

**Methodological Guideline No 1/2012
of the Financial Market Supervision Unit of Národná banka Slovenska
of 24 February 2012**

**on the pursuit of the business of payment institutions
under the single European passport**

In order to ensure consistent practice in the application of certain provisions of Act No 492/2009 Coll. on Payment Services and on amendments to certain laws (hereinafter “the Act”), the Financial Market Supervision Unit of Národná banka Slovenska (hereinafter “NBS” or “Národná banka Slovenska”) issues this methodological guideline:

PART I

Article 1

Purpose and scope of application

- (1) The aim of this methodological guideline is to provide:
- (a) payment institutions located in the Slovak Republic and their payment service agents with detailed information on procedures to be followed in taking up business in another Member State on the basis of the single European passport;
 - (b) foreign payment institutions located in another Member State and their payment service agents with detailed information on procedures to be followed in taking up business in the Slovak Republic on the basis of the single European passport.

(2) This methodological guideline regulates the procedures to be followed in establishing branches of payment institutions, pursuing activities of payment institutions without establishing a branch and providing payment services through a commercial payment service agent on the basis of the single European passport.

Article 2

Definitions

- (1) For the purposes of this methodological guideline the following definitions are used:
- (a) “Directive” means Directive 2007/64/EC of the European Parliament and the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC;
 - (b) “Member State” means a Member State of the European Union or a country that is a part of the European Economic Area;
 - (c) “payment institution” means a legal entity located in the Slovak Republic and which is entitled to provide payment services based on a granted authorisation to provide payment services under the Act on Payment Services;
 - (d) “payment service agent” means a person that provides payment services on behalf of a payment institution on the basis of a written contract with the payment institution;
 - (e) “foreign payment institution” means a legal entity located in another Member State and which is entitled to provide payment services based on a granted authorisation to provide payment services;
 - (f) “payment service” under the Act means

- “(a) placement of cash on a payment account as well as all the operations required for operating a payment account;
- (b) cash withdrawals from a payment account as well as all the operations required for operating a payment account;
- (c) execution of payment transactions, including transfers of funds from or to a payment account with the user’s payment service provider
 - 1. by credit transfer;
 - 2. through a payment card or other payment instrument;
 - 3. by direct debit;
- (d) execution of payment transactions with funds covered by credit for a payment service user
 - 1. in the form of an authorised overdraft on a payment account, namely
 - 1a. by credit transfer;
 - 1b. through a payment card or other payment instrument;
 - 1c. by direct debit, or
 - 2. in the form of a credit facility through a payment card or other payment instrument
- (e) money remittance;
- (f) execution of payment transactions in which the consent of the payer to execute a payment transaction is given by means of any telecommunication, digital or information technology device and the payment is made to a telecommunications, information technology system or network operator acting only as an intermediary between the payment service user and a supplier of goods and services;
- (g) issuing or acquiring a payment card or other payment instrument.”,
- (g) “home Member State” means the Member State in which
 - (a) the registered office of the payment institution is situated, or
 - (b) the head office of the payment institution is situated, if the payment institution has, under its national law, no registered office;
- (h) “host Member State” means a Member State, other than the home Member State, in which a payment institution has an agent or a branch or provides payment services.

(2) This methodical guideline does not deal with defining or characterising the terms “freedom to establish a branch” or “freedom to provide services”.

PART II

Article 1

Exercise of the right to establish a branch and to freely provide services of a payment institution located in the Slovak Republic

In accordance with Article 79 of the Act, a payment institution located in the Slovak Republic may provide payment services under Article 2(1) of the Act in another Member State through its branch or without establishing a branch or through a commercial agent in accordance with Article 75 of the Act on Payment Services.

- I. A payment institution wishing to provide payment services in another Member State for the first time without establishing a branch shall notify Národná banka Slovenska in writing of the following information:
 - (a) the name and registered office of the payment institution;

- (b) the host Member State in which it intends to provide payment services;
- (c) the type of payment services it intends to provide in the host Member State.

- II. Where a payment institution intends to establish a branch in another Member State it shall also state, in addition to the above mentioned information,
1. the registered office of the branch in the host Member State;
 2. the first and last names and permanent address of the person(s) responsible for managing the branch;
 3. the organisational structure of the planned branch.
- III. Where a payment institution intends to provide payment services in another Member State through an agent that has a registered office in the Slovak Republic the notification shall take the form of that used for entities' cross-border activities and the payment institution shall notify Národná banka Slovenska in writing of the following information:
1. the name and registered office of the payment institution;
 2. the name and address of the agent;
 3. the type of payment services the payment institution intends to provide in the host Member State through an agent acting on behalf of the payment institution.

Where a payment institution intends to provide payment services in another Member State through an agent located in the host Member State and this entity is notified as a branch the payment institution shall also notify Národná banka Slovenska in writing of the following information:

1. the names of persons responsible for management of the nominated agent;
2. organisational structure of the nominated agent falling under the jurisdiction of the host Member State and the organisational structure of each existing agent in the host Member State.

Národná banka Slovenska and the competent supervisory authority of the host Member State may subsequently require from one other and exchange information concerning the discharge of their duty to supervise the payment institutions and services provided by them (e. g. procedures related to the prevention of money laundering and financing of terrorism, data on payment systems, etc.).

After receiving the respective notification referred to in points I to III from the payment institution, Národná banka Slovenska shall notify in writing the competent supervisory authority of the host Member State of this information forthwith and within one month at the latest inform the payment institution thereof. Based on this information (or notification) the payment institution may provide services that are the subject of the notification in the host Member State on a cross-border basis.

When entering a branch and a payment service agent in the register, Národná banka Slovenska shall take into account the opinion of the host Member State's supervisory authority. The NBS shall enter a payment service agent in the register within 15 days from receipt of the opinion of the host Member State's supervisory authority, and no later than 60 days after receipt of the notification from the payment institution.

Národná banka Slovenska may enter an agent or a branch in the register, refuse to enter an agent or a branch in the register or may cancel the entry of an agent or a branch in the register if already made. Responsibility for the final decision lies with Národná banka Slovenska, which shall be obliged, for effective administrative co-operation with the supervisory authority of the host Member State, to thoroughly and responsibly deal with reservations expressed by that authority. Národná banka Slovenska shall inform the foreign payment institution and the supervisory authority of the host Member State of its decision without delay. Where Národná banka Slovenska disregards a negative opinion of the supervisory authority of the home Member State in its decision it shall be obliged to inform that supervisory authority of its reasons for doing so.

A payment institution may start preparations for providing services through a branch or agent, but it shall not provide services before its registration, not even as part of the preparations and testing of its information systems.

The payment institution shall notify Národná banka Slovenska in writing of any changes to the information specified in the respective notification without delay, and no later than one month before the date when the intended changes become effective. Národná banka Slovenska shall notify the host Member State's supervisory authority of such information received without delay, and no later than within one month after receiving the notification from the payment institution.

Unless Národná banka Slovenska and the host Member State's supervisory authority agree otherwise, all information shall be provided in writing in English.

Standard forms shall be sent in written form by post or e-mail, where agreed upon between Národná banka Slovenska and the host Member State's supervisory authority.

The communication and exchange of information between a payment institution and Národná banka Slovenska shall be done in writing in the Slovak language in accordance with the standard forms given in the Annexes hereto.

Article 2

Exercise of the right to establish a branch and to freely provide services of a payment institution located in another Member State

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In accordance with Article 79(5) of the Act, a foreign payment institution located in another Member State may provide payment services through its branch or without establishing a branch and through a payment service agent under Article 75 of the Act on Payment Services.

- I. A foreign payment institution wishing to provide payment services in the Slovak Republic for the first time shall, via its supervisory authority, notify Národná banka Slovenska in writing of the following information:
- (a) the name and registered office of the payment institution;
 - (b) the host Member State in which it intends to provide payment services;
 - (c) the type of payment services it intends to provide in the host Member State.

- II. Where a foreign payment institution intends to establish a branch in the Slovak Republic, the competent supervisory authority shall include, in addition to the above, the following information in its notification to Národná banka Slovenska:
1. the registered office of the branch in the host Member State (in the Slovak Republic);
 2. the first and last names and permanent address of the person(s) responsible for managing the branch;
 3. the organisational structure of the planned branch.
- III. Where a foreign payment institution intends to provide payment services in the Slovak Republic through a payment service agent the competent supervisory authority shall provide Národná banka Slovenska with the following information:
1. the name and registered office of the payment institution;
 2. the name and address of the agent;
 3. the type of payment services the agent intends to provide on behalf of the payment institution in the Slovak Republic.

Where a foreign payment institution intends to provide payment services in the Slovak Republic through an agent located in the home Member State the notification shall take the form of that used for entities' cross-border activities. Where the agent has a registered office in the Slovak Republic and the entity is notified as a branch Národná banka Slovenska shall require also the following information from the competent authority:

1. the names of persons responsible for managing the nominated agent;
2. the organisational structure of the nominated agent falling under the jurisdiction of the Slovak Republic and the organisational structure of each existing agent in the Slovak Republic.

Národná banka Slovenska shall send a confirmation of receipt of the notification without delay to the competent supervisory authority of the home Member State.

Národná banka Slovenska has the right to require additional information concerning the establishment of a branch and/or the use of an agent's services (e.g. procedures related to the prevention of money laundering and financing of terrorism (AML procedures), data on payment systems, etc.).

If Národná banka Slovenska has reasonable grounds to suspect that, in connection with the intended engagement of the agent or establishment of the branch, money laundering or terrorist financing is taking place, or could take place, or has been attempted, or that the engagement of such agent or establishment of such branch could increase the risk of money laundering or terrorist financing, it shall so inform the competent authority of the home Member State without delay, and no later than one month after the receiving the notification from the competent supervisory authority of the home Member State. The supervisory authority of the home Member State may enter an agent or a branch in the register, refuse to enter an agent or a branch in the register or may cancel the entry of an agent or a branch in the register if already made. Responsibility for the final decision lies with the supervisory authority of the host Member State, which shall be obliged, for effective administrative co-operation with Národná banka Slovenska, to thoroughly and responsibly deal with reservations expressed by Národná banka Slovenska. The supervisory authority of the home Member State shall inform the foreign payment institution and Národná banka Slovenska of

its decision without delay. Where the supervisory authority of the host Member State disregards a negative opinion of Národná banka Slovenska in its decision it shall be obliged to inform Národná banka Slovenska of its reasons for doing so.

If, within one month of receiving a request for notification from the supervisory authority of the home Member State, Národná banka Slovenska does not reject the notification, the competent authority of the home Member State may enter the branch or agent in the register.

A payment institution may start preparations for providing services (through a branch or agent), but it shall not provide services before its registration. It shall not provide the services in respect of the Slovak Republic even as part of the preparations and testing of its information systems.

Unless the home Member State's supervisory authority and the host Member State's supervisory authority agree otherwise, all information shall be provided in writing in English in accordance with the standard forms given in the Annexes hereto.

Completed forms shall be sent in written form by post or e-mail, where agreed upon between the competent authorities of the home and host Member States.

Article 3

Final provisions

This methodological guideline shall be effective from the date of its approval by the Executive Director of Financial Market Supervision Unit of Národná banka Slovenska. Legislation related to the subject-matter of this guideline is available on the website of Národná banka Slovenska (www.nbs.sk).

Ing. Vladimír Dvořáček
Executive Director
Financial Market Supervision Unit

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**STANDARD NOTIFICATION FORM ON THE INTENTION OF A PAYMENT INSTITUTION
TO PROVIDE SERVICES ON THE BASIS OF THE RIGHT TO FREELY PROVIDE
SERVICES**

Direct line:

Local fax:

E-mail:

[Date]

Our Ref.:

Dear

Notification of a payment institution's intention in accordance with Article 25 of the Payment Services Directive (No 2007/64/EC)

In accordance with Article 25 of the Payment Services Directive (No 2007/64/EC), I am writing to notify you that on [date], [**name of payment institution**], a payment institution (hereinafter "the PI") authorised by [competent authority of the home Member State], notified us of its intention [to undertake the activities listed in the attached schedule for the first time under the freedom to provide services] / [to widen or reduce the scope of the activities previously notified in the initial notification].

(if relevant: The payment institution intends to engage agents located outside the territory of your country to undertake its activities. We, therefore, attach a separate list with the names and addresses of the agents whose services the payment institution intends to use.)

If you have any queries, please do not hesitate to contact us.

Yours sincerely,

[Signatory details]

SCHEDULE TO NOTIFICATION DATED [date of letter] PURSUANT TO ARTICLE 25 OF THE PAYMENT SERVICES DIRECTIVE – FREEDOM TO PROVIDE SERVICES

Type of notification: [e.g. initial notification / change of services]

Notification reference: [home Member State reference]

Date of receipt of notification by home Member State's competent authority: [date]

Member State in which the PI intends to provide its services: [host Member State]

Payment institution: [name and registration number of PI]

Address: [address]

Telephone number: [tel. no]

E-mail: [e-mail]

Contact person: [name]

Home Member State: [Home Member State]

Authorisation status: Authorised by [home Member State competent authority]

Date from which services are to be provided:	[date]
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- ☐ 1. Services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account.
- ☐ 2. Services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account.
- ☐ 3. Execution of payment transactions, including transfers of funds to a payment account with the user's payment service provider or with another payment service provider:
 - execution of direct debits, including one-off direct debits,
 - execution of payment transactions through a payment card or a similar device,
 - execution of credit transfers, including standing orders.
- ☐ 4. Execution of payment transactions where the funds are covered by a credit line for a payment service user: *¹
 - execution of direct debits, including one-off direct debits *¹,
 - execution of payment transactions through a payment card or a similar device,
 - execution of credit transfers, including standing orders.
- ☐ 5. Issuing and/or acquiring of payment instruments. *¹
- ☐ 6. Money remittance.
- ☐ 7. Execution of payment transactions where the consent of the payer to execute a payment transaction is given by means of any telecommunication, digital or IT device and the payment is made to the telecommunication, IT system or network operator, acting only as an intermediary between the payment service user and the supplier of the goods and services. *¹

¹ including granting credits in accordance with the rules provided for in Article 16(3) of the Directive

☐ yes ☐ no

**STANDARD NOTIFICATION FORM FOR THE INTENTION OF A PAYMENT
INSTITUTION TO PROVIDE PAYMENT SERVICES THROUGH A BRANCH OR AGENT
LOCATED IN SLOVAKIA**

Direct line:

Local fax:

E-mail:

[Date]

Our Ref.:

Dear

**Notification of a payment institution's intention in accordance with Article 17 / or Article 25
of the Payment Services Directive (No 2007/64/EC)**

In accordance with [Article 25 or Article 17 of the Payment Services Directive], I am writing to notify you that on [date] **[name of payment institution]**, a payment institution (hereinafter "the PI") authorised by [competent authority of the home Member State], notified us of its intention [to establish a branch] / [engage an agent located in [host Member State]] to exercise the freedom to provide services by carrying out the activities listed in the attached schedule / to widen or reduce the scope of the activities provided through its branch(es)/agent(s) / other persons) located in [host Member State] notified in the initial notification.

Please kindly send us an acknowledgment of receipt of this notification.

If you have any concerns in relation to the branch/agent, in accordance with Article 17(6), please confirm these in writing without delay and no later than one month after the receipt of the notification by the competent authority of the home Member State. If no response is received within this timeframe, we will consider you to have accepted the information contained in the notification.

Yours sincerely,

[Signatory details]

**SCHEDULE TO NOTIFICATION DATED [date of letter] PURSUANT TO
ARTICLE 17 / OR ARTICLE 25 OF THE PAYMENT SERVICES DIRECTIVE -
BRANCH ESTABLISHMENT AND PROVISION OF SERVICES THROUGH AN AGENT
LOCATED IN HOST MEMBER STATE**

Type of notification: [e.g. initial notification / change of services]

Notification reference: [home Member State reference]

Date of receipt of notification by home Member State's competent authority: [date]

Member State in which the branch/agent is to be established: [host Member State]

Payment institution: [name and registration number of PI]

Address: [address]

Telephone number: [tel. no]

Contact person: [name + e-mail address]

Home Member State: [Home Member State]

Authorisation status: Authorised by [home Member State competent authority]

Date when the branch is to be established / agent engaged: [upon confirmation from the host Member State, which should be issued on XX/ exact date]

Branch/agent address:	[address of the branch/agent]
Persons responsible for managing the branch/agent:	[names]

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- ☐ 1. Services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account.
- ☐ 2. Services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account.
- ☐ 3. Execution of payment transactions, including transfers of funds to a payment account with the user's payment service provider or with another payment service provider:
 - execution of direct debits, including one-off direct debits,
 - execution of payment transactions through a payment card or a similar device,
 - execution of credit transfers, including standing orders.
- ☐ 4. Execution of payment transactions where the funds are covered by a credit line for a payment service user: *¹
 - execution of direct debits, including one-off direct debits,
 - execution of payment transactions through a payment card or a similar device,
 - execution of credit transfers, including standing orders.
- ☐ 5. Issuing and/or acquiring of payment instruments. *¹
- ☐ 6. Money remittance.
- ☐ 7. Execution of payment transactions where the consent of the payer to execute a payment transaction is given by means of any telecommunication, digital or IT device and the payment is made to the telecommunication, IT system or network operator, acting only as an intermediary between the payment service user and the supplier of the goods and services. *¹

¹ including granting credits in accordance with the rules provided for in Article 16(3) of the Directive

☐ yes ☐ no

Information on organisational structure
(Part II Article 1 point III(2) in the second subparagraph and Part II Article 2 point III(2)
in the second subparagraph)

REQUIREMENT	RESPONSE
(a) A full description of the branch/agent's organisational structure (number of organisational units, anticipated initial number of employees, organisational chart, showing both the functional and management reporting lines, and a full description of the distribution of the powers, competences and responsibilities of each department and managing employee) and a description of how the branch/agent fits into the corporate structure of the group.	
(b) A full and detailed description of all contracts and outsourcing arrangements, including a complete list of other persons under Article 81(10) of the Act in the host Member State.	
(c) A full description of participation in or intention to participate in a payment system.	
(d) A full and detailed description of the payment institution's/agent's procedures and internal management acts adopted in order to comply with the host Member State's legislation in force in the area of the prevention of money laundering and financing of terrorism.	
(e) A full and detailed description of the payment institution's internal control and internal audit system.	