

Full wording of Act No. 136/2011 Coll. on the Circulation of Banknotes and Coins and on the amendment of Act No. 6/1993 Coll., on the Czech National Bank, as amended

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Act No. 136/2011 Coll., on the Circulation of Banknotes and Coins and on the amendment of Act No. 6/1993 Coll., on the Czech National Bank, as amended by Act No. 254/2012 Coll., Act No. 278/2013 Coll., Act No. 323/2016 Coll. and Act No. 183/2017 Coll.:

PART ONE

CIRCULATION OF BANKNOTES AND COINS

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject

This Act is related to the directly applicable regulations of the European Union¹ and regulates

- a) the protection of domestic and foreign currency banknotes and coins against counterfeiting and alteration, and
- b) other rules for the circulation of domestic banknotes and domestic coins, the rights and obligations relating thereto, and the performance of public administration in this area.

Article 2

Definitions of main terms

(1) A domestic banknote shall be a banknote denominated in Czech korunas and issued by the Czech National Bank which is valid or can be exchanged for a valid one; a banknote denominated in another currency which is valid or can be exchanged for a valid one shall be a foreign banknote.

(2) A domestic coin shall be a coin denominated in Czech korunas and issued by the Czech National Bank which is valid or can be exchanged for a valid one; a coin denominated in another currency which is valid or can be exchanged for a valid one shall be a foreign coin.

(3) A commemorative coin shall be a domestic coin manufactured from basic or precious metals and intended for collection.

(4) A domestic banknote shall be deemed

- a) complete if it lacks none of its parts or if it lacks only part or parts of the margin around the banknote,
- b) whole if it creates a continuous whole,
- c) worn by circulation if it is a complete and whole domestic banknote that is worn away, soiled or crumpled,
- d) damaged in a non-standard way if:
 - 1. it has been damaged by fire or is rotten,
 - 2. it is coloured or de-inked, unless the damage is marginal and does not prevent further circulation,
 - 3. it has been damaged by hygienically harmful material,
 - 4. it is damaged in a manner that makes it impossible to check it for authenticity,
 - 5. it has been damaged by an anti-theft device,
 - 6. it consists of more than two parts,
 - 7. its design is illegible, deformed, perforated due to having been officially rendered worthless or officially overprinted,
 - 8. its surface is smaller than or equal to 50%, or
 - 9. is lacking its entire upper or lower margin,
- e) damaged in a standard way if it has been damaged in a way that is not non-standard.

(5) A domestic coin shall be deemed

- a) complete if its surface has not been diminished, or, in the case of a coin consisting of multiple parts, if it is not lacking any of its parts,
- b) worn by circulation if it is a complete domestic coin that is worn away or soiled,
- c) damaged in a non-standard way if:
 - 1. it has been cut into,
 - 2. it consists of multiple parts which have been separated,
 - 3. it has been damaged by an anti-theft device,
 - 4. its design or relief is illegible, or

5. it is deformed,

e) damaged in a standard way if it has been damaged in a way that is not non-standard.

Article 3

Definitions of some other terms

For the purposes of this Act,

a) “credit institution” shall mean a bank, a foreign bank insofar as it carries on its activities in the Czech Republic through a branch, and a credit union,

b) “cash service” shall mean the acceptance of a deposit of domestic banknotes or domestic coins onto an account maintained by a credit institution or the payment of domestic banknotes or domestic coins from such an account, executed at a place specified for this purpose by employees of the credit institution or by persons acting on behalf of, or on account of, the credit institution.

Article 4

Some activities of the Czech National Bank regarding the management of the circulation of banknotes and coins

(1) The Czech National Bank shall

a) decide on the withdrawal from circulation of domestic banknotes and domestic coins worn by circulation and damaged in a non-standard or standard way (hereinafter referred to as “banknotes and coins unfit for further circulation”) and destroy withdrawn domestic banknotes and domestic coins and replace them with domestic banknotes and domestic coins fit for further circulation,

b) perform handling (see Article 7(4)) and safekeeping of domestic banknotes and domestic coins (hereinafter referred to as “domestic banknotes and coins”),

c) check suspicious banknotes and coins for authenticity and draw up expert opinions thereon,

d) perform safekeeping of counterfeited or altered banknotes and coins.

(2) The Czech National Bank may contractually delegate the activity referred to in paragraph 1(b) to a credit institution providing cash services or to a handler of domestic banknotes and coins (Article 15(2)); this shall be without prejudice to the responsibility of the Czech National Bank for the handling and safekeeping of domestic banknotes and coins.

(3) The Czech National Bank shall perform the functions of National Counterfeit Centre, National Analysis Centre and Coin National Analysis Centre.²

CHAPTER II

CIRCULATION OF DOMESTIC BANKNOTES AND COINS

Sub-chapter 1

Acceptance, exchange, dispensing and recirculation of domestic banknotes and coins

Article 5

Acceptance of domestic banknotes and coins

(1) Any person shall accept domestic banknotes and coins without restriction unless he is entitled to refuse to accept them.

(2) The following entities may refuse to accept domestic banknotes or coins:

a) a credit institution providing cash services if the banknotes and coins are denominated in Czech korunas and have been declared invalid by the Czech National Bank and if the time period stipulated on the basis of the law governing the activities and position of the Czech National Bank³ during which it is obliged to exchange them has expired,

b) anyone except the Czech National Bank and a credit institution providing cash services if the coins are commemorative coins or if the banknotes or coins have been declared invalid by the Czech National Bank,

c) anyone except the Czech National Bank and a credit institution providing cash services if a single payment comprises more than fifty domestic coins.

(3) When accepting domestic banknotes or coins, the Czech National Bank and a credit institution providing cash services shall be entitled to require that the accepted domestic banknotes and coins be sorted by denomination and, if their number so justifies, be packed in a specified manner.

(4) A person who accepts domestic banknotes and coins as payment of his claim may not charge any fee for accepting them.

(5) Unless stipulated otherwise in an agreement between the payer and recipient of domestic banknotes and coins, the recipient shall become responsible for their correct number and authenticity at the moment it takes them over. This shall not apply if the recipient did not have the possibility to check them for correct number and authenticity.

Article 6

Exchange of domestic banknotes and coins

(1) The Czech National Bank and a credit institution providing cash services shall exchange

a) domestic banknotes and coins for domestic banknotes and coins of other denominations,

b) domestic banknotes and coins worn by circulation and domestic banknotes and coins damaged in a standard way for domestic banknotes and coins fit for further circulation,

c) domestic banknotes and coins declared invalid by the Czech National Bank for valid domestic banknotes and coins for the time period stipulated on the basis of the law governing the activities and position of the Czech National Bank,³⁾ and

d) commemorative coins for domestic banknotes or domestic coins that are not commemorative coins.

(2) An exchange pursuant to paragraph 1(b) to (d) can also be executed in such a way that an amount corresponding to the nominal value of the domestic banknotes or coins is transferred or credited to an account specified by the person who submitted them for exchange at the request of that person.

(3) The Czech National Bank and a credit institution providing cash services shall execute an exchange referred to in paragraph 1(a) and (b) of up to 100 pieces of the same denomination free of charge, provided that the banknotes and coins are sorted by denomination.

(4) The Czech National Bank and a credit institution providing cash services shall execute an exchange referred to in paragraph 1(c) and (d) free of charge and without restriction, provided that the banknotes and coins are sorted by denomination.

Article 7

Joint provisions for the acceptance, dispensing, recirculation and exchange of domestic banknotes and coins

(1) The Czech National Bank shall handle domestic banknotes and coins accepted from circulation in accordance with the specified procedures for sorting domestic banknotes and coins and distinguishing between banknotes denominated in Czech korunas that are invalid, counterfeited or unfit for further circulation (hereinafter referred to as “handling standards”) before dispensing them into circulation from its stocks. It shall not dispense into circulation domestic banknotes and coins that are suspicious and banknotes and coins denominated in Czech korunas that are invalid.

(2) A credit institution providing cash services and a handler of domestic banknotes and coins shall handle domestic banknotes and coins accepted from circulation in accordance with the handling standards before recirculating them. It shall not recirculate domestic banknotes and coins that are suspicious and banknotes and coins denominated in Czech korunas that are invalid.

(3) Legal entities other than those referred to in paragraph 1 or 2 and bureaux de change shall check recirculated domestic banknotes and coins for authenticity and validity. They shall not recirculate domestic banknotes and coins that are suspicious and banknotes and coins denominated in Czech korunas that are invalid.

(4) Handling of domestic banknotes and coins is an activity consisting in sorting domestic banknotes and coins by denomination, checking their number, checking them for validity and authenticity, and sorting them into domestic banknotes and coins fit for further circulation and domestic banknotes and coins unfit for further circulation.

(5) For the purposes of this Act, recirculation shall mean any dispensing operation except

- a) dispensing operations of the Czech National Bank,
- b) the depositing of domestic banknotes or coins onto an account maintained by the Czech National Bank or by a credit institution providing cash services,
- c) the transfer of domestic banknotes or coins for handling to the Czech National Bank, a credit institution providing cash services or a handler of domestic banknotes and coins.

(6) A credit institution shall accept and exchange domestic banknotes and coins at all the establishments where it provides cash services. For security reasons, a credit institution may restrict the number of domestic banknotes and coins it accepts or exchanges in individual cases at specific establishments. A credit institution shall provide information about such restrictions in writing at the relevant establishments.

(7) An implementing legal rule shall stipulate the handling standards referred to in paragraphs 1 to 4, the numbers of domestic banknotes and coins in respect of the requirement that they be packed, and the manner of packing thereof pursuant to Article 5(3).

Sub-chapter 2

Handling of domestic banknotes and coins in special cases

Article 8

Handling of domestic banknotes and coins unfit for further circulation

(1) A legal entity and a bureau de change shall not recirculate domestic banknotes and coins unfit for further circulation and shall hand them over to the Czech National Bank.

(2) A natural person except a bureau de change shall recirculate domestic banknotes and coins worn by circulation and damaged in a standard way.

(3) An implementing legal rule shall stipulate a description of the degree of wear and damage of domestic banknotes and coins pursuant to paragraphs 1 and 2 and the manner of handing over domestic banknotes and coins unfit for further circulation to the Czech National Bank pursuant to paragraph 1.

Article 9

Acceptance of damaged domestic banknotes and coins

(1) The following shall apply to domestic banknotes and coins damaged in a standard way:

- a) the Czech National Bank shall accept them and shall not recirculate them from its stocks,

b) a credit institution providing cash services shall accept them and not recirculate them, provided that

1. they are complete, or

2. the banknotes are whole or consist of no more than two parts that undoubtedly belong together and the overall surface area of such banknotes exceeds 50%,

c) a legal entity other than those referred to in subparagraphs a) and b) and a bureau de change shall accept them and not recirculate them if they are complete; if they are not complete, the said entities may refuse them,

d) a natural person except a bureau de change may refuse to accept them.

(2) The following shall apply to domestic banknotes and coins damaged in a non-standard way:

a) the Czech National Bank shall seize them without providing compensation,

b) a credit institution providing cash services and a handler of domestic banknotes and coins shall seize them without providing compensation and hand them over to the Czech National Bank,

c) a legal entity other than those referred to in subparagraphs a) or b) may refuse to accept them.

(3) An implementing legal rule shall stipulate the procedure for seizing banknotes and coins damaged in a non-standard way, the procedure for handing them over to the Czech National Bank and the prerequisites of the confirmation that banknotes or coins damaged in a non-standard way have been seized.

Article 10

Exchange and provision of compensation for damaged domestic banknotes and coins

(1) The Czech National Bank and a credit institution providing cash services shall exchange domestic banknotes and coins damaged in a standard way for undamaged domestic banknotes and coins free of charge, provided that

a) they are complete, or

b) the overall surface area of the banknotes exceeds 50%, they are whole or they consist of up to two parts that undoubtedly belong together; if doubt arises about whether the parts of a banknote belong together, each part shall be assessed separately.

(2) The Czech National Bank and credit institutions providing cash services shall provide compensation for commemorative coins damaged in a standard way in the form of domestic banknotes and coins that are not commemorative coins.

(3) Domestic banknotes and coins damaged in a non-standard way shall not be

exchanged. If domestic banknotes or coins damaged in a non-standard way are handed over to the Czech National Bank, the Czech National Bank may, at the request of the person who handed them over or from whom they were seized, provide compensation for them in justified cases, relating above all to natural disasters or another event seriously affecting or endangering property or an event resulting in a criminal act.

(4) An exchange pursuant to paragraphs 1 and 2 can also be executed in such a way that the relevant amount is transferred or credited to an account specified by the person who submitted the domestic banknotes or coins for exchange at the request of that person. Compensation pursuant to paragraph 3 shall be provided in such a way that the relevant amount is paid in undamaged domestic banknotes and coins except commemorative coins to the person who handed over the domestic banknotes and coins damaged in a non-standard way or from whom they were seized, or the person who requested the exchange, or the relevant amount is transferred or credited to an account specified by that person if he so requests. If efforts to provide compensation to the person who requested it are unsuccessful, the Czech National Bank shall keep it and record it on a special account. If the person from whom domestic banknotes or coins damaged in a non-standard way were seized or the person who requested compensation fails to apply for their return or for compensation within three years of the day they were seized or compensation was requested, an amount corresponding to their nominal value shall become property of the Czech National Bank.

(5) The Czech National Bank shall maintain, for a period of 15 years, records about persons who submit, insert into a non-anonymous device or seize domestic banknotes and coins damaged in a non-standard way and shall maintain them separately from data on domestic banknotes and coins damaged in a non-standard way. The records shall contain the identification data of these persons, data on seized domestic banknotes and coins damaged in a non-standard way and data on the circumstances of the seizure of these banknotes and coins damaged in a non-standard way. The personal data from these records may be processed further only for the purposes of investigation and detection of crime.

(6) An implementing legal rule shall stipulate the procedure for exchanging domestic banknotes that are not complete or whole.

Sub-chapter 3

Handling of domestic banknotes and coins using self-service technical devices

Article 11

(1) A self-service technical device used for the provision of services or the sale of goods in which domestic or foreign currency banknotes and coins are accepted, exchanged or returned (hereinafter referred to as an “anonymous device”) may be operated if it

- a) recognises the authenticity and validity of accepted domestic and foreign currency banknotes and coins,
- b) rejects suspicious and invalid banknotes and coins, and
- c) does not recirculate domestic banknotes that are not handled in accordance with the handling standards.

(2) A self-service technical device used for the handling of money on an account maintained by a payment service provider consisting in the acceptance, exchange or paying-out of domestic or foreign currency banknotes or coins (hereinafter referred to as a “non-anonymous device”) may be operated if it

a) recognises the authenticity and validity of accepted domestic and foreign currency banknotes and coins,

b) determines the identity of the account owner and specifies the executed transaction,

c) seizes suspicious banknotes, rejects suspicious coins and does not recirculate invalid banknotes and coins and domestic banknotes that are not handled in accordance with the handling standards.

(3) An implementing legal rule shall stipulate the scope of specification of an executed transaction referred to in paragraph 2(b).

(4) Paragraphs 1 and 2 shall be without prejudice to the requirements for the operation of anonymous devices and non-anonymous devices accepting euro banknotes or euro coins and for the seizing of euro banknotes or euro coins by these devices stipulated in a directly applicable legal rule of the European Union.⁵

CHAPTER III

PROTECTION OF DOMESTIC AND FOREIGN BANKNOTES AND COINS AGAINST COUNTERFEITING AND ALTERING

Article 12

Handling of suspicious banknotes and coins

(1) Any person may refuse to accept banknotes or coins for which reasonable suspicion arises that they are counterfeit or have been altered (hereinafter referred to as “suspicious banknotes or coins”), unless he is obliged to seize them. An altered banknote or coin is a domestic or foreign banknote or coin that has been illicitly modified in such a way that it is capable of giving a false impression about its validity or nominal value.

(2) A legal entity and a bureau de change shall

a) seize suspicious banknotes without compensation,

b) call upon the person who submitted the suspicious banknotes or coins to prove his identity, record his personal identification data and issue confirmation that the suspicious banknotes or coins have been seized; the person who submitted the suspicious banknotes or coins shall comply with the call to prove his identity.

c) without undue delay hand over the suspicious banknotes or coins to the Czech National Bank,

d) hand over a copy of the confirmation that the suspicious banknotes or coins have been seized to the Czech National Bank, and

d) without undue delay hand over a copy of the confirmation that the suspicious banknotes or coins have been seized to the Police of the Czech Republic.

(3) When handling suspicious banknotes and coins, the Czech National Bank shall proceed in accordance with paragraph 2(a), b) and e). Paragraph 2(c) and (d) shall apply *mutatis mutandis* to the Police of the Czech Republic in respect of the procedure pursuant to the Act on the Police of the Czech Republic. Paragraph 2(c) to (e) shall apply *mutatis mutandis* to the Customs Administration of the Czech Republic in respect of the procedure pursuant to the Act on the Customs Administration of the Czech Republic.

(4) If the suspicious banknotes or coins were handed over to their recipient in a closed package or the suspicious banknotes were inserted into a non-anonymous device, the recipient or the operator of the non-anonymous device shall seize these banknotes or coins, determine the identity of the person who handed them over or of the account owner, issue confirmation that the banknotes or coins have been seized and proceed further pursuant to paragraph 2(c) to (e). Paragraph 2(a) and (c) to (e) shall also apply *mutatis mutandis* to credit institutions providing cash services and handlers of domestic banknotes and coins when safeguarding suspicious banknotes or coins when handling their own cash.

(5) The Czech National Bank shall maintain, for a period of 15 years, records about persons who submit or seize suspicious banknotes or coins or insert suspicious banknotes into a non-anonymous device and shall maintain them separately from data on suspicious banknotes and coins. The records shall contain the identification data of these persons, data on the seized suspicious banknotes and coins and data on the circumstances of the seizing of these suspicious banknotes and coins. The personal data from these records may be processed further only for the purposes of investigation and detection of crime. If suspicious banknotes or coins prove to be authentic, the Czech National Bank shall, without unnecessary delay, delete from the records the person who submitted, inserted into a non-anonymous device or seized the suspicious banknotes or coins.

(6) An implementing legal rule shall stipulate the procedure for seizing suspicious banknotes and coins and handing them over to the Czech National Bank and the prerequisites of the confirmation that suspicious banknotes or coins have been seized.

Article 13

Checking of banknotes and coins for authenticity by the Czech National Bank

(1) No compensation shall be provided for counterfeit or altered banknotes and coins.

(2) If seized suspicious banknotes or coins prove to be authentic, the Czech National Bank shall, without unnecessary delay, return them to the person from whom they were seized. The Czech National Bank may also provide compensation for seized suspicious banknotes and coins by paying an amount corresponding to their nominal value in cash or by transferring or crediting them to an account specified by that person.

(3) If seized suspicious banknotes or coins prove to be authentic but efforts to return

them or provide compensation for them pursuant to paragraph 2 are unsuccessful, the Czech National Bank shall keep them and record them on a special account. If the person from whom, according to the confirmation, the suspicious banknotes or coins were seized fails to apply for their return or for compensation within three years of the day they were seized, these banknotes or coins or the amount corresponding to their nominal value shall become property of the Czech National Bank.

(4) If seized suspicious domestic banknotes or coins prove to be authentic but at the same time damaged in a non-standard way, the Czech National Bank shall seize them without providing compensation.

Article 14

Reproductions of banknotes and coins

(1) Tangible or intangible reproductions of domestic or foreign currency banknotes or coins and objects imitating them may be produced only if they meet the technical criteria stipulated in an implementing legal rule or a directly applicable regulation of the European Union concerning medals and tokens similar to euro coins.⁴

(2) Tangible or intangible reproductions of domestic or foreign currency banknotes or coins and objects imitating them may be sold, imported, held or distributed only if they meet the technical criteria stipulated in an implementing legal rule or a directly applicable regulation of the European Union concerning medals and tokens similar to euro coins.⁴

CHAPTER IV

HANDLING OF DOMESTIC BANKNOTES AND COINS AND AUTHORISATION FOR THE ACTIVITY OF HANDLER OF DOMESTIC BANKNOTES AND COINS

Article 15

(1) Only the following entities may handle domestic banknotes and coins for others:

- a) the Czech National Bank,
- b) a credit institution providing cash services, and
- c) a handler of domestic banknotes and coins.

(2) A handler of domestic banknotes and coins is an entity authorised to handle domestic banknotes and coins for others on the basis of authorisation for the activity of handler of domestic banknotes and coins granted by the Czech National Bank (hereinafter referred to as “authorisation”).

Article 16

(1) The Czech National Bank shall grant authorisation to an applicant

- a) which is a joint-stock company, a limited liability company or a state-owned enterprise,

- b) whose registered office and actual office are situated in the Czech Republic,
- c) whose statutory body, member of the statutory body and persons directly managing its business (hereinafter referred to as the “senior officer”) meet the general requirements for carrying on a trade pursuant to a law governing trades,
- d) whose actual owner is a person of integrity,
- e) whose internal control system complies with the requirements stipulated by this Act,
- f) which is able to duly ensure the protection of domestic banknotes and coins entrusted to it for handling,
- g) which is equipped with devices for handling domestic banknotes and coins that comply with the handling standards and are located in the Czech Republic, and
- h) which submits draft internal rules governing the internal control system.

(2) For the purposes of this Act, “actual owner” shall mean

- a) a natural person who *de facto* or *de jure* exercises a direct or indirect controlling influence over the management or operation of the business; indirect influence shall mean influence exercised through another person or other persons,
- b) a natural person who has more than 25% of the voting rights in the business either by himself or on the basis of an agreement with another partner or other partners; for the purposes of this Act, having voting rights shall mean the ability to exercise voting rights at one’s own discretion regardless of whether and on what legal grounds they are executed, or the ability to influence the exercise of voting rights by another person,
- c) natural persons acting in concert who have more than 25% of the voting rights in the business, or
- d) a natural person who is a recipient of the proceeds from the activities of the business on the basis of another fact.

(3) For the purposes of this Act, a person who has been lawfully convicted of an intentionally committed criminal offence shall not be deemed a person of integrity if the said offence was committed in connection with business activities, unless such person is deemed not to have been convicted.

(4) Paragraph 1(b) shall not apply if an international treaty which forms part of Czech law stipulates the obligation to allow an applicant whose registered office is situated outside the Czech Republic to carry on the activities of a handler of banknotes and coins under conditions similar to those applying to persons whose registered offices are situated in the Czech Republic.

(1) An application for authorisation may be submitted only on the prescribed form, to which the applicant shall attach documents confirming compliance with the conditions stipulated in Article 16(1). The specimen of the form and its annexes shall be set out in an implementing legal rule.

(2) The Czech National Bank shall issue a decision on the application for authorisation within three months of the commencement of the proceedings. If the proceedings are suspended simultaneously with a call to remedy shortcomings in the application, this time limit shall recommence on the day the suspension ceased.

Article 18

(1) A handler of domestic banknotes and coins shall notify the Czech National Bank without undue delay of any change

a) in the data specified in the application for authorisation or the annexes thereto on the basis of which the authorisation was granted; together with a notification of changes in senior officers, partners and the actual owner, it shall prove the compliance of such persons with the conditions stipulated in Articles 16(1)(c) and 16(1)(d), and

b) in the internal rules governing the internal control system.

(2) Notifications pursuant to paragraph 1 shall be submitted on the prescribed form, to which the notifying entity shall attach documents confirming the change in the data specified in the application for authorisation or the annexes thereto on the basis of which the authorisation was granted. The specimen of the form for the notification of changes and the content of its annexes shall be set out in an implementing legal rule.

Article 19

(1) The authorisation shall cease to be valid on the day

a) the handler of domestic banknotes and coins ceases to exist,

b) a decision on the insolvency of the handler of domestic banknotes and coins becomes final or a decision to refuse an insolvency petition due to lack of assets of the handler of domestic banknotes and coins becomes final.

(2) The Czech National Bank shall withdraw the authorisation if

a) it was granted on the basis of untrue or incomplete information,

b) the handler of domestic banknotes and coins has repeated or seriously breached an obligation laid down in this Act,

c) the handler of domestic banknotes and coins has breached an obligation laid down in an executable decision issued under this Act,

d) the facts on the basis of which the authorisation was granted have changed to the extent that the handler of domestic banknotes and coins as a result of such change no longer

complies with the conditions for granting authorisation, or

e) the handler of domestic banknotes and coins requests in writing that the authorisation be withdrawn.

Article 20

The Czech National Bank shall maintain a list of handlers of domestic banknotes and coins and publish it in a manner allowing remote access.

Article 21

(1) A credit institution providing cash services and a handler of domestic banknotes and coins shall put in place and maintain a control system which is fit for the proper and careful handling of domestic banknotes and coins. The control system must be comprehensive and commensurate with the nature, scope and complexity of the activity of handler of domestic banknotes and coins and must ensure proper and smooth handling.

(2) The control system shall contain organisational and governance prerequisites, including at all times

- a) governance principles and procedures,
- b) an organisational set-up with a sound, transparent and comprehensive definition of activities and related competences and decision-making powers, and
- c) sound administrative and accounting procedures.

(3) The organisational prerequisites pursuant to paragraph 2 shall be rules regulating

- a) the keeping of records of domestic banknotes and coins entrusted to the handler of domestic banknotes and coins for handling;
- b) domestic banknote and coin handling processes;
- c) the system of control and responsibility for entrusted assets; and
- b) the protection of domestic banknotes and coins;

(4) A credit institution providing cash services and a handler of domestic banknotes and coins shall continuously verify and regularly assess the adequacy and effectiveness of the control system.

(5) An implementing legal regulation shall stipulate the manner of fulfilling the above requirements regarding the control system of a credit institution providing cash services and of a handler of domestic banknotes and coins.

Article 22

(1) Domestic banknotes and coins entrusted to a credit institution providing cash

services or to a handler of domestic banknotes and coins for handling shall not be their property.

(2) A credit institution providing cash services and a handler of domestic banknotes and coins shall hold domestic banknotes and coins entrusted for handling and belonging to different persons separately by owner and separately from their own domestic banknotes and coins.

(3) A credit institution providing cash services and a handler of domestic banknotes and coins shall keep electronic records of the domestic banknotes and coins they have taken over for handling.

Article 23

(1) A credit institution providing cash services and a handler of domestic banknotes and coins shall provide the Czech National Bank with information about the locations at which domestic banknotes and coins are handled, information about devices used for handling domestic banknotes and coins, information about changes to these devices and information about the handling of domestic banknotes and coins.

(2) A credit institution providing cash services and a handler of domestic banknotes and coins shall maintain the devices for handling domestic banknotes and coins and check their function so that they comply with the handling standards.

(3) An implementing legal regulation shall stipulate the scope, structure, form, manner and time limits for the provision of information pursuant to paragraph 1.

CHAPTER V

SUPERVISION

Article 24

Performance of supervision

(1) The Czech National Bank shall perform supervision of compliance with this Act and with the directly applicable legal rules of the European Union to which the Act is related.

(2) A credit institution providing cash services and a handler of domestic banknotes and coins shall provide the Czech National Bank with information needed and explanations requested in the performance of supervision.

(3) In entities in respect of whom there is a reasonable suspicion that they are unlawfully handling domestic banknotes and coins for another entity the Czech National Bank may carry out an on-site examination within the scope necessary to ascertain facts relating to the activities which have given rise to this suspicion.

Article 25

Remedial measures

(1) For a breach of the obligations stipulated in this Act and in the directly applicable legal rules of the European Union regulating the circulation of banknotes and coins, as well as in decisions of the Czech National Bank, the Czech National Bank may impose on a credit institution providing cash services and a handler of banknotes and coins measures to remedy an ascertained shortcoming which are commensurate with the nature and seriousness of the breach; it shall stipulate a reasonable time limit for removing the shortcoming ascertained.

(2) Depending on the nature and seriousness of the shortcoming ascertained, the Czech National Bank shall also be entitled to

- a) prohibit domestic banknotes and coins whose handling does not comply with the procedures laid down in Article 7(2) and (3) and Articles 22 and 23 from being recirculated;
- b) order the replacement of persons referred to in Article 16(1)(c) or (d) or persons who are responsible for handling domestic banknotes and coins in a credit institution handling domestic banknotes and coins;
- c) order that the control system be brought into accordance with Article 21;
- d) order the replacement or modification of devices for handling domestic banknotes and coins so that they comply with the handling standards; or
- e) order an extraordinary audit at the expense of a handler of domestic banknotes and coins or a credit institution providing cash services; the Czech National Bank shall stipulate a reasonable time limit for carrying out these measures.

Article 26

Proceedings

(1) Only a credit institution providing cash services or a handler of domestic banknotes and coins on which remedial measures are to be imposed shall be a party to a proceeding to impose remedial measures.

(2) An appeal filed against a decision to impose measures referred to in Article 25 shall not have suspensory effect.

Article 27

Procedural fine

(1) The Czech National Bank may impose a procedural fine of up to CZK 500,000 in the performance of supervision pursuant to this Act under terms laid down in the Administrative Procedure Code or in a law regulating state inspection.

(2) A procedural fine may be imposed repeatedly. The sum of such fines for the same act shall not exceed CZK 2,500,000.

(3) Proceedings to impose a procedural fine may be opened up to ten days from the

day when the unlawful conduct occurred.

(4) Revenue from procedural fines shall constitute a state budget revenue.

CHAPTER VI

OFFENCES

Article 28

Offences in respect of the making of reproductions of banknotes and coins and objects imitating them and in respect of handling them

(1) A natural person, a legal entity or a natural person who is an entrepreneur shall be deemed to have committed an offence if he

a) makes a tangible or intangible reproduction of a domestic or foreign banknote or coin or an object imitating them in form without fulfilling the technical criteria stipulated in an implementing legal rule issued to implement Article 14 or in a directly applicable regulation of the European Union concerning medals and tokens similar to euro coins,⁴ or

b) sells, imports, holds or disseminates a tangible or intangible reproduction of a domestic or foreign banknote or coin or an object imitating them in form in contravention of Article 14(2).

(2) A fine of up to CZK 1,000,000 may be imposed for an offence under paragraph 1.

Article 28a

cancelled

Article 29

Offences against the circulation of currency

(1) A bureau de change or a legal entity shall be deemed to have committed an offence if it

a) fails to seize suspicious banknotes and coins in contravention of Article 12(2)(a) or a directly applicable legal rule of the European Union laying down measures necessary for the protection of the euro against counterfeiting,⁵ or

b) fails to hand over seized suspicious banknotes or coins to the Czech National Bank without unnecessary delay in contravention of Article 12(2)(c) or a directly applicable legal rule of the European Union laying down measures necessary for the protection of the euro against counterfeiting.⁵

(2) A credit institution providing cash services, a bureau de change, a handler of domestic banknotes and coins, a casino operator, a holder of a postal licence or a special postal licence under the Postal Services Act, and also a payment institution, a small-scale payment service provider, an electronic money institution and a small-scale electronic money

issuer which recirculate accepted banknotes and coins when providing payment services or issuing electronic money shall be deemed to have committed an offence if, in contravention of Article 33(1), it fails to ensure that persons who check domestic banknotes and coins for authenticity when handling such domestic banknotes and coins or who recirculate accepted banknotes and coins hold a certificate demonstrating they have completed a course on the identification of suspected counterfeit or altered banknotes and coins issued by the Czech National Bank or by a person authorised to do so by the Czech National Bank.

(3) A credit institution providing cash services or a handler of domestic banknotes and coins shall be deemed to have committed an offence if:

a) in contravention of Article 7(2) it fails to handle domestic banknotes and coins accepted from circulation in accordance with the handling standards before recirculating them,

b) in contravention of Article 21 it fails to maintain an appropriate control system or internal rules for the protection of domestic banknotes and coins,

c) in contravention of Article 22(2) it fails to hold domestic banknotes and coins entrusted for handling and belonging to different persons separately,

d) in contravention of Article 22(3) fails to keep records of domestic banknotes and coins received for handling,

e) in contravention of Article 23(1) it fails to provide the Czech National Bank with information about the locations at which domestic banknotes and coins are handled, about devices used for handling domestic banknotes and coins, about devices or about the handling of domestic banknotes and coins or to report changes to devices used for handling domestic banknotes and coins,

f) in contravention of Article 23(2) it fails to maintain the devices for handling domestic banknotes and coins or to check their function.

g) in contravention of Article 24(2) it fails to provide the Czech National Bank with information needed and explanations requested in the performance of supervision, or

h) fails to take a remedial measure imposed under Article 25.

(4) A credit institution providing cash services shall be deemed to have committed an offence if:

a) in contravention of Article 5(1) and (2) it fails to accept domestic banknotes and coins declared invalid by the Czech National Bank,

b) in contravention of Article 6 it fails to exchange domestic banknotes and coins or charges a fee for an exchange of domestic banknotes and coins which it is obliged to perform free of charge, or

c) in contravention of Article 7(6) it fails to accept or exchange domestic banknotes and coins at all the establishments where it provides cash services.

(5) The following fines may be imposed for an offence:

- a) up to CZK 10,000,000 in the case of an offence under paragraph 1, 2 or 3(a),
- b) up to CZK 1,000,000 in the case of an offence under paragraph 3(b) to (h) or paragraph 4.

Article 30

Other offences

(1) An operator of anonymous and non-anonymous devices referred to in Article 11 shall be deemed to have committed an offence if, in contravention of Article 11, it operates a self-service technical device that does not fulfil the requirements for the operation of such devices.

(2) A legal entity other than a credit institution providing cash services or a handler of domestic banknotes and coins, or a bureau de change, shall be deemed to have committed an offence if, in contravention of Article 7(3), it fails to check recirculated domestic banknotes and coins for authenticity and validity or if it recirculates suspicious or invalid banknotes and coins.

(3) A legal entity or a natural person who is an entrepreneur shall be deemed to have committed an offence if it unlawfully handles domestic banknotes and coins for another person.

(4) The following fines may be imposed for an offence:

- a) up to CZK 1,000,000 in the case of an offence under paragraph 1 or 2,
- b) up to CZK 10,000,000 in the case of an offence under paragraph 3.

Article 31

cancelled

Article 32

Joint provisions on offences

(1) Offences under this Act shall be heard by the Czech National Bank.

(2) The Czech National Bank shall publish the final decision of the Czech National Bank on the imposition of a sanction and the final decision of the court on the lifting of that sanction.

CHAPTER VII

JOINT AND TRANSITIONAL PROVISIONS

Article 33

Specialised course

(1) The Czech National Bank, a credit institution providing cash services, a handler of domestic banknotes and coins, a bureau de change, a casino operator, a holder of a postal licence or a special postal licence under the Postal Services Act, and also a payment institution, a small-scale payment service provider, an electronic money institution and a small-scale electronic money issuer which recirculate accepted banknotes and coins when providing payment services shall ensure that persons who check domestic banknotes and coins for authenticity when handling such domestic banknotes and coins or who recirculate accepted domestic and foreign banknotes and coins hold a certificate demonstrating they have completed a specialised course on the identification of suspected counterfeit or altered banknotes and coins (hereinafter referred to as the “course”) issued by the Czech National Bank or a person authorised to do so (hereinafter referred to as the “certificate”).

(2) The certificate shall be awarded after the completion of the course only to a person who is legally competent and of legal age.

(3) The course shall be organised for

a) persons who may lead a course as a trainer after completing the course,

b) persons who check domestic and foreign banknotes and coins for authenticity when handling such domestic banknotes and coins or recirculate accepted banknotes and coins in

1. the Czech National Bank,
2. credit institutions providing cash services,
3. handlers of domestic banknotes and coins, or
4. a bureau de change which makes bureau-de-change transactions between currencies other than the Czech koruna, the euro, the US dollar, the British pound or the Japanese yen,

c) persons who check domestic and foreign banknotes and coins for authenticity when handling such domestic banknotes and coins or recirculate accepted banknotes and coins in entities other than those referred to in subparagraph b).

(4) The course for persons referred to in Article (3)(a) or (b) shall be organised exclusively by the Czech National Bank. It may, on request, authorise a legal or natural person who is an entrepreneur that is active in the field of education to organise courses for persons referred to in Article (3)(c) (hereinafter referred to as the “authorised person”) if that person proves that it has organisational and technical prerequisites for organising courses. A course organised by an authorised person may be led only by a person who has completed a course pursuant to Article (3)(a).

(5) The Czech National Bank shall be entitled to check the authorised person and to withdraw the authorisation by decision should any shortcomings be detected in the organisation of the course. A person whose authorisation has been withdrawn may apply for a new authorisation no earlier than one year after the date of withdrawal of the authorisation.

(6) The Czech National Bank shall publish a list of authorised persons in a manner allowing remote access.

(7) An implementing legal rule shall stipulate the types and content of courses, the content of final tests, the organisational and technical prerequisites for the organisation of courses by an authorised person, and the essential elements of certificates.

Article 34

The provisions of the Administrative Procedure Code regarding the manner of the closing of remonstrance proceedings shall not apply to such proceedings; in such cases the provisions of the Administrative Procedure Code regarding appeals shall be observed.

Article 35

Authorisation

The Czech National Bank shall issue a decree implementing Articles 7(7), 8(3), 9(3), 10(6), 11(3), 12(6), 14, 17(1), 18(2), 21(5), 23(3) and 33(7).

Article 36

Transitional provisions

(1) The Czech National bank, credit institutions providing cash services and entities that handle domestic banknotes and coins for other entities, and other legal entities and bureaux de change shall proceed in accordance with Article 7(1) to (3) within 24 months from the date of effect of this Act.

(2) Operators of anonymous and non-anonymous devices shall adjust such technical devices to the requirements given in Article 11 within 12 months from the date of effect of this Act.

(3) Entities that handle domestic banknotes and coins for other entities as of the date of effect of this Act, with the exception of the Czech National Bank and credit institutions providing cash services, shall comply with requirements laid down in Articles 15(2), 16 and 21 within 12 months from the date of effect of this Act.

(4) Credit institutions providing cash services, entities that handle domestic banknotes and coins for other entities, and other legal entities shall comply with the requirements laid down in Article 33(1) within 24 months from the date of effect of this Act.

PART TWO

Amendment of the Act on the Czech National Bank

Article 37

Act No. 6/1993 Coll., on the Czech National Bank, as amended by Act No. 60/1993 Coll., Act No. 15/1998 Coll., Act No. 442/2000 Coll., Ruling of the Constitutional Court No. 278/2001 Coll., Act No. 482/2001 Coll., Act No. 127/2002 Coll., Act No. 257/2004 Coll., Act No. 377/2005 Coll., Act No. 57/2006 Coll., Act No. 62/2006 Coll., Act No. 230/2006 Coll.,

Act No. 160/2007 Coll., Act No. 36/2008 Coll., Act No. 124/2008 Coll., Act No. 254/2008 Coll., Act No. 281/2009 Coll., Act No. 285/2009 Coll., Act No. 295/2009 Coll., Act No. 145/2010 Coll., Act No. 156/2010 Coll. and Act No. 41/2011 Coll., shall be amended as follows:

1. A new Article 16a shall be inserted after Article 16:

“Article 16a

(1) No person shall be allowed to produce, import, offer, sell or otherwise distribute medals, tokens or similar items whose appearance may mislead their holder to believe that they are coins or commemorative coins of a certain par value issued by the Czech National Bank.

(2) No person shall be allowed to use the word “coin” when referring to or describing a token, medal or similar item in connection with the offer, sale or other distribution thereof.”.

2. In the first sentence of Article 17(2), the words “, and the remains of banknotes smaller than one quarter of the original area of the banknote” shall be deleted.

3. Articles 17, 18, 20, 21 and 46d shall be deleted.

4. In Article 22, subparagraphs b), c) and e) shall be deleted.

The previous subparagraph d) shall be denoted b).

5. In Article 24(a), the reference to footnote 1a including the footnote shall be deleted.

6. In Article 31(1), the words “a special legislative act³⁾” shall be replaced with the words “a legislative act governing the issuance of bonds³⁾”.

Footnote 3 shall read as follows:

“3) Articles 25 and 26 of Act No. 190/2004 Coll., on Bonds, as amended by Act No. 56/2006 Coll.”.

7. In the final part of Article 41(2), the words “pursuant to special legal rules and fulfilment of the information duty pursuant to special legal rules.^{8a)}” shall be replaced with the words “and fulfilment of the information duty of these entities pursuant to legislative acts governing the supervision of the activities of these entities by the Czech National Bank.^{8a)}”.

Footnote 8a shall read as follows:

“8a) e.g. Act No. 21/1992 Coll., as amended, Act No. 256/2004 Coll., as amended, Act No. 189/2004 Coll., on Collective Investment, as amended, Act No. 87/1995 Coll., as amended, Act No. 277/2009 Coll., on Insurance, Act No. 42/1994 Coll., on Supplementary Pension Insurance with State Contribution, as amended.”.

8. In Article 44(1)(b), the reference to footnote 9b including the footnote shall be deleted.

9. In Article 44(1)(c), the words “special legal rules^{9c)}” shall be replaced with the

words “legislative acts governing insurance, the activities of insurance intermediaries and private pension schemes^{9c)}”.

Footnote 9c shall read as follows:

“9c) Act No. 277/2009 Coll.

Act No. 42/1994 Coll., as amended.

Act No. 38/2004 Coll., on Insurance Intermediaries and Independent Loss Adjusters and on the Amendment of the Trades Licensing Act (Act on Insurance Intermediaries and Loss Adjusters), as amended”.

10. A new subparagraph d) shall be inserted in Article 44(1) after subparagraph c) which shall read:

“d) entities handling domestic banknotes and domestic coins pursuant to a legislative act governing the circulation of banknotes and coins;”

The previous subparagraphs d) and e) shall be denoted e) and f).

11. In Article 44(1)(d), the words “a special legal rule^{9d)}” shall be replaced with the words “a legislative act governing the payment system^{9d)}”.

Footnote 9d shall read as follows:

“9d) Act No. 284/2009 Coll., on the Payment System, as amended by Act No. 156/2001 Coll.”.

12. In Article 44(3), the words “special legal rules^{9f)}” shall be replaced with the words “legislative acts governing financial conglomerates, the activities of banks and insurance activities^{9f)}”.

Footnote 9f shall read as follows:

“9f) Act No. 377/2005 Coll., on Supplementary Supervision of Banks, Credit Unions, Electronic Money Institutions, Insurance Corporations and Securities Dealers in Financial Conglomerates and on the Amendment of Certain Other Acts (Act on Financial Conglomerates).

Act No. 21/1992 Coll., as amended.

Act No. 277/2009 Coll.”.

13. In Article 44b, the reference to footnote 9k shall be replaced with a reference to footnote 18 and the previous footnote 9k shall be denoted footnote 18.

14. Article 46c shall read as follows:

“Article 46c

(1) A legal person shall be deemed to have committed an administrative offence if it produces, imports, offers, sells or otherwise distributes in contravention of Article 16a(1) medals, tokens or similar items that may be mistaken for coins or commemorative coins issued by the Czech National Bank.

(2) A legal person shall be deemed to have committed an administrative offence if it uses the word coin in contravention of Article 16a(2) when referring to or describing a medal,

token or similar item in connection with the offer, sale or distribution thereof.

(3) A natural person shall be deemed to have committed an offence if it produces, imports, offers, sells or otherwise distributes in contravention of Article 16a(1) medals, tokens or similar items that may be mistaken for coins or commemorative coins issued by the Czech National Bank.

(4) A natural person shall be deemed to have committed an offence if it uses the word coin in contravention of Article 16a(2) when referring to or describing a medal, token or similar item in connection with the offer, sale or distribution thereof.

(5) A fine of up to CZK 10,000,000 shall be imposed for an administrative offence under paragraph 1 or 2.

(6) A fine of up to CZK 1,000,000 may be imposed for an offence under paragraph 3 or 4.”

15. In Article 59, the reference to footnote 16 shall be replaced with a reference to footnote 3a and footnote 16 shall be deleted.

PART THREE

REPEALING PROVISIONS

Article 38

The following regulations are hereby repealed:

1. Decree No. 37/1994 Coll., stipulating the procedure for accepting and handling money and providing compensation for incomplete and damaged banknotes and coins.
2. Decree No. 553/2006 Coll., on the terms and conditions under which it is possible to reproduce banknotes, coins, cheques, securities and payment cards and to produce objects imitating them.

PART FOUR

EFFECT

Article 39

This Act shall take effect on 1 July 2011, except for Article 37(1), which shall take effect on the date of promulgation.

Němcová

Klaus

Nečas

¹ For example, Council Regulation (EC) No. 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting, as amended by Council Regulation (EC) No. 44/2009, Council Regulation (EC) No. 1339/2001 of 28 June 2001 extending the effect of Regulation (EC) No. 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting to those Member States which have not adopted the euro as their single currency, as amended by Council Regulation (EC) No. 45/2009, Council Regulation (EC) No. 2182/2004 of 6 December 2004 concerning medals and tokens similar to euro coins, as amended by Council Regulation (EC) No. 46/2009, Council Regulation (EC) No. 2183/2004 of 6 December 2004 extending to the non-participating Member States the application of Regulation (EC) No. 2182/2004 concerning medals and tokens similar to euro coins, as amended by Council Regulation (EC) No. 47/2009.

² Council Regulation (EC) No. 1338/2001.

Council Regulation (EC) No. 1339/2001.

Decision of the European Central Bank of 8 November 2001 on certain conditions regarding access to the Counterfeit Monitoring System (ECB/2001/11).

Council Decision of 6 December 2001 on the protection of the euro against counterfeiting (2001/887/JHA).

³ Article 19 of Act No. 6/1993 Coll., on the Czech National Bank.

⁴ Council Regulation (EC) No. 2182/2004, as amended by Council Regulation (EC) No. 46/2009. Council Regulation (EC) No. 2183/2004, as amended by Council Regulation (EC) No. 47/2009.

⁵ Council Regulation (EC) No. 1338/2001, as amended by Council Regulation (EC) No. 44/2009. Council Regulation (EC) No. 1339/2001, as amended by Council Regulation (EC) No. 45/2009.