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Act No 277/2013 Sb. on Currency Exchange

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

PART ONE GENERAL PROVISIONS

Section 1 Subject matter

This law regulates the operating conditions for authorised currency exchanger and other conditions for conducting currency exchange.

Section 2 Definitions

(1) Exchange transaction is a transaction consisting of the exchange of

- (a) banknotes, coins or cheques denominated in certain currency for banknotes, coins or cheques denominated in another currency, or
- (b) scriptural money or electronic money denominated in certain currency for banknotes, coins or cheques denominated in another currency, provided that a payer has given a payment order to transfer the scriptural money or the electronic money through a payee providing currency exchange.

(2) Exchange transaction is not

- (a) the provision of cash by a supplier of goods or services to a purchaser as a part of a payment for goods or services just before the execution the payment,
- (b) the currency conversion service offered by payee or a third party prior to the initiation of a payment transaction through an ATM or at the point of sale.

(3) Currency exchange is a consistent activity carried out on own account and responsibility, independently, provided for the purpose of producing a profit, consisting in the realization of exchange transaction.

Section 3 The subjects entitled to provide currency exchange

The currency exchange may be provided only by

- (a) banks, foreign banks and foreign financial institutions under the conditions laid down by a law governing activities of banks,
- (b) savings and credit cooperatives under the conditions laid down by a law governing activities of savings

and credit cooperatives,

(c) authorised currency exchangers (Section 4), and

(d) the Czech National Bank under the conditions laid down by a law governing the competences of the Czech National Bank.

PART TWO AUTHORISED CURRENCY EXCHANGER

Section 4 General provision

Authorised currency exchanger is a person who is authorised to provide currency exchange on the base of authorization of currency exchanger granted by the Czech National Bank.

Section 5 Register of authorised currency exchangers

(1) Register of authorised currency exchangers is established and is administered and operated by the Czech National Bank. The register of authorised currency exchangers is maintained in electronic form.

(2) The Czech National Bank enters in the register of authorised currency exchangers the following:

(a) for natural person: business name or name, or names respectively, surname, date of birth, address of residence or registered office and identification number of person,

(b) for legal person: business name or name, registered office and identification number of person,

(c) the date of authorization to provide currency exchange, and

(d) the date of lapse or withdrawal of authorization to operate as authorised currency exchanger.

(3) If the applicant was not assigned an identification number of person before filing the application, the identification number is granted to the Czech National Bank by the administrator of the central register of legal persons, entrepreneurial natural persons and public authorities.

(4) The Czech National Bank publishes the register of authorised currency exchangers on its website.

Section 6 Authorization to operate as authorised currency exchanger

(1) The Czech National Bank grants authorization to operate as authorised currency exchanger to the applicant who

(a) has registered office, a business establishment or a part thereof in the Czech Republic,

(b) is credible; the condition of credibility must be fulfilled also by the applicant's managers and beneficial owners,

(c) has managers who actually manage the providing of currency exchange and

1. who have secondary education completed with maturita exam,

2. who are not managers who actually manage the providing of currency exchange at another currency exchanger with the exemption of currency exchanger who is a member of the same group, and

(d) has reached the age of 18 years and possesses full legal capacity in the case of natural person.

(2) The beneficial owner is understood for the purposes of this Act as the beneficial owner under the Anti-Money Laundering and Countering the Financing of Terrorism Act.

(3) It is presumed that the beneficial owner of an issuer of a security admitted to trading on the European regulated market or a foreign market with investment instruments that is comparable to the European regulated market, is credible for the purposes of granting of authorization to operate as authorised currency exchanger.

(4) Manager of a legal person is understood for the purposes of this Act as its statutory body, member of its statutory body, its director, holder of the corporate agent (*in Czech: „prokurista”*) or another person who in effectively manages its activity. If the statutory body or its member is a legal person, the manager is understood as a natural person exercising the function of governing body or its member on behalf of the legal person. Manager of a natural person is understood for the purposes of this Act as his/her director, the holder of the corporate agent (*in Czech: „prokurista”*) or another person who in fact effectively manages his/her business.

(5) The application for authorization to operate as authorised currency exchanger may be filed also by the founder of a legal person that has not emerged yet. The Czech National Bank grants the authorization to operate as authorised currency exchanger to this legal person if the legal person is supposed reasonably to fulfil the conditions set in subsection (1) on the day of its emergence.

(6) The application for authorization to operate as authorised currency exchanger may only be made in electronic form. Formal requirements for applications including annexes demonstrating compliance with the conditions set in subsection (1), its form and means of filing are laid down in a secondary regulation.

Section 7

Registration in the register of authorised currency exchangers

(1) If the Czech National Bank complies with the application for authorization to operate as authorised currency exchanger, the applicant is registered in the register of authorised currency exchangers. The decision is not made in a written form in this case. The decision becomes final at the moment of registration in the register of authorised currency exchangers. The Czech National Bank informs immediately the applicant about the registration in the register of authorised currency exchangers.

(2) If the Czech National Bank complies with the application for authorization to operate as authorised currency exchanger filed according to Section 6(5), it registers in the register of authorised currency exchangers a legal person whose founder filed the application. The Czech National Bank records in the register that the legal person has not been established yet. The Czech National Bank cancels this record without undue delay after the emergence of the legal person.

Section 8

The change of data

(1) The authorised currency exchanger notifies the Czech National Bank without undue delay about the change of data included in the application for the authorization to operate as authorised currency exchanger or its annexes, on the basis of which the authorization to operate as authorised currency exchanger was granted to him. The authorised currency exchanger is not obliged to notify the Czech National Bank about the change of data held in basic registers as reference data.

(2) The notification according to subsection (1) may only be made in electronic form. Formal requirements for the notification and its annexes, its form and means of filing are laid down in a secondary regulation.

Section 9

The lapse and withdrawal of the authorization to operate as authorised currency exchanger

(1) The authorization to operate as authorised currency exchanger lapses

- (a) by the death of authorised currency exchanger,
- (b) by the dissolution of authorised currency exchanger who is a legal person,
- (c) by the date on which the insolvency decision or the decision rejecting the insolvency proposal due to lack of assets of the authorised currency exchanger becomes final.

(2) The Czech National Bank withdraws the authorization to operate as authorised currency exchanger if

the authorised currency exchanger so requests.

(3) The Czech National Bank may withdraw the authorization to operate as authorised currency exchanger, if

- a) the authorised currency exchanger repeatedly or seriously breached his/her duties provided by this Act or other regulation providing rules of the providing of currency exchange,
- b) the authorised currency exchanger does not fulfil the conditions provided by this Act for granting the authorization to operate as authorised currency exchanger, or
- c) the authorization to operate as authorised currency exchanger was granted on the basis of false or incomplete data or as a result of another unlawful action of the authorised currency exchanger.

PART THREE CONDITIONS FOR THE PROVIDING OF A CURRENCY EXCHANGE

Section 10 Branch office

(1) Branch office means for the purposes of this Act as a space where the currency exchange is provided. Unless provided otherwise by this Act, the provisions concerning branch office apply *mutatis mutandis* on exchange machine.

(2) Person entitled to provide currency exchange (hereinafter the “provider“) is not allowed to provide the currency exchange outside the branch office.

(3) Branch office must be signed by business name or name and surname or designation of the provider and its opening hours for public relations.

(4) The provider notifies to the Czech National Bank the location of the branch office at least 3 working days before the day when he/she starts to provide there currency exchange. The provider notifies to the Czech National Bank without undue delay any changes of data included in this notification with exception for data held in basic registers as reference data

(5) Formal requirements for the notification, its form and means of filing are laid down in a secondary regulation.

Section 11 Exchange rate table

(1) Provider must place an exchange rate table in a branch office where he/she provides exchange transactions.

(2) Exchange rate table includes:

- (a) denomination that is the document is exchange rate table,
 - (b) business name or name, or names respectively, and surname of provider and identification number of person,
 - (c) denomination or other designation of currencies that are exchanged by the provider,
 - (d) information about exchange rates that are used for conversion between these currencies and that are the least advantageous for the person who is interested in concluding an exchange transaction (hereinafter the “potential client“),
 - (e) information about fee for providing the exchange of currencies and the conditions under which the fee is required, and
 - (f) information on the right of the person with whom the provider realized the exchange transaction (hereinafter the “client“) to withdraw from an exchange contract.
- (3) The data on the exchange rate table are presented at least in Czech and English language, transparently, in an adequate size and in a clear and comprehensible manner. The names of the currencies according to subsection (2)(c) shall not be presented in

Czech and English language if their other designation clearly presents the particular currency. The exchange rate table must be sufficiently separated and differentiated from other information presented in the branch office. Numbers are presented in Arabic numerals.

(4) The data according to subsection (2)(c) and (d) are presented as follow:

- (a) the information about the direction of exchange is presented from the position of provider in the first person singular or plural,
- (b) in the case of the exchange of Czech Crown the exchange rate used by provider acquiring foreign currency is presented before the exchange rate used by provider disposing foreign currency.

Section 12

Other conditions of exchange of currencies

(1) The provider cannot provide an exchange transaction through an exchange rate or a fee that is less advantageous for the potential client than the exchange rate or fee listed on the exchange rate table.

(2) If the provider offers exchange rate that is more advantageous for the potential client than the exchange rate and fee presented on the exchange rate table, only the general information about that offer without particular exchange rate can be presented in the branch office or its immediate surroundings.

Section 12a

Fee

The provider is not entitled for a fee for an exchange transaction excluding the fee for exchange transaction consisting of

- (a) coins deposited by the client,
- (b) cheque deposited by the client, or
- (c) scriptural money or electronic money if the client has given a payment order to transfer these scriptural money or electronic money through provider.

Section 13

Information before the conclusion of the exchange transaction

(1) Provided that the amount deposited by the potential client to exchange transaction exceeds the amount equivalent of 1 000 EUR, the provider communicates the information referred to section 14(2)(a)(1), 14(2)(b)(1) to (6), 14(2)(c)(1) and a date and time of communication of the information.

(2) Information according to the subsection 1 must be communicated to the potential client in a textual form, at least in Czech and English language, in an adequate size, in a clear and comprehensible manner. Numbers are presented in Arabic numerals. The textual form is maintained if the information is communicated in such a manner that the information can be stored and viewed repeatedly by the potential client.

Section 14

Receipt of exchange transaction

(1) The provider issues without undue delay a receipt of exchange transaction to the customer. The receipt must be issued to the customer in a textual form. The data on the receipt must be at least in Czech and English language, transparently, in an adequate size and in a clear and comprehensible manner. Numbers are presented in Arabic numerals. The textual form is maintained if the receipt is issued in such a manner that the receipt can be stored and viewed repeatedly by the client.

(2) Provider on the receipt provides information according to subsection (1)

- (a) information on provider which are

1. name and the identification number of provider,
 2. the address of the registered office and address of the branch office where the contract is concluded, or another address, including electronic, that is relevant for communication of the client and provider, and in a case that the exchange transaction is concluded by exchange machine also the address of the nearest branch office which is not an exchange machine,
 3. opening hours for public relations in a branch office in which the exchange contract was concluded,
- (b) information on the exchange transaction which are
1. denomination or other designation of currencies which were exchanged,
 2. the amount that shall be deposited by the client to provide the exchange of currencies,
 3. the exchange rate,
 4. the amount corresponding to the amount deposited by the to provide the exchange of currencies after the conversion by the exchange rate,
 5. fee for the providing of the exchange transaction,
 6. the amount that shall be paid to the client after the providing of exchange of currencies if it is different from the amount described in point 4, and
 7. date and time of the providing exchange transaction,
- (c) information on rights of the client which are
1. information on the client's right to withdraw from an exchange contract and a description how to withdraw from an exchange contract,
 2. information on the right of the client to file a complaint to the supervisory authority, name and address of this supervisory authority including its internet (web) address containing information on the client's right,
 3. information on the right of the client to propose an action to the authority for out of court settlement of disputes between the potential client and the provider and name and address of this authority.

(3) The Czech National Bank publishes address of websites under subsection 2(c)(2) by official information of the Czech National Bank in journal of the Czech National Bank.

(4) The provider is required to fulfil by issuing the receipt the duty under subsection 1 according to a law governing consumer protection.

(5) If the provider sells or provides to the client additional good or service (hereinafter the "additional service") in connection with an exchange transaction, he issues without undue delay a receipt according to a law governing consumer protection. The provider specifies in the receipt also information on the right of the client to withdraw from additional service contract under section 16(2). Subsection (1) second sentence applies *mutatis mutandis*.

Section 15

Information duty towards the Czech National Bank

(1) The provider informs the Czech National Bank about the volume of exchange transactions realized in individual currencies.

(2) The scope, form, time frame and method of providing information are laid down in a secondary regulation.

Section 16

Documents and records

(1) The provider carries out documents and makes other records to an extent which is necessary to credible evidence of proper performance of its duties prescribed by this Act.

(2) The provider keeps records of exchange transactions, in which it records

(a) a serial number of each record in uninterrupted series at least for individual branch offices,

(b) information on exchange transaction referred in the receipt under section 14(2)(b),
(c) information about any withdrawal from an exchange contract under section 16a including an information how parties return what they acquired from cancelled exchange contract.

(3) The provider carries out records into the evidence of exchange transaction without undue delay after execution of the exchange transaction, at the latest by the end of the day, in which the exchange transaction was concluded.

(4) The provider stores the documents and records according to subsection (1) and (2) for at least 6 calendar years following the date, on which those documents and records were created. This does not affect the duty to retain documents under other legislation.

(5) The duty referred to in subsection (4) also applies to the legal successor of the provider and also to the person whose authorization to operate as authorised currency exchanger has lapsed or has been withdrawn.

Withdrawal from the exchange contract

Section 16a

(1) The client may withdraw from the exchange contract up to 3 hours after conclusion of the exchange transaction in the branch office where the exchange transaction was realized; the withdrawal must be applied for the whole currency exchange contract.

(2) If the amount deposited by the client to execute the exchange transaction exceeds the equivalent of 1 000 EUR, client may withdraw from the exchange transaction under subsection 1 to the extent of 1 000 EUR.

(3) The period under subsection (1) runs only during the business hours for of the branch office in which the exchange transaction was executed. Against the client who invokes the business hours referred in the receipt of exchange transaction, the provider cannot object that the period under subsection (1) has expired provided that the client refers to the business hours indicated on the receipt of exchange transaction. In case the period under subsection (1) is interrupted, it shall not expire less than 30 minutes, from the time when it started to run again.

Section 16b

(1) If the client have concluded an exchange contract via an exchange machine, the client may withdraw from the exchange contract up to 3 business days after conclusion of the exchange contract; the withdrawal must applied for the whole scope of the exchange contract.

(2) If the amount of the exchange transaction deposited by the client exceeds the equivalent of 1 000 EUR, the client may withdraw from the exchange contract under subsection (1) to the extent of the equivalent of 1 000 EUR.

Section 16c

(1) If the client withdraw from the exchange contract under Section 16a or 16b, the provider may pay to the client the difference between the amount that it would have paid to the client after the execution of the exchange transaction using the exchange rate of the Czech currency to the foreign currency set by the Czech National Bank for the day preceding the day of the exchange transaction and the amount that has been actually paid after the exchange was executed. In this case the client does not return the funds received.

(2) If the provider provides to the client additional service in connection with the exchange transaction, the client may withdraw from the exchange contract and also withdraw from the additional service contract.

Section 16d

(1) If the client cannot withdraw from the exchange contract for the reason that there is an obstacle on the provider's side the client may withdraw up to 6 months after the execution of the exchange transaction and without the limitation to the branch office where the exchange transaction was realised.

(2) Subsection (1) applies *mutatis mutandis* if the client does not withdraw from the contract because the provider misled the client or the provider did not inform the client on the right to of the withdrawal from the contract under Section 11(2)(f) or Section 14(2)(c)(1).

Section 16e

It applies that the period for withdraw under Section 16b(1) and Section 16d(1) is preserved if the client during this period sends through the postal service provider the withdrawal to the provider.

Section 16f

(1) If the client withdraws from the exchange contract under Section 16a or 16b, the provider is not obliged to return funds before

- (a) the client returns the received funds, or
- (b) the client offers returning of the received funds and the provider does not accept it.

(2) To return the performance from the contract of additional service, from which the client withdrew under Section 16c(2), subsection (1) apply *mutatis mutandis*.

Section 16g

(1) The provider shall issue a receipt of withdraw from the exchange transaction without undue delay. The receipt shall be issued to the client in a textual form. The data on the receipt must be at least in the Czech and English language, provided transparently, in an adequate size and in a clear and comprehensible manner. Numbers are presented in Arabic numerals. The requirement for textual form is fulfilled if the receipt is issued in such a manner that the receipt can be stored and viewed repeatedly by the client.

(2) Provider shall provide in the receipt information referred to in subsection (1)

- (a) information about the provider
 - 1. name and the identification number of person,
 - 2. the address of the registered office and the address of the branch office where the withdrawal was concluded
- (b) information on exchange transaction from which the client withdraw,
- (c) information on the amounts the parties refunded including the name or other designation of the currencies, and
- (d) information on the date and time of the withdraw from the exchange transaction.

Section 16h

The arrangements derogating from the provision of Section 16a to 16g to the detriment of the client shall not be taken into account.

PART FOUR SUPERVISION

Section 17

Exercise of supervision

(1) The Czech National Bank supervises compliance of duties of providers which are laid down by this

Act or other legislation governing the currency exchange.

(2) The provider is obliged to provide to the Czech National Bank exercising supervision required information and needed explanation; this applies *mutatis mutandis* to a person reasonably suspected from providing currency exchange without authorization.

(3) A person reasonably suspected from providing currency exchange without authorization may be inspected on-site in the extent which is necessary to establish fact findings regarding activity resulting into this suspicion.

(4) For the obligation of professional secrecy in the exercise of supervision according to this Act, the provisions of a law governing the activity of banks about the obligation of professional secrecy in the exercise of banking supervision are applied *mutatis mutandis*.

Section 18 **Remedial measures**

(1) If the provider breach the duty laid down in this Act or other legislation regulating providing currency exchange, the Czech National Bank may according to the character and gravity of the detected deficiency impose to the provider:

- (a) to provide for a remedy within the prescribed time limit, or
- (b) to exchange his or her manager within the prescribed time limit.

(2) If it is necessary to protect clients of the provider, the Czech National Bank may in addition to measure according to subsection (1) prohibit the provider providing of his/her activity or impose to the provider to reduce providing of his/her activity until the measure imposed according to subsection (1) is implemented.

(3) Provider to whom the Czech National Bank imposed corrective measure according to subsection (1) informs the Czech National Bank without undue delay about the remedy of deficiencies and the form of applied remedies.

Section 19 **Public order fine**

(1) The Czech National Bank may impose a public order fine up to CZK 500,000 under the conditions laid down by Administrative Procedure Code.

(2) The income from public order fines is government budget revenue.

PART FIVE **OFFENCES**

Section 20 **Offences of natural or legal persons**

(1) A natural or legal person commits an offence by:

- (a) giving incorrect data or concealing any fact in an application for an authorization to operate as authorised currency exchanger pursuant to Section 6(6),
- (b) as a successor of provider or a person whose authorization to operate as authorised currency exchanger lapsed or was withdrawn, in violation of Section 16(5) does not keep documents or records for the prescribed period of time,
- (c) operating currency exchange without authorization, or
- (d) as a person reasonably suspected from operating currency exchange without authorization does not provide required information or needed explanation pursuant to Section 17(2).

- (2) An offence under subsection (1) is punishable by a fine up to:
- (a) CZK 1,000,000 in the case of an offence under letter (a) or (d),
 - (b) CZK 5,000,000 in the case of an offence under letter (b) or (c).

Section 21
Offence of an authorised currency exchanger

(1) The authorised currency exchanger commits an offence by the fact that in violation of Section 8(1) does not notify the change of data included in the application for authorization to operate as authorised currency exchanger or in its annexes.

- (2) An offence under subsection (1) is punishable by a fine up to CZK 500,000.

Section 22
Offences of a provider

- (1) A provider commits an offence by:
- (a) providing currency exchange outside the branch office in violation of Section 10(2),
 - (b) providing currency exchange in the branch office without the notification pursuant to Section 10(4) first sentence,
 - (c) failing to comply with the notification duty pursuant to Section 10(4) second sentence,
 - (d) failing to place the exchange rate table in violation of Section 11,
 - (e) violation the prohibition pursuant to Section 12(1),
 - (f) violation the prohibition pursuant to Section 12(2),
 - (g) requiring a fee for exchange transaction despite he is not entitled to require fee pursuant to Section 12a,
 - (h) failing to communicate to the potential client the information pursuant to Section 13,
 - (i) failing to issue receipt of exchange transaction to the client pursuant to Section 14 or 16g,
 - (j) failing to comply with the information duty pursuant to Section 15,
 - (k) failing to produce documents or make records pursuant to Section 16(1),
 - (l) failing to keep record exchange transaction pursuant to Section 16(2)
 - (m) failing to record an information into exchange transaction record pursuant to Section 16(3),
 - (n) failing to keep documents or records for a prescribed period of time in violation of Section 16(4),
 - (o) failing to return to client received funds or performance from the contract of additional service without undue delay after returning it by client or after the moment when the client suggest its return and the provider does not accept in pursuant to Section 16f,
 - (p) natural person, whose acting is attributable to provider in relation to asses responsibility to offence, intentionally obstructs to client to withdraw from exchange contract,
 - (q) failing to provide requested information or necessary explanation in the exercise of the supervision pursuant to Section 17(2),
 - (r) failing to implement the corrective measures within the prescribed time-limit pursuant to Section 18(1)(b), or
 - (s) providing currency exchange in violation of Section 18(2).

- (2) An offence under subsection (1) is punishable by a fine up to:
- (a) CZK 100,000 in the case of an offence under letter (c),
 - (b) CZK 1,000,000 in the case of an offence under letter (a), (b), (g) to (k), (m), (n) or (q) to (s),
 - (c) CZK 5,000,000 in the case of an offence under letter (d) to (f), (l), (o) or (p).

Section 23
derogated

Section 24
Common provisions

- (1) The offences under this Act are considered by the Czech National Bank.

(2) Final decision of the Czech National Bank imposing an administrative sanction and final decision of a court annulling this administrative sanction is published by the Czech National Bank on its website.

PART SIX
COMMON, TRANSITIONAL AND FINAL PROVISIONS

Section 25
Currency conversion

The amount deposited by the client for the exchange of currency is for the purposes of Section 13(1), 16a(2) and 16b(2) converted by the exchange rate of the Czech currency to foreign currency announced by the Czech National Bank for the day before the day of execution of the exchange transaction.

Section 26
Authority

The Czech National Bank issues a regulation to implement Section 6(6), Section 8(2), Section 10(5) and Section 15(2).

Section 27
Transitional provision

1. Foreign exchange place that was registered for currency exchange according to Section 3 of Act No 219/1995 Sb., Foreign Exchange Act, as amended and supplemented up to the effective date of this Act, is considered as authorised currency exchanger since the effective date of this Act. The Czech National Bank enters it in the register of authorised currency exchangers without undue delay.

2. The application for registration for currency exchange filed according to Act No 219/1995 Sb., Foreign Exchange Act, as amended and supplemented up to the effective date of this Act, that was not decided up to the effective date of this Act, is considered as application for the registration in the register of authorised currency exchangers since the effective date of this Act. The proceeding continues according to this Act.

3. If the authorised currency exchanger started to provide currency exchange in the branch office before the effective date of this Act, the notification duty concerning this branch office laid down in Section 10(4) of this Act is fulfilled up to 1 month since the effective date of this Act, unless the branch office was registered by the Czech National Bank according to Section 3h of Act No 219/1995 Sb., Foreign Exchange Act, as amended and supplemented up to the effective date of this Act.

Section 28
Effect

This Act enters into effect at the first day of the second calendar month following after the day of its promulgation.