.
- 2) The business corporation with the ownership participation of the State is put under the regime of a bridge institution to which the subject of the transfer has been transferred upon the effective day of the exercisability of the decision on the transfer in accordance with paragraph 1 (hereinafter the bridge institution).
- (3) Where the transfer of the right of ownership to an instrument of ownership to the bridge institution is effected by virtue of a paper security the original owner shall transmit the security to the bridge institution immediately upon the effective day of the exercisability of the decision on the transfer of the right of ownership. The liable entity whose assets and debts were transferred to

the bridge institution shall transmit the assets in question and the necessary documents to the bridge institution immediately after the effective day of the exercisability of the decision on the transfer of activity in accordance with paragraph 1, letter b) and shall inform the bridge institution about everything that is required for the operation or management of the assets or debts which were the subject of the transaction.

- (4) From the moment of the publication of information in accordance with Section 175 debtors cannot release themselves from their obligations corresponding to the liability which has been transferred to the bridge institution by fulfilment in favour of the original owner. The transfer of activity has effect on persons who provided collateral for liabilities which were transferred to the bridge institution and also on third persons from the same moment.

Section 103

- (1) Following the establishment of the regime of the bridge institution
 - a) The Czech Republic (hereinafter the State) exercises the function of the supreme body of the bridge institution and in so doing it shall proceed in accordance with Section 75 and the Ministry of Finance shall act in the name of the State.
 - b) Any change of the constitutional documents of the bridge institution shall be subject to the consent of the Czech National Bank.
 - c) The Czech National Bank shall approve an exchange of members of the management body of the bridge institution, the amount of their remuneration and the scope of their responsibilities on a proposal from the Ministry of Finance.
 - d) The Czech National Bank shall approve the strategy and risk profile of the bridge institution on the proposal from the management body of the bridge institution.
- (2) While exercising the responsibilities in accordance with paragraph 1, letter a), the Ministry of Finance shall consult with the Czech National Bank.
- (3) Upon the establishment of the regime of the bridge institution, partners have a right to a share of profits and the right to request information the disclosure of which shall not jeopardise the fulfilment of the resolution objective under Section 75. Provisions relating to other rights of the partners in accordance with the Civil Code and the law regulating the activities of saving and credit cooperative societies shall not apply for the purpose of the bridge institution. This does not prejudice paragraph 1, letter a).
- (4) The Czech National Bank shall apply to register the fact that the regime of the bridge institution has been established in the commercial register without any undue delay upon the enforceability of the decision in accordance with Section 102, paragraph 2.
- (5) Immediately following the transfer in accordance with Section 102, paragraph 1, letter b) the value of debts transferred to the bridge institution shall not exceed the value of its assets.
- (6) In the case of a transfer in accordance with Section 102, paragraph 1, letter a) the bridge institution shall pay a compensation to the benefit of the original owners of the instruments of ownership in the liable entity, in the case of a transfer in accordance with Section 102, paragraph 1, letter b), the bridge institution shall pay compensation to the benefit of the liable entity. The Czech National Bank shall determine the amount of the compensation within the decision on the transfer, taking regard of the valuation or provisional valuation in accordance with Section 52 and it shall require the bridge institution to pay the compensation within a period which shall be no longer than 1 year upon the enforceability of the decision.
- (7) Where there are defects of the subject of the transaction which become apparent subsequently and which the bridge institution could not reasonably expect the liable entity or the original owner of the instrument of ownership shall return a part of the compensation to the bridge institution in the amount in accordance with Section 57, paragraph 6. In order to secure this liability the Czech National Bank may request the Guarantee System to issue collateral in accordance with Section 212, paragraph 1, letter a).

Section 104

Prior consent of the business corporation with the ownership participation of the State to which the instruments of ownership, assets or liabilities are to be transferred is required for the enforceability of

the decision in accordance with Section 102, paragraph 1. The Czech National Bank may provide the business corporation with a valuation or a provisional valuation in accordance with Section 52 for this purpose. Consent of the owners of the instruments of ownership in the liable entity or of any other persons whose rights have been affected is not required.

Section 105

- (1) The management body of the bridge institution shall ensure that the activity of the bridge institution is carried out in a manner which does not jeopardise the performance of critical activities which were the subject of the transfer.
- (2) Where the decision on the transfer in accordance with Section 102, paragraph 1 has become exercisable the bridge institution may transfer the instruments of ownership or the assets or debts which were transferred to the bridge institution or a part thereof to a third person with the consent of the Czech National Bank. The provisions of this Act on the procedure for the transfer of activity to a private acquirer in accordance with Section 96 shall be adequately used.
- (3) The Czech National Bank may take a decision to transfer the assets or debts back from the bridge institution to the liable entity or to its legal successor and to transfer the instrument of ownership in the liable entity back to the original owners or to their legal successor if the Czech National Bank states this possibility in the decision on the transfer in accordance with Section 102, paragraph 1 in relation to these assets, debts and instruments of ownership. At the same time, based on the valuation or the provisional valuation in accordance with Section 52, it shall take a decision on the duty to return the corresponding part of the previously awarded compensation or the duty to provide additional compensation to the extent appropriate. Consent of the liable entity or of the original owners is not required. In order to secure the duty to return the corresponding part of the previously awarded compensation the Czech National Bank may request the Guarantee System to issue collateral in accordance with Section 212, paragraph 1, letter a).
- (4) The Czech National Bank may also take a decision on the transfer back of the assets or debts from the bridge institution to the liable entity where a right of ownership or assets or debts was transferred by virtue of the decision on the transfer in accordance with Section 102, paragraph 1, which should not have been included in the subject of the transfer because they do not fall within the classes or otherwise do not meet the conditions for the transfer in accordance with Sections 96 to 99. Consent of the liable entity or of the original owners is not required.

Section 106

Where the authorisation to carry out the business or another authorisation of the Czech National Bank is required to carry out the activities connected with the operation of the subject of the transfer in accordance with Section 102, paragraph 1, letter b), the bridge institution shall meet the conditions for granting such permission or authorisation.

Section 107

- (1) The bridge institution shall assume a legal position of the liable entity within the scope of the exercise of activities connected with the operation of the subject of the transfer, including membership in the clearing system, participation or indirect participation in payment and settlement systems, in the European regulated market or in the multilateral trading system, the Securities Traders Compensation Fund and the Deposit Insurance Fund on the day on which the transfer in accordance with Section 102, paragraph 1, letter b) takes effect.
- (2) Membership of the bridge institution in the clearing system, its participation or indirect participation in payment and settlement systems, the European regulated market or in the multilateral trading system, in the Securities Traders Compensation Fund and the Deposit Insurance Fund shall not be made conditional on the rating of the bridge institution from a rating agency.
- (3) Where the bridge institution does not meet the membership criteria for the clearing system, participation or indirect participation in payment and settlement systems, the European regulated market, or in the multilateral trading system, the Securities Traders Compensation Fund and the

Deposit Insurance Fund, the Czech National Bank may specify a period of time during which the bridge institution may be a member of such systems without meeting the membership or participation criteria. The period of time shall not exceed 24 months. The Czech National Bank may prolong the period of time upon request of the bridge institution.

Section 108

- (1) Owners of the instruments of ownership in the liable entity or creditors of the liable entity and other persons whose assets or debts were not the subject of the transfer in accordance with Section 102, paragraph 1, shall lose property rights in relation to the assets and debts which were transferred to the bridge institution. This is without prejudice to their right to adequate compensation and Section 171 to 173 and Section 177.
- (2) The bridge institution shall have no liability for damages caused by its activity to the liable entity, owners of the instruments of ownership in the liable entity or creditors of the liable entity. Member of the management body of the bridge institution shall pay for the damage caused to the liable entity, owners of the instruments of ownership in the liable entity and creditors of the liable entity by violating his or her obligations intentionally or due to gross negligence.

Section 109

The Czech National Bank shall issue a decision to terminate the regime of the bridge institution when

- a) The merger or division of the bridge institution is entered into the commercial register,
- b) The bridge institution ceases to meet the requirements of Section 102, paragraph 1,
- c) A transfer has been made of all or substantially all the assets or debts of the bridge institution to a third person, or
- d) All assets of the bridge institution were transferred and the debts of the bridge institution were completely discharged.

Section 110

If none of the outcomes in accordance with Section 109 occur within 2 years from the enforceability of the last decision on transfer in accordance with Section 102, paragraph 1, the Czech National Bank shall terminate the bridge institution by liquidation. The Czech National Bank may extend the period for not more than 1 year, and it may do so repeatedly, if it can be reasonably expected that any of the facts in accordance with Section 109 would occur or if the extension of the period is necessary to ensure the continuity of the core activities of the bridge institution. The Czech National Bank shall state reasons for extending the period inclusive of assessment of the impact the extension of the period may have on the market conditions taking regard of the expected future development of the financial market.

Section 111

Where transfers of assets or debts of several liable entities were made to the bridge institutions such assets or debts of the individual liable entities shall be kept on separate accounts so that the liquidation of the assets may be carried out for each entity separately.

Section 112

The management body of the bridge institution shall, in relation to transactions which it performs, and the Czech National Bank shall seek, when offering the instruments of ownership in the bridge institution or the assets and debts of the bridge institution for sale to effect the transfer for a market price and they shall observe the principles of transparency, prohibition to misrepresent the data relating to the subject of the transfer, equal treatment and prohibition of discrimination among interested parties, taking regard of the circumstances of the transfer.

Volume 5
Transfer of activity to asset management vehicle
Section 113

- (1) The Czech National Bank may take a decision to transfer the following to one or more business corporations with the ownership participation of the State, which are not entities in accordance with Section 102, paragraph 2, the purpose of which is the acquisition, holding and transfer of assets or debts in accordance with letter a) or b) to a third person:
 - a) Assets or debts of the liable entity or a part thereof, or
 - b) Assets or debts of the bridge institution or a part thereof.
- (2) The transfer in accordance with paragraph 1 may be only carried out together with the transfer of activity to a private acquirer, application of the regime of the bridge institution or write down or conversion of liabilities eligible for write down.
- (3) A business corporation with the ownership participation of the State is put under the regime of asset management vehicle to which the subject of the transfer has been transferred in accordance with paragraph 1 upon the effective day of the exercisability of the decision on the transfer of activity in accordance with paragraph 1 (hereinafter the asset management vehicle).
- (4) The liable entity or the bridge institution whose assets or debts were transferred to the asset management vehicle shall transmit the assets in question and the necessary documents to the asset management vehicle immediately after the effective day of the exercisability of the decision on the transfer of activity in accordance with paragraph 1, letter a) or b) and shall inform it about everything that is required for the operation or management of the assets or debts which were the subject of the transfer.
- (5) From the moment of the publication of information in accordance with Section 175 debtors cannot release themselves from their obligations corresponding to the liability which has been transferred to the asset management vehicle by fulfilment in favour of the original owner. The transfer of activity has effect on persons who provided collateral for liabilities which were transferred to the asset management vehicle and also on third persons from the same moment.

Section 114

- (1) Following the establishment of the regime of the asset management vehicle
 - a) The Czech Republic (hereinafter the State) exercises the function of the supreme body of the asset management vehicle and in so doing shall proceed in accordance with Section 75 and the Ministry of Finance shall act in the name of the State,
 - b) Any change of the constitutional documents of the asset management vehicle shall be subject to the consent of the Czech National Bank.
 - c) The Czech National Bank shall approve an exchange of members of the management body of the asset management vehicle, the amount of their remuneration and the scope of their responsibilities on a proposal from the Ministry of Finance, and
 - d) The Czech National Bank shall approve the strategy and risk profile of the asset management vehicle on the proposal from the management body of the asset management vehicle.
- (2) The Ministry of Finance shall exercise the responsibilities in accordance with paragraph 1 letter a) after consultation with the Czech National Bank.
- (3) Upon the establishment of the regime of the asset management vehicle, partners have a right to a share of profits and the right to request information the disclosure of which shall not jeopardise the fulfilment of the resolution objective under Section 75. Provisions relating to other rights of the partners in accordance with the Civil Code and the law regulating the activities of saving and credit cooperative societies shall not apply for the purpose of the asset management vehicle. This does not prejudice paragraph 1, letter a).
- (4) The Czech National Bank shall apply to register the fact that the regime of the asset management vehicle has been established in the commercial register without any undue delay upon the enforceability of the decision in accordance with Section 113, paragraph 3.
- (5) In the case of a transfer in accordance with Section 113, paragraph 1, letter a) the asset management vehicle shall pay a compensation to the benefit of the liable entity, in the case of a

transfer in accordance with Section 113, paragraph 1, letter b), the asset management vehicle shall pay compensation to the benefit of the bridge institution. The Czech National Bank shall determine the amount of the compensation within the decision on the transfer, taking regard of the valuation or provisional valuation in accordance with Section 52 and it shall require the asset management vehicle to pay the compensation within a period which shall be no longer than 1 year upon the enforceability of the decision.

- (6) Where there are defects of the subject of the transaction which become apparent subsequently and which the asset management vehicle could not reasonably expect the liable entity or the bridge institution shall return a part of the compensation to the asset management vehicle in the amount in accordance with Section 57, paragraph 6. In order to secure this liability the Czech National Bank may request the Guarantee System to issue collateral in accordance with Section 212, paragraph 1, letter a).

Section 115

- (1) The asset management vehicle shall manage the assets transferred to it in accordance with Section 113, paragraph 1 with a view to maximising their value.
- (2) Where the decision on the transfer in accordance with Section 113, paragraph 1 has become exercisable the asset management vehicle may transfer the assets or debts transferred to the asset management vehicle to a third person with the consent of the Czech National Bank. The provisions of this Act on the procedure for the transfer of activity to a private acquirer in accordance with Section 96 shall be used adequately.

Section 116

- (1) The decision on the transfer in accordance with Section 113, paragraph 1 can be taken only
 - a) If a solution of the insolvency in relation to the assets that were the subject of the transaction in accordance with the insolvency law or liquidation in accordance with the Civil Code might jeopardise the functioning of the financial market in the relevant Member States,
 - b) For the purpose of ensuring proper activity of the relevant liable entity or bridge institution, or
 - c) If this procedure is necessary in order to achieve the highest possible satisfaction when acting pursuant to the insolvency law or liquidation.
- (2) Where the Czech National Bank applies procedure in accordance with Section 113 it shall determine the amount of compensation based on the valuation or provisional valuation in accordance with Section 52 and in accordance with the legal norms and legal acts of the European Union relating to State aid⁵⁾. Where the transfer has been made in accordance with Section 113, paragraph 1 letter a), bonds issued by the asset management vehicle may be provided to the liable entity by way of compensation.
- (3) Consent of the bridge institution is required for the decision on the transfer in accordance with Section 113, paragraph 1, letter b) to become exercisable; other requirements of the laws regulating transfers of property interests, assets or debts are not taken regard of.

Section 117

- (1) The Czech National Bank may take a decision to transfer the assets or debts back from the asset management vehicle to the liable entity or to its legal successor if it states this possibility in the decision on the original transfer in relation to such assets or debts. At the same time, based on the valuation or the provisional valuation in accordance with Section 52, it shall take a decision on the duty to return the corresponding part of the previously awarded compensation or the duty to provide additional compensation to the extent appropriate. Consent of the liable entity is not required. In order to secure the duty to return the corresponding part of the previously awarded compensation the Czech National Bank may request the Guarantee System to issue collateral in accordance with Section 212, paragraph 1, letter a).

- (2) The Czech National Bank may also take a decision on the transfer back of the assets or debts from the asset management vehicle to the liable entity where an asset or debts were transferred by virtue of the decision on the transfer in accordance with Section 113, paragraph 1, letter a), which should not have been included in the subject of the transfer because it does not fall within the classes or otherwise does not meet the conditions for the transfer in accordance with Section 113, paragraph 1, letter a) and Section 116, paragraph 1. Consent of the liable entity or of the original owners is not required.

Section 118

- (1) Owners of the instrument of ownership in the liable entity or creditors of the liable entity and other persons whose assets or debts were not the subject of the transfer in accordance with Section 113, paragraph 1, letter a) shall lose all rights in relation to the assets and debts which were transferred to the asset management vehicle. This is without prejudice to their right to adequate compensation and Section 171 to 173 and Section 175.
- (2) The asset management vehicle shall have no liability for damages caused by its activity to the liable entity, owners of the instrument of ownership in the liable entity or creditors of the liable entity. Member of the management body of the asset management entity shall pay for the damage caused to the liable entity, owners of the instrument of ownership in the liable entity and creditors of the liable entity by violating his or her obligations intentionally or due to gross negligence.

Section 119

- (1) The Czech National Bank shall issue a decision to terminate the regime of the asset management vehicle when
- The merger of the asset management vehicle is entered into the commercial register,
 - The asset management vehicle ceases to meet the requirements of Section 113, paragraph 1,
 - A transfer has been made of all or substantially all the assets or debts in accordance with Section 113, paragraph 1 to a third person,
 - All assets of the asset management vehicle were transferred and the debts of the asset management vehicle were completely discharged, or
 - The asset management does not serve any more the fulfilment of the resolution objective.
- (2) The Czech National Bank shall apply to register the fact that the regime of the asset management vehicle has been established in the commercial register without any undue delay upon the enforceability of the decision in accordance with paragraph 1.

TITLE 6

Write down or conversion of liabilities eligible for write down

Volume 1

Basic conditions

Section 120

Conditions for write down or conversion of liabilities eligible for write down

- (1) Write down or conversion of liabilities eligible for write down may be carried out only if
- It is necessary to recapitalise the liable entity to the extent necessary to enable the liable entity to comply with the conditions for authorisation to pursue activity, to continue to carry out activities for which it is authorised based on this authorisation, to sustain sufficient confidence of the participants of the financial market in the liable entity,
 - It is necessary to provide capital to a bridge institution to which the liabilities eligible for write down of the liable entity are subject to a passage, or
 - Liabilities eligible for write down of the liable entity are subject to a passage to another entity during the passage of activity to a private acquirer or to an asset management vehicle.
- (2) Write down or conversion of liabilities eligible for write down in accordance with paragraph 1, letter a) may be carried out only if there is a reasonable prospect that the write down or conversion of liabilities eligible for write down together with other measures will, in addition to

achieving the purpose of resolution, also restore the liable entity to financial stability and restore its long-term viability.

Section 121

Legal form of the liable entity

The Czech National Bank shall take account of the legal form of the liable entity when a write down or conversion of liabilities eligible for write down is carried out. The Czech National Bank may request the liable entity to change its legal form if it is required for the application of the write down or conversion of liabilities eligible for write down

Section 122

Liabilities eligible for write down

For the purpose of this Act a liability eligible for write down is a debt of the liable entity and a capital instrument issued by the liable entity that do not qualify as Common Equity Tier 1 instruments or capital tools eligible for write down, with the exception of:

- a) Secured debt up to the amount of the value of the collateral secured by property, or in the case of covered bond, up to the amount of the value of property that covers the bond,
- b) Debt corresponding to the covered deposits up to the amount of compensation in accordance with the law regulating the activity of banks, the activities of saving and credit cooperative societies or similar regulations of other Member States,
- c) Debt that arises by virtue of the holding by the liable entity or by virtue of the administration of property of the liable entity in favour of another person provided that these assets are excluded from the estate in accordance with the insolvency law,
- d) Debt owed to an institution which is not part of the same group as the liable entity with an original maturity of less than 7 days,
- e) Debt owed to the payment system operator or participant with settlement finality, to foreign payment system with settlement finality, settlement system with settlement finality or foreign settlement system with settlement finality arising from the participation in the system, with a remaining maturity of less than 7 days,
- f) Debt owed to an employee, in relation to accrued salary or its compensation, reward, or another employee benefit except for the variable component of remuneration that is not regulated by a collective agreement and the variable component of the reward that belongs to an employee whose activity has an important impact on the overall risk profile of the liable entity in accordance with the laws regulating the activity of banks, the activities of saving and credit cooperative societies and dealers in securities,
- g) Debt directly connected to the maintenance of the operation of the business enterprise of the liable entity, or
- h) Outstanding Debt arising from the obligation to pay a contribution to the Deposit Insurance Fund in accordance with the law regulating the activities of banks, the law regulating the activity of saving and credit cooperative societies or to a similar insurance system in accordance with the law of another Member State.

Section 123

Exclusion of certain liabilities eligible for write down

- (1) The Czech National Bank may in exceptional cases exclude or partially exclude a certain liability or class of liabilities from the write down or conversion where:
 - a) It is not possible to write down or convert those liabilities within a reasonable time notwithstanding the efforts that can be fairly expected of the Czech National Bank,
 - b) The exclusion is strictly necessary and is proportionate to achieve the continuity of critical functions and core business lines of the liable entity in a manner that preserves the ability of the liable entity to continue key operations, services and transactions;

- c) The exclusion is strictly necessary and proportionate to avoid a danger that the functioning of financial market would be disrupted in a manner that could cause a serious disturbance to the economy of a Member State or of the EU, especially in relation to secured liabilities from the deposits of natural persons and micro, small and medium-sized enterprise, or
 - d) The write down or conversion of those liabilities eligible for write down would cause destruction in value such that the losses borne by other creditors would be higher in case of write down or conversion of such liabilities eligible for write down than if those liabilities were excluded.
- (2) Where the Czech National Bank excludes a liability eligible for write down or a class of liabilities eligible for write down in accordance with paragraph 1 the Czech National Bank shall have regard to:
- a) The principle that the owners of the instruments of ownership in the liable entity are the first to bear losses and creditors of the liable entity will bear losses only after them in the hierarchy of their claims in accordance with the insolvency law, unless this Act provides otherwise,
 - b) The ability to absorb the loss of the liable entity after the exclusion has been effected, and
 - c) The need to maintain sufficient resources of financing for the resolution funding.
- (3) Where the Czech National Bank intends to exclude a liability eligible for write down or a class of liabilities eligible for write in accordance with Section 1 it shall communicate this to the European Commission. The Czech National Bank shall not exclude a liability eligible for write down or a class of liabilities eligible for write down in accordance with paragraph 1, where:
- a) A provision of a contribution from the crisis resolution fund to the liable entity would be required as a result of the exclusion, and
 - b) The European Commission has prohibited the exclusion for reasons of protecting the integrity of the internal market within 24 hours from receiving the notice of the Czech National Bank or within a longer period agreed by it with the Czech National Bank.

Section 124

Increasing the scope of write down or conversion and contribution from the Crisis Resolution Fund

- (1) Where the Czech National Bank excludes a liability eligible for write down or a class of liabilities eligible for write down from the write down or conversion fully or in part it may offset the exclusion by increasing the scope of write down or conversion of other liabilities eligible for write down in a corresponding manner.
- (2) Where the Czech National Bank excludes a liability eligible for write down or a class of liabilities eligible for write down fully or in part from the write down or conversion and where the exclusion is not fully offset in accordance with paragraph 1 it may make a contribution to the liable entity from the Crisis Resolution Fund:
- a) To discharge the loss and increase the net value of the assets of the liable entity to zero in accordance with Section 138, paragraph 1,
 - b) To acquire the Common Equity Tier 1 tools of the liable entity for the purpose of achieving the required ratio of Common Equity Tier of the liable entity.

Section 125

Conditions for provision of contribution from the Crisis Resolution Fund

- (1) A contribution from the Crisis Resolution Fund may be made to the liable entity up to the level of 5 % of the liabilities of the liable entity where the owners of the instruments of ownership in the liable entity, owners of capital tools eligible for write down and creditors of liabilities corresponding to liabilities eligible for write down participate in the loss absorption or in the recapitalisation of the liable entity by virtue of the write down, conversion or otherwise at least in the amount of 8 % of the assets of the liable entity.
- (2) A contribution from the Crisis Resolution Fund may be made to the liable entity up to the level of 5 % of the liabilities of the liable entity where:

- a) Owners of the instruments of ownership in the liable entity, owners of capital tools eligible for write down and creditors of liabilities eligible for write down participate by virtue of the write down, conversion or otherwise in the discharge of the loss or in the recapitalisation of the liable entity at least in the amount of 20 % of the total risk exposure in accordance with Article 92 of Regulation (EU) No 575/2013 of the European Parliament,
 - b) The funds in the Crisis Resolution Fund are at least equal to 3 % of the sum of covered deposits in banks and savings and credit cooperatives incorporated in the Czech Republic while the secured liabilities are included in this sum only up to the level of the compensation provided from the Deposit Insurance Fund, and
 - c) The liable entity has total assets below an amount corresponding to EUR 900 000 000 000 on a consolidated basis.
- (3) Where a contribution was made to the liable entity from the Crisis Resolution Fund amounting to 5 % of the liabilities of the liable entity another contribution from the Crisis Resolution Fund may be made to the liable entity under exceptional circumstances where all liabilities eligible for write down of the liable entity were written off or converted with the exception of secured liabilities and liabilities corresponding to covered deposits.
- (4) The conditions and limitations set out in paragraph 1 or 2 are assessed as at the day of the adoption of the resolution action on the basis of valuation carried out in accordance with Section 52.

Section 126

Funding resources for contributions from the Crisis Resolution Fund

- (1) Only the following may serve as a source of contribution from the Crisis Resolution Fund provided in accordance with Section 125, paragraph 1 or 2:
- a) Assets in the contribution fund of the Crisis Resolution Fund,
 - b) Assets that can be acquired within 3 years through payment of extraordinary contributions in accordance with Section 215, and
 - c) Assets acquired from the market in accordance with Section 216 where assets acquired in accordance with letters a) and b) are not sufficient.
- (2) Only the following may serve as a source of another contribution from the Crisis Resolution Fund provided in accordance with Section 125, paragraph 3:
- a) Assets in the Contribution Fund of the Crisis Resolution Fund, and
 - b) Assets acquired from the market in accordance with Section 216.

Volume 2

Requirements for own funds and liabilities eligible for write down

Section 127

Basic conditions

- (1) A liable entity which is an institution shall keep own funds and liabilities eligible for write down on an individual basis at all times at least at the level which meets the minimum requirement.
- (2) A liable entity which is not an institution shall keep own funds and liabilities eligible for write down on an individual basis at all times at least at the level which meets the minimum requirement if the Czech National Bank determines the minimum requirement for it.
- (3) A European controlling entity shall keep own funds and liabilities eligible for write down also on the consolidated basis at all times at least at the level which meets the minimum requirement.

Volume 128

Exceptions for certain European financial group entities

- (1) Where the Czech National Bank is a European group-level resolution authority it may waive the duty of the EU controlling institution to keep own funds and liabilities eligible for write down on an individual basis at least at the level which meets the minimum requirement, where

- a) The EU controlling institution keeps own funds and liabilities eligible for write down on a consolidated basis at least at the level of the minimum requirement, and
 - b) The Czech National Bank has fully waived the application of individual prudential capital requirements to the EU controlling institution in accordance with Article 7, paragraph 3 of Regulation of the European Parliament and the Council (EU) No 575/2013.
- (2) Where the Czech National Bank is a resolution authority of a controlled entity which is a European financial group entity it may wave the duty of the controlled entity to keep own funds and liabilities eligible for write down on an individual basis at least at the level of the minimum requirement where:
- a) The institution which controls the controlled entity and which is not controlled by another institution incorporated in the Czech Republic keeps own funds and liabilities eligible for write down on a sub-consolidated basis at least at the level of the minimum requirement, and
 - b) The Czech National Bank has fully waived the application of individual prudential capital requirements to the controlled entity in accordance with Article 7, paragraph 3 of Regulation of the European Parliament and the Council (EU) No 575/2013.

Section 129 **Minimum requirement**

For the purposes of this Act a minimum requirement is a required ratio between the total assets and liabilities eligible for write down of the liable entity and the liabilities of the liable entity. When including liabilities arising from derivatives in total liabilities eligible for write down of the liable entity the right of the counterparty to exercise set-off or close out netting shall be fully taken into account.

Section 130 **Determination of the minimum requirement for a liable entity outside European financial group**

- (1) The Czech National Bank shall determine a minimum requirement on an individual basis to a liable entity which is an institution and which is not a European financial group entity.
- (2) The Czech National Bank may determine a minimum requirement on an individual basis to a liable entity which is not an institution and which is not a member of a European financial group entity.

Section 131 **Determination of the minimum requirement for an EU controlling entity**

- (1) Where the Czech National Bank is a resolution authority of a European financial group it shall determine the minimum requirement on a consolidated basis for the EU controlling entity after reaching a joint decision with the relevant resolution authorities of the other European financial group entities. The Czech National Bank shall make efforts to reach a joint decision.
- (2) In the absence of such a joint decision in accordance with paragraph 1 within four months, the Czech National Bank shall determine the consolidated minimum requirement for the EU controlling entity independently unless any of the resolution authorities of the European financial group entities requests the European Banking Authority to mediate the dispute in accordance with the directly applicable regulation of the European Union governing the supervision of the financial market in the area of banking⁷ before the expiration of this time period. When determining the minimum requirement independently the Czech National Bank shall take into consideration opinions taken by the resolution authorities of the other European financial group entities.
- (3) If any of the resolution authorities of the European financial group entities requests the European Banking Authority to mediate the dispute in accordance with paragraph 2 the Czech National Bank shall suspend the proceedings on determining the minimum requirement until a decision is issued by the European Banking Authority. In the absence of a decision of the European Banking Authority within 1 month upon the day when EBA was requested to mediate the dispute the Czech National Bank shall determine the consolidated minimum requirement for the EU controlling entity independently. When determining the minimum requirement independently the Czech National

Bank shall take into consideration the positions taken by the resolution authorities of the other European financial group entities.

- (4) Where the Czech National Bank is a resolution authority of a European financial group it shall make efforts to reach a joint agreement between it and the relevant resolution authorities of the controlled entities which are the European financial group entities on determining a minimum requirement for these controlled entities on an individual basis.

Section 132

Determination of a minimum requirement for a controlled entity in a European financial group

- (1) Where the Czech National Bank is a resolution authority of a controlled entity which is a European financial group entity it shall determine the minimum requirement on an individual basis for the controlled entity after reaching a joint decision with the relevant resolution authorities of the other European financial group entities. The Czech National Bank shall make efforts to reach a joint decision.
- (2) In the absence of such a joint decision in accordance with paragraph 1 within four months, the Czech National Bank shall determine the minimum requirement on an individual basis for the controlled entity independently unless any of the resolution authorities of the European financial group entities requests the European Banking Authority to mediate the dispute in accordance with the directly applicable regulation of the European Union governing the supervision of the financial market in the area of banking⁷ before the expiration of this time period. When determining the minimum requirement independently the Czech National Bank shall take into consideration the opinion taken by the resolution authority of the European financial group.
- (3) If any of the resolution authorities of the European financial group requests the European Banking Authority to mediate the dispute in accordance with paragraph 2 the Czech National Bank shall suspend the proceedings on determining the minimum requirement until a decision is issued by the European Banking Authority. In the absence of a decision of the European Banking Authority within 1 month upon the day when EBA was requested to mediate the dispute the Czech National Bank shall determine the minimum requirement on an individual basis for the EU controlling entity independently. When determining the minimum requirement independently the Czech National Bank shall take into consideration the opinion taken by the resolution authority of the European financial group.
- (4) Where the Czech National Bank is a resolution authority of a controlled entity which is a European financial group entity it shall make efforts to reach a joint agreement between it and the resolution authority of the European financial group on determining a minimum consolidated requirement for the European controlling entity.

Section 133

Criteria for determining the minimum requirement

- (1) In determining the minimum requirement for the liable entity the Czech National Bank shall in particular have regard to:
 - a) The need to ensure that the resolution of the liable entity can be carried out in a manner enabling the achievement of the resolution objectives,
 - b) The need to ensure that the liable entity has sufficient liabilities eligible for write down to ensure that during the write down or conversion of liabilities eligible for write down the loss could be absorbed and the Common Equity Tier 1 ratio could be restored to a level necessary to enable the liable entity to continue to comply with the conditions for authorisation and to continue to carry out activities for which it is authorised based on this authorisation and to sustain sufficient confidence of the participants of the market in the liable entity,
 - c) The need to ensure that, if the resolution plan anticipates that a liability eligible for write down or a class of liabilities eligible for write down might be excluded from the write down or conversion or be subject to a passage to someone else, that the liable entity has other sufficient liabilities eligible for write down to ensure that the loss could be absorbed and the Common Equity Tier 1 ratio could be restored in accordance with Section 123 during the write down or

conversion of liabilities eligible for write down to a level necessary to enable the liable entity to continue to comply with the conditions for the authorisation and to continue to carry out activities for which it is authorised based on this authorisation,

- d) The size, the business model, the funding model and the risk profile of the liable entity,
 - e) The extent to which the Deposit Insurance Fund could participate in the financing of resolution, and
 - f) The extent to which the failure of the liable entity would have adverse effects on financial stability due to its interconnectedness of the liable entity with other liable entities or with the rest of the financial system.
- (2) Where determining the minimum requirement at consolidated level of a European controlling entity the Czech National Bank shall also take regard of whether the controlled entities in other than Member States are to be resolved separately in accordance with the resolution plan.
- (3) Where determining the minimum requirement for the controlled entity which is a European financial group entity on an individual basis the Czech National Bank shall also take regard of the minimum requirement determined for the EU controlling entity on a consolidated basis.

Section 134

Decision on determining the minimum requirement

- (1) The Czech National Bank shall issue the decision on determining the minimum requirement in connection with the preparation or updating of the resolution plan.
- (2) The Czech National Bank shall review the decision on determining the minimum requirement on a regular basis and it shall issue a new decision in the case of a substantial change of circumstances.

Section 135

Conditions for including liabilities eligible for write down

- (1) For the purposes of meeting the duty to keep own funds and liabilities eligible for write down at least at the level of the minimum requirement the liabilities eligible for write down of the liable entity shall be taken regard of only if they satisfy the following conditions:
- a) The liability to which the liable entity has a right which arose in connection with the origination of the liability eligible for write down is fully paid up by the liable entity,
 - b) The liability eligible for write down is not owed to or secured by the liable entity to which the liability in question belongs,
 - c) The liability received by the liable entity in connection with the origination of the liability eligible for write down is not funded directly or indirectly by the liable entity, to which the liability in question belongs,
 - d) The liability eligible for write down has a remaining maturity of at least one year; where the creditor has a right to request an early reimbursement of the liability eligible for write down it is considered that the maturity of the liability eligible for write down shall be the first day where the right to an early reimbursement arises,
 - e) The liability eligible for write down does not arise from a derivative and
 - f) The liability eligible for write down does not arise from a deposit the satisfaction of which is given priority in accordance with the insolvency law.
- (2) Where a liability eligible for write down is governed by the law of other than a Member State and where it can be reasonably doubted that the decision on the write down or conversion of the liability eligible for write down would be effective under that law the Czech National Bank may decide not to include the liability eligible for write down among liabilities eligible for write down for the purposes of meeting the duty to keep own funds and liabilities eligible for write down at least at the level of the minimum requirement. In doing so the Czech National Bank shall take particular regard of the contractual conditions relating to this liability eligible for write down and to international agreements on the mutual recognition of resolution actions.

Section 136

Determination of liability eligible for write down arising from a derivative

- (1) Where the derivative is subject to a netting agreement between the contractual parties the liabilities eligible for write down of the liable entity arising from this derivative shall be determined for the purposes of determining the value of the liability eligible for write down arising from a derivative as if the netting has been carried out and the liability eligible for write down of the liable entity determined in this manner shall be the subject of determining the value of the liability eligible for write down arising from such derivative.
- (2) Where determining the value of a liability eligible for write down arising from a derivative contract the Czech National Bank or the valuer shall use proceedings appropriate for:
 - a) Determining the value of a liability eligible for write down based on the given class of derivatives including derivatives which are subject to netting agreements,
 - b) Establishing the relevant point in time at which the value of the position of the liability eligible for write down of the liable entity arising from a derivative should be established,
 - c) Comparing the destruction in value of liabilities and debts arising from the derivative that would arise from the netting of the liabilities of the contractual parties in accordance with the netting agreement and inclusion of the resultant liability eligible for write down in the write down or conversion with the amount of losses that would be borne if the liability eligible for write down arising from a derivative were included in the write down or conversion of liabilities.

Section 137

Contractual instruments enabling write down or conversion of liabilities eligible for write down

In the decision determining the minimum requirement the Czech National Bank may decide that the liable entity shall meet the duty to keep own funds and liabilities eligible for write down at least at the level of the minimum requirement partly through liabilities eligible for write down arising from contracts although they do not meet all the conditions specified in Section 135, paragraph 1, if:

- a) The contract from which the liability eligible for write down arises contains a contractual term providing that the liability eligible for write down shall be written down or converted before other liabilities eligible for write down are written down or converted, and
- b) The liability corresponding to the liability eligible for write down is a subordinated liability in accordance with the insolvency law.

Volume 3

Implementation of write down or conversion of liabilities eligible for write down

Section 138

Write down or conversion of liabilities eligible for write down

- (1) Where the level of write down of Common Equity Tier 1 items in accordance with Section 65 and the write down of capital instruments in accordance with Section 67 are not sufficient to cover the loss, the Czech National Bank shall write down the liabilities eligible for write down of the liable entity by the amount required to increase the net asset value of the liable entity to zero.
- (2) Where the net current asset value of the liable entity exceeds or is equal to zero and where the conversion of capital instruments eligible for write down in accordance with Section 67 is not sufficient to restore the required Common Equity Tier 1 capital ratio of the liable entity or of the bridge institution and to achieve the resolution objective the Czech National Bank shall convert the liabilities eligible for write down of the liable entity to Common Equity Tier 1 instruments of the liable entity, controlling entity or bridge institution by the amount needed to restore the required Common Equity Tier 1 capital ratio of the liable entity, the controlling entity or the bridge institution.
- (3) When determining the amount of write down or conversion of the liabilities eligible for write down in accordance with paragraphs 1 and 2 the Czech National Bank shall take account of a potential increase of the capital of the bridge institution owing to a contribution from the Crisis Resolution Fund.
- (4) The Czech National Bank shall write down or convert the liabilities eligible for write down in accordance with paragraphs 1 and 2 by the amount which is sufficient to enable the liable entity or

the bridge institution to meet, for at least one year, the conditions for authorisation, to enable the liable entity to continue to carry out the activities which it is authorised to exercise based on this authorisation and to sustain sufficient confidence of the participants of the financial market in the liable entity or in the bridge institution.

Section 139

Ensuring capital for asset management vehicle

Before proceeding in accordance with the provisions relating to the asset management vehicle the Czech National Bank shall determine the amount of write down or conversion of liabilities eligible for write down which is sufficient in order to ensure capital for the asset management vehicle.

Section 140

Sequence of write down and conversion

Where exercising the write down or conversion of liabilities eligible for write down the Czech National Bank proceeds in accordance with the hierarchy pursuant to which the claims which correspond to the liabilities eligible for write down would be satisfied under the insolvency law. The liability eligible for write down to which a claim corresponds with an earlier position in the hierarchy may be written down or converted only after fully writing down or converting a liability eligible for write down to which a claim corresponds with a subsequent position in the hierarchy. Liabilities eligible for write down to which correspond claims with the same position in the hierarchy shall be written down or converted to the same extent pro rata to their value.

Section 141

Rate of conversion

- (1) The Czech National Bank shall determine the conversion rate so that it represents an adequate compensation for the loss suffered by the creditor by virtue of the write down or conversion of the liability eligible for write down.
- (2) The Czech National Bank may determine different conversion rates for the individual classes of liabilities eligible for write down. A less favourable conversion rate may not be determined for a liability eligible for write down to which corresponds a claim with an earlier position in the hierarchy under the insolvency proceedings than for a liability eligible for write down to which corresponds a claim with a subsequent position in the hierarchy in these proceedings.

Section 142

Special provision on derivative liabilities eligible for write down

The Czech National Bank shall write down or convert the liability eligible for write down of the liable entity arising from a derivative by closing out the derivative and shall net the liabilities of the contractual parties in accordance with the close-out netting agreement or in a similar manner so that the result is one net claim of one contractual party and a liability of the other party to pay the resultant amount corresponding to it.

Section 143

Certain requirements for measures of a general nature

- (1) In the holding of measures of a general nature, by which
 - a) Liabilities eligible for write down are written down the Czech National Bank shall determine at least which liabilities eligible for write down are written down and to what extent, or
 - b) Liabilities eligible for write down are converted to Common Equity Tier 1 items the Czech National Bank shall determine at least which liabilities eligible for write down are converted, to what extent, with which conversion rates and to which Common Equity Tier 1 items.

- (2) Common Equity Tier 1 items and the liabilities eligible for write down shall be determined in the holding of measures of a general nature mentioned above in paragraph 1 at least in general terms by attributes characterising individual classes of instruments or liabilities eligible for write down.

Section 144

Changes in qualifying holding

- (1) The Czech National Bank shall take a decision on giving its consent required in accordance with another legal norm⁶⁾ for the acquisition of or increase in a qualifying holding in the liable entity or for an entity whose liabilities or instruments of ownership correspond to the liabilities eligible for write down which were or are to be written down or converted to become a controlling entity of the liable entity without any undue delay upon learning about the scope of the write down or conversion and about the entities whose liabilities or instruments of ownership correspond to the liabilities eligible for write down which were or are to be written off or converted.
- (2) The procedure with regard to providing consent in accordance with paragraph 1 shall be commenced ex officio.
- (3) The write down or conversion becomes effective irrespective of the decision of the Czech National Bank in accordance with paragraph 1.
- (4) Provisions of Section 99, paragraphs 2 to 5 shall be applied in a similar manner.

Volume 4

Effects of write down or conversion of liabilities eligible for write down

Section 145

Reduction of nominal value and termination of liabilities

- (1) A write down or conversion of a liability eligible for write down results, within the scope of the write down or conversion, in
- a) A permanent reduction in the nominal value of the instrument which corresponds to the written down or converted liability and
 - b) Termination of any claims which correspond to the written down or converted liability.
- (2) The reduction of the nominal value of the written down or converted liability eligible for write down to zero leads to a termination of bonds which represent the written down or converted liability.
- (3) The Czech National Bank may change the amount of interest due, the day of its maturity or otherwise change the content of the written down or converted liability to the extent to which it has not been affected by the effects of the write down or conversion in accordance with paragraph 1.

Section 146

Acquisition of the right of ownership

- (1) As a result of the conversion of the liability eligible for write down the creditor becomes an owner of the share in the company to the Common Equity Tier 1 instruments of which the liability eligible for write down was converted to the extent of the conversion and at the determined rate of conversion.
- (2) Where the share in accordance with paragraph 1 is represented by a bond the Czech National Bank shall require the liable entity to issue bonds to the extent necessary and to confer them to their owners.
- (3) Where the Czech National Bank requests the liable entity to issue bonds the issuance of which is not admitted by virtue of the founding legal act of that liable entity it shall decide at the same time and to the extent necessary about a change in the founding legal act of the liable entity. The change in the founding legal act of the liable entity shall take effect on the enforceability of the decision of the Czech National Bank.

Section 147

Other powers of the Czech National Bank

In the event of the write down or conversion of liabilities eligible for write down the Czech National Bank may request:

- a) A person keeping a register of investment instruments or another list containing these liabilities eligible for write down to make or change an entry in the register or in another list containing these liabilities eligible for write down.
- b) The organiser of the regulated market or a dealer in securities to withdraw an instrument issued by the liable entity from trading on markets in investment instruments, admit a newly issued instrument issued by the liable entity to trading on markets in investment instruments or readmit a bond which was the subject of the write down, to trading on markets in investment instruments without the necessity to publish the prospectus again in accordance with the law governing business on the capital market, or
- c) The liable entity to provide for a withdrawal of securities which correspond to the written down or converted liability from circulation for the purpose of exchanging them, marking the new nominal value or destroying them.

Volume 5

Consent of creditors

Section 148

Ensuring consent of creditor

- (1) The liable entity shall ensure the consent of the creditor with the power of the Czech National Bank to write down or convert liabilities eligible for write down of the liable entity which arose since the day when this Act took effect and his/her consent with the binding nature of the write down or conversion of the liabilities eligible for write down in respect of the creditor.
- (2) The Czech National Bank may request the liable entity to submit a legal opinion on the enforceability of the consent in accordance with paragraph 1 to it.
- (3) Non-fulfilment with the obligation specified in paragraph 1 does not have any effect on the power of the Czech National Bank to write down or convert entities eligible for write down.

Section 149

Exceptions

- (1) The obligation to ensure the consent of the creditor in accordance with Section 148 does not relate to:
 - a) Liabilities eligible for write down which are governed by the law of the Member State,
 - b) Liabilities corresponding to covered deposits of natural persons and micro, small and medium-sized enterprises to the extent which exceeds the amount of compensation, and
 - c) Liabilities corresponding to liabilities from deposits of natural persons and micro, small and medium-sized enterprises which would be regarded as being secured if they were not made through a branch of the liable entity located in another than a Member State.
- (2) Where the law of a State which is not a Member State or an international agreement enables the Czech National Bank to write down or convert liabilities eligible for write down to which the obligation to ensure the consent of the creditor in accordance with Section 148 relates and where the law recognizes the effects of the write down or of the conversion the Czech National Bank may determine in measures of a general nature that for such liabilities, if they are governed by the law of that State, no consent of the creditor in accordance with Section 148 is required.

Volume 6

Business reorganisation plan

Section 150

Drawing up of business reorganisation plan

- (1) Where the Czech National Bank carries out a write down or conversion of liabilities eligible for write down of a liable entity in accordance with Section 120, paragraph 1, letter a) the management

body or the person or persons who exercise its powers shall draw up a business reorganisation plan within one month upon the day when measures of a general nature on the write down or conversion was made public and shall submit it to the Czech National Bank within the same time period with a request for its approval.

- 2) In exceptional circumstances, and if it is necessary for achieving the resolution objectives, the Czech National Bank may extend the period specified in paragraph 1 for up to 1 month. Where the business reorganisation plan is required to be notified within the EU State aid framework to another authority, the Czech National Bank may extend the period in paragraph 1 for no longer than until the time limit laid down for this submission.

Section 151

Requirements for the business reorganisation plan

- (1) The business reorganisation plan shall include at least the following:
 - a) A detailed analysis of the causes of the failure of the liable entity,
 - b) A description of the measures that are to be adopted to restore the long-term viability of the liable entity, and
 - c) A timetable for the implementation of measures specified in letter b).
- (2) When determining the measures specified in paragraph 1, letter b) and the timetable described in paragraph 1, letter c) account shall be taken of the current state of the economy and the financial market and of realistic assumptions regarding their future prospects reflecting the best-case and worst-case scenarios of their development. These assumptions shall be compared with appropriate sector-wide benchmarks.
- (3) Where State aid is to be provided to the liable entity the content of the business reorganisation plan shall be submitted to the European Commission in accordance with the requirements which are set for such a plan by the legal acts of the European Union relating to State aid⁵⁾.

Section 152

Decision on the application for approval of the business reorganisation plan

- (1) The Czech National Bank shall approve the business reorganisation plan where it can be assumed that the implementation of measures contained in the plan would restore the long-term viability of the liable entity.
- (2) Where it cannot be assumed that the implementation of measures contained in the business reorganisation plan would restore the long-term viability of the liable entity the Czech National Bank shall require the liable entity to amend the plan in a way determined by the Czech National Bank.
- (3) Where it cannot be assumed that the implementation of measures contained in the business reorganisation plan would restore the long-term viability of the liable entity the Czech National Bank shall not approve the business reorganisation plan.

Section 153

Amendments of the unapproved business reorganisation plan

- (1) Where the Czech National Bank requires the management body or the person or persons who exercise its powers to amend the unapproved business reorganisation plan as intended the management body or the person or persons who exercise its powers shall amend it within two weeks from the date of notification of the decision of the Czech National Bank and shall submit the amended plan within the same time period to the Czech National Bank with a request for its approval.
- (2) The Czech National Bank shall take a decision on the approval of the amended business reorganisation plan within one week from the date of receipt of the request. Provisions of Section 152 shall be used in a similar manner.

Section 154

Amendments of the approved business reorganisation plan

- (1) Where the management body or the person or persons who exercise its powers establish that due to a fundamental change in circumstances the approved business reorganisation plan does not contain measures the implementation of which would restore the long-term viability of the liable entity it shall notify the Czech National Bank of the fact.
- (2) Where due to a fundamental change in circumstances the approved business reorganisation plan does not contain measures the implementation of which would restore the long-term viability of the liable entity the Czech National Bank may request the liable entity to amend the approved business reorganisation plan in a way and in a reasonable timeframe determined by the Czech National Bank and to submit the amended plan within the same time period to the Czech National Bank with a request for its approval.
- (3) Section 152 shall be applied similarly for the approval of the amended business reorganisation plan.

Section 155

Implementation of the business reorganisation plan

The liable entity shall implement the measures contained in the approved business reorganisation plan and shall submit a report on it to the Czech National Bank at least every six months.

Section 156

Special provisions on the business reorganisation plan in a group

- (1) The EU controlling entity incorporated in the Czech Republic shall draw up the business reorganisation plan covering all the institutions which are the group entities and shall submit it to the Czech National Bank with a request for its approval, where the Czech National Bank or the relevant resolution authority of another Member State carry out the write down or conversion of the liabilities eligible for write down of at least two entities in the group in accordance with Section 120, paragraph 1, letter a) or in accordance with a comparable foreign legal norm.
- (2) Provisions of the law governing the activities of banks when drawing up group recovery plans shall be used similarly for drawing up the plan specified in paragraph 1.
- (3) The Czech National Bank shall transmit a copy of the plan submitted in accordance with paragraph 1 to the resolution authorities of other Member States which are the relevant resolution authorities of other group entities and to the European Banking Association.

Volume 7

Government stabilisation tools

Section 157

Types of Government stabilisation tools

The Government stabilisation tools are:

- a) Public equity support, and
- b) A passage of instruments of ownership in the liable entity to the State.

Section 158

Requirements for the application of Government stabilisation tools

- (1) Government stabilisation tools may be applied on the liable entity which meets the conditions in accordance with Section 78, paragraph 1, where
 - a) A systemic crisis has begun or is imminent,
 - b) Other measures have been applied to the highest extent which is compatible with maintaining financial stability,
 - c) The application of Government stabilisation tools serves the protection of public interest,

- d) Owners of the instruments of ownership in the liable entity and creditors of the liable entity participate in the loss absorption of the liable entity in the total amount of at least 8 % of the liabilities of the liable entity by virtue of write down, conversion or in another manner,
 - e) The application of Government stabilisation tools is in accordance with the legal norms⁴⁾ and acts⁵⁾ of the European Union in the area of public financial support, and
 - f) At least one of the conditions specified in paragraph 2 is met.
- (2) Government stabilisation tools may be applied under the conditions specified in paragraph 1 where:
- a) The Ministry of Finance and the Czech National Bank are in agreement that the application of other measures than Government stabilisation tools would not be enough to prevent material impacts on the financial system,
 - b) The Ministry of Finance and the Czech National Bank are in agreement that the application of other measures than Government stabilisation tools on the liable entity to which emergency liquidity assistance was provided would not be enough to protect public interest, or
 - c) The Ministry of Finance after consultation with the Czech National Bank establishes that the public equity support provided to the liable entity is no longer enough to protect public interest and that it is necessary to take a decision on the passage of instruments of ownership in the liable entity to the State.

Section 159

Proposal to apply Government stabilisation tools

- (1) The proposal to apply Government stabilisation tools shall be drawn up by the Czech National Bank in cooperation with the liable entity in accordance with Section 230, the legal norms⁴⁾ and acts⁵⁾ of the European Union in the area of public financial support and shall be submitted to the Ministry of Finance for consultation. After reaching agreement on the draft the Ministry of Finance shall submit it to the Government for decision together with information relating in particular to a description of impacts on the state budget.
- (2) The Government may take a decision on the application of Government stabilisation tools only after the Commission decides that such application is compatible with the internal market.
- (3) Where the Government approves the proposal to apply Government stabilisation tools such decision shall be regarded as consent in accordance with another legal norm¹⁵⁾.

Section 160

Public equity support

- (1) The State shall acquire the following instruments through the application of public equity support and in return for payment, in accordance with the law regulating the legal relations of business corporations and cooperatives and pursuant to the law on the assets of the Czech Republic included in:
 - a) Common Equity Tier 1 instruments,
 - b) Additional Equity Tier 1 instruments, or
 - c) Tier 2 instruments.
- (2) Where necessary, the Czech National Bank shall impose a duty in its decision on the liable entity to surrender the tools in accordance with paragraph 1.

Section 161

Passage of the instruments of ownership in the liable entity to the State

- (1) By applying the passage of the instruments of ownership in the liable entity to the State the following shall acquire the instruments of ownership in the liable entity:
 - a) The State, or
 - b) A business corporation determined by the Government which had agreed to the passage in advance and in which the State can exercise controlling influence, directly or indirectly.

- (2) Where necessary, the Czech National Bank shall take a decision on the passage of the tools of ownership in the liable entity to an entity in accordance with paragraph 1. Such decision or a measure of a general nature may be issued only after the approval of a proposal to apply Government stabilisation tools in accordance with Section 159, paragraph 2.
- (3) The original owners of the instruments of ownership whose instruments of ownership were the subject of the passage in accordance with paragraph 1 shall have a right to the consideration in an amount established by the valuation or by provisional valuation in accordance with Section 52. Provisions of Section 177 shall be used in a similar manner; the amount of any consideration shall be paid out by the State.

Section 162

Principles of management of assets acquired by application of Government stabilisation tools

- (1) The Ministry of Finance has the power of disposal of the assets acquired by the State through the application of Government stabilisation tools.
- (2) The Ministry has a duty to ensure that within the scope corresponding to the share of the State in the liable entity on which Government stabilisation tools have been applied the liable entity shall be managed with due managerial care and on a commercial basis. At the same time it shall take care that the purpose of the application of Government stabilisation tools in accordance with Section 158 is met.
- (3) Where favourable market, commercial and financial circumstances of the liable entity allow the assets acquired under Section 160, paragraph 1 or under Section 161, paragraph 1, shall be transferred to the private sector in accordance with the law governing conditions of transfer of assets held by the State to other entities.

Section 163

Cooperation in the application of Government stabilisation tools

- (1) The Ministry of Finance shall cooperate with the Czech National Bank in the application of the Government stabilisation tools.
- (2) The Government may request information from the Czech National Bank related to the application of Government stabilisation tools which is available to the Czech National Bank.

Volume 8

Supplementary powers

Section 164

Where it serves meeting the resolution objective the Czech National Bank may concurrently with the application of resolution actions

- a) Abolish the right to the acquisition of the tools of ownership in the liable entity,
- b) Request the organiser of the European regulated market to withdraw an investment instrument from trading on the European regulated market or on the official market or suspend the trading with the investment instrument on the European regulated market or on the official market,
- c) Decide and ensure that the acquirer, the bridge institution or the asset management vehicle enter into a legal position of a liable entity in relation to any right, obligation or legal transactions of the liable entity and shall thus acquire the rights and obligations which would otherwise belong to the liable entity,
- d) Cancel or modify the terms of a contract which the liable entity was a party to or provide for ceding such a contract to the acquirer,
- e) Impose a duty on the liable entity and on the liable entity's group entities, including those under resolution or the bankruptcy of which is being resolved in proceedings in accordance with the insolvency law, to provide operational services or facilities that are necessary to enable the application of activities in connection with the subject of the passage under the conditions existing prior to the application of resolution actions and where this is not possible then under the conditions prevailing on the financial market; the provision of such services or facilities does not include any form of financial support,

- f) Impose a duty on the liable entity or on the acquirer to provide information and cooperation to each other,
- g) Determine that the passage of the instruments of ownership, assets and liabilities shall not be encumbered by any other right; the compensation for the passage in accordance with this Act shall not be considered as an encumbrance with another right. This is without prejudice to Section 171.

Section 165

The execution of the powers specified in Section 164, letter c) does not prejudice the following:

- a) The right of an employee of the liable entity to terminate a contract of employment,
- b) With the exception of the application of powers in accordance with Sections 83 to 85 any contractual right, including the right to terminate the contract by virtue of an act or omission by the liable entity or by the acquirer to which the rights were ceded and which has assumed the rights arising from this contract.

Volume 9 **Cross-border aspects of powers** Section 166

- (1) The decision taken by the resolution authority of another Member State to subject the instruments of ownership, assets or liabilities governed by the Czech law to a passage or to subject the instruments of ownership and assets located in the territory of the Czech Republic to a passage is enforceable in the Czech Republic where it is enforceable in accordance with the law of that Member State.
- (2) The decision taken by the resolution authority of another Member State to reduce Common Equity Tier 1 items, write down or convert capital instruments eligible for write down or write down or convert liabilities eligible for write down governed by the Czech law, or a similar decision taken in relation to the creditors incorporated in the Czech Republic is enforceable in the Czech Republic where it is enforceable in accordance with the law of that Member State.
- (3) The Czech National Bank shall append an enforcement clause to the decision in accordance with paragraph 1 or 2 upon the request of the resolution authority of another Member State. The Czech National Bank and the Ministry of Finance shall provide appropriate assistance to the resolution authority of another Member State in order to ensure the validity and effectiveness of measures in accordance with paragraphs 1 and 2 pursuant to the Czech law. Other administration authorities shall provide any appropriate assistance to the Czech National Bank and to the Ministry of Finance.
- (4) The Czech National Bank may decide to subject the instruments of ownership, assets or liabilities to a passage with effects in the territory of another Member State only where requirements for the application of such passage set by the law of that Member State are met.

Section 167

- (1) Where the subject of the resolution action consists of assets located in other than a Member State, or an instrument of ownership, assets and liabilities which are governed by the law of other than a Member State, the Czech National Bank may:
 - a) Request the entity exercising control of the liable entity under resolution and the acquirer of such assets, instrument of ownership and liabilities to take adequate measures to ensure that the write down, conversion or resolution action can be carried out,
 - b) Request the entity exercising control of the liable entity under resolution, before the entry into force of the passage, write down, conversion or another resolution action, to hold the assets on behalf of the acquirer's account until the passage, write down, conversion or another action become effective,
 - c) Decide that the expenses incurred by the acquirer of such assets, instruments of ownership and liabilities in connection with letters a) and b), are met in a way referred to in Section 165.
- (2) The Czech National Bank shall not apply resolution actions in accordance with paragraph 1 where despite the necessary measures in accordance with paragraph 1, letter a) it is highly unlikely that

the entry into force of the resolution action in relation to assets located in other than a Member State or the instruments of ownership and liabilities governed by the law of other than a Member State will be ensured.

- (3) The Czech National Bank shall annul the decision or measures of a general nature on the application of a resolution action in accordance with paragraph 1 to the extent to which it had been adopted in contradiction to the requirement specified in paragraph 2 with the effect as at the moment of entry into force of the annulled decision or measures of a general nature.

Volume 10
Prohibition of certain contractual terms
Section 168

- (1) Resolution actions and crisis prevention measures taken in relation to the liable entity in accordance with this Act or with a comparable legal norm of another Member State, including the occurrence of any event directly linked to the application of these measures, shall not, for the purposes of a contract entered into by the entity, be deemed to be a fact establishing a legal right to terminate the liability or to be a measure under the insolvency law, including measures to resolve bankruptcy in accordance with Section 367, paragraph 2 of the insolvency law, provided that the substantive contractual obligations, which create the substance and purpose of the contract, including payment obligations and the provision of collateral, continue to be performed.
- (2) For the purposes of this Act a cross-default provision is a provision pursuant to which the liability arising from the contract as they fall due or another change takes place or the debtor's rights arising from the contract are curtailed by virtue of the occurrence of a contractually determined fact which relates to the discharge of a liability of another person arising from this contract, or the liability of the debtor arising from another contract. For the purposes of this paragraph also a similar decision taken by the respective resolution authority of another Member State and a similar decision of a respective resolution authority of other than a Member State, if such decision is recognised in accordance with Section 195, shall be regarded as resolution action or a crisis prevention measure.
- (3) A crisis prevention measure or resolution action shall not be deemed to be a fact establishing a legal right to terminate the liability or as a measure of insolvency proceedings, including measures to resolve bankruptcy in accordance with Section 367, paragraph 2 of the insolvency law, also for the purposes of a contract:
 - a) In which the contractual obligations are secured by the controlling entity or by a group entity and the contractual party is the controlled entity, or
 - b) Where a contractual party is a group entity and which contains a cross-default provision.
- (4) Provided that the liable entity performs the contractual obligations which create the substance and purpose of the contract, including payment obligations and the provision of collateral, no account shall be taken of the provisions of this Act or of contractual arrangements based on which crisis prevention measures and resolution action, or circumstances arising as a direct consequence of the application of these measures, would otherwise justify:
 - a) The exercise of the right to terminate the liability, including the exercise of a similar right under the contract, a party to which is the controlled entity and where contractual obligations are secured by a group entity, and the exercise of similar rights under the contract, a party to which is the group entity and which contains a cross-default provision, or
 - b) The exercise of the right to the acquisition or to the satisfaction from the security provided by the liable entity, the exercise of the right to request contractual penalty, the exercise of the right to withhold assets in the ownership of the liable entity or the exercise of a similar right in relation to any property provided by the liable entity, or the exercise of similar rights in relation to a group entity in the case of a cross-default provision.
- (5) Provided that the liable entity performs the contractual obligations which create the substance and purpose of the contract, including payment obligations and the provision of collateral, the provisions of this Act or the contractual arrangements based on which crisis prevention measures and resolution action, or the circumstances arising as a direct consequence of the application of

these measures would justify a change or a curtailment of the contractual rights of the liable entity or a group member in the case of a cross-default provision.

Section 169

- (1) The contractual arrangements which make the exercise of the rights specified in Section 168, paragraphs 4 and 5, conditional on facts other than the application of crisis prevention measures or the application of resolution action, or circumstances arising as a direct consequence of the application of these measures, are not affected by the provisions of Section 168, paragraphs 4 and 5.
- (2) For the purposes of Section 168, paragraphs 1 and 3 to 5, non-performance of a contractual obligation which has arisen as a result of a suspension of the exercise of a right or obligation in accordance with Sections 83 to 85 or with a similar decision of a resolution authority of another Member State shall not be deemed as a violation of a contractual obligation.
- (3) Provisions of Section 168, paragraphs 1 and 3 to 5 and of paragraph 1 shall be considered to be overriding mandatory provisions in accordance with Article 9 of Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I).

Volume 11

Joint provisions relating to passage and transfers of the instruments of ownership, assets and liabilities

Section 170

Rules of invalidity, ineffectiveness, or contestability of legal acts for reason of being detrimental to creditors

Rules relating to invalidity, ineffectiveness, or contestability of legal acts for reason of being detrimental to creditors in accordance with the law governing liquidation and in accordance with the insolvency law shall not be used for the purposes of the passage and transfer of the instruments of ownership, assets and liabilities under this Act.

Section 171

Restrictions of partial passage

- (1) Where the Czech National Bank takes a decision to subject to a passage the liabilities or debts arising from the liability in accordance with Section 173, paragraph 2, letters b) to d), a passage of only some of the rights and obligations arising from this liability may not be performed. Where a resolution action is applied in accordance with Section 164, letter d), the rights and obligations arising from this relationship may not be modified or extinguished.
- (2) Only liabilities which are eligible to netting under an agreement are the subject of restriction in accordance with paragraph 1.
- (3) In relation to the liability under Section 173, paragraph 2, letter a), the Czech National Bank shall not decide on a passage of:
 - a) The security without the current assets against which the liability is secured and without the proceeds of the security,
 - b) Secured liabilities unless the proceeds of the security is also subject to a passage at the same time,
 - c) The proceeds of the security unless the secured debt is also subject to a passage at the same time.
- (4) Furthermore, the Czech National Bank shall not apply resolution action in accordance with Section 164, letters a) to d) or f) or g) in relation to the liability under paragraph 3 if the effect of that is the termination of the secured debt.

- (5) Where the Czech National Bank takes a decision on a full or a partial passage of the rights and obligations arising from the liabilities specified in Section 173, paragraph 2, letters e) and f), a party to which is the liable entity in question, a passage of only certain rights and obligations arising from the liability in question or a part thereof may not be made, but only of all rights and obligations arising from the liability in question or a part thereof.
- (6) The Czech National Bank may not apply resolution action in accordance with Section 164, letters a) to d) or f) or g) in relation to the liability under paragraph 5 if the effect of that is the termination of the rights and obligations arising from this liability or a part thereof.
- (7) Notwithstanding provisions of paragraphs 1 to 3, where necessary to ensure the availability of the covered deposits, the Czech National Bank may take a decision on:
 - a) A passage of covered deposits which are the subject of any liability specified in paragraphs 1 to 3 without subjecting to a passage at the same time the rights and liabilities arising from this liability, or
 - b) A passage, modification or termination of the rights or liabilities of the liable entity without subjecting to a passage at the same time the covered deposits.

Section 172

Protection for payment and settlement systems

The application of a resolution action in accordance with Section 164, letters c) or d), may not affect the activity or a consequence thereof may not cause a contradiction with the rules of:

- a) Payment systems with settlement finality and foreign payment systems with settlement finality, while Section 68 of the Act regulating the payment system shall be used in a similar way, and
- b) Payment systems with settlement finality and foreign payment systems with settlement finality, while Section 88 of the Act regulating the conduct of business in the capital markets shall be used in a similar way.

Section 173

Liabilities which are subject to restrictions

- (1) For the purposes of Sections 171 and 172 a passage is deemed to be any passage of liabilities or debts of the liable entity to another entity.
- (2) The following arrangements are subject to the restrictions under Sections 171 and 172 irrespective of the number of parties involved in the arrangements and of whether the arrangements and their duration are created by contract or arise by operation of law, or are governed in whole or in part by foreign law:
 - a) Secured liabilities,
 - b) Financial security which has the character of a transfer of financial collateral,
 - c) Set-off arrangements under which two or more mutual liabilities of the liable entity and a counterparty can be set off against each other,
 - d) The netting of mutual liabilities based on which mutual liabilities are set off or settled so that the result is only one claim of one contractual party and a corresponding liability of the other party to pay the resultant amount, including final settlement,
 - e) Covered bonds,
 - f) Structured finance arrangements including securitisations and instruments used for hedging purposes which form an integral part of the cover pool and which are secured in a way similar to the covered bonds; this involves the granting and holding of the material security by a party to the arrangement or a trustee, agent or other nominee.
- (3) Provisions related to restrictions of a partial passage in accordance with Section 171 shall be used in a similar manner in relation to transfers in accordance with 105-2 and Section 115, paragraph 2.

TITLE III

JOINT PROVISIONS ON THE APPLICATION OF RESOLUTION ACTIONS

VOLUME 1
Notification duties of the Czech National Bank
Section 174

- (1) Where the Czech National Bank deems that the condition in accordance with Section 78, paragraph 1, letters a) and b) is met in relation to the liable entity it shall notify of this fact without any undue delay:
 - a) The supervisory authority of the controlled entity of the liable entity,
 - b) The resolution authority in the Member State where the controlled entity of the liable entity operates,
 - c) The Guarantee System of the financial market,
 - d) The group-level resolution authority where the liable entity is a group entity,
 - e) The Ministry of Finance,
 - f) The consolidating supervisor where the liable entity is subject to consolidated supervision, and
 - g) The European Systemic Risk Board¹⁶⁾.
- (2) The Czech National Bank shall create a proceedings for ensuring an adequate protection of confidential information for the purposes of provisions of paragraph 1.

Section 175

- (1) The Czech National Bank shall notify the following of the application of the resolution action without any undue delay or, where this is not possible, in a timeframe appropriate in the circumstances:
 - a) The entities or authorities in accordance with Section 174, paragraph 1,
 - b) The European Commission, the European Central Bank, the European Supervisory Authority (The European Securities and Markets Authority)¹⁷⁾, the European Supervisory Authority (the European Insurance and Occupational Pensions Authority)¹⁸⁾ and the European Banking Authority, and
 - c) The operators of the settlement system with settlement finality, foreign settlement system with settlement finality, payment system with settlement finality and foreign payment system with settlement finality of which the liable entity is member.
- (2) The notification in accordance with paragraph 1 shall include a copy of the decision and the date of its enforceability or a copy of measures of a general nature and the day on which it takes effect.

Section 176

- (1) The Czech National Bank shall publish information on the application of the resolution action, write down and conversion or on the reduction of Common Equity Tier 1 items including the invitation in accordance with Section 222, paragraph 3 and information on its effects in particular on the clients and customers of the liable entity on its website without any undue delay or, where this is not possible, in a timeframe appropriate in the circumstances.
- (2) Where the decision or measures of a general nature on the application of the measure specified in paragraph 1 has already been published on the website of the Czech National Bank, the Czech National Bank does not need to publish information on the decision or on measures of a general nature but it shall inform about the anticipated major effects of the decision or measures of a general nature in particular on the clients and customers of the liable entity on its website.
- (3) Prior to publishing the decision or measures of a general nature on the application of the resolution action, write down and conversion or on the reduction of Common Equity Tier 1 items or information about such decision or measures of a general nature on its website the Czech National Bank shall assess the effects of the disclosure on the financial, economic or currency policy, the commercial interests of natural or legal entities or inquires and audits performed by the Czech National Bank or other authorities and entities. Where the disclosure of certain data would be contrary to public interest the Czech National Bank shall not publish such data.

- (4) The Czech National Bank shall transmit information which it has published in accordance with paragraphs 1 to 3 to the European Banking Authority for the purpose of publishing it.
- (5) Information that has been published by the Czech National Bank in accordance with paragraphs 1 to 3 shall be published by the liable entity without any undue delay on its website or, where it is not possible, in a similar manner enabling remote access.
- (6) Where the instruments of ownership or debt instruments issued by the liable entity are admitted to trading on a regulated market, the liable entity shall publish such information without any undue delay in accordance with paragraph 5 in a form and manner of publishing mandatory information pursuant to Section 136, paragraphs 2 and 3 of the law governing the conduct of business in the capital markets or a similar provision of a comparable foreign legal norm.
- (7) Where the instruments of ownership or debt instruments issued by the liable entity are not admitted to trading on a regulated market, the liable entity shall send information in accordance with paragraph 5 without any undue delay to the owners of the instruments of ownership in the liable entity and to the creditors of the liable entity that are known through the registers or databases which are available to it. It shall inform the Czech National Bank about the sending of information.

Volume 2

The right of creditors and owners of instruments of ownership to compensation

Section 177

- (1) The Czech National Bank shall, in the shortest time possible but not later than within 1 year upon the application of the resolution action, or write down and conversion of capital instruments, take a decision on the property compensation of the owners of the instruments of ownership in the liable entity and of the creditors of the liable entity who have registered in accordance with Section 222, paragraph 3 (hereinafter the decision on compensation). Where conditions have been met for the participation of the Deposit Insurance Fund in accordance with Section 221, the Czech National Bank shall always decide on the property compensation in relation to it.
- (2) A valuation prepared by an independent valuer shall serve as a basis for the decision on compensation; the valuation shall contain:
 - a) The actual treatment the subject of which were the owners of the instruments of ownership in the liable entity and the creditors of the liable entity; this actual treatment shall always take regard of the compensation or additional compensation on which a decision was taken in accordance with Section 57,
 - b) The hypothetical treatment which the owners of the instruments of ownership in the liable entity and the creditors of the liable entity would have received if the assets of the liable entity had entered into insolvency proceedings at the time when the decision to apply the resolution action, the reduction of Common Equity Tier 1 items or write down and conversion of capital instruments was applied, and
 - c) Determination of the exact loss or profit of each of the owners of the instruments of ownership in the liable entity and each of the creditors of the liable entity arising from the fact that the owners of the instruments of ownership in the liable entity and the creditors of the liable entity were treated in accordance with letter a) and not in accordance with letter b) and the substantiation of the amount of this loss or profit.
- (3) Where it follows from the valuation that the registered owners of the instruments of ownership, the registered creditors of the liable entity or the Deposit Insurance Fund have incurred a loss in accordance with paragraph 2, letter c), the Czech National Bank shall decide that they are entitled to compensation in cash in the amount of their loss in accordance with paragraph 2, letter c). The Czech National Bank shall notify the Crisis Resolution Fund of this decision which shall start payments of compensation in the amount determined by the decision on compensation within 90 days upon the day when the decision became final.
- (4) The right of the entity entitled to compensation from the Crisis Resolution Fund shall be barred after the lapse of the period of 3 years from the date set as the day for starting the payments.

- (5) Where it follows from the valuation that the registered owners of the instruments of ownership, the registered creditors of the liable entity or the Deposit Insurance Fund have not incurred a loss in accordance with paragraph 2, letter c), the Czech National Bank shall decide that they are not entitled to compensation
- (6) Sections 52 to 54 and Section 58 shall be used in a similar manner for the purposes of valuation in accordance with paragraph 2. The valuation shall disregard any provision of public support.

Volume 3
Settlement of expenses of the Czech National Bank
Section 178

- (1) The Czech National Bank shall be entitled to the compensation of expenses that it has spent in connection with the application of the resolution action. The expenses shall be compensated in the proven amount.
- (2) The Czech National Bank may require the following to compensate the expenses:
 - a) The liable entity,
 - b) The bridge institution,
 - c) The asset management vehicle,
 - d) The original owners of the instruments of ownership in the liable entity where a passage of their instruments of ownership was performed by means of the proceedings in accordance with Section 96, paragraph 1, Section 102, paragraph 1, or Section 113, paragraph 1 and where consideration is provided to them; such compensation of expenses may be required only to the amount of the consideration provided and in a manner in accordance with paragraph 3.
- (3) The Czech National Bank shall offset the imposed duty to compensate expenses against the compensation provided, if any.

BODY SEVEN
CROSS-BORDER ASPECTS
TITLE I
PRINCIPLES OF ACTIVITY
Section 179

- (1) Where the Czech National Bank or another entity or authority in accordance with this Act perform powers which may have an impact on financial stability, public budgets, resolution financing arrangement, deposit insurance scheme or investor compensation scheme of another Member State, it shall give due consideration to the transparency of the process of the execution of this power. The Czech National Bank or another subject of authority shall furthermore have in particular regard to:
 - a) The need of cooperation with other authorities or responsible entities of other Member States,
 - b) Efficacy, coordination and timely execution of powers,
 - c) Fair burden allocation across the Member States.
- (2) The Czech National Bank or another entity or authority which execute powers in accordance with this Act shall give consideration to the impact of the execution of these powers on financial stability, national budget, resolution financing arrangement, deposit insurance scheme or investor compensation scheme of a Member State where the abovementioned group entity has registered office or where the abovementioned significant branch operates.
- (3) Where this Act sets a duty to consult the execution of the powers with an authority or entity of another Member State, the Czech National Bank or another entity or authority executing the powers in accordance with this Act shall be obliged to consult with such authority at least the elements of the execution of the powers which may have an impact on a group entity established in the territory of the abovementioned Member State, a branch operating in the territory of the

abovementioned Member State, or on the financial stability of the abovementioned Member State.

TITLE II
COLLEGES
Volume 1
Resolution College
Section 180

- (1) Resolution college means a college established by a group-level resolution authority (hereinafter the college).
- (2) The following shall be members of the college:
 - a) The group-level resolution authority,
 - b) The resolution authorities of subordinated entities,
 - c) The resolution authorities in Member States where entities in accordance with Section 2, letter c) controlling the group liable entities are established,
 - d) The resolution authorities of significant branches,
 - e) The consolidating supervisor and the supervisory authority where the resolution authority of the Member State is a member of the college,
 - f) The central bank where it is not at the same time the supervisory authority and where the supervisory authority regards this as appropriate,
 - g) The competent ministry of the Member State where its resolution authority is a member of the college and where it is not itself a resolution authority,
 - h) The authority or another entity that is responsible for the deposit insurance scheme where a resolution authority of the Member State is a member of the college, and
 - i) The European Banking Authority which, however, does not have a right to vote for the purposes of the deliberations of the college.
- (3) Members of the college shall closely cooperate within the college in:
 - a) Exchanging information relevant for the development of a group resolution plan, for the application on a EU financial group of preparatory and preventative powers and for its group resolution,
 - b) Developing a group resolution plan,
 - c) Assessing the resolvability of a EU financial group,
 - d) Removing impediments to the resolvability of a EU financial group,
 - e) Deciding on the need to establish a group resolution scheme,
 - f) Reaching the agreement on a group resolution scheme,
 - g) Informing the public of the progress in the group resolution scheme,
 - h) Coordinating the use of financing arrangements for the resolution,
 - i) Setting the minimum requirements at subsidiary and group levels, and
 - j) Discussion of any issues relating to group resolution.

Section 181

- (1) The Czech National Bank in the capacity of a group-level resolution authority shall
 - a) Chair and coordinate the activities of the college,
 - b) Convene the meetings of the college and keep all members of the college informed, in a timely manner, of the planned meetings and of their agendas so that they may request to participate,
 - c) Decide which members and observers shall participate in the meetings; in doing so it shall take into account the relevance of the topic discussed for each member and observer and take regard of, in particular, the potential impact on financial stability of Member States, members of the college,
 - d) Keep all the members of the college informed, in appropriate time, of the decisions and outcomes of those meetings, and
 - e) Coordinate exchange of information among the individual members of the college.

- (2) If an already established college or a similar group performs the functions in accordance with Section 180, paragraph 3, and if it complies with the conditions of the functioning of the college including those covering membership and participation in accordance with this Act, the Czech National Bank in the capacity of a group-level resolution authority shall not be obliged to establish a college; in that case such established college or a similar group shall be regarded as a college in accordance with Section 180, paragraph 1.
- 3) Where the Czech National Bank in the capacity of a group-level resolution authority for carrying out the tasks in accordance with Section 180, paragraph 3, establishes a college, then its activity shall be based on written agreements drawn up by the Czech National Bank in the capacity of a group-level resolution authority for consultations with other members of the college in accordance with Section 180, paragraph 2, letters b) to i). Where appropriate, the Czech National Bank in the capacity of a group-level resolution authority shall coordinate the activity and cooperation with the respective authorities of other than Member States.
- (4) The resolution authority of other than a Member State is entitled to participate in the meetings of the college when a matter subject to joint-decision making or relating to a group entity located in the Member State is on the agenda.
- (5) The appropriate authority of other than a Member State where a controlled entity or branch operate may, at its own request, participate in the meeting of the college as observer provided that the Czech National Bank in the capacity of a group-level resolution authority finds that this would not violate the confidentiality of shared information.

Section 182

The Czech National Bank shall be entitled to participate in the meeting of the college whenever a matter subject to joint-decision making or relating to a group member located in the territory of the Czech Republic is on the agenda.

Volume 2 **European Resolution College** Section 183

- (1) Where a controlled institution with a controlling entity incorporated in the territory of other than a Member State with registered office in the territory of the Czech Republic and of at least 1 other Member State or where the institution with registered office in the territory of other than a Member State performs its activity in the territory of the Czech Republic and of at least 1 other Member State through a significant branch then the Czech National Bank and the competent authorities of those States shall establish a European resolution college (hereinafter the European college) which shall perform identical functions in accordance with Section 180, paragraph 3, with respect to the controlled entities and, in so far as those functions are relevant, to branches. Sections 180 and 181 shall be applied on the activity of the European college in a similar manner unless provided for otherwise by this Act.
- (2) The European college does not have to be established where the competent authorities of Member States agree that an already established college or a similar group performs the same tasks and complies with all the conditions including those covering membership and participation; it shall be understood that such an established college or a similar group shall be regarded as a college in accordance with paragraph 1.
- (3) The European college shall be chaired by the resolution authority of the Member State where the consolidating supervisor is located and where a financial holding company is incorporated in accordance with another norm¹⁹⁾ or a similar provision of a comparable foreign legal norm.
- (4) Members of the European resolution college shall nominate and elect the chair of the European college where paragraph 3 does not apply.

TITLE III GROUP RESOLUTION **Volume 1**

Group resolution scheme
Section 184

A group resolution scheme shall

- a) Take into account the group resolution plan, or a resolution plan,
- b) Determine the appropriate actions that should be taken by the relevant authorities of Member State and specify how these actions should be coordinated in relation to the European financial group entities, and
- c) Contain a financing plan which takes into account the group resolution plan or the resolution plans and the cost sharing principles in accordance with Section 220.

Volume 2
Procedure of the Czech National Bank in the capacity of a group-level resolution authority in a group resolution
Section 185
Notification duty

Where the Czech National Bank in the capacity of a group-level resolution authority ascertains that an EU controlling entity meets the conditions for the application of resolution actions in accordance with Section 78, paragraph 1, it shall notify this fact without any undue delay to the other members of the college. The notification shall include:

- a) A statement that conditions have been met for the application of resolution actions in accordance with Section 78, paragraph 1, and
- b) An insolvency petition of an appropriate resolution action or a proposal to dissolve the entity.

Section 186
Assessment of impacts

On receiving a notification of the resolution authority of the controlled entity that conditions have been met for the application of resolution actions and a proposal for an appropriate action, the Czech National Bank in the capacity of a group-level resolution authority then shall, after consulting the other members of the college, assess the likely impact of the proposed action on the European financial group and on the group entities, and, in particular, whether the application of such action would make it likely that the conditions for the application of the resolution action would be satisfied in relation to another group entity.

Section 187
Evaluation of impacts

- (1) Where the Czech National Bank in the capacity of a group-level resolution authority, after consulting the other members of the college, evaluates that the application of the proposed action in accordance with Section 186 would not make it likely that the conditions for the application of the resolution action would be satisfied in relation to another group entity it shall notify the fact to the resolution authority of the controlled entity which has proposed the action.
- (2) Where the Czech National Bank in the capacity of a group-level resolution authority after consulting the other members of the college evaluates that the application of the proposed action would make it likely that the conditions for the application of the resolution action would be satisfied in relation to another group entity then it shall, not later than 24 hours after receiving the notification, propose a group resolution scheme and submit it to the college.
- (3) The period under paragraph 2 may be extended with the consent of the resolution authority of the controlled entity which made the notification.

Section 188
Resolution actions taken by the Czech National Bank in the capacity of a group-level resolution authority in group resolution

- (1) Where the Czech National Bank in the capacity of a group-level resolution authority proposes the application of resolution actions, filing of a insolvency petition or a proposal to dissolve the EU controlling entity in accordance with Section 185, it may at the same time propose a group resolution scheme, where
 - a) The application of the resolution action, the filing of a insolvency petition, or a proposal to dissolve the EU controlling entity would make it likely that the conditions for the application of the resolution action would be satisfied in relation to another group entity,
 - b) The application of the resolution action, the filing of a insolvency petition, or a proposal to dissolve the EU controlling entity would make it likely that sufficient stabilisation of the group would not be achieved,
 - c) One or more controlled entities of the EU controlling financial group meet the conditions for the application of a resolution action, or
 - d) The application of the resolution action at group level would benefit the controlled entities of the group and the group as a whole.
- (2) Where the Czech National Bank in the capacity of a group-level resolution authority decides to propose a group resolution scheme, the procedure for the group resolution is adopted through a joint decision of the Czech National Bank in the capacity of a group-level resolution authority and the resolution authorities of the controlled entities to which the procedure for the group resolution applies. The Czech National Bank shall apply actions in relation the liable entities in accordance with this joint decision.
- (3) For the purpose of achieving a joint decision of the college in accordance with paragraph 2, the Czech National Bank in the capacity of a group-level resolution authority may ask the European Banking Authority for a non-binding mediation in accordance with the directly applicable regulation of the European Union governing the supervision of the financial market in the area of banking⁷⁾.

Section 189

Independent resolution action

Where the Czech National Bank in the capacity of a group-level resolution authority decides not to propose a group resolution scheme it shall apply, after consultation with the other members of the college, a separate resolution action. The resolution action shall give consideration to the resolution plan and to the financial stability of Member States of the members of the college.

Volume 3

Procedure of the Czech National Bank in the capacity of a resolution authority of the controlled entity in a group resolution

Section 190

Notification duty

Where the Czech National Bank ascertains that the controlled entity which is a EU controlling financial group entity and which is subject to its supervision meets the conditions for the application of resolution actions in accordance with Section 78, paragraph 1, it shall notify this fact without any undue delay to the group-level resolution authority and the consolidated supervisor, where different, and the other members of the college of this group.

The notification shall include:

- a) A statement that conditions have been met for the application of resolution actions in accordance with Section 78, paragraph 1, and
- b) A proposal of an appropriate resolution action, a proposal to insolvency petition, or a proposal to dissolve the entity.

Resolution actions taken by the Czech National Bank in the capacity of a resolution authority of a controlled entity in group resolution

Section 191

- (1) Where the Czech National Bank agrees with the group resolution scheme it may reach a joint decision on the group resolution scheme with the members of the college which also agreed with the proposed scheme.
- (2) The Czech National Bank may, for the purpose of achieving a joint decision in accordance with paragraph 1, ask the European Banking Authority for a non-binding mediation in accordance with the directly applicable regulation of the European Union governing the supervision of the financial market in the area of banking⁷⁾.
- (3) Where the Czech National Bank does not agree with the group resolution scheme it may, particularly for reasons of maintaining financial stability, decide without any undue delay to apply independent resolution action, file an insolvency petition, or a proposal to dissolve the entity. It shall set out the reasons for its decision and notify the group-level resolution authority and the resolution authorities that are covered by the group resolution scheme and inform them about the actions it will take. The decision shall take into consideration the resolution plan, the potential impact on financial stability in Member States of members of the college that are covered by the group resolution scheme and potential impacts of the resolution action on other parts of the group.
- (4) The Czech National Bank may depart from the resolution plan where, taking into account all circumstances, it may be assumed that resolution objectives in accordance with Section 75 will be achieved more effectively.

Section 192

- (1) The Czech National Bank shall apply the proposed resolution action, file a insolvency petition, or a proposal to dissolve the entity without any undue delay,
 - a) Where a group resolution scheme is not implemented in accordance with Section 184,
 - b) Where the group-level resolution authority takes no decision on the notification in accordance with Section 190 within 24 hours upon receipt of the notification, or
 - c) Where the group-level resolution authority takes no decision on the notification in accordance with Section 190 even within an additional period, the length of which has been agreed by the Czech National Bank.
- (2) When applying resolution actions, filing an insolvency petition, or a proposal to dissolve the entity in accordance with paragraph 1, the Czech National Bank shall cooperate with the members of the resolution college with a view to achieving a coordinated resolution scheme in relation to all failing EU controlling financial group entities. The Czech National Bank shall regularly inform the members of the resolution college about the application of resolution actions or proposal and about the further development of the situation.

Section 193

Where the Czech National Bank agreed on the group resolution scheme in accordance with Section 178, paragraph 1, it shall apply resolution actions on the EU controlling financial group entities incorporated in the territory of the Czech Republic in accordance with the resolution scheme.

BODY EIGHT

RELATIONS WITH OTHER THAN MEMBER STATES

Volume 1

Cooperation with authorities of other than Member States

Section 194

- (1) Where cooperation between the competent resolution authorities of the Member States and the competent resolution authorities in other than Member States is not governed by an agreement between the European Union and other than a Member State or by an agreement between the Czech Republic and other than a Member State, and where it is necessary to ensure cooperation, the Czech National Bank may enter into a cooperation agreement with the respective authority of other than a Member State; this agreement shall be in accordance with a possible framework

- agreement concluded between the European Banking Authority and the relevant authority of other than a Member State.
- (2) This provision shall not prevent the Czech National Bank from a possibility to conclude a bilateral or a multilateral agreement in accordance with the directly applicable regulation of the European Union governing the supervision of the financial market in the area of banking⁷).
 - (3) The following can be the subject of the cooperation agreement in accordance with paragraph 1:
 - a) The exchange of information necessary for the preparation and implementation of the resolution plan,
 - b) Ensuring an effective framework for consultation and cooperation in the development of a resolution plan, or a group resolution plan and the scope and manner of the exercise of powers in accordance with Sections 196 and 197 or in accordance with the law and similar powers of other than a Member State,
 - c) The exchange of information in the application of resolution actions in accordance with this Act and pursuant to the law and similar powers of other than a Member State,
 - d) Timely transmission of information and consultation before taking action in accordance with this Act or pursuant to the law and similar requirements of other than a Member State,
 - e) Publishing information in the case of joint resolution actions,
 - f) Establishing procedures for the exchange of information and cooperation under letters (a) to (e), including the procedures for the operation of crisis management groups or authorities.
 - (4) Where the Czech National Bank concludes a cooperation agreement in accordance with paragraph 1 it shall inform the European Banking Authority.

Volume 2

Recognition and execution of other than a Member State resolution proceedings

Section 195

Recognition of other than Member State resolution proceedings

- (1) A joint agreement between the Czech National Bank and other members of the European resolution college in respect of the recognition and execution of other than a Member State proceeding is binding for the Czech National Bank except for the cases when at least one of the conditions under paragraph 3 is met. The Czech National Bank shall be obliged to proceed in accordance with this agreement in respect of entities operating in the territory of the Czech Republic.
- (2) In the absence of a joint agreement between the Czech National Bank and other members of the European resolution college with regard to the recognition and execution of other than a Member State resolution proceeding or in the absence of a European resolution college, the Czech National Bank shall make its own decision. The decision shall give due consideration to the interests of other Member States where significant branches or controlled entities of an institution incorporated in the territory of other than a Member State or of a controlling entity operate and in particular to the potential impact of the recognition and execution on the other parts of the group and the financial stability in those Member States.
- (3) The Czech National Bank, after consulting other members of the European resolution college or independently, where it is not a member of such college, shall make a decision to refuse to recognise and execute other than a Member State resolution proceedings, in particular if:
 - a) Such recognition and execution would have adverse effects on financial stability of the Czech Republic or of another Member State,
 - b) In order to achieve resolution objectives it is necessary to proceed in relation to a branch of an institution incorporated in the territory of other than a Member State through which the institution operates in the territory of the Czech Republic in accordance with Section 197,
 - c) Creditors incorporated or living in a territory of a Member State or creditors whose receivables are payable in the territory of a Member State would receive a different treatment that creditors in a similar position incorporated or living in a territory of other than a Member State or whose receivables are payable in the territory of other than a Member State,
 - d) Such recognition and execution would have a material impact on the public budgets of the Czech Republic, or

- e) The effects of such recognition and execution would be contrary to the legal norms of the Czech Republic.

Section 196

Execution of other than a Member State resolution proceeding

- (1) For the purpose of executing other than a Member State resolution proceedings, the Czech National Bank may:
- a) Apply the resolution action in relation to the assets and debts of an institution incorporated in the territory of other than a Member State or of a controlling entity incorporated in the territory of other than a Member State, which are located in the territory of the Czech Republic, are governed by the law of the Czech Republic or are executable in the territory of the Czech Republic, including the assets and debts that are booked by a branch of an institution from other than a Member State, through which the institution operates in the territory of the Czech Republic,
 - b) Perfect, or require another person to take action to perfect, a transfer of instruments of ownership in the institution incorporated in the territory of the Czech Republic, the controlling entity of which is incorporated in the territory of other than a Member State.
- (2) Where necessary in order to ensure the execution of other than a Member State resolution proceedings, the Czech National Bank may apply measures in accordance with Sections 83 to 85 in relation to the rights and obligations arising from a contract a party to which is the branch of an institution from other than a Member State through which the institution operates in the territory of the Czech Republic, or an institution with a controlling entity incorporated in the territory of other than a Member State.
- (3) The Czech National Bank may restrict the enforceability of the right to terminate a right arising from a contract, a party to which is the institution from other than a Member State, through which the institution operates in the territory of the Czech Republic, or an institution, the controlling entity of which is incorporated in the territory of other than a Member State, or an institution with assets or debts located in the territory of the Czech Republic, or which is governed by the law of the Czech Republic, if the application of the resolution action or of the resolution proceedings of other than a Member State in relation to the group entity are regarded as facts authorising the exercise of the right to terminate the liability. Enforceability may be restricted provided that the respective entity or branch performs the substantive obligations under the contract, including payment obligations and provision of collateral.
- (4) The recognition and execution of other than a Member State resolution proceeding shall be without prejudice to proceedings in accordance with the insolvency law.

Volume 3

Conditions for resolution of a branch of an institution from other than a Member State

Section 197

Where resolution proceedings have not been started in other than a Member State in relation to a branch of an institution incorporated in a territory of other than a Member State, through which the institution operates in the territory of the Czech Republic, or where such proceedings have been commenced but the condition referred to in Section 195, paragraph 3, is met, the Czech National Bank may apply resolution action in relation to the branch if such action is in the public interest, and if:

- a) The branch meets, or it can be reasonably expected to meet, conditions for withdrawal of authorisation to operate and no other measure taken by a private entity, supervisory authority or other than a Member State would prevent the meeting of such conditions or a failure of the branch in a reasonable timeframe,
- b) It can be reasonably expected that an institution incorporated in a territory of other than a Member State which operates in the territory of the Czech Republic through a branch is not or will not be able or willing to pay its obligations to creditors with their seats or domicile in the territory of the Czech Republic or another Member State, or obligations which it has received or booked through the branch through which it operates in the territory of the Czech Republic and at the same time it

- can be reasonably expected that no resolution proceedings have been or will be initiated in a reasonable timeframe by other than a Member State in relation to this institution or proceedings for the purpose of resolving its bankruptcy or other similar proceedings, or
- c) The competent authority of other than a Member State has commenced resolution proceedings in relation to an institution incorporated in the territory of other than a Member State or if it notifies the Czech National Bank of its intention to initiate such proceedings.

BODY NINE

FINANCING

TITLE I

The FINANCIAL MARKET GUARANTEE SYSTEM

Section 198

The Financial Market Guarantee System

- (1) The Deposit Insurance Fund, established pursuant to Act No. 21/1992 Coll., on banks, as amended before the entry into force of this Act (hereinafter the „existing Fund“) is transformed by this Act to the Financial Market Guarantee System (hereinafter the „Guarantee System“). The details relating to the change of the internal organisational structure are regulated by Sections 253 to 255.
- (2) The Guarantee System administers the assets and liabilities consisting of the Deposit Insurance Fund, the Resolution Fund, and other assets and liabilities of the Guarantee System with segregated assets and accounting and carries out other tasks set out by this Act. Legal norms which regulate the insurance industry do not apply to the activity of the Guarantee System.
- (3) In order to cover or satisfy a claim of a creditor from the Guarantee System which has arisen in connection with the Deposit Insurance Fund or the Resolution Fund, only the assets in the same Fund may be used. The assets of the Deposit Insurance Fund or of the Resolution Fund may not be used to discharge a receivable which is not a receivable belonging to the same Fund.
- (4) Neither the Deposit Insurance Fund, nor the Resolution Fund has a legal personality. The obligation set by the law to the Resolution Fund or to the Deposit Insurance Fund, is an obligation of the Guarantee System. The right conferred by the law on the Resolution Fund or on the Deposit Insurance Fund is a right of the Guarantee System.

Board of Directors

Section 199

- (1) The supreme body of the Guarantee System is a five-member Board of Directors.
- (2) A member of the Board of Directors may not be a member of the management body of the liable entity, a person who is in a labour legal relationship or another similar relationship with the liable entity, nor a person who is not fully legally competent.
- (3) Members of the Board of Directors are appointed for a period of five years and possibly repeatedly. The Chairman, the Vice-Chairman and other members of the Board of Directors shall be appointed and recalled by the Minister of Finance. Two members shall be appointed from the employees of the Czech National Bank upon the proposal of the Czech National Bank, two members shall be appointed from civil servants and other employees of the Ministry of Finance and one member shall be appointed upon the proposal of the Czech Banking Association.

Section 200

- (1) The function of member of the Board of Directors shall end upon the expiry of 2 months of the delivery of the letter of resignation to the Minister of Finance.
- (2) The Minister of Finance shall recall a member of the Board of Directors:
 - a) Where he/she was convicted of a criminal offense committed in connection with the exercise of his/her function by a judgment which has the force of res judicata,
 - b) Where he/she was convicted of a property related criminal offense committed deliberately or for a criminal offense concerning the activities of the liable entity, or for an otherwise business

related criminal offense committed deliberately by a judgment which has the force of res judicata, or

- c) For a serious violation of duties arising from the function of the Board of Directors.
- (3) A new member of the Board of Directors shall be appointed to the position of the person whose membership in the Board of Directors has ended before the expiry of his/her term of office; the term of office of the new member of the Board of Directors shall end on the same day at which the term of office of his/her predecessor would have ended.
- (4) A member of the Board of Directors who caused damage while exercising his/her functions shall be obliged to compensate for the damage only if he/she caused it intentionally or if the damage was caused by his/her negligence. He/she will compensate for the damage:
 - a) In full, if the damage has been caused intentionally,
 - b) Up to the total value of CZK 600 000 for the whole period of the exercise of his/her function, if the damage has been caused as a result of negligence.
- (5) A member of the Board of Directors who has been appointed on the proposal of the Czech Banking Association is not entitled to participate in the college as a representative of the Guarantee System or to get acquainted with the facts that are directly linked to the recovery and resolution of a specific institution or institutions and which are subject to confidentiality in accordance with this Act.
- (6) Where a member of the Board of Directors learns that a conflict of interest may occur with the interest of the Guarantee System in the exercise of his/her function he/she notifies the other members of the Board of Directors of the fact without any undue delay, however, not later than before voting or other actions in consequence of which the conflict of interest would be likely to occur. Details of the rules on the conflict of interest and on the powers in accordance with this paragraph are laid down in the Statute of the Guarantee System.

Section 201

- (1) Pursuant to its responsibilities, the Board of Directors shall
 - a) Appoint and recall members of the Management Board,
 - b) Lay down the form of remuneration of members of the Management Board,
 - c) Supervise the activities of the Management Board,
 - d) Approve long-term and annual plans of activities of the Guarantee System,
 - e) Publish the Statute of the Guarantee System and the statutes of the Deposit Insurance Fund and the Resolution Fund,
 - f) Approve the rules of procedure of the Board of Directors and the rules of procedure of the Management Board,
 - g) Approve internal rules of the Guarantee System,
 - h) Approve the budget of the Guarantee System, the Annual Report of the Guarantee System, the financial statement of the Guarantee System, the financial statement of the Deposit Insurance Fund and the financial statement of the Resolution Fund,
 - i) Approve long-term investment strategy of the Deposit Insurance Fund and the Resolution Fund and the annual investment plan of the Deposit Insurance Fund and the Resolution Fund,
 - j) Approve a proportional distribution of revenues acquired by the Guarantee System from other assets than the Deposit Insurance Fund or the Resolution Fund between the Deposit Insurance Fund and the Operational Fund of the Resolution Fund,
 - k) Approve the distribution of expenses incurred during the administration of the Deposit Insurance Fund and the Resolution Fund, including the granting of advances between the Deposit Insurance Fund and the Operational Fund of the Resolution Fund, in accordance with Section 207, paragraph 2, last sentence,
 - l) Approve important public tender.
- (2) The responsibilities of the Board of Directors further include
 - a) Approving general procedures for payments of compensations from the Deposit Insurance Fund and the use of funds of the Resolution Fund,
 - b) Approving transfers of assets from the Operational Fund to the Contribution Fund of the Resolution Fund,

- c) Taking decisions on receipt or provision of a loan or credit and on accepting a subsidy or repayable financial aid in relation to the Deposit Insurance Fund and the Resolution Fund,
 - d) Taking decisions on an assumption of a debt, accession to a debt, or securing a debt of another entity,
 - e) Taking decisions on an assignment of a claim with a value of more than CZK 100 000,
 - f) Taking decisions on waiving the right to or remission of debts with a value of more than CZK 10 000,
 - g) Taking decisions on granting gifts with a value of more than CZK 10 000,
 - h) Taking decisions on the issuance of bonds,
 - i) Taking decisions on concluding contracts with a value of fulfilment higher than CZK 2 000 000; in relation to a contract concluded for an open period the value of fulfilment for this purpose shall be calculated for a period of 4 years of the tenure of the contract,
 - j) Taking decisions on the acquisition, transfer, pledging or another similar disposal of immovable assets,
 - k) Approving contracts in accordance with Section 41o, paragraph 2 of the law governing the activity of banks,
 - l) Approving applications for credit from the Resolution Fund for the purposes of financial aid to resolution financing arrangements of other Member States and for the purposes of group resolution.
- (3) The Board of Directors may reserve the right to decide on matters which, according to the law, belong to the responsibilities of the Management Board.
 - (4) The manner in which the Board of Directors adopts decisions in accordance with paragraphs 1 to 3 shall be set by the Statute of the Guarantee System.
 - (5) The Chairman or Vice-Chairman of the Board of Directors shall legally act on behalf of the Guarantee System in relation to members of the Management Board.

Section 202 **Management Board**

- (1) The statutory body of the Guarantee System is the Management Board. It ensures within its powers the activity of the Guarantee System and the Board of Directors and executes the decisions of the Board of Directors.
- (2) The Management Board has 3 members, who are employees of the Guarantee System. When appointing a member of the Management Board, the Board of Directors shall take regard of his/her functional or employment status.
- (3) Member of the Management Board performs his/her function in an employment relationship. The responsibility of member of the Management Board in performing his/her function is governed by labour legal rules.
- (4) Member of the Management Board may be recalled from his/her function or may resign from it under the conditions set by the Labour Code²⁰⁾.
- (5) Details of the proceedings of the Management Board are laid down in the Statute of the Guarantee System.

Section 203 **Professional secrecy**

Members of the Board of Directors, employees of the Guarantee System and other persons entrusted with the performance of activity connected with the object of activity of the Guarantee System are obliged to maintain professional secrecy about all facts gathered in connection with performance of their occupation, employment or function. This obligation continues also after the termination of the performance of occupation, employment or function.

Section 204 **Statute**

- (1) The details of the activity and the responsibilities of the Guarantee System shall be regulated by the Statute of the Guarantee System which shall be issued by the Board of Directors after previous consent of the Ministry of Finance. The consent of the Ministry of Finance is also required for any change of the Statute of the Guarantee System.
- (2) The Statute of the Guarantee System shall set measures to ensure a separation of the assets and accounting of the Deposit Insurance Fund and the Resolution Fund and the separation of the assets and accounting of the Guarantee System from the assets of the Deposit Insurance Fund and the Resolution Fund.
- (3) The activity of the Deposit Insurance Fund and of the Resolution Fund and the framework rules for the investment of the funds of these Funds shall be regulated in more detail by the Statute of the Deposit Insurance Fund and the Statute of the Resolution Fund, which will be issued by the Board of Directors of the Guarantee System after previous consent of the Ministry of Finance. The consent of the Ministry of Finance is also required for any change of these statutes.
- (4) The Guarantee System shall publish the Statute of the Guarantee System, the Statute of the Deposit Insurance Fund and the Statute of the Resolution Fund on its internet pages.

Section 205 **Accounting**

- (1) The Guarantee System, the Deposit Insurance Fund and the Resolution Fund create three stand-alone accounting entities. The Guarantee System shall enter in the accounts the status and movement of assets and liabilities, the expenses and revenues and the economic result separately from the subject of accounting of the Deposit Insurance Fund and of the Resolution Fund.
- (2) The Guarantee System provides for the bookkeeping of the subject of accounting in the account books kept separately for the Deposit Insurance Fund and for the Resolution Fund so as to enable financial statements to be drawn up for each separate Fund. Accounting is performed in accordance with the accounting methods pursuant to the law regulating accounting.
- (3) The financial statement of the Guarantee System, the financial statement of the Deposit Insurance Fund and the financial statement of the Resolution Fund shall be audited by auditors.
- (4) The Guarantee System shall draw up the annual report in accordance with the law regulating accounting and shall publish it on its internet pages.

Section 206 **Investment of assets**

The Guarantee System may invest funds in the Deposit Insurance Fund and in the Resolution Fund only in a safe way, in accordance with the law, the Statute of the Guarantee System and the Statute of the respective fund, the long-term investment strategy and the annual investment plan of the respective Fund.

Section 207 **Expenses on administration**

- (1) The Resolution Fund shall establish the Contribution Fund and the Operational Fund.
- (2) The Guarantee System shall be entitled to reimbursement of expenses incurred in connection with the administration of the Deposit Insurance Fund and of the Resolution Fund and to the provision of an appropriate advance payment relating to these expenses. The reimbursement is provided from the Deposit Insurance Fund and from the Operational Fund of the Resolution Fund. The reimbursement may not be provided from the Contribution Fund of the Resolution Fund. If there are no sufficient funds in the Deposit Insurance Fund or in the Operational Fund of the Resolution Fund to cover the expenses connected with its administration an advance payment may be made from the Operational Fund of the Resolution Fund to the Deposit Insurance Fund and vice versa.
- (3) The Statute of the Guarantee System shall establish the method for determining reimbursement of expenses in relation to the Deposit Insurance Fund and to the Resolution Fund and the method of payment of advance payments for these expenses. In doing so it shall take regard of the ratio of

the real expenses spent on the administration of the Deposit Insurance Fund and of the Resolution Fund.

Section 208

Cooperation of the Guarantee System, the Czech National Bank and the Ministry of Finance

- (1) The Guarantee System shall cooperate with the Czech National Bank and with the Ministry of Finance in its activity. The Czech National Bank is obliged to notify the Guarantee System in advance of a possibility of applying a resolution action and the possibility of using the assets of the Deposit Insurance Fund and of the Resolution Fund. If the Czech National Bank applies an action which restricts access of depositors to their deposits or if it intends to apply actions in accordance with Body Five or Body Six of this Act, or if the authorization to carry out business is withdrawn from a bank or a savings and credit cooperative society through a decision which has the force of res judicata the Czech National Bank shall be obliged to notify the Guarantee System without any undue delay. This is without prejudice to provisions of Section 174 and 175.
- (2) The Czech National Bank shall submit data to the Guarantee System that are necessary for a timely calculation and control of contributions to the Deposit Insurance Fund, within 30 days upon the end of the appropriate period for payment of contributions to the Resolution Fund, data that are necessary for its control and furthermore other information as agreed by the Czech National Bank and the Guarantee System so that the Guarantee System is enabled in particular to produce a qualified estimate of future revenues and potential expenses of the Resolution Fund and the Deposit Insurance Fund.
- (3) The Guarantee System shall notify the Czech National Bank without any undue delay where an entity is overdue in the obligation to pay a contribution in accordance with this Act or with the law governing the activity of banks or with the law governing the activity of savings and credit cooperative societies.

RESOLUTION FINANCING

Section 209

The Resolution Fund

- (1) The Guarantee System shall establish the Resolution Fund for the purpose of ensuring resolution financing arrangements through its Statute issued in accordance with Section 204, paragraph 1. The Guarantee System shall issue the Statute of the Resolution Fund in which it shall regulate its activity and the framework rules for the investments of the funds in more detail in accordance with Section 204, paragraph 3.
- (2) Institutions with their registered office in the Czech Republic and branches of a institution from other than a Member State shall be obliged to contribute to the Resolution Fund to the extent required by this Act.

Section 210

Contribution Fund of the Resolution Fund

The Resolution Fund is formed by assets the sources of which are:

- a) Regular contributions in accordance with Section 214, including irrevocable payment commitments in accordance with Section 214, paragraph 6,
- b) Extraordinary contributions in accordance with Section 215,
- c) Funds acquired by the Resolution Fund in accordance with Section 216,
- d) Funds acquired by the Resolution Fund in accordance with Section 217 and repayments of loans provided by it in accordance with Section 218,
- e) Funds acquired by the Resolution Fund in accordance with Section 219, and
- f) Revenue acquired from the liable entity, bridge institution or asset management vehicle based on the decision of the Czech National Bank, another competent resolution authority or contractual claim in connection with the application of a resolution action.

Section 211

Operational Fund of the Resolution Fund

The Operational Fund of the Resolution Fund is formed by assets the sources of which are:

- a) Proceeds from the investment of funds in the Resolution Fund, including interest income from loans provided by the Resolution Fund in accordance with Section 218,
- b) Penalties imposed in accordance with this Act pursuant to Section 241,
- c) Extraordinary operational contributions in accordance with Section 212, paragraph 3,
- d) Other income, in particular subsidies, repayable financial aid and proceeds from completed insolvency and liquidation proceedings and from the process of resolution, except for revenues in accordance with Section 210, and
- e) Advance payments to reimburse expenses provided by the Deposit Insurance Fund.

Section 212

Use of the assets of the Resolution Fund

- (1) Assets in the Contribution Fund of the Resolution Fund may be used for the purpose of:
 - a) Provision of a guarantee for the assets and liabilities of the liable entity on which a resolution action has been or is applied or a guarantee for the assets and liabilities of its controlled entities, the acquirer in the passage of activity to a private acquirer, bridge institution or an asset management vehicle,
 - b) Provision of a loan to the liable entity on which a resolution action has been or is applied or a loan to its controlled entities, the acquirer in the passage of activity to a private acquirer, bridge institution or an asset management vehicle,
 - c) Purchase of the assets of the liable entity, on which a resolution action has been or is applied,
 - d) Provision of a contribution for the purpose of recapitalizing the acquirer in the passage of activity to a private acquirer, bridge institution or an asset management vehicle,
 - e) Payment of compensation in accordance with Section 177,
 - f) Provision of a contribution when the write down or conversion of liabilities are applied in accordance with Sections 124 and 125, or
 - g) Repayment of principal and loan interest in accordance with Section 216 or Section 217 and provision of a loan to the resolution financing arrangement of another Member State in accordance with Section 218.
- (2) The assets which form the Operational Fund of the Resolution Fund may be used in accordance with paragraph 1. These assets may be used for other purposes when provided for by the law or by the Statute of the Guarantee System. Assets from the Operational Fund of the Resolution Fund may be transferred to the Contribution Fund of the Resolution Fund.
- (3) If the assets in the Operational Fund of the Resolution Fund are insufficient to cover the expenses in accordance with Section 207, the Guarantee System shall propose the total amount of extraordinary operational contributions required to cover the expenses to the Czech National Bank. The Czech National Bank shall decide, based on the proposal, on the collection of an extraordinary operational contribution in relation to each institutions and branches of institutions from other than a Member State; at the same time it shall determine the share of the institution and branch of institution from other than a Member State in the total amount of the extraordinary operational contribution to be pro rata to the share of the institution and branch of institution from other than a Member State on the annual target level of regular contributions to the Resolution Fund in accordance with Section 214. It shall set the collection date of the extraordinary operational contribution so that its payment is due at the same date as payment of the regular contribution, unless it is necessary to set another date due to circumstances.
- (4) The Czech National Bank, after consultation with the Guarantee System, shall decide on the use of the assets in the Resolution Fund in accordance with paragraph 1, letters a) to f) and Section 220. The assets may be used only to the extent necessary to ensure an effective application of a resolution action.
- (5) Assets in the Resolution Fund may not be used directly to absorb losses of the liable entity or to recapitalize it. Indirect coverage of losses of the liable entity from the assets of the Resolution

Fund is possible only in accordance with the conditions for provision of contributions from the Resolution Fund in accordance with Sections 124 and 125.

Section 213

Target level of the Resolution Fund

- (1) The target level of assets in the Contribution Fund of the Resolution Fund (hereinafter the „target level of the Resolution Fund“) is equal to 1 % of the total volume of covered deposits.
- (2) The target level of the Resolution Fund shall be reached within a period of time ending on 31 December 2024. If the assets in the Contribution Fund of the Resolution Fund are used before this date at a cumulative level of at least 0,5 % of the total volume of covered deposits, the period of time required to reach the target level of the Resolution Fund shall be extended until 31 December 2028.
- (3) If, before the expiration of the period of time specified in Section 2, assets in the Contribution Fund of the Resolution Fund diminish below the level of two thirds of the target level of the Resolution Fund, the Czech National Bank shall take the decision to collect regular contributions so that the target level of the Resolution Fund is replenished within 6 years from the year in which the assets diminished below the level of two thirds of the target level of the Resolution Fund. If, after the expiration of the period of time specified in Section 2, the assets in the Contribution Fund of the Resolution Fund diminish below the target level of the Resolution Fund and if, at the same time, these assets do not diminish below the level of two thirds of the target level of the Resolution Fund, the Czech National Bank shall take a decision to collect regular contributions so that the target level of the Resolution Fund is replenished within a timeframe proportional to the amount of the diminution and to the timeframe in accordance with the first sentence. The provision of Section 214, paragraph 2, second sentence, shall be applied in a similar way.

Section 214

Regular contributions

- (1) For the purposes of the directly applicable regulation (EU) supplementing the directive of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms²¹⁾ (hereinafter the „regulation on ex ante contributions“), the Czech National Bank is the resolution authority unless this Act provides that the resolution authority is the Guarantee System.
- (2) The Czech National Bank, after consultation with the Guarantee System, shall publish the annual target level of contributions to the Resolution Fund (hereinafter the „annual target level“) in accordance with Article 3, point 3, of the regulation on ex ante contributions in an official notification once a year in order to comply with the timeframe in accordance with Section 213, paragraph 2. When determining the annual target level, the Czech National Bank shall take regard of the requirement to evenly spread out the levels of contributions over the timeframe and at the same time it shall take due account of the phase of the business cycle and the impact pro-cyclical contributions may have on the financial position of the contributing entities.
- (3) The Czech National Bank shall set the regular contribution of an institution in accordance with Article 3, point 1 of the regulation on ex ante contributions (hereinafter „institutions with a standard regime of contributions“) as an annual contribution in accordance with Article 3, point 5 of the regulation on ex ante contributions . The share of the basic annual contribution of an institution with a standard regime of contributions in the annual target level shall be determined as a ratio between the amount of the liabilities of the institution less its capital and the volume of covered deposits to the amount of liabilities of all the institutions and branches of institutions from other than Member States less the amount of their capital and the total volume of covered deposits, unless the regulation on ex ante contributions provides for otherwise. The details and method of calculation of the amount of liabilities and the risk adjustment of the basic annual contribution are regulated by the regulation on ex ante contributions.

- (4) The regular contribution of an institution with a standard regime of contributions, which meets the condition in accordance with Article 20, point 5 of the regulation on ex ante contributions, shall be determined by a procedure in accordance with Article 20, point 5 of the regulation on ex ante contributions.
- (5) In order to set the regular contribution of an institution other than the institution with a standard regime of contributions and a branch of an institution of other than a Member State (hereinafter the „institution with a special regime of contributions“) provisions of paragraph 3, second sentence shall be applied in a similar way and provisions of Articles 4 to 12 and Article 20, point 1, first to third sentences of the regulation on ex ante contributions shall be applied proportionally. Provisions of Articles 13, 14, 16 to 19, Article 20, point 1, last sentence, and Articles 2 to 5 of the regulation on ex ante contributions shall be applied in a similar way in relation to the institution with a special regime of contributions.
- (6) Where the Czech National Bank enables with the consent of the Guarantee System in a decision in accordance with Article 13, point 3 of the regulation on ex ante contributions to reimburse a part of the regular contribution in an irrevocable payment commitment, it shall lay down the details of its payment in the decision and in particular the conditions for the level of risk, liquidity and diversification of the provided collateral so that the payment commitment is backed only by low risk assets unencumbered by any third party rights. The payment commitment may be provided and accepted only under the conditions specified in the decision of the Czech National Bank and the Resolution Fund may freely dispose of the collateral and it is earmarked for the exclusive use of the Resolution Fund for the purposes in accordance with Section 212, paragraph 1, and for other purposes of use of the Resolution Fund. The share of irrevocable payment commitments in the assets of the Contribution Fund of the Resolution Fund shall not exceed 30 %.
- (7) The provision of paragraph 6 shall not be applied if the amount of the regular contribution of an institution or of a branch of an institution of other than a Member State does not exceed the amount in accordance with Article 10, point 6 of the the regulation on ex ante contributions

Section 215

Extraordinary contributions

- (1) Where the assets of the Resolution Fund are not sufficient for the purposes specified in Section 212, paragraph 1, the Czech National Bank shall decide on the collection of extraordinary contributions.
- (2) An extraordinary contribution may not be reimbursed by an irrevocable payment commitment.
- (3) The total amount of extraordinary contributions and their maturity date shall be determined by the Czech National Bank after consultation with the Guarantee System so that the total amount of extraordinary contributions is equal to the difference between the amount of the assumed costs of the resolution financing arrangement and the assets of the Resolution Fund; at the same time, however, this amount shall not exceed three times the annual target level of contributions. The Czech National Bank shall notify the Guarantee System of the total amount of extraordinary contributions.
- (4) The procedure in accordance with Section 214, paragraphs 3 to 5, shall be applied in a similar way to determine the share of the institution or a branch of an institution from other than a Member State in the total amount of extraordinary contributions. Article 13, point 2, Article 13, point 3, first sentence and Article 13, point 4 of the the regulation on ex ante contributions shall be applied in a similar way to determine the amount and the collection of an extraordinary contribution.
- (5) Where the obligation to pay the extraordinary contribution would jeopardise the liquidity or compliance with the capital requirements of an institution or a branch of an institution from other than a Member State, the Czech National Bank may upon the request of the institution or the branch of an institution from other than a Member State temporarily reduce the amount of its extraordinary contribution or temporarily defer its obligation to pay the extraordinary contribution for a period not longer than 6 months. This period may be extended upon a request of the institution or the branch of an institution from other than a Member State. The part of the extraordinary contribution which has not been been reimbursed in the proper amount and within

the appropriate period as a result of such reduction or deferral becomes due upon the expiration of the defined period.

Section 216

Financial means obtained from the market

Where the assets of the Resolution Fund are not sufficient for the purposes laid down in Section 212, paragraph 1, and the funding from the extraordinary contributions in accordance with Section 215 cannot be obtained within a reasonable timeframe or in the sufficient amount, the Czech National Bank shall notify the Guarantee System without any undue delay. After consulting the Guarantee System, the Czech National Bank shall announce the amount of financial means which the Resolution Fund shall raise from the market and the timeframe for raising them. The Resolution Fund is obliged to ensure that the financial means were provided to it under the most favourable conditions for it.

Borrowing between resolution financing arrangements

Section 217

- (1) In the event that the assets of the Resolution Fund are not sufficient for the purposes laid down in Section 212, paragraph 1, where the funding from the extraordinary contributions in accordance with Section 215 cannot be obtained within a reasonable timeframe or in the sufficient amount, and the financial means cannot be obtained under reasonable terms and without undue delay in the market, the Resolution Fund may request to borrow from a resolution financing arrangement of another Member State.
- (2) The rate of interest, maturity period and other conditions of the loan in accordance with paragraph 1 shall be agreed between the Resolution Fund and the resolution financing arrangement of another Member State. Where more resolution financing arrangements participate in providing the loan at the same time, the rate of interest, maturity period and other conditions for providing each loan shall be determined in relation to all loans under equal conditions; different conditions for individual loans may be agreed only by all participating resolution financing arrangements.

Section 218

- (1) The Resolution Fund may, upon a request of a resolution financing arrangement of another Member State, provide a loan to that resolution financing arrangement. The provision of the loan is subject to compliance with at least the condition in accordance with Section 217, paragraph 1, or a similar condition under a comparable foreign legal norm in relation to the resolution financing arrangement which has made the request and a consent of the Ministry of Finance. The Guarantee System and the Ministry of Finance shall be obliged to take a decision on the provision of the loan within a reasonable timeframe considering the urgency of the application.
- (2) In the event that more resolution financing arrangements participate in the provision of the loan the share of the Resolution Fund in the amount of the aggregated loan shall be determined in accordance with the ratio between the volume of domestic covered deposits and the aggregate of the volumes of covered deposits in all Member States in which the participating resolution financing arrangements have their registered office. A different share of the Resolution Fund may be determined only upon agreement of all participating resolution financing arrangements. Provisions of Section 217, paragraph 2 shall be applied in a similar manner.
- (3) An outstanding part of the loan provided from the Contribution Fund of the Resolution Fund in accordance with paragraphs 1 and 2 shall be treated as an asset in the Contribution Fund for the purposes of Section 213.

Section 219

State subsidy or aid

In the event that the assets of the Resolution Fund are not sufficient for the purposes laid down in Section 212, paragraph 1, if the funding from the extraordinary contributions in accordance with

Section 215 cannot be obtained within a reasonable timeframe or in the sufficient amount, and the financial means cannot be obtained within the timeframe in accordance with Section 216 under reasonable terms and without undue delay in the market by a loan from a resolution financing arrangement of another Member State, a subsidy or a repayable financial aid may be granted to the Resolution Fund upon request of the Guarantee System from the State budget.

Section 220

Mutualisation of resolution financing arrangements in the case of a group resolution

- (1) For the purpose of ensuring the participation of all relevant resolution financing arrangements in the financing of a group resolution within the group resolution financing arrangement a financing plan shall be drawn up in the group resolution procedure in accordance with Section 184, which shall include:
 - a) Valuation in accordance with Section 52 or with a similar provision of a comparable foreign legal norm in respect of the affected group entities,
 - b) The amount of losses reported by each individual group entity at the moment the resolution action is applied,
 - c) The amount of the losses that would be suffered as a result of the application of the resolution action by classes of owners of the instruments of ownership in the group entities and creditors of the group entities,
 - d) The amount of contributions of the Deposit Insurance Fund and deposit insurance schemes of other Member States,
 - e) The total contribution, purpose and form of participation of all resolution financing arrangements in the financing of the group resolution action,
 - f) The amount, purpose and form of participation of each resolution financing arrangement in the total amount of financial means required to finance the group resolution action and the basis for calculating that amount,
 - g) The amount of financial means which each individual resolution financing arrangement shall obtain in accordance with Sections 216 or 217 or with a similar comparable foreign legal norm, and
 - h) A timeframe for the use of the financial means of each individual resolution financing arrangement.
- (2) Unless agreed otherwise in the financing plan, the basis for calculating the contribution of the participating resolution financing arrangement in the total amount of financial means required to finance a group resolution action in accordance with paragraph 1, letter f), shall be consistent with the rules and principles set out in the group resolution plan and at the same time it shall have regard in particular to:
 - a) The share of the group's risk-weighted assets held by the group entities with their registered office in the Member State of the participating resolution financing arrangement in the total amount of the group's risk-weighted assets,
 - b) The share of the group's assets held by the group entities with their registered office in the Member State of the participating resolution financing arrangement in the total amount of the group's assets,
 - c) The share of the losses which have been reported by the group entities under the supervision of a supervisory authority in the Member State of the resolution financing arrangement in the amount of total losses as a result of which conditions have been met for group resolution,
 - d) The share of the amount of resources the use of which shall be to the direct benefit of the group entities with their registered office in the Member State of the participating resolution financing arrangement in the total amount of financial means required to finance the group resolution action.
- (3) It is possible to proceed in relation to the group resolution financing arrangement in accordance with Section 216 or with a similar provision of a comparable foreign legal norm.
- (4) The Resolution Fund may provide its assets to guarantee the liabilities of the group resolution financing arrangement in which it participates unless these liabilities were incurred in a manner in accordance with Section 216 or pursuant to a similar provision of a comparable foreign legal norm.

- (5) The proceeds or profits that arise from the participation of resolution financing arrangements in the group resolution financing arrangement shall be allocated proportionally to the amount of contributions of each individual resolution financing arrangement in the group resolution financing arrangement.

Section 221

Participation of the Deposit Insurance Fund in the resolution

- (1) If, as a result of the write down or conversion of liabilities eligible for write down, the availability of covered deposits is preserved, the contribution of the Deposit Insurance Fund to the funding of the resolution shall be equal to the amount which would have been written off from the covered deposits in accordance with Section 138, paragraph 1, if the covered deposits were the subject to the write down to the same extent as the liabilities with the same level or priority in accordance with the insolvency law.
- (2) If, as a result of the application of a resolution action other than the write down or conversion of liabilities eligible for write down, the availability of covered deposits is preserved, the contribution of the Deposit Insurance Fund to the funding of the resolution shall be equal to the amount of losses that creditors of the covered deposits would have suffered if they had participated in covering the losses of the liable entity as a result of the application of a resolution action in proportion to the creditors with the same level of priority in accordance with the insolvency law.
- (3) The contribution made by the Deposit Insurance Fund may not be applied as a source of contribution for the recapitalisation of the liable entity or a bridge institution in case of conversion of liabilities eligible for write down in accordance with Section 138, paragraph 2.
- (4) Provisions of this Act on valuation shall be appropriately applied to determine the amount of the contribution of the Deposit Insurance Fund. The Czech National Bank shall, after consultation with the Guarantee System, decide on the use of the assets of the Deposit Insurance Fund for the purposes of its participation in the funding of the resolution. Provisions of Section 212 shall be applied in a similar manner.
- (5) The contribution of the Deposit Insurance Fund shall not exceed 0,8 % from the aggregate volume of covered deposits. Where the volume of the available financial means in the Deposit Insurance Fund is higher than 0,8 % of the aggregate volume of covered deposits, the contribution of the Deposit Insurance Fund shall not exceed 100 % of the volume of the available financial means in the Deposit Insurance Fund. At the same time, the contribution shall not be higher than the detriment which would be incurred by the Deposit Insurance Fund if insolvency proceedings were started against the property of the liable entity at the moment when the resolution action was applied.
- (6) If, as a result of the application of a resolution action, a change occurs in the identity of the debtor of a part of the covered deposits of the entitled entity escrowed by the liable entity to a third party the right of the entitled entity to the provision of compensation from the Deposit Insurance Fund for any remaining part of the deposits covered against the liable entity shall be reduced by that portion. If, as a result of the application of a resolution action a change occurs in the identity of the debtor of all covered deposits of the entitled entity escrowed by the liable entity to a third party the entitled entity has no right to the provision of compensation from the Deposit Insurance Fund for the covered deposits against the liable entity.

BODY TEN

PROCEDURAL PROVISIONS

Section 222

Decision

- (1) The decision of the Czech National Bank to apply a resolution action, reduce Common Equity Tier 1 items, or apply the write down or conversion of liabilities eligible for write down, is executable from the moment that the decision is notified to the participants of the proceedings unless otherwise stipulated in the decision of the Czech National Bank. The notification may be

delivered in a form of public notice. The notification shall be regarded to be delivered as at the moment when the decision is published on the internet pages of the Czech National Bank. Publication on the official notice board is not required.

- (2) The first act in the proceedings for issuing a decision in accordance with paragraph 1 may be the issuance of the decision.
- (3) Where the decision in accordance with paragraph 1 or the decision on the approval of transformation in accordance with Section 251 interferes with the rights of the owners of the instruments of ownership in the liable entity or of the creditors of the liable entity, the Czech National Bank shall call on its internet pages upon the owners of the instruments of ownership in the liable entity and upon the creditors of the liable entity to register with the Czech National Bank within 6 months from the enforceability of the decision for the purposes of decision on the compensation in accordance with Section 177 and of increasing the value of the claim and of a further compensation in accordance with Section 57. If they do not register within this timeframe their rights to compensation in accordance with Section 164 and to increasing the value of the claim or to further compensation in accordance with Section 57 shall cease to exist. Section 37, paragraph 2 of the Code of Administrative Procedure shall be applied in a similar way with regard to the particulars of the application. The application form and the detailed requirements on its particulars shall be published by the Czech National Bank on its internet pages.

Section 223

Measures of a general nature

- (1) The powers in accordance with Sections 65, 67, 83 to 85, Section 96, 102, 113, 138, 161 and 164 shall be executed by the Czech National Bank in relation to unspecified categories of persons by a measure of a general nature. Provisions of Section 222, paragraphs 2 and 3 shall be used in a similar way.
- (2) A measure of a general nature in accordance with paragraph 1 shall be issued without a procedure for drafting a measure of a general nature. The Czech National Bank shall publish the measure of a general nature on its internet pages at the same time. The measure of a general nature becomes effective on the moment when it is published unless a later effective date is determined. Publication on the official notice board is not required. Where certain rights are suspended in accordance with Sections 83 to 85, the Czech National Bank shall also publish the conditions and the period of suspension on its internet pages.
- (3) The persons whose rights, obligations or lawful interests may be affected by a measure of a general nature shall be entitled to file reasoned objections against the measure of a general nature within a period of 5 business days from the date the measure of a general nature has been published. The Czech National Bank shall settle the objections filed by means of a communication. The Czech National Bank may use the objections filed as the basis for changing or cancelling the measure of a general nature that has been issued.

Appeals

Section 224

- (1) The right of appeal may be exercised against a decision of the Czech National Bank in accordance with this Act.
- (2) The right of appeal may not be exercised against a decision that has been adopted in accordance with Section 15, paragraph 1, Section 16, paragraph 1, Section 25, paragraph 1, Section 26, paragraph 3, Section 51, paragraph 4, last sentence, Section 131, paragraph 1, Section 132, paragraph 1, Section 188, paragraph 2 and Section 193. Review and revision of proceedings in accordance with the Code of Administrative Procedure is excluded in the case of these decisions.

Section 225

- (1) It is considered that the granting of a suspensory effect to an appeal against a decision in accordance with Section 222, paragraph 1, would be in contradiction to an important public

interest in the meaning of Section 73, paragraph 2 of the Code of Administrative Justice, unless the contrary is proved.

- (2) In its assessment, the court shall take into account the economic assessment performed by the Czech National Bank.

Section 226

A proposal to abolish a measure of a general nature or a part thereof issued in accordance with this Act may be filed before the court within 1 year upon the date when the challenged measure of a general nature came into force.

Section 227

Effects of certain decisions or judgments

- (1) The decision on the appeal or a judgment which abolishes a decision or measure of a general nature of the Czech National Bank in accordance with this Act may provide that the effects of abolishing such decision or measure of a general nature may have an effect on the validity and effect of the implemented measures unless this would be in contradiction to the rights of third persons acquired in good faith or with their legitimate interests. This does not prejudice the right to the compensation of damage caused by an unlawful decision or by maladministration in accordance with the law regulating the liability for damages caused in the course of the exercise of public authority²²⁾.
- (2) The Czech National Bank is under no obligation to proceed in accordance with a joint decision in accordance with Section 15, paragraph 1, Section 16, paragraph 1, Section 25, paragraph 1, Section 26, paragraph 3, Section 51, paragraph 4, last sentence, Section 131, paragraph 1, Section 132, paragraph 1, Section 188, paragraph 2 and Section 193, if the decision or a measure of a general nature which had been issued based on that joint decision has been abolished.

Section 228

Procedural provisions in certain special cases

- (1) The Czech National Bank shall apply resolution action or the write down or conversion of capital tools only after previous consent of the Ministry of Finance if, according to the available valuation or estimate:
 - a) It is necessary to use funds from public budgets or use state guarantees, the bridge institution or an asset management entity in order to fulfil the objective of the measure, or
 - b) Such decision means the drawing of funds from the Crisis Resolution Fund or from the Deposit Insurance Fund in a volume which exceeds 60 % of the available volume of the assets in one of the funds.
- (2) Where the application of a resolution action or the write down or conversion of capital tools requires the consent of the Ministry of Finance, the Bank Board of the Czech National Bank shall decide in the first instance about the application of the measure. In addition, the Bank Board of the Czech National Bank shall decide on the application of a resolution action or the write down or conversion of capital tools in the cases of a significant systemic impact.
- (3) The Minister of Finance or another designated Member of the Government shall, upon the invitation of the Bank Board of the Czech National Bank, participate in the deliberations of the Bank Board of the Czech National Bank, which relate to the application of a resolution action or the write down or conversion of capital tools.
- (4) A case of a significant systemic impact in accordance with paragraph 2 occurs where a resolution action or the write down or conversion of capital tools are applied in relation to an institution which is
 - a) Obligated to maintain capital surplus to cover systemic risk²³⁾,
 - b) Designated as a globally systemic important institution²⁴⁾,
 - c) Designated as another systemic important institution²⁵⁾, or

- d) Designated as an important institution by the Bank Board at the same time with the first act in the proceedings at the latest; it can be so designated particularly in view of the impacts of the failure of the institution on the financial system and economy and where there is a danger of a failure of more institutions at the same time.

Section 229

Powers of the Ministry of Finance with regard to information

- (1) Employees of the Ministry of Finance authorised by the Minister of Finance are empowered to inspect all documents, records, files and other documents and get acquainted with information on the basis of which the application of a resolution action or the write down or conversion of capital tools should be applied. The Czech National Bank shall enable the authorised employees of the Ministry of Finance to access such documents, records, files, other documents and information within the time limits corresponding to the circumstances of the case and to the potential need to issue a opinion in accordance with Section 228, paragraph 1.
- (2) The Czech National Bank shall cooperate with the Ministry of Finance in preparing the resolution plans and when regularly checking the preparedness to use the resolution powers and issuing the related decisions, particularly where the application of the measure would require the prior consent of the Ministry of Finance.

Section 230

Cooperation of the Czech National Bank, the Ministry of Finance and the Office for the Protection of Competition

Where provision of public financial support may occur as a result of the application of measures in accordance with this Act, the Czech National Bank and the Ministry of Finance shall cooperate with the Office for the Protection of Competition²⁶⁾ in respect of the application of the measure. Where the application of the measure in accordance with this Act requires a decision of the European Commission that such measure is compatible with the internal market, the Czech National Bank shall not apply the measure until the time when the European Commission issues the respective decision.

BODY ELEVEN

CORRECTIVE MEASURES AND ADMINISTRATIVE OFFENCES

Corrective measures

Section 231

- (1) The Czech National Bank may impose a corrective measure on the liable entity commensurate to the nature of the breach and to its seriousness to remedy the established deficiency when a deficiency is established in the activity of the liable entity as a consequence of a breach or nonfulfilment of an obligation or condition laid down in this Act, legal norm implementing it, decision issued in accordance with this Act, decision of an authority of other than a Member State considered to be executable under this Act, measure of a general nature issued in accordance with this Act and decision of the European Banking Authority.
- (2) The Czech National Bank may further impose an obligation on the liable entity to refrain from the infringement within a determined timeframe and to refrain from repeating it.
- (3) The Czech National Bank may impose on a natural or legal entity which is not a liable entity and which does not fulfil an obligation stipulated by this Act, legal norm implementing it, decision issued in accordance with this Act, decision of an authority of other than a Member State considered to be executable under this Act, measure of a general nature, issued in accordance with this Act and decision of the European Banking Authority, to refrain from the infringement and to refrain from repeating it; the Czech National Bank may further temporarily prohibit a member of the management body of the liable entity or a person in the senior management of the liable entity to exercise the function in any liable entity for a period of up to 5 years.

- (4) The Czech National Bank may further impose an obligation on a liable entity, or a natural or legal person, which is not a liable entity in accordance with paragraph 3, to publish the decision, where it is necessary to acquaint the broader public with the decision. The Czech National Bank shall determine the type of public means of communication, in which the decision is to be published, the scope of the publication and the period of time stipulated for the person concerned to publish the decision.
- (5) The person on whom the obligation to publish the decision in accordance with paragraph 4 has been imposed shall have the final decision or the defined parts thereof published in the specified type of the public means of communication at its own expense with references to the identification details of the person concerned. The data enabling the identification of the natural or legal person, which is different from the person named in the court's judgment and in the holding of the judgment, have to be made anonymous before being published.
- (6) The Czech National Bank may also impose a corrective measure where it has reasonable doubts that the deficiency in the activity, infringement or nonfulfilment of an obligation or condition in accordance with this Act may occur in the course of the following 12 months.

Section 232

- (1) Only the person on whom the corrective measure is to be imposed is the party to the proceedings on the imposition of a corrective measure.
- (2) The proceedings may be commenced by issuing a decision.
- (3) The person on whom the Czech National Bank has imposed the corrective measure shall inform the Czech National Bank about remedy of the situation without any undue delay.

Offences

Section 233

- (1) A natural person shall commit an offence by:
 - a) Not fulfilling the obligation to provide information in accordance with Section 7, paragraph 3,
 - b) Not adopting adequate measures to ensure the application of the write down, conversion, or resolution action contrary to the decision issued in accordance with Section 167, paragraph 1, letter a,
 - c) Not holding assets on behalf of the acquirer's account contrary to the decision issued on the basis of Section 167, paragraph 1, letter b),
 - d) Not applying a corrective measure issued on the basis of Section 231 within the required period of time, or
 - e) Violating the obligation of professional secrecy in accordance with Section 245, paragraph 2.
- (2) A natural person who is a member of the management body of the liable entity shall commit an offence by:
 - a) Not requesting previous consent or a position from the temporary administrator for his/her decision contrary to Section 42, paragraph 1,
 - b) Exercising powers, the exercise of which has been suspended, contrary to Section 42, paragraph 2,
 - c) Failing to provide cooperation to the temporary administrator in accordance with Section 45, or
 - d) Not notifying the failure of the obliged person without any undue delay in accordance with Section 77,
 - e) Failing to provide cooperation to the special administrator in accordance with Section 94, paragraph 3,
 - f) Not applying corrective measures within the requested period of time issued on the basis of Section 231,
 - g) Failing to provide cooperation to the Czech National Bank in accordance with Section 243, paragraph 1, or
 - h) Violating the obligation of professional secrecy in accordance with Section 245, paragraph 1.
- (3) A natural person who is in the senior management of the liable entity shall commit an offence by:

- a) Not requesting a previous consent or a position from the temporary administrator for his/her decision contrary to Section 42, paragraph 1,
 - b) Exercising, contrary to Section 42, paragraph 2, powers the exercise of which has been suspended,
 - c) Not applying corrective measures within the requested period of time issued on the basis of Section 231, or
 - d) Violating the obligation of professional secrecy in accordance with Section 245, paragraph 1.
- (4) An employee of the liable entity shall commit an offence by:
- a) Failing to provide cooperation to the temporary administrator in accordance with Section 45,
 - b) Failing to provide cooperation to the temporary administrator in accordance with Section 94, paragraph 3,
 - c) Not applying corrective measures within the requested period of time issued on the basis of Section 231,
 - d) Failing to provide cooperation to the Czech National Bank in accordance with Section 243, paragraph 1, or
 - e) Violating the obligation of professional secrecy in accordance with Section 245, paragraph 1.
- (5) A natural person who was a member of the management body or an employee of the liable entity shall commit an offence by:
- a) Failing to provide cooperation to the temporary administrator in accordance with Section 45,
 - b) Failing to provide cooperation to the special administrator in accordance with Section 94, paragraph 3,
 - c) Not applying corrective measures within the requested period of time issued on the basis of Section 231,
 - d) Failing to provide cooperation to the Czech National Bank in accordance with Section 243, paragraph 1, or
 - e) Violating the obligation of professional secrecy in accordance with Section 245, paragraph 1.
- (6) A natural person as an acquirer shall commit an offence by:
- a) Failing to provide compensation within the requested period of time contrary to the decision of the Czech National Bank issued on the basis of Section 96, paragraph 6,
 - b) Not fulfilling the obligation to cooperate imposed by the Czech National Bank in accordance with Section 164, letter f),
 - c) Not adopting adequate measures to ensure the implementation of write down, conversion or resolution action contrary to the decision issued on the basis of Section 167, paragraph 1, letter a), or
 - d) Not applying corrective measures within the requested period of time issued on the basis of Section 231.
- (7) A natural person who is an owner of the instruments of ownership shall commit an offence by:
- a) Not returning the corresponding part of compensation contrary to the decision of the Czech National Bank issued on the basis of Section 57, paragraph 6,
 - b) Not transferring the paper security to the acquirer in accordance with Section 98, paragraph 3, Section 102, paragraph 3, or Section 113, paragraph 4, or
 - c) Not applying corrective measures within the requested period of time issued on the basis of Section 231.
- (8) A penalty may be imposed for an offence of up to:
- a) CZK 5000000, if it is an offence in accordance with paragraph 6, letter b),
 - b) CZK 20000000, if it is an offence in accordance with paragraph 1, letters a) to e), paragraph 2, letters a) to c), e) and h), paragraph 3, letters a) to d), paragraph 4, letters a) to e), paragraph 5, letters a) to e), paragraph 6, letters a), c) and d) or paragraph 7, letters a) to c), or
 - c) Double the amount of unjust enrichment if it is an offence in accordance with paragraph 2, letter d); where the unjust enrichment did not occur or where it is not possible to determine its amount a penalty of CZK 137000000 may be imposed.

Section 234

- (1) A natural person as a temporary administrator of the liable entity shall commit an offence by:

- a) Violating the restraints specified by the Czech National Bank or failing to request a prior consent for his/her decision contrary to Section 41, paragraph 1,
 - b) Not requesting previous consent for his/her decision in accordance with Section 41, paragraph 3,
 - c) Violating the restraints in accordance with Section 42, paragraph 2,
 - d) Not applying corrective measures within the requested period of time issued on the basis of Section 231, or
 - e) Violating the obligation of professional secrecy in accordance with Section 245, paragraph 2.
- (2) A natural person as a special administrator shall commit an offence by:
- a) Not providing a copy of the documentation or not enabling the making of copies and extracts contrary to Section 86, paragraph 3,
 - b) Not requesting previous consent for his/her decision in accordance with Section 93, paragraph 2, in the cases determined by the Czech National Bank,
 - c) Not acting in accordance with the decisions or resolution actions or instructions of the Czech National Bank in accordance with Section 94,
 - d) Failing to communicate information on the financial or economic position of the liable entity contrary to Section 94 upon the request of the Czech national Bank or to transmit a report on the financial and economic position of the liable entity,
 - e) Not applying corrective measures within the requested period of time issued on the basis of Section 231, or
 - f) Violating the obligation of professional secrecy in accordance with Section 245, paragraph 2.
- (3) A natural person as a person who is to be appointed a valuer or a natural person as a valuer shall commit an offence by:
- a) Preparing a valuation in contradiction to Section 52, paragraph 2,
 - b) Failing to notify the Czech National Bank of facts in accordance with Section 53, paragraph 2, or
 - c) Not applying corrective measures within the requested period of time issued on the basis of Section 231.
- (4) A valuer who has been recalled shall commit an offence by:
- a) Failing to provide cooperation to the valuer in accordance with Section 53, paragraph 4, or
 - b) Not applying corrective measures within the requested period of time issued on the basis of Section 231
- (5) A penalty may be imposed for an offence in accordance with paragraphs 1 to 4 of up to CZK 10000000.

Administrative offences of legal and of natural persons who are entrepreneurs
Section 235

- (1) A legal entity or a natural person who is an entrepreneur shall commit an administrative offence by:
- a) Not fulfilling the obligation of information in accordance with Section 7, paragraph 3,
 - b) Not taking additional measures to ensure the application of write down, conversion or resolution action in contradiction to the decision issued on the basis of Section 167, paragraph 1, letter a),
 - c) Not holding assets on behalf of the acquirer's account contrary to the decision issued on the basis of Section 167, paragraph 1, letter b),
 - d) Not applying corrective measures issued on the basis of Section 231 within the requested period of time, or
 - e) Violating the obligation of professional secrecy in accordance with Section 245, paragraph 2.
- (2) A legal entity which is a member of the management body of the liable entity shall commit an administrative offence by:
- a) Not requesting previous consent or a position from the temporary administrator for its decision contrary to Section 42, paragraph 1,
 - b) Exercising powers, the exercise of which has been suspended, contrary to Section 42, paragraph 2,
 - c) Failing to provide cooperation to the temporary administrator in accordance with Section 45,

- d) Not notifying the failure of the obliged person without any undue delay in accordance with Section 77,
 - e) Failing to provide cooperation to the temporary administrator in accordance with Section 94, paragraph 3,
 - f) Not applying corrective measures issued on the basis of Section 231 within the requested period of time,
 - g) Failing to provide cooperation to the Czech National Bank in accordance with Section 243, paragraph 1, or
 - h) Violating the obligation of professional secrecy in accordance with Section 245, paragraph 1.
- (3) A legal entity which was a member of the management body of the liable entity shall commit an administrative offence by:
- a) Failing to provide cooperation to the temporary administrator in accordance with Section 45,
 - b) Failing to provide cooperation to the special administrator in accordance with Section 94, paragraph 3,
 - c) Not applying corrective measures issued on the basis of Section 231 within the requested period of time,
 - d) Failing to provide cooperation to the Czech National Bank in accordance with Section 243, paragraph 1, or
 - e) Violating the obligation of professional secrecy in accordance with Section 245, paragraph 2.
- (4) A legal entity or a natural person who is an entrepreneur as an acquirer shall commit an administrative offence by:
- a) Failing to provide compensation within the requested period of time contrary to the decision of the Czech National Bank issued on the basis of Section 96, paragraph 6,
 - b) Not fulfilling the obligation to cooperate imposed by the Czech National Bank in accordance with Section 164, letter f),
 - c) Not taking additional measures to ensure the application of write down, conversion or resolution action in contradiction to the decision issued on the basis of Section 167, paragraph 1, letter a), or
 - d) Not applying corrective measures within the requested period of time issued on the basis of Section 231.
- (5) A legal entity as a person keeping a register or a list of investment vehicles shall commit an administrative offence by:
- a) Failing to make a change of an entry in such a register or list in contradiction to the obligation imposed by the Czech National Bank on the basis of Section 66, letter a), Section 74, letter a), or Section 147, letter a), or
 - b) Not applying corrective measures within the requested period of time issued on the basis of Section 231.
- (6) A legal entity as an organiser of the regulated market or a dealer in securities shall commit an administrative offence by:
- a) Failing to withdraw instruments issued by the liable entity from or admit them to trading from markets in investment vehicles contrary to the obligation imposed by the Czech National Bank on the basis of Section 66, letter b), Section 74, letter b), or Section 147, letter b), or
 - b) Not applying corrective measures within the requested period of time issued on the basis of Section 231.
- 7) A legal entity or a natural person who is an entrepreneur, who is an owner of an instrument of ownership, shall commit an administrative offence by:
- a) Not returning the corresponding part of compensation contrary to the decision of the Czech National Bank issued on the basis of Section 57, paragraph 6,
 - b) Failing to transmit the paper security to the acquirer in accordance with Section 98, paragraph 3, Section 102, paragraph 3, or Section 113, paragraph 4, or
 - c) Not applying corrective measures within the requested period of time issued on the basis of Section 231.
- (8) A penalty shall be imposed for an administrative offence of up to:
- a) CZK 5000000, if it is an offence in accordance with paragraph 4, letter b),

- b) CZK 20000000, if it is an offence in accordance with paragraph 1, letters a) to e), paragraph 2, letters a) to c), e) to h), paragraph 3, letters a) to e), paragraph 4, letters a), c) to d), paragraph 5, letters a) and b), paragraph 6, letters a) and b) or paragraph 7, letters a) to c),
- c) Double the amount of unjust enrichment if it is an administrative offence in accordance with paragraph 2, letter d) and if it has been committed by a natural person who is an entrepreneur; where the unjust enrichment did not occur or where it is not possible to determine its amount a penalty shall be imposed of up to CZK 137000000, or
- d) Double the amount of unjust enrichment if it is an administrative offence in accordance with paragraph 2, letter d) and if it has been committed by a legal entity; where the unjust enrichment did not occur or where it is not possible to determine its amount, a penalty shall be imposed of up to the level of up to 10 % of net annual sales attained by the given entity in the immediately preceding accounting period.

Section 236

- (1) A legal entity or a natural person who is an entrepreneur as a temporary administrator of the liable shall commit an administrative offence by:
 - a) Violating the restraints specified by the Czech National Bank or failing to request a prior consent for his/her decision contrary to Section 41, paragraph 1,
 - b) Violating the restraints in accordance with Section 42, paragraph 2,
 - c) Not requesting a previous consent for his/her decision in accordance with Section 41, paragraph 3,
 - d) Not applying corrective measures within the requested period of time issued on the basis of Section 231, or
 - e) Violating the obligation of professional secrecy in accordance with Section 245, paragraph 2.
- (2) A legal entity or a natural person who is an entrepreneur as a special administrator of the liable shall commit an administrative offence by:
 - a) Not providing a copy of the documentation or not enabling the making of copies and extracts contrary to Section 86, paragraph 3, or
 - b) Not requesting previous consent for his/her decision in accordance with Section 93, paragraph 2, in the cases determined by the Czech National Bank,
 - c) Not acting in accordance with a decision or resolution actions or instructions of the Czech National Bank in accordance with Section 94,
 - d) Failing to communicate information on the financial or economic position of the liable entity or to transmit a report on the financial and economic position of the liable entity upon the request of the Czech National Bank contrary to Section 94, or
 - e) Violating the obligation of professional secrecy in accordance with Section 245, paragraph 2.
- (3) A legal entity or a natural person who is an entrepreneur as a person who is to be appointed a valuer or as a valuer shall commit an administrative offence by:
 - a) Preparing a valuation in contradiction to Section 52, paragraph 2,
 - b) Failing to notify the Czech National Bank of the facts in accordance with Section 53, paragraph 2, or
 - c) Not applying corrective measures within the requested period of time issued on the basis of Section 231.
- (4) A recalled valuer shall commit an administrative offence by not providing cooperation to the valuer in accordance with Section 53, paragraph 4.
- (5) A penalty of up to CZK 10000000 shall be imposed for an administrative offence in accordance with paragraphs 1 to 4.

Section 237

Administrative offences of liable entity

- (1) A liable entity shall commit an administrative offence by:
 - a) Not fulfilling the obligation of information in accordance with Section 7, paragraph 3, Section 154, paragraph 1, Section 155, Section 176, paragraphs 5 or 6,

- b) Not providing cooperation in accordance with Section 243, paragraph 1, or Section 53, paragraph 6,
 - c) Failing to notify its failure without any undue delay in accordance with Section 77,
 - d) Failing to maintain detailed records of financial contracts including the specification of the data format and of other essentials of these records stipulated by the Czech National Bank in accordance with Section 7, paragraph 4,
 - e) Not returning the corresponding part of compensation contrary to the decision of the Czech National Bank issued on the basis of Section 57, paragraph 6,
 - f) Failing to provide for the withdrawal of instruments in accordance with Section 66, letter c), Section 74, letter c), or Section 147, letter c),
 - g) Not issuing or returning securities contrary to the decision of the Czech National Bank issued on the basis of Section 73, paragraph 2, or Section 146, paragraph 2,
 - h) Disposing of its assets contrary to the prohibition stipulated by the Czech National Bank on the basis of Section 82, letter c),
 - i) Failing to issue instruments included in own funds, including priority shares and subordinated or convertible bonds or similar debt instruments in contradiction to the requirement set by the Czech National Bank in Section 82, letter d),
 - j) Failing to publish the decision in accordance with Section 90,
 - k) Failing to transmit the assets and the necessary documents or to notify the information in accordance with Section 98, paragraph 3, Section 102, paragraph 3, or Section 113, paragraph 4,
 - l) Failing to change its legal form contrary to the decision of the Czech National Bank issued on the basis of Section 121,
 - m) Failing to keep own funds and liabilities eligible for write down at the level which meets the minimum requirement in accordance with Section 127, paragraph 2,
 - n) Failing to ensure the consent of the creditor with the write down or conversion or failing to ensure the consent of the creditor with the binding nature of the write down or conversion of the liabilities eligible for write down in contradiction to Section 148, paragraph 1,
 - o) Failing to implement the measures contained in the approved business reorganisation plan in contradiction to Section 155,
 - p) Failing to fulfil the obligation required by the Czech National Bank in accordance with Section 164, letter e),
 - q) Failing to fulfil the obligation of cooperation required by the Czech National Bank in accordance with Section 164, letter f),
 - r) Failing to send information to all owners of the instruments of ownership and creditors known to it in contradiction to Section 176, paragraph 7,
 - s) Failing to inform the Czech National Bank about sending the information in accordance with Section 176, paragraph 7, or
 - t) Failing to apply corrective measures within the requested period of time issued on the basis of Section 231.
- (2) Institutions with their registered office in the Czech Republic shall commit an administrative offence by:
- a) Failing to draw up or maintain the recovery plan contrary to Section 9, paragraph 1,
 - b) Failing to update its recovery plan in contradiction to Section 9, paragraph 2,
 - c) Failing to monitor or evaluate the values or statuses of the indicators regularly and with sufficient frequency to be able to establish a possible deterioration of their financial position and to adopt corresponding recovery measures in time in contradiction to Section 9, paragraph 5,
 - d) Failing to inform the Czech National Bank without any undue delay contrary to Section 9, paragraph 7,
 - e) Failing to present the recovery plan to the Czech National Bank for consideration within 7 days upon drawing it up or updating it in contradiction to Section 11, paragraph 1,
 - f) Failing to provide information and cooperation which is required for drawing up the resolution plan in accordance with Section 17, paragraph 6,
 - g) Failing to inform about changes which require to update the crisis resolution plan in accordance with Section 18, paragraph 1,

- h) Failing to fulfil the obligation to apply required measures within the requested period of time or to propose the application of these measures in accordance with Section 23, paragraph 3,
 - i) Failing to publish the decision in accordance with Section 44,
 - j) Failing to keep own funds and liabilities eligible for write down at the level which meets the minimum requirement in accordance with Section 127, paragraph 1,
 - k) Failing to surrender the tools included in the capital in accordance with Section 160, paragraph 2,
 - l) Failing to apply corrective measures within the requested period of time issued on the basis of Section 231, or
 - m) Failing to contribute to the Resolution Fund in the amount specified in Section 214, or Section 215, contrary to Section 209, paragraph 2.
- (3) An entity with its registered office in other than a Member State which operates in the territory of the Czech Republic through its branch shall commit an administrative offence by:
- a) Failing to contribute to the Resolution Fund, contrary to Section 209, paragraph 2, in the amount specified in Section 214 or Section 215, or
 - b) Failing to apply corrective measures within the requested period of time issued on the basis of Section 231.
- (4) A legal entity as an entity with its registered office in the Czech Republic which is a group member shall commit administrative offence by:
- a) Not meeting the obligation to report to the partners or to entities in a similar position on the performance of the group support agreement and on the implementation of any decision taken pursuant to it in contradiction to Section 31, paragraph 2,
 - b) Failing to notify to the Czech National Bank about its intention to provide financial support contrary to Section 34, paragraph 1,
 - c) Not meeting the obligation to inform in accordance with Section 36, paragraph 1, letters a) or b),
 - d) Failing to update published information in contradiction to Section 36, paragraph 2,
 - e) Not fulfilling the obligation set by the Czech National Bank in accordance with Section 164, letter e), or
 - f) Failing to apply corrective measures within the requested period of time issued on the basis of Section 231.
- (5) A EU controlling institution with their registered office in the Czech Republic shall commit an administrative offence by:
- a) Failing to update or to submit to the Czech National Bank as the consolidating supervisor a group recovery plan for the group as a whole contrary to Section 13, paragraph 1,
 - b) Failing to submit information about all entities of the EU controlling group in accordance with Section 20, paragraph 1,
 - c) Failing to submit to the Czech National Bank as the consolidating supervisor an application for authorisation of the group financial support agreement in contradiction to Section 29, paragraph 1,
 - d) Not drawing up the business reorganisation plan or drawing it up in contradiction to Section 156, paragraph 1,
 - e) Failing to keep own funds and liabilities eligible for write down on the consolidated basis at the level which meets the minimum requirement in accordance with Section 127, paragraph 3,
 - f) Failing to apply corrective measures within the requested period of time issued on the basis of Section 231.
- (6) A penalty may be imposed for an administrative offence in accordance with paragraphs 1 to 5 of up to:
- a) Double the amount of unjust enrichment if it is an administrative offence in accordance with paragraphs 1 to 5 and if it has been committed by a legal entity; where the unjust enrichment did not occur or where it is not possible to determine its amount, a penalty of up to the level of 10 % of net annual sales attained by the entity in question in the immediately preceding accounting period, or
 - b) Double the amount of unjust enrichment if it is an administrative offence in accordance with paragraphs 1 to 5 and if it has been committed by a controlled entity; where the unjust enrichment did not occur or where it is not possible to determine its amount, a penalty of up to

10 % of net annual sales of the controlling entity resulting from its consolidated financial statement for the immediately preceding accounting period.

Joint provisions

Section 238

Before initiating the proceedings on the administrative offence, the Czech National Bank shall preliminarily assess the act that gave ground to suspect that an administrative offence had been committed. If the Czech National Bank concludes that the specific facts indicate that an administrative offence was committed and that it was committed by a specific person, it shall initiate the proceedings on an administrative offence; it may, however, refrain from the initiation of the proceedings if, due to the significance and the extent of the infringement or of the threat to a protected interest which was affected by the act, to the manner in which the offence was committed, to its consequences, the circumstances, under which the offence was committed, or due to the behaviour of the offender after committing the offence, it is obvious that the purpose, which could be achieved by performing the proceedings on the administrative offence has been achieved. If the Czech National Bank does not initiate the proceedings on the administrative offence it shall make a record of it in the file and shall take a decision to take no further action. The decision not to take further action shall not be published.

Section 239

- (1) A legal entity shall not be liable for an administrative offence if it proves that it has made every effort that could be required to prevent the infringement of the legal obligation.
- (2) Imposition of a sanction may be waived in the decision on the administrative offence if the proceedings on the administrative offence are sufficient in themselves for the rehabilitation of the offender.
- (3) When determining the amount of the penalty for a legal entity, account shall be taken of the gravity of the administrative offence, especially the manner in which it was committed, of its consequences and of the circumstances under which it was committed, possibly including also:
 - a) The gravity and the duration of the wrongful conduct,
 - b) The financial situation of the legal entity,
 - c) The significance of the unauthorised profit of the legal entity insofar as it can be determined,
 - d) The losses for third parties caused by the infringement,
 - e) Cooperation of the legal entity in the proceedings on the administrative offence, and
 - f) Previous administrative offences of the legal entity.
- (4) The responsibility for an administrative offence under this Act shall cease if the Czech National Bank has not initiated proceedings on it within 1 year upon the day when it learnt about it, however, not later than within 5 years upon the day when it was committed.
- (5) The provisions of this Act on the responsibility and recourse to legal entities relate to the responsibility for an administrative offence which occurred in the course of the business activity of a natural person or is in direct connection with.

Section 240

- (1) An offence committed by a natural person cannot be investigated if the Czech National Bank did not start proceedings on it within 1 year upon the day when it learnt about it, not later, however, than within 5 years upon the day when it was committed.
- (2) The criteria for determining the amount and type of penalties specified in Section 239, paragraph 3, shall be used also to determine the amount and type of penalty imposed on a natural person for committing an offence.

Section 241

Revenues arising from penalties imposed on the liable entities in accordance with Section 223 shall be the revenues of the Resolution Fund. Revenues from other penalties imposed in accordance with this Act shall be the revenues of the State budget.

Section 242
Information duty

- (1) The Czech National Bank shall publish the final decision on the imposition of a corrective measure in accordance with Section 231, paragraphs 2 to 4, or penalties on its internet pages without any undue delay.
- (2) The Czech National Bank shall publish the decision without giving the identification data of a person on which the corrective measure or penalty has been imposed if publishing them would:
 - a) Be clearly disproportionate in relation to the natural person in question on the basis of a prior assessment,
 - b) Jeopardize the stability of the financial system,
 - c) Jeopardize an ongoing criminal investigation, or
 - d) Cause, insofar as is known to the Czech National Bank, disproportionate damage to the person in question.
- (3) The decision in accordance with paragraphs 1 or 2 shall remain to be published for a period of at least 5 years. Personal data in accordance with the law governing the protection of personal data of the person in question, contained in such decision, may be published for a period of no longer than 5 years.
- (4) The Czech National Bank shall inform the European Banking Authority about all corrective measures and penalties for administrative offences imposed in accordance with this Act, including the data relating to appeals against the decision by which the penalties have been imposed.

BODY TWELVE
JOINT AND TEMPORARY PROVISIONS
TITLE I
JOINT PROVISIONS
Section 243
Cooperation

- (1) The liable entity, members of the management bodies of the liable entity and its employees shall be under obligation to provide cooperation to the Czech National Bank to the extent necessary for the exercise of activities in accordance with this Act, especially to enable access to the premises of the liable entity upon request and without any undue delay. This obligation relates also to persons who have been authorised to perform activities for the liable entity and for their employees. This cooperation also includes participation in simulated resolutions in accordance with Section 5, paragraph 3. Former members of the management bodies and former employees and persons who performed activities for the liable entity and their employees, who worked in the liable entity or performed activity for it in the course of 2 preceding years, are also under an obligation to provide cooperation. Persons from whom the Czech National Bank is authorized to request information, documents, clarification of facts, records, reports or data associated with them, are under obligation to provide such information, documents, clarification of facts, records, reports or data associated with them, without any undue delay.
- (2) Cooperation shall be provided free of charge; except where cooperation is provided by public authorities, the person who provided cooperation is entitled to the right of reimbursement of the costs efficiently incurred.
- (3) Persons and bodies specified in paragraph 1, which are under an obligation to provide cooperation to the Czech National Bank, are responsible for damage or other liability which they have caused if they do not provide this cooperation properly and in time.

- (4) The liable entity shall appoint a member of the management body or a senior manager directly reporting to the management body who is responsible for providing cooperation to the Czech National Bank in accordance with this Act.

Volume 1
Professional secrecy
Section 244

- (1) For the purpose of this volume, an relevant person means:
- a) The Czech National Bank,
 - b) The Ministry of Finance,
 - c) The Guarantee System,
 - d) The Investor Compensation Fund,
 - e) A bridge institution,
 - f) An asset management vehicle,
 - g) A special administrator or a temporary administrator,
 - h) Potential acquirers to whom the Czech National Bank made an offer or contacted them particularly in connection with a transfer of the instruments of ownership in the liable entity or assets or liabilities of the liable entity irrespective of whether the offer or the contact were made in preparation for a transfer of the instruments of ownership in the liable entity or assets and liabilities of the liable entity and irrespective of whether the transfer of the instruments of ownership in the liable entity or of assets and liabilities of the liable entity was effected as a result of that offer.
 - i) The Government in the case of the application of government stabilisation tools, and
 - j) Other public authorities involved in the resolution.
- (2) The relevant person has obligation to maintain secrecy about all information under this Act obtained in connection with his/her activity.
- (3) The persons specified in paragraph 1, letters a) to g), shall establish and maintain internal rules for maintaining secrecy, including the rules on sharing information only among persons directly involved in the resolution.

Section 245

- (1) Members of management bodies, persons in senior management and other relevant persons shall be under obligation to maintain professional secrecy about all facts under this Act about which they learnt during the execution of their activity; they shall be under obligation to maintain professional secrecy already before the commencement of their labour legal relationship or another relationship and after its termination.
- 2) Auditors, accountants, valuers, legal advisers and other persons performing activity for the relevant persons are under obligation to maintain professional secrecy about all facts under this Act about which they learnt during the execution of their activity.

Section 246

The relevant persons in accordance with Section 244 and persons in accordance with Section 245 may use information obtained during the execution of their powers or activity within the preparations for or the application of the resolution only when fulfilling the tasks and duties determined in accordance with this Act.

Section 247

- (1) The following provision of data is not a breach of professional secrecy:
- a) To the Czech National Bank, to a supervisory authority of another Member State, or a resolution authority of another Member State in connection with the fulfilment of their tasks in accordance with this Act or with a comparable legal norm of another Member State,

- b) In an aggregated form which makes it impossible to establish the specific liable entity in question,
 - c) With the consent of the entity which has provided the data,
 - d) To law enforcement and judicial authorities and for the needs of judicial proceedings,
 - e) To a person who is subject to a legal or contractual obligation to maintain professional secrecy in accordance with this Act and if it is necessary for the preparation of a resolution plan or for the implementation of resolution actions in accordance with this Act,
 - f) To a commission of inquiry of the Parliament,
 - g) To the Supreme Audit Office,
 - h) To a supervisory authority over systems of payment of another Member State,
 - i) To a court or an authority of another Member state responsible for insolvency proceedings,
 - j) To an authority of another Member State responsible for the supervision of the financial sector and of its subjects, including supervision of insurance companies and insurance agents,
 - k) To the macroprudential authority of another Member State,
 - l) To the authority responsible for the protection of the stability of the financial system of another Member State,
 - m) To persons from other Member States performing audit based on the law.
- (2) The obligation to maintain professional secrecy is further not breached by exchange of information between persons in accordance with Section 245, paragraph 1, within one relevant entity and between persons in accordance with Section 245, paragraph 2, within one legal entity, in which they work.
- (3) The obligation to maintain professional secrecy is not breached by exchange of information between the Czech National Bank and:
- a) A resolution authority in another Member State,
 - b) A supervisory authority of another Member State,
 - c) The Ministry of Finance,
 - d) A competent ministry of another Member State,
 - e) The Guarantee System,
 - f) A deposit guarantee scheme and a resolution financial arrangement of another Member State,
 - g) The Central Bank,
 - h) A central bank of another Member State,
 - i) The Investor Compensation Fund,
 - j) An investor compensation scheme from another Member State,
 - k) An authority of another Member State responsible for the creation of macroprudential policy with the aim of contributing to the maintenance of stability of the financial system,
 - l) A resolution authority of other than a Member State,
 - m) A court or an authority of other than a Member State responsible for insolvency proceedings,
 - n) Statutory auditors,
 - o) A potential acquirer for the preparation or implementation of resolution,
 - p) A bridge institution,
 - q) An asset management vehicle,
 - r) The government if government stabilisation tools are used, and
 - s) The European Banking Authority.

Section 248

- (1) Information which is subject to the obligation to maintain professional secrecy can be provided by the Czech National Bank or by the Ministry of Finance to competent authority of other than a Member State, if
- a) The protection of information in the State where a competent authority of other than a Member State has its registered office reaches at least the level of standards which is comparable to the level set up by this Act; if personal data are the subject of the exchange of information between the competent authorities the exchange of information shall be in accordance with the regulations governing the protection of personal data, and

- b) The information is provided only for the purposes of a resolution in other than a Member State and is necessary for ensuring the execution of activities of the competent authority of other than a Member State.
- (2) Information obtained under this Act from an authority of other than a Member State may be provided by the Czech National Bank or by the Ministry of Finance to the competent authorities of other than Member States only with the consent of the authority which originally provided the information and for the purpose which it will specify in its consent.
- 3) Information obtained under this Act from an authority of other than a Member State may be provided by the Czech National Bank only with the consent of the authority which has originally provided the information.

Volume 2
Relation to other legal norms
Section 249
Obligation to make a tender offer

The obligation to make a tender offer in accordance with the Act on Takeover Bids shall not be created for the acquirer by the acquisition of a determined percentage in the voting rights in the liable entity as a result of the application of resolution action, reducing Common Equity Tier 1 items or writing down and converting capital instruments.

Section 250
Change in the amount of own funds

- (1) Provisions of the law regulating the legal relations of business corporations and cooperatives relating to changes in the amount of own funds shall not be applied to the application of resolution action, reduction of Common Equity Tier 1 items or write down and conversion of capital instrument eligible for write down.
- (2) A change in the amount of own funds of the liable entity which has occurred as a result of the application of a resolution action, reduction of Common Equity Tier 1 items, write down and conversion of capital instrument eligible for write down, shall be entered into the register of business companies upon the proposal of the Czech National Bank. The change in the amount of own funds becomes effective on the enforceability of the decision to apply resolution action, reduce Common Equity Tier 1 items, write down or convert capital instrument eligible for write down.
- (3) The decision to apply resolution action, reduce Common Equity Tier 1 items, write down or convert capital instrument eligible for write down shall form the basis for the entry into the register of business companies. The decision shall be deposited in the collection of documents.

Section 251
Transformations

- (1) Where a transformation of a liable entity on which a resolution action has been applied occurs procedures shall be taken in accordance with the legal norm regulating transformations of commercial companies and cooperatives, unless provided for otherwise by this Act. This applies similarly to an entity which participates in a merger or a cross border merger with the liable entity.
- (2) In the case of transformation of a liable entity the following provisions of the legal norm regulating transformations of commercial companies and cooperatives shall not be applied in relation to the liable entity, its partners or members, employees and creditors:
- a) On information about the transformation,
 - b) On the protection of creditors,
 - c) On the right to compensation,
 - d) On the right to buy-in,
 - e) On the liability for damage,
 - f) On the invalidity of the transformation,

- g) On the right of employees to information,
 - h) On the examination of the transformation by an expert.
- (3) The report on transformation does not have to be drawn up. The transformation is approved on behalf of the liable entity by the Czech National Bank. The preparation of the projects of the transformation of the liable entity shall be provided for by the Czech National Bank at the expense of the liable entity. The transformation project may not take the form of a notarial deed.
 - (4) The preliminary valuation and the valuation of the assets and liabilities of the liable entity shall be carried out in accordance with Section 52 of this Act.
 - (5) The Czech National Bank shall publish information about the transformation on its internet pages without any undue delay.
 - (6) The creditors and owners of the instruments of ownership in the liable entity shall be satisfied in accordance with provisions of Section 177 and of the following provisions of this Act.
 - (7) The Czech National Bank may decide in connection with the transformation on the conversion or write down of capital instruments or on the conversion of the liability of the liable entity and shall take regard of that fact in the project of transformation.

TITLE II
TRANSITIONAL PROVISIONS
Section 252

On the day of the entry into force of this Act (hereinafter the „decisive date“) the name of the existing Fund is changed to the Guarantee System of the Financial Market.

Section 253

- (1) The Guarantee System shall, within 2 months from the decisive date, draw the financial statements of the existing Fund as on the day prior to the decisive date. The financial statements shall be audited by auditor without any undue delay.
- (2) The Guarantee System shall, within 3 months from the decisive date, draw the opening balance sheet of the Guarantee System, the opening balance sheet of the Deposit Insurance Fund and the opening balance sheet of the Resolution Fund as on the decisive date. The opening balance sheet of the Guarantee System and the opening balance sheet of the Deposit Insurance Fund shall be audited by auditor without any undue delay.

Section 254

- (1) As of the decisive date, the existing assets and liabilities of the existing Fund related to covered deposits shall be allocated to the Deposit Insurance Fund, in particular:
 - a) Contributions of banks in accordance with Section 41a, paragraph 3 of the law regulating the activity of banks, irrespective of whether they are held in a form of cash, bonds or in another form,
 - b) Claims of the liable entities arising from compensations for covered deposit,
 - c) Proceeds from the investments of funds in the existing Fund,
 - d) Assets and liabilities in connection with the acquisition of the necessary financial means on the market or with a subsidy and repayable financial aid in accordance with Section 41i of the law regulating the activity of banks,
 - e) The claims of the existing Fund as outstanding on the decisive date.
- (2) As of the decisive date, the financial means on the banking accounts of the existing Fund shall be further allocated to the Deposit Insurance Fund so that the opening balance sheet of the Deposit Insurance Fund drawn up in accordance with paragraph 1 is balanced.
- (3) As of the decisive date, the assets and liabilities of the existing Fund shall be allocated to the Guarantee System which were not allocated in accordance with paragraphs 1 and 2.

Section 255

- (1) Members of the Board of Directors of the existing Fund shall become members of the Board of Directors of the Guarantee System as on the decisive date until the appointment of the new Board of Directors of the Guarantee System in accordance with paragraph 3.
- (2) Employees of the existing Fund shall be employees of the Guarantee System as on the decisive date.
- (3) The Minister of Finance shall appoint the members of the Board of Directors of the Guarantee System within 2 weeks from the decisive date so that the composition of the Board of Directors corresponds to Section 199. When the first appointment of the members of the Board of Directors is made the Minister of Finance appoints one member for 3 years, two members for 4 years and two members for 5 years. Such newly appointed Board of Directors shall appoint the Management Board within 1 week from the appointment of the last member of the Board of Directors.
- (4) The function of the statutory body of the Guarantee system shall be exercised from the decisive date by the Board of Directors of the Guarantee System, until the moment of appointment of all members of the Management Board. The newly appointed Board of Directors is the body competent for the issuance of the Statute of the Guarantee System, the statutes of the Deposit Insurance Fund and of the Resolution Fund and for the approval of the rule of procedure of the Board of Directors, the rule of procedure of the Management Board, the final accounts of the existing Fund and the opening balances of the Guarantee System, the Deposit Insurance Fund and the Resolution Fund.

**BODY THIRTEEN
ENTRY INTO FORCE**

Section 256

This Act becomes effective on the first day of the calendar month which follows the day of its publication.

**Hamáček by his own hand
Zeman by his own hand
Sobotka by his own hand**

Annex 1

Information for the purposes of resolution planning

The Czech National Bank may request institutions to provide the following information in particular for the purposes of drawing up and maintaining resolution plans:

- a) A detailed description of the institution's organisational structure including a list of all legal entities, identification of the direct holders and the percentage of voting and non-voting rights of each legal entity,
- b) Information on the location, information on the seat, license or authorisation and key management associated with each legal entity,
- c) The description of the institution's critical operations and core business lines, including material asset holdings and liabilities relating to such operations and business lines, by reference to each legal entity,
- d) A description of the components of the institution's and all its legal entities' liabilities, separating by types and amounts of short term and long-term debt, and further secured, unsecured and subordinated liabilities;
- e) Information on liabilities eligible for write down,
- f) An identification of the processes needed to determine to whom the institution has pledged collateral, the entities that hold the collateral and the jurisdiction in which the collateral is located,
- g) A description of the off balance sheet exposures of the institution and its legal entities, including a mapping to its critical operations and core business lines,
- h) Information on the material hedges of the institution including a mapping to each legal entity,
- i) Identification of the major counterparties of the institution as well as an analysis of the impact of the failure of major counterparties in the institution's financial situation,
- j) Identification of the systems on which the institution conducts a material number or value amount of trades, including a mapping to the institution's legal entities, critical operations and core business lines;
- k) Identification of payment, clearing or settlement systems of which the institution is directly or indirectly a member, including a mapping to the institution's legal entities, critical operations and core business lines;
- l) A detailed inventory and description of the key management information systems, including those for risk management, accounting and financial and regulatory reporting used by the institution including a mapping to the institution's legal entities, their critical operations and core business lines;
- m) An identification of the owners of the systems identified in letter l), service level agreements related thereto, and any software and systems or licenses, including a mapping to their legal entities, critical operations and core business lines,
- n) An identification and mapping of the legal entities and the interconnections and interdependencies among the different legal entities such as:
 1. Common or shared personnel, facilities and systems,
 2. Capital, funding or liquidity arrangements,
 3. Existing or contingent credit exposures,
 4. Cross guarantee agreements, cross-collateral arrangements, cross-default provisions and cross-affiliate netting arrangements;
 5. Risks transfers and back-to-back trading arrangements; service level agreements;
- o) Information on the supervisory authority and on the competent resolution authority of each legal entity,
- p) Information on persons responsible for providing the information necessary to prepare the resolution plan of the institution as well as those responsible for the different legal entities, critical operations and core business lines;
- q) A description of the arrangements that the institution has in place to ensure that, in the event of resolution, the Czech National Bank will have all the necessary information for applying the resolution tools and powers,

- r) Information on all the agreements entered into by the institution and its legal entities with another entities the termination of which may be triggered by a decision of the Czech National Bank to apply a resolution action and whether the consequences of termination of these agreements may affect the application of the resolution actions,
- s) A description of possible liquidity sources for supporting resolution,
- t) Information on asset encumbrance, liquid assets, off-balance sheet activities, hedging strategies and booking practices.

Annex 2

Assessing the resolvability of an institution or group

1. When assessing the resolvability of an institution, the Czech National Bank shall consider the following:
 - a) The extent to which the institution is able to map core business lines and critical operations to legal entities,
 - b) The extent to which legal and corporate structures are aligned with core business lines and critical operations,
 - c) The extent to which there are arrangements in place to provide for essential staff, infrastructure, funding, liquidity and capital to support and maintain the core business lines and the critical operations,
 - d) The enforceability of service agreements that the institution maintains in the event of resolution of the institution,
 - e) The extent to which the governance structure of the institution is adequate for ensuring compliance with the institution's internal policies with respect to its service level agreements,
 - f) The extent to which the institution has a process for transitioning the services provided under service level agreements to another entities in the event of the separation of critical functions or of core business lines,
 - g) Contingency plans to ensure continuity in access to payment and settlement systems,
 - h) The adequacy of the management information systems of the institution in ensuring that the Czech National Bank is able to gather accurate and complete information regarding the core business lines and critical operations so as to facilitate rapid decision making,
 - i) The capacity of the institution's management information systems to provide the information essential for the resolution of the institution even under rapidly changing conditions,
 - j) The extent to which the institution has tested its management information systems under stress scenarios as defined by the Czech National Bank,
 - k) The extent to which the institution can ensure the continuity of its management information systems both for the affected institution and the new institution in the case that the critical operations and core business lines are separated from the rest of the operations and business lines;
 - l) The extent to which the institution has established adequate processes to ensure that it provides the Czech National Bank and the Deposit Insurance Fund with the information necessary to identify depositors and the amounts covered by the Deposit Insurance Fund,
 - m) Where the group uses intra-group guarantees, the extent to which those guarantees are provided at market conditions and the risk management systems concerning those guarantees are robust,
 - n) Where the group engages in back-to-back transactions, the extent to which those transactions are performed at market conditions and the risk management systems concerning those transactions practices are robust,
 - o) The extent to which the use of intra-group guarantees or of back-to-back transactions increases contagion across the group,
 - p) The extent to which the legal structure of the group inhibits the application of the resolution actions as a result of the number of legal entities, the complexity of the group structure or the difficulty in aligning business lines to individual group entities,
 - q) The amount and type of liabilities eligible for write down of the institution;

- r) Where the group entities are institutions or financial institutions, the extent to which the resolution of group entities that are institutions or financial institutions could have a negative impact on the non-financial part of the mixed financial holding company;
 - s) The existence and robustness of service level agreements;
 - t) Whether third-country authorities have the resolution actions necessary to support resolution actions by EU resolution authorities, and the possibility of coordinated action,
 - u) The feasibility of using resolution actions in such a way which meets the resolution objectives, given the tools available and the institution's structure;
 - v) The extent to which the group structure allows the resolution authority to resolve the whole group or one or more of its group entities without causing a significant direct or indirect adverse effect on the financial system, market confidence or the economy and with a view to maximising the value of the group as a whole,
 - w) The arrangements and means through which resolution could be facilitated in the cases of groups that have controlled entities with registered office in different countries,
 - x) The credibility of using resolution actions in such a way which meets the resolution objectives, given possible impacts on creditors, counterparties, customers and employees and possible actions that third-country authorities may take,
 - y) Whether the impact of the institution's resolution on the financial system and on financial market's confidence can be adequately evaluated, and
 - z) Whether the resolution of the institution could have a significant direct or indirect adverse effect on the financial system, market confidence or the economy;
2. In assessing the resolvability of an institution, the Czech National Bank shall further consider the following:
- a) The extent to which contagion to other institutions or to the financial markets could be contained through the application of the resolution actions,
 - b) Whether the resolution of the institution could have a significant effect on the operation of payment and settlement systems.
3. For the purposes of assessing the resolvability of a group requirements contained in points 1 and 2 shall be adequately used on all entities and the given group entities.

- 1) Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council.
- 2) 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.
- 3) Article 51 (1) of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms.
- 4) For instance Articles 107, 108 and 109 of the Treaty on the Functioning of the European Union, Council Regulation (ES) No. 659/1999 of 22 March 1999, laying down rules for the application of Article 93 of the EC Treaty, Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty.
- 5) For instance Communication from the Commission on the application, from 1 August 2013, of State aid rules to support measures in favour of banks in the context of the financial crisis (2013/C 216/01), Communication of the Commission on the Return to Viability and the Assessment of Restructuring Measures in the Financial Sector in the Current Crisis under the State Aid Rules (2009/C 195/04) and communication on the recapitalisation of financial institutions in the current financial crisis: limitation of aid to the minimum necessary and safeguards against undue distortions of competition (2009/C 10/03).
- 6) Act No. 21/1992, Coll., on Banks, as amended, Act No. 87/1995, Coll., on Savings and Loan Associations and Certain Related Measures and on the Amendment of Czech National Council Act No. 586/1992 Coll.,

- on Income Tax, as amended, as amended. Act No. 256/2004, Coll., on conducting business in the capital markets, as amended.
- 7) Regulation (EU) No. 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority, amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC.
 - 8) For instance Act No. 21/1992, Coll., on Banks, as amended, Act No. 87/1995, Coll., on Savings and Loan Associations and Certain Related Measures and on the Amendment of Czech National Council Act No. 586/1992 Coll., on Income Tax, as amended, as amended, 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.
 - 9) Section 8, paragraph 2, Section 8, paragraph 3, letter a), Section 8, paragraphs 4 and 5 and Section 8b, paragraph 7, Act No. 21/1992, Coll., on Banks, as amended, Section 7a, paragraph 7, Section 7aa, paragraph 1, letter a) and Section 7aa, paragraphs 2 and 3 of Act No. 87/1995, Coll., on Savings and Loan Associations and Certain Related Measures and on the Amendment of Czech National Council Act No. 586/1992 Coll., on Income Tax, as amended, as amended. Act No. 256/2004, Coll., on conducting business in the capital markets, as amended. Section 12f, letter d), Section 14, paragraph 7, letter a) and Section 14, paragraphs 8 and 9 of Act No. 256/2004, Coll., on conducting business in the capital markets, as amended.
 - 10) For instance Act No. 21/1992, Coll., on Banks, as amended, Act No. 87/1995, Coll., on Savings and Loan Associations and Certain Related Measures and on the Amendment of Czech National Council Act No. 586/1992 Coll., on Income Tax, as amended, as amended, Act No. 256/2004, Coll., on conducting business in the capital markets, as amended.
 - 11) Section 406, paragraph 1 and Section 636, paragraph 1 of Act No. 90/2012, Coll., on commercial companies and cooperatives (law on commercial corporations).
 - 12) Section 2, paragraph 1 and Section 21, paragraph 1 of Act No. 36/1967, Coll., on court experts and interpreters, as amended.
 - 13) Section 4, paragraph 1, point 2 of the Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU.
 - 14) Section 41e, paragraph 2, Act No. 21/1992, Coll., on Banks, as amended.
 - 15) Section 12, paragraph 7 of Act No. 219/2000, Coll., on the property of the Czech Republic and its acting in legal relations, as amended.
 - 16) Regulation (EU) No. 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.
 - 17) Regulation (EU) No. 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC.
 - 18) Regulation (EU) No. 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC.
 - 19) Section 26e, paragraph 6 of Act No. 21/1992, Coll., on Banks, as amended, Section 25e, paragraph 6 of Act No. 87/1995, Coll., on Savings and Loan Associations and Certain Related Measures and on the Amendment of Czech National Council Act No. 586/1992 Coll., on Income Tax, as amended, as amended. Section 153, paragraph 6 of Act No. 256/2004, Coll., on conducting business in the capital markets, as amended.
 - 20) Section 73a of Act No. 262/2006, Coll., the Labour Code, as amended.
 - 21) Commission delegated Regulation (EU) 2015/63 of 21 October 2014, supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to ex ante contributions to resolution financing arrangements.
 - 22) Act No. 82/1998, Coll., on State liability for damages caused in the course of the exercise of public authority by decisions or improper administrative action, as amended and amending the Act of the Czech National Council No. 358/1992, Coll., on notaries and their activities (Notarial Code), as amended.
 - 23) Section 12r, paragraph 1 of Act No. 21/1992, Coll., on Banks, as amended. Section 8ao, paragraph 1 of Act No. 87/1995, Coll., on Savings and Loan Associations and Certain Related Measures and on the Amendment of Czech National Council Act No. 586/1992 Coll., on Income Tax, as amended, as amended. Section 9ao, paragraph 1 of Act No. 256/2004, Coll., on conducting business in the capital markets, as amended.
 - 24) Section 12u, paragraph 2 of Act No. 21/1992, Coll., on Banks, as amended. Section 8ar, paragraph 2 of Act No. 87/1995 Sb., on Savings and Loan Associations and Certain Related Measures and on the Amendment

- of Czech National Council Act No. 586/1992 Coll., on Income Tax, as amended, as amended. Section 9ar, paragraph 2 of Act No. 256/2004, Coll., on conducting business in the capital markets, as amended.
- 25) Section 12v, paragraph 2 of Act No. 21/1992, Coll., on Banks, as amended. Section 8as, paragraph 2 of Act No. 87/1995, Coll., on Savings and Loan Associations and Certain Related Measures and on the Amendment of Czech National Council Act No. 586/1992 Coll., on Income Tax, as amended, as amended. Section 9as, paragraph 2 of Act No. 256/2004, Coll., on conducting business in the capital markets, as amended.
- 26) Section 2, letter g) of Act No. 215/2004, Coll., on Regulation of Relations in the Area of State Aid and on Amendment to the Act on the support of Research as amended.