

**Methodological Guideline of
the Financial Market Supervision Unit of the Národná banka Slovenska
of 9 December 2009 No. 3/2009
for the performance of activities of payment institutions based on a single European
licence**

Národná banka Slovenska, the Financial Market Supervision Unit (hereinafter referred to as “NBS” or “Národná banka Slovenska”), in order to ensure uniform procedure in applying some of the provisions of Act No. 492/2009 Coll. on Payment services and on amendments and supplements to certain acts (hereinafter referred to as “Payment Services Act”), issues the following Methodological Guideline:

PART I

Article 1

Purpose and scope of application

- 1) The purpose of this Methodological Guideline is to provide detailed information to:
 - a) payment institutions having their head offices in the Slovak Republic and to their payment service agents on how to proceed to commence the performance of their activities in another Member State on the basis of a single European licence;
 - b) foreign payment institutions having their head offices in another Member State and to their payment service agents on how to proceed to commence the performance of their activities in the Slovak Republic on the basis of a single European authorisation.
- 2) This Methodological Guideline stipulates the procedure for establishing branches of payment institutions, operating the payment institutions without establishing their branches, as well as the provision of payment services through a payment service agent on the basis of a single European authorisation.

Article 2

Definitions

For the purpose hereof,

- a) ‘Directive’ means Directive of the European Parliament and of the Council 2007/64/EC of 13 November 2007 on payment services in the internal market, amending and supplementing 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 which is part of the European Economic Area;
- c) ‘Payment institution’ means a legal entity having its registered office in the Slovak Republic that has been granted authorisation to provide payment services in accordance with the Payment services act;

- d) 'Payment service agent' means a person providing payment services under the Directive 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 having its registered office in a Member State that has been granted authorisation under the Directive to provide payment services;
- f) 'Payment service' under the Payment Services Act means
 - a) placing cash on a payment account and carrying out all operations required for operating a payment account;
 - b) withdrawing cash from a payment account and carrying out all operations required for operating a payment account;
 - c) execution of payment transactions, including transfers of funds from or into a payment account with the payment service provider
 - 1. by a credit transfer,
 - 2. through a payment card or other means of payment,
 - 3. by a direct debit,
 - d) execution of payment transactions from credit granted to the payment service user
 - 1. by way of a permitted payment account overdraft, in particular
 - 1a. by a credit transfer,
 - 1b. through a payment card or other means of payment,
 - 1c. by a direct debit or
 - 2. by way of credit lines through a payment card or other means of payment,
 - e) money remittance,
 - f) 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;
 - g) issuing and/or acquiring of a payment card or other means of payment.
- g) 'home Member State' means the Member State in which
 - a) the registered office of the payment service provider is situated, or
 - b) the head office of the payment institution is situated, unless the payment institution has, under its national law, no registered office
- h) 'host Member State' means the Member State other than the home Member State in which a payment institution has an agent or a branch or provides payment services.

PART II

Article 1

Exercise of the right of establishing a branch and the freedom to provide services

Payment institutions having their registered offices in the Slovak Republic

As provided for in Article 79 of the Payment Services Act, a payment institution having its registered office in the Slovak Republic may provide payment services under Article 2, paragraph 1 of this Act in another Member State through its branch or without establishing a branch.

- I. A payment institution wishing to provide payment services for the first time in another Member State without establishing a branch shall give the Národná banka Slovenska written notification of the following:
 - a) the name and registered office of the payment institution,
 - b) the host Member State in whose territory it intends to provide payment services,
 - c) the kind of payment services it intends to provide in the territory of the host Member State.
- II. If a payment institution plans to establish a branch in another Member State, apart from the aforementioned information, it shall also give notification of the following
 1. the registered office of its branch in the host Member State,
 2. the names, surnames and permanent addresses of those responsible for the management of the branch,
 3. the organisational structure of the planned branch.
- III. If a payment institution intends to provide payment services in another Member State through an agent whose registered office is in the Slovak Republic, the notification shall have such form as applied to cross-border activities, that is to say the payment institution shall give the Národná banka Slovenska written notification of the following:
 1. the name and registered office of the payment institution,
 2. the name and address of the agent,
 3. the kind of payment services the agent intends to provide in the territory of the host Member State on behalf of the payment institution.

Besides, in the event that the payment services are to be provided through an agent whose registered office is in the host Member State, such entity shall be notified as a branch, and therefore the payment institution shall also give Národná banka Slovenska written notification of the following:

1. the names of those responsible for the management of the proposed agent;
2. the organisational structure of the proposed agent falling within the jurisdiction of the host Member State.

Within one month of receiving the said notification (pursuant to paragraph I above) from the payment institution, the Národná banka Slovenska shall provide the said information to the competent supervisory authority of the host Member State, and inform the payment institution

thereof. Based on such information (or notification), the payment institution may provide payment services in the territory of the host Member State on a cross-border basis.

Within one month of receiving the notification pursuant to paragraphs II and III above from the payment institution, the Národná banka Slovenska shall provide the said information to the competent supervisory authority of the host Member State, and inform the payment institution thereof.

In the registration of a branch and a payment service agent, the Národná banka Slovenska shall take into consideration the opinion of the competent supervisory authority of the host Member State. NBS shall enter a payment service agent in the register of agents within 15 days from the receipt of the opinion of the host Member State, in any event not later than 60 days from the receipt of the notification from the payment institution.

The payment institution may make arrangements for providing its services (through a branch or an agent) but shall not be allowed to provide payment services until its registration.

Any changes to the details contained in the respective notification shall be notified by the payment institution in writing to the Národná banka Slovenska and the competent supervisory authority of the host Member State at least 30 days prior to making said changes.

All information shall be supplied in writing and in the Slovak language.

Templates of particular notification forms are contained in the annexes hereto.

Article 2

Exercise of the right of establishing a branch and the freedom to provide services

Payment institutions having their registered offices in another Member State

As provided for in Article 79, paragraph 5 of the Payment services act, a foreign payment institution having its registered office in another Member State may provide payment services in the territory of the Slovak Republic through its branch or without establishing a branch and also through a payment service agent.

- I. A foreign payment institution wishing to provide payment services for the first time in the territory of the Slovak Republic shall, through its competent supervisory authority, give the Národná banka Slovenska written notification of the following:
 - a) the name and registered office of the payment institution,
 - b) the host Member State in whose territory it intends to provide payment services,
 - c) the kind of payment services it intends to provide in the territory of the host Member State.
- II. If a foreign payment institution plans to establish its branch in the Slovak Republic, apart from the aforementioned information, the competent supervisory authority shall also give the Národná banka Slovenska written notification of the following:

1. the registered office of the branch in the host Member State (in the Slovak Republic),
2. the name, surname and permanent address of those responsible for the management of the branch,
3. the organisational structure of the planned branch.

III. If a foreign payment institution intends to provide payment services in the territory of the Slovak Republic through a payment service agent, the competent supervisory authority shall give the Národná banka Slovenska written notification of the following:

1. the name and registered office of the payment institution,
2. the name and address of the agent,
3. the kind of payment services the agent intends to provide in the territory of the Slovak Republic on behalf of the payment institution.

In the event that the payment services are to be provided through an agent whose registered office is in the home Member State, the notification shall have such form as applied to cross-border activities. If the agent's registered office is located in the Slovak Republic, such entity shall be notified as a branch, and therefore the Národná banka Slovenska shall also require the competent supervisory authority to supply the following information:

1. the names of those responsible for the management of the proposed agent,
2. the organisational structure of the proposed agent falling within the jurisdiction of the Slovak Republic.

Národná banka Slovenska may require additional information concerning the establishment of a branch and/or the engagement of an agent (for example, procedures related or pertaining to the issues of protection against the legalisation of proceeds from crime and against the financing of terrorism (anti-money laundering procedures or AML procedures), information on the payment system, etc.)

All information shall be supplied in writing in the Slovak or English languages, and should be notified in accordance with the standard forms contained in the annexes hereto.

If the 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, has taken place or 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, which may refuse to register the agent or branch, or may withdraw the registration, if already made, of the agent or branch. The Národná banka Slovenska shall supply such information as soon as possible, in any event not later than one month of the receipt of notification from the competent supervisory authority of the home member state.

If, within one month after the supervisory authority of the home Member State received from the payment institution all relevant information as required under Article 25 of the Directive, the Národná banka Slovenska does not provide any information to the supervisory authority of the home Member State or confirms that it has no relevant information, the competent authority of the home Member State may register the branch or agent.

The payment institution may make arrangements for providing its services (through a branch or an agent) but shall not be allowed to provide payment services until its registration.

A duly completed form is required to be sent by post or e-mail, provided that the competent authorities of the home Member State and the host Member State agree to exchange such information electronically.

Article 3

Final Provisions

This Methodological Guideline shall enter into force upon approval by the Vice Governor of Národná banka Slovenska. The legal regulations related to the subject matter hereof are listed on the website of Národná banka Slovenska (www.nbs.sk).

Ing. Martin Barto, CSc.
Vice Governor

ANNEXES

Annex 1

**ANNEX 1 – STANDARD FORM OF NOTIFICATION OF A PAYMENT INSTITUTION'S
INTENTION TO PROVIDE SERVICES BASED ON THE FREEDOM TO PROVIDE
SERVICES
[INCLUDING THROUGH AN AGENT WHOSE REGISTERED OFFICE IS LOCATED
OUTSIDE THE HOST MEMBER STATE]**

Direct line:
Local fax:
E-mail:

[Date]

Our reference:

Dear

Notification of a payment institution's intention pursuant to Article 25 of the Payment Services Directive (2007/64/EC)

In accordance with Article 25 of the Payment Services Directive (2007/64/EC), we are writing to notify you that on [date], **[name of the payment institution]**, a payment institution ("PI") authorised by [the competent authority of the home Member State], notified us of its intention [to provide the payment services listed in the attached schedule on the basis of the freedom to provide services/ to widen or reduce the scope of the payment services previously notified to you under the freedom to provide services].

(where applicable: The payment institution intends to provide its services by engaging agents located outside the territory of your country. Therefore, please find enclosed a list containing the names and addresses of the agents the payment institution intends to engage.)

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

Yours sincerely,

[Signatory details]

SCHEDULE TO THE 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: [reference under which the home Member State registered the given notification]

Date of receipt by the home authority [date]

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

Payment institution: [name and registration number of the PI]

Address: [address]

Phone number: [phone no.]

E-mail: [e-mail]

Contact person: [name]

Home State: [home Member State]

Authorisation: Authorisation issued by [competent authority of the home Member State]

Date from which payment services are to be provided: [date]

Payment services to be provided:

- ☐ 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 on 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 the grant of credits in accordance with the rules laid down in Article 16, paragraph 3 of the Directive

☐ yes

☐ no

Annex 3

Phone:

Local fax number:

E-mail:

THIS NOTIFICATION WAS PREVIOUSLY SENT BY E-MAIL/FAX DATED [DATE]

[Date]

Our reference:

Dear

Notification of a payment institution's intention in accordance with Article 17 / or Article 25 of the Payment Services Directive (2007/64/EC)

In accordance with [Article 25 or Article 17] of the Payment Services Directive (2007/64/EC), we are writing to notify you that on [date] **[name of the payment institution]**, a payment institution ("PI") authorised by [the 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 provide the payment services listed in the attached schedule on the basis of the freedom to provide services / to widen or reduce the scope of the payment services previously notified to you for its branch (branches) / agent (agents) located in [host Member State].

Please be so kind as to send us an acknowledgment of receipt hereof.

If you have any concerns with regard to the branch/agent, in accordance with Article 17(6), please confirm these in writing as soon as practicable, in any event not later than one month after the receipt of the notification by the competent authority of the home Member State. If no response is received by us within the said timeframe, we will consider you to have accepted the information contained in the notification.

Yours sincerely,

[Signatory details]

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

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

Notification reference: [reference under which the home Member State registered the given notification]

Date of receipt by the home Authority [date]

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

Payment institution: [name and registration number of the PI]

Address: [home address]
Phone number: [phone no.]
Contact person: [name and e-mail address]

Home State: [home Member State]

Authorisation: Authorisation issued by [competent authority of the home Member State]

Date from which the branch/agent is to be established: (on the basis of the confirmation by a host Member State which should be issued on XX/ exact date)

Address of the branch/agent: [address of the branch/agent]

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

Payment services to be provided:

- ☐ 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 on 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 the grant of credits in accordance with the rules laid down in Article 16, paragraph 3 of the Directive

- ☐ yes ☐ no