

DECREE

**of the Ministry of Finance of the Slovak Republic
No 559/2002 Coll. of 10 September 2002
on adequacy of own funds of securities dealers
as amended by Act No 753/2002 Coll.**

The Ministry of Finance of the Slovak Republic, pursuant to Article 74 paragraph 5 of Act No 566/2001 Coll. on securities and investment services and on amendments to certain laws (Securities Act) (hereinafter referred to as the “Act”), hereby stipulates:

Basic provisions
Article 1
Subject-matter of the Decree

This Decree regulates the following:

- a) what is understood by assets, reserves and risks;
- b) risk weights;
- c) what constitutes own funds of a securities dealer, and what constitutes own funds of a consolidated group and subconsolidated group;
- d) details concerning the calculation of own funds of a securities dealer and own funds of a consolidated group and subconsolidated group;
- e) details of the calculation of assets of a securities dealer and assets of a consolidated group and subconsolidated group;
- f) details concerning the calculation of market risks of a securities dealer and market risks of a consolidated group and subconsolidated group.

Article 2
Definitions of terms

For the purpose of this Decree

- a) “asset” shall mean
 1. the value of individual component of property of a securities dealer estimated in accordance with a separate regulation¹⁾,
 2. credit equivalent of²⁾ an off-balance-sheet item;
- b) “off-balance-sheet item” shall mean
 1. a claim subject to the fulfilment of a condition precedent,
 2. a future claim arising based on a contract;
- c) “risk weight” reflects the level of credit risk associated with an asset of a securities dealer;
- d) “reserve” shall mean a source of coverage of a securities dealer accumulated and debited to costs for the purpose of covering a risk of losses and in order to cover expected losses on off-sheet-balance items which will become or may become assets of a securities dealer;
- e) “underlying instrument” shall mean a security, investment instrument, gold or commodity that a derivative relates to or is derived from³⁾, in particular

¹⁾ Act No 431/2002 Coll. on accounting.

²⁾ Article 10 of Decree of the National Bank of Slovakia No 6/2006 on adequacy of banks’ own funds of financing (Notification No 695/2002 Coll.)

1. share,
2. bond,
3. funds in foreign currency;

f) “debt security” shall mean a security negotiable on the financial market which represents an obligation of the issuer,

1. to refund the funds provided,
2. to pay up the funds deposited,
3. or of a person designated by it to pay the funds;

g) “commodity” shall mean a tangible object and controllable natural force, in particular a product, energy and raw material, including precious metals, except for gold, which are or may be traded on commodity market and services market;

h) “precious metal” shall mean gold, silver, platinum and palladium;

i) “recognized foreign securities dealer” shall mean a foreign securities dealer which does not have a registered office in a Member State of the European Communities or in a State which is a member of the European Economic Area (hereinafter referred to as “Member State”) and which is obliged to observe in its activities the rules, at least to the extent as determined by law, also abroad ⁴⁾;

j) “regulated market” shall mean a stock exchange, foreign stock exchange or other foreign regulated public market⁵⁾;

k) “option” shall mean the right of one contracting party to receive or to deliver upon request, and the obligation of the other contracting party, if requested, to deliver or receive, the object of option at the price agreed upon transaction date (strike price) while the period that will lapse between transaction date and its settlement is more than three days;

l) “repurchase transaction” shall mean a transaction in which the transferor makes a transfer of securities or commodities under the condition that it undertakes to redeem such securities or commodities or substitutable securities or commodities of the same kind at the set price at the time agreed or at the time set by the transferor;

m) “reverse repurchase transaction” shall mean a transaction in which the transferee buys securities or commodities under the condition that it undertakes to sell back such securities or commodities or substitutable securities or commodities of the same kind at the set price at the time agreed or at the time set by the transferor;

n) “term transaction” shall mean a transaction with future transaction settlement agreed to take place no earlier than on the third day after the deal closing, in particular futures and forward;

o) “futures” shall mean a transaction made at the regulated market or commodity exchange, in which the contracting party undertakes to deliver or to receive a standardized number or quantity of securities, investment instruments, gold or commodity at the specified place and time at the price agreed in advance, which is selected from the standardized offer of the regulated market of commodity exchange;

p) “forward” shall mean a transaction made outside the regulated market or commodity exchange, in which the contracting party undertakes to deliver or to receive, on the day agreed and at the price agreed upon deal closing, an agreed number or quantity of securities, investment instruments, gold or commodity (delivery forward), or to pay a set amount of money (non-delivery forward);

³⁾ Article 8 (d) of Act No 566/2001 Coll. on securities and investment services and on amendments to certain laws (Securities Act)

⁴⁾ Articles 71 and 74 of Act No 566/2001 Coll.

⁵⁾ Article 2 paragraph 13 of Act No 429/2002 Coll. on the Stock Exchange

- q) “swap” shall mean a transaction outside the regulated market, in which the contracting party undertakes to exchange, on the day agreed at the price agreed upon deal closing, an agreed number or quantity of securities, investment instruments, funds in foreign currency, gold or commodity for an agreed number or quantity of different securities, investment instruments, funds in foreign currency, gold or commodity;
- r) “risks” shall mean credit risks and market risks;
- s) “real price of a security, other investment instrument, derivative or commodity” shall mean market price, and if market price does not exist or it is impossible to establish it, a theoretical price of a security, other investment instrument, derivative or commodity;
- t) “market price of a security, other investment instrument, derivative or commodity” shall mean the price reached and quoted on the market where a security, other investment instrument, derivative or commodity is traded;
- u) “theoretical price of a security, other investment instrument, derivative or commodity” shall mean a qualified estimate of the price made with professional care by a defined method or by a detecting or computing algorithm which is described in the internal rules of management of a securities dealer;
- v) “equity security” shall mean shares, temporary certificates and shares in mutual funds;
- w) “debt instrument” shall mean a debt security or derivative whose underlying instrument is a debt security or interest rate;
- x) “equity instrument” shall mean an equity security or derivative whose underlying instrument is an equity security;
- y) “transaction between professionals” shall mean a reverse repurchase transaction and a borrowing of securities by a securities dealer if the securities dealer’s contracting party is a financial institution⁶⁾, a securities dealer or a securities dealer has its registered office in a Member State or is a bank with its registered office in a State of A zone according to a separate regulation⁷⁾, a recognized foreign securities dealer, or a person authorized to perform clearing and settlement of exchange businesses, or a stock exchange.

Own funds of a securities dealer

Article 3

Structure of own funds

- (1) Own funds of a securities dealer are composed of
 - a) capital of a securities dealer,
 - b) complementary own funds of a securities dealer.
- (2) Capital of a securities dealer means the sum of its core own funds (Article 4 paragraph 1) and additional own funds (Article 5 paragraph 1) reduced by the value of deductible items (Article 6).

Article 4

Own funds of a securities dealer

- (1) Core own funds of a securities dealer consist of the sum of items creating their value, which is reduced by deductible items pursuant to paragraph 3.
- (2) Items creating the value of core own funds of a securities dealer include the following:
 - a) paid-up registered capital excluding preference shares and capital surplus,

⁶⁾ Article 8 (c) of Act No 566/2001 Coll.

⁷⁾ Article 2 (j) of Decree No 6/2002 (Notification No 695/2002 Coll.).

- b) retained profit of past years, reserve fund and other funds accumulated from profit,
- c) repealed as from 1 January 2003.

(3) The items reducing the value of own funds of a securities dealer include the following:

- a) book value of own shares of a securities dealer acquired by the securities dealer;
- b) intangible fixed assets, in particular set-up costs of a securities dealer and the value of software;
- c) loss of the current accounting period and loss outstanding of past years;
- d) book value of a contribution of a securities dealer's shareholder whose interest in its registered capital is 10% or more, but not exceeding the amount of rate of issue of the securities dealer's shares owned by it, reduced by an amount of that item in proportion to such contribution, which reflects risks, losses and depreciations.

Article 5 **Additional own funds of a securities dealer**

Additional own funds of a securities dealer comprise:

- a) subordinated debts whose residual time to maturity exceeds one year if
 - 1. a contract of subordinated debt is concluded for a definite period of time;
 - 2. the whole agreed amount of funds has been provided to the securities dealer for at least five years excluding a possibility to require its earlier repayment and with agreed commencement of repayment after the lapse of five years from their provision to the securities dealer;
 - 3. in the contract of a subordinated debt the law of the Slovak Republic shall govern the provisions concerning the following :
 - 3a. subordination clause;
 - 3b. a possibility to amend the subordination clause, or withdraw from it;
 - 3c. a possibility to withdraw from the contract of a subordinated debt;
 - 3d. a possibility to set off a subordinated debt against the debtor's claims;
 - 3e. a possibility to secure a subordinated debt;
 - 3f. a possibility to accept a subordinated debt or to assume it;
 - 3g. discharge of the contract on subordinated debt;
 - 3h. a possibility to change the term of validity of the contract of a subordinated debt;
 - 4. it has been stipulated that the debtor shall be obliged to pay off neither a principal of the subordinated debt nor interest on it in agreed time limits if the payment of such instalments would result in a decrease of adequacy of the debtor's own funds to below 8%;
- b) statutory reserves, exchange reserves and other reserves to cover risks arising from investment services⁸⁾
- c) other funds if
 - 1. they are freely available to a securities dealer to cover risks arising from investment services provided,
 - 2. their existence is recorded in the bookkeeping of the securities dealer,
 - 3. their value has been determined with professional care by executive officers of the securities dealer and its value as determined has been verified by an auditor whose identification data have been reported to the Office for Financial Market in conjunction with a notification pursuant to a separate regulation⁹⁾.

⁸⁾ Decree of the Ministry of Finance of the Slovak Republic No 3177/1998-KM of 16 November 1998 establishing a chart of accounts and accounting procedures for entrepreneurs (Notification No 362/1998 Coll.).

⁹⁾ Decree of the Ministry of Finance of the Slovak Republic No 558/2002 Coll. determining the scope, method and deadlines for submission of statements, reports or overviews from accounting and statistical records, and

- (3) A subordinated debt is a credit or a loan received by the securities dealer, and a commitment to return funds from bonds whose issuer is a securities dealer, if the securities dealer agreed on a subordination clause with the creditor.
- (4) Subordinated debts pursuant to paragraph 1 (a) constitute a component of additional own funds of a securities dealer up to a half of its core own funds at the most.
- (5) Additional own funds of a securities dealer are a component of own funds not exceeding the value of its core own funds.

Article 6

- (1) The sum of core own funds of a securities dealer and additional own funds of a securities dealer shall be reduced by:
 - a) net book value of
 - 1. a contribution of a securities dealer in the registered capital of another securities dealer or financial institution⁶⁾ which exceeds 10% of the registered capital of such other securities dealer or financial institution, and
 - 2. such subordinated claims of a securities dealer towards another securities dealer or financial institution⁶⁾ pursuant to point 1, which are a component of own funds of such other securities dealer or financial institution;
 - b) the sum of net book values of
 - 1. contributions of a securities dealer in the registered capital of other securities dealers or financial institutions⁶⁾ not exceeding 10% of the registered capital of such other securities dealers or financial institutions, and
 - 2. of such subordinated claims of a securities dealer towards other securities dealers or financial institutions⁶⁾ other than those specified under letter a) and which are a component of own funds of such securities dealers or financial institutions if such sum exceeds 10% of the sum of core own funds of the securities dealer and additional own funds of the securities dealer.
- (2) A subordinated claim means a claim of a securities dealer, which in the case of the debtor's bankruptcy or dissolution by liquidation will be settled only after the settlement of claims of other creditors, and its settlement is by no means secured.

Article 7 **Complementary own funds of a securities dealer**

- (1) Complementary own funds of a securities dealer comprise:
 - a) subordinated debts pursuant to Article 5 paragraph 1 (a), which pursuant to Article 5 paragraph 3 are not a component of additional own funds;
 - b) other subordinated debts if
 - 1. a contract of subordinated debt is concluded for a definite period of time,
 - 2. based on the contract of subordinated debt the creditor provided the whole agreed amount of funds to the securities dealer for a period less than five years, but not less than two years with agreed commencement of repayment after the lapse of at least two years from their provision to the securities dealer and without the possibility to require its earlier repayment;
 - 3. it has been stipulated that the debtor shall be obliged to pay off neither a principal of the subordinated debt nor interest on it in agreed time limits if the payment of such

determining the content, form, layout, deadlines, method and place for submission of statements, notifications and other reports of a securities dealer and a foreign securities dealer.

⁶⁾ Article 8 (c) of Act No 566/2001 Coll.

instalments would result in a decrease of adequacy of the debtor's own funds to below 8%;

4. a court seated in the Slovak Republic shall have jurisdiction to settle disputes of the contracting parties, and the governing law in facts referred to in Article 5 paragraph 1 letter a) point 3 shall be the law of the Slovak Republic.

- (2) Complementary own funds of a securities dealer shall be a component of own funds maximum up to
 - a) 200% of the value of core own funds reduced by 8% of the value of risk-weighted assets pursuant to Article 12;
 - b) the value necessary to cover the component of market risk not covered by capital.
- (3) Complementary own funds of a securities dealer represent own funds only to cover market risks.

Article 8

- (1) At the date when financial statements are not drawn up the reserves shall be included in own funds in the value corresponding to the last financial statements.
- (2) The calculation of own funds pursuant to paragraph 3 shall derive from
 - a) current period profit or loss determined on the last day of the last calendar month elapsed;
 - b) expected losses determined in the last financial statements.
- (3) Own funds of a securities dealer pursuant to Articles 3 to 5 and Article 7 shall be included in the calculation of own funds only after deduction of possible tax liabilities, and only if they may be used immediately and without limitation to cover risks and losses arising from the securities dealer's business activities.

Article 9

- (1) Own funds of a consolidated group of a securities dealer and subconsolidated group of a securities dealer are constituted of own funds of members of a consolidated group or subconsolidated group determined by the method of complete consolidation.¹⁰⁾
- (2) Own funds of a consolidated group of a securities dealer and subconsolidated group of a securities dealer comprise also
 - a) first consolidation difference¹⁰⁾,
 - b) conversion differences¹⁰⁾,
 - c) interests of minority shareholders¹⁰⁾.
- (3) Own funds on a consolidated basis pursuant to paragraph 2, if they have credit balances, together with consolidated items pursuant to Article 4 paragraph 2 represent core own funds on a consolidated basis.
- (4) Own funds on a consolidated basis pursuant to paragraph 2 if they have debit balances shall, together with consolidated items pursuant to Article 4 paragraph 3, reduce core own funds on a consolidated basis.

Article 10

¹⁰⁾ Decree of the Ministry of Finance of the Slovak Republic No 65/393/1993 of 22 December 1993 determining drawing up of consolidated financial statements (Notification No 8/1994 Coll.).

- (1) In determining what constitutes own funds of a securities dealer that is a bank, and in determining details concerning their calculation a procedure pursuant to a separate regulation shall be applied.^{10a)}
- (2) Market risks of a securities dealer being a bank and its assets according to credit risk contained therein shall be calculated in accordance with a separate regulation^{10b)}. Provisions of Articles 11 to 27 shall not be applied in such case.

Assets of a securities dealer according to the credit risk level contained therein and market risks
Article 11

- (1) For the purpose of calculation of a securities dealer's assets according to the credit risk level contained therein, and for the purpose of calculation of market risks, the securities dealer's assets shall be, pursuant to Article 54 paragraph 11 of the Act, split into commercial portfolio and non-commercial portfolio. The securities dealer's assets according to Article 54 paragraphs 12 and 13 of the Act shall be included in the non-commercial portfolio in accordance with paragraph 3.
- (2) The following shall be included in the commercial portfolio:
 - a) positions in securities, investment instruments, commodities and derivatives held for the purpose of trading and for the purpose of obtaining yields on real or expected price differences and changes in interest rates in a short-term period: as a rule within one year;
 - b) positions in securities, investment instruments, commodities and derivatives accruing on investment services provision pursuant to Article 6 paragraph 2 letters c) and f) of the Act;
 - c) unsettled transactions pursuant to Article 23 paragraph 2 and transactions pursuant to Article 24 paragraph 2;
 - d) repurchase transactions and loans of securities and commodities if securities and commodities pursuant to letters a) to c) are concerned;
 - e) reverse repurchase transactions and borrowings of securities and commodities included in the commercial portfolio according to letters a) to c) if securities and commodities pursuant to letters a) to c) are concerned and if the following conditions under points 1, 2 and 4 or under points 3 and 4 have been met:
 1. a collateral is adjusted so that actual changes of values of securities or commodities involved in such transactions are taken into consideration;
 2. a contract guarantees that in the case of failure of a counterparty the securities dealer's claims shall be automatically and immediately set off towards claims of the business partner;
 3. it is a transaction between professionals;
 4. a contract has not been concluded under unusual terms and conditions;
 - f) term transactions and options serving for securing against unfavourable movement in market prices of securities, investment instruments, commodities and derivatives included in the commercial portfolio.
- (3) The following shall not be included in the commercial portfolio:
 - a) securities, other investment instruments and derivatives not included in the commercial portfolio with the exception of securities, other investment instruments and commodities which should be delivered by the securities dealer in order to settle the deals already closed ;

^{10a)} Decree No 6/2002 (Notification No 695/2002 Coll.).

^{10b)} Articles 9 to 31 of Decree 6/2002 (Notification No 695/2002 Coll.).

- b) assets if assets under letter a) are involved and if they represent the securities dealer's claim, in particular fees, considerations, commissions and deposited collaterals;
- c) a securities dealer's claims on credits and loans provided with the exception of credits and loans provided within reverse repurchase transactions and borrowings of securities which are included in the commercial portfolio.

(4) The assets deducted from own funds according to Article 4 paragraph 3 (b) shall not be included either in the commercial portfolio or non-commercial portfolio.

Article 12

- (1) A securities dealer's assets according to the risk level contained therein shall be calculated through multiplying the securities dealer's assets included in the non-commercial portfolio by risk weight of the respective asset.
- (2) For determination of risk weights of individual kinds of assets and credit equivalents of off-balance-sheet items the provisions of a separate regulation shall apply.¹¹⁾
- (3) A credit equivalent of an off-balance-sheet item which is a claim on term transactions and options traded on the regulated market shall equal to zero.

Article 13

- (1) A securities dealer's market risk shall be calculated as the product of coefficient 12.5 and the sum of individual components of market risk calculated pursuant to this Decree.
- (2) The components of market risk of a securities dealer pursuant to Article 54 paragraph 11 of the Acts shall include the following:
 - a) position risk,
 - b) risk of term transactions and options (Article 22),
 - c) settlement risk,
 - d) counterparty risk,
 - e) exchange risk,
 - f) large exposure risk,
 - g) commodity risk.
- (3) The components of market risk of a securities dealer pursuant to Article 54 paragraphs 12 and 13 of the Acts shall include the following:
 - a) exchange risk,
 - b) commodity risk.

Article 14

- (1) Position risk, settlement risk and counterparty risk may be calculated, instead of using the procedure under Articles 16 to 24, by multiplying an asset included in the commercial portfolio by risk weights according to the procedure under Article 12 if
 - a) transactions included in the commercial portfolio do not exceed 5% of total volume of transactions;
 - b) the sum of absolute values of positions included in the commercial portfolio does not exceed SKK 15 000 000, or

¹¹⁾ Articles 9 and 10 of Decree No 6/2002 Coll. (Notification No 695/2002 Coll.).

- c) transactions included in the commercial portfolio do not exceed 6% of total volume of transactions of a securities dealer, and at the same time, the sum of absolute values of positions included in the commercial portfolio does not exceed SKK 20 000 000.
- (2) In order to determine what proportion is represented by transactions included in the commercial portfolio out of the total volume of transactions according to paragraph 1 the real price of items reported in balance sheet and off-balance-sheet items shall be applied.
- (3) Position risk, settlement risk and counterparty risk calculated in accordance with paragraph 1 shall not be multiplied by coefficient 12.5 for the purposes of Article 13 paragraph 1.

Article 15 **Positions**

- (1) Securities dealer's position (hereinafter referred to as "position") within individual kinds of assets expresses the number or value of the kinds of assets owned by the securities dealer in which it has the right to acquire them or an obligation to deliver them, or in respect to which it has a financial claim or financial liability. A position in an asset owned by a securities dealer involving its right to its acquisition or with respect to which it has a financial claim constitutes a long position. A position in an asset which a securities dealer is obliged to deliver or in respect to which it has a financial liability represents a short position.
- (2) Net position is a net long position in the case of an excess long position over a short position, or a net short position in the case of an excess short position over a long position.
- (3) Positions for the purpose of calculating risk values shall be as follows:
 - a) long interest position, which means a long position in debt instrument ;
 - b) short interest position, which means a short position in debt instrument ;
 - c) long stock position, which means a long position in equity instrument ;
 - d) short stock position, which means a short position in equity instrument ;
 - e) foreign exchange long position, which means the sum of :
 - 1. cash values, including the value of gold in the respective foreign currency,
 - 2. values of the rights of financial settlement in the respective foreign currency;
 - 3. values of securities denominated in the respective foreign currency with the exception of shares in mutual funds within the companies where a securities dealer has a controlling or substantial influence;
 - 4. values of guarantees provided or confirmed for the performance of obligations to pay in foreign currency;
 - 5. values of claims on term transactions in such currency and values of claims in the respective foreign currency on other term transactions;
 - 6. delta equivalents values of purchased call options or sold put options on funds in the respective currency, and delta equivalents values in the respective currency of other purchased call options or of other sold put options ;
 - f) foreinn exchange short position which means the sum of the values of:
 - 1. liabilities arising from business contractual relations, the assessment of which is expressed in the respective foreign currency;
 - 2. liabilities arising from term transactions in such foreign currency and from other term transactions in assets expressed in the respective foreign currency;

3. delta equivalents of purchased call options on funds or sold call options on funds in the respective foreign currency, and delta equivalents in the respective foreign currency of other purchased put options or sold call options;
- g) net position in foreign currency or gold, which means the following:
 1. net long position in an individual foreign currency or in gold, which is an excess of the respective long position in the respective foreign currency or gold over the short position in the respective foreign currency or gold;
 2. net short position in an individual foreign currency or in gold, which is an excess of the short position in the respective foreign currency or gold over the long position in the respective foreign currency or gold;
 - h) total foreign exchange position, which means a larger figure expressing the sum of all net long positions in foreign currencies and net long position in gold or the sum of all net short positions in foreign currencies and net short position in gold converted into the Slovak korunas by the exchange rate quoted by the National Bank of Slovakia, and effective at the date of calculation of exchange risk;
 - i) long position in commodity, which means the following:
 1. value of the commodity which is part of the property of a securities dealer;
 2. the right to acquire a commodity arising from the derivative whose underlying instrument is a commodity;
 3. the right to acquire a commodity arising from repurchase transaction;
 - j) short position in commodity, which means the following:
 1. an obligation to deliver a commodity arising from the derivative whose underlying instrument is a commodity;
 2. an obligation to deliver a commodity arising from reverse repurchase transaction;
 - k) net position in commodity which means a difference between long position and short position in the commodity concerned.
 - (4) If more risks are associated with a security, other investment instrument, commodity or derivative, their value shall be included in all respective positions for the purpose of calculating the risk depending on their nature and the extent of risk related to it.
 - (5) Option delta is the extent of a change of option price caused by a change of the price of an underlying instrument of the respective option. Delta equivalent of the option is the product of the value of an underlying instrument for the respective option and of absolute value of delta of such option.

Article 16 **Position risk**

- (1) Position risk is constituted by a specific position risk and general position risk. Position risk shall be calculated from interest positions included in the commercial portfolio and from stock positions included in the commercial portfolio. For the purpose of calculation of position risk, interest positions and stock positions shall be assessed by real prices.
- (2) Specific position risk expresses the probability of occurrence of a loss in consequence of the change of price of a security caused by factors related to its issuer or, in the case of a derivative, by factors related to its underlying instrument. The ownership of own debt securities shall not be taken into account in the calculation of a specific position risk.
- (3) General position risk expresses the probability of occurrence of a loss in consequence of the change of price of a debt security or derivative caused by the change of the level

of interest rates or in consequence of the change of price of an equity security or derivative caused by general movement on the stock market.

Article 17

Calculation of net interest positions, net stock positions, total gross stock position and total net stock position

- (1) Net interest positions shall be calculated as an excess of long interest positions over short interest positions or as an excess of short interest positions over long interest positions within the same debt instruments.
- (2) For the purposes of paragraph 1 debt securities shall be considered equal if
 - a) they have been issued by the same issuer,
 - b) they have been issued or denominated in the same foreign currency,
 - c) in the case of their issuer's incapability to perform liabilities the claims of their owners shall have equal priority.
- (3) For the purposes of paragraph 1 derivatives shall be considered equal if
 - a) they have equal value and their value is expressed in the same currency,
 - b) reference rate for the positions having a floating rate or coupons for the positions of fixed rate do not differ by more than 0.15%,
 - c) the next date for fixing the rate, or in the case of positions with a fixed coupon their residual maturity shall be
 1. on the same date in the case of positions in derivatives due within one month,
 2. within seven days in the case of positions in derivatives due within one month up to one year,
 3. within thirty days in the case of positions in derivatives with maturity over one year.
- (4) Net stock positions shall be calculated as an excess of long stock positions over short stock positions, or as an excess of short stock positions over long stock positions, in the equal equity securities or in derivatives whose underlying instrument is an equity security.
- (5) For the purposes of paragraph 4 equity securities and derivatives shall be considered equal if
 - a) they have been issued by the same issuer,
 - b) they have been issued or denominated in the same foreign currency,
 - c) in respect to equity securities their owners have equal positions in execution of voting rights.
- (6) Total gross stock position is the sum of absolute value of amount of all net long stock positions and absolute value of the amount of all net short stock positions.
- (7) Total net stock position is the difference of absolute value of the amount of all net long stock positions and absolute value of the amount of all net short stock positions.
- (8) Positions in derivatives and term transactions shall be assessed as a combination of long positions and short positions of underlying instruments. For the purposes under the first sentence underlying instruments of derivatives and term transactions shall involve also financial claims or liabilities in connection with such derivatives and term transactions. For the purposes under the first sentence financial claims or liabilities shall be considered as long positions in bonds or as short positions in bonds. Interest futures, interest forward and interest swap shall be assessed as a combination of long positions and short positions in government bonds with maturity derived from the date of settlement, contractual period determined for the calculation of interest, a period before specification of the next interest rate, or from the period before the nearest

fixing of variable interest rate. Positions in options shall be considered as positions of underlying instruments of such options multiplied by their respective deltas.

(9) In the case of positions in subscribed securities pursuant to Article 6 paragraph 2 letter f) of the Act, net positions shall be calculated by deduction of the positions in subscribed securities obligatorily subscribed by third parties. Net positions calculated in accordance with the first sentence shall be reduced depending on the number of working days that have lapsed since the working day on which the securities dealer became unconditionally obliged to purchase the unplaced securities for an agreed price, i.e. by the following percentage reduction factors:

- a) 100% if not even one working day lapsed,
- b) 90% if one working day lapsed,
- c) 75% if two to three working days lapsed,
- d) 50% if four working days lapsed,
- e) 25% if five working days lapsed,
- f) 0% if more than five working days lapsed.

Article 18 **Specific position risk for debt instruments**

- (1) Net interest positions calculated in accordance with Article 17 shall be converted to Slovak korunas by the exchange rate quoted by the National Bank of Slovakia effective at the date of risk calculation.
- (2) Net interest positions shall be categorized as follows:
 - a) government items,
 - b) qualified items,
 - c) other items.
- (3) Based on the residual time to their maturity qualified items shall be classified into the following groups of maturity:
 - a) up to six months,
 - b) from six months to 24 months,
 - c) over 24 months.
- (4) Net interest positions classified in accordance with paragraphs 2 and 3 shall be multiplied by the following percentage weights:
 - a) 0% government items,
 - b) 0.25% qualified items under paragraph 3 (a),
 - c) 1% qualified items under paragraph 3 (b),
 - d) 1.6% qualified items under paragraph 3 (c),
 - e) 8% other items.
- (5) An appropriate percentage weight under paragraph 4 shall be assigned to interest positions arising from term transactions or options based on purchase, sale or yields on debt instruments and interest positions corresponding to such debt instruments. Interest positions arising from other term transactions, options, interest futures and interest forwards shall be assigned zero value.
- (6) Specific position risk for debt instruments is the sum of absolute values of positions calculated in accordance with paragraph 4.
- (7) Qualified items are positions in assets which pursuant to a provision of a separate regulation¹²⁾ have 20% risk weight, position in debt instruments issued by securities

¹²⁾ Article 9 paragraph 2 (b) of Decree No 6/2002 (Notification No 695/2002 Coll.).

dealers, foreign securities dealers with registered office in a Member State or by recognized foreign securities dealers, and positions in debt instruments which

- a) have been admitted for trading on at least one regulated market in a Member State or on a stock exchange in other State if such stock exchange is obliged to observe legal regulations at least within the scope as prescribed by a separate regulation¹³⁾,
- b) are liquid,
- c) by solvency of their issuer guarantee that the risk level arising from the issuer's breach of an obligation is comparable to or lower than the risk with respect to assets referred to in a separate regulation.¹²⁾

(8) Government items include assets pursuant to a separate regulation.¹⁴⁾

Article 19 **General position risk for debt instruments**

- (1) Net interest positions calculated in accordance with Article 17 shall be categorized according to the currencies of issuance. General position risk for debt instruments shall be calculated by the procedure under paragraphs 2 to 10 separately for each currency.
- (2) All net interest positions shall be converted to Slovak korunas by the exchange rate quoted by the National Bank of Slovakia, which is effective at the date of calculation of the risk.
- (3) Net interest positions shall be classified into respective maturity bands in column 2 or 3 in Table 1 based on residual maturity with regard to debt instruments with fixed interest rate and based on the period remaining to the next fixing of interest rate in the case of instruments with variable interest rate before their final maturity. Debt instruments with a coupon 3% and more shall be included in column 2 in Table 1, and instruments with a coupon below 3% shall be included in column 3 of Table 1. If a debt instrument does not contain a coupon, such position shall be classified into the same band as debt instruments with a coupon below 3%. Afterwards, each of them shall be multiplied by the weight for the respective band of maturity in column 4 of Table 1.

Table 1

Zone	Maturity band		Weights in %
	Coupon 3% and more	Coupon under 3%	
(1)	(2)	(3)	(4)
1	0<= 1 month	0<= 1 month	0.00
	> 1<= 3 months	> 1<= 3 months	0.20
	> 3<= 6 months	> 3<= 6 months	0.40
	> 6 <= 12 months	> 6 <= 12 months	0.70
2	> 1<= 2 years	> 1.0<= 1.9 year	1.25
	> 2 <= 3 years	> 1.9 <= 2.8 years	1.75
	> 3 <= 4 years	> 2.8 <= 3.6 years	2.25
3	> 4 <= 5 years	> 3.6 <= 4.3 years	2.75
	> 5 <= 7 years	> 4.3 <= 5.7 years	3.25
	> 7 <= 10 years	> 5.7 <= 7.3 years	3.75
	> 10 <= 15 years	> 7.3 <= 9.3 years	4.50

¹³⁾ Act No 429/2002 Coll.

¹⁴⁾ Article 9 paragraph 2 (a) of Decree No 6/2002 (Notification No 695/2002 Coll.).

	> 15 <= 20 years	> 9.3 <= 10.6 years	5.25
	> 20 years	> 10.6 <= 12 years	6.00
		> 12 <= 20 years	8.00
		> 20 years	12.5

(4) In each maturity band according to paragraph 3 the amount of weighed long positions and the amount of weighed short positions will be calculated. The amounts according to the first sentence shall be paired resulting in one paired position and one unpaired position in each band of maturity. Afterwards, the total sum of paired positions in all bands shall be calculated.

(5) The amount of unpaired long positions in all bands shall be calculated separately for each zone of maturity according to Table 1, and the amount of unpaired short positions in all bands shall be calculated separately for each zone of maturity according to Table 1. Thus calculated sums shall be mutually paired in individual zones resulting in one paired position and one unpaired position in each zone of maturity according to Table 1.

(6) Unpaired positions in zones 1 and 2 shall be paired if one of such positions is long and the other one is short. This will result in a paired position between zones 1 and 2 and a residual position in zones 1 and 2. Unpaired position in zone 3 shall be paired with a residual position in zone 2 if one of such positions is long and the other one is short. This will result in a paired position between zones 2 and 3 and a residual position in zones 2 and 3.

(7) For the purposes of paragraph 6 it is possible to apply a procedure where a paired position between zones 2 and 3 is calculated before a paired position between zones 1 and 2.

(8) Residual positions in zones 1 and 3 shall be paired if one of such positions is long and the other one is short. This will result in a paired position between zones 1 and 3 and a residual position in zones 1 and 3.

(9) The sum of residual positions from all three zones of maturity which remained after pairing pursuant to paragraphs 6 to 8 will constitute an unpaired residual position.

(10) General position risk for debt instruments in the respective currency shall be calculated as the sum of

- 10% of the sum of paired positions in all maturity bands,
- 40% of a paired position in zone 1,
- 30% of a paired position in zone 2,
- 30% of a paired position in zone 3,
- 40% of a paired position between zones 1 and 2,
- 40% of a paired position between zones 2 and 3,
- 150% of a paired position between zones 1 and 3, and
- 100% of an unpaired residual position.

(11) General position risk for debt instruments is the sum of general position risks for debt instruments in all currencies.

Article 20 **Specific position risk for equity instruments**

Specific position risk for equity instruments shall be 4% out of total gross stock position.

Article 21 **General position risk on equity instruments**

General position risk on equity instruments shall be 8% out of total gross stock position.

Article 22 **Risk of term transactions and options**

- (1) Risk of term transactions and options included in the commercial portfolio shall be calculated as the product of coefficient 0.08 and the sum of respective risk-weighted assets.
- (2) Risk-weighted assets for term transactions and options under paragraph 1 shall be calculated as the sum of products of credit equivalents of claims and respective risk weights pursuant to a separate regulation¹¹⁾.

Article 23 **Settlement risk**

- (1) Settlement risk expresses the probability of occurrence of a loss in consequence of a change in prices of debt instruments, equity instruments or commodities during the period between their delivery and the date of settlement of transactions including such debt instruments, equity instruments or commodities if the agreed date of delivery is not identical with the agreed date of transaction settlement.
- (2) Settlement risk shall be calculated from transactions included in the commercial portfolio, which have not been settled after the date of delivery of debt instruments, equity instruments or commodities, as the product of price difference between the agreed settlement price for the respective debt instrument, equity instrument or commodity and its current market price and the respective conversion factor. The price difference shall be included in the calculation under the first sentence only if it may result in a loss for the securities dealer. Settlement risk shall not be calculated for repurchase transactions, reverse repurchase transactions, lending of securities or commodities and borrowings of securities or commodities.
- (3) Conversion factor for the calculation of settlement risk value shall be:
 - a) 0.08 if since the date of delivery of debt instruments, equity instruments or commodities 5 to 15 days have lapsed,
 - b) 0.50 if since the date of delivery of debt instruments, equity instruments or commodities 16 to 30 days have lapsed,
 - c) 0.75 if since the date of delivery of debt instruments, equity instruments or commodities 31 to 45 days have lapsed,
 - d) 1.00 if since the date of delivery of debt instruments, equity instruments or commodities more than 45 days have lapsed.

Article **Counterparty risk**

- (1) Counterparty risk expresses the probability of occurrence of a loss in consequence of failure to perform an obligation on the part of the securities dealer's counterparty resulting from a transaction included in the commercial portfolio.
- (2) Counterparty risk shall be calculated for the following:
 - a) transactions in which the time limit prescribed for the settlement has not yet lapsed while the securities dealer paid for securities or commodities before their receipt, or

¹¹⁾ Articles 9 and 10 of Decree No 6/2002 Coll. (Notification No 695/2002 Coll.).

the securities dealer delivered securities or commodities before receiving payment for them;

- b) crossborder transactions if one or more days lapsed since the securities dealer effected payment or performed delivery;
- c) repurchase transactions and lending of securities with the exception of cases when securities or commodities have been included in the transaction concerned through a guarantee on transaction and deposited with the securities dealer for the duration of transaction;
- d) reverse repurchase transactions and borrowings of securities or commodities ;
- e) forwards and options not traded on the regulated market.

(3) Counterparty risk shall be calculated as the product of coefficient 0.08, risk weight of the respective counterparty and

- a) the real price of a security or commodity to be delivered or cash to which the securities dealer is entitled for the securities or commodities delivered, in the case of transactions under paragraph 2 (a) and b);
- b) the difference between the real price of a security or commodity delivered and the real price of the guarantee accepted if such difference is positive, in the case of repurchase transactions in securities and loans of securities or commodities;
- c) the difference between the real price of a claim or real price of a guarantee and the real price of the security or commodity received if such difference is positive, in the case of reverse repurchase transactions in securities or commodities and borrowings of securities or commodities;
- d) in the case of forwards and options not traded on the regulated market, the value of their credit equivalents.

Article 25 **Foreign-exchange risk**

- (1) Foreign-exchange risk expresses the probability of occurrence of a loss in consequence of movements in the exchange rates of foreign currencies and gold price.
- (2) Foreign exchange risk shall be 8% out of the total position in foreign currencies. However, unless the total position in foreign currencies calculated pursuant to this Decree exceeds 2% of own funds, exchange risk shall equal to zero.
- (3) In calculating long position in a foreign currency and short position in a foreign currency in the case of assets included in the commercial portfolio, their real prices shall be used, in the case of gold market rate shall be used, and in the case of other assets their book values shall be used.

Article 26 **Large exposure risk**

- (1) Large exposure risk expresses the probability of occurrence of a loss in consequence of the creation of large exposures to own funds. Large exposure risk shall be calculated out of an excess of limits of large exposure if such excess concerns the positions included in the commercial portfolio.
- (2) Asset exposure shall mean
 - a) net positions included in the commercial portfolio;
 - b) securities and derivatives not being a component of the commercial portfolio;
 - c) a securities dealer's claims, including claims subject to the fulfilment of a condition precedent and which are not included in letters a) or b);

- d) future claims of a security dealer which occur based on effective agreements concluded in performance of investment services unless a possibility of withdrawal or unilateral termination is implied therein and unless they are included in letters a) or b).
- (3) For the purposes of this Decree, a large exposure shall mean a securities dealer's asset exposure in respect to one person or a group with economic links,^{14a)} which equals to or exceeds 10% of own funds of a securities dealer. In calculation of a large exposure of a securities dealer the procedure pursuant to a separate regulation shall be applied.^{14b)}
- (4) A large exposure limit of a securities dealer is exceeded if
 - a) its large exposure towards a parent company or a subsidiary company or towards a group of persons with economic links whose member is the reporting securities dealer exceeds 20% of own funds;
 - b) its large exposure towards other person, a group of persons with economic links or towards countries and central banks referred to in a separate regulation^{14b)} exceeds 25% of own funds;
 - c) the sum of large exposures of a securities dealer exceeds 800% of its own funds.
- (5) If an excess of limits of large exposure lasted for less than ten days, a risk shall be calculated by the selection of such assets constituting total asset exposure towards a client or a group of mutually linked clients to which the highest values of a specific risk under this Decree, values of settlement risk or value of counterparty risk are related and the sum of which equals to the volume of excess of a large exposure limit. A risk for such assets is 200% of the value of risk indicated in the preceding sentence.
- (6) If an excess of limits of large exposure lasted for more than ten days, a risk shall be calculated so that the assets constituting total asset exposure selected in accordance with the procedure under paragraph 5 shall be included in the appropriate line of column 1 in Table 2 in ascending order according to the value of a specific risk, the value of settlement risk or the value of counterparty risk. The risk equals to the sum of values of specific risk, the sum of values of settlement risk or the value of counterparty risk per assets under the first sentence multiplied by appropriate coefficient in column 2.

Table 2

Excess of limits of large exposure (based on percentage of own funds)	Coefficients
(1)	(2)
up to 40%	200%
up to 60%	300%
up to 80%	400%
up to 100%	500%
up to 250%	600%
over 250%	900%

Article 27

Commodity risk

^{14a)} Article 31 paragraph 7 of Act No 483/2001 Coll. on banks and on amendments to certain laws as amended by subsequent legislation.

^{14b)} Decree of the National Bank of Slovakia No 8/2002 on large exposure of banks

- (1) Commodity risk expresses the probability of occurrence of a loss in consequence of trading in commodities or derivatives whose underlying instrument is a commodity.
- (2) Positions in gold and derivatives derived from gold, and positions designated exclusively for the financing of purchase of reserves shall not be included in the calculation of commodity risk.
- (3) For the purpose of calculation of a net position in commodities various kinds of commodities shall be considered as identical or similar commodities if under contractual terms and conditions they can be delivered replacing each other or if they are mutually substitutable and if minimum correlation of 0.9 between price movements of such commodities for the period of at least one year can be proved.
- (4) Each position in commodities shall be expressed in a standard measurement unit. The value of a position in commodities shall be determined based on the spot price of the commodity concerned and expressed in the Slovak korunas.
- (5) Commodity risk shall equal to the sum of risk values for each commodity. The risk for a particular commodity is the sum of 15% of the net position in the commodity concerned and 3% of the value of the sum of absolute value of a long position in the commodity concerned and of absolute value of a short position in the commodity concerned.

**Assets of a consolidated group and subconsolidated group
and market risks of a consolidated group and subconsolidated group**
Article 28

- (1) Assets of a consolidated group of a securities dealer according to the level of credit risk contained therein shall be calculated by multiplying the assets of members of the securities dealer's consolidated group included in the non-commercial portfolio by risk weight of the respective asset, and by their consolidation through the method set out in a separate regulation.¹⁰⁾
- (2) Assets of a subconsolidated group of a securities dealer according to the level of credit risk contained therein shall be calculated by multiplying the assets of members of the securities dealer's subconsolidated group included in the non-commercial portfolio by risk weight of the respective asset, and by their consolidation through the method set out in a separate regulation.¹⁰⁾
- (3) For determination of risk weights of individual kinds of assets a separate regulation shall be applied.¹¹⁾

Article 29

- (1) Market risk of a consolidated group of a securities dealer shall be calculated as the product of a coefficient 12.5 and the sum of market risks of members of the respective consolidated group of the securities dealer.
- (2) Market risk of a subconsolidated group of a securities dealer shall be calculated as the product of a coefficient 12.5 and the sum of market risks of members of the respective subconsolidated group of the securities dealer.
- (3) The sum of market risks under paragraphs 1 and 2 shall not include a position risk, large exposure risk, exchange risk and commodity risk arising from net positions of one securities dealer which can be compensated by net positions of another securities

¹⁰⁾ Decree of the Ministry of Finance of the Slovak Republic No 65/393/1993 of 22 December 1993 determining drawing up of consolidated financial statements (Notification No 8/1994 Coll.).

¹¹⁾ Articles 9 and 10 of Decree No 6/2002 Coll. (Notification No 695/2002 Coll.).

dealer or a bank which is a constituent part of the same consolidated group or subconsolidated group.

- (4) Offsetting of net positions in the commercial portfolio of a securities dealer, net positions in foreign currencies and net positions in commodities pursuant to paragraph 3 may be applied also to the positions of a foreign securities dealer or a foreign bank with its registered office in a Member State which constitute a part of the same consolidated group or subconsolidated group if such foreign securities dealer or foreign bank are obliged to comply with the rules of adequacy of own funds pursuant to legislation of the Member State of their registered office.
- (5) Offsetting of net positions in the commercial portfolio of a securities dealer, net positions in foreign currencies and net positions in commodities pursuant to paragraph 3 may be applied also to the positions of a foreign securities dealer or a foreign bank with its registered office in a State which is not a Member State, which constitute a part of the same consolidated group or subconsolidated group and if
 - a) such foreign bank has been granted a licence upon fulfilment of the conditions at least within the scope as prescribed by a separate law¹⁵⁾, or if the securities dealer is a recognized foreign securities dealer;
 - b) the foreign bank and foreign securities dealer comply with the rules of adequacy of own funds at least within the scope as prescribed by the Act, separate law¹⁵⁾ and by this Decree, and in the State where the foreign bank or foreign securities dealer have their registered office there are no legal regulations preventing free movement of capital within a consolidated group or subconsolidated group.

Article 30

This Decree shall come into effect on 1 October 2002.

Decree No 753/2002 Coll. shall come into effect on 1 January 2003.

František Hajnovič in his own hand

¹⁵⁾ Act No 483/2001 on banks and on amendments to certain laws.