

**Memorandum of Understanding between the Czech National Bank and  
the Commission Bancaire et Financière concerning their co-operation  
in the field of banking supervision**

The Czech National Bank ("CNB") and the Commission Bancaire et Financière ("CBF"), hereinafter referred to jointly as "the Authorities", express their willingness to co-operate on the basis of mutual trust and understanding and agree to base their co-operation in the field of banking supervision on the principles and procedures outlined in this Memorandum.

**Article I**

**General Issues**

- 1) In accordance with Act No. 6/1993 Coll., on the Czech National Bank (*"zákon č. 6/1993 Sb., o České národní bance"*), as amended, (hereinafter the "CNB Act"), and Act No. 21/1992 Coll., on Banks, (*"zákon č. 21/1992 Sb., o bankách"*), as amended, (hereinafter the "Act on Banks"), the Czech National Bank as the central bank of the Czech Republic is entrusted with the supervision of banks in the Czech Republic, including licensing, off-site surveillance and on-site inspections. The CNB is not authorised to supervise on individual basis investment firms and other financial institutions, including credit unions, established in the Czech Republic.
- 2) The Belgian Law of 22 March 1993 on the legal status and supervision of credit institutions and the Law of 2 August 2002 and the Law of 11 January 1993 on the prevention of the use of the financial system for purposes of money-laundering are the basic legal texts which apply to all credit institutions. The Commission Bancaire et Financière in Belgium is entrusted with the supervision of compliance with the provisions of these Laws.
- 3) The Authorities intend to co-operate in the supervision of cross-border establishments of banks incorporated in the other country and within their jurisdiction upon the conditions set forth in the Memorandum to the extent allowed under the law. For the purpose of this Memorandum :
  - a) "credit institution" means a legal entity with its registered office in Belgium which has been granted an authorisation pursuant to the Belgian Banking Law;
  - b) "bank" means a legal entity founded as a joint-stock company with its registered office in the Czech Republic which has been granted a banking license pursuant to the Czech Act on Banks;
  - c) "branch" means an organisational unit of a credit institution or a bank (head office) incorporated in Belgium (the Czech Republic) which has been granted a banking license (an authorisation) in the Czech Republic (Belgium);
  - d) "subsidiary" means a bank (credit institution) incorporated in the Czech Republic (Belgium) which is controlled by a (parent) credit institution (bank) incorporated in Belgium (the Czech Republic);

- e) "cross-border establishment" means an establishment of a branch or a subsidiary of a credit institution (bank) incorporated in Belgium (the Czech Republic) which has been granted a banking license (an authorisation) in the Czech Republic (Belgium);
  - f) "supervised institution" means a credit institution (bank) or any other institution subject to the supervision or control of the CBF (CNB) pursuant to the relevant laws;
  - g) "home-country Authority" means the Authority located in Belgium (the Czech Republic) responsible for the supervision on a consolidated basis of a credit institution (bank) or other supervised institution;
  - h) "host-country Authority" means the Authority located in the Czech Republic (Belgium) in which a credit institution (bank) or other supervised institution has a branch or subsidiary.
- 4) The scope of co-operation encompasses licensing (issuance, change and revocation) and prior approval for share acquisition as well as the ongoing supervision of cross-border establishments, including exchange of information and on-site inspections (under conditions stipulated in Article II, sections 2, 3 and 4), be they branches or subsidiaries.
  - 5) The fundamental objective of the co-operation between the Authorities is to ensure that all the banking activities of credit institutions (banks) with a cross-border establishment are subject to appropriate supervision.

In the case of supervision on a consolidated basis, the first-line supervision of the subsidiary is carried out by the host-country authority, but the home-country authority has all rights and obligations connected with its supervisory tasks on a consolidated basis.

## **Article II**

### **1. Mutual Exchange of Information**

- 1) The Authorities will mutually provide each other, in good time and spontaneously or on request, with any information on the following entities which might be relevant to the other Authority:
  - 1) a) - a (parent) credit institution (bank) authorised in Belgium (the Czech Republic) which applies for a licence or has cross-border establishment in the Czech Republic (Belgium);
    - b)- cross-border establishments as mentioned in Article 1(3).
  - b2) A non-bank entity or natural person domiciled in Belgium (the Czech Republic) which intends to acquire a participation in the capital of a bank (credit institution) domiciled in the Czech Republic (Belgium), on condition that such information is available.
- 2) Requests for information in the framework of this Memorandum shall be made in writing and shall be addressed to the contact person of the requested authority.

In case of emergency, requests for information and replies to such requests may be transmitted orally provided that these requests are confirmed by writing unless the requested authority agrees to waive such requirements.

The request should specify the following:

- a description of the subject matter of the request, eventually of the specific information requested;
- the purpose for which the information is sought;
- an indication of the sensitivity of the information contained in the request;
- an indication of the urgency of the request, or the desired time period for the reply.

## **2. Granting of licenses and prior approval of acquisition of a share**

In addition to the general provisions regarding mutual exchange of information mentioned *sub* 1, the following principles will apply to the cooperation among the Authorities in the field of granting of licenses and prior approval of acquisition of shares:

- 1) If a credit institution (a bank) authorised in Belgium (the Czech Republic) applies to the Authority of the Czech Republic (Belgium) to establish a branch or a subsidiary, the latter shall inform the home-country Authority without delay and shall consult it before granting an authorisation to a cross-border establishment of the credit institution (the bank) or assessing any acquisition of a holding in a domestic bank (credit institution) through a credit institution (a bank) within the jurisdiction of the other Authority.
- 2) If the adequacy of home-country supervision is one of the statutory prerequisites which the host-country authority needs to address in the licensing procedure, it shall contact the home-country Authority to settle any question in this regard. The home-country Authority shall inform the host-country Authority of the amount of own funds, the solvency ratio of the (parent) bank (credit institution) on a solo and consolidated basis and the structure of the bank's (credit institution's) shareholders owning a share of 10% or more in the capital or voting rights of the bank (credit institution), and of whether it is fully subject to and complies with the domestic banking regulations, and of whether it is expected in the light of its administrative structure and internal control to run the cross-border establishment in an orderly and proper manner. The home-country Authority shall disclose information available to the host-country Authority which might give rise to doubts as regards the fitness and properness of the prospective managers of the cross-border establishment.
- 3) If a legal or natural person domiciled in Belgium (Czech Republic) applies for a license to establish a bank (credit institution) in the Czech Republic (Belgium), the home-country Authority shall disclose any information available to the host-country Authority which might give rise to doubts as regards the fitness and properness of the prospective holders of participating interests in the bank (credit institution).
- 4) The aforementioned information shall be provided on the basis of a written request made in good time by the relevant Authority to the second Authority by way of the designated employees of the Authority.

- 5) The home-country Authority shall inform the host-country Authority about changes in the ownership structure of a parent credit institutions (bank) authorised in Belgium (the Czech Republic) having a subsidiary or a branch in the Czech Republic (Belgium) which indicate that another entity or a group of related entities has taken control of the parent bank (credit institution).
- 6) The aforementioned information shall be provided to the other Authority, save as where agreed otherwise, in good time and to the extent reasonable, by way of the designated employees of the Authorities.

### **3. Ongoing supervision and corrective action**

In addition to the general provisions regarding mutual exchange of information mentioned *sub* 1, the following principles will apply to the cooperation among the Authorities as far as ongoing supervision and corrective action are concerned:

- 1) The Authorities will inform each other, upon request or without request, in good time and to the extent reasonable, about any event which has the potential to endanger the stability of banks (credit institutions) having cross-border establishments in the other country.
- 2) The Authorities shall discuss between each other any significant information on banks (credit institutions) having cross-border establishments in the other country which might be relevant to the other Authority. Relevant matters include concerns about the financial soundness of an institution (failure to meet capital adequacy or other financial requirements, significant losses, rapid decline in profits or deterioration in profitability and liquidity problems), concerns relating to the management structure and compliance with internal control procedures, and concerns arising from supervisory visits and on-site examinations.
- 3) The host country will collaborate with the home-country Authority if the latter adopts supervisory counter-measures.

### **4. On-site inspections**

- 1) The Authorities agree that co-operation is particularly useful in assisting each other in carrying out on-site inspections of cross-border establishments. The CNB will allow the CBF to carry out inspections of branches and subsidiaries of Belgian credit institutions located in the Czech Republic. In return, the CBF will allow the CNB to carry out inspections of branches and subsidiaries of Czech banks located in Belgium.
- 2) The Authorities shall notify each other in advance of any inspection, giving details of the names of examiners, the purpose of the audit and its expected duration. The Authorities shall allow each other to accompany any such on-site inspection carried out by the other Authority. The Authorities shall keep each other informed on the results of the inspections, if of interest to the host-country supervisor, to the extent reasonable and in a timely manner. If the parent institution has been audited along with its cross-border establishment in the other country, the home-country Authority shall provide the host-country with a summary report on any findings which bear relevance to the cross-border establishment.

## Article III

### 1. Laws and Regulations

- 1) The Authorities shall notify each other of any major change in the domestic rules and regulations within their jurisdiction, in particular of those changes which have a significant bearing on the activities of cross-border establishments and on the operation of the laws and regulations that concern the banking sector or the financial sector in the prudential conduct of credit institutions, and information about banking sector developments in Belgium and the Czech Republic.
- 2) Information shall be exchanged between the Authorities in writing or orally, without request or upon request, as well as during consultation sessions between the Authorities' management and other staff.

### 2. Interest of the general good/general law

When they become aware that the activities of a branch or subsidiary violate the general law of the host country, the Authorities will inform each other according to the principles set out in Article II, *sub* 1. In addition, the Authorities will co-operate in taking corrective action. The home-country authority will, if necessary, draw the attention of the management of the parent bank to those issues.

### 3. Meetings and exchange of staff

In order to enhance the quality of co-operation, representatives of the CNB and Belgian banking supervisors shall convene regularly to discuss issues concerning banks which maintain cross-border establishments within their jurisdictions. The Authorities intend to promote this co-operation by visits for informational purposes and by exchange of staff for practical internships. In these meetings they shall also review the effectiveness of these arrangements. The consultations shall be held on regular basis at a time and place specified by the Authorities.

## Article IV

### 1. Professional secrecy

- 1) Compliance with the obligation of professional secrecy by all officials who receive classified information in the course of their activities is a necessary condition for successful co-operation between the Czech and Belgian Authorities. The Authorities will maintain the confidentiality of all information received.
- 2) In the event of a request by a third party for disclosure by an Authority of information transmitted by the other Authority, the Authority to which the request has been addressed shall notify the Authority that originated the information of such a request and shall receive prior approval before disclosing this information. If the disclosure of confidential information to a government agency acting in the home state of the relevant Authority is required by law, the CNB and the CBF shall promptly notify the Authority that has provided this confidential information. This does not pertain to cases in which conveyance of information would interfere with the confidentiality clause of legal provisions in Belgium and in the Czech Republic.

- 3) The CBF shall be bound by professional secrecy with regard to the confidential information which it may possess as a supervisory authority of credit institutions. Secrecy provisions for the CBF are laid down in Articles 74 and 75 of the Law of 2 August 2002 on the supervision of financial sector and financial services.
- 4) The staff of the CNB shall be obliged to maintain confidentiality in the performance of their duties pursuant to Article 50 of the CNB Act and Article 25a of the Act on Banks.


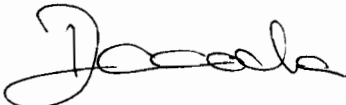
## **2. Technical arrangements**

- 1) This Memorandum shall enter into force on the day of its signing by the CNB and CBF.
- 2) Within 30 days of the date this Memorandum enters into force, the Authorities shall exchange lists of the contact persons authorized to request and provide information on behalf of the CNB and on behalf of the CBF pursuant to this Memorandum. The list shall contain the following contact data : the first name and surname, position (function), e-mail address, telephone and fax numbers of the authorized persons. On behalf of the CNB and CBF, persons other than those specified in the manner stated in the preceding clauses may request or provide information of a general nature or information that has been officially disclosed. The Authorities shall inform each other of any modifications to the list of authorized persons without undue delay.
- 3) For the purposes of this Memorandum, the Authorities shall use the lists of the licensed banks (authorised credit institutions) within their jurisdictions published on their Internet websites. The CNB website address is <http://www.cnb.cz/>. The CBF website address is <http://www.cbf.be/>.
- 4) The Authorities shall advise each other upon request on any aspect of their regulatory systems and notify each other about any major changes to the domestic rules and regulations within their jurisdiction, in particular those changes which have a significant bearing on the activities of cross-border establishments.
- 5) Where one Authority gives the other Authority notice of withdrawal from this agreement, the Memorandum of Understanding shall terminate on the thirtieth day following receipt of the notice of withdrawal by the other Authority, save as where agreed otherwise. If either Authority gives such notice, co-operation assistance in accordance with this Memorandum shall continue with respect to all requests for assistance that were made before the effective date of notification until the requesting Authority withdraws the matter for which assistance was requested. Actions that have started under this Memorandum prior to the notice of withdrawal shall continue up to its termination. In the event of termination of this Memorandum, information obtained under this Memorandum of Understanding shall continue to be treated confidentially.
- 6) Amendments to this Memorandum shall be made in writing only. Any such amendment to the Memorandum shall enter into force when signed by both Authorities.

Signed on 7 April 2003 in two exemplars, in English

For the Czech National Bank

For the Commission Bancaire et  
Financière



Pavel Racoča  
Member of the  
Bank Board

Vera Masindova  
Executive Director



Eddy Wymeersch  
The Chairman