

# **ACT ON BANKS AND ON AMENDMENTS TO CERTAIN LAWS**

The full wording of Act No 483/2001 Coll. of 5 October 2001 on banks and on amendments to certain laws, as amended by Act No 430/2002 Coll., Act No 510/2002 Coll., Act No 165/2003 Coll., Act No 603/2003 Coll., Act No 215/2004 Coll., Act No 554/2004 Coll., Act No 747/2004 Coll., Act No 69/2005 Coll., Act No 340/2005 Coll., Act No 341/ 2005 Coll., Act No 214/2006 Coll., Act No 644/2006 Coll., Act No 209/2007 Coll., Act No 659/2007 Coll., Act No 297/2008 Coll., Act No 552/2008 Coll., Act No 66/2009 Coll., Act No 186/2009 Coll., Act No 276/2009 Coll., Act No 492/2009 Coll., Act No 129/2010 Coll., Act No 46/2011 Coll., Act No 130/2011 Coll., Act No 314/2011 Coll., Act No 394/2011 Coll., Act No 520/2011 Coll., Act No 547/2011 Coll., Act No 234/2012 Coll., Act No 352/2012 Coll., Act No 132/2013 Coll., Act No 352/2013 Coll., Act No 213/2014 Coll., Act No 371/2014 Coll., Act No 374/2014, and Act No 35/2015 Coll.

The National Council of the Slovak Republic has adopted the Act as follows:

## **SECTION I**

### **PART ONE BASIC PROVISIONS**

#### **Article 1**

This Act governs certain relations associated with the establishment, organisation, management, business operations, and termination of banks in the territory of the Slovak Republic and certain relations associated with the operation of foreign banks in the territory of the Slovak Republic in order to regulate and supervise banks, branches of foreign banks, and other entities with the objective of ensuring the smooth functioning of the banking system.

#### **Article 2**

(1) A bank is a legal person established as a joint stock company<sup>1</sup> with a registered office in the territory of the Slovak Republic, classified as a credit institution in a separate regulation,<sup>1ab</sup> and operating on the basis of a banking authorisation. A bank may not have any other legal form.

(2) Apart from taking deposits and providing loans, a bank may carry on the following banking activities, provided they are included in its banking authorisation:

- a) the provision of payment<sup>1aa</sup> and settlement services;
- b) investment activities, investment and auxiliary services under a separate law,<sup>1a</sup> and investment in securities for own account;
- c) trading activities for the bank's own account;

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<sup>1)</sup> Act No 513/1991 Coll., Commercial Code, as amended.

<sup>1ab</sup>) Article 4(1) point 1 of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (Official Journal of the EU, L 176, 27.6.2013).

<sup>1aa</sup>) Article 2(1) of Act No 492/2009 Coll. on payment services and on amendments to certain laws.

<sup>1a</sup>) Article 6 of Act No 566/2001 on securities and investment services and on amendments to certain laws (Securities Act).

1. in gold and in money market instruments in euro or foreign currency, including currency exchange services;
2. in capital market instruments in euro or foreign currency;
3. in precious metal coins, commemorative banknotes and coins, sheets of banknotes and sets of circulation coinage;

- d) the management of claims on behalf of clients, including advisory services;
- e) financial leasing;
- f) the provision of guarantees,<sup>2</sup> opening and endorsing of letters of credit;<sup>3</sup>
- g) the provision of business advisory services;
- h) the issuance of securities, participation therein, and the provision of related services;
- i) financial intermediation;
- j) the safe custody of assets;
- k) the renting of safe deposit boxes;
- l) the provision of banking information;
- m) special mortgage transactions (hereinafter ‘mortgage transactions’) under Article 67(1);
- n) performance of the functions of a depository under a separate regulation;<sup>5</sup>
- o) the processing of banknotes and coins;
- p) the issuance and administration of electronic money.

(3) A banking authorisation is an authorisation issued under a separate regulation<sup>5a</sup> to carry on any or all of the banking activities listed in paragraph (2), in the scope specified in that authorisation and under the terms and conditions stipulated thereby or by this Act and separate regulations.<sup>5b</sup>

(4) Where a special authorisation is required for the performance of certain activities as listed in paragraph (2) under a separate regulation,<sup>6</sup> a banking authorisation to perform these activities and the required special authorisation shall be issued in joint proceedings; this shall not apply to foreign banks, which are subject to the provisions of Articles 11 to 20.

(5) Banking activities as listed in paragraph (2) may also be conducted in the territory of the Slovak Republic by foreign banks through their local branches which have a banking authorisation to do so under Article 8 or which are authorised to conduct banking activities under Articles 11 to 20.

(6) Banks may issue registered shares only in book entry form; it shall be prohibited to change the form of shares.

(7) A foreign bank is a credit institution defined in a separate regulation<sup>1ab</sup> as a legal person with a registered office outside the territory of the Slovak Republic, carrying on banking activities under a banking authorisation issued in its home country.

(8) A foreign bank branch is a branch defined in a separate regulation<sup>6a</sup> as a foreign bank’s organisational unit located in the territory of the Slovak Republic<sup>7</sup> and authorised to take deposits and grant loans directly; all branches established in the Slovak Republic by

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<sup>2)</sup> Articles 313 to 322 of the Commercial Code.

<sup>3)</sup> Articles 682 to 691 of the Commercial Code.

<sup>5)</sup> For example, Act No 594/2003 Coll. on collective investments and on amendments to certain laws.

<sup>5a)</sup> Article 4(1) point 42 of Regulation (EU) No 575/2013.

<sup>5b)</sup> For example, Articles 12 to 34 of Act No 747/2004 Coll., as amended.

<sup>6)</sup> For example, Act No 594/2003 Coll. and Act No 186/2009 Coll.

<sup>6a)</sup> Article 4(1) point 17 of Regulation (EU) No 575/2013.

<sup>7)</sup> Articles 21(3a), 21(4a), and 28(3) of the Commercial Code.

a foreign bank based in a Member State of the European Union or in a country belonging to the European Economic Area (hereinafter referred to as a ‘Member State’) shall be deemed to constitute a single branch for authorisation purposes.

(9) Banks and branches of foreign banks, except as provided in paragraph (10) may not engage in business activities other than banking activities.

(10) Banks and branches of foreign banks may perform non-banking activities for a third person only if these are related to their operations. Such activities shall be subject to approval by Národná banka Slovenska and shall not be recorded in the Commercial Register.

(11) In connection with the conduct of banking activities, banks and branches of foreign banks shall also perform tasks assigned by Národná banka Slovenska in the fields of monetary policy and payments services under separate regulations.<sup>8</sup>

(12) Banks and branches of foreign banks shall not be subject to any separate law,<sup>1</sup> unless this Act provides otherwise.

(13) The provision of payment services shall be subject to a separate regulation.<sup>9</sup> (14) Banks and branches of foreign banks may provide financial intermediation services under a separate regulation.<sup>9a</sup>

### **Article 3**

(1) No person without a banking authorisation may accept deposits, unless a separate regulation<sup>5</sup> provides otherwise. No person without a banking authorisation may pay interest on, or other compensation for, deposits, which constitutes a tax expense under a separate regulation.<sup>10</sup>

(2) Unless a separate regulation<sup>11</sup> provides otherwise, no person without a banking authorisation may provide credit and loans within the scope of its business or other activity using repayable funds obtained from other persons on the basis of a public offer.

(3) No person without a banking authorisation may provide payment services to another person within the scope of its business or other activity, unless a separate regulation<sup>12</sup> provides otherwise.

### **Article 4**

(1) The words ‘bank’ or ‘savings bank’, translations thereof, or words having a root derived therefrom, may be used in a business name only by a legal person that has been granted a banking authorisation. Where confusion may arise, Národná banka Slovenska may

<sup>8</sup>) For example, Act of the National Council of the Slovak Republic No 566/1992 Coll., as amended; Act No 747/2004 Coll. on financial market supervision and on amendments to certain laws; Act No 492/2009 Coll.; Guideline of the European Central Bank of 31 August 2000 on monetary policy instruments and procedures of the Eurosystem (ECB/2000/7) (OJ, Special Edition, Chapter 10, Volume 01).

<sup>9</sup>) Act No 492/2009 Coll.

<sup>9a</sup>) Act No 186/2009 Coll. on financial intermediation and financial advisory services (including amendments to certain laws), as amended by Act No 129/2010 Coll.

<sup>10</sup>) Article 19(1) of Act No 565/2003 Coll. on income taxes.

<sup>11</sup>) For example, Act of the National Council of the Slovak Republic No 124/1996 Coll. on the State Housing Development Fund, as amended.

<sup>12</sup>) For example, Act No 492/2009 Coll. and Act No 507/2001 Coll. on postal services, as amended.

request a bank, a foreign bank branch, or other legal person to modify its name; the bank, branch of a foreign bank, or other legal person concerned shall comply with such request.

(2) The provisions of paragraph (1) shall not apply to legal persons whose business name or designation is established or recognised by law or by an international treaty binding upon the Slovak Republic, or where it is evident from the business name that the person using the word 'bank' or 'savings bank' in its name does not engage in any of the activities listed in Article 2(1).

## Article 5

For the purposes of this Act, the following definitions shall apply:

- a) 'deposit' means entrusted funds or other repayable funds received from the public, representing a liability towards the depositor to repay them;
- b) 'loan' means funds temporarily provided for own account or funds temporarily provided in any form, including factoring and forfeiting;
- c) 'bank branch' means a branch of a bank as defined in a separate regulation,<sup>6a</sup> located within or outside the territory of the Slovak Republic, and authorised to accept deposits and provide loans directly;
- d) 'investment in securities for own account' means the acquisition of securities with the objective of exercising long-term influence over the activities of a commercial company and obtaining property and other benefits for a period of at least one year, or the purchase of bonds<sup>13</sup> and their holding from acquisition until maturity;
- e) 'money market instruments' means interbank deposits, securities payable within one year, futures contracts up to one year involving securities maturing within one year and securities with maturity exceeding one year, other derivatives<sup>13a</sup> and yields therefrom, foreign exchange;
- f) 'capital market instruments' means shares, temporary certificates, participation certificates, and other securities accepted for trading in the stock exchange market<sup>13b</sup> with maturity exceeding one year, including dividends and interest thereon;
- g) 'financial leasing' means the leasing of items for an agreed rent for a definite period, paid usually in regular instalments, with the objective of transferring the ownership of these items to the lessee;
- h) 'client of a bank or a foreign bank branch' means a person with whom the bank or branch of a foreign bank has concluded a transaction as part of its banking business;
- i) 'banking transaction' (hereinafter 'transaction') means the formation, alteration or termination of relationships established under the law of obligations between a bank or a foreign bank branch and its client, and any operation related to the banking business, including the handling of deposits;
- j) 'banking information' means information concerning a bank's client acquired by the bank in connection with the conduct of banking activities and provided with the client's consent;
- k) 'public offer' means any announcement, offer or recommendation made by any person to collect funds in that person's favour or in a third person's favour by any means of promulgation, including personal contact with several persons, whether with one person at a time or with several persons at once; for the purposes of this Act, a notification, offer

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<sup>13)</sup> Act No 530/1990 Coll. on bonds, as amended.

<sup>13a)</sup> Article 5(f) to (i) and Article 8(d) of Act No 566/2001 Coll.

<sup>13b)</sup> Articles 25 to 32 of Act No 429/2002 Coll. on stock exchanges.

or recommendation made solely through a personal contact and intended for no more than ten persons shall not be deemed to be a public offer;

- l) ‘payment card’ means a payment instrument enabling a payment service user to withdraw funds from the user’s own account up to a limit allowed by the payment service provider;
- m) ‘person’ means any natural or legal person, unless only a natural or only a legal person is expressly referred to in the individual provisions of this Act;
- n) ‘deposit handling’ means any act of establishing, making, transferring, withdrawing or cancelling a deposit, assigning or pledging a deposit, restricting the payment of a deposit, permitting the use of a deposit by another person, as well as any change in the deposit terms and conditions;
- o) ‘remuneration principles’ means the principles of motivating people in accordance with Article 23a(1) by means of variable remuneration, the amount and payment of which is linked to the results achieved in pursuing the bank’s long-term interests;
- p) ‘discretionary pension benefits’ means, for the purposes of adopting and applying the principles of remuneration, discretionary pension benefits as defined in a separate regulation;<sup>13ba</sup>
- r) ‘financial intermediation’ means the intermediation of money market instruments on the interbank market, the performance of activities related to own financial services which are not subject to a separate law.<sup>13c</sup>
- s) ‘basic banking product’ means a banking product comprising the following banking services provided in connection with a current account: <sup>13d</sup>
  1. opening, maintaining, and cancelling a current account in euro;
  2. performing the following payment operations:
    - 2a the crediting of euro cash to current accounts;
    - 2b the withdrawal of euro cash from current accounts;
    - 2c non-cash money transfers from or to current accounts in euro;
      - 2ca the execution of payments, including standing orders;
      - 2cb the collection of payments, including direct debits.
  3. issuing international debit cards.
- t) ‘financial sector entity’ means financial sector entity as defined in a separate regulation;<sup>13e</sup>
- u) ‘regulated market’ means regulated market as defined in a separate regulation;<sup>13f</sup>
- v) ‘leverage’ means leverage as defined in a separate regulation;<sup>13g</sup>
- w) ‘competent supervisory authority’ means competent authority as defined in a separate regulation;<sup>13h</sup>
- x) ‘external credit assessment institution’ means an external rating agency as defined in a separate regulation;<sup>13i</sup>
- y) ‘central bank’ means central bank as defined in a separate regulation;<sup>13j</sup>
- z) ‘institution’ means institution as defined in a separate regulation;<sup>13k</sup>

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<sup>13ba</sup>) Article 4(1) point 73 of Regulation (EU) No 575/2013.

<sup>13c</sup>) Article 1(2)(a) of Act No 186/2009 Coll.

<sup>13d</sup>) Article 708 of the Commercial Code.

<sup>13e</sup>) Article 4(1) point 27 of Regulation (EU) No 575/2013.

<sup>13f</sup>) Article 4(1) point 92 of Regulation (EU) No 575/2013.

Article 3(1) of Act No 429/2002 Coll., as amended by Act No 209/2007 Coll.

<sup>13g</sup>) Article 4(1) point 93 of Regulation (EU) No 575/2013.

<sup>13h</sup>) Article 4(1) point 40 of Regulation (EU) No 575/2013.

<sup>13i</sup>) Article 4(1) point 98 of Regulation (EU) No 575/2013.

Act of the National Council of the SR No 566/1992 Coll., as amended.

<sup>13j</sup>) Article 4(1) points 45 and 46 of Regulation (EU) No 575/2013.

<sup>13k</sup>) Article 4(1) point 3 of Regulation (EU) No 575/2013.

- aa) ‘securitisation’ means securitisation as defined in a separate regulation;<sup>131</sup>
- ab) ‘financial institution’ means financial institution as defined in a separate regulation;<sup>13m</sup>
- ac) ‘small or medium-sized legal person’ means a legal person whose annual turnover does not exceed EUR 50,000,000.

## **PART TWO** **GENERAL PROVISIONS ON SUPERVISION**

### **Article 6**

(1) The activities of banks and branches of foreign banks shall be subject to supervision by Národná banka Slovenska.<sup>8</sup> The activities of other persons and entities associated with the operation or management of banks and branches of foreign banks shall also be subject to supervision in the range stipulated by this Act. Supervision shall be exercised in the range specified therein over individual banks, branches of foreign banks, or other entities, as well as over consolidated groups comprising banks and over financial conglomerates in accordance with Article 49c.

(2) In exercising supervision over a bank or a foreign bank branch, Národná banka Slovenska shall, in particular, examine and evaluate the organisation, management, division of responsibilities, strategies, systems and procedures adopted for the performance of activities as defined in the banking authorisation, information flows, and the risks to which the bank or foreign bank branch under supervision is or may be exposed; in so doing, Národná banka Slovenska shall also verify whether the supervised entity has enough own funds to cover these risks in accordance with Article 29(3). Národná banka Slovenska shall, at least once a year, carry out an examination and evaluation appropriate to the nature and scope of the banking activities performed. On the basis of the results thereof, Národná banka Slovenska shall assess whether the organisation and management of the bank or foreign bank branch under supervision, the strategies, systems and procedures used in performing the activities stated in the banking authorisation, and the level of own funds conform to the rules of prudent management of a bank or a foreign bank branch, and it shall also assess the adequacy of risk coverage by own funds. On the basis of this assessment, Národná banka Slovenska shall notify the supervised entity whether its own funds suffice for the coverage of risks; if there is a shortage of own funds, Národná banka Slovenska shall specify the required amount of own funds in this notification. In exercising supervision, Národná banka Slovenska shall duly consider the potential impact of its decisions on the stability of the financial system, especially in emergency situations as defined in Article 48(8)(c). If, on the basis of an examination, Národná banka Slovenska finds that a bank or a foreign bank branch represents a systemic risk, it shall forthwith inform the European supervisory authority (European Banking Authority)<sup>13o</sup> of the results of that examination.

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<sup>131</sup>) Article 4(1) point 61 of Regulation (EU) No 575/2013.

<sup>13m</sup>) Article 4(1) point 26 of Regulation (EU) No 575/2013.

Article 49(5)(c) and (d) of Act No 8/2008 Coll. on insurance and on amendments to certain laws.  
Act No 492/2009 Coll., as amended.

<sup>13o</sup>) Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European supervisory authority (European Banking Authority), amending Decision No 716/2009/EC, and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010).

(3) The scope of supervision shall not include the resolution of contractual disputes between banks or branches of foreign banks and their clients, which shall be heard and settled by a competent court or other authority under separate regulations.<sup>14</sup>

(4) Supervision on a consolidated basis shall not replace the supervision of individual persons included in a consolidated group, nor shall it replace the supervision of individual banks and branches of foreign banks under this Act, nor supervision under separate regulations.<sup>15</sup>

(5) The supplementary supervision of financial conglomerates shall not replace supervision on a consolidated basis, supervision of individual persons included in a consolidated group, supervision of individual persons included in a financial conglomerate, supervision of individual banks and branches of foreign banks under this Act, nor supervision under separate regulations.<sup>15</sup>

(6) The exercise of supervision on a consolidated basis or the exercise of supplementary supervision over financial conglomerates shall not place Národná banka Slovenska under the obligation to exercise supervision over individual persons included in a consolidated group or a financial conglomerate, where these persons are not subject to supervision by Národná banka Slovenska.

(7) Banks and branches of foreign banks shall allow any person who is commissioned to exercise supervision to attend the general meetings, supervisory board meetings, and statutory body meetings of the bank, or the management meetings of the foreign bank branch under supervision.

(8) Responsibility for supervision shall be borne by Národná banka Slovenska. Persons who exercise supervision on behalf of Národná banka Slovenska shall not be liable to third persons for the consequences of such supervision; this is without prejudice to their liability under the provisions of criminal law or to their responsibility towards Národná banka Slovenska under the labour law regulations.

(9) If, in the course of supervision, Národná banka Slovenska reveals any fact pointing to the commission of a criminal offence, it shall inform the competent law enforcement authority without delay.

(10) A supervisory authority of a foreign country may exercise supervision in the territory of the Slovak Republic over the activities of a foreign bank branch or a foreign bank's banking subsidiary solely on the basis of an agreement concluded between Národná banka Slovenska and the supervisory authority of that country, or under this Act. Národná banka Slovenska may enter into such agreement solely on a reciprocal basis. A foreign supervisory authority intending to carry out an on-site inspection in the territory of the Slovak Republic shall notify Národná banka Slovenska in advance. In conducting such inspections, the persons commissioned by the foreign supervisory authority shall have the same powers, duties and responsibilities as the staff members of Národná banka Slovenska authorised to

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<sup>14)</sup> For example, the Code of Civil Procedure, as amended; Act No 244/2002 Coll. on arbitrary proceedings, as amended; and Articles 90 to 95 of Act No 492/2009 Coll.

<sup>15)</sup> For example, Act No 747/2004 Coll., as amended; Act No 566/2001 Coll., as amended; Act No 8/2008 Coll., as amended; Act No 492/2009 Coll., as amended; and Act No 203/2011 Coll. on collective investment, as amended.

conduct on-site inspections under a separate regulation;<sup>15a</sup> they shall not, however, be obliged to produce a written protocol on the inspection they carry out, nor to set time limits for the adoption and implementation of measures to eliminate any shortcomings revealed by the inspection and to notify the supervised entity of these limits.

(11) Národná banka Slovenska may exercise supervision over branches or banking subsidiaries of banks operating in the territory of a foreign country, if so permitted by the legal regulations of that country and by an agreement concluded between Národná banka Slovenska and the competent supervisory authority of that country. The provisions of Articles 23, 23a, 23b, 23e, 24, 25, and 27 shall not apply to subsidiaries of banks according to the first sentence, where the parent bank based in the European Union or a bank controlled by the parent financial holding company based in the European Union or the parent mixed financial holding company based in the European Union proves that such supervision is not allowed by the legal regulations of the foreign country in question.

(12) The central securities depository or a member of the central securities depository<sup>16</sup> shall, upon request, provide Národná banka Slovenska with any information from the records they maintain, for supervisory purposes.

(13) In exercising supervision over banks and branches of foreign banks on an individual or consolidated basis, Národná banka Slovenska shall cooperate with the competent supervisory authorities of foreign countries, with the Slovak Chamber of Auditors, with auditors or audit firms<sup>17</sup> (hereinafter referred to as 'auditors'), and with payment system operators,<sup>9</sup> and shall be entitled to exchange information with them and to draw their attention to deficiencies identified in the course of supervision. The confidentiality obligation as defined in this Act and separate regulations<sup>18</sup> shall not apply to the disclosure of information pursuant to this paragraph. For the purpose of supervising a bank's branch established in another Member State, Národná banka Slovenska shall provide the competent supervisory authority of that Member State with, in particular, information on the bank's management and ownership structure, liquidity management rules, maintenance of own funds, exposure limits, and other facts that may influence the systemic risk posed by the bank, as well as information on the bank's deposit protection system, administrative and accounting procedures, and internal control procedures. Národná banka Slovenska may notify the European supervisory authority (European Banking Authority) if its request for cooperation, in particular for information exchange, is declined or not answered in due time. Národná banka Slovenska shall provide the competent supervisory authority of the home Member State with any information and findings concerning supervision of a bank's liquidity in a range needed for the protection of depositors or investors in the Member State in which the bank has a branch; where a liquidity problem occurs or may occur, the information provided shall include data on the planning and implementation of measures adopted within the scope of supervision. In the case of a foreign bank branch operating in the Slovak Republic, Národná banka Slovenska shall inform the competent supervisory authority of the home Member State about the system of deposit protection used in the Slovak Republic. Národná banka Slovenska may not disclose confidential information received from the supervisory authorities of other Member States without the consent of the foreign supervisory authority that has provided the information in

<sup>15a)</sup> Articles 6 to 11 of Act No 747/2004 Coll. on financial market supervision (including amendments to certain laws), as amended.

<sup>16)</sup> Articles 99 to 111 of Act No 566/2001 Coll., as amended.

<sup>17)</sup> Articles 3 to 17 and Articles 34 to 45 of Act No 540/2007 Coll. on auditors, audits and audit supervision, and on amendments to Act No 431/2001 Coll. on accounting, as amended.

<sup>18)</sup> For example, Articles 40 and 41 of Act No 566/1992 Coll. of the National Council of the SR, as amended.

question. Národná banka Slovenska may use confidential information received from other Member States' supervisory authorities only when performing its tasks and duties in connection with:

- a) the exercise of supervision over entities by checking and monitoring compliance with the conditions regarding the taking up and pursuit of business by the entities under supervision on an individual or consolidated basis, especially in regard to the monitoring of their liquidity, capital adequacy, large exposures, administrative and accounting procedures, and internal control mechanisms;
- b) the imposition of sanctions under this Act or under separate regulations;<sup>15</sup>
- c) appeal proceedings taken against the decisions of Národná banka Slovenska;
- d) judicial review of the decisions of Národná banka Slovenska or other judicial proceedings related to the entities under supervision or to the supervision process.

(14) Where Národná banka Slovenska comes to the conclusion that a branch of a foreign bank is significant, it shall submit a duly justified application to the home Member State's supervisory authority responsible for supervising banks on a consolidated basis or to the home Member State's supervisory authority that supervises the parent bank of the said branch, for confirmation that the foreign bank branch in question is significant; in this regard, Národná banka Slovenska shall, in particular, take into account:

- a) whether the foreign bank branch holds more than 2% of the total volume of deposits taken in the Slovak Republic;
- b) the possible impact of operation suspension or termination by the foreign bank on market liquidity, the payment system, securities settlement system, and payment settlement system used in the Slovak Republic; and
- c) the size and significance of the foreign bank branch concerned in terms of the number of clients in relation to the financial system of the Slovak Republic.

(15) In determining whether a foreign bank branch is significant, Národná banka Slovenska shall cooperate with the supervisory authorities referred to in paragraph (14). If Národná banka Slovenska and the competent supervisory authority mentioned in paragraph (14) do not agree, within two calendar months of the delivery date of an application made pursuant to paragraph (14), that the branch in question is significant, Národná banka Slovenska shall, within two calendar months of the expiry of this period, determine whether the said foreign bank branch is significant. In so doing, Národná banka Slovenska shall take into account any views and reservations of the supervisory authority referred to in paragraph (14). If, within two months of the delivery date of an application made pursuant to paragraph (14), the supervisory authority referred to in paragraph (14) requests the European supervisory authority (European Banking Authority) to provide assistance in negotiating an agreement under a separate regulation,<sup>19</sup> Národná banka Slovenska shall determine whether the foreign bank branch in question is significant in line with the decision of the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) fails to issue such decision within one month of the delivery date of a request for assistance, Národná banka Slovenska shall determine independently whether the foreign bank branch in question is significant. Národná banka Slovenska shall forward any information indicating that the foreign bank branch is significant, backed by adequate justification, to the supervisory authority referred to in paragraph (14). The assessment of a foreign bank branch as significant shall have no influence on the rights and obligations of Národná banka Slovenska under this Act or other related generally binding legal regulations.

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<sup>19)</sup> Article 19 of Regulation (EU) No 1093/2010.

(16) Národná banka Slovenska shall provide the competent supervisory authority of the Member State in which a bank's branch has been assessed as significant with information pursuant to Article 48(9)(c) and (d) and, in cooperating with that supervisory authority, it shall proceed in accordance with Article 48(7)(c). If Národná banka Slovenska learns that the parent bank in question is in a critical situation under Article 48(1), it shall forthwith notify the competent supervisory authority of the Member State in which the bank's significant branch is located, as well as another public authority in this Member State having information about this branch. Národná banka Slovenska shall notify the competent supervisory authority of the Member State in which the significant branch is located of the results of risk assessment carried out pursuant to paragraph (2), as well as of its own decisions taken under Article 50 in a range that is relevant for this branch. Národná banka Slovenska shall also consult the competent supervisory authority about the imposition of liquidity risk mitigating measures if relevant.

(17) Where Národná banka Slovenska is not commissioned to act as a supervisory authority in charge of supervision on a consolidated basis in accordance with Article 48(9) and (10) and where Národná banka Slovenska exercises supervision over a bank with a branch, classified as significant, in another Member State, Národná banka Slovenska shall:

- a) set up and chair a working group of supervisory authorities (hereinafter: 'working group') in order to facilitate cooperation under paragraphs (13) and (16);
- b) determine which supervisory authority is competent to participate in the meetings and activities of the working group;
- c) take into account the importance of supervisory activities that are to be planned or coordinated and, in particular, their possible effects on the financial system's stability under paragraph (2) and on the obligations referred to in paragraph (16);
- d) inform fully and well in advance each member of the working group of the date, place, and agenda of the group's next meeting;
- e) inform fully and in due time each member of the working group of the decisions taken at the group's meetings and of the measures adopted.

(18) Information provided as stipulated in paragraph (12) may be used exclusively for supervisory purposes, for audit, and for the supervision of auditors. The authorities and persons referred to in paragraph (12) shall ensure that such information is kept confidential in accordance with the confidentiality requirements of this Act and separate regulations.<sup>18</sup> Such information may be mutually exchanged by the authorities or persons mentioned in paragraph (12) only with the consent of Národná banka Slovenska.

(19) Národná banka Slovenska shall publish methodological guidelines and recommendations relating to supervision in the Official Journal of Národná banka Slovenska. [Vestník Národnej banky Slovenska].

(20) Národná banka Slovenska shall publish the following information on its website:

- a) generally binding legal regulations, methodological guidelines, and recommendations relating to financial market supervision;
- b) the method of exercising national discretions in relation to the transposition of the European Union's binding legislative acts and the selection possibilities that arise for banks under this Act;
- c) the general evaluation criteria and methodology used by Národná banka Slovenska in exercising supervision over banks and branches of foreign banks;
- d) aggregate statistical data on the key indicators relating to regulatory changes concerning the banking sector;

- e) the list of recognised credit rating agencies;<sup>20</sup>
- f) the list of higher territorial units or municipalities which, for the purpose of calculating risk-weighted exposures using the standardised approach for credit risk, have been assigned the same risk weights as countries.

(21) On the basis of the findings emerging from an examination carried out pursuant to paragraph (2), Národná banka Slovenska may increase the number and frequency of on-site inspections, request additional reports, more frequent reviews for strategic and business plans, or conduct thematic inspections.

(22) Národná banka Slovenska shall prepare a plan of on-site inspections and a plan of off-site supervision on an annual basis. These plans shall contain information on:

- a) the performance of inspections and supervisory tasks;
- b) entities that are subject to supervision pursuant to paragraph (1);
- c) the plan of inspections/supervision under Articles 47(9) and 48(9);

(23) In preparing the plans of inspections/supervision referred to in paragraph (22), Národná banka Slovenska shall take into account in particular:

- a) the stress-test results of banks;
- b) the information and findings obtained from the competent supervisory authority of the Member State in which the supervised entity operates;
- c) the degree of systemic risk;
- d) the banks that are to be taken into account according to Národná banka Slovenska.

(24) The conditions set out in Articles 30 to 32, under which a bank may be granted prior approval under Articles 30 to 32, are to be observed by the bank throughout the validity of the prior approval. Národná banka Slovenska shall, at least every three years, evaluate the fulfilment of the conditions under which a bank has been granted prior approval under Articles 30 to 32, with regard to the new types of transactions.

(25) Where a bank fails to meet the conditions set out in Articles 30 to 32 under which it has been granted prior approval, Národná banka Slovenska may withdraw the prior approval or impose appropriate measures to improve the internal approach pursuant to Articles 30 to 32. Apart from the measures mentioned in Article 50, these measures may also include a measure consisting in the submission of a recovery plan in accordance with the conditions under which the prior approval has been granted, with specific deadlines for submission and implementation. If the bank is unable to submit and implement a recovery plan, the prior approval granted under Articles 30 to 32 shall be withdrawn by Národná banka Slovenska or restricted to the part that is in line with the conditions stipulated for internal approach under Articles 30 to 32. Where the inconsistency with the conditions under which the prior approval has been granted under Articles 30 to 32 may lead to an inadequacy of own funds, Národná banka Slovenska shall be entitled to request the bank to provide proof of compliance with the own funds requirements under a separate regulation.<sup>20a</sup>

(26) Národná banka Slovenska shall supply the European supervisory authority (European Banking Authority) with information on:

- a) the findings of examinations and evaluations pursuant to paragraph (2);

<sup>20</sup>) Article 135(2) of Regulation (EU) No 575/2013.

Article 18(3) of Regulation (EU) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (OJ L 302, 17.11.2009), as amended.

<sup>20a</sup>) Articles 92 to 386 of Regulation (EU) No 575/2013.

b) the decision-making methodology under paragraphs (2), (22) to (25), and Article 50.

(27) Národná banka Slovenska shall carry out stress tests at least once a year. The stress-test results<sup>20b</sup> may be published or provided to the European supervisory authority (European Banking Authority) for the purpose of publication, along with other stress-test results from the European Union.

(28) If the competent supervisory authority of a Member State provides Národná banka Slovenska with information and findings concerning a bank branch or a bank carrying on banking activities in the territory of that Member State, on the basis of which corrective measures are to be employed, Národná banka Slovenska shall inform the competent supervisory authority of the Member State concerned about the corrective measures it has taken, including an explanation if requested. If the competent supervisory authority of the Member State disagrees with the steps taken by Národná banka Slovenska and imposes other corrective measures with which Národná banka Slovenska disagrees, the matter may be forwarded to the European supervisory authority (European Banking Authority) for consideration under a separate regulation.<sup>19</sup>

(29) If Národná banka Slovenska provides another Member State's competent supervisory authority with information and findings on a foreign bank branch under Article 11(1) or a foreign bank under Article 11(2) carrying on banking activities in the territory of the Slovak Republic, on the basis of which corrective measures are to be employed but the Member State concerned fails to introduce appropriate measures, Národná banka Slovenska may, after informing the competent supervisory authority and the European supervisory authority (European Banking Authority), take appropriate measures for the prevention of further infringements with the aim of protecting the interests of depositors, investors, and other entities to which services are provided, or with the aim of protecting the stability of the financial system.

(30) Apart from assessing the credit risk, market risk, and operational risk faced by banks, Národná banka Slovenska shall, within the scope of supervision, also examine and evaluate:

- a) the results of stress tests carried out by banks using the internal ratings-based approach under a separate regulation;<sup>20c</sup>
- b) the concentration risk exposures of banks, including their management and compliance with a separate regulation;<sup>20d</sup>
- c) the risk management procedures used in connection with credit risk mitigation, including their suitability and method of application;
- d) the own funds of banks in terms of their adequacy in relation to assets that are subject to securitisation with regard to its economic essence and the degree of risk transfer;
- e) the liquidity risk exposures of banks, the measurement and management of this risk, including an analysis of alternative scenarios, management of risk mitigating factors;
- f) the effects of risk spreading and the method used to incorporate these effects into the risk measurement system, the results of stress tests carried out by banks using their own market risk calculation models under a separate regulation;<sup>20e</sup>
- g) the geographic distribution of exposures;
- h) the business models of banks;

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<sup>20b</sup>) Article 32 of Regulation (EU) No 1093/2010.

<sup>20c</sup>) Article 177 of Regulation (EU) No 575/2013.

<sup>20d</sup>) Articles 387 to 403 of Regulation (EU) No 575/2013.

<sup>20e</sup>) Articles 362 to 377 of Regulation (EU) No 575/2013.

i) the systemic risk involved.

(31) For the purposes specified in paragraph (30)(e), Národná banka Slovenska shall, within the scope of supervision, also examine and evaluate:

- a) the liquidity risk management strategy of the bank under supervision, including the bank's financial market position;
- b) whether the bank has provided hidden support for securitisation; if the bank is found to have provided such support more than once, Národná banka Slovenska shall take measures to eliminate the risk that the bank will provide hidden support for securitisation in the future;
- c) whether adjustments to the valuation of positions or portfolios in the trading book under a separate regulation<sup>20f</sup> enable the bank to sell or secure its position under market conditions in a short time, without any significant loss;
- d) interest rate risk exposures arising from non-business activities; if a bank's economic value falls by more than 20% of the value of own funds as a result of an unexpected change in interest rates by more than 200 basis points or by a value determined by the European supervisory authority (European Banking Authority), Národná banka Slovenska shall impose a corrective measure;
- e) exposures to the excessive use of leverage by the bank;
- f) the bank's management and control system, the eligibility of statutory body members and supervisory board members to perform their tasks and duties.

## Article 6a

(1) Banks using the internal ratings-based approach for credit risk under Article 30, or their own market risk calculation models under Article 31, shall submit to Národná banka Slovenska annual reports on the results of calculations made within the scope of their internal approaches for exposures or positions that are part of the reference portfolios in accordance with a separate regulation.

(2) On the basis of the reports of banks on the results of calculations made within the scope of their internal approaches under Articles 30 and 31 for their exposures or positions that are part of the reference portfolios, Národná banka Slovenska shall monitor the range of risk-weighted exposure amounts or the own funds requirements, except for the operational risk, for reference portfolio exposures or transactions arising from the internal approaches of banks. Národná banka Slovenska shall assess the quality of these internal approaches at least once a year, paying particular attention to

- a) approaches that show significant differences in own funds requirements for the same exposure;
- b) approaches that show disproportionately large or disproportionately small differences, as well as considerably and systematically underestimated own funds requirements.

(3) If a bank uses substantially different internal approaches than the majority of comparable banks or if its internal approaches have few common characteristics with the approaches of comparable banks, which may lead to great differences in the results, Národná banka Slovenska shall examine the causes of this fact. Where a bank's internal approaches lead to an underestimation of the own funds requirements, which are not associated with the differences in related risks in exposures or positions, Národná banka Slovenska shall impose a measure on the bank in accordance with Article 50.

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<sup>20f</sup>) Article 105 of Regulation (EU) No 575/2013.

(4) The measures imposed under paragraph (3) may not

- lead to standardisation, nor to the preferential use of certain methods by banks within their internal approaches pursuant to paragraphs (2) and (3);
- provide banks with incorrect stimuli;
- cause herd behaviour among banks.

## **PART THREE** **BANKING AUTHORISATION**

### **Article 7**

(1) The granting of banking authorisations falls within the competence of Národná banka Slovenska. A decision to grant a banking authorisation under a separate regulation<sup>21</sup> or an authorisation to conduct mortgage transactions shall be made by Národná banka Slovenska after consultation with the Ministry of Finance of the Slovak Republic (hereinafter referred to as ‘the Ministry’). An application for a banking authorisation shall be submitted to Národná banka Slovenska.

(2) The banking authorisation mentioned in paragraph (1) shall not be granted unless the following conditions are proved to have been met:

- a share capital of at least EUR 16,600,000 is paid up for a bank or a share capital of at least EUR 33,200,000 for a bank conducting mortgage transactions;
- the share capital and other financial resources of the bank have a transparent and legal provenance;<sup>21a</sup>
- prospective shareholders with a qualifying holding in the bank are eligible and acceptable, and their relationships with other persons are transparent, especially as regards interests in the share capital and in the voting rights;
- the members of the bank’s statutory body are nominated in accordance with Article 24(1);
- persons nominated to positions that include member of the statutory body, company secretary, member of the supervisory board, managerial employee, and head of internal control and internal audit are professional qualified and trustworthy;
- the draft articles of association of the bank are available;
- a business plan based on the strategy proposed for the bank’s activities, supported by real economic calculations, is available;
- a group with close links that includes a shareholder with a qualifying holding in the bank is transparent;
- the exercise of supervision is not impeded by the close links of the group mentioned in subparagraph (h);
- the exercise of supervision is not impeded by the legal system or the application of laws in a country in the territory of which the group mentioned in subparagraph (h) has close links;
- the bank’s registered office, headquarters, and place of business will be in the territory of the Slovak Republic; the bank may also conduct banking activities outside the territory of the Slovak Republic through its branches or directly, without establishing a branch, under the conditions laid down in this Act,

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<sup>21)</sup> Article 2 of Act No 310/1992 Coll. of the Slovak National Council on home savings, as amended.

<sup>21a)</sup> Act No 297/2008 Coll. on the prevention of money laundering and terrorist financing and on amendments to certain laws.

- l) the shareholders establishing the bank can prove their financial capacity to overcome an adverse financial situation faced by the bank;
- m) the conditions equivalent to those for the issuance of an authorisation for investment services<sup>22a</sup> are met, as appropriate, in relation to the requested scope of investment services, investment activities, and ancillary services;
- n) the conditions equivalent to those for the issuance of an authorisation to provide payment services<sup>22b</sup> are met, as appropriate, in relation to of the requested scope of payment services;
- o) the conditions equivalent to those for the issuance of an authorisation to issue electronic money<sup>22c</sup> are met, as appropriate, in relation to of the requested issue of electronic money;
- p) appropriate technical systems and procedures, and adequate resources, material and technical conditions are available for the proper conduct of banking activities;
- q) adequate organisational conditions, qualified personnel, and a functional management and control system, including internal control and internal audit, a risk management system, and prudential rules and regulations are available for the conduct of banking activities.

(3) Národná banka Slovenska shall reject an application submitted under paragraph (1) where the applicant fails to meet any of the conditions listed in paragraph (2). An application made under paragraph (1) may not be rejected because of the economic needs of the financial market.

(4) Before commencing banking activities in accordance with their authorisation, banks shall prove to Národná banka Slovenska that:

- a) their share capital has been paid up in full amount;
- b) they are technically and organisationally prepared, adequately staffed, and equipped with a management and control system, including internal control and internal audit, and a risk management system;
- c) they meet the requirements laid down in Article 27(13).

(5) Banks may commence banking activities in accordance with their authorisation upon receipt of a written notification from Národná banka Slovenska recognising that the conditions set out paragraph (4) have been met.

(6) Banks shall observe the conditions specified in paragraphs (2) and (4) throughout the validity of their banking authorisation.

(7) An applicant whose shareholder with a qualifying holding is a foreign bank shall submit, along with the application for a banking authorisation, a binding written statement from the supervisory authority of the country in which the foreign bank has its registered office concerning the establishment of a bank in the territory of the Slovak Republic, as well as a binding written commitment by the supervisory authority that it will inform in writing Národná banka Slovenska in due time of any changes occurring in the maintenance of own funds in respect of the relevant requirements, liquidity, and other facts that may adversely affect the ability of the foreign bank to meet its obligations.

(8) Národná banka Slovenska shall discuss an application for a banking authorisation with the competent supervisory authorities of the Member State concerned under

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<sup>22a)</sup> Articles 54 to 55 of Act No 566/2001 Coll., as amended.

<sup>22b)</sup> Article 64(2)(j) of Act No 492/2009 Coll.

<sup>22c)</sup> Article 82(2)(j) of Act No 492/2009 Coll.

Article 7a(1), where a banking authorisation is to be granted under paragraph (1) to an applicant:

- a) which will be a subsidiary of a foreign bank whose registered office is located in that Member State;
- b) which will be a subsidiary of the foreign bank's parent company established in that Member State;
- c) which will be controlled by the same persons that control the foreign bank established in that Member State;
- d) which will be a subsidiary of an insurance company or securities dealer established in that Member State;
- e) which will be a subsidiary of the insurance company's or securities dealer's parent company established in that Member State;
- f) which is controlled by the same persons that control the insurance company or securities dealer established in that Member State.

(9) Národná banka Slovenska shall, by way of a decree<sup>23</sup> promulgated in the Collection of Laws of the Slovak Republic (hereinafter referred to as 'Collection of Laws'), stipulate:

- a) the elements of an application for a banking authorisation pursuant to paragraph (1), including the elements of an application of a bank that is to perform its activities under a separate regulation<sup>21</sup> and a bank that seeks to provide mortgage transactions, and documents to be attached to the application;
- b) the details of conditions specified in paragraph (2) and how compliance is to be proved;
- c) how compliance with the requirements set out in paragraph (4) is to be proved.

(10) For the purposes of this Act, 'eligible person' means a person that demonstrably meets the conditions laid down in paragraph (2)(b) and is able, as the circumstances appear to suggest, to ensure the proper and safe conduct of banking activities with a view to maintaining stability in the banking sector.

(11) For the purposes of this Act, 'qualifying holding' means qualifying holding as defined in a separate regulation.<sup>23a</sup>

(12) For the purposes of this Act, 'indirect holding' means a holding which is held through an intermediary, the same being either one or more legal persons over which the person concerned exercises control.

(13) For the purposes of this Act, 'group with close links' means group with close links as defined in a separate regulation.<sup>23b</sup>

(14) Only a person with proper professional qualification may be appointed as, and perform the duties of, a member of a bank's statutory body, a member of a bank's supervisory board, the head or deputy head of a foreign bank branch, a company secretary, a managerial employee, or as the head of internal control and internal audit in a bank or a foreign bank branch. For the purposes of this Act, 'professional qualification' of a natural person nominated as a member of a bank's statutory body, a company secretary, the head or deputy head of a foreign bank branch, a managerial employee, or as the head of the internal control

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<sup>23</sup>) Article 1(1) of Act No 1/1993 Coll. of the National Council of the Slovak Republic on the Collection of Laws of the Slovak Republic, as amended.

<sup>23a</sup>) Article 4(1) point 36 of Regulation (EU) No 575/2013.

<sup>23b</sup>) Article 4(1) point 38 of Regulation (EU) No 575/2013.

and internal audit unit means completed university education, at least three years of experience in banking or another field of finance, and three years of management experience in banking or another field of finance. A person with completed secondary education, completed technical/business college education or other similar education acquired abroad, and with at least seven years of experience in banking or another field of finance, of which at least three years were spent in a managerial position, may also be recognised by Národná banka Slovenska as a professionally qualified person. For persons nominated to a bank's supervisory board, 'professional qualification' means extensive knowledge and experience in banking or another field of finance. In a decree promulgated in the Collection of Laws, Národná banka Slovenska shall give a precise definition of what is meant by professional qualification for performing the duties of a bank's supervisory board member, statutory body member, the head of a foreign bank branch, the deputy head of a foreign bank branch, a company secretary, a managerial employee or the head of internal control and internal audit in a bank or a foreign bank branch, and shall specify how such professional qualification is to be proved.

(15) For the purposes of this Act, a natural person shall be deemed trustworthy provided that:

- a) the person in question has not yet been lawfully sentenced for any property-related criminal offence or criminal offence committed in connection with a managerial office or other intentional criminal offence; these facts shall be proved and documented by an extract from the Criminal Records Register<sup>24</sup> not older than three months; in the case of a foreigner, these facts shall be proved and documented by a similar certificate issued by a competent authority in the country of the person's habitual residence;
- b) the person in question has not held, in the past ten years, any of the posts listed in paragraph (2)(e) or the post of chief executive of a foreign branch in a bank, in a foreign bank branch or in a financial institution whose banking authorisation or other authorisation to operate has been withdrawn, at any time within one year prior to the authorisation withdrawal;
- c) the person in question has not held, in the past ten years, any of the posts listed in paragraph (2)(e) in a bank or a financial institution placed in receivership, at any time within one year prior to the imposition of receivership;
- d) the person in question has not held, in the past ten years, any of the posts listed in paragraph (2)(e) in a bank or a financial institution which entered into liquidation or became insolvent,<sup>24aa</sup> in respect of whose property bankruptcy was declared, restructuring permitted, forced settlement confirmed or composition approved, in respect of which a bankruptcy petition was rejected or bankruptcy proceedings suspended or terminated on the grounds of lacking assets, or the bankruptcy was rejected on the grounds of lacking assets, at any time within one year before the occurrence of such circumstance;
- e) the person in question has not been lawfully charged, in the past ten years, a fine of more than 50% of the amount that could have been imposed under Article 50(2);
- f) the person in question is not considered untrustworthy under separate regulations<sup>24a</sup> pertaining to the financial market;

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<sup>24)</sup> Article 13(1) to (6) and Article 14(3)(f) of Act No 330/2007 Coll. on the criminal records register and on amendments to certain laws.

<sup>24aa)</sup> Article 3 of Act No 7/2005 Coll. on bankruptcy and restructuring (including amendments to certain laws), as amended by Act No 520/2005 Coll.

<sup>24a)</sup> For example, Article 8(b) of Act No 566/2001 Coll., as amended; Article 4(11) of Act No 429/2002 Coll., as amended by Act No 747/2004 Coll.; Article 48(11) of Act No 43/2004 Coll. on the old-age pension saving scheme (including amendments to certain laws), as amended by Act No 747/2004 Coll.;

g) the person in question has been performing the tasks of the post held or doing business reliably and honestly over the past ten years, without breaching the generally binding legal regulations; this guarantees that the said person will hold the proposed office reliably and honestly, without breaching the generally binding legal regulations, including the performance of duties arising from the generally binding legal regulations, from the bank's or foreign bank's articles of association, and/or from their internal regulations and management acts.

(16) Národná banka Slovenska may recognise a person mentioned in paragraph (15)(b), (c) and (d) as a trustworthy person if, from the nature of the matter, it is evident that, as regards the time spent in the office specified in paragraph (2)(e), or Article 8(2)(c), this person could not have influenced the operations of the bank or branch of a foreign bank and caused the consequences mentioned in paragraph (15)(b), (c) and (d). This also applies to a person assessed under paragraph 15(g) if, in regard to the nature of the matter and the time spent in office when the infringement to which paragraph 15(g) applies was identified, the person guarantees to hold the proposed office reliably and honestly, without breaching the generally binding legal regulations, including the obligations specified in paragraph 15(g).

(17) For the purposes of this Act, 'subsidiary' <sup>24aaa</sup>Act means subsidiary as defined in a separate regulation.

(18) For the purposes of this Act, 'parent company' means parent company as defined in a separate regulation. <sup>24aab</sup>

(19) For the purposes of this Act, 'control' means control as defined in a separate regulation. <sup>24aac</sup>

(20) For the purposes of this Act, 'managerial employee' means a person directly reporting to the statutory body of a bank or to the head or deputy head of a foreign bank branch, who manages the activities or part thereof of a bank or a foreign bank branch.

(21) For the purposes of this Act, 'significant influence' means a possibility to exercise influence over the management of a legal person, comparable with the influence attached to a holding of 10% or more of the share capital or of the voting rights of that legal person.

## Article 7a

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Article 23(11) of Act No 650/2004 Coll. on the supplementary pension scheme (including amendments to certain laws); Article 3(a) of Act No 8/2008 Coll. as amended; Article 23(1) of Act No 186/2009 Coll., as amended; Article 2(31) of Act No 492/2009 Coll., as amended by Act No 394/2011 Coll.; Article 28(10) of Act No 203/2011 Coll. on collective investment.

<sup>24aaa</sup>) Article 4(1) point 16 of Regulation (EU) No 575/2013.

Article 22(4) of Act No 431/2002 Coll., as amended by Act No 561/2004 Coll.

<sup>24aab</sup>) Article 4(1) point 15 of Regulation (EU) No 575/2013.

Article 22(3) of Act No 431/2002 Coll., as amended.

<sup>24aac</sup>) Article 4(1) point 37 of Regulation (EU) No 575/2013.

Article 22(3) and (4) of Act No 431/2002 Coll., as amended.

(1) Národná banka Slovenska shall discuss an application for a banking authorisation with the competent authorities, namely:

- a) the supervisory authority of the Member State in which the foreign bank concerned is established, when a banking authorisation is to be granted under Article 7(8)(a) to (c);
- b) the supervisory authority that is responsible for the supervision of insurance companies or securities dealers in the Member State in which the foreign insurance company or securities dealer concerned is established, when a banking authorisation is to be granted under Article 7(8)(d) to (f).

(2) Národná banka Slovenska shall discuss, with the competent supervisory authority of the Member State referred to in paragraph (1), the eligibility and acceptability of persons that are shareholders with a qualifying holding in a foreign bank, and the professional qualification and credibility of natural persons who are members of the statutory bodies of persons referred to in paragraph 1 letter b).

(3) If, after being granted a banking authorisation, a bank is to become part of a consolidated group as defined in Articles 44 to 49, including a financial holding company, or part of a financial conglomerate as defined in Articles 49a to 49o, including a mixed financial holding company, the granting of a banking authorisation shall also be conditional upon the presentation of proof of the professional qualification and credibility of natural persons who are members of the statutory body of the aforementioned financial holding company or mixed financial holding company.

(4) ‘Professional qualification’ as mentioned in paragraph (3) means a person’s extensive knowledge of the financial sector and experience in the field of finance. The credibility of persons as defined in paragraph (3) shall also be verified pursuant to Article 7(15).

## **Article 8**

(1) A decision to grant an authorisation to a foreign bank to conduct banking activities through its branch located in the territory of the Slovak Republic shall be made by Národná banka Slovenska. A foreign bank shall submit an application for a banking authorisation to Národná banka Slovenska.

(2) A banking authorisation shall not be issued under paragraph (1) unless the following conditions are proved to have been met:

- a) the foreign bank concerned provides funding to its branch in a sufficient amount and of transparent origin in relation to the scope and risk exposure of the branch’s business operations;
- b) the foreign bank is trustworthy and has adequate financial strength in relation to the scope of business operations of its branch;
- c) the persons nominated by the foreign bank for the posts of head and deputy head of its branch, and head of the internal control and internal audit unit are professionally qualified and trustworthy;
- d) the foreign bank’s business plan based on the strategy proposed for the activities of its branch is supported by realistic economic calculations;
- e) the group with close links to which the foreign bank belongs is transparent;
- f) the close links within the group mentioned in subparagraph (e) do not obstruct supervision;

- g) the legal system and its application in the home country of the group mentioned in subparagraph (e) do not obstruct supervision;
- h) the foreign bank seeking to operate in the territory of the Slovak Republic through its branch has its registered office, headquarters, and conducts a principal part of its activities in the same country;
- i) the conditions equivalent to those for the issuance of an authorisation for investment services<sup>22a</sup> are met, as appropriate, in relation to the requested scope of investment services, investment activities, and ancillary services;
- j) the conditions equivalent to those for the issuance of an authorisation to provide payment services<sup>22b</sup> are met, as appropriate, in relation to the requested scope of payment services;
- k) the conditions equivalent to those for the issuance of an authorisation to issue electronic money<sup>22c</sup> are met, as appropriate, in relation to the requested issue of electronic money;
- l) appropriate technical systems and procedures are in place for the proper performance of banking activities, and there are adequate resources, material and technical conditions for these activities;
- m) there are adequate personnel and organisational conditions for the conduct of banking activities, a fully functional management and control system, including internal control and internal audit, a risk management system, and prudential rules and regulations.

(3) Národná banka Slovenska shall reject an application pursuant to paragraph (1) where the applicant fails to meet any of the conditions specified in paragraph (2). The reason for rejecting an application as referred to in paragraph (1) may not be the economic needs of the market.

(4) Before commencing the activities stated in its banking authorisation, a foreign bank branch shall demonstrate to Národná banka Slovenska compliance with the following conditions:

- a) technical, organisational, and personnel preparedness to conduct banking activities under its authorisation, the existence of a management and control system at the branch, including an internal control and internal audit unit, and a system of risk management;
- b) compliance with the requirements laid down in Article 27(13).

(5) A foreign bank branch may commence the activities stated in its banking authorisation on the basis of a written notification from Národná banka Slovenska acknowledging that the conditions set out in paragraph (4) have been met.

(6) A foreign bank branch shall observe the conditions stipulated in paragraphs (2), (4), and (9) throughout the validity of its banking authorisation.

(7) A foreign bank shall submit, together with an application for a banking authorisation, a binding written statement from the supervisory authority of the country in which the foreign bank has its registered office concerning the establishment of a branch in the territory of the Slovak Republic, as well as a written promise from that supervisory authority that it will inform in writing Národná banka Slovenska in due time of any changes in the maintenance of own resources in respect to the requirements and liquidity and of other facts that may adversely affect the ability of the foreign bank to meet its obligations.

(8) In labelling its registered office and in written communication, a foreign bank branch shall always include in its name the words 'branch of a foreign bank.'

(9) A banking authorisation as referred to in paragraph 1 may permit mortgage transactions only if the foreign bank applying for a banking authorisation under paragraph (1) is authorised to conduct mortgage transactions in its home country and if the law of that country guarantees equal rights for mortgage or municipal loan borrowers and for holders of mortgage bonds or municipal bonds issued in the Slovak Republic in respect of mortgage transactions conducted under this Act or under separate regulations,<sup>24ab</sup> including equal ranking in bankruptcy proceedings,<sup>24ac</sup> as for mortgage or municipal loan borrowers and mortgage or municipal bond holders in the country where its registered office is located, at least in the scope of rights given to mortgage or municipal loan borrowers and mortgage or municipal bond holders by the law of the Slovak Republic.

(10) In a decree<sup>23</sup> to be promulgated in the Collection of Laws, Národná banka Slovenska shall stipulate:

- a) the elements of an application for a banking authorisation pursuant to paragraph (1), including the elements of an application pursuant to paragraph (1) for a branch that is to conduct mortgage transactions, and documents to be attached to the application;
- b) details of the conditions specified in paragraph (2) and details of how compliance with these conditions is to be demonstrated;
- c) details of how compliance with the requirements set out in paragraph (4) is to be demonstrated.

(11) For the purposes of this Act, ‘qualifying holding’ means qualifying holding as defined in a separate regulation.<sup>23a</sup>

## Article 9

(1) A banking authorisation shall be issued for an indefinite period and may not be transferred to another person, nor assigned to the holder’s legal successor.

(2) A banking authorisation contains a precise definition of the banking activities permitted thereunder and may also state the conditions which a bank or a foreign bank branch must meet prior to commencing its authorised activities or which they must observe when conducting any authorised banking activity.

(3) A banking authorisation may restrict the scope or manner of performance of certain banking activities. At the request of a bank or a foreign bank branch, a banking authorisation may be extended by a decision to include other banking activities; the same applies to any extension of the restricted scope or manner of performance of banking activities.

(4) A bank shall inform in writing Národná banka Slovenska in advance of any changes in the conditions on the basis of which its banking authorisation was issued pursuant to Article 7; the prior approval of Národná banka Slovenska shall be required for removing an existing member from, and appointing of a new member to, the bank’s statutory body, for appointing a company secretary, for removing an existing member from, and appointing a new member to, the bank’s supervisory board, for replacing a managerial employee, for replacing the head of the bank’s internal control and internal audit unit, and for changing the

<sup>24ab</sup>) For example, Articles 14 to 17 and 20 of Act No 530/1990 Coll., as amended; Article 73j(2) of Act No 566/2001 Coll., as amended by Act No 209/2007 Coll.

<sup>24ac</sup>) For example, Articles 176 to 195 of Act No 7/2005 Coll., as amended.

<sup>23a</sup>) Article 4(1) point 36 of Regulation (EU) No 575/2013.

bank's registered office; otherwise any such replacement, appointment, or change shall be invalid. A precondition<sup>24b</sup> for an amendment to a bank's articles of association or for a bank's new articles of association (hereinafter referred to as 'amended articles') to enter into force and effect shall be approval by Národná banka Slovenska. No later than on the third day of adopting a decision to amend its articles, the bank shall deliver to Národná banka Slovenska a written application for the approval of Národná banka Slovenska for the amendment to the bank's articles, with the wording of the planned amendment attached, together with the full version of the articles before and after the amendment. If the articles are amended without the approval of Národná banka Slovenska, such amendment shall be invalid. If, however, Národná banka Slovenska fails to settle an application within thirty days of the date of delivery of a complete application, the approval for the respective amendment to the articles shall be deemed to be granted.

(5) Foreign banks and branches of foreign banks shall inform Národná banka Slovenska of writing of any changes in the circumstances on the basis of which their banking authorisation was granted pursuant to paragraph (8), always in advance. Prior approval from Národná banka Slovenska shall be required for replacing of the chief executive officer of a foreign bank branch, a managerial employee, the head of the internal control and internal audit unit, and for changing the registered office of a foreign bank branch, otherwise such replacement or change shall be invalid.

(6) Banks and branches of foreign banks shall submit a proposal to the competent court for the entry of their authorised activities into the Commercial Register on the basis of their banking authorisation within ten days of the date when the authorisation became legally effective, and shall deposit with Národná banka Slovenska an extract from the Commercial Register within ten days of a legally effective decision of the court to make an entry into the Commercial Register or to change an entry in the Commercial Register.

## **Article 10**

A banking authorisation may not be issued where such authorisation would contradict an international agreement that is binding upon the Slovak Republic.

## **Article 11**

(1) A foreign bank established in a Member State may carry on, through its branch, banking activities in the territory of the Slovak Republic under Article 2(2), except for the activities mentioned in Article 2(2)(m) and (n), without a banking authorisation, if an authorisation to perform such activities has been granted to this foreign bank in its home Member State, on the basis of a written statement delivered by the competent supervisory authority of that Member State to Národná banka Slovenska.

(2) A foreign bank under paragraph (1) shall also be authorised to conduct banking activities pursuant to Article 2(2), except for the activities mentioned in Article 2(2)(m) and (n), even without establishing a branch, on the basis of a written notification of intended banking activities delivered by the competent supervisory authority of the Member State concerned to Národná banka Slovenska before the first banking transaction is carried out.

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<sup>24b</sup>) Article 36(1) and (2) of the Civil Code.

(3) The activities mentioned in Article 2(2), except for deposit-taking, may also be conducted in the territory of the Slovak Republic under paragraphs (1) and (2) by a foreign financial institution which is established in a Member State and which is a subsidiary of a bank or a foreign bank pursuant to paragraph (1); such foreign financial institution may perform such activities, provided its Articles of Association or Memorandum of Association allow them to be performed, under the following conditions:

- a) the foreign bank or foreign banks are authorised to conduct banking activities in the territory of the Member State whose law governs the foreign financial institution concerned;
- b) the foreign financial institution actually performs banking activities in the territory of the same Member State;
- c) the foreign bank or foreign banks hold at least 90% of the voting rights of the foreign financial institution concerned;
- d) the foreign bank or foreign banks ensure the sound and prudent management of the foreign financial institution and irrevocably assume joint and several liability for the obligations taken on by the foreign financial institution; the competent supervisory authority of the Member State concerned must approve the method of liability, and
- e) the foreign financial institution is subject to consolidated supervision of a consolidated group of the foreign bank or foreign banks.

(4) A foreign financial institution shall document the facts mentioned in paragraph (3) to Národná banka Slovenska by a written attestation of the competent supervisory authority of the Member State concerned. The provisions of Articles 16 to 18 and 20 shall apply as appropriate to such foreign financial institution.

(5) A foreign bank that does not enjoy the benefits of a single banking authorisation according to the European Union's law, or a foreign bank established in a country that does not enjoy the benefits of a single banking authorisation according to the European Union's law, may not provide its services in the territory of the Slovak Republic through its branch without a banking authorisation.

(6) A foreign bank referred to in paragraph (1) may conduct banking activities as listed in Article 2(2)(m) and (n) only on the basis of a banking authorisation pursuant to Article 8(1).

(7) The provisions of Article 2(10), Article 3, Article 4(1), Article 6(8), first sentence, and (9), Article 7(8), Article 9(5), Article 22, and Article 28(1)(d), and Article 64 shall not apply to a foreign bank pursuant to paragraph (1) where the branch of a foreign bank or its part is sold, and pursuant to Article 64. Nor shall apply the provisions of Article 8, except in cases specified in paragraph (6).

## **Article 12**

(1) Národná banka Slovenska shall, within two months of the date of receipt of a statement from the competent supervisory authority of the Member State concerned confirming that there are no reasons to doubt the organisational structure and financial situation of the foreign bank mentioned in Article 11(1), prepare to exercise supervision over the branch of this foreign bank, and, if necessary, shall advise it within this time limit of the conditions according to which the scheduled activities may or must be performed in the public interest within the territory of the Slovak Republic, and shall likewise advise it of the

provisions of the generally binding regulations of the Slovak Republic that will apply to its activities.

(2) Following the delivery of the statement under paragraph (1) or after a two-month period lapses without a response, the foreign bank and branch of a foreign bank mentioned in Article 11(1) may commence its banking activities in the territory of the Slovak Republic.

## Article 13

(1) A bank seeking to establish a branch in the territory of a Member State shall apply in writing to Národná banka Slovenska for permission to set up a branch in the territory of the Member State concerned. In the application, the bank shall specify:

- a) the Member State in which it seeks to set up a branch;
- b) the registered office of the branch in the Member State concerned;
- c) the first and last names of the persons responsible for managing the branch;
- d) a business plan indicating in particular the contemplated activities and proposed strategy for the operations of the branch based on realistic financial calculations, and
- e) the organisational structure of the branch.

(2) Národná banka Slovenska shall, if it has no reason to doubt the bank's organisational structure and financial situation in relation to the authorised banking activities, notify the competent supervisory authority of the Member State and the bank concerned of its decision to grant such permission within three months of the receipt of an application in due form pursuant to paragraph (1); at the same time, NBS shall notify the competent authority of the other Member State of the amount and composition of the bank's own funds, the amount and procedure for calculating the amount of the corresponding requirement for the bank's own funds, and details of the deposit protection system used in the Slovak Republic.

(3) If there are any doubts as to the facts mentioned in paragraph (2), Národná banka Slovenska shall, within three months of the delivery of an application in due form pursuant to paragraph (1), notify the competent supervisory authority of the relevant Member State of its decision to refuse to grant permission.

(4) A bank shall notify in writing Národná banka Slovenska and the competent supervisory authority of the Member State concerned of any intended changes in the facts specified in paragraphs (1) and (2) at least thirty days before such changes take effect.

(5) Where a bank seeks to carry on, in the territory of a Member State, banking activities pursuant to Article 2(2), with the exception of those mentioned in Article 2(2)(m) and (n), without establishing branch, the bank in question shall notify Národná banka Slovenska in writing of its intended banking activities prior to the first transaction. Národná banka Slovenska shall send this notification to the competent supervisory authority of the Member State concerned within one month.

(6) Where a bank seeks to set up or acquire a financial institution in the territory of a Member State, it shall inform Národná banka Slovenska in writing of its intention to set up or acquire a financial institution and, at the same time, of the institution's activities.

(7) Where a financial institution established in the Slovak Republic as a subsidiary of a bank or two or more banks, carries on activities as specified in Article 2(2), except for deposit-taking, in a Member State and fails to comply with the conditions set out in

Article 11(3)(a) to (e), Národná banka Slovenska shall without delay report these facts to the competent supervisory authority of the Member State concerned.

## **Article 14**

(1) Supervision over a bank branch set up in the territory of a Member State shall be exercised by Národná banka Slovenska. The liquidity of this branch shall be supervised by the competent supervisory authority of the Member State concerned in cooperation with Národná banka Slovenska, unless they agree otherwise. This branch shall also be subject to measures adopted by the relevant Member State as part of its monetary policy; in the case of countries that have introduced the euro as their currency, the branch shall be subject to measures adopted by the European Central Bank.

(2) Where the competent supervisory authority of a Member State notifies Národná banka Slovenska that a bank branch violates any legislation by its banking activities in the territory of that Member State, Národná banka Slovenska shall take the necessary measures to rectify the unlawful situation.

(3) Where a bank branch violates any legislation of a Member State by its banking activities in the territory of that Member State, the branch in question shall implement or suffer any measures imposed by the competent supervisory authority of the Member State concerned.

## **Article 15**

When exercising supervision under Article 14 in regard to the monitoring of risks arising from financial market activities in the territory of a Member State, the Member State concerned may demand from a bank branch the same information as from banks with registered offices in its territory. The relevant Member State may request a bank that has a branch in its territory to deliver regular reports on its banking activities in its territory for statistical purposes. The bank shall comply with this request.

## **Article 16**

Supervision over a foreign bank branch under Article 11(1) in the territory of the Slovak Republic shall be exercised by the competent supervisory authority of the Member State concerned. In terms of liquidity, such branch shall be supervised by Národná banka Slovenska in cooperation with the competent supervisory authority of the Member State concerned, unless they agree otherwise. Supervision over compliance with the obligations relating to protection against money laundering and terrorist financing in such branch shall be exercised by Národná banka Slovenska.<sup>24d</sup> The organisational structure of a foreign bank branch must contain the name of the employee in charge of protection against money laundering and terrorist financing, while responsibility for the proper performance of duties by that employee shall be borne by the head of the branch. This branch shall also be subject to the decrees of Národná banka Slovenska adopted as part of its monetary policy; after the euro changeover in the Slovak Republic, this branch shall be subject to the European Central Bank's regulations. The decrees of Národná banka Slovenska may not be discriminatory or restrictive. Where Národná banka Slovenska considers it necessary for the sake of financial stability in the Slovak Republic, Národná banka Slovenska may, after consultation with the

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<sup>24d</sup>) Article 29(3) of Act No 297/2008 Coll.

competent supervisory authority of the Member State concerned, carry out an on-site inspection at the foreign bank branch in question and request information for supervisory purposes. After such inspection, Národná banka Slovenska shall report the information and findings revealed to the Member State's competent supervisory authority in order to facilitate the supervision of the foreign bank concerned.

## Article 17

(1) If Národná banka Slovenska finds that a foreign bank branch performing banking activities under Article 11(1) or a foreign bank performing banking activities under Article 11(2) in the territory of the Slovak Republic has violated any applicable legal regulation or there is a justified risk thereof, it shall forthwith inform the competent supervisory authority of the Member State in which the foreign bank in question has its registered office. If Národná banka Slovenska finds that the Member State's competent supervisory authority has failed to take measures to eliminate the breach of legislation or the risk thereof, Národná banka Slovenska may request the European supervisory authority (European Banking Authority) to remedy the situation.

(2) Upon receipt of information from the competent supervisory authority of another Member State about the violation of legal regulations by a bank or a bank branch carrying on banking activities in the territory of that Member State or about the existence of a justified risk thereof, Národná banka Slovenska shall take measures to eliminate the breach of legislation or the risk thereof on the part of the bank or bank branch in question. Národná banka Slovenska shall report this fact to the competent supervisory authority of the Member State concerned.

(3) If, in a matter allowing no delay, the competent supervisory authority of the Member State concerned fails to take measures pursuant to paragraph (1) or reorganisation measures under Article 53(8), Národná banka Slovenska may take preventive measures to protect the clients of the foreign bank branch referred to in paragraph (1) or those of the foreign bank mentioned in paragraph (1), including the suspension of payment operations<sup>24e</sup> in deposits. These preventive measures may not give any preferential treatment to the creditors of the foreign bank branch referred to in paragraph (1) or of the foreign bank mentioned in paragraph (1). Národná banka Slovenska shall forthwith report these measures to the European Commission (hereinafter: 'the Commission'), the European supervisory authority (European Banking Authority), and to the competent supervisory authority of the Member State in which the foreign bank has its registered office. If the Member State's competent supervisory authority takes preventive measures but Národná banka Slovenska has objections to these measures, Národná banka Slovenska may request assistance from the European supervisory authority (European Banking Authority) under a separate regulation.<sup>19</sup>

(4) If the competent supervisory authority of the Member State concerned takes reorganisation measures under Article 53(8), the preventive measures taken by Národná banka Slovenska pursuant to paragraph (3) shall become ineffective and shall be therefore cancelled by Národná banka Slovenska. If the Member State's competent supervisory authority fails to take reorganisation measures under Article 53(8) and the preventive measures taken by Národná banka Slovenska lose their justification, Národná banka Slovenska shall cancel these measures.

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<sup>24e</sup>) Article 2(2) of Act No 492/2009 Coll.

## **Article 18**

(1) Národná banka Slovenska may demand, for statistical and informational purposes, that a foreign bank as referred to in Article 11(1), performing banking activities through its branch or without establishing a branch in the territory of the Slovak Republic, deliver regular reports on its operations in the territory of the Slovak Republic.

(2) For the purpose of determining whether a foreign bank branch is significant under Article 6(14) and for supervisory purposes under Article 16, Národná banka Slovenska shall be authorised to demand that a foreign bank branch as mentioned in Article 11(1) deliver reports, statements, and other data in accordance with Article 42(2) and (3).

## **Article 19**

(1) Where a bank's authorisation is revoked, Národná banka Slovenska shall, without delay, inform the competent supervisory authority of the Member State in which the bank concerned has a branch.

(2) Národná banka Slovenska shall inform the Commission, the European supervisory authority (European Banking Authority), and the European Banking Committee of the number and nature of cases where it refused to send information about the establishment of a branch in the territory of a Member State to the competent supervisory authority of that Member State.

(3) Národná banka Slovenska shall notify the Commission, the European supervisory authority (European Banking Authority), and the European Banking Committee of the issuance or revocation of a bank's authorisation to set up a branch outside the territory of its home Member State, or of the issuance or revocation of an authorisation of a foreign bank established outside the territory of its home Member State to establish a branch in the Slovak Republic.

(4) Národná banka Slovenska shall notify the Commission, the European supervisory authority (European Banking Authority), and the European Banking Committee that a bank is or will become a subsidiary of a foreign bank that is subject to the law of a country that is not a Member State of the European Union. At the same time, Národná banka Slovenska shall provide information about the structure of the consolidated group to which the bank belongs or will belong.

(5) Národná banka Slovenska shall notify the Commission of any difficulties that have occurred in connection with the establishment of a bank or a bank branch in a country that is not a Member State, or in the course of its operations.

(6) Národná banka Slovenska shall notify the Commission and the European supervisory authority (European Banking Authority) of the terms and conditions for the issuance of a banking authorisation under Articles 7 and 8.

(7) Národná banka Slovenska shall notify the European supervisory authority (European Banking Authority) of the issuance of each banking authorisation under Articles 7 and 8, as well as of the revocation of a banking authorisation under Article 50(1)(k).

## **Article 20**

Foreign banks with a registered office in a Member State may freely advertise their banking services rendered in the Slovak Republic in accordance with the law of the Slovak Republic.

## **PART FOUR THE REPRESENTATIVE OFFICE OF A BANK OR A FOREIGN BANK**

### **Article 21**

(1) Banks shall notify Národná banka Slovenska in writing of their intention to establish a representative office abroad. Such notification must contain the following data:

- a) the address of the representative office;
- b) the full name and permanent residence address of the head of this representative office.

(2) For the purposes of this Act, 'representative office of a bank' means an organisational unit of a bank that promotes the bank's operations abroad or gathers information about the possibilities of economic cooperation abroad.

(3) A representative office of a bank may not conduct banking activities or do business in any other way.

### **Article 22**

(1) A foreign bank or a similar foreign financial institution engaged in banking activities may establish a representative office in the territory of the Slovak Republic on the basis of registration. A decision on registration shall be made by Národná banka Slovenska on the basis of an application for registration.

(2) For the purposes of this Act, 'representative office of a foreign bank or of a similar foreign financial institution' (hereinafter referred to as 'foreign representative office') means an organisational unit that promotes the activities of a foreign bank or a similar foreign financial institution or gathers information about the possibilities of economic cooperation with the Slovak Republic. A foreign representative office shall use the designation 'representative office' in the business name of its registered office, as well as in correspondence.

(3) A foreign representative office may not conduct banking activities or do business in any other way. A foreign representative office shall not be entered into the Commercial Register.

(4) A foreign bank or a similar foreign financial institution engaged in banking activities shall notify in writing Národná banka Slovenska in advance of any change in the location of its foreign representative office, of any replacement of the head of its foreign representative office, or of the closure thereof. Before the head of a foreign representative office is replaced, the financial institution concerned shall submit all documents a foreign bank or a similar foreign financial institution is required to submit when applying for the registration of a representative office.

(5) The head of a foreign representative office may perform, on behalf of a foreign bank or a similar foreign financial institution, solely employment-related acts in relation to the other employees of this foreign representative office.

(6) The elements of an application for the registration of a foreign representative office shall be specified in a decree<sup>23</sup> issued by Národná banka Slovenska and promulgated in the Collection of Laws.

(7) Within 30 days of its registration, a foreign representative office shall advise Národná banka Slovenska in writing of the bank or branch of a foreign bank where its accounts are maintained.

(8) A foreign representative office shall, within 30 days, notify Národná banka Slovenska in writing of any change that have occurred in the facts constituting the basis for its registration.

(9) Národná banka Slovenska is authorised to verify compliance with the conditions specified in registration decisions and stipulated by the laws and generally binding legal regulations of the Slovak Republic. A foreign representative office shall cooperate with Národná banka Slovenska during such inspections.

(10) Where a foreign representative office fails to observe the conditions specified in the decision on its registration or violates any of the laws or generally binding regulations of the Slovak Republic, Národná banka Slovenska may decide to cancel its registration.

(11) The registration of a foreign representative office shall expire on the day specified in a written notice from a foreign bank or a similar foreign financial institution engaged in banking activities about the closure of its foreign representative office, or on the day when the foreign bank or similar foreign financial institution engaged in banking activities is dissolved.

## **PART FIVE ORGANISATION AND MANAGEMENT OF A BANK OR A FOREIGN BANK BRANCH**

### **Article 23**

(1) The articles of association of a bank shall regulate, apart from the elements specified in a separate regulation,<sup>25</sup> the bank's organisational structure and management system so as to ensure the proper and secure performance of banking activities in line with the bank's authorisation and to prevent a conflict of interests arising within the bank. They shall also regulate the relations and cooperation between the bank's statutory body, supervisory board, managerial employees, and its internal control and internal audit unit. Furthermore, a bank shall extend its articles of association under this Act to include the principles of remuneration, which are taken into account in the bank's risk management system and which support that system. The articles of association shall also cover the activities of the bank's remuneration committee if established or the activities of the person responsible for the

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<sup>25</sup>) Articles 173 to 174 of the Commercial Code.

bank's remuneration system. In its articles of association, a bank shall also separate and regulate the powers and responsibilities within the bank for:

- a) the setting, implementation, monitoring, and oversight of the bank's business objectives;
- b) the bank's management system in regard to compliance with the rule laid down in Article 27(1)(d);
- c) the internal control system, including a separate and independent internal control and internal audit unit corresponding to the complexity of banking activities and the risks involved;
- d) risk management conducted independently and separately from banking activities, including a management system for the risks to which the bank is exposed, and for the activities of the risk management committee;
- e) the conduct of credit transactions separately from investment transactions in accordance with Article 34;
- f) separate monitoring of the risks to which the bank is exposed when performing banking activities vis-à-vis persons in a special relationship with the bank;
- g) the information system;
- h) protection against money laundering and terrorist financing;
- i) the activities of the bank's remuneration committee.

(2) In their internal regulations, banks shall lay down the details of:

- a) their organisational structure as referred to in paragraph (1), with emphasis on the identification of the persons responsible for the performance of banking activities within the bank;
- b) their internal control system, including an internal control and internal audit unit;
- c) the preparation and implementation of a plan for their recovery (hereinafter 'recovery plan') and of the method of its updating.

(3) Through their internal control system and in order to prevent losses or damage resulting from deficient management, banks shall ensure the performance of:

- a) control activities as part of their operating work procedures and the implementation of remedial measures based on the results of control activities in the individual organisational units, while these activities and measures shall be carried out by:
  1. the bank's employees or organisational units that participate in the individual operating work procedures;
  2. the managerial employees of the bank's different organisational units who are responsible for the checked processes and for the results of such checks, or employees authorised by them;
- b) oversight conducted independently of the operating work procedures by the bank's internal control and internal audit unit; in exceptional and predetermined cases, a check may be carried out as part of the bank's operating work procedure, provided that independence is maintained and conflicts of interest are excluded.

(4) The internal control and internal audit unit of a bank shall carry out regular reviews of compliance with the laws and other generally binding legal regulations, as well as with the bank's internal regulations and procedures; it shall examine and evaluate in particular the functionality and effectiveness of the bank's management and control system, risk management system, the system of own capital adequacy assessment, the maintenance of own funds in relation to the own funds requirements and liquidity, and compliance with the asset exposure limits; it shall also examine and evaluate the bank's preparedness in terms of risk management to conduct new types of transactions, the principles of remuneration that are taken into account in the risk management system, and the information referred to in

Article 37. The internal control and internal audit unit shall be responsible for monitoring the elimination of shortcomings and for monitoring the implementation of approved proposals and recommendations for the rectification of shortcomings. Responsibility for the establishment and functionality of the internal control and internal audit unit shall be borne by the bank's statutory body; this responsibility may not be transferred to another person. The internal control and internal audit unit shall report directly to the bank's statutory body or supervisory board, or to a member of the bank's statutory body or supervisory board.

(5) A bank shall maintain an organisational structure complying with the requirements of this Act and other generally binding legal regulations.

(6) For the purposes of this Act, the following definitions shall apply:

- a) 'risk' means a possible loss or damage caused by a bank's own activities or caused to the bank by other circumstances; for the purposes of this Act, risks are classified according to type as follows:
  1. credit risk, meaning the risk that a borrower or other contracting party may fail to discharge their liabilities; credit risk includes country risk, concentration risk, settlement risk, and counterparty risk;
  2. market risk, arising from the bank's positions and caused by changes in the values of risk factors, which are usually determined by the market; the main components of market risk are interest rate risk, equity risk, foreign exchange risk, and commodity risk, by means of which market risk is measured;
  3. operational risk as defined in a separate regulation;<sup>25aa</sup>
  4. liquidity risk, meaning the risk that a bank may be unable to meet its liabilities when they mature;
  5. systemic risk, meaning the risk of an impact on the stability of the financial system with serious consequences for the financial system and national economy of the Slovak Republic;
  6. model risk, meaning the risk of loss being incurred by a bank as a result of decisions based on the results of internal approaches, due to errors made during their preparation, implementation or application;
  7. the risk of excessive use of leverage under a separate regulation;<sup>25ab</sup>
- b) 'risk management' means the prevention of possible losses, including damage, through timely and appropriate risk identification, risk measurement, risk monitoring, and risk mitigation;
- c) 'risk management system' means a system ensuring timely and appropriate risk identification, risk measurement, risk monitoring, risk mitigation, and adequate reporting of all significant risks; a bank's risk management system includes its risk management strategy and organisation, information flows, risk management information system, transaction origination system, internal capital adequacy assessment system, and its system for introducing new types of transactions;
- d) 'internal capital' means the funds that a bank, on the basis of its own risk definition and assessment, maintains internally and allocates for risk coverage;
- e) 'central counterparty' means central counterparty as defined in a separate regulation;<sup>25ac</sup>
- f) 'credit risk mitigation' means credit risk mitigation as defined in a separate regulation;<sup>25ad</sup>

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<sup>25aa</sup>) Article 4(1) point 52 of Regulation (EU) No 575/2013.

<sup>25ab</sup>) Article 4(1) point 94 of Regulation (EU) No 575/2013.

<sup>25ac</sup>) Article 4(1) point 34 of Regulation (EU) No 575/2013.

<sup>25ad</sup>) Article 4(1) point 57 of Regulation (EU) No 575/2013.

g) ‘internal approach’ means internal approach as defined in a separate regulation.<sup>25ae</sup>

(7) After making any change in its articles of association, a bank shall forthwith submit a copy of the latest version of the articles of association to Národná banka Slovenska.

(8) A bank may establish a branch abroad only with the prior approval of Národná banka Slovenska, issued on the basis of a request made by the bank.

(9) In a decree<sup>23</sup> promulgated in the Collection of Laws, Národná banka Slovenska shall specify:

- a) the details of a bank’s organisational structure and management system in accordance with paragraph (1);
- b) the details of a bank’s internal control system in accordance with paragraph (3), the details of the activities and responsibilities of a bank’s internal control and internal audit unit, as well as the scope, number and dates of audits carried out by this unit;
- c) what is meant by ‘significant risk’ for the purpose of risk management;
- d) the extent to which a foreign bank branch is subject to the requirements laid down in subparagraphs (a) and (b);
- e) the elements of an application for prior approval in accordance with paragraph (8), including the documents to be attached to this application;
- f) the principles of remuneration for banks as defined in Articles 23a to 23c, in particular:
  - 1. criteria for setting the ratio between the fixed and variable components of a bank employee’s total remuneration;
  - 2. a method for calculating the value of variable remuneration paid in the form of securities and other financial instruments as part of the total value of variable remuneration;
- g) criteria for setting up a remuneration committee in a bank under Article 23d.

## Article 23a

(1) Banks shall apply the remuneration principles defined in this Act in relation to:

- a) all members of the bank’s statutory body;
- b) managerial employees in charge of risk management;
- c) managerial employees in charge of transaction processing;
- d) employees responsible for risk management, including employees authorised to set limits or exceed limits in managing the risks faced by the bank.

(2) The remuneration principles to be applied by banks pursuant to paragraph (1) shall include:

- a) a guaranteed fixed remuneration component in the form of
  - 1. a basic wage or salary, if employees as referred to in paragraph (1)(b) to (d) are concerned;
  - 2. a fixed remuneration component, if a member of the bank’s statutory body as mentioned in paragraph (1)(a) is concerned;
- b) a variable remuneration component.

(3) There must be an appropriate balance between the guaranteed fixed remuneration and variable remuneration of any person referred to in paragraph (1); the variable remuneration component may not exceed the guaranteed fixed remuneration component. The

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<sup>25ae</sup>) Article 143(1), Articles 221 and 225, Articles 259(3) and 312(2), and Articles 283 and 363 of Regulation (EU) No 575/2013.

guaranteed fixed remuneration component must represent a sufficiently large proportion of the total remuneration to enable a flexible policy to be pursued in the area of variable remuneration, including the option to pay no variable remuneration. Guaranteed fixed remuneration is to be determined according to the professional qualification and responsibility within the bank's organisation and management of the person concerned as referred to in paragraph (1).

(4) The remuneration principles as defined in paragraph (1) shall also apply to severance payments, retirement allowances, and other compensation payable to persons as referred to in paragraph (1) in connection with their previous employment.

(5) The remuneration principles as defined in paragraph (1) are to be in line with the bank's effective risk management system, business strategy, and long-term objectives, and are to include measures for the prevention of conflicts of interest.

(6) Banks that have received stabilisation assistance from the state budget to mitigate the impacts of the global financial crisis are also required to apply the remuneration principles to:

- a) the variable remuneration components referred to in paragraph (1), not exceeding 1% of the net income, where they are inconsistent with the bank's business strategy, interests, and with the period of stabilisation assistance;
- b) the variable remuneration components referred to in paragraph (1), which are to be in line with the bank's business strategy and interests; such harmonisation may be required by Národná banka Slovenska at any time;
- c) the variable remuneration components referred to in paragraph (1), which are not approved for the period under review unless they are justified.

## Article 23b

(1) The variable component of total remuneration shall include:

- a) a motivational component, the amount of which depends upon the assessment of employee performance under Article 23a(1), bank performance, or a combination thereof, for a period no longer than one year;
- b) a motivational component determined as a share of the bank's profit;
- c) a motivational component, the amount of which depends upon the results of the bank's long-term business strategy and interests;
- d) securities, which a person mentioned in Article 23a(1) may trade on the securities market no earlier than three years after the date of issue;
- e) other financial instruments selected in accordance with the bank's creditworthiness, including instruments specified in a separate regulation;<sup>25af</sup> or
- f) discretionary pension benefits.

(2) Banks shall set the terms of variable remuneration payment so that the payment of at least 40% of the variable remuneration component payable to a person referred to in Article 23a(1) is deferred for a period of at least three years but not more than five years since when the amount of variable remuneration is determined. Where the total amount of variable remuneration exceeds a monthly average of 200% of the guaranteed fixed remuneration component, the pro-rata remuneration related to a period of three to five years must not be lower than 60% of the variable remuneration component.

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<sup>25af</sup>) Articles 28, 52 and 63 of Regulation (EU) No 575/2013.

(3) When setting the criteria for determining the variable component of total remuneration under paragraph (1)(c), banks shall follow their long-term business strategy, interests and objectives. The amount of variable remuneration payable to a person referred to in Article 23a(1) shall be determined on the basis of an assessment of the bank's actual results achieved over for a period of at least three years but not more than five years.

(4) In accordance with their long-term business strategy and interests, banks shall set specific objectives to be incorporated in their risk management system. These objectives must correspond to the present and future risks arising from banking activities. Banks shall also set criteria for the performance-related assessment of individual persons pursuant to Article 23a(1). These criteria shall be used to determine the amount of variable remuneration. Banks shall set these objectives and criteria so that, in the event of non-compliance with the set objectives or performance-related assessment criteria, the variable remuneration of a person mentioned in Article 23a(1) be reduced in proportion to the degree of non-compliance, or cancelled for the assessed period.

(5) Variable remuneration paid to a person referred to in Article 23a(1) in the form of securities and other financial instruments pursuant to paragraph (1)(d) and (e) must account for at least 50% of the total amount of variable remuneration.

(6) Any person mentioned in Article 23a(1) being trained for independent work in the area of risk management may be exceptionally paid variable remuneration in a guaranteed amount over a period of up to one year, from the conclusion of an employment contract with the bank, regardless of the performance assessment results.

(7) In determining the variable component of total remuneration, banks shall also take into account their ability to meet the obligations set out in Article 29.

(8) Banks shall set criteria, as part of the remuneration principles, for deductions from the variable remuneration component and for the recovery of an amount paid as variable remuneration.

(9) Banks shall set criteria, as part of the remuneration principles, for the payment of discretionary pension benefits.

(10) Employees as defined in Article 23a(1)(b) to (d) may not secure their variable remuneration by arranging insurance for the case of non-payment.

## **Article 23c**

The provisions of Article 23b(1) shall be without prejudice to the provisions of Article 118 of the Labour Code. Provisions of the Labour Code pertaining to wage payment terms, payment and deductions shall apply as appropriate to the variable component of total remuneration under Article 23b(1)(d) to (f).

## **Article 23d**

(1) Banks shall set up a remuneration committee in compliance with the criteria laid down in Article 23(9)(g) or shall put a person in charge of the bank's remuneration system. The remuneration committee or the person in charge of the bank's remuneration system shall:

- a) exercise independent judgement on the remuneration principles and their implications for risk management, own funds, and liquidity;
- b) be responsible for the preparation of decisions concerning remuneration, including those with implications for risks and risk management, which are to be taken by the statutory body;
- c) take in account the long-term interests of the bank's shareholders, investors, and other parties when preparing decisions;
- d) supervise the remuneration of persons referred to in Article 23a(1)(a) and (b).

(2) A bank's remuneration committee shall have at least three members.

## **Article 23e**

(1) Banks shall notify Národná banka Slovenska in writing of the persons whose total remuneration in the bank for the respective accounting period amounts to at least EUR 1,000,000, and of the number of such persons, by 30 June every year. Where the accounting period is a fiscal year rather than a calendar year, the notification period according to the previous sentence shall be extended by the period of time between the end of the calendar year and the end of the fiscal year.

(2) In exercising supervision, Národná banka Slovenska shall use the information disclosed under Article 37(9)(h) for the purpose of comparing the trends and procedures observed in the area of remuneration.

(3) Národná banka Slovenska shall send the information disclosed under Article 37(9)(h) to the European supervisory authority (European Banking Authority).<sup>25a</sup>

## **Article 24**

(1) A bank shall have a statutory body and a supervisory board. The statutory body is the board of directors. Both the statutory body and the supervisory board must have at least three members.

(2) The members of a bank's statutory body shall be responsible for the preparation, approval, and observance of the bank's organisational structure, for the adoption and operation of the bank's management system, and for the conduct of banking activities in accordance with the bank's internal regulations.

(3) The statutory body members shall be familiar with, control and monitor the activities the bank is authorised to perform, ensure the safety and soundness of the bank, adopt and regularly review the general principles of remuneration, and maintain an effective risk management system. For the purposes of this Act, 'safety and soundness of a bank' means such conduct of banking activities that does not endanger the maintenance of the bank's own funds at the required level, liquidity, compliance with the exposure limits, the legitimate interests of depositors and other creditors, or the banking system.

(4) The members of a bank's supervisory board shall be familiar with and supervise the performance of banking activities, the exercise of powers by the statutory body, and the

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<sup>25a</sup>) Article 8(1)(1) and Article 76(4) of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European supervisory authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010).

conduct of other activities. The supervisory board members shall monitor compliance with the remuneration principles adopted by the statutory body and ensure the secure and effective functioning of the risk management system. Banks shall deliver a report to Národná banka Slovenska on the verification of compliance with the remuneration principles by 30 June of the year following the calendar year for which the report is compiled.

(5) The statutory body members, supervisory board members, and managerial employees of a bank shall exercise their rights and obligations in accordance with the law of the Slovak Republic in order to achieve an increase in the value of the bank's shares or profits. The foregoing is without prejudice to their duties pursuant to paragraphs (3) and (4).

## **Article 25**

(1) A member of a bank's statutory body may not constitute, or be a member of, the statutory body, general proxy, or a member of the supervisory board of another legal person engaged in business.<sup>26a</sup> A bank's general proxy or employee may not constitute, or be a member of, the statutory body, general proxy, or a member of the supervisory board of another legal person that is a client of the same bank, unless paragraphs (14) and (15) provide otherwise.

(2) A member of a bank's supervisory board may not be a member of the statutory body or employee of the same bank, nor a member of another bank's supervisory board or statutory body, or a company secretary or a person authorised on the basis of an entry in the Commercial Register to act on behalf of the same or another bank, or another legal person that is a client of the same bank; this shall not apply where such client is another bank or a foreign bank controlling the same bank. A member of a bank's supervisory board may be an employee of the same bank only if elected to a position by the bank's employees.

(3) Members of a bank's statutory body or supervisory board, or employees of that bank, may not use any information that has not yet been published and that has been obtained by them in connection with their position or employment with the aim of attempting to conclude or concluding, either directly or indirectly, a transaction for their own account or for the account of a third party. Members of a bank's statutory body or supervisory board, or employees of that bank, may not misuse any information acquired in connection with their position or employment to gain undue benefits either for themselves or for a third party.

(4) The head of a bank's internal control and internal audit unit shall be appointed and dismissed with the prior approval of the supervisory board or at the suggestion of the supervisory board. The remuneration of the head of a bank's internal control and internal audit unit shall be determined under the same conditions by the bank's statutory body. The bank's supervisory board shall be authorised to request the internal control and internal audit unit's head to carry out an audit in the bank in the range it specifies.

(5) The head of a bank's internal control and internal audit unit shall notify the bank's supervisory board and Národná banka Slovenska without delay of any shortcomings found during the activity performed under Article 23(4).

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<sup>26a)</sup> Article 2(2) and Article 23 of the Commercial Code.

(6) The head of a bank's internal control and internal audit unit may not be a member of the statutory body or supervisory board of the same bank, nor a member of the statutory body or supervisory board of another legal person.

(7) 'Ancillary services undertaking' means ancillary services undertaking as defined in a separate regulation.<sup>26c</sup>

(8) The prohibitions and restrictions stipulated in paragraphs (1) and (2) for a bank's statutory body members and employees shall not apply to their membership of the statutory body or supervisory board of a legal person not engaged in business.<sup>26d</sup>

(9) The members of a bank's statutory body and supervisory board shall perform their tasks and duties properly, honestly, and independently throughout the term of office, and shall devote enough time to these tasks and duties.

(10) Banks shall ensure personnel and financial resources for the continuous professional training of their statutory body members and supervisory board members.

(11) In selecting their statutory body and supervisory board members, banks shall follow the rules laid down in a separate regulation.<sup>26e</sup>

(12) After disclosing information under a separate regulation,<sup>26f</sup> banks shall deliver the information disclosed to Národná banka Slovenska without undue delay.

(13) Národná banka Slovenska shall, without delay, report the information mentioned in paragraph (12) to the European supervisory authority (European Banking Authority).

(14) A member of a bank's statutory body or supervisory board may be a member of no more than one statutory body and three supervisory boards at the same time or a member of no more than five supervisory boards without being a statutory body member, in the case of membership of:

- a) another bank that is part of the same institutional system of protection under a separate regulation;<sup>26g</sup>
- b) another legal person that is engaged in business<sup>26a</sup> and belongs to the same group;
- c) the stock exchange;<sup>26b</sup>
- d) the central securities depository<sup>16</sup> or
- e) another legal person in which the bank has a qualifying holding.

(15) For the purposes of paragraph (14), one or more statutory body or supervisory board member positions in entities referred to in paragraph 14(a), (b), and (e) are considered to be one position only.

(16) In granting prior approval pursuant to Article 9(4), Národná banka Slovenska shall also take into account the individual circumstances, the nature, range, and complexity of the bank's activities, and the time devoted to the performance of the tasks of a statutory body member or a supervisory board member.

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<sup>26c</sup>) Article 4(1) point 18 of Regulation (EU) No 575/2013.

<sup>26d</sup>) For example, Act No 213/1997 Coll., as amended, and Act No 34/2002 Coll., as amended.

<sup>26e</sup>) Article 435(2)(b) and (c) of Regulation (EU) No 575/2013.

<sup>26f</sup>) Article 433 and Article 435(2)(c) of Regulation (EU) No 575/2013.

<sup>26g</sup>) Article 113(7) of Regulation (EU) No 575/2013.

## **Article 26**

(1) The provisions of Articles 24 and 25 are without prejudice to the provisions of a separate regulation.<sup>1</sup>

(2) The provisions of Articles 23 to 25, except for the provisions concerning remuneration, shall similarly apply to branches of foreign banks, as well as to the chief executive officers and employees of such branches.

## **PART SIX**

### **REQUIREMENTS FOR THE OPERATIONS OF BANKS OR BRANCHES OF FOREIGN BANKS**

## **Article 27**

(1) Banks and branches of foreign banks shall conduct transactions with their clients on a contractual basis. Banks and branches of foreign banks shall proceed with prudence when performing their activities, and shall in particular carry out transactions:

- a) in a manner that takes into account and mitigates the risks involved;
- b) in a manner that does not harm the interests of depositors in regard to the recoverability of their deposits and does not threaten the security or financial position of the bank or foreign bank branch concerned, nor the smooth functioning of the banking system, without breaching the applicable laws or other generally binding regulations;
- c) under economic and legal conditions that are favourable for the bank or foreign bank branch concerned, as well as for its clients when transactions are made for the client's account, and with due professional care; banks and branches of foreign banks shall provide convincing proof of such professional care;
- d) in a manner ensuring that, in each transaction, at least two persons are involved on behalf of the bank or foreign bank branch concerned; if this is not possible for operational reasons, they shall forthwith ensure that the transaction is checked by persons who were not involved in its execution.

(2) In order to prevent losses or damage arising from the incorrect performance of banking activities, banks and branches of foreign banks shall follow the correct procedures in conducting banking activities and shall adopt and maintain an effective risk management system. Banks and branches of foreign banks shall modify their risk management system on the basis of regular reviews of the system's functionality and effectiveness so that it takes into account the ability of the bank or foreign bank branch concerned to face risks and the consequences of the changing economic environment. Banks and branches of foreign banks shall, if necessary, adjust the risk management system and the method of its updating through internal regulations, according to which they are obliged to proceed.

(3) For the purposes of paragraphs (2) and (4), banks may set up a committee for risk management; if a bank fails to set up a risk management committee, it shall delegate the risk management tasks to its audit committee as defined in a separate regulation,<sup>26ga</sup> which conducts activities pursuant to paragraphs (2) and (4).

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<sup>26ga</sup>) Article 19a of Act No 431/2002 Coll. on accounting, as amended.

(4) The organisation structure of a bank must include a managerial employee and other employees responsible for risk management, which, for the purposes of this Act, means:

- a) the monitoring and implementation of the bank's risk management strategy and procedures pursuant to paragraph (1);
- b) the presentation of an activity report in writing to the bank's statutory body and supervisory board at least once a year;
- c) the provision of support and information to the bank's statutory body and supervisory board in connection with risk identification, risk analysis, risk monitoring, risk recording, and risk management;
- d) the verification of whether the values of assets and liabilities offered to clients reflect the bank's business and investment objectives and its risk management strategy.

(5) The employees referred to in paragraph (4) shall perform risk management tasks independently from the bank's other units and shall inform the supervisory board without delay of any shortcoming that may lead to a breach of duties under paragraph (1).

(6) A managerial employee as referred to in paragraph (4) may be recalled only with the supervisory board's prior consent.

(7) Banks shall have their own system in place for assessing and maintaining the adequacy of their internal capital with regard to the risks to which they are or may be exposed. The internal capital adequacy assessment system shall correspond to the nature, scope, and complexity of the banking activities performed and shall include:

- a) a strategy for controlling the level of internal capital;
- b) a procedure for determining the adequate level of internal capital, the composition of internal capital, and the allocation of internal capital for risk coverage;
- c) a system for maintaining the bank's internal capital at the required level.

(8) The internal capital of banks must be adequate for market risks that are not subject to an own funds requirement. Banks which have, in calculating their own funds requirements for position risk under a separate regulation,<sup>26h</sup> netted off their positions in one or more of the equities constituting a stock-index against one or more positions in the stock-index future or other stock-index product shall have adequate internal capital to cover the basis risk of loss caused by the future's or other product's value not moving fully in line with that of its constituent equities. Banks shall also have such adequate internal capital where they hold opposite positions in stock-index futures which are not identical in respect of either their maturity or their composition or both. When using the procedure stipulated in a separate regulation,<sup>26i</sup> banks shall ensure that they hold sufficient internal capital against the risk of loss which exists between the time of the initial commitment and the following working day.

(9) Banks and branches of foreign banks shall:

- a) continuously maintain their solvency;
- b) manage their assets and liabilities so as to ensure uninterrupted liquidity and observance of the liquidity ratios;
- c) inform Národná banka Slovenska without delay of the actual or expected non-fulfilment of duties pursuant to subparagraph (b) and then submit to Národná banka Slovenska a plan for the timely recovery of their liquidity ratios.

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<sup>26h</sup>) Articles 326 to 350 of Regulation (EU) No 575/2013.

<sup>26i</sup>) Article 345 of Regulation (EU) No 575/2013.

(10) For the purposes of this Act, the following definitions shall apply:

- a) 'exercising professional care' means that a bank or a foreign bank branch performs the following activities:
  1. compares the price offers received for individual transactions or justifies the unsuitability or impossibility of assessing several offers;
  2. records how a transaction is made, checks the objectivity of the recorded data, and prevents own losses, including damage;
  3. carries out an analysis of the economic benefits of transactions on the basis of the information available;
  4. draws up business and investment plans as a basis for carrying out individual transactions;
- b) 'solvency' means the ability to make due and timely payments to discharge financial liabilities;
- c) 'liquidity' means the ability to convert assets into cash without unnecessary losses in order to make due and timely payments to meet financial liabilities.

(11) Where a bank or a foreign bank branch makes a mistake when providing payment or settlement services, it shall ensure, at its own expense and without undue delay, that the mistake is rectified.

(12) Banks and branches of foreign banks may not conclude a contract under terms and conditions that are obviously disadvantageous to them, in particular contracts that oblige them to make an economically unjustified payment or a payment evidently not corresponding to the counter value provided, or contracts that evidently fail to provide sufficient security for their receivables.

(13) A bank shall establish legal relations with the members of its statutory body and a foreign bank branch with the head of the branch in a written contract, which is not governed by a separate regulation<sup>27</sup> and which is in accordance with this Act.

(14) In a decree<sup>23</sup> to be promulgated in the Collection of Laws, Národná banka Slovenska shall stipulate:

- a) details about the risk management systems of banks and the rules set out in paragraph (2), and other types of risks;
- b) the liquidity ratios and details about liquidity pursuant to paragraph (9), including the method of its calculation;
- c) the percentage ratios referred to in paragraph (19), expressing a bank's foreign exchange position in a foreign currency and total foreign exchange position in relation to its own funds, as well as details of how to calculate the foreign exchange position in different currencies and the total foreign exchange position;
- d) the extent to which the rules set out in subparagraphs (a) to (c) apply to branches of foreign banks.

(15) The head of a foreign bank branch shall be fully liable for any damage they may cause during the performance of their duties where this results from non-compliance with an obligation by the head of the branch, arising from the applicable laws, other generally binding regulations, or the internal regulations of the foreign bank branch in question.

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<sup>27</sup>) The Labour Code.

(16) A bank or a foreign bank branch may not perform any legal act at its own expense in favour of a member of the bank's statutory body, a member of the bank's supervisory board, or the head of the foreign bank branch in regard to insurance against liability for damage caused during the performance of their duties or in regard to insurance against being dismissed from their posts. If a bank or a foreign bank branch dismisses such persons from their posts on grounds of untrustworthiness under Article 50(2), it shall not pay them any agreed remuneration or remuneration conferred under its internal regulations; the right to any such remuneration shall expire.

(17) The supervisory board of a bank shall ensure that compensation is claimed for any damage caused to the bank and for which a statutory body member is responsible in accordance with paragraph (18).

(18) A member of a bank's statutory body shall be fully liable for any damage they may cause during the performance of their duties where this results from the breach of a statutory body member's obligation arising from the relevant laws, other generally binding legal regulations, or from the bank's articles of association or internal regulations.

(19) Banks shall perform their activities in a manner ensuring that the following percentage ratios mentioned in paragraph (14)(c) are not exceeded:

- a) the ratio of foreign exchange positions in the individual currencies to own funds;
- b) the ratio of the total foreign exchange position to own funds.

## **Article 27a**

(1) Banks and branches of foreign banks may use independent financial agents or bound financial agents for financial intermediation in accepting deposits and providing loans in accordance with a separate law.<sup>27a</sup> Banks, foreign banks, and branches of foreign banks shall be entitled to use the persons mentioned in the first sentence only if such persons are registered in the Register of Financial Agents, Financial Advisers, and Financial Intermediaries from another Member State in the Insurance or Reinsurance Sector and Bound Investment Agents.<sup>27b</sup>

(2) Banks and branches of foreign banks may use, for financial intermediation in accepting deposits and providing loans, only persons authorised to perform such activity.

## **Article 27b**

(1) Banks and branches of foreign banks shall ensure that employees who come into contact with non-professional clients have appropriate professional qualifications.<sup>27c</sup>

(2) 'Professional qualifications of employees' pursuant to paragraph (1) means the basic level of professional qualifications under a separate law.<sup>27d</sup>

(3) Banks and branches of foreign banks shall ensure the verification of professional qualifications of their employees under paragraph (1) using the procedure stipulated in a separate law.<sup>27e</sup>

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<sup>27a)</sup> Articles 7 and 8 of Act No 186/2009 Coll.

<sup>27b)</sup> Article 13 of Act No 186/2009 Coll.

<sup>27c)</sup> Article 5(3) of Act No 186/2009 Coll.

<sup>27d)</sup> Article 21(3)(a) of Act No 186/2009 Coll.

(4) Banks, foreign banks, and branches of foreign banks shall keep a list of the employees referred to in paragraph (1).

### **Article 27c** **Provision of basic banking products**

(1) Banks and branches of foreign banks shall provide banking services to clients, who are deemed to be consumers<sup>27f</sup> (hereinafter referred to as 'consumers'), in the range of a basic banking product, provided that:

- a) the consumer has attained 18 years of age;
- b) the consumer submits a written application to a bank or a foreign bank branch for the provision of a basic banking product;
- c) the consumer has no current account, deposit account,<sup>27fa</sup> or cash deposit certified by an entry in a passbook as at the date when an application for a basic banking product is submitted to the bank or foreign bank branch;
- d) the consumer does not have a monthly income higher than the monthly minimum wage<sup>27fb</sup> of employees earning a monthly salary as at the date when the application for the provision of a basic banking product is submitted;
- e) the bank or foreign bank branch concerned provides such banking services to the consumer as part of its business activity; and
- f) the bank or foreign bank branch already provides the consumer with at least two banking services related to a current account within the scope of one transaction.

(2) The consumer shall confirm the facts mentioned in paragraph (1)(c) and (d) in an affidavit.

(3) While using a basic banking product provided by a bank or a foreign bank branch, the consumer may not open a deposit account, passbook account, or another current account in the bank or foreign bank branch in question.

(4) Where a bank or a foreign bank branch finds that an affidavit as mentioned in paragraph (2) contains untrue information or that the provisions of paragraph (3) are not observed, the bank or foreign bank branch shall stop providing the basic banking product to the consumer, unless the bank or foreign bank branch and the consumer agree otherwise.

(5) Where the sum of payment operations credited to a consumer's current account over a calendar year as part of a basic banking product is higher than 14 times the minimum wage pursuant to paragraph (1)(d), the bank or foreign bank branch shall stop providing the basic banking product to the consumer, unless the bank or foreign bank branch and the customer agree otherwise.

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<sup>27e</sup>) Article 22 of Act No 186/2009 Coll.

<sup>27f</sup>) Article 52(4) of the Civil Code.

<sup>27fa</sup>) Article 716 of the Commercial Code.

<sup>27fb</sup>) Act No 663/2007 Coll. on minimum wages, as amended.

(6) An application for the provision of a basic banking product shall contain the first and last names, birth certificate number, and permanent residence address of the applicant for a basic banking product.

(7) Where a bank or a foreign bank branch rejects a consumer's application for the provision of a basic banking product, it shall forthwith inform the consumer in writing of the reasons for such rejection.

(8) A consumer may carry out payment operations under Article 5(s), point two, through:

- a) a payment card or
- b) the place where the bank or foreign bank branch operates.

(9) Banks and branches of foreign banks shall provide, within the scope of a basic banking product, banking services in euro in the range and manner specified in a generally binding legal regulation issued by the Ministry; the maximum fee for a basic banking product shall be stipulated in the same generally binding legal regulation.

(10) Within the scope of a basic banking product, banks and branches of foreign banks may not provide loans to consumers in the form of an authorised overdraft facility in connection with payment operations conducted under Article 5(s),

(11) Banks and branches of foreign banks may not tie a basic banking product to the provision of another product or service.

(12) Banks and branches of foreign banks shall keep a record of the basic banking products they provide to consumers, at least in the range of data specified in paragraph (6), including the dates when a basic banking product is provided and terminated.

(13) Banks and branches of foreign banks shall supply, by 25 January of the respective calendar year, the Ministry with information for the previous calendar year, specifically:

- a) the number of newly provided and cancelled basic banking products;
- b) the number of rejected applications for the provision of a basic banking product, including the reasons for such rejection;
- c) the fee charged for a basic banking product.

(14) The Ministry shall, at least once a year, inform the European Commission of the basic banking products in the range specified in paragraph (13).

## Article 28

(1) The prior approval of Národná banka Slovenska shall be required in order to:

- a) acquire or increase a qualifying holding in a bank so that the share in the bank's share capital or voting rights reaches or exceeds 20%, 30% or 50%, or so that the bank becomes a subsidiary of a person that acquires such a holding in one or more transactions, whether directly or by acting in concert; for the calculation of such holdings, the voting rights shall not be taken into account, nor shall be taken into account the shares that a securities dealer, a foreign securities dealer, another bank or a foreign bank hold as a result of underwriting or placing of financial instruments on a firm commitment

basis,<sup>27g</sup> unless such rights are exercised or performed otherwise to interfere with the management of the bank, and provided that they are transferred by the securities dealer, the foreign securities dealer, another bank or foreign bank to a third party within a year upon their acquisition;

- b) consolidate, merge, or split a bank, including the consolidation or merger of another legal person with the bank, or to return a banking authorisation, and to reduce the bank's share capital, unless the reduction is due to a loss;
- c) dissolve a bank for reasons other than those specified under letter (b) or to change its legal form; in this case, the bank shall return its banking authorisation on the date specified in the prior approval decision;
- d) sell a bank, a foreign bank branch, or parts thereof,<sup>28</sup>
- e) use the shares issued by a bank as the subject of security for the liabilities of the holder of these shares or of another person, except for cases where the subject of such security are shares accounting in total for less than 5% of the bank's share capital in one or more transactions, whether directly or by acting in concert.

(2) For prior approval to be issued under paragraph (1), the conditions set out in Article 7(2) and (4) are to be met as appropriate; for prior approval to be issued, the transparent and credible origin,<sup>21a</sup> sufficient volume, and correct structure of financial resources are to be documented prior to the operation for which prior approval is requested. Prior approval under paragraph (1)(a) may only be issued if the acquisition or exceeding of a holding by the acquirer does not prove to affect adversely the bank's ability to meet the obligations stipulated by this Act. The splitting, consolidation, merger, or dissolution of a bank, including its merger with another legal person, or the sale of a bank or part thereof,<sup>28</sup> may not be to the detriment of the bank's creditors; this also applies to the sale of a foreign bank branch or part thereof.<sup>28</sup>

(3) The provision of paragraph (1) is without prejudice to the provisions of a separate regulation.<sup>29</sup>

(4) It is possible to proceed on the basis of a prior approval granted under paragraph (1) for a period of up to one year, unless such approval is granted for a shorter period or unless Národná banka Slovenska stipulates otherwise.

(5) Without prior approval from Národná banka Slovenska under paragraph (1), every legal act for which prior approval is required shall be null and void. A legal act performed on the basis of a prior approval granted on the basis of false data shall also be invalid. This shall not apply to the acquisition of, or increase in, a qualifying holding in a bank under paragraph (1)(a) indirectly as a result of a foreign stabilisation measure aimed at mitigating the impacts of the global financial crisis and the sale of a foreign bank branch or part thereof under paragraph (1)(d), through which the foreign stabilisation measure alleviates the impacts of the global financial crisis.

(6) An application under paragraph 1(a) shall be submitted by persons that intend to acquire or increase a qualifying holding in a bank, or by a person that has decided to become the parent company of the bank. An application under paragraph 1(b) and (c) shall be

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<sup>27g</sup>) Article 6(1)(f) of Act No 566/2001 Coll., as amended by Act No 209/2007 Coll.

<sup>28</sup>) Articles 476 to 488 of the Commercial Code.

<sup>29</sup>) Act No 136/2001 Coll. on protection of economic competition, amending Act No 347/1990 Coll. of the Slovak National Council on the organisation of ministries and other central state administration authorities of the Slovak Republic, as amended by Act No 465/2002 Coll.

submitted by a bank or, in the case of consolidation or merger, jointly by a bank and the legal person to be consolidated or merged. An application under paragraph 1(d) shall be submitted jointly by a bank or a foreign bank and the person acquiring the bank, foreign bank branch, or part thereof. An application under paragraph 1(e) shall be submitted by a shareholder who intends to use the shares as security for the shareholder's liabilities. The persons mentioned in this paragraph shall inform Národná banka Slovenska without delay of their intention to perform an act under paragraph (1).

(7) The elements of an application for prior approval under paragraph (1), as well as the documents to be attached to such application, shall be stipulated by Národná banka Slovenska in a decree<sup>23</sup> promulgated in the Collection of Laws.

(8) The person mentioned above shall, upon written request, provide Národná banka Slovenska with information within the time limit set in the request, for the purpose of determining whether an action requiring prior approval under paragraph (1) has taken place, especially with information about the shareholders of commercial companies or cooperatives, and information about agreements on the exercise of voting rights.

(9) A person intending to cancel a qualifying holding in a bank or to reduce its interest in the bank's share capital or voting rights below 20%, 30% or 50%, or to such an extent that the bank ceases to be its subsidiary, shall report this fact in writing to Národná banka Slovenska in advance.

(10) A bank shall forthwith inform Národná banka Slovenska in writing of the facts mentioned in paragraph 1(a) to (e) and paragraph (9).

(11) A bank trading on a regulated market shall, at least once a year or upon request, inform in writing Národná banka Slovenska without delay of its shareholders and other persons having a right to vote at the bank's general meetings; the bank shall also inform in writing the Ministry of its shareholders upon request.

(12) For the purposes of this Act, 'concerted action' means:

- a) any action aimed at acquiring a share in a bank's share capital or voting rights taken by:
  1. a legal person and its associates or members, statutory bodies, statutory or supervisory body members, the legal person's employees directly reporting to the statutory body or its member, the heads of organisational units registered in the Commercial Register, company secretaries, liquidators, receivers or trustees of this legal person, and by persons in close relationship<sup>30</sup> with them or by any of these persons;
  2. persons who have concluded an agreement on the concerted exercise of voting rights in a bank in matters concerning its management, regardless of the form of this agreement or whether it is valid or not;
  3. a controlling or controlled person or by persons controlled directly or indirectly by the same controlling person;
  4. closely related persons;<sup>30</sup>
- b) any action by two or more legal persons aimed at acquiring a share in a bank's share capital or voting rights, where the same natural person is the statutory body, a member of the statutory body, a member of the supervisory body, a company secretary, or holds at least 5% of the legal person's share capital or voting rights, or has the ability to exercise

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<sup>30</sup>) Article 116 of the Civil Code.

for other reasons influence over the management of these legal persons, comparable with the influence arising from such share.

(13) For the purposes of concerted actions as defined in paragraph (12), ‘controlling person’ means any person holding a majority interest in a legal person’s voting rights, because that person has a participating interest in the legal person to which the majority of voting rights is attached or because, on the basis of an agreement with other persons, that person is entitled to exercise the majority of voting rights.

(14) For the purposes of concerted actions, ‘controlled person’ means a legal person in relation to which the controlling person has a position as defined in paragraph (13).

(15) If, through the acquisition of a participating interest pursuant to paragraph (1)(a), a bank becomes part of a consolidated group under Articles 44 to 49, which also includes a financial holding company, or if it becomes part of a financial conglomerate under Articles 49a to 49o, which also includes a mixed financial holding company, the granting of prior approval by Národná banka Slovenska shall be conditional upon the presentation of documents certifying the professional qualification and trustworthiness of all natural persons who are members of the statutory body of this financial holding company or mixed financial holding company.

(16) ‘Professional qualification’ as referred to in paragraph (15) means adequate knowledge of the financial sector and experience in the area of finance. The trustworthiness of persons mentioned in paragraph (15) shall be verified in accordance with Article 7(15).

(17) In assessing the fulfilment of conditions under paragraph (2), Národná banka Slovenska shall consult with the competent authorities of other Member States if the acquirer as referred to in paragraph (1)(a) is:

- a) a foreign bank, foreign investment firm, foreign asset management company authorised in another Member State, insurance company from another Member State, or reinsurance company from another Member State;
- b) the parent company of a person mentioned in point (a), or
- c) a natural or legal person controlling the person mentioned in point (a).

(18) Where the acquirer of a participating interest in a foreign bank from a Member State is a bank, insurance company, reinsurance company, investment firm or asset management company having its registered office in the territory of the Slovak Republic, Národná banka Slovenska shall consult with the competent supervisory authority of the Member State mentioned in Article 7a(1)(a) about the fulfilment of conditions for the acquisition of a participating interest in a foreign bank established in the territory of a Member State in accordance with the laws of the Member State concerned.

(19) The subject matter of such consultation under paragraphs (17) and (18) shall be the timely disclosure of any information required for assessing the fulfilment of conditions for the acquisition of a participating interest in a domestic or foreign bank. Národná banka Slovenska shall, upon request, provide the competent supervisory authority of the Member State concerned with the required information and, on its own initiative, with any other relevant information. Národná banka Slovenska shall request the competent supervisory authority of the Member State to supply the information required.

(20) A decision to grant prior approval under paragraph (1)(a) shall include the views or reservations reported to Národná banka Slovenska by the competent authority of the Member State exercising supervision over the person that has acquired a participating interest in a bank pursuant to paragraph (1)(a).

(21) Národná banka Slovenska shall confirm in writing the delivery of an application for prior approval under paragraph 1(a) within two business days of the date of delivery of such application to the acquirer; this also applies to the subsequent delivery of documents attached to the application that were not delivered with the application. Národná banka Slovenska may request, in writing, additional information it needs to examine applications under paragraph (1)(a), but no later than the 50th business day of the period set for the processing of applications under paragraph (2). From the day when Národná banka Slovenska sends a request for additional information to the day when an answer is delivered, the process of applying for prior approval shall be suspended, for a period of maximum 20 business days. If Národná banka Slovenska requests additional or more detailed information, the period for the issuance of a decision to grant prior approval shall not be suspended. The suspension of the period under the third sentence may be extended by Národná banka Slovenska by up to 30 business days, if the acquirer is established in, or is governed by the laws of, a non-Member State, or if the acquirer is not an investment firm, asset management company, bank, insurance company, reinsurance company, or a similar institution from a Member State.

(22) Národná banka Slovenska shall decide in the matter of an application for prior approval under paragraph (1)(a) within 60 business days after the delivery of this application is confirmed in writing and after all elements of this application are delivered. If Národná banka Slovenska fails to decide in this period, the prior approval shall be deemed to be granted. Národná banka Slovenska shall inform the acquirer of the date when the time limit for the issuance of a decision lapses in a written confirmation of delivery pursuant to paragraph (1). If Národná banka Slovenska decides to reject an application for prior approval under paragraph (1)(a), this decision shall be sent to the acquirer in writing within two business days of the date of decision, but no later than the date when the time limit defined in the first sentence lapses.

(23) Národná banka Slovenska shall not issue prior approval under paragraph (1) where the applicant fails to meet any of the conditions set out in paragraphs (2), (6), (8) to (11) or where the data requested under paragraphs (2), (6), (8) to (11) are incomplete. An application for prior approval under paragraph (1) may not be rejected on account of the economic needs of the financial market.

## **Article 29**

(1) Banks shall calculate and systematically monitor the amount of their own funds.

(2) Parent banks as defined in Article 44(2)(a) shall calculate and continuously monitor the amount of their own funds, as well as the own funds of their consolidated groups.

(3) The own funds of a bank are own funds as defined in a separate regulation.<sup>30a</sup>

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<sup>30a</sup>) Article 4(1) point 118 of Regulation (EU) No 575/2013.

(4) Banks shall maintain their own funds at least at the level of their share capital as defined in Article 7(2)(a). This is without prejudice to the relevant provisions of a separate regulation.<sup>30b</sup>

## Article 30

(1) The use of the internal ratings-based approach for credit risk and its modification are subject to prior approval by Národná banka Slovenska. Banks, parent banks, and their banking subsidiaries shall, after obtaining prior approval from Národná banka Slovenska under a separate regulation,<sup>30c</sup> apply the internal ratings-based approach for credit risk to all their exposures.

(2) Banks intending to implement the internal ratings-based approach for credit risk on a sequential basis shall need the prior approval of Národná banka Slovenska; sequential implementation is possible in relation to the individual classes defined in a separate regulation,<sup>30d</sup> the bank's individual organisational units, or for the use of own estimates of loss given default or own estimates of conversion factors for the calculation of risk weights for exposures classified under a separate regulation.<sup>30e</sup>

(3) When granting prior approval under paragraph (2), Národná banka Slovenska shall stipulate a reasonable period and conditions for the sequential use of the internal ratings-based approach for credit risk. The conditions shall be stipulated so as to ensure that, in respect of the exposure classes defined in a separate regulation<sup>30d</sup> or the bank's organisational units, the use of the internal ratings-based approach under a separate regulation<sup>30f</sup> is not postponed with the aim of achieving lower own funds requirements determined according to the standardised approach for credit risk for those exposure classes or those organisational units. In regard to the sequential use of own estimates of loss given default or own estimates of conversion factors<sup>30g</sup> for the calculation of risk weights for exposures classified under a separate regulation,<sup>30e</sup> Národná banka Slovenska shall proceed as according to the previous sentence.

(4) Národná banka Slovenska shall issue prior approval under paragraph (1) for banks having an appropriate system in place for the management and assignment of ratings to exposures, which satisfies the technical requirements and meets the conditions set out in a separate regulation.<sup>30h</sup> Národná banka Slovenska shall monitor the application of such systems for managing and assigning ratings to exposures.

(5) A bank applying for prior approval from Národná banka Slovenska for the use of own estimates of loss given default or own estimates of conversion factors shall demonstrate that it has been employing own estimates of loss given default or own estimates of conversion factors in a manner defined in a separate regulation.<sup>30h</sup>

## Article 31

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<sup>30b</sup>) Articles 92 to 386 of Regulation (EU) No 575/2013.

<sup>30c</sup>) Articles 142 to 150 of Regulation (EU) No 575/2013.

<sup>30d</sup>) Article 147(2) of Regulation (EU) No 575/2013.

<sup>30e</sup>) Article 147(2)(a) to (c) of Regulation (EU) No 575/2013.

<sup>30f</sup>) Articles 143 and 144 of Regulation (EU) No 575/2013.

<sup>30g</sup>) Article 145 of Regulation (EU) No 575/2013.

<sup>30h</sup>) Articles 144(1) and 145 of Regulation (EU) No 575/2013.

(1) To determine the degree of market risk, banks may use their own model for its calculation, instead of a simplified approach defined in a separate regulation,<sup>30i</sup> or a method combined with this approach, provided that the calculation is based on the conditions laid down in a separate regulation.<sup>30j</sup> The use or modification of an own model shall require the prior approval of Národná banka Slovenska.

(2) Národná banka Slovenska shall issue prior approval under paragraph (1) for banks satisfying the conditions set out in a separate regulation.<sup>30j</sup>

(3) In connection with the issuance of prior approval under paragraph (1), Národná banka Slovenska may additionally request a bank to submit a report compiled by an auditor or by another person specialising in the development or assessment of risk calculation models if the accuracy of the bank's own market risk calculation model cannot be assessed from the documents presented for the verification of compliance with the requirements laid down in a separate regulation.<sup>30j</sup>

(4) Where the short position falls due before the long position, the bank shall take measures against the risk of a shortage of liquidity.

(5) The elements of an application for prior approval under paragraph (1) and the documents attached thereto shall be specified in a decree<sup>23</sup> issued by Národná banka Slovenska and promulgated in the Collection of Laws.

(6) Where a bank exceeds several multiplication factors<sup>30k</sup> or fails to meet the conditions stipulated for the issuance of prior approval under paragraph (1), Národná banka Slovenska may revoke the prior approval granted or impose the necessary measures to remedy the situation. Apart from the measures referred to in Article 50, these measures may include the preparation of a recovery plan in accordance with the conditions under which the prior approval was issued, with concrete deadlines for submission and implementation. If the bank fails to submit and implement a recovery plan within the stipulated time limit, the prior approval granted under paragraph (1) shall be revoked.

## Article 32

(1) Apart from the standardised approach for operational risk, banks may also use other approaches and the corresponding indicators for operational risk under a separate regulation;<sup>30l</sup> other approaches and indicators for operational risk may only be used with the prior approval of Národná banka Slovenska.

(2) Národná banka Slovenska shall issue prior approval under paragraph (1) for banks satisfying the conditions set out in a separate regulation.<sup>30l</sup>

## Article 33

(1) The economic value of a bank may not fall by more than 20% of the value of its own funds as a result of a sudden and unexpected change in market interest rates. If a sudden and unexpected change in market interest rates, the effect of which is quantified from

<sup>30i</sup>) Article 360 of Regulation (EU) No 575/2013.

<sup>30j</sup>) Articles 363 to 377 of Regulation (EU) No 575/2013.

<sup>30k</sup>) Article 366 of Regulation (EU) No 575/2013.

<sup>30l</sup>) Articles 312 to 320 of Regulation (EU) No 575/2013.

positions recorded in the banking book, causes the bank's economic value to decline by more than 20% of its own funds, Národná banka Slovenska shall impose a corrective measure on the bank in accordance with Article 50(1).

(2) For the purposes of this Act, 'the economic value of a bank' means the difference between the fair value of interest rate-sensitive assets recorded in the banking book and the fair value of interest rate-sensitive liabilities recorded in the banking book; interest rate-sensitive assets and interest rate-sensitive liabilities are assets and liabilities whose fair value varies according to changes in market interest rates.

(3) In a decree<sup>23</sup> to be promulgated in the Collection of Laws, Národná banka Slovenska shall give a precise definition of what is meant by a 'sudden and unexpected change in market interest rates'.

### **Article 33a**

For the purposes of this Act, the following definitions shall apply:

- a) 'systemically important institution' means an EU parent bank, an EU parent financial holding company, an EU parent mixed financial holding company, or a bank the failure or malfunction of which could lead to systemic risk;
- b) 'global systemically important institution' (G-SII) means a bank classified by Národná banka Slovenska as systemically important under Article 33d(1) and (2), while a G-SII is not a subsidiary of an EU parent bank, an EU parent financial holding company, or a EU parent mixed financial holding company;
- c) 'other systemically important institution' (O-SII) means a bank classified by Národná banka Slovenska as systemically important under Article 33d(1) and (3);
- d) 'capital conservation buffer' (hereinafter referred to as 'buffer') means the own funds that a bank is required to maintain in accordance with Article 33b;
- e) 'institution-specific countercyclical capital buffer' means the own funds that a bank is required to maintain in accordance with Article 33c;
- f) 'G-SII buffer' means the own funds that are required to be maintained in accordance with Article 33d(4);
- g) 'O-SII buffer' means the own funds that may be required to be maintained in accordance with Article 33d(5);
- h) 'systemic risk buffer' means the own funds that a bank may or is required to maintain in accordance with Article 33e;
- i) 'combined buffer requirement' means the total Common Equity Tier 1 capital as defined in a separate regulation,<sup>30m</sup> required to meet the requirement for the capital conservation buffer extended in accordance with Article 33d(15) to(17) and Article 33e(4) and (5) by the following, as applicable
  1. an institution-specific countercyclical capital buffer;
  2. a G-SII buffer;
  3. an O-SII buffer;
  4. a systemic risk buffer;
- j) 'countercyclical capital buffer rate' means the rate that banks must apply in order to calculate their institution-specific countercyclical capital buffer, and that is set in accordance with Articles 33g and 33h or by a designated authority of a non-Member State, as the case may be;

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<sup>30m)</sup> Article 50 of Regulation (EU) No 575/2013.

- k) 'financial holding company' means financial holding company as defined in a separate regulation.<sup>30n</sup>
- l) 'mixed activity holding company' means mixed activity holding company as defined in a separate regulation.<sup>30o</sup>
- m) 'parent bank' means parent bank as defined in a separate regulation.<sup>30p</sup>
- n) 'parent financial holding company' means parent financial holding company as defined in a separate regulation.<sup>30r</sup>
- o) 'EU parent bank' means EU parent bank as defined in a separate regulation;<sup>30s</sup>
- p) 'EU parent financial holding company' means EU parent financial holding company as defined in a separate regulation;<sup>30t</sup>
- r) 'designated authority of a Member State' means a Member State's authority responsible for setting the countercyclical capital buffer rate for that Member State or for setting the systemic risk buffer;
- s) 'mixed financial holding company' means a parent undertaking,<sup>30ta</sup> other than a regulated person, which together with its subsidiaries, at least one of which is a regulated person having a registered office in a Member State, and together with other controlled persons, constitutes a financial conglomerate;
- t) 'parent mixed financial holding company' means parent mixed financial holding company as defined in a separate regulation;<sup>30tb</sup>
- u) 'EU parent mixed financial holding company' means EU parent mixed financial holding company as defined in a separate regulation.<sup>30tc</sup>

### **Article 33b**

(1) In addition to the Common Equity Tier 1 capital<sup>30m</sup> maintained to meet the own funds requirements imposed under a separate regulation,<sup>30u</sup> banks shall also maintain a capital conservation buffer of Common Equity Tier 1 capital<sup>30m</sup> equal to 2.5% of their total risk exposure amount calculated in accordance with a separate regulation<sup>30v</sup> on an individual and consolidated basis.

(2) Banks shall not use Common Equity 1 capital that is maintained to meet the requirements referred to in paragraph (1) to meet the requirements imposed under Article 6, those of a corrective measure imposed under Article 50, and the own funds requirements laid down a separate regulation.<sup>30u</sup>

(3) Where a bank fails to meet fully the requirements referred to in paragraph (1), it shall be subject to the restrictions on distributions set out in Article 33k(2) and (3).

### **Article 33c**

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<sup>30n</sup>) Article 4(1) point 20 of Regulation (EU) No 575/2013.  
<sup>30o</sup>) Article 4(1) point 22 of Regulation (EU) No 575/2013.  
<sup>30p</sup>) Article 4(1) point 28 of Regulation (EU) No 575/2013.  
<sup>30r</sup>) Article 4(1) point 30 of Regulation (EU) No 575/2013.  
<sup>30s</sup>) Article 4(1) point 29 of Regulation (EU) No 575/2013.  
<sup>30t</sup>) Article 4(1) point 31 of Regulation (EU) No 575/2013.  
<sup>30ta</sup>) Article 4(1) point 21 of Regulation (EU) No 575/2013.  
<sup>30tb</sup>) Article 4(1) point 32 of Regulation (EU) No 575/2013.  
<sup>30tc</sup>) Article 4(1) point 33 of Regulation (EU) No 575/2013.  
<sup>30u</sup>) Article 92 of Regulation (EU) No 575/2013.  
<sup>30v</sup>) Article 92(3) of Regulation (EU) No 575/2013.

(1) Apart from meeting the requirements imposed under Article 33b(1), banks shall also maintain an institution-specific countercyclical capital buffer of Common Equity Tier 1 capital<sup>30m</sup> equal to their total risk exposure amount calculated according to a separate regulation,<sup>30v</sup> multiplied by the weighted average of the countercyclical capital buffer rates calculated in accordance with Article 33j on an individual and consolidated basis under a separate regulation.<sup>30w</sup>

(2) Banks shall not use Common Equity Tier 1 capital that is maintained to meet the requirements mentioned in paragraph (1) to meet the requirements imposed under Article 6, those of a corrective measure imposed under Article 50, the own funds requirements laid down a separate regulation,<sup>30u</sup> and the requirements imposed under Article 33b(1).

(3) Where a bank fails to meet fully the requirements referred to in paragraph (1), it shall be subject to the restrictions on distributions set out in Article 33k(2) and (3).

\* Article 33d shall enter into force on 1 January 2016 (Act No 213/2014 Coll., Section I, point 52)

### **Article 33d**

(1) Národná banka Slovenska shall identify G-SIIs in accordance with paragraph (2) on a consolidated basis and O-SIIs in accordance with paragraph (3) on an individual basis, consolidated basis, or sub-consolidated basis.

(2) Národná banka Slovenska shall identify and allocate G-SIIs into the respective subcategories according to the criteria defined in paragraph (11) and the overall score calculated according to these criteria. The criteria have the same weight and are formed by quantifiable indicators. The following criteria shall be used to identify and categorise G-SIIs:

- a) the size of the group;
- b) the links of the group to the financial system;
- c) the replaceability of the banking services provided by the group;
- d) the complexity of the group;
- e) the group's cross-border activities, including cross-border activities between Member States and between Member States and non-Member States.

(3) Národná banka Slovenska shall identify O-SIIs according to at least one of the following criteria:

- a) size;
- b) importance for the economy of the European Union as a whole or for the economy of the Slovak Republic;
- c) significance of cross-border activities;
- d) links between the bank or group and the financial system.

(4) Apart from meeting the requirements imposed under Articles 33b(1) and 33c(1), banks shall also maintain a G-SII buffer of Common Equity Tier 1 capital on a consolidated basis, in an amount corresponding to the subcategory defined in paragraph (11), in which the G-SII is included.

(5) Apart from meeting the requirements imposed under Articles 33b(1) and 33c(1), banks shall also maintain an O-SII buffer on an individual, consolidated, or sub-consolidated

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<sup>30w</sup>) Articles 6 to 24 of Regulation (EU) No 575/2013.

*basis, in the form of Common Equity Tier 1 capital, the amount of which may be set by Národná banka Slovenska up to 2% of the total risk exposure amount calculated in accordance with a separate regulation,<sup>30v</sup> according to the criteria set out in paragraph (3).*

*(6) G-SIIs shall not use Common Equity Tier 1 capital that is maintained to meet the requirement set out in paragraph (4) and O-SIIs shall not use Common Equity Tier 1 capital that is maintained to meet the requirement set out in paragraph (5) to meet the requirements imposed under Article 6, the requirements of a remedial measure imposed under Article 50, the own funds requirements laid down in a separate regulation,<sup>30u</sup> and the requirements imposed under Articles 33b(1) and 33c(1).*

*(7) Národná banka Slovenska shall require an O-SII buffer to be maintained in an amount that will have no disproportionate adverse effects on the whole or parts of the financial system of other Member States or of the Union as a whole, forming or creating an obstacle to the functioning of the internal market. Národná banka Slovenska shall review the O-SII buffer at least annually.*

*(8) Before setting or resetting an O-SII buffer, Národná banka Slovenska shall notify the Commission, the European Systemic Risk Board, the European supervisory authority (European Banking Authority), and the competent and designated authorities of the Member States concerned one month before the publication of the decision referred to in paragraph (5). The notification shall describe in detail:*

- a) the justification why the O-SII buffer is considered likely to be effective and proportionate to mitigate the risk;*
- b) an assessment of the likely positive or negative impact of the O-SII buffer on the internal market of the Slovak Republic;*
- c) the O-SII buffer that will be required by Národná banka Slovenska to be maintained.*

*(9) Where an O-SII is a subsidiary of either a G-SII or an O-SII which is an EU parent bank and is subject to an O-SII buffer on a consolidated basis, the buffer that applies at individual or sub-consolidated level to the O-SII shall not exceed the higher of:*

- a) 1% of the total risk exposure amount calculated in accordance with a separate regulation;<sup>30v</sup>*
- b) the G-SII or O-SII buffer rate applicable to the group at consolidated level, whichever is higher.*

*(10) Paragraph (9) is without prejudice to the provisions of paragraph (5) and Article 33k.*

*(11) A G-SII shall be included in one of the six subcategories given below. The lowest boundary and the boundaries between the individual subcategories shall be determined by Národná banka Slovenska on the basis of the scores under the identification methodology. A G-SII buffer shall be set as a percentage of the total risk exposure amount calculated according to a separate regulation,<sup>30v</sup> as follows:*

- a) for subcategory 1: 1.0%;*
- b) for subcategory 2: 1.5%;*
- c) for subcategory 3: 2.0%;*
- d) for subcategory 4: 2.5%;*
- e) for subcategory 5: 3.0%;*
- f) for subcategory 6: 3.5%.*

(12) Without prejudice to paragraphs (1) to (11), Národná banka Slovenska may a) re-allocate a G-SII from a lower subcategory to a higher subcategory, b) allocate a bank that has an overall score that is lower than the cut-off score of subcategory 1 to subcategory 1 or to a higher subcategory, thereby designating it as a G-SII.

(13) If Národná banka Slovenska takes a decision in accordance with paragraph (12)(b), it shall notify the European supervisory authority (European Banking Authority) accordingly, providing reasons.

(14) Národná banka Slovenska shall report the list and names of G-SIIs and O-SIIs, as well as the respective subcategory in which each G-SII is included, to the Commission, the European Systemic Risk Board, and the European supervisory authority (European Banking Authority), and shall disclose this information on its website. Národná banka Slovenska shall review annually the identification of G-SIIs and O-SIIs, and the inclusion of G-SIIs in the respective subcategories, and shall report the result to the G-SII or O-SII concerned, the Commission, the European Systemic Risk Board, and the European supervisory authority (European Banking Authority). The updated list of identified systemically important institutions and the subcategories in which the identified G-SIIs are included shall be published on the NBS website.

(15) If a bank on a consolidated basis is required to maintain:

- a) a G-SII buffer and an O-SII buffer at the same time, the higher of the two shall be applicable;
- b) a G-SII buffer, an O-SII buffer, and a systemic risk buffer under Article 33e, the highest of the three shall be applicable.

(16) If a bank on an individual or sub-consolidated basis is required to maintain an O-SII buffer and a systemic risk buffer under Article 33e, it shall maintain the higher of the two buffers.

(17) Where the systemic risk buffer only applies to exposures in the Slovak Republic, it shall be cumulative with the G-SII buffer or the buffer relating to other systemically important institutions (O-SIIs), while paragraphs (15)(b) and (16) shall not apply.

(18) Where paragraph (16) applies and a bank is part of a group or a subgroup to which a G-SII or an O-SII belongs, this shall never imply that that bank is, on an individual basis, subject to a combined buffer requirement that is lower than the sum of the capital conservation buffer, the countercyclical capital buffer, and the higher of the O-SII buffer and systemic risk buffer applicable to it on an individual basis.

(19) Where paragraph (17) applies and a bank is part of a group or a subgroup to which a G-SII or an O-SII belongs, this shall never imply that that bank is, on an individual basis, subject to a combined buffer requirement that is lower than the sum of the capital conservation buffer, the countercyclical buffer, the O-SII buffer, and the systemic risk buffer applicable to it on an individual basis.

## Article 33e

(1) Národná banka Slovenska may introduce a systemic risk buffer of Common Equity Tier 1 capital for banks, in order to prevent and mitigate long-term non-cyclical

systemic or macroprudential risks not covered by a separate regulation,<sup>30x</sup> in the meaning of a risk of disruption in the financial system with the potential to have serious negative consequences for the financial sector and national economy of the Slovak Republic.

(2) Banks may be required to maintain, in addition to the Common Equity Tier 1 capital maintained to meet the own funds requirements imposed under a separate regulation,<sup>30u</sup> a systemic risk buffer of at least 1% of the risk exposure amount calculated according to a separate regulation,<sup>30v</sup> based on the exposures to which the systemic risk buffer applies in accordance with paragraph (8), on an individual, consolidated, or sub-consolidated basis, as applicable under a separate regulation.<sup>30y</sup>

(3) Banks shall not use Common Equity Tier 1 capital that is maintained to meet the requirements set out in paragraph (2) to meet any requirements imposed under Article 6, the requirements of a corrective measure imposed under Article 50, the own funds requirements laid down in a separate regulation,<sup>30u</sup> and the requirements imposed under Articles 33b(1) and 33c(1).

(4) Where a bank, on an individual, sub-consolidated or consolidated basis, is subject to the requirement to maintain an O-SII buffer in accordance with Article 33d as well as a systemic risk buffer, the higher of the two shall apply. Where a bank, on a consolidated basis, is subject to the requirement to maintain:

- a) a G-SII buffer and a systemic risk buffer at the same time, the higher of the two shall apply; or
- b) a G-SII buffer, an O-SII buffer in accordance with Article 33d, and a systemic risk buffer, the highest of the three buffers shall apply.

(5) Where the systemic risk buffer only applies to exposures in the Slovak Republic, it shall be cumulative with the O-SII buffer or the G-SII buffer which is applied in accordance with Article 33d, while paragraph (4) shall not apply.

(6) Where paragraph (4) applies and a bank is part of a group or a subgroup to which a G-SII or an O-SII belongs, this shall never imply that that bank is, on an individual basis, subject to a combined buffer requirement that is lower than the sum of the capital conservation buffer, the countercyclical capital buffer, and the higher of the O-SII buffer and systemic risk buffer applicable to it on an individual basis.

(7) Where paragraph (5) applies and a bank is part of a group or a subgroup to which a G-SII or an O-SII belongs, this shall never imply that that bank is, on an individual basis, subject to a combined buffer requirement that is lower than the sum of the capital conservation buffer, the countercyclical capital buffer, the O-SII buffer, and the systemic risk buffer applicable to it on an individual basis.

(8) A systemic risk buffer can be applied to exposures in the Slovak Republic, as well as to exposures located in non-Member States. A systemic risk buffer can also be applied to exposures in other Member States in accordance with paragraph (19).

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<sup>30x</sup>) Regulation (EU) No 575/2013.

<sup>30y</sup>) Articles 6 to 24 of Regulation (EU) No 575/2013.

(9) Národná banka Slovenska may set a systemic risk buffer in gradual steps of adjustment of 0.5 percentage point. Národná banka Slovenska may set a systemic risk buffer for banks on an individual basis.

(10) When requiring a systemic risk buffer to be maintained, Národná banka Slovenska shall ensure that the systemic risk buffer exerts no disproportionate adverse effects on the whole or parts of the financial system of other Member States or of the European Union as a whole, forming or creating an obstacle to the functioning of the internal market of the Union. Národná banka Slovenska shall review the systemic risk buffer at least every second year.

(11) Before setting or resetting a systemic risk buffer rate of up to 3%, Národná banka Slovenska shall notify the Commission, the European Systemic Risk Board, the European supervisory authority (European Banking Authority), and the competent or designated supervisory authorities of the Member States concerned one month before the publication of the decision referred to in paragraph (16). Where the systemic risk buffer applies to exposures located in a non-Member State, Národná banka Slovenska shall also notify the competent or designated authority of that country. The notification shall describe in detail:

- a) the systemic or macroprudential risk faced by the Slovak Republic;
- b) the reasons why the degree of the systemic or macroprudential risk threatens the stability of the financial system in the Slovak Republic, justifying the systemic risk buffer rate;
- c) the reasons why the systemic risk buffer is considered likely to be effective and proportionate to mitigate these risks;
- d) the assessment of the likely positive or negative impact of the systemic buffer on the internal market of the European Union;
- e) the reasons why none of the existing measures in this Act, except for the measures referred to in Article 33m(f) to (h) or in a separate regulation,<sup>30z</sup> will be sufficient to address the identified macroprudential or systemic risk;
- f) the systemic risk buffer rate that Národná banka Slovenska wishes to require.

(12) Národná banka Slovenska shall,

- a) before setting or resetting a systemic risk buffer rate of above 3%, notify the Commission, the European Systemic Risk Board, the European supervisory authority (European Banking Authority), and the competent or designated supervisory authorities of the Member States concerned. If the systemic risk buffer applies to exposures located in a non-Member State, Národná banka Slovenska shall also notify the competent or designated authority of that country. The notification shall describe in detail:
  1. the systemic or macroprudential risk faced by the Slovak Republic;
  2. the reasons why the degree of the systemic or macroprudential risk threatens the stability of the financial system in the Slovak Republic, justifying the systemic risk buffer rate;
  3. the reasons why the systemic risk buffer is considered likely to be effective and proportionate to mitigate these risks;
  4. the assessment of the likely positive or negative impact of the systemic buffer on the internal market of the European Union;
  5. the reasons why none of the existing measures in this Act, except for the measures referred to in Article 33m(f) to (h) or in a separate regulation,<sup>30z</sup> will be sufficient to address the identified macroprudential or systemic risk;
  6. the systemic risk buffer rate that Národná banka Slovenska wishes to require.

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<sup>30z</sup>) Articles 1 to 457 and Articles 460 to 521 of Regulation (EU) No 575/2013.

b) set or reset a systemic risk buffer rate in accordance with subparagraph a) with the approval of the Commission.

(13) Národná banka Slovenska may, from 1 January 2015, set or reset a systemic risk buffer rate that applies to exposures located in the Slovak Republic, as well as to exposures in non-Member States, of up to 5% or above 5%. When setting or resetting a systemic risk buffer rate of up to 5%, Národná banka Slovenska shall follow the procedure set out in paragraph (11). When setting or resetting a systemic risk buffer rate of above 5%, it shall proceed in accordance with paragraph (12).

(14) Where the systemic risk buffer rate is to be set between 3% and 5% in accordance with paragraph (13), Národná banka Slovenska shall always notify the Commission thereof and shall await the opinion of the Commission before adopting the measures in question. If the opinion of the Commission is negative, Národná banka Slovenska shall comply with that opinion or give reasons for not so doing.

(15) Where a bank is a subsidiary whose parent is established in another Member State, Národná banka Slovenska shall notify the competent supervisory authority of that Member State, the Commission, and the European Systemic Risk Board of the facts referred to in paragraph (14). The Commission and the European Systemic Risk Board shall issue a recommendation on the measures taken in accordance with paragraph (14). If the competent authority disagrees and both the Commission and the European Systemic Risk Board issues a negative recommendation, Národná banka Slovenska may refer the matter to the European supervisory authority (European Banking Authority) and request its assistance under a separate regulation.<sup>19</sup> The systemic risk buffer rate shall be set in accordance with the decision of the European supervisory authority (European Banking Authority).

(16) Národná banka Slovenska shall announce the setting of a systemic risk buffer by publication on its website. The announcement shall include at least the following information:

- a) the applicable systemic risk buffer rate;
- b) the banks to which the systemic risk buffer applies;
- c) a justification for the systemic risk buffer;
- d) the date from which the banks must apply the systemic risk buffer set or reset;
- e) the names of the countries where exposures located in those countries are recognised in the systemic risk buffer.

(17) Where publication as referred to in paragraph (16)(c) could jeopardise the stability of the financial system, the information specified in paragraph (16)(c) shall not be included in the announcement.

(18) Where a bank fails to meet fully the requirement under paragraph (1), it shall be subject to the restrictions on distributions set out in Article 33k(2) and (3). If the application of those restrictions on distributions leads to an unsatisfactory improvement in the Common Equity Tier 1 capital of the bank in the light of the relevant systemic risk, Národná banka Slovenska may take additional measures in accordance with Articles 50 and 63.

(19) Following notification as referred to in paragraph (11), Národná banka Slovenska may apply the systemic risk buffer to all exposures. If Národná banka Slovenska decides to set the buffer rate up to 3% on the basis of exposures in other Member States, the buffer shall be set equally for all exposures located within the European Union.

## **Article 33f**

(1) Národná banka Slovenska may recognise a systemic risk buffer rate set in accordance with Article 33e and may apply that buffer rate to domestically authorised banks for exposures located in the Member State whose competent or designated supervisory authority sets that buffer rate.

(2) If Národná banka Slovenska recognises the systemic risk buffer rate mentioned in paragraph (1) for banks, it shall notify the Commission, the European Systemic Risk Board, the European supervisory authority (European Banking Authority), and the competent or designated supervisory authority referred to in paragraph (1).

(3) When deciding whether to recognise a systemic risk buffer rate, Národná banka Slovenska shall take into consideration the information provided by the Member State that sets that buffer rate in accordance with Article 33e(11),(12) or (13).

(4) When setting a systemic risk buffer rate in accordance with Article 33e, Národná banka Slovenska may ask the European Systemic Risk Board to issue a recommendation as referred to in a separate regulation<sup>30za</sup> to one or more Member States which may recognise the systemic risk buffer rate, to recognise the buffer rate in question.

## **Article 33g**

(1) Národná banka Slovenska shall assess and set an appropriate countercyclical buffer rate on a quarterly basis, and in so doing shall take into account:

- a) the buffer guide calculated in accordance with paragraph (2) as a reference for setting the countercyclical buffer rate;
- b) any current guidance and recommendations issued by the European Systemic Risk Board on the setting of a buffer rate;
- c) other variables that Národná banka Slovenska considers relevant for addressing cyclical systemic risk.

(2) Národná banka Slovenska shall calculate for every quarter a buffer guide as a reference for setting the countercyclical buffer rate. In assessing the buffer guide, Národná banka Slovenska shall duly take into account the specificities of the Slovak economy with regard to:

- a) the indicator of credit growth and the risks involved, and, in particular, the changes in the ratio of credit granted to gross domestic product;
- b) any current guidance issued by the European Systemic Risk Board on systemic risks.

(3) Národná banka Slovenska shall set a countercyclical capital buffer rate, expressed as a percentage of the total risk exposure amount calculated in accordance with a separate regulation,<sup>30v</sup> between 0% and 2.5%, calibrated in steps of 0.25 percentage point or multiples of 0.25 percentage point. Where justified on the basis of the considerations set out in paragraph (2), Národná banka Slovenska may set a countercyclical capital buffer rate in excess of 2.5% of the total risk exposure amount calculated in accordance with a separate regulation<sup>30v</sup> for the purposes set out in Article 33j(2).

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<sup>30za</sup>) Article 16 of Regulation (EU) No 1092/2010.

(4) If Národná banka Slovenska sets the countercyclical buffer rate above zero for the first time or increases the prevailing countercyclical buffer rate setting, Národná banka Slovenska shall also set the date from which the banks must use that increased buffer rate for calculating their institution-specific countercyclical capital buffer. That date may be earlier than 12 calendar months after the date of announcement of the increased buffer rate only under exceptional circumstances.

(5) If Národná banka Slovenska reduces the existing countercyclical buffer rate, it shall also decide an indicative period during which no increase in the buffer rate is expected.

(6) Národná banka Slovenska shall announce the quarterly setting of the countercyclical buffer rate to the European Systemic Risk Board by publication on its website. The announcement shall include at least the following information:

- a) the applicable countercyclical buffer rate;
- b) the relevant credit-to-GDP ratio and its deviation from the long-term trend;
- c) the buffer guide calculated in accordance with paragraph (2);
- d) a justification for the buffer rate setting;
- e) where the buffer rate is increased, the date from which the banks must use that increased buffer rate for calculating their bank-specific countercyclical capital buffer;
- f) where the date referred to in subparagraph e) is less than 12 months after the date of announcement under this paragraph, a justification for the shorter deadline;
- g) where the buffer rate is decreased, the indicative period during which no increase in the buffer rate is expected, together with a justification for that period.

### **Article 33h**

(1) Where a designated authority of a Member State or of a non-Member State sets a countercyclical buffer rate in excess of 2.5% of the total risk exposure amount calculated in accordance with a separate regulation,<sup>30v</sup> Národná banka Slovenska may recognise that buffer rate for the calculation by domestically authorised banks of their institution-specific countercyclical capital buffer.

(2) Where Národná banka Slovenska in accordance with paragraph (1) recognises a buffer rate higher than 2.5% of the total risk exposure amount calculated under a separate regulation,<sup>30v</sup> it shall announce that recognition by publication on its website. The announcement shall include at least the following information:

- a) the applicable countercyclical buffer rate;
- b) the Member State or non-Member State to which it applies;
- c) where the buffer rate is increased, the date from which banks must use the increased buffer rate for calculating their institution-specific countercyclical capital buffer;
- d) where the date referred to in subparagraph c) is less than 12 months after the date of announcement under this paragraph, a justification for the shorter deadline.

### **Article 33i**

(1) Where the designated authority of a non-Member State fails to set a countercyclical capital buffer rate for that country, Národná banka Slovenska may set a countercyclical buffer rate for banks for the calculation of their institution-specific countercyclical capital buffer.

(2) Where the designated authority of a non-Member State has set a countercyclical buffer rate for that country but Národná banka Slovenska has justified doubts whether the countercyclical buffer rate set by that authority is sufficient to ensure adequate protection for banks against the risk of excessive credit growth in that country, Národná banka Slovenska may set a different countercyclical buffer rate for banks in that country for the calculation of their institution-specific countercyclical capital buffer. The countercyclical buffer rate set by Národná banka Slovenska may not be lower than the figure set by the designated authority of that country, except for cases where the countercyclical buffer rate is higher than 2.5% of the total risk exposure amount calculated in accordance with a separate regulation<sup>30v</sup> for banks that have credit exposures in that country.

(3) The setting of a countercyclical buffer rate under paragraph (1) or (2), above the existing countercyclical buffer rate set by the authority of that country, shall also contain the date from which banks are required to use that buffer rate for the calculation of their institution-specific countercyclical capital buffer. The date from which banks are required to use the increased countercyclical buffer rate shall be maximum 12 calendar months from the date of the announced increase in the buffer rate in accordance with paragraph (4).

(4) Národná banka Slovenska shall announce the setting of a countercyclical capital buffer rate in accordance with paragraph (1) or (2) on its website. The announcement shall include at least the following information:

- a) the applicable countercyclical buffer rate;
- b) the non-Member State to which it applies;
- c) a justification for the countercyclical buffer rate set;
- d) the date from which banks must use that increased buffer rate for the calculation of their institution-specific countercyclical capital buffer, where the countercyclical buffer rate is higher than zero for the first time or is being increased;
- e) a justification for reducing the time limit, where the date referred to in subparagraph d) is less than 12 calendar months after the date of announcement.

### **Article 33j**

(1) The institution-specific countercyclical capital buffer rate shall be calculated as a weighted average of the countercyclical buffer rates that apply in the countries where the relevant credit exposures of the bank are located or are applied for the purposes of Article 33i(1) or (2). In order to calculate the weighted average mentioned in the first sentence, banks shall apply to each applicable countercyclical buffer rate their total own funds requirements for credit risk, determined in accordance with a separate regulation,<sup>30zb</sup> that relates to the relevant credit exposures in the territory in question, divided by their total own funds requirements for credit risk that relates to all of their relevant credit exposures.

(2) Where the competent supervisory authority of a Member State sets a countercyclical capital buffer rate in excess of 2.5% of the total risk exposure amount calculated in accordance with a separate regulation,<sup>30v</sup> the following buffer rates shall apply to the relevant credit exposures located in that Member State for the purpose of calculating the countercyclical capital buffer in accordance with paragraph (1):

- a) a countercyclical buffer rate of 2.5% of the total risk exposure amount where Národná banka Slovenska has not recognised a countercyclical buffer rate exceeding 2.5% under Article 33h(l);

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<sup>30zb</sup>) Articles 107 to 311 of Regulation (EU) No 575/2013.

- b) the countercyclical buffer rate set by a designated authority of that Member State where Národná banka Slovenska has recognised a countercyclical buffer rate exceeding 2.5% under Article 33h.

(3) Where the competent authority of a non-Member State sets a countercyclical capital buffer rate in excess of 2.5% of the total risk exposure amount calculated in accordance with a separate regulation,<sup>30v</sup> the following buffer rates shall apply to the relevant credit risk exposures located in that country for the purpose of calculating the countercyclical capital buffer in accordance with paragraph (1):

- a) a countercyclical buffer rate of 2.5% of the total risk exposure amount where Národná banka Slovenska has not recognised a countercyclical capital buffer rate exceeding 2.5% under Article 33h(l);
- b) the countercyclical buffer rate set by a designated authority of that country where Národná banka Slovenska has recognised a countercyclical buffer rate exceeding 2.5% under Article 33h;

(4) Relevant credit risk exposures shall include all those exposure classes, other than those referred to in a separate regulation,<sup>30zc</sup> that are subject to:

- a) the own funds requirements for credit risk under a separate regulation;<sup>30zb</sup>
- b) where the exposure is held in the trading book, the own funds requirements for specific risk under a separate regulation<sup>30zd</sup> or for incremental default and migration risk under a separate regulation;<sup>30ze</sup>
- c) where the exposure is a securitisation, the own funds requirements under a separate regulation.<sup>30zf</sup>

(5) Banks shall identify the geographical location of a relevant credit risk exposure in accordance with the applicable Commission directives on the issuance of regulatory technical standards.<sup>30zg</sup>

(6) For the purpose of calculating the countercyclical capital buffer in accordance with paragraph (1):

- a) a countercyclical buffer rate for a Member State shall apply from the date specified in the information published in accordance with Article 33g(6)(e) or Article 33h(2)(c) if the effect of that decision is to increase the buffer rate;
- b) except for the case mentioned in subparagraph c), a countercyclical buffer rate for a non-Member State shall apply 12 months after the date on which a change in the buffer rate was announced by the competent authority of that country, irrespective of whether that authority requires the banks established in that country to apply the change within a shorter period, if the effect of that decision is to increase the buffer rate;
- c) where Národná banka Slovenska sets a countercyclical buffer rate for a non-Member State under Article 33i(1) or (2), or recognises a countercyclical buffer rate for that country under Article 33h, that buffer rate shall apply from the date specified in the information published in accordance with Article 33i(4)(d) or Article 33h(2)(c), if the effect of that decision is to increase the buffer rate;
- d) a countercyclical buffer rate shall apply immediately if the effect of the decision of Národná banka Slovenska is to reduce the buffer rate.

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<sup>30zc</sup>) Articles 112(a) to (f) of Regulation (EU) No 575/2013.

<sup>30zd</sup>) Articles 326 to 350 of Regulation (EU) No 575/2013.

<sup>30ze</sup>) Articles 362 to 377 of Regulation (EU) No 575/2013.

<sup>30zf</sup>) Articles 242 to 270 of Regulation (EU) No 575/2013.

<sup>30zg</sup>) Articles 10 to 14 of Regulation (EU) No 1093/2010.

(7) For the purposes of paragraph (6)(b), a change in the countercyclical buffer rate for a non-Member State shall be considered to be announced on the date when it is published by the competent authority of that country in accordance with the applicable national rules.

## **Article 33k**

(1) Banks that meet the combined buffer requirement shall be prohibited from making a distribution in connection with Common Equity Tier 1 capital to an extent that would decrease their Common Equity Tier 1 capital to a level where the combined buffer requirement is no longer met.

(2) Banks that fail to meet the combined buffer requirement shall be required to calculate the Maximum Distributable Amount ('MDA') in accordance with paragraph (4) and to notify Národná banka Slovenska of that MDA. Such banks shall be prohibited from undertaking any of the following actions before they have calculated the MDA:

- a) make a distribution in connection with Common Equity Tier 1 capital;
- b) create an obligation to pay variable remuneration or discretionary pension benefits or pay variable remuneration if the obligation to pay was created at a time when the bank failed to meet the combined buffer requirement;
- c) make payments on additional Tier 1 instruments.

(3) While a bank fails to meet or exceed the combined buffer requirement, it shall be prohibited from distributing more than the MDA calculated in accordance with paragraph (4), through any action referred to in subparagraphs a), b), and c) of paragraph (2). If the bank carries out any of these actions, the MDA shall be reduced.

(4) Banks shall calculate the MDA by multiplying the sum calculated in accordance with paragraph (5) by the factor determined in accordance with paragraph (6).

(5) The sum to be multiplied in accordance with paragraph (4) shall consist of the interim profits not included in Common Equity Tier 1 capital under a separate regulation<sup>30zh</sup> that have been generated since the most recent decision on the distribution of profits or any of the actions referred to in paragraph (2), plus the year-end profits not included in Common Equity Tier 1 capital under a separate regulation<sup>30zh</sup> that have been generated since the most recent decision on the distribution of profits or any of the actions referred to in paragraph (2), minus the amounts which would be payable in the form of tax if the items specified in this paragraph were to be retained.

(6) The factor shall be determined as follows:

- a) where the Common Equity Tier 1 capital maintained by the bank but not used to meet the own funds requirement under a separate regulation,<sup>30zi</sup> expressed as a percentage of the total risk exposure amount calculated in accordance with a separate regulation,<sup>30v</sup> is within the first (that is, the lowest) quartile of the combined buffer requirement, the factor shall be 0;
- b) where the Common Equity Tier 1 capital maintained by the bank but not used to meet the own funds requirement under a separate regulation,<sup>30zi</sup> expressed as a percentage of the

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<sup>30zh</sup>) Article 26(2) of Regulation (EU) No 575/2013.

<sup>30zi</sup>) Article 92(1)(c) of Regulation (EU) No 575/2013.

total risk exposure amount calculated in accordance with a separate regulation,<sup>30v</sup> is within the second quartile of the combined buffer requirement, the factor shall be 0.2;

- c) where the Common Equity Tier 1 capital maintained by the bank but not used to meet the own funds requirement under a separate regulation,<sup>30zi</sup> expressed as a percentage of the total risk exposure amount calculated in accordance with a separate regulation,<sup>30v</sup> is within the third quartile of the combined buffer requirement, the factor shall be 0.4;
- d) where the Common Equity Tier 1 capital maintained by the bank but not used to meet the own funds requirement under a separate regulation,<sup>30zi</sup> expressed as a percentage of the total risk exposure amount calculated in accordance with a separate regulation,<sup>30v</sup> is within the fourth (that is, the highest) quartile of the combined buffer requirement, the factor shall be 0.6.

(7) The lower bound of the quartile of the combined buffer requirement shall be calculated as follows:

$$\text{Lower bound of quartile} = \frac{\text{Combined buffer requirement}}{4} \times (Q n - 1)$$

"Q n" indicates the ordinal number of the quartile concerned.

(8) The upper bound of the quartile of the combined buffer requirement shall be calculated as follows:

$$\text{Upper bound of quartile} = \frac{\text{Combined buffer requirement}}{4} \times Q n$$

"Q n" indicates the ordinal number of the quartile concerned.

(9) For the purposes of paragraphs (1) and (2), a distribution in connection with Common Equity Tier 1 capital shall include the following:

- a) a payment of cash dividends;
- b) a distribution of fully or partly paid bonus shares or other capital instruments referred to in a separate regulation;<sup>30zj</sup>
- c) a redemption or purchase by a bank of its own shares or other capital instruments referred to in a separate regulation;<sup>30zj</sup>
- d) a repayment of amounts paid up in connection with capital instruments referred to in a separate regulation;<sup>30zj</sup>
- e) a distribution of items referred to in a separate regulation.<sup>30zk</sup>

(10) Where a bank fails to meet the combined buffer requirement and intends to distribute any of its distributable profits or undertake an action referred to in paragraph (2), it shall notify Národná banka Slovenska and provide the following information:

- a) the amount of capital maintained by the bank, subdivided as follows:
  1. Common Equity Tier 1 capital;
  2. additional Tier 1 capital;
  3. Tier 2 capital;
- b) the amount of the bank's interim and year-end profits;
- c) the maximum distributable amount calculated in accordance with paragraph (4);
- d) the amount of distributable profits the bank intends to allocate between the following:

<sup>30zj</sup>) Article 26(1)(a) of Regulation (EU) No 575/2013.

<sup>30zk</sup>) Article 26(1)(b) to (e) of Regulation (EU) No 575/2013.

1. dividend payments;
2. share buy-backs;
3. payments in connection with additional Tier 1 instruments;
4. the payment of variable remuneration or discretionary pension benefits, whether by creation of a new obligation to pay, or payment under an obligation to pay created at a time when the bank failed to meet its combined buffer requirement.

(11) Banks shall maintain arrangements to ensure that the amount of distributable profits and the maximum distributable amount are calculated accurately, and shall be able to demonstrate that accuracy to Národná banka Slovenska on request.

(12) The restrictions imposed under paragraphs (1) to (11) of this Article shall only apply to payments that result in a reduction of Common Equity Tier 1 capital or in a reduction of profits, and where a suspension of payments or failure to pay does not constitute an event of default or a condition for the commencement of proceedings under the insolvency regime applicable to banks.

### **Article 33l**

(1) Where a bank fails to meet the combined buffer requirement, it shall prepare a capital conservation plan and submit it to Národná banka Slovenska no later than five working days after it identified that it was failing to meet that requirement, unless Národná banka Slovenska authorises a longer delay up to five working days.

(2) The capital conservation plan shall include the following:

- a) estimates of income and expenditure and a balance sheet forecast;
- b) measures to increase the capital ratios of the bank;
- c) a plan and timeframe for the increase of own funds with the objective of meeting fully the combined buffer requirement;
- d) any other information that Národná banka Slovenska considers to be necessary to carry out an assessment as required under paragraph (3).

(3) Národná banka Slovenska shall assess the capital conservation plan, and shall approve the plan only if it considers that the plan, if implemented, would be reasonably likely to conserve or raise sufficient capital to enable the bank to meet the combined buffer requirement within a period which Národná banka Slovenska considers appropriate.

(4) If Národná banka Slovenska does not approve the capital conservation plan in accordance with paragraph (3), it shall impose one or all of the following:

- a) require the bank to increase its own funds to a specified level within a specified period;
- b) exercise its powers to impose more stringent restrictions on distributions than those required by Article 33k;
- c) apply the requirement set out in subparagraph a), as well as the restriction imposed under subparagraph b).

### **Article 33m**

Národná banka Slovenska shall:

- a) assign a preferential risk weight in the range of 35% to 150% to loans fully secured by residential real property in accordance with a separate regulation;<sup>30zl</sup>
- b) assign a preferential risk weight in the range of 50% to 150% to any part of an exposure secured by mortgage on commercial real property, not exceeding 50% of the market value of the property or 60% of the mortgage value of the property in accordance with a separate regulation;<sup>30zl</sup>
- c) set more stringent criteria for that part of an exposure that is treated as fully secured by residential real property in accordance with a separate regulation;<sup>30zm</sup>
- d) set more stringent criteria for that part of an exposure that is treated as fully secured by commercial real property in accordance with a separate regulation;<sup>30zn</sup>
- e) set the minimum value of exposure-weighted average loss given default, using the internal ratings-based approach for loans secured by residential real property or for loans secured by commercial real property under a separate regulation;<sup>30zo</sup>
- f) set stricter requirements for own funds, large exposures, publication, the capital conservation buffer as defined in Article 33b, liquidity, risk weights for residential or commercial real property, and exposures within the financial sector in accordance with a separate regulation;<sup>30zp</sup>
- g) recognise the measures of another Member State under a separate regulation;<sup>30zr</sup>
- h) set stricter requirements for large exposures, risk weights for residential or commercial real property, and exposures within the financial sector under a separate regulation.<sup>30zs</sup>

### Article 33n

Decisions taken by Národná banka Slovenska under Articles 33d to 33j and 33m shall not be subject to the provisions pertaining to proceedings before Národná banka Slovenska under this Act, the provisions of a separate law,<sup>89</sup> and the general regulations governing administrative proceedings.<sup>30zt</sup> A decision of Národná banka Slovenska shall become effective and enforceable on the date of its promulgation in the Official Journal of Národná banka Slovenska.<sup>30zu</sup> Such decision may not be appealed, nor reviewed by any court.<sup>30zv</sup>

### Article 33o

(1) Banks that are not subject to supervision on a consolidated basis, banks that are subject to direct supervision by the European Central Bank under a separate regulation,<sup>30zw</sup> or banks constituting a significant share of the financial system shall draw up, maintain, and regularly update a recovery plan comprising appropriate measures designed to restore their financial position subsequent to a marked deterioration in their financial situation. A bank has a significant share of the financial system if:

<sup>30zl</sup>) Article 124(2) of Regulation (EU) No 575/2013.

<sup>30zm</sup>) Article 125(2)(d) of Regulation (EU) No 575/2013.

<sup>30zn</sup>) Article 126(2)(d) of Regulation (EU) No 575/2013.

<sup>30zo</sup>) Article 164(5) of Regulation (EU) No 575/2013.

<sup>30zp</sup>) Article 458(2)(d) of Regulation (EU) No 575/2013.

<sup>30zr</sup>) Article 458(5) of Regulation (EU) No 575/2013.

<sup>30zs</sup>) Article 458(10) of Regulation (EU) No 575/2013.

<sup>30zt</sup>) Act No 71/1967 Coll., as amended.

;Article 9 of Act No 266/2005 Coll. and Article 27 of Act No 250/2007 Coll., as amended.

<sup>30zu</sup>) Article 44 of Act No 566/1992 Coll. of the National Council of the Slovak Republic, as amended.

<sup>30zv</sup>) Article 248(d) of the Civil Court Procedure Act, as amended.

<sup>30zw</sup>) Article 6(4) of Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ EU, L 287, 29.10.2013).

- a) the total value of its assets exceeds EUR 30,000,000,000; or
- b) the ratio of its total assets to the Slovak Republic's gross domestic product exceeds 20%, unless the total value of its assets is below EUR 5,000,000,000.

(2) A recovery plan shall include at least the following elements:

- a) a summary of the key elements of the plan and a summary of overall recovery capacity; for the purposes of this Act, 'recovery capacity' means the capability of a bank to restore its financial position subsequent to a marked deterioration in its financial situation;
- b) a summary of the material changes made at the bank since the most recently submitted recovery plan;
- c) a communication and information disclosure plan outlining how the bank intends to manage any potentially negative market reaction;
- d) the range of capital and liquidity actions required to maintain or restore the bank's viability and financial position;
- e) an estimation of the timeframe for executing each material aspect of the recovery plan;
- f) a detailed description of any material impediment to the effective and timely execution of the recovery plan, including an assessment of the impact on the rest of the group, clients and counterparties; for the purposes of Articles 33o to 33z, 'group' means a parent undertaking and its subsidiaries;
- g) identification of the bank's critical functions;
- h) a detailed description of the procedures to be followed in determining the bank's critical functions, core business lines, and the value and marketability of its assets;
- i) a detailed description of how recovery planning is integrated into the bank's corporate governance structure, the policies and procedures governing the approval of a recovery plan, and identification of the persons responsible for preparing and implementing the bank's recovery plan;
- j) arrangements and measures designed to conserve and restore the bank's own funds;
- k) arrangements and measures to ensure that the bank has adequate access to contingency funding sources to ensure that it can carry on its operations and meet its obligations as they fall due, in particular an assessment of the following:
  - 1. potential liquidity sources;
  - 2. available collateral;
  - 3. possibility to transfer liquidity across group entities and business lines;
- l) arrangements and measures to reduce risk and leverage;
- m) arrangements and measures to restructure the bank's liabilities;
- n) arrangements and measures to restructure the bank's business lines;
- o) arrangements and measures necessary to maintain continuous access to financial market infrastructures;
- p) arrangements and measures necessary to maintain the continuous functioning of the bank's operational processes, including infrastructure and IT services;
- q) preparatory arrangements to facilitate the sale of assets or business lines in a timeframe appropriate for the restoration of the bank's financial soundness;
- r) other management actions or strategies to restore the bank's financial soundness and the anticipated financial effect of those actions or strategies;
- s) preparatory measures that the bank has taken or plans to take in order to facilitate the implementation of the recovery plan, including those necessary to enable the timely recapitalisation of the bank;
- t) a framework of indicators identifying the points at which appropriate actions as referred to in the recovery plan may be taken; these indicators may be of a qualitative or quantitative nature relating to the bank's financial position and shall be capable of being monitored by the bank easily;

- u) measures that may be taken by the bank if the conditions set out in Article 50(12) or (14) are met;
- v) an analysis of how and when the bank could, if the circumstances set out in the recovery plan so require, gain access to the liquidity-providing operations of the central bank and determine its assets that could be used as security for such operations.

(3) Banks shall monitor the indicators referred to in paragraph (2)(t) on a regular basis. The statutory body of a bank may, where it considers it appropriate, decide to:

- a) take an action in accordance with the recovery plan even if the relevant indicator has not been achieved;
- b) refuse to take an action in accordance with the recovery plan even if the relevant indicator has been achieved.

(4) A decision taken by a bank pursuant to paragraph (3), backed by adequate justification, shall be reported to Národná banka Slovenska without delay.

(5) A recovery plan shall not contain any measure designed to gain access to extraordinary public financial support.

(6) A recovery plan must contain appropriate procedures for ensuring the timely application of the individual measures and devising all possible methods for bank recovery. The measures must take into account all possible scenarios of macroeconomic and financial stress situations to which the bank may be exposed in view of the nature of banking activities performed, including systemic stress situations and stress situations concerning a specific legal person or a group of legal persons.

(7) A recovery plan shall be approved by the statutory body of the bank concerned, and then submitted to Národná banka Slovenska for approval.

(8) Banks shall update their recovery plan at least once a year and after any change in their organisational structure, business line or financial position, which could have a material impact on the measures proposed in the recovery plan; in so doing, banks shall proceed in accordance with paragraph (7).

### **Article 33p**

(1) Národná banka Slovenska shall review and approve in writing a bank's recovery plan within six months of its submission in accordance with Article 33o(7) if the plan satisfies the following criteria:

- a) the recovery plan contains the elements specified in Article 33o(2) and (6);
- b) the implementation of the measures proposed in the plan is reasonably likely to maintain or restore the viability and financial position of the bank or of the group, taking into account the preparatory measures that the bank has taken or has planned to take;
- c) the plan is reasonably likely to be implemented quickly and effectively in situations of financial stress and avoiding to the maximum extent possible any significant adverse effect on the financial system, including in scenarios which would lead other banks to implement recovery plans in the same period.

(2) In assessing a recovery plan, Národná banka Slovenska shall also take into account the adequacy of the bank's capital structure and financing in relation to its organisational structure and risk profile.

(3) If a bank has a significant branch in another Member State and its recovery plan contains measures relating to that branch, Národná banka Slovenska shall approve the plan in accordance with paragraph (1) after consulting the competent supervisory authority of the Member State in which the significant branch is located.

(4) Národná banka Slovenska shall, within two working days of the submission of a recovery plan pursuant to Article 33o(7), forward the plan to the Resolution Council<sup>30zx</sup> (hereinafter ‘the Council’) for review. If the Council finds that the recovery plan contains measures that may adversely affect the bank’s resolvability, it shall notify Národná banka Slovenska of this fact. The Council’s notification shall be a recommendation in nature.

(5) If Národná banka Slovenska finds that a bank’s recovery plan does not satisfy the conditions set out in paragraph (1), it shall request the bank to eliminate the deficiencies of the plan within two months of the delivery date of that request. Národná banka Slovenska may extend the time limit set for the elimination of such deficiencies by up to one month at the bank’s request.

(6) If a bank fails to eliminate the deficiencies referred to in paragraph (5), Národná banka Slovenska may require the bank to make specific changes in its recovery plan.

(7) If a bank fails to observe the time limit defined in paragraph (5) or submits a recovery plan containing deficiencies that cannot be eliminated through the imposition of an obligation pursuant to paragraph (6), Národná banka Slovenska shall require the bank to propose remedial measures within a time limit it specifies. Apart from the measures mentioned in Article 50, such measures may include the imposition of an obligation to:

- a) reduce the bank’s risk profile and liquidity risk;
- b) enable the adoption of recapitalisation measures in due time;
- c) adjust the bank’s strategy and structure;
- d) modify the bank’s financing strategy with a view to improving the resilience of the bank’s core business lines and critical functions; for the purposes of this Act, ‘core business lines’ means business lines and associated services that represent material sources of revenue, profit or franchise value for a bank or for a group to which the bank belongs; ‘critical functions’ means activities, services or operations the discontinuance of which is likely to disrupt the functioning of the real economy or financial stability owing to the size, market share, external or internal interconnectedness, complexity or cross-border activities of a bank or of a group, with particular regard to the substitutability of those activities, services or operations;
- e) change the bank’s management system.

(8) The measures referred to in paragraph (7) shall be governed by the provisions of a separate regulation.<sup>30zy</sup>

## **Article 33q**

(1) A bank that is a group-level parent undertaking shall draw up and submit to Národná banka Slovenska a recovery plan for the group (hereinafter ‘group recovery plan’). Such group recovery plan shall be approved by the bank’s statutory body.

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<sup>30zx</sup>) Article 3(1) of Act No 371/2014 Coll. on resolution in the financial market and on amendments to certain laws.

<sup>30zy</sup>) Article 10 of Act No 371/2014 Coll.

(2) Národná banka Slovenska shall submit a group recovery plan to:

- the competent supervisory authority of each Member State in which a banking subsidiary belonging to the group is located, as well as to the College;
- the competent supervisory authority of each Member State in which a significant branch of a bank is located if the group recovery plan contains measures relating to that branch;
- the Resolution Council;
- the resolution authorities responsible for the resolution of banking subsidiaries pursuant to a separate regulation.<sup>30zz</sup>

(3) A group recovery plan shall set out measures to be taken by a bank that is a parent undertaking and by its subsidiaries. The purpose of a group recovery plan shall be to stabilise the group as a whole or the bank's subsidiaries in a stress situation, to resolve or eliminate the causes of that stress situation, and to restore the financial position of the group or of the bank, with regard to the financial positions of other members of the group. A group recovery plan shall include mechanisms for ensuring the coordination and consistency of the measures that are to be taken at the level of a parent undertaking, an EU financial holding company, an EU mixed financial holding company, a parent financial holding company established in a Member State, an EU parent financial holding company, a mixed financial holding company established in a Member State, an EU mixed financial holding company, as well as measures to be taken at the level of subsidiaries and significant branches.

(4) A group recovery plan shall contain the elements specified in Article 33o(2) and (6) in relation to the group and the individual subsidiaries, as well as a group financial support agreement if such agreement has been concluded.

(5) A group recovery plan shall specify for each scenario of severe macroeconomic and financial stress whether there are any impediments to the implementation of measures within the group as well as at the level of individual group entities to which the recovery plan applies, and whether there are material practical or legal impediments to the prompt transfer of own funds or repayment of liabilities or assets within the group.

## Article 33r

(1) Národná banka Slovenska shall, together with the competent supervisory authorities of subsidiaries and after consulting the supervisory authorities of significant branches and the College, make every effort to reach a joint decision within four months of the submission of a group recovery plan in accordance with Article 33q(2) in respect of:

- the approval of the group recovery plan pursuant to Article 33q(1) and (3);
- the obligation of a bank that is a parent undertaking or a subsidiary within the group to draw up an individual recovery plan pursuant to Article 33o;
- the imposition of obligations and measures pursuant to Article 33p(5);
- the imposition of obligations pursuant to Article 33p(6);
- the imposition of measures for improvement pursuant to Article 33p(7)(a) to (c) and (e);
- the imposition of measures for improvement pursuant to Article 33p(7)(d).

(2) The issuance of a written approval for a group recovery plan shall be equally subject to the provisions of Article 33p(1) and (2). Národná banka Slovenska shall, together with the competent supervisory authorities of subsidiaries, assess the impact of the recovery

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<sup>30zz</sup>) Article 2(j) of Act No 371/2014 Coll.

measures proposed in the recovery plan on financial stability in the Member States where the parent undertaking and its subsidiaries are established.

(3) If, within the period mentioned in paragraph (1), any of the supervisory authorities referred to in paragraph (1) requests assistance from the European supervisory authority (European Banking Authority) to reach an agreement in any of the matters specified in paragraph (1)(a),(c), (d) and (e) in accordance with a separate regulation,<sup>30zza</sup> Národná banka Slovenska shall await the relevant decision of the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) fails to issue such decision within one month of the delivery date of the request for assistance or if none of the supervisory authorities referred to in paragraph (1) has requested assistance from the European supervisory authority (European Banking Authority) to reach an agreement and Národná banka Slovenska fails to reach a joint decision in accordance with paragraph (1), Národná banka Slovenska shall issue a decision on its own. Národná banka Slovenska shall deliver its decision to the supervisory authorities referred to in paragraph (1), as well as to the parent undertaking.

(4) If, within the period mentioned in paragraph (1), Národná banka Slovenska fails to reach a joint decision with the supervisory authorities referred to in paragraph (1) in any of the matters specified in paragraph (1)(b) to (f) in relation to a parent undertaking and its subsidiaries, Národná banka Slovenska shall take a decision in these matters only in respect of the parent undertaking. Before the expiry of the period defined in paragraph (1), Národná banka Slovenska may request assistance from the European supervisory authority (European Banking Authority) to reach an agreement in any of the matters specified in paragraph (1)(e) in accordance with a separate regulation.<sup>19</sup> If Národná banka Slovenska proceeds according to the previous sentence, it shall discontinue the proceedings and take a decision in accordance with the decision of the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) fails to issue such decision within one month of the delivery date of request for assistance, Národná banka Slovenska shall take a decision on its own.

(5) If Národná banka Slovenska exercises supervision over a subsidiary, it shall also be subject to the provisions of paragraph (1). Národná banka Slovenska shall, within the period mentioned in paragraph (1), inform the supervisory authority responsible for the exercise of supervision on a consolidated basis about the impact on financial stability of the recovery measures proposed in the group recovery plan. In the matters specified in paragraph (1)(a), (c), (d) and (e), Národná banka Slovenska shall decide in accordance with the joint decision of the supervisory authorities pursuant to paragraph (1). Národná banka Slovenska may request assistance from the European supervisory authority (European Banking Authority) in the matters mentioned in the second sentence under a separate regulation<sup>19</sup> and shall decide in accordance with the decision of the European supervisory authority (European Banking Authority). If, in deciding in the matters specified in paragraph (1)(b) and (f), Národná banka Slovenska fails to reach a joint decision with the supervisory authorities referred to in paragraph (1), it shall, on its own, decide in these matters in respect of the subsidiary over which it exercises supervision.

## **Article 33s** **Principle of proportionality**

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<sup>30zza</sup>) Article 19 of Regulation (EU) No 1093/2010 as amended.

(1) Národná banka Slovenska may, on its own initiative, decide to reduce proportionally the range of requirements laid down in Articles 33o and 33q and to set a different time limit for the drawing up of a recovery plan and a different interval for its updating, while taking into account the potential impact of failure by the bank on the financial system, other institutions, including the terms of their financing, and on the economy as a whole. In so doing, Národná banka Slovenska shall take into account the nature of the bank's business, the scope and complexity of its activities, its shareholding structure, legal form, risk profile, size and legal position, interconnectedness to other participants in the financial system, and its membership of an institutional protection system or other similar system under a separate regulation,<sup>26g</sup> as well as the investment services provided by that bank. In the case of any change in the circumstances, the Resolution Council may replace such decision of Národná banka Slovenska with a new decision imposing a new range of obligations upon the bank in accordance with Articles 33o and 33q.

(2) Národná banka Slovenska shall inform the European supervisory authority (European Banking Authority) as to whether it applied the procedure set out in paragraph (1) and about the details of that procedure.

### **Article 33t Intra-group financial support agreement**

(1) A parent bank, an EU parent bank, a financial holding company, a mixed financial holding company, a mixed-activity holding company established in the Slovak Republic, a parent financial holding company, an EU parent financial holding company, a parent mixed financial holding company, an EU parent mixed financial holding company and their subsidiaries that are banks or financial institutions subject to consolidated supervision under this Act (hereinafter 'sub-group') may enter into an agreement to provide financial support to one or more members of the sub-group even if a measure as referred to in Article 50(1)(t) to (za) has been imposed on any of the parties to the agreement or a comparable measure under the law of the Member State in which the party concerned is established (hereinafter 'group financial support agreement'), under the terms set out in paragraphs (2) to (7) and in Articles 33u to 33z. Such financial support may be provided in the form of a loan, guarantee or assets used as security for a liability (hereinafter 'group financial support'). The recipient of group financial support shall be entitled to use such support even in transactions with persons that are not parties to the group financial support agreement.

(2) The provisions of paragraphs (3) to (7) and Articles 33o to 33z shall not apply to the financing arrangements made between the members of a sub-group if none of the parties to these financing arrangements has been imposed upon a measure as referred to in Article 50(1)(t) to (za) or a comparable measure under the law of the Member State in which the party concerned is established.

(3) Without prejudice to the other conditions set out in paragraphs (2), (4) to (7) and in Articles 33s to 33y, group financial support may also be provided without a group financial support agreement signed in advance where such action is in accordance with the internal rules of the group concerned and if the member of the sub-group intending to provide such support assesses that the provision of group financial support is necessary and represents no risk for the group. The sub-group member shall, without delay, inform Národná banka Slovenska of the provision of group financial support if the relevant group is subject to supervision under this Act or to consolidated supervision.

(4) A group financial support agreement may contain a clause under which a sub-group member receiving group financial support undertakes to provide such support to the sub-group member providing the support in question.

(5) A group financial support agreement may only be concluded if:

- a) each party is acting freely in entering into such agreement;
- b) the agreement sets out principles for determining the consideration to be paid for the provision of group financial support;
- c) the value of consideration is determined no earlier than at the time when group financial support is provided;
- d) in entering into such agreement and in determining the consideration for the provision of group financial support, each party is acting in their own best interests which may take account of any direct or indirect benefit that may accrue to a party as a result of the provision of group financial support;
- e) each party providing group financial support must have full disclosure of relevant information from any party receiving such support prior to determination of the consideration for the provision of group financial support and prior to any decision to provide group financial support;
- f) the conditions for the provision of group financial support are stipulated in accordance with the requirements of Article 33w;
- g) the consideration to be paid for the provision of group financial support may take account of information in the possession of the party providing such support based on it being in the same group as the party receiving group financial support and which is not available to the public;
- h) the principles for the calculation of the consideration to be paid for the provision of group financial support must not take account of any anticipated temporary impact on market prices arising from events external to the group.

(6) A group financial support agreement may only be concluded if, at the time the proposed agreement is made, in the opinion of their respective supervisory authorities, none of the parties meets the conditions for the imposition of a measure in accordance with Article 50(1)(t) to (za) or a comparable measure under the law of the Member State in which the party concerned is established.

(7) Any right, claim or action arising from a group financial support agreement may be exercised only by the parties to the agreement, with the exclusion of third parties.

### **Article 33u** **Review of proposed group financial support agreement**

(1) If the members of a group supervised on a consolidated basis by Národná banka Slovenska agree to enter into a group financial support agreement, the parent undertaking established in the Slovak Republic shall request Národná banka Slovenska to approve the group financial support agreement proposed. Such request must contain a description and justification of each of the conditions for entry into a group financial support agreement and the relevant documents confirming that the conditions have been met. The draft financial support agreement, including the names of the group members proposed to be parties to the agreement, are to be attached to the request.

(2) If a request is delivered to Národná banka Slovenska in accordance with paragraph (1), Národná banka Slovenska shall send a copy of that request to the supervisory authorities

responsible for the exercise of supervision over the persons that are to become parties to a group financial support agreement.

(3) Národná banka Slovenska shall decide in respect of a request as referred to in paragraph (1) within four months of the delivery date of that request. In so doing, Národná banka Slovenska shall take into account the possible consequences of its decision, including the fiscal consequences of group financial support provided in the Member States in which the group concerned operates. If the proposed group financial support agreement complies with the conditions laid down in Article 33t(5), the request shall be approved; otherwise, it shall be rejected. In so doing, Národná banka Slovenska shall make every effort to take a decision on the basis of an agreement with the competent supervisory authority of the subsidiary that is to become a party to the group financial support agreement. If such agreement cannot be reached within the time limit set for deciding in respect of the request, Národná banka Slovenska shall take into account the opinions and comments of the supervisory authority of the subsidiary that is to become a party to the group financial support agreement. In that case, Národná banka Slovenska shall deliver a copy of its decision to that supervisory authority, too.

(4) The obligation referred to in paragraph (3) to make every effort to ensure that a decision in respect of a request as referred to in paragraph (1) is issued on the basis of an agreement with the other supervisory authorities concerned shall also apply if a copy of the request for approval of the proposed group financial support agreement has been delivered to Národná banka Slovenska by the supervisory authority of the applicant's subsidiary and by the supervisory authority exercising supervision on a consolidated basis.

(5) Before the period defined in paragraph (3) expires or before an agreement to approve a group financial support agreement is reached pursuant to paragraph (3) or (4), Národná banka Slovenska shall be entitled to request assistance from the European supervisory authority (European Banking Authority) in accordance with a separate regulation.<sup>19</sup>

(6) If Národná banka Slovenska or the competent supervisory authority exercising supervision over a person that is to become a party to a group financial support agreement requests assistance from the European supervisory authority (European Banking Authority) under a separate regulation<sup>19</sup> before the relevant period expires or before an agreement to approve the group financial support agreement is reached pursuant to paragraph (3), Národná banka Slovenska shall suspend the decision-making process in respect of the request mentioned in paragraph (1) until the European supervisory authority (European Banking Authority) issues a decision concerning that request and shall decide in accordance with the decision of the European supervisory authority (European Banking Authority).

(7) The members of the sub-group concerned shall comply with any decision taken in respect of a group financial support agreement by the supervisory authority exercising supervision over the group on a consolidated basis.

### **Article 33v**

#### **Approval of group financial support agreement by shareholders**

(1) After a draft group financial support agreement is approved pursuant to Article 33u, the parties to the agreement shall submit the draft to the general meeting of shareholders for approval. The group financial support agreement shall enter into force only if approved by the general meeting, which shall authorise the statutory body to decide to accept

or provide group financial support in accordance with the terms of the agreement and the provisions of Articles 33t to 33z. If the authorisation granted to the statutory body to accept or provide group financial support is revoked, the agreement shall become invalid.

(2) The statutory body of each person that is a party to a group financial support agreement shall submit, to the general meeting of shareholders on an annual basis, a report on fulfilment of the group financial support agreement and on the adoption of any decision taken on the basis of that agreement.

### **Article 33w** **Conditions for the provision of group financial support**

A member of a sub-group may provide group financial support only if all of the following conditions are met:

- a) there is a reason to believe that the provision of group financial support will materially improve the financial position of the recipient of such support;
- b) group financial support is provided to preserve or restore the financial stability of the group concerned as a whole or of any member of that group in the interest of the sub-group member providing such support;
- c) group financial support is provided for consideration in accordance with the conditions laid down in Article 33t(5);
- d) according to the information that is available to the statutory body of the sub-group member providing group financial support, there is a reason to believe that, at the time the decision to provide such support is taken, the sub-group member accepting that support pays consideration for the support provided and, if group financial support is to be provided in the form of:
  - 1. a loan, that loan is repaid in due time;
  - 2. a guarantee, the provider of group financial support receives payment in an amount corresponding to that provided from the guarantee and from the interest agreed, within the agreed period after enforcing the rights arising from the guarantee;
  - 3. other security, the provider of group financial support receives payment in an amount corresponding to that of the loss sustained as a result of security realisation and of the interest agreed, within the agreed period after security realisation;
- e) the provision of group financial support does not represent a threat to the liquidity or solvency of the sub-group member providing such support;
- f) the provision of group financial support does not represent a threat to the financial stability of the Member State in which the sub-group member providing that support is established;
- g) at the time when group financial support is provided, the sub-group member providing that support meets the requirements of this Act concerning capital and liquidity and the provision of such support is unlikely to breach these requirements, except when Národná banka Slovenska as the supervisory authority of the sub-group member concerned grants approval for non-compliance with these requirements;
- h) at the time when group financial support is provided, the sub-group member providing that support meets the requirements of this Act concerning large exposures and the provision of such support is unlikely to breach these requirements, except when Národná banka Slovenska as the supervisory authority of the sub-group member concerned grants approval for non-compliance with these requirements;
- i) the provision of group financial support is unlikely to endanger the resolvability of the sub-group member that intends to provide such support.

## **Article 33x**

### **Decision to provide group financial support**

(1) Group financial support may be provided on the basis of a decision taken by the statutory body of the sub-group member that intends to provide such support. Such decision must be issued in writing and must contain a justification, including a description of how compliance with the requirements of this Act is ensured, especially with the conditions laid down in Articles 33t and 33w, and the purpose for which such support is provided.

(2) Group financial support may be accepted on the basis of a decision taken by the statutory body of the sub-group member that intends to accept such support.

(3) A sub-group member as referred to in paragraph (1) shall deliver any decision taken in accordance with paragraph (1) to:

- a) Národná banka Slovenska;
- b) the supervisory authority of the Member State responsible for the supervision on an individual basis of the sub-group member to which group financial support is provided;
- c) the supervisory authority responsible for the supervision on a consolidated basis of the group concerned, if different from those mentioned in subparagraphs a) and b);
- d) the European supervisory authority (European Banking Authority).

(4) As a supervisory authority responsible for the supervision on a consolidated basis of a group within which financial support is to be provided, Národná banka Slovenska shall, without delay, notify the other members of the College, the Resolution Council, and the members of the Resolution College<sup>30zzb</sup> of any decision taken pursuant to paragraph (1).

(5) Before providing or accepting group financial support, the sub-group member concerned shall verify whether the conditions set out in paragraph (1) or (2) have been met. If the counterparty is based in another Member State, the sub-group member shall verify whether the conditions stipulated by the law of that Member State have been met.

## **Article 33y**

### **Prior approval for the provision of group financial support**

(1) The statutory body of a sub-group member intending to provide group financial support shall, before providing such support, notify the following authorities of this intention:

- a) the supervisory authority exercising supervision over the provider of such support;
- b) the supervisory authority exercising supervision over the recipient of such support;
- c) the supervisory authority exercising supervision over the group concerned, if different from those referred to in subparagraphs a) and b);
- d) the European supervisory authority (European Banking Authority).

(2) A notification as referred to in paragraph (1) shall contain the statutory body's decision pursuant to Article 33x, including a justification and a description of all the relevant aspects of the proposed group financial support that are not included in the statutory body's decision, as well as a copy of the group financial support agreement with a certificate of validity in relation to the parties to the agreement, if such agreement has been concluded.

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<sup>30zzb</sup>) Article 84 of Act No 371/2014 Coll.

(3) If Národná banka Slovenska receives a notification as referred to in paragraph (2) from a bank over which it exercises supervision, that notification shall be considered to be an application for prior approval for group financial support. Národná banka Slovenska shall grant prior approval for the provision of group financial support only if the relevant conditions stipulated by this Act are met. Otherwise the provision of group financial support shall be prohibited or restricted. Národná banka Slovenska shall issue a decision within five days of the delivery date of a full notification pursuant to paragraph (1).

(4) Národná banka Slovenska shall inform the supervisory authorities referred to in paragraph (1) of its decisions taken in accordance with paragraph (3).

(5) As a supervisory authority responsible for the supervision on a consolidated basis of groups, Národná banka Slovenska shall promptly inform the other members of the College, the Resolution Council, and the members of the Resolution College<sup>30zzb</sup> of any decision issued or reported by another supervisory authority allowing, prohibiting or restricting the provision of group financial support.

(6) If Národná banka Slovenska as a supervisory authority exercising supervision over a bank which is to receive group financial support disagrees with a decision taken by the supervisory authority of another Member State which has restricted or prohibited the provision of group financial support to the bank concerned, Národná banka Slovenska may, within two days of the date when the issuance of such decision comes to its knowledge, request assistance from the European supervisory authority (European Banking Authority) in accordance with a separate regulation.<sup>19</sup>

(7) If Národná banka Slovenska grants prior approval in accordance with paragraph (3) or issues no decision within the period defined in paragraph (2), group financial support may be provided in accordance with the conditions set out in the notification and its annexes pursuant to paragraph (2).

(8) If Národná banka Slovenska as a supervisory authority responsible for the supervision on a consolidated basis of a group whose recovery plan contains the option of using group financial support and the supervisory authority of a member of that group have decided to prohibit or restrict the provision of such support between the group members, Národná banka Slovenska may:

- a) revise the group recovery plan using the procedure described in Article 33r;
- b) request a group member which is subject to supervision on an individual basis by Národná banka Slovenska and which has been prohibited from accepting group financial support or the provision of such support has been restricted, to update its recovery plan; and
- c) shall revise the group recovery plan using the procedure described in Article 33r, if requested by the supervisory authority of the group member that has been prohibited from accepting group financial support or the provision of such support has been restricted.

(9) If the supervisory authority exercising supervision on a consolidated basis over a group whose group recovery plan contains the option of using group financial support and any of the supervisory authorities of the members of that group have decided to prohibit or restrict the provision of such support to a group member subject to supervision by Národná banka Slovenska on an individual basis, Národná banka Slovenska may:

- a) request the supervisory authority exercising supervision on a consolidated basis over the group concerned, to revise the group recovery plan; or

- b) request the group member concerned which has been prohibited from accepting group financial support or the provision of such support has been restricted, to update its recovery plan.

### **Article 33z** **Information disclosure requirement**

Sub-group members shall disclose information on their websites as to whether they have entered into a group financial support agreement and a description of the general terms and conditions, including the names of all parties to the agreement. The information disclosed shall be updated at least once a year.

### **Article 34**

(1) Unless such information is generally available to the public, banks and branches of foreign banks may not conduct investment transactions:

- a) using information acquired in connection with their lending transactions and vice versa;
- b) for their own account, using information acquired in connection with their investment transactions for client accounts and vice versa.

(2) For the purposes of paragraph (1), banks and branches of foreign banks shall in particular make arrangements in their organisational, management, and control systems to ensure the separation of lending transactions from investment transactions.

(3) ‘Lending transactions’ as referred to in paragraph (1) means activities related to the provision of loans and guarantees.

(4) ‘Investment transactions’ as referred to in paragraph (1) means activities related to:

- a) investment in securities;
- b) trade in securities;
- c) trade in rights associated with securities or derived from securities;
- d) participation in the issuance of securities and the provision of related services; and
- e) the management of securities, including advisory services.

(5) Banks and branches of foreign banks may conduct investment transactions for the account of clients only under conditions advantageous for the clients, in particular at a price advantageous for the clients, while exercising due professional care, unless otherwise requested by the clients; the provisions of Article 27(14) are not prejudiced by the foregoing.

(6) Banks and branches of foreign banks shall keep separate records of investment transactions carried out for the account of clients and for their own account.

### **Article 35**

(1) Banks and branches of foreign banks may not conduct transactions with persons who have a special relationship with them, which they would normally, given the nature, purpose or riskiness thereof, not carry out with other clients. Before entering into and completing such transactions, banks and branches of foreign banks shall verify whether the persons they conduct such transactions with do not have a special relationship with them; such persons shall provide the bank or branch of a foreign bank with true information that the bank or branch of a foreign bank need for the purposes of such verification. Banks and

branches of foreign banks shall arrange that the veracity of the data provided is ensured in writing through a contract for a guarantee granted by them or a deposit agreement under Article 5(a) subject to the sanction of invalidity, or through a loan agreement under Article 5(b) subject to the sanction of immediate maturity of the entire outstanding amount as at the day on which the bank or branch of a foreign bank learnt of the falsity of the data provided, including interest for the whole agreed-upon loan life falling due.

(2) Banks and branches of foreign banks shall provide loans or issue guarantees to persons mentioned in paragraph (1) above, only if unanimously decided so by the bank's statutory body or by the chief executive officer of a foreign bank branch on the basis of a written assessment of the relevant banking transaction and the applicant's financial situation. The person concerned by the decision shall be excluded from the decision-making process.

(3) Within 30 days from the end of the calendar year, every person mentioned in paragraph 4(a), (b), (c) and (f) and paragraph 5(a), (b), (c) and (f) shall notify the bank or branch of a foreign bank in writing of all facts needed to identify further persons who, as a result of their relationship with the notifying person, have a special relationship with the bank or foreign bank branch concerned. The bank or branch of a foreign bank shall process this information into an overview of persons with a special relationship with the bank and, when requested, deliver this overview to Národná banka Slovenska and the Deposit Protection Fund for the purposes specified in a separate regulation.<sup>32</sup> The elements of such overview shall be stipulated in a decree<sup>23</sup> to be issued by Národná banka Slovenska and promulgated in the Collection of Laws.

(4) For the purposes of this Act, the following persons are deemed to have a special relationship with a bank:

- a) members of the bank's statutory body, managerial employees, other staff members named in the bank's articles of association, and the bank's general proxy;
- b) members of the bank's supervisory board;
- c) legal persons exercising control over the bank, statutory body members and managerial employees of such legal persons;
- d) persons closely related<sup>30</sup> to the bank's statutory body members, supervisory board members, managerial employees, and natural persons exercising control over the bank;
- e) legal persons in which some of the persons mentioned in points a), b), c) or d) have a qualifying holding;
- f) shareholders with a qualifying holding in the bank and any legal person controlled by them or controlling them;
- g) legal persons controlled by the bank;
- h) members of the Bank Board of Národná banka Slovenska;
- i) auditors or natural persons who, on behalf of an audit firm, perform an audit in the bank;
- j) members of another bank's statutory body, chief executive officer of a foreign bank branch;
- k) the bank's mortgage controller and deputy mortgage controller;
- l) persons who have entered into a legal relationship with the bank, which may lead to the acquisition of a qualifying holding in the bank.

(5) For the purposes of this Act, the following persons are deemed to have a special relationship with a foreign bank branch:

- a) the chief executive officer of the branch of a foreign bank;
- b) the foreign bank's statutory body or supervisory board members;

- c) legal persons having control over the foreign bank and the statutory body members of such legal persons;
- d) persons closely related<sup>30</sup> to the persons named in subparagraph (a) or (b) or natural persons having control over the foreign bank;
- e) legal persons in which some of the persons named in subparagraphs (a), (b), (c) or (d) have a qualifying holding;
- f) shareholders with a qualifying holding in the foreign bank and any legal person controlled by them or controlling them;
- g) legal persons under the control of the foreign bank;
- h) members of the Bank Board of Národná banka Slovenska;
- i) auditors or natural person who, on behalf of an audit firm, performs an audit in the foreign bank branch;
- j) the chief executive officer of another branch of a foreign bank and the statutory body members of that bank;
- k) the bank's mortgage controller and deputy mortgage controller.

## **Article 36**

(1) The sum of loans not secured by a security interest in real property, provided by a bank to its employee or another person in a special relationship with the bank under Article 35(4)(a), (b), (c), (d) and (f), may not exceed the total gross income of that person for the previous 24 months. The total amount of loans provided by a bank to its employees under preferential terms may not exceed 20% of the bank's own funds.

(2) Banks may not provide loans or guarantee loan liabilities for:

- a) the acquisition of shares they have issued;
- b) the acquisition of shares issued by a person who has a qualifying holding in the bank;
- c) the acquisition of shares issued by legal persons who control or are controlled by persons having a qualifying holding in the bank;
- d) the acquisition of shares issued by legal persons controlled by the bank;
- e) the repayment of another loan provided for any acquisition of shares under subparagraphs (a) to (d) or for guaranteeing liabilities arising from such loans.

(3) Banks and branches of foreign banks may not acquire from persons they have a special relationship with a claim that is assumed on justified grounds to not be settled properly and in due time, or to take over a liability from such persons.

(4) Any legal act performed under paragraphs (2) and (3) shall be null and void.

(5) Banks may not provide loans or guarantee liabilities arising from loans granted to employees or persons they have a special relationship with if the banks do not meet their duties specified in Article 30(1), or if the persons in a special relationship with the banks do not meet their duties set out in Article 35(3).

## **Article 36a**

(1) Unless paragraphs (2) and (3) provide otherwise, paragraphs (1)(h), (4)(a) to (g), (6), and (9) to (12) of Article 75 shall apply equally to loans provided by banks and loans provided by branches of foreign banks under the following conditions:

- a) the loan is granted to a natural person who, when entering into and executing such a loan agreement, does not act within the scope of their business activity;

- b) the loan is secured by a security interest in domestic real property, an apartment or non-residential premises, including such property under construction;
- c) the loan is granted for financing the purchase of domestic real property, an apartment or non-residential premises, including such property under construction;
- d) the loan is not a mortgage loan, nor a consumer loan as defined in a separate regulation.<sup>32a</sup>

(2) The provisions of paragraphs (1)(h), (4)(d), (6), and (10) to (12) of Article 75 shall not apply to loans as defined in paragraph (1) where such loans have a fixed interest rate throughout the maturity period.

(3) The provisions of paragraphs (1)(h), (4)(b) and (d), (6), and (9) to (12) of Article 75 shall not apply to loans as defined in paragraph (1) where such loans are granted by banks or branches of foreign banks to their employees free of interest or at an interest rate lower than the dominant financial market rate at which loans are not provided to the public.

(4) If the natural person referred to in paragraph (1)(a) is a person who, as at the date of submission of a loan application, was at least 18 years old but no older than 35 years, the loan agreement under paragraph (1) must contain a promise from the bank or foreign bank branch that loan principal repayments may be postponed or monthly loan repayments may be reduced by up to 50% for a period of 24 months, if that person becomes the parent of a child and submits a written application to the bank or foreign bank branch within three months after the birth of the child, with the child's birth certificate attached thereto.

(5) The postponement of loan principal repayments or the reduction of monthly loan repayments under paragraph (4), whichever is selected by the person referred to in paragraph (4), shall begin to lapse on the day when the modified loan agreement as referred to in paragraph (1), the subject matter of which is loan principal repayment postponement or monthly loan repayment reduction, enters into force.

## **Article 36b**

(1) Banks, foreign banks, and branches of foreign banks shall provide consumer loans in accordance with a separate regulation<sup>32b</sup> on the basis of a banking authorisation granted under Articles 7 to 9 or on the basis of an authorisation granted for the performance of banking activities under Articles 11 to 20.

(2) Banks, foreign banks, and branches of foreign banks as referred to in paragraph (1) shall not be subject to the provisions governing the provision of consumer loans under a separate regulation.<sup>32c</sup>

## **Article 37**

(1) Banks and branches of foreign banks shall disclose, both on their websites and on their business premises, clear information in written form in the Slovak language about their commercial terms and conditions for accepting deposits, providing loans, and handling

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<sup>32a)</sup> Act No 129/2010 Coll., as amended.

<sup>32b)</sup> Articles 1 to 8, Articles 9 to 19, Article 20(8), Article 21, and Article 25e(1), (5) and (6) of Act No 129/2010 Coll. on consumer loans and other credits and loans for consumers and on amendments to certain laws, as amended by Act No 35/2015 Coll.

<sup>32c)</sup> Article 8a, Article 20(1) to (7), Articles 20a to 20e, Articles 23 and 24, and Article 25e(2) to (4), (7) and (8) of Act No 129/2010 Coll., as amended by Act No 35/2015 Coll.

banking transactions, including the prices thereof and examples. Where a bank or a foreign bank branch makes a change in the terms and conditions of banking transactions or in the prices of transactions, it shall give notice of this fact in the manner mentioned in the previous sentence, at least 15 days before the relevant change enters into force, unless a separate regulation provides otherwise or unless the bank or foreign bank branch has agreed otherwise with the client. The bank shall also inform, in a demonstrable and comprehensible manner, its clients without delay of its intention to discontinue a service or part thereof in accordance with Article 28(1)(b), (c) or (d); the bank shall disclose this information without delay on its website and business premises and shall ensure that it is kept disclosed until the relevant service or part thereof is ended. The information disclosure requirement under this Act shall not affect the provisions of Article 265 and Article 273(1) of the Commercial Code and separate regulations.<sup>33</sup>

(2) When concluding any written transaction contract, a bank or a foreign bank branch shall inform the client of the annual percentage interest rate charged for the transaction where an interest rate is agreed, and of the payments the bank demands from the client or which are to be made in favour of the client, insofar as they relate to the transaction contract.

(3) Banks and branches of foreign banks shall provide the Ministry and Národná banka Slovenska with information on the payments they demand from their clients for selected types of transactions. This information shall be published by Národná banka Slovenska on its website.

(4) Banks and branches of foreign banks shall, on their website and business premises, publish written information on the protection of deposits in the range stipulated by a separate law; this shall also apply to foreign banks carrying on banking activities in the territory of the Slovak Republic through their branches or without opening a local branch, while they are not involved in the system of deposit protection in the Slovak Republic.<sup>32</sup> Where information is published about a deposit-taking operation or an operation involving deposit-taking, it must be expressly stated whether the deposit taken is subject or not subject to protection under a separate law;<sup>32</sup> the same shall apply to information stated in passbooks, certificates of deposit, and in documents concerning similar deposit operations.

(5) Banks shall deposit their annual reports in the public section of their registry of accounting documents,<sup>34</sup> within 30 days after the report is approved by the general meeting of shareholders. This is without prejudice to the provisions of separate regulations.<sup>35</sup> The annual reports of banks shall contain their return on assets, expressed as the ratio of net profit to total assets.

(6) The annual reports of banks as defined in a separate regulation<sup>35</sup> shall contain the following information:

- a) the nature and geographical location of the activities performed;
- b) total revenues;
- c) the number of employees in full employment as at the date of the financial statements;
- d) profit or loss before taxation;
- e) income tax;

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<sup>33</sup>) Article 22c of Slovak National Council Act No 118/1996 Coll., as amended.  
Articles 31 to 42 of Act No 492/2009 Coll., as amended.

Articles 431 to 455 of Regulation (EU) No 575/2013.

<sup>34</sup>) Article 23 of Act No 431/2002 Coll., as amended.

<sup>35</sup>) Article 20(2) of Act No 431/2002 Coll.

- f) subventions received from public resources;
- g) return on assets, expressed as the ratio of net profit to total assets.

(7) Foreign banks operating in the territory of the Slovak Republic shall publish their annual report in the Slovak language – including a summary of any differences between the rules used for the preparation of financial statements in the Slovak Republic and in the country where the foreign bank has its registered office – within 60 days after the report is approved. An annual report of a foreign bank operating in the territory of Slovakia shall be published on the bank's website and shall remain published there at least until the publication of the annual report for the next accounting period.

(8) Banks and foreign banks operating in the territory of the Slovak Republic shall provide a copy of their annual report, or of any part thereof, to anyone who so requests; the price for such copy shall not be higher than the cost of its production.

(9) Banks shall disclose information regarding:

- a) themselves and their activities;
- b) any corrective measures or fines imposed on them;
- c) their financial indicators;
- d) the total remuneration paid to their supervisory board members for the performance of their duties, including remuneration for the performance of their duties for the bank paid by an entity other than the bank;
- e) their selected shareholders in the range specified in Article 93(1)(a) points 1 and 2;
- f) the percentage of capital and voting rights held by their shareholders;
- g) the financial indicators of the consolidated group to which they belong and the structure of this consolidated group in terms of its interrelations and composition under Article 44;
- h) facts about remuneration in the bank, resulting from the remuneration principles applied.

(10) Branches of foreign banks shall disclose information about themselves and their activities, information about any corrective measures or fines imposed on them, and information about their financial indicators.

(11) Banks and branches of foreign banks shall not disclose immaterial information, internal information, and confidential information as defined in a separate regulation.<sup>35aa</sup>

(12) Banks and branches of foreign banks shall notify Národná banka Slovenska in writing as to which pieces of information – from the information they are obliged to disclose – they prefer not to disclose as they consider them to be immaterial, proprietary or confidential; they shall do so prior to the deadline when the relevant information is to be disclosed.

(13) If the information disclosed under paragraphs (9) and (10) is incomplete or diverges substantially from reality, the bank or foreign bank branch concerned shall issue a correction without delay.

(14) In a decree<sup>23</sup> to be issued by Národná banka Slovenska and promulgated in the Collection of Laws, the following shall be stipulated:

- a) the scope and form of information to be provided to clients under paragraph (2);

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<sup>35aa</sup>) Article 432 of Regulation (EU) No 575/2013.

- b) the type of transaction, and the extent, method and deadline for information disclosure under paragraph (3);
- c) the scope of information to be disclosed by a bank or a foreign bank branch under paragraphs (9) and (10);
- d) the periodicity, method, and deadline for information disclosure under paragraphs (9) and (10);
- e) the publication of a correction and the definition of a substantial divergence from reality of the information disclosed under paragraph (13);

(15) Any advertisement<sup>35a</sup> or offer of a transaction, where an interest rate or any numerical data related to the transaction is included, must contain comprehensible and clear information on the per annum percentage rate of interest on the transaction.

(16) The provisions of paragraph (15) are without prejudice to the provisions of a separate regulation.<sup>35b</sup>

(17) Banks, foreign banks, and branches of foreign banks may not require consumers,<sup>27f</sup> apartment owners' associations<sup>35ba</sup> or administrators<sup>35bb</sup> entering into a loan agreement on behalf of the owners of residential and non-residential premises in apartment houses<sup>35bc</sup> to make fee payments, cost reimbursements, or other payments for the registration, management or administration of loans or loan accounts, or for the cancellation of loan accounts, constituting a condition for a loan relationship; this shall not apply to accounts defined in Articles 708 to 715 of the Commercial Code or in a separate law,<sup>35c</sup> nor to special services which do not represent a condition for a loan relationship and which are subject to the written consent of the consumer, apartment owners' association<sup>35ba</sup> or administrator<sup>35bb</sup> concerned entering into a loan agreement on behalf of the owners of residential and non-residential premises in apartment houses.<sup>35bc</sup>

(18) Banks and branches of foreign banks shall submit to the Ministry data on their schedule of fees and charges for natural persons not engaged in business. Such data shall be submitted by banks and branches of foreign banks in the calendar year following the calendar year in which their household deposits as at 31 December accounted for at least 2% of the total outstanding amount of household deposits recorded under this Act and separate regulations.<sup>35d</sup> The range of data on the schedule of fees of charges for natural persons not engaged in business and their structure, manner, date and place of submission shall be specified in a generally binding legal regulation to be issued by the Ministry.

## Article 38

(1) Banks and branches of foreign banks shall, with or without the client's consent, send without undue delay to the Register of Bank Loans and Guarantees maintained by

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<sup>35a)</sup> Article 2 of Act No 147/2001 Coll. on advertisements and on amendments to certain laws, as amended.

<sup>35b)</sup> Act No 250/2007 Coll. on consumer protection and on amendments to Act No 372/1990 Coll. on infringements as amended, as amended.

<sup>35ba)</sup> Articles 6 and 7 of Act No 182/1993 Coll. of the National Council of the Slovak Republic, as amended.

<sup>35bb)</sup> Articles 6 and 8 of Act No 182/1993 Coll. of the National Council of the Slovak Republic, as amended.

<sup>35bc)</sup> Article 2(2) of Act No 182/1993 Coll. of the National Council of the Slovak Republic, as amended.

<sup>35c)</sup> Article 2(1)(d) and (9) of Act No 492/2009 Coll.

<sup>35d)</sup> Article 77(7) of Act No 566/2001 Coll., as amended. Article 35(2) of Act No 747/2004 Coll., as amended. Decree No 17/2011 of Národná banka Slovenska of 22 November 2011 on the submission of statements by banks, branches of foreign banks, investment firms and branches of foreign investment firms for statistical purposes (Notification No 24/2012 Coll.).

Národná banka Slovenska<sup>36</sup> (hereinafter ‘the Register’) in accordance with paragraph (2) data in writing on the loans they have provided to businesses or other legal persons, on loan applications received from businesses or other legal persons, on the securing of their claims arising from such loans, and on their liabilities to businesses or other legal persons in euro or in foreign currency. Banks and branches of foreign banks shall be responsible for the correctness, completeness, and timeliness of the data they have sent to the Register. Banks and branches of foreign banks shall, with or without the client’s consent, make corrections in the data stored in the Register if these data are incorrect, incomplete or outdated, and shall notify Národná banka Slovenska of the corrections made.

(2) The Register shall contain data on loans and collaterals sent by banks and branches of foreign banks in accordance with paragraph (1) and by the Export-Import Bank of the Slovak Republic in accordance with a special regulation;<sup>37aa</sup> the Register shall not be subject to registration under a separate regulation.<sup>37</sup>

(3) Národná banka Slovenska may, even without the client’s consent, use data from the Register in performing its tasks and activities, and exercising its powers under this Act and a separate law.<sup>8</sup> It may, even without the client’s consent, provide data from the Register to banks, branches of foreign banks, and to the Export-Import Bank of the Slovak Republic.<sup>37aa</sup> Národná banka Slovenska may also provide data from the Register to clients, if the data refer to them, at the written request of the clients concerned. A client’s request for data from the Register must include the client’s officially certified signature, the signature of the client’s statutory body, or other person demonstrably authorised to act on behalf of the client. Attached to the application of a client who is an entrepreneur or a legal person is also an extract from the Commercial Register or other official record in which the client is registered, not older than one month when the application is delivered. Národná banka Slovenska shall disclose information to the client within the period of one month after the receipt of an application. If a client finds out that the Register contains incorrect or incomplete data, the client may ask only the bank, the branch of a foreign bank, or the Export-Import Bank of the Slovak Republic which sent these data to the Register, to correct them. Národná banka Slovenska may stipulate a fee for providing data from the Register to a client, which is due upon receipt of the application; these fees are also subject to the provisions of a separate regulation on fees charged by Národná banka Slovenska.<sup>37ab</sup>

(4) The data sent to Národná banka Slovenska under paragraph (1) shall continue to be subject to bank secrecy and it shall not be possible to provide them from the Register to persons other than those named in paragraph (3). The data provided under paragraph (3) to banks, branches of foreign banks, or the Export-Import Bank of the Slovak Republic, shall continue to be subject to bank secrecy and it shall not be possible to disclose them to persons other than the client to whom they refer to. Národná banka Slovenska shall store the data sent to the Register in accordance with paragraph (1) for at least five years from the date of submission of a loan application, the date of loan repayment, or the date of expiry of the loan security or the loan liability accepted.

(5) Národná banka Slovenska may, on the basis of a written agreement, provide data from the Register, even without the client’s consent, to another Member State’s central bank or other entity that is obliged to maintain a database comparable to the Register on condition

<sup>36</sup>) Article 36 of Act No 566/1992 Coll. of the National Council of the Slovak Republic, as amended.

<sup>37aa</sup>) Act No 80/1997 Coll. on the Export-Import Bank of the Slovak Republic, as amended.

<sup>37</sup>) Act No 428/2002 Coll. on personal data protection, as amended by Act No 602/2003 Coll.

<sup>37ab</sup>) Articles 41 and 42 of Act No 747/2004 Coll., as amended.

that the terms of access to these data and the method of their protection in that Member State satisfy the requirements laid down in this Act.

(6) The data provided to Národná banka Slovenska from the database of another Member State's central bank or other entity maintaining a database comparable to the Register on the basis of a written agreement, shall become part of the Register.

(7) For the purposes of keeping and using the Register referred to in paragraphs (1) to (6), public authorities shall make available or provide free of charge to Národná banka Slovenska any information and data from the public and non-public parts of the registers they keep<sup>37aba</sup>, lists and other files of information and related collections of documents, including the commercial register, the register of sole traders, the register of organisations, and the register of employers, in both paper and electronic form enabling remote access via electronic communication.

(8) In a decree<sup>23</sup> to be promulgated in the Collection of Laws, Národná banka Slovenska shall stipulate details about the maintenance and use of the Register, the range and form of data entered into or provided from the Register, the correction of data in the Register and the delivery of notifications of such corrections, the technical aspects of data protection in the Register, and the due form of an application for the provision of data from the Register and the documents to be attached; the decree shall also stipulate the values or rates of fees charged to clients for the provision of data from the Register and the details of these fees, as well as the method of their calculation, rounding, and payment.

## **Article 38a**

(1) Banks and branches of foreign banks shall carry out a risk analysis related to the security of the premises where business with clients is conducted by their employees and also cash is handled by them.

(2) Banks and branches of foreign banks shall secure the premises where business with clients is conducted by their employees and cash is handled by them as follows:

- a) with a functional and active security system combined with an alarm system, which are to be connected to a Police Corps alarm monitoring facility, an alarm system operated by a private security service, the municipal police or the bank's own security service, or the workplaces are to be protected physically by guards;
- b) with a functional and active security camera monitoring system with 24 hour quality recording enabling the identification of persons;
- c) with other necessary security provisions based on the risk analysis made in accordance with paragraph (1).

(3) Banks and branches of foreign banks shall not allow public access to the premises where business with customers is conducted by their employees and cash is handled by them, if none of the measures referred to in paragraph 2(a) and (b) is functional and active.

(4) Furthermore, banks and branches of foreign banks shall:

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<sup>37aba</sup>) For example, Article 27 of the Commercial Code as amended; Articles 60 to 60b of Act No 455/1991 Coll. as amended; Articles 20 and 21 of Act No 540/2001 Coll. on government statistics as amended; Article 170(3) and Article 226(1)(e) of Act No 461/2003 Coll. on social insurance as amended; and Act No 530/2003 Coll. as amended.

- a) discuss with the competent Police Corps unit the risk analysis mentioned in paragraph (1) and the security provisions set out in paragraph (2);
- b) provide the Police Corps, upon request, with records and data obtained by the devices specified in paragraph (2)(b), for the purpose of discharging the responsibilities of the Police Corps.

(5) In a decree to be promulgated in the Collection of Laws, Národná banka Slovenska shall specify the contents, scope and deadline of a risk analysis under paragraph (1), the definition of security provisions under paragraph (2), and the requirements related to these security provisions.

## **PART SEVEN** **BUSINESS DOCUMENTATION**

### **Article 39**

(1) Banks and branches of foreign banks shall maintain a trading book, which, for the purposes of this Act, means a trading book as defined in a separate regulation.<sup>37ac</sup> Requirements for how to maintain a trading book shall be laid down by the bank or foreign bank branch concerned in its internal regulations.

(2) Positions in individual financial instruments or in individual commodities which a bank or a foreign bank branch holds for trading mean those positions in which financial instruments or commodities are held for short-term sale and with the objective of earning income from the actual or expected differences between their buying and selling prices or from other changes in their prices or in the interest rates thereon.

(3) Positions which a bank or a foreign bank branch records in the trading book shall represent positions in individual financial instruments or commodities established during own-account trading, positions in individual financial instruments or in individual commodities arising from the provision of investment services to the client, and positions in individual financial instruments or in individual commodities arising from market making. The trading book may also record positions arising from internal collateral. Banks and branches of foreign banks shall lay down rules and procedures for internal collateral arrangements in an internal regulation and shall also ensure consistent monitoring of all internal collateral agreements concluded.

(4) Banks and branches of foreign banks shall stipulate in an internal regulation a procedure and method for the management of individual positions or of the aggregate position recorded in the trading book, and for the management of risks arising from these positions or from the aggregate position. By issuing such internal regulation, banks and branches of foreign banks shall demonstrate their trading intention.

(5) For the purposes of capital requirement calculation, banks and branches of foreign banks shall stipulate in an internal regulation a procedure for determining which positions in financial instruments or commodities should be recorded in the trading book, and they shall do so in accordance with the rules set out in paragraphs (1) to (4) and having regard to the character of their risk management system. Banks and branches of foreign banks shall ensure

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<sup>37ac</sup>) Article 4(1) point 86 of Regulation (EU) No 575/2013.

the regular verification of whether positions in financial instruments and in commodities are being recorded in the trading book in accordance with this internal regulation; the verification results shall be recorded in writing, and adherence to the procedure for determining which financial instrument or commodity positions are to be recorded in the trading book shall be subject to regular internal audit.

(6) Banks and branches of foreign banks shall value on a daily basis all positions recorded in the trading book. For the valuation of positions recorded in the trading book, banks and branches of foreign banks shall use the market prices of the given day. If the market price of a financial instrument or commodity is not available for the given day, this financial instrument or commodity may be valued at another appropriate price. To determine another appropriate price for a financial instrument or commodity, banks and branches of foreign banks shall use a qualified estimate based on their own method.

(7) Banks and branches of foreign banks shall maintain a banking book and make daily entries therein of transactions and positions that are not recorded in the trading book under paragraphs (1) to (6). Banks shall value all positions recorded in the banking book, with regard to the degree of credit risk.

(8) For the purposes of maintaining a trading book and a banking book:

- a) 'financial instrument' means an investment instrument,<sup>37a</sup> other security, other derivative or legal relationship on the basis of which one party to the legal relationship acquires a financial asset and the other party to the legal relationship acquires a financial liability or equity instrument;
- b) 'commodity' means a tangible object or controllable energy, especially output, electrical energy and raw material, including precious metals other than gold, which is traded or may be traded on a secondary commodity market.

(9) Banks and branches of foreign banks shall keep an analytical record of the assets and liabilities they handle in their own name for a client's account, separately from their own assets and liabilities.

(10) Banks and branches of foreign banks shall, in accordance with a separate regulation,<sup>38</sup> record in their accounts each accounting event related to a banking activity or other activity they engage in as at the date when the accounting event took place.

(11) In addition to financial statements under a separate regulation,<sup>30d</sup> banks and branches of foreign banks shall prepare interim financial statements as at the last day of each calendar quarter. Banks and branches of foreign banks shall submit interim financial statements in writing to Národná banka Slovenska within 30 calendar days following the end of the respective calendar quarter.

(12) In addition to financial statements under a separate regulation,<sup>30d</sup> legal persons belonging to a consolidated group as defined in Article 44 shall prepare interim financial statements as at the end of the calendar half-year.

(13) A parent bank or a parent financial holding company shall prepare interim consolidated financial statements as at the end of the calendar half-year. A parent bank or

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<sup>37a)</sup> Article 5 of Act No 566/2001 Coll.

<sup>38)</sup> Article 2(4)(a) and (b) and Articles 24 to 29 of Act No 431/2002 Coll.

a parent financial holding company shall submit interim consolidated financial statements in writing to Národná banka Slovenska within 60 calendar days following the end of the respective calendar half-year.

(14) Banks and branches of foreign banks shall keep records of assets and liabilities<sup>30d</sup> according to the risks or losses associated with them. On the basis of these records, banks and branches of foreign banks shall compile and submit to Národná banka Slovenska a report on the balance of assets and liabilities.

(15) In a decree<sup>23</sup> to be promulgated in the Collection of Laws, Národná banka Slovenska shall stipulate:

- a) requirements for maintaining a trading book under paragraph (1), including a definition of the term ‘management of the trading book and hedging of transactions in financial instruments and in commodities’;
- b) requirements for recording positions arising from internal collateral arrangements in the trading book under paragraph (3);
- c) requirements for the procedure and method used in managing individual positions or aggregate positions recorded in the trading book under paragraph (4);
- d) the minimum extent of the areas to which the overall management of the trading book under paragraph (4) refers;
- e) valuation rules for trading-book positions and the frequency of valuations, where the market price is not available as mentioned in paragraph (6);
- f) the details of how to maintain the trading book in accordance with paragraphs (1) to (6);
- g) the details of records of assets and liabilities and the keeping of such records in accordance with paragraph (14), as well as the contents, form, and breakdown of the relevant report, and the deadline, method, and place of its submission.

## Article 40

(1) In a written contract with an auditor, banks and branches of foreign banks shall provide for:

- a) the preparation of an audit report focusing on the verification of data used in reports required by Národná banka Slovenska under Article 42(2);
- b) the verification for correctness of the accounting records at the written request of Národná banka Slovenska in the course of a calendar year; if no shortcomings are revealed, Národná banka Slovenska shall compensate the bank concerned for its necessary expenses;
- c) the preparation of an extended report<sup>41</sup> with a layout stipulated by Národná banka Slovenska in a decree<sup>23</sup> promulgated in the Collection of Laws;
- d) the verification of data for correctness in accordance with Article 37(6).

(2) Banks and branches of foreign banks shall submit to Národná banka Slovenska an audit report in accordance with paragraph (1)(a) and (c) by 30 June of the year following the calendar year that was audited. Under a separate regulation,<sup>40</sup> audit reports on the annual financial statements of banks shall be deposited in the public section of the register of financial statements<sup>34</sup> and those on the financial statements of branches of foreign banks in the non-public section of the register<sup>34</sup> by 30 June following the accounting period for which the annual financial statements were audited.

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<sup>41</sup>) Article 2(1)(c) and Article 15(5)(c) of Act No 466/2002 Coll.

(3) Banks and branches of foreign banks shall notify Národná banka Slovenska in writing of the auditor or audit firm that has been commissioned to examine the financial statements, and shall do so by 30 June of the calendar year or the middle of the accounting period for which the audit is to be performed; this shall also apply to auditors or audit firms providing audit services to banks or branches of foreign banks on behalf of and for the account of another auditor or audit firm. Národná banka Slovenska is entitled to refuse an auditor or audit firm by 31 August of that calendar year or within eight months from the beginning of the accounting period following the delivery of such notification. Where a bank or a foreign bank branch has obtained banking authorisation in the current calendar year, notification shall be given within three months from the day when the decision to issue a banking authorisation became effective. In such cases, Národná banka Slovenska is entitled to refuse the proposed auditor or audit firm within 30 days from the date of receipt of a notification. Within 45 days from when the decision on refusal entered into force, the bank or foreign bank branch concerned shall inform Národná banka Slovenska in writing of the new auditor or audit firm. If Národná banka Slovenska refuses even the choice of another auditor or audit firm, Národná banka Slovenska shall appoint an auditor or an audit firm to examine the financial statements.

(4) A person in a special relationship with the bank as defined in Article 35(4)(a) to (h) and (j) and in Article 35(5)(a) to (h) and (j), for reasons set out in a separate regulation,<sup>42</sup> or an auditor who fails to meet the requirements set out in paragraph (5), or the bank's receiver or deputy receiver during receivership, or an external advisor, may not be appointed as an auditor. The same applies to natural persons who act as auditors for and on behalf of an audit firm.

(5) The auditor shall inform without delay Národná banka Slovenska and the bank's supervisory board in writing of any facts the auditor may find in the course of audit in respect of facts leading to an expression of qualified opinion on the annual financial statements of the bank or foreign bank branch concerned and about identified violations of laws and other generally applicable legal regulations. The auditor shall immediately notify Národná banka Slovenska of the following findings:

- a) a bank is over-indebted;<sup>43</sup>
- b) a bank or a foreign bank branch produces untrue, incorrect, or incomplete financial statements and reports at the request of Národná banka Slovenska under Article 42(2).

(6) A bank shall be deemed over-indebted if its assets, including claims, are exceeded by its liabilities.

(7) An auditor shall, at the written request of Národná banka Slovenska, provide documentation on facts specified in paragraph (5) and other information and supporting documentation obtained during the performance of its activities in a bank or a foreign bank branch.

(8) Banks and branches of foreign banks shall ensure the protection of electronically processed and stored data against misuse, destruction, damage, theft, or loss.

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<sup>42)</sup> Article 19 of Act No 466/2002 Coll.

<sup>43)</sup> Article 3(3) of Act No 7/2005 Coll., as amended by Act No 520/2005 Coll.

(9) Banks and branches of foreign banks shall, once a year, arrange a security audit of their information system used for banking data processing and storage, and shall inform Národná banka Slovenska about this audit in writing.

## **Article 41**

(1) Banks and branches of foreign bank shall notify Národná banka Slovenska of any intention to introduce a new type of transactions, together with an evaluation of such transactions by the internal control and internal audit unit in accordance with Article 23(4).

(2) Banks and branches of foreign banks shall notify Národná banka Slovenska without undue delay of any shortcomings found in the course of their activities under Article 23(4).

(3) Banks and branches of foreign banks shall, by 31 March of each calendar year, submit to Národná banka Slovenska a report on the results of activities of their internal control and internal audit unit for the previous calendar year, on measures adopted to remedy any shortcomings in their operations detected by the internal control and internal audit unit, and an approved plan of controlling activities for the current calendar year. Such report on the results of activities of the internal control and internal audit unit shall also include the results of controlling activities, the findings and the measures taken by the bank or foreign bank branch concerned against money laundering and terrorist financing.

(4) For the purposes of this Act, ‘type of transaction’ means a set of transactions within the scope of banking activities specified in Article 2(1) and (2), for which certain attributes or contractual conditions for their provision by a bank or a foreign bank branch are typical. Changes in interest rates or other price changes in respect of a transaction contracted shall not constitute a new type of transaction.

## **Article 42**

(1) Banks, foreign banks, and branches of foreign banks shall store data and copies of documents proving the identity of clients, documents certifying the ownership of funds used by clients to conduct transactions, and other documents on transactions, and shall protect these data and documents against damage, alteration, liquidation, loss, theft, disclosure, misuse, and unauthorised access for at least five years after a transaction, contract, etc. is concluded.

(2) Banks, foreign banks, and branches of foreign banks shall produce and present to Národná banka Slovenska returns, statements, and other reports in the stipulated manner, by the stipulated deadlines; the structure, scope, contents, form, classification, deadlines, method, procedure, and place of their presentation, including the methodology of preparation shall be stipulated by Národná banka Slovenska in a decree<sup>23</sup> promulgated in the Collection of Laws. Data and other information contained in returns, notifications and other reports must be comprehensible, easy to follow, supportable, must give a true and fair picture of the facts reported, and must be presented in due time. If the presented returns, notifications, and other reports fail to comply with the prescribed methodology, or if reasonable doubts arise as to their correctness or completeness, banks, foreign banks, and branches of foreign banks shall provide Národná banka Slovenska with supporting material and explanation upon request, within the stipulated time limit.

(3) Banks, foreign banks, and branches of foreign banks shall submit to Národná banka Slovenska data from their accounting and statistical records in the form of returns, reports, or reviews in the stipulated manner, by the stipulated deadlines. The scope, method, and deadlines for such submission shall be stipulated by Národná banka Slovenska in a decree promulgated in the Collection of Laws.

(4) Banks, foreign banks, and branches of foreign banks shall submit to the Ministry of Finance data from their accounting and statistical records in the form of returns, reports, or reviews in the stipulated manner, by the stipulated deadlines; such data disclosures shall not be deemed to be a violation of the confidentiality requirement under Article 91. The scope, method, and deadlines for such submission shall be stipulated in a generally binding legal regulation issued by the Ministry.

### **Article 43**

The provisions of this part of the Act are without prejudice to the duties of banks and branches of foreign banks stipulated in a separate regulation.<sup>39</sup>

## **PART EIGHT SUPERVISION ON A CONSOLIDATED BASIS**

### **Article 44**

(1) ‘Supervision on a consolidated basis’ means supervision of a consolidated group for the purpose of monitoring and mitigating the risks to which a bank is exposed by virtue of its membership of a consolidated group.

(2) A consolidated group shall comprise:

- a) a parent bank or an EU parent bank, and at least one bank, financial institution, or ancillary banking services undertaking over which the parent bank or EU parent bank exercises control or in which it has a participating interest;
- b) a parent financial holding company, mixed-activity parent financial holding company, EU parent financial holding company, or EU parent mixed-activity financial holding company, and at least one bank over which a parent financial holding company, parent mixed-activity financial holding company, EU parent financial holding company, or EU parent mixed-activity financial holding company exercises control or in which it has a participating interest; or
- c) a mixed-activity holding company and at least one bank over which the mixed-activity holding company exercises control or in which it has a participating interest.

(3) Národná banka Slovenska shall exercise supervision over a consolidated group as defined in paragraph (2)(c) to the extent of monitoring the intragroup transactions made under Article 49i(2) between a mixed-activity holding company and a bank that is part of

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<sup>39</sup>) Act No 431/2002 Coll., as amended by Act No 562/2003 Coll.

Regulation of the Ministry of Finance of the Slovak Republic No 21 832/2002-92 of 10 December 2002 on details for the ordering and numbering of items in financial statements, contents of these items, and the scope of financial data to be disclosed by banks, branches of foreign banks, Národná banka Slovenska, the Deposit Protection Fund, investment firms, branches of foreign investment firms, the Guarantee Fund for Investment, asset managers, branches of foreign asset managers, and mutual funds (Announcement No 738/2002 Coll.).

a consolidated group pursuant to paragraph (2)(c), and to the extent of providing information in accordance with Article 45(8).

(4) Národná banka Slovenska shall maintain a list of financial holding companies or mixed-activity financial holding companies in accordance with a separate regulation<sup>44</sup> and paragraph (2)(b). This list shall be forwarded to the Member States' competent supervisory authorities, the European supervisory authority (European Banking Authority), and to the Commission.

(5) In supervising a consolidated group as defined in paragraph (2)(a) or (b), Národná banka Slovenska is entitled to exclude, from the consolidated group under supervision, any person:

- a) whose registered office is located in a country where there are legal impediments to the exchange of information for the purpose of exercising supervision on a consolidated basis;
- b) whose inclusion in the group has no relevance for the purposes of supervision on a consolidated basis, in particular if the person's total assets are worth less than EUR 10,000,000 or less than 1% of the total assets of the bank or financial holding company or mixed-activity financial holding company; or
- c) whose inclusion in supervision on a consolidated basis is not appropriate in respect of the tasks of supervision on a consolidated basis.

(6) Supervision on a consolidated basis shall, however, be exercised over the persons mentioned in paragraph (5)(b) where more than one of these persons jointly have relevance for the purposes of supervision on a consolidated basis.

(7) Where a person is excluded under paragraph (5)(b) or (c), Národná banka Slovenska shall notify that person of this fact; such person shall provide upon request any information required for the exercise of supervision to the competent supervisory authority of the Member State in which the parent undertaking has its registered office.

(8) Národná banka Slovenska may request the information mentioned in Article 45(5) to (7) and Article 46(1) from the subsidiaries of a bank, financial holding company, mixed-activity financial holding company, or mixed-activity holding company that are not included in a consolidated group under paragraph (2). In such cases, the information requested shall be transmitted and verified using the procedures described in the said provisions.

(9) Národná banka Slovenska is entitled to exclude from supervision a subsidiary that is a bank and to delegate its supervision to another Member State's competent supervisory authority, provided that this authority exercises supervision over the bank's parent undertaking and that the bank in question has been authorised by Národná banka Slovenska. Such exclusion shall take place on the basis of a written agreement made under a separate regulation<sup>44a</sup> between Národná banka Slovenska and the competent supervisory authority of the Member State concerned. Národná banka Slovenska shall notify the European supervisory authority (European Banking Authority) of this agreement.

(10) Where a bank whose a parent undertaking is a foreign bank with a registered office in a non-Member State, or a financial holding company with a registered office in

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<sup>44)</sup> Article 11 of Regulation (EU) No 575/2013.

<sup>44a)</sup> Article 28 of Regulation (EU) No 1093/2010.

a non-Member State, or a mixed-activity financial holding company with a registered office in a non-Member State is not subject to supervision on a consolidated basis under this Act, Národná banka Slovenska shall verify whether the bank is subject to supervision equivalent to supervision on a consolidated basis under this Act. In doing so, Národná banka Slovenska shall take into account any guidance issued by the European Banking Committee and shall act in consultation with the European supervisory authority (European Banking Authority).

(11) Národná banka Slovenska shall verify the fact stated in paragraph (10) at its own initiative or at the request of a regulated entity holding a banking authorisation issued in a Member State or at the request of the parent undertaking.

(12) If, under paragraph (11), Národná banka Slovenska finds that the supervision exercised over a bank is not equivalent to supervision on a consolidated basis under this Act, it shall, after consulting with the Member States' competent supervisory authorities, include this bank in supervision on a consolidated basis or shall exercise other appropriate supervisory procedures that ensure the objectives of such supervision. For the purpose of inclusion in supervision on a consolidated basis, Národná banka Slovenska may in particular require the establishment of a financial holding company with a registered office in a Member State. These procedures shall be reported by Národná banka Slovenska to the Member States' competent supervisory authorities, to the European supervisory authority (European Banking Authority), and to the Commission.

(13) For the purposes of this Act, the following definitions shall apply:

- a) 'holding' means the ownership, direct or indirect or a combination thereof, of at least 20% of the share capital or voting rights of a legal person, or the possibility of exercising an influence over the management of this legal person, which is comparable with the influence corresponding to such ownership;
- b) 'regulated person' means a bank, investment firm, insurance or reinsurance company, asset management company, alternative investment fund manager, or an equivalent foreign undertaking.

## **Article 45**

(1) A parent bank shall ensure that the consolidated group to which it belongs also complies with the provisions of Articles 23 and 27 and Article 29(4).

(2) A bank included in a consolidated group under Article 44(2)(b) shall ensure that this consolidated group complies with the provisions of Articles 23 and 27 and Article 29(4).

(3) Where a consolidated group under Article 44(2)(b) includes more than one bank, paragraph (2) shall apply only to the bank over which supervision is exercised on a consolidated basis.

(4) Where a bank that is a subsidiary also controls a financial institution or an asset management company with a registered office in a non-Member State or has a holding in such entities, this bank shall ensure that the consolidated group to which it belongs complies with the provisions of Articles 23 and 27 and Article 29(4); the same obligation shall fall to a bank where the said control or holding is exercised or held by its parent financial holding company or its parent mixed-activity financial holding company.

(5) A person included in a consolidated group under Article 44(2)(a) or (b) shall produce and submit to Národná banka Slovenska, either directly or through a parent bank or parent financial holding company or parent mixed-activity financial holding company, or through a bank designated by Národná banka Slovenska, any statements, reports, and other disclosures required for the exercise of supervision on a consolidated basis, in the stipulated manner within the stipulated time limits; the parent bank or parent financial holding company or parent mixed-activity financial holding company shall produce and submit to Národná banka Slovenska any statements, reports, and other disclosures required for the exercise of supervision on a consolidated basis, in the stipulated manner within the stipulated time limits; their structure, scope, contents, form, classification, deadlines, method, procedure, and place of presentation, including the methodology of preparation, shall be stipulated by Národná banka Slovenska in a decree<sup>23</sup> to be promulgated in the Collection of Laws. Data and other information contained in these statements, reports, and other disclosures shall be comprehensible, transparent, and conclusive, shall give a true picture of the reported facts, and shall be submitted in due time. If the submitted statements, reports, and other disclosures do not comply with the stipulated methodology, or if there are reasons to doubt their accuracy or completeness, the bank, financial holding company, mixed financial holding company, or other person that produced and submitted them shall, at the request of Národná banka Slovenska, submit documents and give an explanation within the time limit set by Národná banka Slovenska.

(6) The auditor of a person that is included in a consolidated group under Article 44(2)(a) or (b) shall, for the purposes of supervision on a consolidated basis, provide information to Národná banka Slovenska and to the auditors of the parent bank or parent financial holding company or parent mixed-activity financial holding company.

(7) A parent bank or parent financial holding company or parent mixed-activity financial holding company shall notify Národná banka Slovenska of the auditors who will carry out an audit of persons that are included in a consolidated group under Article 44(2)(a) or (b), no later than the end of the calendar year for which the audit is to be conducted.

(8) Paragraphs (5) and (6) shall likewise apply to mixed-activity holding companies under Article 44(2)(c), to persons included in a consolidated group under Article 44(2)(c), and to the auditors of such persons.

## **Article 46**

(1) A person included in a consolidated group under Article 44(2) shall put in place control mechanisms to ensure that the information provided for the purposes of supervision on a consolidated basis is correct, and shall also ensure that the consolidated group complies with the provisions of Article 23 so that the control mechanisms are sufficiently harmonised within the internal control system and that the information required for supervision on a consolidated basis is accessible and sound. For the purposes of supervision on a consolidated basis, persons included in a consolidated group shall provide each other with the information required to meet the obligations arising from their inclusion in the consolidated group.

(2) Národná banka Slovenska may conduct on-site inspections,<sup>45</sup> or may request another Member State's competent supervisory authority to conduct on-site inspections, of persons included in a consolidated group under Article 44(2) and having a registered office in another Member State, for the purposes of supervision on a consolidated basis; Národná banka Slovenska shall carry out an on-site inspection if so requested by another Member State's competent supervisory authority.

(3) For the purposes of supervision on a consolidated basis, a parent bank or parent financial holding company shall ensure that persons included in a consolidated group under Article 44(2) are audited. At the request of the parent bank or parent financial holding company, these persons shall conclude an audit contract.

## **Article 47**

(1) Where a bank is included in a consolidated group over which supervision is exercised by another Member State's competent supervisory authority, Národná banka Slovenska shall be entitled to agree the conditions of supervision on a consolidated basis and the method of information exchange in a written agreement concluded between Národná banka Slovenska and the other Member State's competent supervisory authority. The concluding of such agreement shall be proposed by Národná banka Slovenska where the bank included in a consolidated group under Article 44(2)(a) or (b) has its registered office in another Member State. In the absence of such agreement, Národná banka Slovenska shall exercise supervision on a consolidated basis if the bank with the largest balance sheet total within the consolidated group has its registered office in the Slovak Republic. If, within a consolidated group, a bank has the same balance sheet total as a foreign bank with a registered office in another Member State, Národná banka Slovenska shall exercise supervision on a consolidated basis if the bank had been authorised earlier than the foreign bank.

(2) Národná banka Slovenska shall also exercise supervision on a consolidated basis over banks with a registered office in another Member State, provided they are included in a consolidated group under Article 44(2)(b).

(3) Národná banka Slovenska shall exercise supervision under paragraph (2) only if the parent financial holding company, parent mixed-activity financial holding company, EU parent financial holding company, or EU parent mixed-activity financial holding company has the largest balance sheet total among other financial holding companies with a registered office in another Member State, which have the same control over, or a participating interest in, a bank in another Member State.

(4) Národná banka Slovenska shall exercise supervision under paragraph (2) only if at least one of the banks included in a consolidated group under Article 44(2)(b) has its registered office in the Slovak Republic; Národná banka Slovenska shall also exercise supervision under paragraph (2) if the previous condition is not met by any other Member State and if, among the banks included equally in the consolidated group of a financial holding company whose registered office is in another Member State, the bank with the largest balance sheet total has its registered office in the Slovak Republic.

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<sup>45</sup>) Article 36(4) of Act No 566/1992 Coll. of the National Council of the Slovak Republic, as amended by Act No 149/2001 Coll.

(5) In the cases mentioned in paragraphs (2), (3) and (4), Národná banka Slovenska may, by common written agreement with the other Member States' competent supervisory authorities, waive the conditions laid down in these paragraphs if their application would be inappropriate in regard to the nature of the banks and the significance of their activities in different countries, and appoint the competent supervisory authority of another Member State to exercise supervision on a consolidated basis. In these cases, Národná banka Slovenska shall, if necessary, give the EU parent bank or EU parent financial holding company or EU parent mixed-activity financial holding company or the bank with the largest balance sheet total an opportunity to state its opinion on the decision proposed in cooperation with the other Member States' competent supervisory authorities.

(6) At the request of another Member State's competent supervisory authority, Národná banka Slovenska shall conduct on-site inspections on a consolidated basis, or shall allow persons authorised by another Member State's competent supervisory authority to conduct on-site inspections, in entities that are subject to supervision on a consolidated basis in the Member State of that supervisory authority; the details of such on-site inspections on a consolidated basis may be specified in an agreement concluded under paragraphs (1) and (5). Prior to the commencement of an on-site inspection in the territory of the Slovak Republic, the relevant supervisory authority of the Member State concerned shall notify Národná banka Slovenska thereof. Persons authorised by that supervisory authority shall have the same powers, obligations and responsibilities as the staff members of Národná banka Slovenska authorised to conduct on-site inspections under a separate regulation; these persons, however, are not required to produce a written protocol on the inspection they carry out, nor are they required to set a time limit for adopting and implementing measures to eliminate any shortcomings found during the inspection and to notify in writing the entity under supervision thereof.

(7) Národná banka Slovenska shall meet any request received from another Member State's competent supervisory authority for information relating to the exercise of supervision on a consolidated basis.

(8) Národná banka Slovenska shall notify the Commission and the European supervisory authority (European Banking Authority) of any written agreement concluded under paragraphs (1) and (5) and of the contents thereof.

(9) Where Národná banka Slovenska is responsible for the exercise of supervision on a consolidated basis over EU parent banks and banks which are controlled by EU parent financial holding companies or EU parent mixed-activity financial holding companies, or in which EU parent financial holding companies or EU parent mixed-activity financial holding companies have a participating interest, Národná banka Slovenska shall:

- a) plan and coordinate on-site inspections of day-to-day activities in regard to the obligations laid down in Article 6(2), Articles 23 to 27, and Article 37(9) to (15) in cooperation with the competent supervisory authorities;
- b) conduct on-site inspections and check for compliance with the requirements laid down in Article 37 and Articles 45(1) to (3) and 46(1);
- c) coordinate the gathering and dissemination of relevant or essential information in going concern and emergency situations for the competent supervisory authorities of other Member States;
- d) plan and coordinate on-site inspections of day-to-day activities in cooperation with the competent supervisory authorities and, if necessary, with the central banks in preparation for and during emergency situations, including the period of adverse developments in

banks or foreign banks or in financial markets, while, if possible, using the available means of communication to facilitate crisis management; the planning and coordination of activities include emergency measures under Article 49(1) and (2), the preparation of joint assessments, the implementation of contingency plans, and communication with the public;

e) warn the European supervisory authority (European Banking Authority) if the relevant supervisory authorities fail to cooperate in the range needed for the performance of tasks specified in subparagraphs (a) to (d).

(10) For the purposes of this Act, the following definitions shall apply:

a) 'relevant information' means any information that is necessary for the exercise of consolidated supervision by the competent supervisory authorities of Member States;

b) 'essential information' means any information that may significantly influence the assessment of a bank or a financial institution established in another Member State in terms of reliability and security.

(11) In considering an application for prior approval under Articles 30 to 32, or for prior approval to use own estimates of loss given default and own estimates of conversion factors, submitted by an EU parent bank and its subsidiaries or jointly by the subsidiaries of an EU parent financial holding company, Národná banka Slovenska shall cooperate with the competent supervisory authorities of other Member States to decide whether or not to issue the approval sought and to determine the terms and conditions to which such approval should be subject. Such an application shall be submitted to Národná banka Slovenska only where it concerns an EU parent bank or a bank which is controlled by an EU parent financial holding company or an EU parent mixed-activity financial holding company, or in which an EU parent financial holding company or an EU parent mixed-activity financial holding company has a participating interest.

(12) Národná banka Slovenska shall make its own decision on an application as described in paragraph (11) if, within six months, a joint decision is not taken with the competent supervisory authorities of other Member States, whereby it is jointly approved as a single document containing the rationale for that decision and it is not delivered within this period to the applicant in the form of a decision on prior approval. This period shall begin on the date of receipt of a complete application by Národná banka Slovenska, which shall forward it to the competent supervisory authorities of other Member States without delay. If, within six months, any of the supervisory authorities mentioned in paragraph (11) requests the European supervisory authority (European Banking Authority) to provide assistance for negotiating an agreement under a separate regulation, Národná banka Slovenska shall decide on the application under paragraph (11) in accordance with the decision of the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) does not issue such decision within one month from when the request for assistance is delivered, Národná banka Slovenska shall make its own decision on the application.

(13) A decision taken by Národná banka Slovenska under paragraph (11), including the complete rationale and the opinions of other Member States' competent supervisory authorities expressed during the six-month period, shall be delivered to the applicant and forwarded to the other supervisory authorities.

(14) Národná banka Slovenska shall proceed as appropriate under paragraphs (11) to (13) where a bank whose registered office is in the territory of the Slovak Republic is subject to consolidated supervision by another Member State's competent supervisory authority.

(15) Národná banka Slovenska as a supervisory authority responsible for the exercise of supervision on a consolidated basis shall:

- a) make, within its supervisory powers and jointly with the supervisory authorities competent to exercise supervision over the subsidiaries of an EU parent bank or an EU parent financial holding company or an EU parent mixed financial holding company, every effort to reach a joint decision:
  1. on the application of Articles 6(2) and 27(7) in order to determine the adequacy of the consolidated level of own funds held by the group with respect to its financial situation and risk profile, and the required level of own funds for the application of Article 50(13) to each entity within the group on a consolidated basis;
  2. on measures to address any significant matters and material findings relating to liquidity supervision, including those relating to the adequacy of the organisation and treatment of liquidity risks as required under Article 23(6)(a) point four, and relating to the need for institution-specific liquidity requirements;
- b) submit to the other competent supervisory authorities a report containing:
  1. the risk assessment of the group of institutions on a consolidated basis under Articles 6(2) and 27(7) for the purposes of subparagraph a) point one;
  2. the assessment of the liquidity risk profile of the group on a consolidated basis under Articles 23(6)(a) point four for the purposes of subparagraph a) point two;
- c) reach a joint decision within four months under subparagraph a) point one and within one month under subparagraph a) point two after a report is submitted in accordance with subparagraph b) point one;
- d) consider, in a joint decision taken under subparagraph (c), the risk assessment of subsidiaries made by the competent supervisory authorities under Articles 6(2) and 27(7) and give full justification;
- e) deliver the joint decision mentioned in subparagraph (c) to the EU parent bank concerned;
- f) consult, at the request of another competent supervisory authority, discrepancies arising in connection with the decision with the European supervisory authority (European Banking Authority); when the European supervisory authority (European Banking Authority) gives its opinion, Národná banka Slovenska shall consider its recommendations and explain any significant deviation;
- g) consult its approach with the European supervisory authority (European Banking Authority) on its own initiative;
- h) issue a decision under Article 50(1)(m) in conjunction with Article 6(2) in case of non-compliance with Article 27(3) on a consolidated basis, where a joint decision under subparagraph (c) is not reached, while duly considering the risk assessment of subsidiaries made by the competent supervisory authorities, including their opinions and reservations;
- i) substantiate decisions issued under subparagraph (h);
- j) submit the decision made under subparagraph (h) to the competent supervisory authorities and to the EU parent bank concerned;
- k) issue a joint decision under subparagraph (c) or, if such decision does not exist, it shall issue a decision in accordance with subparagraph (h);
- l) review whether a decision is up-to-date and, if necessary, it shall update a joint decision issued under subparagraph (c), and if there is no such decision, it shall examine the current situation and, if necessary, it shall issue a new decision under subparagraph (h),

while a change or cancellation of an existing decision issued under subparagraph (h) is also deemed to be a new decision; a verification of whether a decision is up-to-date and a possible issue of a new decision is to take place at least once a year, or if the supervisory authority competent to exercise supervision over the subsidiaries of an EU parent bank or EU parent financial holding company or EU parent mixed-activity financial holding company asks for the issue of a new decision as required under Article 50(13) by submitting a written and duly justified application to Národná banka Slovenska, in which case a verification of whether the decision is up-to-date and a possible issue of a new decision may be carried out on a bilateral basis between Národná banka Slovenska and the competent supervisory authority that has submitted the application;

m) proceed as appropriate in accordance with subparagraphs (a) to (l), where a bank as referred to Article 2(1) is placed under consolidated supervision exercised by another Member State's competent supervisory authority; a joint decision reached with the competent supervisory authority responsible for the exercise of supervision on a consolidated basis shall be binding for any bank that is subject to consolidated supervision.

(16) If, within the time limit specified in paragraph (15)(c), any of the supervisory authorities mentioned in paragraph (15) requests the European supervisory authority (European Banking Authority) to provide assistance for negotiating an agreement under a separate regulation,<sup>19</sup> Národná banka Slovenska shall decide in the matter as required by paragraph (15)(c) in accordance with the decision of the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) fails to issue such decision within one month from when the request for assistance is delivered, Národná banka Slovenska shall decide independently.

## Article 48

(1) Where an emergency situation arises, including adverse financial market conditions, which potentially jeopardises the market liquidity and stability of the financial system in any of the Member States, where entities of a group of banks or foreign banks have been authorised or where significant branches as referred to in Article 6(14) are established, Národná banka Slovenska shall, with regard to the confidentiality obligation, alert as soon as practicable the Ministry and the competent supervisory authority in charge of consolidated supervision of all facts that are important for the performance of their tasks. Where Národná banka Slovenska is responsible for the exercise of supervision on a consolidated basis and an emergency situation arises, including a situation described in a separate regulation<sup>45aa</sup> or adverse financial market conditions, which potentially jeopardise market liquidity and the stability of the financial system in any of the Member States, where entities of a group of banks or foreign banks have been authorised or where significant branches as referred to in Article 6(14) are established, Národná banka Slovenska shall, with regard to the confidentiality obligation, alert as soon as practicable the European supervisory authority (European Banking Authority), the European Systemic Risk Board, the competent supervisory authorities of other Member States, the Ministry, and other public authorities and persons whose activities are related to supervision, and shall provide them with any information that is relevant to the performance of their tasks.

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<sup>45aa</sup> Article 18 of Regulation (EU) No 1093/2010.

(2) Národná banka Slovenska shall, when it needs information that has already been provided to another Member State's competent supervisory authority, contact this authority whenever possible in order to prevent duplication of reporting to the various authorities involved in supervision.

(3) In order to increase the effectiveness of supervision, Národná banka Slovenska, as an authority responsible for the exercise of supervision on a consolidated basis, shall conclude with the competent supervisory authorities of other Member States written agreements on coordination and cooperation in regard to the exercise of supervision on a consolidated basis.

(4) The agreements mentioned in paragraph (3) may impose additional obligations on Národná banka Slovenska in regard to the exercise of supervision on a consolidated basis, and provide details about the common approach to be followed by supervisory authorities in exercising supervision on a consolidated basis, and details about the decision-making process.

(5) When exercising supervision, Národná banka Slovenska shall cooperate with the competent supervisory authorities of other Member States; in doing so, it shall provide them with any information that is relevant (on request) and essential (on its own initiative) for the exercise of supervision on a consolidated basis in accordance with regulations comparable with this Act. Národná banka Slovenska shall cooperate with the European supervisory authority (European Banking Authority) and supply it with any information needed for the performance of tasks under a separate regulation.<sup>45ab</sup> Národná banka Slovenska shall alert the European supervisory authority (European Banking Authority) whenever:

- a) the competent supervisory authority of another Member State fails to provide Národná banka Slovenska with the necessary information; or
- b) the competent supervisory authority of another Member State refuses or fails to meet the request of Národná banka Slovenska for information.

(6) Where a bank whose registered office is located in another Member State is included in a consolidated group under Article 44(2)(a) or (b), Národná banka Slovenska shall provide that Member State's competent supervisory authority, which exercises supervision over this bank, with all relevant information. In determining the extent of relevant information, Národná banka Slovenska shall take into account the importance of these subsidiaries within the financial systems of the Member States concerned.

(7) The essential information mentioned in paragraph (5) shall include the following items:

- a) the legal, organisational, and management structure of a consolidated group at the requested level, including all regulated entities, non-regulated entities, non-regulated subsidiaries, and significant branches belonging to the group, and parent companies included in that consolidated group under Article 7(2) and (3), Article 8(2) and (3), Article 9(4) and (5), Article 37(8) and (9), and Article 47(1) and (9), and the list of relevant supervisory authorities of other Member States, which exercise supervision over the regulated entities of that consolidated group;
- b) the method of collecting data from banks pursuant to subparagraph (a) and the method of their verification;
- c) the evaluation of adverse trends in the economic situation of banks under subparagraph (a) or of other persons belonging to the same consolidated group, whose behaviour may influence the economic situation of these banks;

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<sup>45ab</sup>) Article 35 of Regulation (EU) No 1093/2010

- d) major corrective measures taken by Národná banka Slovenska under Article 50, including the imposition of a capital requirement higher than that laid down in Article 29(4), the imposition of fines by Národná banka Slovenska under Article 50, and a decision to limit the use of the advanced measurement approach under Article 32.

(8) In a decree<sup>23</sup> to be promulgated in the Collection of Laws, Národná banka Slovenska shall stipulate:

- a) the extent and manner of compliance with the obligations of a parent bank, and the method of consolidating data for these purposes;
- b) the extent and manner of compliance with the obligations of a bank included in a consolidated group under Article 44(2)(a) or (b);
- c) the definition of the terms 'emergency situation' under Article 47(9) and Article 48(1), 'significant bank' under Article 48(7) and 'major measures' under Article 48(7).

(9) Národná banka Slovenska as a supervisory authority in charge of supervision on a consolidated basis shall establish a college of supervisors (hereinafter referred to as 'College') for the purpose of simplifying the performance of tasks specified in Article 47(9), (11) to (15) and Article 48(1) and, with regard to the confidentiality obligation, it shall ensure coordination and cooperation with the competent supervisory authorities of non-Member States. Národná banka Slovenska shall provide, through the College, for the fulfilment of the following tasks:

- a) the exchange of information between Národná banka Slovenska, the European supervisory authority (European Banking Authority) under a separate regulation,<sup>45ac</sup> and other competent supervisory authorities;
- b) the conclusion of an agreement on the voluntary delegation of tasks and duties between Národná banka Slovenska and other competent supervisory authorities;
- c) the definition of a time schedule for inspections to be conducted by supervisory authorities, according to a risk assessment of the group under Article 6(2) and Article 47(9);
- d) increase in the effectiveness of supervision in connection with a request for information under Article 48(2) and (5);
- e) the consistent application of requirements for business activities under this Act in all entities of a group of banks and foreign banks;
- f) the application of Article 47(9)(d);
- g) cooperation under Article 49k(2) and Article 49l;
- h) the application of Article 47k(1) and (3).

(10) Národná banka Slovenska shall set up and ensure the functioning of the College under paragraph (9) on the basis of written agreements under Article 48(3). It may involve in the activities of the College the competent authorities responsible for supervising the subsidiaries of an EU parent bank or an EU parent financial holding company or an EU parent mixed-activity financial holding company, as well as the competent authorities of Member States where significant branches of credit institutions or central banks are established and, if necessary, the competent supervisory authorities of non-Member States, with regard to the confidentiality obligation. Národná banka Slovenska shall:

- a) chair the meetings of the College and shall decide which of the competent supervisory authorities are to participate in the meetings or activities of the College;
- b) inform each member of the College in advance and accurately of the date, place, and agenda of a meeting of the College;

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<sup>45ac</sup>) Article 21 of Regulation (EU) No 1093/2010.

- c) provide all members of the Collage with complete information on the decisions taken at the meetings or on the measures adopted;
- d) take into account in its decisions the importance of the supervisory activities that are to be planned or coordinated for these authorities and, in particular, the possible impacts on the stability of the financial system in the Member States concerned under Article 6(2) and on the obligations under Article 6(16);
- e) inform, in compliance with the confidentiality requirement, the European supervisory authority (European Banking Authority) of the activities of the College.

(11) If Národná banka Slovenska is a member of a College set up by the competent supervisory authority of another Member State, it shall cooperate closely with the competent supervisory authority that established the College, as well as with other members of the College and with the European supervisory authority (European Banking Authority).

#### **Article 49**

(1) Národná banka Slovenska shall, before issuing a decision, consult the competent supervisory authorities of other Member States whenever a decision concerns a bank included in a consolidated group among whose members are entities over which another Member State's competent supervisory authority exercises supervision, unless this Act provides otherwise. This consultation obligation shall apply to decisions issued for a bank included in a consolidated group, under which:

- a) a change is permitted in the bank's shareholder structure or management structure;
- b) major corrective measures or fines under Article 50 are imposed.

(2) Národná banka Slovenska shall, in accordance with paragraph (1), always consult the competent supervisory authority of another member State where the decision under paragraph (1)(b) concerns an entity that is included in consolidated supervision, which is exercised by that competent supervisory authority, except where such decision would prevent the effective decision-making process; in this case, Národná banka Slovenska shall inform the other Member States' competent supervisory authorities without delay.

(3) At the request of another Member State's competent supervisory authority in charge of consolidated supervision, Národná banka Slovenska shall verify the information needed for the exercise of supervision on a consolidated basis regarding an entity that is subject to such supervision and whose registered office is in the territory of the Slovak Republic, or it shall have such information verified by other authorised persons. Persons authorised by another Member State's competent supervisory authority are entitled to participate in the verification of this information by Národná banka Slovenska or they may, with the approval of Národná banka Slovenska, verify it on their own.

### **PART NINE**

### **SUPPLEMENTARY SUPERVISION**

### **OF FINANCIAL CONGLOMERATES**

#### **Article 49a**

Supplementary supervision of financial conglomerates (hereinafter referred to as 'supplementary supervision') means the monitoring and regulating of the risks inherent in financial conglomerates, which include banks, investment firms, insurance undertakings,

reinsurance undertakings, or asset management companies, for the purpose of minimising the risks to which a bank or other regulated entity is exposed through its participation in a financial conglomerate.

## Article 49b

For the purposes of this Act, the following definitions shall apply:

- a) 'financial conglomerate' means
  - 1. a group if
    - 1a it is controlled by a regulated person;
    - 1b the regulated person mentioned in point (1a) is a parent company of a financial sector entity or a person having a participating interest in a financial sector entity under Article 44(5)(m), or a person linked to another financial sector entity by a control relationship under Article 49b(d), point three;
    - 1c at least one of the persons in the group is from the insurance sector and at least one of them is from the banking sector or from the investment services sector;
    - 1d the consolidated or aggregate activities of persons in the insurance sector and the consolidated or aggregate activities of persons in the banking and investment services sectors are significant according to Article 49e(2) and (4);
  - 2. a group if
    - 2a at least one of the persons in the group is a regulated person;
    - 2b the group is not controlled by a regulated person and its activities are concentrated in the financial sector in accordance with Article 49e(1);
    - 2c at least one of the persons in the group is from the insurance sector and at least one of them is from the banking sector or from the investment services sector;
    - 2d the consolidated or aggregate activities of persons in a group in the insurance sector and the consolidated or aggregate activities of persons in a group in the banking and investment services sectors are significant according to Article 49e(2) and (4); or
  - 3. a subgroup of another financial conglomerate, which meets the conditions set out in point one or point two;
- b) 'financial sector' means a sector composed of one or more of the following legal persons:
  - 1. a bank or other financial institution under Article 5(ab), or an auxiliary banking services undertaking; these entities constitute the banking sector;
  - 2. an insurance or reinsurance undertaking,<sup>45a</sup> or an insurance holding company under a separate regulation;<sup>45ae</sup> these constitute the insurance sector;
  - 3. an investment firm or other legal person as defined in point one, these form the investment services sector;
- c) 'group' means a group of persons linked to each other by a control relationship as defined in subparagraph (d), including a subgroup;
- d) 'control' means a relationship where:
  - 1. one person controls another person;
  - 2. one person has a participating interest in another person; or
  - 3. persons are interlinked in a relationship involving influence over management which is comparable to influence corresponding to a participation, or by the fact that two or more persons have as members of their statutory body or supervisory board mostly the same persons.

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<sup>45a)</sup> Article 2 of Act No 8/2008 Coll., as amended.

<sup>45ae)</sup> Article 49(5)(c) of Act No 8/2008 Coll.

## **Article 49c**

(1) Národná banka Slovenska shall exercise supplementary supervision where:

- a) a financial conglomerate is controlled by a bank;
- b) a financial conglomerate is controlled by a mixed financial holding company which is the parent company of a bank and the financial conglomerate comprises no other regulated persons;
- c) the parent company of a bank is a mixed financial holding company and the financial conglomerate includes at least two regulated persons established in a Member State and the most significant financial sector represented in the financial conglomerate is the banking sector;
- d) a financial conglomerate is controlled by more than one mixed financial holding companies established in various Member States, in each of which a regulated person is established, while the regulated person with the largest amount of total assets within the financial conglomerate is a bank or the most significant financial sector represented in the financial conglomerate is the banking sector; if the banking sector also includes a foreign bank established in a Member State, on the basis of an agreement concluded between Národná banka Slovenska and the competent supervisory authority of that Member State;
- e) a financial conglomerate is controlled by a mixed financial holding company established in the Slovak Republic, which is the parent company of more than one regulated persons established in other Member States, and none of these regulated persons has been authorised in the Slovak Republic and the most significant financial sector represented in the financial conglomerate is the banking sector;
- f) a financial conglomerate is not controlled by a parent company or is controlled in a way other than specified in subparagraphs a) to e), if the financial conglomerate's most important financial sector is the banking sector and the regulated person with the largest amount of total assets in this sector is a bank.

(2) Národná banka Slovenska may, on the basis of an agreement with the Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in a financial conglomerate and after consultation with the person controlling the relevant financial conglomerate, undertake the exercise of supplementary supervision even in cases that are not stated in paragraph (1), if appropriate in terms of the goals of supplementary supervision.

(3) Národná banka Slovenska may, on the basis of an agreement with the Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in a financial conglomerate and after consultation with the person controlling the relevant financial conglomerate, leave the exercise of supplementary supervision in cases stated in paragraph (1) to the competent supervisory authority of the Member State concerned, if appropriate in terms of the goals of supplementary supervision.

## **Article 49d**

(1) Národná banka Slovenska shall determine, according to the criteria laid down in Article 49e and in cooperation with the Member States' competent supervisory authorities that are responsible for the supervision of regulated persons belonging to a financial conglomerate, which financial conglomerates are subject to supplementary supervision.

(2) Národná banka Slovenska shall report to the Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in a financial conglomerate and to the Joint Committee of European Supervisory Authorities set up under a separate regulation,<sup>45ad</sup> any further proposal for the inclusion of a financial conglomerate in supplementary supervision.

(3) Národná banka Slovenska shall inform the person that controls a financial conglomerate under Article 49c(1) or the bank with the largest amount of total assets, if the most significant financial sector represented in the financial conglomerate is the banking sector, that the financial conglomerate concerned shall be subject to supplementary supervision. Národná banka Slovenska shall report this fact to the competent supervisory authority of the Member State in which a mixed financial holding company is established, as well as to the Joint Committee of European Supervisory Authorities set up under a separate regulation.<sup>45ad</sup>

(4) Národná banka Slovenska shall notify the European Commission's Committee for Financial Conglomerates of the principles applied during the supplementary supervision of risk concentration under Article 49h and of intragroup transactions under Article 49i.

(5) Národná banka Slovenska shall publish on its website a link to the list of financial conglomerates that is available on the website of the Joint Committee of European Supervisory Authorities set up under a separate regulation.<sup>45ad</sup>

## Article 49e

(1) Activities are regarded as concentrated in the financial sector if the proportion of total assets held by regulated persons and non-regulated persons in the financial sector to the total assets of the group as a whole is larger than 40%.

(2) Activities in financial sectors are significant if the average value of proportions from the individual financial sectors is higher than 10%, while the average is calculated from the following proportions:

- a) the proportion of total assets in a financial sector to the total assets of financial sector entities within the group, and
- b) the proportion of the minimum amount of own funds in a financial sector to the sum of the minimum amounts of own funds of financial sector entities within the group.

(3) The smallest financial sector in a financial conglomerate is the financial sector with the smallest average proportion under paragraph (2); the most significant financial sector in a financial conglomerate is the financial sector with the largest average proportion under paragraph (2). For the purpose of calculating the average proportion under paragraph (2) for determining the smallest and most significant financial sectors, the banking sector and the investment services sector are regarded as one sector.

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<sup>45ad</sup>) Article 54 of Regulation (EU) No 1093/2010. Article 54 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European supervisory authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010). Article 54 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European supervisory authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010).

(4) Where a group does not achieve the average value of proportions under paragraph (2) but total assets in the smallest financial sector within the group amount to more than EUR 6 billion, or if a group achieves the average value of proportions under paragraph (2) but total assets in the smallest financial sector within the group amount to less than EUR 6 billion, Národná banka Slovenska shall be entitled to decide, upon agreement with the other Member States' competent supervisory authorities that are responsible for the supervision of regulated persons belonging to a financial conglomerate, that the group will not be deemed to be a financial conglomerate or that the provisions of Articles 49g to 49j will not be applied where the exercise of supplementary supervision is not appropriate in terms of the goals of supplementary supervision.

(5) Národná banka Slovenska shall report its decisions taken under paragraph (4) to the other Member States competent supervisory authorities that are responsible for the supervision of regulated persons belonging to a financial conglomerate, and shall publish these decisions unless their publication is hindered by extraordinary circumstances.

(6) Národná banka Slovenska shall be entitled, upon agreement with the other Member States' competent supervisory authorities that are responsible for the supervision of regulated entities belonging to a financial conglomerate, to exclude one or more participations in the smallest financial sector if these participations are decisive for the identification of a financial conglomerate and they together are of negligible importance for the purposes of supplementary supervision. Národná banka Slovenska shall be entitled, upon agreement with the other Member States' competent supervisory authorities that are responsible for the supervision of regulated persons belonging to a financial conglomerate, to exclude a legal person from the calculation of proportions under paragraphs (1) to (3), where the person concerned:

- a) is established in a country that is not a Member State and the law of that country does not enable the exchange of information for the purposes of supplementary supervision; from the calculation of proportions under paragraphs (1) to (3), however, it is not possible to exclude a person that has demonstrably moved its registered office from a Member State to a non-Member State with the aim of avoiding supervision;
- b) is of negligible importance for the purposes of supplementary supervision;
- c) is unsuitable for being included in a financial conglomerate in terms of the goals of supplementary supervision.

(7) Národná banka Slovenska shall be entitled, after consultation with the other Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in a financial conglomerate, to take into account the values of proportions given in paragraphs (1) and (2) for three successive years, in order to avoid a sudden change in the regime of supplementary supervision, and to leave out of consideration the values of proportions given in paragraphs (1) and (2), if significant changes occur in the structure of the group.

(8) Národná banka Slovenska shall be entitled, in fully justified cases and after consultation with the other Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in a financial conglomerate, to replace or amend a criterion based on total assets with criteria based on the structure of incomes, total assets under management, or off-balance-sheet operations in the calculation of proportions under paragraphs (1) and (2), i.e. with one or more criteria at the same time, or to add one or more criteria if they are of special importance in terms of the goals of supplementary supervision.

(9) If the value of a proportion mentioned in paragraph (1) falls below 40% or the average value of proportions under paragraph (2) drops below 10% for financial conglomerates that are subject to supplementary supervision, the value of the proportion calculated under paragraph (1) shall be 35% in the next three years, and the average value of proportions calculated under paragraph (2) shall be 8%.

(10) If, in the case of a group that is already under supplementary supervision, total assets in the group's smallest financial sector fall below EUR 6 billion, the amount to be used in calculations under paragraph (4) shall be EUR 5 billion in the next three years.

(11) Národná banka Slovenska is authorised to stipulate, with the consent of other Member States' competent supervisory authorities that are responsible for the supervision of regulated persons belonging to in a financial conglomerate and during the period set in paragraphs (7) to (10), that the lower values of proportions or the smaller amount given in paragraphs (7) to (10) are no longer valid for financial conglomerates that are subject to supplementary supervision.

(12) Calculations regarding total assets are made on the basis of a summary of data on the total assets of persons in a group obtained from their annual financial statements. For the purposes of such calculations, in the case of persons in which a holding has been acquired, the amount of the acquired holding is taken into account. If consolidated financial statements are available, such statements will be used instead of a summary of data.

(13) For the purposes of supplementary supervision, 'minimum amount of own funds' means such an amount of own funds that corresponds to at least the sum of the own funds requirements<sup>20a</sup> to be met by banks, at a constant level of risk.

(14) Requirements for the minimum amount of own funds of regulated persons other than banks, which are taken into account in the calculations under paragraphs (2) to (6), are stipulated under separate regulations,<sup>45b</sup> which apply to the determination of capital requirements, the amount of own funds, and the solvency of the regulated person concerned.

(15) Národná banka Slovenska shall evaluate each year the process of supplementary supervision for deviations and shall assess the quantitative indicators specified in paragraphs (1) to (14) and the risks faced by financial groups.

## **Article 49f**

(1) A bank that is part of a financial conglomerate shall observe the conditions laid down in Articles 49g to 49j, where:

- a) it controls the financial conglomerate;
- b) its parent company is a mixed financial holding company located in a Member State;
- c) it is linked with a legal person from another financial sector by a control relationship as defined in Article 49b(d), point three, or

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<sup>45b</sup> Act No 566/2001 Coll., as amended.  
Act No 95/2002 Coll., as amended.  
Act No 510/2002 Coll., as amended.  
Act No 594/2003 Coll., as amended.

d) its parent company is a regulated person or a mixed financial holding company established in a non-Member State, where financial conglomerates are under supervision that is equivalent to supplementary supervision.

(2) Where a financial conglomerate is a subgroup of another financial conglomerate, which includes a bank satisfying one of the conditions set out in paragraph (1), the conditions stipulated in Articles 49g to 49j shall apply to the bank that is part of the financial conglomerate comprising a subgroup.

(3) A bank whose parent company is a regulated person or a mixed financial holding company established in a non-Member State, where financial conglomerates are not subject to supervision that is equivalent to supplementary supervision, shall comply with the conditions laid down in Articles 49g to 49j. If the conditions stipulated in Articles 49g to 49j cannot be observed owing to the fact that the supervision of financial conglomerates by a non-Member State is not equivalent to supplementary supervision, Národná banka Slovenska shall be entitled to stipulate that a bank that is part of a financial conglomerate shall supply Národná banka Slovenska with special statements, returns, and other reports on participation in such a financial conglomerate, and to restrict or prohibit the bank from conducting intragroup transactions that may affect compliance with the requirement to maintain an adequate amount of own funds at the level of the financial conglomerate.

(4) Národná banka Slovenska shall verify whether a financial conglomerate as defined paragraph (3) is under supervision that is equivalent to supplementary supervision, if it is so agreed with the supervisory authorities of the Member States in which the regulated persons constituting the financial conglomerate are established, at the request of the parent company under paragraph (3), or at the request of the regulated person that is part of the financial conglomerate, or on its own initiative. Národná banka Slovenska shall discuss the issuance of a decision under paragraph (3) with the European Commission's Committee for Financial Conglomerates and shall report the issuance of a decision under paragraph (3) to the Commission. If Národná banka Slovenska fails to reach an agreement with the competent authority of the Member State concerned in the matter mentioned in the first sentence, it shall proceed in accordance with a separate regulation.<sup>45c</sup>

(5) Where legal persons have a participating interest in one or several regulated persons or they exercise significant influence over regulated persons without capital participation other than influence pursuant to paragraphs (1) to (3), Národná banka Slovenska shall determine, in cooperation with other Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in a financial conglomerate, whether and to what extent these regulated persons will be subject to supplementary supervision as if they were a financial conglomerate subject to supplementary supervision. In such cases, Národná banka Slovenska shall inform the Commission and the other Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in the financial conglomerate. For supplementary supervision to be conducted, at least one of the legal persons mentioned in the first sentence must be a bank and the conditions stipulated in Article 49b(a), points (1c) and (1d), must be satisfied; this is necessary for the goals of supplementary supervision to be fulfilled.

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<sup>45c</sup>) Article 19 of Regulation (EU) No 1093/2010.  
Article 19 of Regulation (EU) No 1094/2010.  
Article 19 of Regulation (EU) No 1095/2010.

## Article 49g

(1) Banks shall, in accordance with Article 49f(1), ensure that a sufficient amount of own funds is maintained at the level of financial conglomerates and that rules are adopted at the level of financial conglomerates to this end. The own funds of a financial conglomerate are regarded as sufficient if the difference between the own funds of the financial conglomerate and the sum of the minimum amounts of own funds of persons in the financial conglomerate is zero or a positive figure.

(2) Banks that are part of a financial conglomerate shall calculate the adequate amount of own funds using one of the methods stipulated in a generally binding legal regulation to be issued by Národná banka Slovenska in accordance with paragraph (9).

(3) Národná banka Slovenska shall be entitled, after consultation with other Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in a financial conglomerate, to notify a regulated person or a mixed financial holding company, on its own initiative or at the request of the regulated person or mixed financial holding company concerned under paragraph (4), as to which of the methods stipulated in a generally binding legal regulation under paragraph (9) is to be applied for calculating the adequate amount of own funds.

(4) Banks controlling a financial conglomerate shall supply Národná banka Slovenska, semi-annually or at the request of Národná banka Slovenska, with data on the amount of own funds and the amount of own funds at the level of the financial conglomerate needed for meeting the requirement to maintain a sufficient amount of own funds in a financial conglomerate that is subject to supplementary supervision. If a financial conglomerate is not controlled by a bank, data as mentioned in the first sentence shall be supplied to Národná banka Slovenska by a mixed financial holding company or by a regulated person selected by Národná banka Slovenska after consultation with the regulated persons or mixed financial holding companies that constitute the financial conglomerate.

(5) Requirements for own funds shall be taken into account in the calculation of the amount of own funds at the level of financial conglomerates only in respect of persons referred to in Article 49b, letter b).

(6) Národná banka Slovenska shall be entitled to decide to omit, from the calculation of the amount of own funds at the level of a financial conglomerate that is subject to supplementary supervision, a person:

- a) established in a non-Member State, the law of which does not enable the exchange of information for the purposes of supplementary supervision;
- b) of negligible importance for the purposes of supplementary supervision of regulated persons within a financial conglomerate; this shall not apply where more legal persons are to be omitted from the calculation, whose total share in the financial conglomerate is significant under Article 49e(2) and (4);
- c) whose inclusion in the calculation would be inappropriate or inadequate in terms of the goals of supplementary supervision.

(7) Národná banka Slovenska shall discuss the omission of a person referred to in paragraph (6)(c) with the competent supervisory authority that is responsible for the exercise of supplementary supervision in the relevant Member State.

(8) Paragraph (6) is without prejudice to the obligation of the persons concerned to supply information for the purposes of supplementary supervision, or to the authorisation of supervisory bodies to provide information on these persons for the purposes of supplementary supervision or supervision of financial conglomerates in another Member State.

(9) For the purpose of calculating the adequate amount of own funds for financial conglomerates, Národná banka Slovenska shall, in a decree to be promulgated in the Collection of Laws, stipulate:

- a) the source of own funds for financial conglomerates, the method of their calculation, including the own funds of a mixed financial holding company;
- b) the minimum amount of own funds for financial conglomerates and the method of its calculation;
- c) the methods of calculating the adequate amount of own funds for financial conglomerates.

#### **Article 49h**

(1) Banks controlling a financial conglomerate shall supply Národná banka Slovenska, semi-annually or at the request of Národná banka Slovenska, with data on risk concentration in the financial conglomerate. If a financial conglomerate is not controlled by a bank, the data mentioned in the first sentence shall be supplied to Národná banka Slovenska by a mixed financial holding company or by a regulated person selected by Národná banka Slovenska after consultation with the regulated persons or mixed financial holding companies that constitute the financial conglomerate.

(2) For the purposes of supplementary supervision, ‘risk concentration within a financial conglomerate’ means any activity performed by persons belonging to the financial conglomerate, which may cause a loss large enough to threaten the solvency, safety, and financial position of the regulated persons included in the financial conglomerate; such risk concentration may be caused by credit risk, investment risk, insurance risk, market risk, liquidity risk, client risk, operational risk, other risks, or a combination of these risks.

(3) Where a financial conglomerate is controlled by another regulated person, risk concentration within the financial conglomerate shall be governed, as appropriate, by the provisions of a separate regulation.<sup>45b</sup>

(4) Where a financial conglomerate is controlled by a mixed financial holding company and where the most significant financial sector represented in the financial conglomerate is the banking sector, risk concentration in the banking sector and in the mixed financial holding company shall be governed by the provisions of Article 33.

(5) For the purpose of determining the degree of risk concentration, Národná banka Slovenska shall, in a decree to be promulgated in the Collection of Laws, provide details about:

- a) the large exposures of financial conglomerates and the method of their calculation;
- b) the large exposures of the banking sector and the method of their calculation;
- c) the large exposures of mixed financial holding companies and the method of their calculation;
- d) risk concentration in financial conglomerates and the method of its calculation.

## **Article 49i**

(1) Banks controlling a financial conglomerate shall supply Národná banka Slovenska, semi-annually or at the request of Národná banka Slovenska, with data on significant intragroup transactions conducted by the financial conglomerate. If a financial conglomerate is not controlled by a bank, the data mentioned in the first sentence shall be supplied to Národná banka Slovenska by a mixed financial holding company or by a regulated person selected by Národná banka Slovenska after consultation with the regulated persons or mixed financial holding companies that constitute the financial conglomerate.

(2) For the purposes of supplementary supervision, ‘intragroup transaction’ means any transaction in which regulated persons constituting a financial conglomerate rely, either directly or indirectly, upon other persons from the same group or upon any natural or legal person they control, for the discharge of an obligation, regardless of whether or not contractual, and whether or not for payment.

(3) For the purposes of supplementary supervision, ‘significant intragroup transaction’ means an intragroup transaction, amounting to at least 5% of the amount of own funds held by a financial conglomerate, determined pursuant to Article 49g(9)(a).

(4) Significant intragroup transactions with persons in a special relationship shall be governed by the provisions of Article 35.

(5) If a financial conglomerate is controlled by a mixed financial holding company and if the most significant financial sector represented in the financial conglomerate is the banking sector, intragroup transactions conducted by the banking sector and by mixed financial holding companies shall be governed by the provisions of Article 44(4).

## **Article 49j**

(1) A bank that is part of a financial conglomerate shall create a risk management system and an internal control system, including bookkeeping and control procedures for the purpose of monitoring and observing the provisions of this Act at the level of the financial conglomerate.

(2) For the purposes of supplementary supervision, a risk management system shall comprise:

- a) an appropriate management system ensuring the approval and regular inspection of a financial conglomerate’s business strategy in relation to the risks arising from the activities of the financial conglomerate;
- b) procedures for ensuring a sufficient amount of own funds, which include the possible impact of the business strategy on a bank’s risk profile and own funds;
- c) procedures for monitoring the risks and measures designed to ensure the monitoring and management of risks within a financial conglomerate.
- d) measures designed to prepare and develop appropriate plans and procedures for recovery and bankruptcy prevention; these measures are to be updated on a regular basis.

(3) For the purposes of supplementary supervision, an internal control system shall comprise:

- a) procedures for identifying and measuring the risks affecting the observance of provisions concerning the amount of own funds to be maintained by a financial conglomerate and methods for evaluating their functioning and effectiveness;
- b) procedures for evaluating the bookkeeping system and the supply of information for the purposes of identifying, measuring, monitoring, and managing intragroup transactions and the concentration of risks.

(4) A bank that is part of a financial conglomerate shall, at the level of the financial conglomerate:

- a) supply Národná banka Slovenska, on an annual basis, with information on its legal form, management and organisation structure, including the list of persons it regulates, non-regulated subsidiaries, and major branches;
- b) publish, on its website, information about its legal form, management and organisation structure.

(5) If Národná banka Slovenska coordinates the exercise of supplementary supervisions under Article 49k(2), it shall report information pursuant to paragraph (4) and Article 491(3)(a) to the Joint Committee of European Supervisory Authorities set up under a separate regulation.<sup>45ad</sup>

## **Article 49k**

(1) In exercising supplementary supervision, Národná banka Slovenska shall:

- a) provide for the coordination of the collection and dissemination of information needed for monitoring the activities of financial conglomerates and for the provision of vital information for the exercise of supplementary supervision in individual financial sectors to other states' competent supervisory authorities that are responsible for the supervision of regulated persons included in a financial conglomerate;
- b) gather information for evaluating the financial situation of financial conglomerates for the purposes of supplementary supervision;
- c) monitor the observance of provisions concerning the sufficient amount of own funds, risk concentration, and intragroup transactions;
- d) monitor the structure of financial conglomerates, their organisation, and the functioning of their internal control system in accordance with Article 49j;
- e) plan and coordinate the exercise of supplementary supervision under any conditions in cooperation with other states' competent supervisory authorities that are responsible for the supervision of regulated entities included in a financial conglomerate;
- f) perform other tasks in connection with the exercise of supplementary supervision.

(2) Národná banka Slovenska shall coordinate, in cooperation with other states' competent supervisory authorities that are responsible for the supervision of regulated entities included in a financial conglomerate, the exercise of supplementary supervision, and shall stipulate the forms of cooperation in implementing the provisions of Article 49d, Article 49e, Article 49f(3) and (5), Article 49g, Article 49l(2), and Article 51a.

(3) Information needed for the exercise of supplementary supervision, which has already been provided to another country's competent supervisory authority that is responsible for the supervision of regulated persons included in a financial conglomerate, shall be obtained from that authority at the request of Národná banka Slovenska. If the said information cannot be obtained according to the first sentence, Národná banka Slovenska

shall be entitled to obtain it directly from the persons included in the financial conglomerate, listed in Article 49g(2).

(4) For the purpose of coordinating the cooperation between Národná banka Slovenska and other Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in a financial conglomerate, the exercise of supplementary supervision shall be subject, where appropriate, to the provisions of Article 48(9) to (11).

## Article 49l

(1) In exercising supplementary supervision, Národná banka Slovenska shall cooperate with other Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in a financial conglomerate, even if supplementary supervision is exercised by the competent supervisory authority of a Member State, at least in the scope specified in paragraph (3).

(2) Národná banka Slovenska shall, at the request of another Member State's competent supervisory authority that is responsible for the supervision of regulated entities included in a financial conglomerate, provide information for the supervision of regulated entities that are part of a financial conglomerate or for the supervision of financial conglomerates, at least in the scope specified in paragraph (3). Národná banka Slovenska shall also provide such information on its own initiative, if the information is deemed to be important for the supervision of financial conglomerates. Národná banka Slovenska shall be entitled to request, from other Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in a financial conglomerate, information for the purposes of supplementary supervision, at least in the scope specified in paragraph (3), and shall also be entitled to exchange information needed for the supervision of financial conglomerates with foreign central banks, the European System of Central Banks, the European Central Bank, and under a separate regulation,<sup>45d</sup> with the European Systemic Risk Board.

(3) Cooperation and the exchange of information under paragraphs (1) and (2) concern mainly:

- a) the legal form, management and organisational structure of a financial conglomerate, including all regulated and non-regulated persons, non-regulated subsidiaries and significant branches belonging to that financial conglomerate, and persons with a qualifying holding in the entity controlling the financial conglomerate, and other Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in the financial conglomerate;
- b) the strategy and specialisation of a financial conglomerate;
- c) the financial situation of a financial conglomerate, mainly the amount of own funds, intragroup transactions, risk concentration, and the results of operations;
- d) shareholders with a qualifying holding in persons that are part of a financial conglomerate and the statutory body members of that financial conglomerate;
- e) the organisation, risk management and internal control systems of a financial conglomerate;

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<sup>45d</sup> Article 15 of Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board (OJ L 331, 15.12.2010).

- f) procedures for collecting information from persons that are part of a financial conglomerate, and for verifying such information;
- g) unfavourable developments in regulated person or other persons within a financial conglomerate, which may have a serious negative impact on a bank;
- h) serious penalties and extraordinary measures adopted by Národná banka Slovenska and the other Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in a financial conglomerate.

(4) Národná banka Slovenska shall discuss, with the other Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in a financial conglomerate, the following matters:

- a) the issuance of a decision on prior approval under Article 28(1)(a) and (b) and Article 9(4), where changes in the structure of shareholders or changes in the bodies of a bank would affect the exercise of supplementary supervision;
- b) the imposition of penalties or the adoption of measures against regulated persons in a financial conglomerate, which may also have an impact on regulated persons that are subject to supplementary supervision by another Member State's competent supervisory authority that is responsible for the supervision of regulated persons included in a financial conglomerate.

(5) Národná banka Slovenska shall not conduct negotiations under paragraph (4) where such negotiations may threaten the adoption of decisions within the prescribed time limit or where the imposition of penalties and measures cannot be postponed. In such cases, Národná banka Slovenska shall, without undue delay, inform the relevant Member States' supervisory authorities that are responsible for the supervision of regulated persons belonging to a financial conglomerate.

(6) In exercising supplementary supervision, Národná banka Slovenska shall be entitled to call upon a Member State's competent supervisory authority that is responsible for the supervision of regulated persons included in a financial conglomerate, in the Member State in which the parent undertaking is established, to instruct the parent undertaking to provide information for the performance of tasks by Národná banka Slovenska under Article 49k and to deliver this information to Národná banka Slovenska.

(7) The provisions of paragraphs (1) to (6) also apply to cooperation between Národná banka Slovenska and the supervisory authorities of countries with which the European Union has signed a cooperation agreement for the supervision of financial conglomerates.

(8) The provisions of paragraph (7) are without prejudice to the right to conclude an agreement on the terms and conditions of supervision over financial conglomerates and on the mutual exchange of information with the competent supervisory authority of another country that is not a Member State, unless such agreement contradicts the rules of supplementary supervision.

## **Article 49m**

(1) Národná banka Slovenska shall verify, at the request of another Member State's competent supervisory authority that is responsible for the supervision of regulated persons included in a financial conglomerate, any information used for the supervision of a financial conglomerate about a person that belongs to that financial conglomerate and whose registered office is in the territory of the Slovak Republic, or shall have this information verified by

other authorised persons. The persons authorised by the Member State's competent supervisory authority shall be entitled to participate in the verification by Národná banka Slovenska or to verify the information on their own with the consent of Národná banka Slovenska.

(2) Národná banka Slovenska shall be entitled to request another Member State's competent supervisory authority that is responsible for the supervision of regulated persons included in a financial conglomerate, to verify the information used for the supervision of a financial conglomerate about a person that belongs to that financial conglomerate and whose registered office is in the territory of that Member State, or to have the information verified by other authorised persons. Persons authorised by Národná banka Slovenska shall be entitled to participate in the verification conducted by the competent supervisory authority of the Member State concerned, or to verify the information on their own with the consent of the competent supervisory authority.

### **Article 49n**

Persons that are part of a financial conglomerate shall exchange, for the purposes of supplementary supervision, any information they need for the discharge of obligations under Articles 49g to 49j.

### **Article 49o**

(1) Mixed financial holding companies as referred to in Article 49c shall prepare and submit to Národná banka Slovenska statements, returns, and other reports containing data needed for the exercise of supplementary supervision under Article 49g(2), Article 49h(1), and Article 49i(1) in a specified form or manner, at a specified time; their structure, scope, contents, form, categorisation, time limits, manner, method and place of submission, including the methodology of preparation shall be stipulated in a decree<sup>23</sup> issued by Národná banka Slovenska and promulgated in the Collection of Laws.

(2) Data and other information contained in the statements, returns, and other reports must be comprehensible, well-arranged, and transparent; they must give a true picture of the reported facts, and must be submitted in due time. If the submitted statements, returns, and other reports fail to correspond to the prescribed methodology or if there are justified doubts about their correctness or completeness, the mixed financial holding company shall submit to Národná banka Slovenska new data and give an explanation within the time limit set by Národná banka Slovenska.

## **PART TEN**

### **CORRECTIVE MEASURES AND FINES**

### **Article 50**

(1) Where Národná banka Slovenska finds any shortcomings in the operations of a bank or a foreign bank branch consisting in a failure to comply with the terms and conditions stipulated in its banking authorisation or in a decision on prior approval, or with the requirements and obligations specified in other decisions of Národná banka Slovenska imposed on a bank or a foreign bank branch, a failure to meet the conditions stipulated in Article 7(2), (4) and (6), and Article 8(2), (4) and (6), or a violation or circumvention of other

provisions of this Act, legally binding Acts of the European Union pertaining to banking activities, separate regulations,<sup>46</sup> or other generally binding regulations governing the conduct of banking operations, Národná banka Slovenska may, depending on the seriousness, scope, duration, consequences, and nature of detected shortcomings:

- a) require a bank or a foreign bank branch to adopt recovery measures;
- b) require a bank or a foreign bank branch to submit special statements, returns, and reports;
- c) require a bank or a foreign bank branch to terminate an unauthorised activity;
- d) impose upon a bank or a foreign bank branch a penalty of EUR 3,300 to EUR 332,000, and, in case of a recurrent or grave default, up to EUR 664,000;
- e) limit or suspend the conduct of certain banking activities or certain types of transactions for a bank or a foreign bank branch;
- f) revoke the banking authorisation of a bank or a foreign bank branch for certain banking activities;
- g) require a bank or a foreign bank branch to correct its accounting books or other records according to the findings of Národná banka Slovenska or an auditor;
- h) require the release of a correction of incomplete, incorrect, or untrue information that a bank or a foreign bank branch published in accordance with the disclosure requirement stipulated by law;
- i) require the settlement of a loss from business operations using share capital, subsequent to the use of retained earnings from previous years, funds created from profits, and capital funds to cover the loss;
- j) place a bank or a foreign bank branch under receivership for reasons stated in Article 53;
- k) revoke the banking authorisation of a bank or a foreign bank branch for reasons stated in Article 63;
- l) require a bank or a foreign bank branch to adopt measures to improve its risk management system;
- m) require a bank to maintain its own funds at a level exceeding the capital requirement stipulated by this Act in Article 29(4);
- n) require a bank to apply, for the purpose of maintaining its own funds at a level corresponding to the capital requirement, special procedures taking into account the impairment of its assets and expected losses on off-balance sheet items where the value of assets or expected losses on off-balance sheet items calculated by the bank do not correspond to the objective facts;
- o) require a bank or a foreign bank branch to reduce the level of significant risks it incurs during the course of its activities;
- p) require a bank or a foreign bank branch to maintain its assets in the prescribed range and in the prescribed amount;
- r) require a bank to restrict the provision of flexible remuneration to persons mentioned in Article 23a in an amount determined as a percentage of the total remuneration paid to persons mentioned in Article 23a, at least for one calendar year, for the purpose of maintaining its own funds at a level specified in Article 29(4);

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<sup>46</sup>) For example, Act No 566/1992 Coll. of the National Council of the Slovak Republic, as amended; Act No 202/1995 Coll. of the National Council of the SR, the Foreign Exchange Act, amending Act No 372/1990 Coll. of the Slovak National Council on infringements, as amended; Act No 118/1996 Coll. of the National Council of the SR, as amended; Act No 431/2002 Coll., as amended; Act No 510/2002 Coll., as amended; Act No 367/2000 Coll. on the prevention of money laundering and terrorist financing and on amendments to certain laws, as amended; Act No 266/2005 Coll. on consumer protection in connection with distance financial services and on amendments to certain laws; Act No 659/2007 Coll. on the introduction of the euro currency in the Slovak Republic and on amendments to certain laws; Article 6 of Act No 384/2011 Coll. on the special levy imposed on selected financial institutions and on amendments to certain laws, as amended by Act No 233/2012 Coll.

- s) require a bank to use its profits to maintain its own funds at a level exceeding the capital requirement stipulated by this Act in Article 29(4);
- t) require a bank to implement a measure proposed in the bank's recovery plan, within the timeframe set by Národná banka Slovenska;
- u) require a bank to update its recovery plan;
- v) require a bank to convene a general meeting of shareholders and to set its agenda or, if the bank fails to do so, to convene a general meeting and set its agenda directly;
- w) require a bank to recall a member of its board of directors, supervisory board, general proxy, or a managerial employee;
- x) require a bank to draw up a plan for negotiations with the bank's creditors on debt restructuring;
- y) require a bank to make changes in its business strategy;
- z) require a bank to make changes in its organisational structure and in the conduct of its banking activities;
- za) require a bank to submit to the Resolution Council any information it needs for updating the bank's resolution plan or for preparing the resolution proceedings and evaluating the bank's assets and liabilities under a separate regulation.<sup>46a</sup>

(2) Národná banka Slovenska may impose a fine upon a member of a bank's statutory body or supervisory board, the chief executive officer of a foreign bank branch<sup>22</sup> or their deputy, general proxy, a managerial employee of a bank or a foreign bank branch,<sup>22</sup> or a member of the statutory body, supervisory body, or a managerial employee of a financial holding company under Article 44(3) or a mixed financial holding company under Article 49c(1)(b) to (e), the official receiver or their deputy, for any violation of the provisions of this Act, separate laws<sup>46</sup> or other generally binding regulations governing the conduct of banking activities on an individual basis, on a consolidated basis, and within a financial conglomerate, the bank's articles of association, and other internal regulations, or for any breach of conditions or obligations imposed by a decision issued by Národná banka Slovenska, which fine may, depending on the gravity of guilt and nature of violation, go up to twelve-times the person's monthly remuneration for the past year received from the bank or foreign bank branch or from members of a consolidated group or members of a financial conglomerate to which the bank or foreign bank branch belongs; a managerial employee may be charged a fine of up to 50% of their total remuneration for the past year received from a bank or a foreign bank branch or from members of a consolidated or sub-consolidated group to which the bank or the foreign bank branch belongs. If the person concerned received income from a bank or a foreign bank branch, from members of a consolidated or sub-consolidated group, or from members of a financial conglomerate to which the bank or foreign bank branch belongs, only for part of the past year, the monthly average will be calculated from the person's total remuneration for the relevant part of the year. A bank, foreign bank, financial holding company as referred to in Article 44(3), or a mixed financial holding company as referred to in Article 49c(1)(b) shall dismiss without delay from their office persons who lose their trustworthiness as a result of a lawfully imposed fine under Article 7(15)(e).

(3) The recovery measures of a bank or of a foreign bank branch means any of the following actions:

- a) submission of a binding recovery programme that must include:
  1. a plan for the maintenance of own funds by the bank in regard to the capital requirements;

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<sup>46a)</sup> Article 51 of Act No 371/2014 Coll.

2. a plan projecting the current and anticipated trends in the economic situation of the bank or foreign bank branch, at least including balance sheets, profit and loss accounts, the budget, a strategic business plan, and an analysis of profitability in achieving the programme objectives;
3. other information that Národná banka Slovenska deems necessary;

- b) submission of an analysis of deficiencies in the bank's activities and a binding plan, including a schedule for the adoption of measures to comply with the provisions of this Act, legally binding acts of the European Union pertaining to the conduct of banking activities, separate laws,<sup>46</sup> and other generally binding legal regulations governing the conduct of banking activities;
- c) limitation or suspension of the payment of dividends,<sup>47</sup> bonuses,<sup>48</sup> and other shares in profit, remuneration and non-monetary compensation to shareholders, members of the statutory body, members of the supervisory board, and employees;
- d) limitation or suspension of salary increases for members of the statutory body, members of the supervisory board, and all employees of the bank or foreign bank branch;
- e) introduction of daily monitoring for the financial position of the bank or foreign bank branch;
- f) limitation or suspension of the expansion of new transactions made by the bank or foreign bank branch; for such transactions, prior approval is required from Národná banka Slovenska;
- g) adoption of measures to improve the risk management system;
- h) adoption of measures to prevent the transfer of risk in securitisation.

(4) Národná banka Slovenska shall require a bank to adopt recovery measures where the bank fails to meet its obligations laid down in Articles 23 and 30 or where Národná banka Slovenska finds latent support for securitisation on more than one occasion.

(5) The statutory body of a bank that fails to meet the obligations laid down in Article 23 or 30 shall submit to Národná banka Slovenska a binding recovery programme no later than 30 days after becoming aware of this fact. The binding recovery programme is to be approved by the bank's statutory body and supervisory board. Národná banka Slovenska shall approve or reject the binding recovery programme within ten days of the date of receipt.

(6) When the reasons cease for the use of the measure stipulated in paragraph (1)(e), Národná banka Slovenska shall give a written notice to the bank or foreign bank branch concerned.

(7) For a breach of the provisions of Article 3, Article 4(1), and Article 28, Národná banka Slovenska may impose a measure to eliminate and rectify the unlawful situation, as well as a penalty of:

- a) up to 10% of the total annual net turnover recorded in the previous calendar year where a legal person is involved; if the legal person is a subsidiary, the gross income stated in the parent company's consolidated financial statements shall be used;
- b) up to EUR 5,000,000 where a natural person is involved, or
- c) up to twice the amount of the benefit derived from the breach where that amount can be determined.

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<sup>47)</sup> Article 178(1), (2), (5) and (6), Article 179(3) to (5), and Article 187(e) of the Commercial Code.

<sup>48)</sup> Article 178(3) and (4) and Article 187(e) of the Commercial Code.

(8) A fine mentioned in paragraphs (1), (2), or (7) is without prejudice to liability as defined in separate regulations.

(9) Fines and corrective measures as referred to in paragraph (1) may be imposed concurrently and repeatedly. A fine mentioned in paragraphs (1), (2) or (7) shall be payable within 30 days of the effective date of the decision imposing the fine. A fine imposed with finality shall be administered by the financial control administrator competent according to the registered office address (of a legal person) or the place of business or permanent residence, if different from the place of business (of a natural person). Imposed fines shall bring in revenues for the state budget of the Slovak Republic.

(10) Fines pursuant to paragraph (1)(d), paragraph (7), Article 51(1), Article 51a(1), or Article 82(2), or corrective measures may be imposed within two years from the detection of shortcomings, but no later than within ten years of their occurrence. A fine stipulated in paragraph (2) may be imposed within one year from the detection of shortcomings, but no later than within three years of their occurrence. The limitation periods mentioned in the first and second sentences shall be interrupted when an event causing such interruption under a separate law<sup>48aa</sup> occurs, and the new limitation period will begin to lapse from the time of interruption. Shortcomings in the operation of a bank or a foreign bank branch or other person over which supervision is exercised under this Act, specified in an on-site inspection protocol, shall be considered detected from the date of expiry of the on-site inspection under a separate law.<sup>48a</sup>

(11) Národná banka Slovenska shall be entitled, even outside corrective measure or penalty proceedings, to require a bank or a foreign bank branch to submit separate statements, reports, and disclosures, and to discuss shortcomings in the operation of the bank or foreign bank branch with the members of the bank's statutory body and supervisory board, the chief executive officer of the foreign bank branch, managerial employees, and the head of the internal control and internal audit unit, who shall give Národná banka Slovenska any requested assistance.

(12) Národná banka Slovenska shall be entitled to require a bank or a foreign bank branch to maintain a specified scope of assets in the prescribed amount also when this is necessary owing to objective circumstances related to financial markets, the effect of which may impair the stability of the financial market or disrupt its credibility. Národná banka Slovenska may impose measures in accordance with paragraph (1)(s) to (z) even if the bank concerned is likely to breach in the near future any of the obligations arising from this Act, the legally binding acts of the European Union pertaining to the conduct of banking activities, separate laws,<sup>46</sup> other generally binding legal regulations governing the conduct of banking activities, mainly if Národná banka Slovenska finds that the bank's capital adequacy ratio exceeds the capital adequacy requirement by less than 1.5 percentage points as a result of the bank's worsening financial position, including liquidity, increasing leverage, growing volume of non-performing loans or rising concentration risk.

(13) Where, on the basis of supervision exercised under Article 6(2), Národná banka Slovenska finds that the risks to which a bank is or may be exposed are insufficiently covered by the bank's own funds, even after the bank has adopted the measures proposed by Národná banka Slovenska under Article 6(2), Národná banka Slovenska may order the bank to

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<sup>48aa</sup>) Article 19(4) of Act No 747/2004 Coll., as amended.

<sup>48a</sup>) Article 10(5) of Act No 747/2004 Coll.

maintain own funds in an amount exceeding the capital requirement laid down in Article 30(4) and (5) of this Act, while taking into account the quantitative and qualitative aspects of the system used for internal capital adequacy assessment under Article 27(3).

(14) If a bank or a foreign bank branch reports<sup>48b</sup> to Národná banka Slovenska that the stress-test results materially exceed the own funds requirement for the correlation trading portfolio, Národná banka Slovenska may impose additional own funds requirements for the coverage of specific risks to the correlation trading portfolio.

(15) Národná banka Slovenska shall publish on its official website, for a period of at least five years,<sup>48c</sup> information on the corrective measures and penalties imposed under paragraphs (1), (2), (7) and Articles 51(1), 51a(1) and (2), and 52(1), against which there is no appeal, without undue delay after the bank, foreign bank branch, mixed financial holding company or person concerned is informed of those corrective measure or penalties.

(16) Národná banka Slovenska shall publish information in accordance with paragraph (15) mainly on the type of the corrective measure or penalty imposed; the nature of the breach; the business name, registered office, and identification number of the bank, foreign bank branch or mixed financial holding company, or the first and last name, permanent residence address, or business name, registered office, and identification number of the person on whom a corrective measure or penalty has been imposed. Information pursuant to the first sentence shall be published in accordance with a separate regulation.<sup>48d</sup>

(17) Information under paragraph (16) shall be published anonymously where:

- a) the person concerned is a natural person, since personal data disclosure is unlawful;
- b) there is a justified risk to financial market stability or an examination is underway under a separate regulation;<sup>48e</sup>
- c) there is a justified risk that disproportionate damage may be caused to the bank or natural person involved.

(18) Národná banka Slovenska may impose the obligation referred to in paragraph (1)(d) even if the bank's financial position has worsened substantially, if the entity concerned has seriously violated the applicable legal regulations or the bank's articles of association or failed to fulfil any of its tasks.

(19) Národná banka Slovenska shall send a copy of any decision to the Resolution Council within two working days of the date of its issuance pursuant to Article 50. The Resolution Council may require the bank concerned to enter into negotiations with potential purchasers of the bank, or of any part thereof, under a separate regulation.<sup>48f</sup>

(20) The measures referred to in subparagraphs (1)(t) to (za) shall be subject to the provisions of a separate regulation.<sup>30zy</sup>

## Article 50a

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<sup>48b</sup>) Article 377(5) of Regulation (EU) No 575/2013.

<sup>48c</sup>) Article 37(3) of Act No 747/2004 Coll., as amended by Act No 276/2009 Coll.

<sup>48d</sup>) Article 27(7) of Act No 747/2004 Coll.

Act No 122/2013 Coll. on personal data protection and on amendments to certain laws.

<sup>48e</sup>) For example, the Criminal Code, as amended.

<sup>48f</sup>) Article 53 of Act No 371/2014 Coll.

Národná banka Slovenska shall preserve the anonymity of an employee, managerial employee, statutory body or supervisory board member of a bank, or the anonymity of an employee or managerial employee of a foreign bank branch, who provides Národná banka Slovenska with any information on shortcomings in the activities of the bank or foreign bank branch concerned in accordance with Article 50(1).

## **Article 50b**

(1) Národná banka Slovenska as a supervisory authority responsible for the exercise of supervision on a consolidated basis shall notify the European supervisory authority (European Banking Authority) of its intention to issue a decision pursuant to Article 50(1)(t) to (za) in respect of a bank that is a parent undertaking and shall discuss the matter with the members of the College. Národná banka Slovenska shall take into account the impact of the measures it has proposed on the subsidiaries. The decision of Národná banka Slovenska shall be delivered to the College members, and to the European supervisory authority (European Banking Authority). If, before the expiry of the period set for discussing the intention of Národná banka Slovenska mentioned in the first sentence, a member of the College requests assistance from the European supervisory authority (European Banking Authority), Národná banka Slovenska shall decide in accordance with the decision of the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) fails to issue a decision within three days of the delivery date of the request for assistance, Národná banka Slovenska shall decide on its own.

(2) If Národná banka Slovenska as a supervisory authority responsible for the exercise of supervision on a consolidated basis is notified that the supervisory authority of another Member State exercising supervision over a company that is part of a consolidated group intends to issue a decision pursuant to Article 50(1)(t) to (za), Národná banka Slovenska may assess the probable impact of that decision on the group or on its members from other Member States and report its comments to the competent supervisory authorities of those Member States within three days.

(3) Národná banka Slovenska shall notify the European supervisory authority (European Banking Authority) of its intention to issue a decision pursuant to Article 50(1)(t) to (za) in respect of a bank that is part of a consolidated group and shall discuss the matter with the competent supervisory authority responsible for the exercise of supervision on a consolidated basis. The decision shall be delivered to the members of the College, as well as to the European supervisory authority (European Banking Authority). If, before the expiry of the period set for discussing the intention of Národná banka Slovenska mentioned in the first sentence, a College member requests assistance from the European supervisory authority (European Banking Authority), Národná banka Slovenska shall discontinue the proceedings and decide in accordance with the decision of the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) fails to issue a decision within three days of the delivery date of the request for assistance, Národná banka Slovenska shall decide on its own.

(4) If Národná banka Slovenska as a supervisory authority responsible for the exercise of supervision on a consolidated basis is notified pursuant to paragraph (2) that the supervisory authority of a bank that is part of a consolidated group also intends to issue a decision in accordance with Article 50(1)(t) to (za), Národná banka Slovenska shall, with the objective of simplifying the recovery of the bank's financial position, cooperate with the supervisory authority referred to in paragraph (2) to determine whether it is more appropriate

to coordinate the measures mentioned in Article 50(1)(t) to (za) in relation to more than one bank. If Národná banka Slovenska fails to reach an agreement with the supervisory authority referred to in the first sentence within five days of the delivery date of the notification mentioned in paragraph (2), Národná banka Slovenska shall decide in respect of a bank established in the Slovak Republic on its own. If, within the period defined in the second sentence, any of the supervisory authorities requests assistance from the European supervisory authority (European Banking Authority) to reach an agreement in respect of the measures mentioned in Article 50(1)(t) to (za) on the basis of Article 33o(2)(d), (j), (k) and (s) or Article 50(1)(w), (x) or (z) under a separate regulation,<sup>19</sup> Národná banka Slovenska shall discontinue the proceedings and decide in accordance with the decision of the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) fails to issue such decision within three days of the delivery date of the request for assistance, Národná banka Slovenska shall decide in respect of a bank established in the Slovak Republic on its own. Národná banka Slovenska shall deliver its decision to the relevant supervisory authorities of the Member States concerned.

(5) If Národná banka Slovenska disagrees with the relevant supervisory authority's intention to issue a decision pursuant to Article 50(1)(t) to (za), in compliance with Article 33o(2)(d), (j), (k) and (s) or Article 50(1)(w), (x) and (z), in relation to a parent undertaking that is part of a consolidated group, together with a subsidiary that is subject to supervision by Národná banka Slovenska, or to a subsidiary based in another Member State and belonging to a consolidated group supervised by Národná banka Slovenska, it may, before the negotiation in the College comes to an end, request assistance from the European supervisory authority (European Banking Authority) in accordance with a separate regulation.<sup>19</sup>

## **Article 51**

(1) Národná banka Slovenska may impose a fine on a legal person that is part of a consolidated group over which it exercises supervision on a consolidated basis, according to the seriousness, scope, duration, consequences, and nature of the revealed shortcomings, in the amount of EUR 3,300 to EUR 664,000, if the legal person:

- a) does not allow an on-site inspection;
- b) fails to supply the requested statements, returns, and other reports for the purposes of supervision on a consolidated basis;
- c) provides incorrect, untrue, or incomplete statements, returns, and other reports, or fails to observe the deadlines set for their delivery, or
- d) fails to observe the duty stipulated in Article 47(1).

(2) The provisions of Article 50(7) to (9) and paragraph (10), first sentence, apply to fines as mentioned in paragraph (1).

## **Article 51a**

(1) Národná banka Slovenska may impose a fine on a mixed financial holding company or a person included in a financial conglomerate over which Národná banka Slovenska exercises supplementary supervision, according to the seriousness, scope, duration, consequences, and nature of the revealed shortcomings, in the amount of EUR 3,300 to EUR 664,000, if the person concerned:

- a) does not allow an on-site inspection;
- b) fails to supply the requested statements, returns, and other reports for the purposes of supplementary supervision;

- c) provides incorrect, untrue, or incomplete statements, returns, or other reports, or fails to observe the deadlines set for their delivery; or
- d) fails to observe the duties stipulated in Articles 49g to 49j.

(2) When the solvency of a financial conglomerate is at risk or the requirement to maintain a sufficient amount of own funds is not observed in a financial conglomerate that is subject to supplementary supervision, Národná banka Slovenska shall, in relation to the mixed financial company, be entitled to:

- a) impose measures designed to ensure the recovery of the financial conglomerate concerned in accordance with Article 50(3), or
- b) restrict or suspend the conduct of certain intragroup transactions.

(3) If a financial conglomerate includes a person that is under the supervision of Národná banka Slovenska in accordance with Article 6(1), Národná banka Slovenska shall also be entitled to impose a penalty under Article 50 on the basis of a notice from the relevant Member State's supervisory authority responsible for supervising the financial conglomerate in which the person mentioned in Article 6(1) is included.

(4) If Národná banka Slovenska imposes a penalty under Article 6(1) on a person included in a financial conglomerate that is subject to supplementary supervision by another Member State's competent supervisory authority and if the imposition of such penalty has some significance for the exercise of supplementary supervision, Národná banka Slovenska shall report this fact to the relevant supervisory authority of the Member State concerned.

## Article 52

(1) Národná banka Slovenska may suspend the exercise of the right to attend and vote at a bank's general meeting and the right to request the convening of an extraordinary meeting for a person who has performed a deed in violation of Article 28(1)(a), or who has acquired prior approval under Article 28(1)(a), on the basis of a misstatement. The exercise of these rights may also be suspended by Národná banka Slovenska for a person whose action is detrimental to the proper and prudent operation of the bank or where such action can reasonably be expected in cases specified in Article 28(12).

(2) Five working days before the date of a general meeting, in accordance with a separate regulation,<sup>49</sup> the bank concerned shall give an order to register a suspension of the exercise of rights to dispose of all book-entry shares it has issued.

(3) A bank shall present to Národná banka Slovenska an extract from the register of issuers of book-entry securities made on the day of when the bank's order to register a suspension of the exercise of rights to dispose of book-entry securities was executed under a separate regulation<sup>49</sup> for all book-entry shares issued by the bank. Such extract may not be made before the date of registration. The bank shall deliver the extract to Národná banka Slovenska on the day when it is made. Without undue delay, Národná banka Slovenska shall mark in this extract the person the exercise of whose rights as stipulated in paragraph (1) have been suspended and deliver the extract to the bank no later than the day preceding the bank's general meeting. When Národná banka Slovenska marks in this extract the person for whom it again found a reason to suspend the rights mentioned in paragraph (1), this shall mean commencing proceedings for the suspension of this person's rights as stipulated in paragraph

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<sup>49</sup>) Act No 566/2001 Coll., as amended.

(1); a preliminary injunction in the matter of suspending rights as stipulated in paragraph (1) shall be delivered by Národná banka Slovenska to the person concerned and to the bank no later than on the day of the general meeting.

(4) A preliminary injunction mentioned in paragraph (3) shall be binding upon the bank.

(5) A preliminary injunction mentioned in paragraph (3) is also deemed delivered when given to a proxy authorised to represent the person concerned at the general meeting.

(6) A bank may not allow the presence at its general meeting of persons marked by Národná banka Slovenska under paragraph (3), or persons not included in the extract submitted by the bank under paragraph (3), or persons authorised to act on their behalf.

(7) The shares affected by a suspension of the exercise of rights under paragraph (1) are not deemed to be shares with voting rights during the suspension of these rights. These shares are not taken into account when a general meeting is assessed whether it has a quorum to take decisions or when the general meeting makes decisions. The resulting increase in the share of voting rights of other persons that are named in the extract submitted by the bank under paragraph (3) does not require the prior approval of Národná banka Slovenska under Article 28(1)(a).

(8) When the reasons for suspending the exercise of rights under paragraph (1) cease, Národná banka Slovenska shall lift the suspension without delay.

(9) Národná banka Slovenska shall be entitled to file a request in court to declare invalid a decision of a bank's general meeting owing to a violation of laws, other generally binding regulations, decisions of Národná banka Slovenska, or the bank's articles of association, within three months from the date it learned of this decision, but no later than within a year from the date when the decision was adopted.

## **Article 52a**

(1) Národná banka Slovenska shall notify the European supervisory authority (European Banking Authority) of any sanctions it has imposed, for the purposes of information exchange between the competent supervisory authorities via the central database maintained by the European supervisory authority (European Banking Authority). Národná banka Slovenska shall provide the European supervisory authority (European Banking Authority) with any information needed to keep that central database up-to-date.

(2) Národná banka Slovenska shall use the central database referred to in paragraph (1) for the purpose of assessing the reputation of persons under this Act. In providing data from the crime register to the competent supervisory authorities, Národná banka Slovenska shall proceed in accordance with a separate law.<sup>49aa</sup>

## **Article 53**

(1) The purpose of receivership of a bank is in particular:

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<sup>49aa</sup>) Act No 330/2007 Coll., as amended.

- a) to prevent the bodies of a bank responsible for the deteriorating economic situation of the bank from performing their functions;
- b) to eliminate the most serious shortcomings in the bank's management and activities with the objective of stopping further deterioration in the bank's economic situation;
- c) to protect the deposits and other rights of the bank's clients against damage or growing damage;
- d) to adopt a recovery programme, if the bank's economic recovery is feasible, including the adoption and performance of organisational and other measures designed to gradually stabilise the bank and restore its liquidity, mainly in cooperation with the major shareholders of the bank.

(2) Receivership is a reorganisation measure that may impact upon the existing rights of third persons.

(3) Národná banka Slovenska shall impose receivership if a bank's own funds are at a level lower than 50% of the total amount corresponding to the bank's own funds requirements.<sup>20a</sup>

(4) Národná banka Slovenska may impose receivership if shortcomings in the bank's operation put its safe functioning at risk or endanger the rights or interests of its clients protected by law, if the results of operations for the current period and for previous periods cause the bank a loss exceeding 30% of its share capital, or in the case of another serious shortcoming in the bank's operation. Národná banka Slovenska shall impose receivership in accordance with the first sentence only if the removal or replacement of a member of the bank's board of directors or supervisory board under Article 50(1)(w) has not led to the elimination of shortcomings in the bank's operations, which thus continue posing a risk to its safe functioning or endangering the rights or interests of its clients protected by law, nor has it led to the elimination of other major shortcomings in the bank's operations or to an improvement in its financial position consisting in a loss exceeding 30% of the bank's share capital in its financial results for the current period or for the previous periods.

(5) Receivership shall be introduced from the moment of delivery of a decision on receivership to a bank; it shall have immediate effect on the bank and other persons. Through the delivery of this decision, the information obligation of Národná banka Slovenska will be met.

(6) From the moment of its introduction, receivership imposed on a bank shall also apply to its branches located in other Member States and shall be effective in relation to third persons, too. Receivership imposed on a bank branch located in another Member State shall be conducted and its effects managed pursuant to this Act, unless provided otherwise hereunder.

(7) Národná banka Slovenska may not place in receivership a foreign bank branch established by a foreign bank established in another Member State. Receivership in a foreign bank branch shall be governed, as appropriate, by the same provisions that apply to receivership imposed on banks.

(8) A foreign reorganisation measure with a similar purpose and impact upon the existing rights of third persons as the purpose and impact of receivership (hereinafter referred to as 'foreign reorganisation measure') introduced in a foreign bank established in a Member State shall, from the moment of its introduction, also apply to its branch located in the

territory of the Slovak Republic and shall also be effective in relation to third persons in the territory of the Slovak Republic. A foreign reorganisation measure introduced in a Member State over a foreign bank branch with a registered office outside the European Union shall, from the moment of its introduction, also be effective vis-à-vis third persons in the territory of the Slovak Republic. A foreign reorganisation measure introduced in a Member State shall be implemented in the territory of the Slovak Republic and its effects managed pursuant to the regulations of that Member State, unless this Act provides otherwise.

(9) Národná banka Slovenska shall forthwith provide for the publication of the pronouncement of a decision on the imposition of receivership, instructions on how to file an appeal, and the purpose of receivership in the Journal of Národná banka Slovenska, in at least two nationwide dailies, on publicly accessible premises of the head office, and in commercial offices of the bank placed in receivership; any persons Národná banka Slovenska asks to disclose such data shall do so. Where receivership is imposed on a bank that has a branch located in the territory of a Member State, Národná banka Slovenska shall forthwith provide for the publication of the pronouncement of a decision on the imposition of receivership, instructions on how to file an appeal, and the purpose of receivership also in the Official Journal of the European Union and in at least two nationwide dailies of the relevant Member State, both in Slovak and in the official language of the Member State concerned. The publication of such data shall have no impact upon the effects of receivership.

(10) Národná banka Slovenska shall forthwith inform the relevant Member State's competent supervisory authority about the imposition of receivership upon a bank that has a branch in the territory of that Member State. This information shall also comprise the explication of effects ensuing from the imposition of receivership.

(11) If, while exercising supervision in accordance with Article 16 over a foreign bank branch, Národná banka Slovenska reveals any reason for the introduction of a foreign reorganisation measure in the foreign bank that has its registered office in a Member State and to which this branch belongs, it shall report this fact to the competent supervisory authority of the Member State concerned.

## Article 54

(1) Receivership in a bank shall be conducted by an official receiver (hereinafter referred to as 'receiver') and by a deputy receiver. A receiver and at most three deputy receivers shall be appointed and recalled by Národná banka Slovenska. The receiver and deputy receivers may also be appointed for a definite period. Národná banka Slovenska may appoint more than one receiver for the same bank.

(2) A certificate of the appointment of a receiver and a deputy receiver for the conduct of receivership and of persons implementing a foreign reorganisation measure in a foreign bank having its registered office in a Member State shall be an original of a deed of appointment or a certificate issued by Národná banka Slovenska or by the competent supervisory authority of the relevant Member State. Certification of translation of such certificate into the official language of the Member State or the application of a similar procedure thereto shall not be required.

(3) A receiver may be a natural or legal person as specified in paragraph (5) of this Article.

(4) A receiver, if being a natural person, and a deputy receiver must be persons professionally competent in accordance with Article 7(14). A receiver or a deputy receiver may not be a person who:

- a) is an employee of Národná banka Slovenska or a member of the Resolution Council or was an employee of Národná banka Slovenska or a member of the Resolution Council at any time in the past two years before the imposition of receivership;
- b) has been lawfully sentenced for a criminal offence committed in a managerial position or for an intentional criminal offence;
- c) held, at any time in the past three years, office as a member of the supervisory board, statutory body, general proxy, or a managerial employee in the bank placed in receivership, unless the receiver voluntarily resigned from this office;
- d) has a special relationship as defined in Article 35(4) with the bank placed in receivership;
- e) is a borrower or creditor of the bank placed in receivership;
- f) is an employee or member of the statutory or supervisory body of a legal person that is a borrower or creditor of the bank placed in receivership;
- g) is a member of the statutory or supervisory body of another bank, or the chief executive officer, or their deputy, of another branch of a foreign bank;
- h) at any time in the past year, provided the bank placed in receivership with audit services, without expressing qualified opinion about the bank's activities.

(5) A receiver, where it is a legal person, may only be a legal person established for a joint conduct of counselling-at-law or which is an auditing company under a separate regulation,<sup>49a</sup> provided that this legal person has insurance against liability for damage caused in connection with its activities<sup>49a</sup> when conducting receivership and acting in the capacity of a receiver and provided that the partners of this legal person, the statutory body, members of the statutory body, members of the supervisory board of this legal person, or employees of this legal person, include no natural person who may not be a receiver under paragraph (4).

(6) A bank's receiver shall be authorised to manage the bank and its employees or to cooperate with the bank's statutory body in managing the bank and its employees. The statutory body shall cooperate with the receiver to such extent as the receiver may deem necessary for the exercise of its powers. The powers of a receiver are defined by this Act, separate regulations,<sup>49b</sup> and a contract to perform the functions of an receiver concluded under Article 57(1), to which no separate regulation shall apply.<sup>27</sup> Acting in the capacity of a receiver, who is a natural person, shall be deemed to be a public office, for the performance of which days off shall be provided under a separate regulation. The receiver shall be bound by limitations specified in a decision of Národná banka Slovenska on the introduction of receivership or the contract to perform the functions of a receiver.

(7) A deputy receiver shall be responsible for the sphere of activity of a bank in receivership that is entrusted to him or her by the receiver and shall report to the receiver when conducting receivership. The powers of a deputy receiver are defined in a contract to perform the functions of a deputy receiver concluded with Národná banka Slovenska under

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<sup>49a)</sup> Articles 13, 14 and 15 of Act No 586/2003 Coll. on advocacy and on amendments to Act No 455/1991 Coll. on sole traders (the Sole Traders Act), as amended.

<sup>49a)</sup> Articles 2(5) and 6(2) and Article 8 of Act No 466/2002 Coll.

<sup>49a)</sup> Articles 14, 15 and 27 of Act No 586/2003 Coll. on advocacy and on amendments to Act No 455/1991 Coll. on sole traders (the Sole Traders Act), as amended by Act No 8/2005 Coll.

<sup>49b)</sup> Article 2(3) and Articles 10 and 25 of Act No 540/2007 Coll. on auditors, audit and audit supervision, and on amendments to Act No 431/2002 Coll. on accounting, as amended.

<sup>49b)</sup> For example, Article 9(1) first sentence of the Labour Code and Article 20(1) of the Civil Code.

Article 57(1), to which no separate regulation shall apply.<sup>27</sup> Acting in the capacity of a deputy receiver shall be regarded as a public office, for the performance of which days off shall be provided under a separate regulation. With the prior written approval of Národná banka Slovenska, the receiver may empower in writing one of their deputies to perform acts on behalf of the receiver, on the basis of a written power of attorney with a signature verified in accordance with separate regulations;<sup>50</sup> such prior approval may be expressed directly in the contract to perform the functions of a receiver.

(8) In conducting receivership in the territory of another Member State, a receiver and a deputy receiver shall proceed in accordance with laws and other generally binding regulations of the Member State in the territory of which they operate, especially when realising assets and providing information to employees.

(9) A person implementing a foreign reorganisation measure introduced in a Member State and their deputy shall have, when implementing this foreign reorganisation measure, the same legal status and shall be authorised to perform all the powers in the territory of the Slovak Republic as if conducting receivership in the territory of the Member State in which the foreign reorganisation measure has been introduced; when performing their powers, however, they must proceed in accordance with the laws and other generally binding regulations of the Slovak Republic, especially when realising assets and providing information to employees.

(10) With the prior written approval of Národná banka Slovenska, a receiver conducting receivership shall be entitled, with the aim of accelerating the solution of serious problems in the bank in receivership, to hire professional advisors; such prior approval may be expressed directly in the contract to perform the functions of a receiver. A professional advisor may be hired exclusively for tasks for the performance of which they have the necessary professional qualification and experience. A professional advisor may not be a person who under paragraph (4) may not be a receiver.

(11) The office of a receiver and their deputies shall terminate on the date when the receivership ends, the period for which they were appointed expires, or on the day of their dismissal from office. Národná banka Slovenska shall dismiss a receiver or a deputy receiver if, in connection with receivership, they violate this Act or other generally binding legal regulations, or if there are reasons for their dismissal as specified in the contract to perform the functions of a receiver or deputy receiver.

## Article 55

(1) Where a bank is placed in receivership, the performance of functions shall be suspended for all bodies and managerial employees of that bank,<sup>22</sup> except for the general meeting of shareholders, and the powers of the bank's statutory body and supervisory board shall be transferred to the receiver. During this time, the term of office of members of the statutory body and the supervisory board shall not lapse. This shall not preclude the right of the statutory body to appeal against the decision to impose receivership. In performing the

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<sup>50</sup>) Act No 323/1992 Coll. on notaries and notarial activities (Notarial Order), as amended. Article 35(2) of Act No 233/1995 Coll. of the National Council of the Slovak Republic, as amended by Act No 585/2006 Coll. Act No 599/2001 Coll. on the certification of documents and signatures by district authorities and municipalities.

duties of the statutory body and the supervisory board, the receiver shall not be subject to any separate regulations.<sup>1</sup>

(2) A receiver shall be entitled to convene and chair a general meeting of the bank, and to submit proposals.

(3) A receiver shall be entitled to take measures needed to restore the stability and liquidity of a bank, in particular to dispose of its accounts receivable and other assets, including the sale of a branch or another organisational unit of the bank as part of the bank's business or the bank's entire business for a reasonable price, to close down a branch or another organisational unit of the bank, or to discontinue their operations; the foregoing is without prejudice to the provisions of Article 28(1).

(4) A receiver shall, no later than 30 days after the imposition of receivership, submit to Národná banka Slovenska a recovery programme for the bank placed in receivership, or propose another solution for the situation in the bank.

(5) A receiver may, with the prior approval of Národná banka Slovenska and the Resolution Council, put forward a motion for bankruptcy proceedings<sup>52</sup> if a bank becomes insolvent.<sup>24aa</sup>

(6) A receiver may submit a proposal to Národná banka Slovenska for the revocation of a banking authorisation if they find any of the facts stated in Article 63.

(7) The provisions of paragraphs (1) to (6) shall not apply where the receiver's powers as specified in Article 54(6) consist in cooperation with the statutory body in the bank's management.

## Article 56

(1) Receivers, deputy receivers, and invited professional advisors shall perform their duties with due professional care and shall be liable for any damage caused by their activity. Receivers and deputy receivers shall regularly inform Národná banka Slovenska of the steps they have taken in the course of receivership. Národná banka Slovenska may require receivers to submit regular reports on the financial positions of banks in receivership. Such reports shall be submitted no later than two weeks before the end of receivership.

(2) Receivers, deputy receivers, and invited professional advisors may not misuse the information they acquire while conducting receivership in their favour or in favour of other persons, and may not handle a bank's assets in their favour or in favour of close persons.<sup>30</sup>

(3) Receivers, deputy receivers, and invited professional advisors shall keep confidential any facts associated with the conduct of receivership in relation to all persons, except for Národná banka Slovenska, in connection with the performance of their tasks under this Act or a separate regulation;<sup>8</sup> the confidentiality obligation shall remain in effect after they complete their tasks in connection with the receivership. The foregoing is without prejudice to the provisions of Article 91(2) to (7), Article 92(1) to (7), and Article 93.

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<sup>52</sup>) Articles 3 to 107 and Articles 176 to 195 of Act No 7/2005 Coll., as amended.

## **Article 57**

(1) Národná banka Slovenska shall conclude a contract with a receiver to perform the tasks of a receiver, which shall specify in detail the receiver's rights and duties. It shall also define the receiver's liability for any damage caused in conjunction with the performance of these tasks. Národná banka Slovenska shall conclude a contract with a deputy receiver to perform the tasks of a deputy receiver, which shall specify in detail the deputy receiver's rights and duties. It shall also define the deputy receiver's liability for any damage caused in connection with the performance of these tasks.

(2) A receiver shall invite professional advisors under Article 54(10) on a contractual basis, in accordance with the terms and conditions approved by Národná banka Slovenska.

(3) The remuneration due to the receiver and deputy receiver for their office shall be determined by Národná banka Slovenska.

(4) Expenses related to the conduct of receivership, including the remuneration of the receiver, deputy receiver, and professional advisors shall be covered by the bank placed in receivership.

## **Article 58**

(1) Members of the statutory body, members of the supervisory board, managerial employees, and the head of the internal control and internal audit unit shall, at the request of a receiver, cooperate with the receiver, in particular to provide any document and material requested by the receiver in connection with the conduct of receivership.

(2) A receiver shall be entitled to immediately terminate an employment contract, give a dismissal notice, or transfer to another position<sup>27</sup> a managerial employee or the head of the internal control and internal audit unit. This shall not apply where the receiver's powers as specified in Article 54(6) consist in cooperation with the statutory body in the bank's management.

(3) In a bank placed in receivership, the members of the bank's statutory body and supervisory board may not receive any severance pay or any benefits upon termination of their membership in these bodies provided for in contracts made between the bank and the statutory body members or supervisory board members, or stipulated by the bank's internal regulations.

## **Article 59**

(1) The effects of receivership imposed upon a bank having a branch in another Member State, if concerned are:

- a) labour contracts and labour-law relations shall be governed by the legal system of the Member State pertaining to the labour contract;
- b) purchase contracts and lease contracts relating to real property shall be governed by the legal system of the Member State in the territory of which the real property is located;
- c) rights relating to real property, a ship or an airplane, that must be recorded in the real estate register or in another public register, shall be governed by the legal system of the Member State in the territory of which the relevant public register is kept; this shall equally apply to legal acts carried out after receivership has been imposed, in respect of

real property, a ship or an airplane, and the associated rights, required to be entered in a public register or another similar register kept in the Member State concerned;

d) ownership rights or other rights to investment instruments<sup>37a</sup> that must be entered in a public register of securities or another similar register, kept or located in a Member State, shall be governed by the legal system of the Member State in the territory of which the relevant public register or other similar register is kept; this shall equally apply to legal acts carried out upon the imposition of receivership, relating to the financial instruments and the associated rights that are required to be entered in a public register or another similar register kept in the Member State concerned;

e) contracts on settlement or other similar agreements, the purpose of which is to compensate or change the overall difference between the mutual claims and liabilities of contracting parties into a single summary mutual claim or liability for these contracting parties; purchase and repurchase agreements, and contracts for stock exchange transactions, shall be governed by the legal system applying to these contracts.

(2) For a period of six months from the imposition of receivership, no assignment of claims against the bank in receivership or claim set-offs between the bank and other persons shall be permitted, except for cases where the legal system of another Member State in which the creditor's residence or registered office is located allows for the assignment of claims and claim set-offs even during the introduction of a reorganisation measure.

(3) A receiver may challenge a legal act<sup>53</sup> carried out in the past three years prior to the imposition of receivership with the intention of harming the bank or its creditors, if such intention was known to the bank; this shall not apply if the counterparty can document that, despite due care, it could not be aware of the bank's intention to harm its creditors.

(4) A receiver may also challenge a legal act<sup>53</sup> inflicting damage on a bank, carried out in the past three years prior to the imposition of receivership between the bank and a person in a special relationship with the bank.

(5) The imposition of receivership or of a foreign reorganisation measure in a Member State shall not affect the real rights of creditors or third persons in relation to assets belonging to a bank or a foreign bank, which, at the time when receivership or a foreign reorganisation measure is introduced, are located in the territory of another Member State.

(6) The imposition of receivership on a bank purchasing an asset or of a foreign reorganisation measure in a foreign bank purchasing an asset shall not affect the entitlement of the seller to maintain the ownership, if, at the time when receivership or a foreign reorganisation measure is introduced in a Member State, this asset is located in the territory of another Member State.

(7) The imposition of receivership on a bank selling an asset, or of a foreign reorganisation measure in a foreign bank selling an asset, shall not constitute grounds for cancellation or termination of the sale of an already delivered asset and shall not prevent the buyer from acquiring the ownership, if, at the time when receivership or a foreign reorganisation measure is introduced, the asset under sale is located in the territory of another Member State

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<sup>53</sup>) Articles 42a and 42b of the Civil Code.

(8) The introduction of receivership or of a foreign reorganisation measure in a Member State and the provisions of paragraphs (2), (5), (6) and (7) shall not be an obstacle to filing a motion with the court to determine the nullity of legal acts or invalidity of disputable legal acts that are detrimental to creditors, a motion to determine the right to withdraw from legal acts, or a motion to pronounce the nullity of legal acts detrimental to creditors, or a motion to issue a precaution concerning an obligation to refrain from the performance of legal acts detrimental to creditors of a bank placed in receivership or creditors of a foreign bank in which a foreign reorganisation measure has been introduced. If, before the introduction of receivership, court proceedings have been commenced in a Member State concerning an asset or a right withdrawn from a bank, such proceedings shall be governed, even after the introduction of receivership, by the legal system of the Member State in which the proceedings has been commenced and conducted.

(9) The imposition of receivership on a bank is without prejudice to the validity, effectiveness, and exercise of rights under a contract on final settlement of gains and losses or a contract on financial collateral, provided that such contract meets the requirements of separate regulations.<sup>53a</sup>

## Article 60

(1) Introduction of receivership, information on the receiver and their deputy, and the end of receivership and associated changes shall be recorded in the Commercial Register.<sup>1</sup> A proposal to record the introduction of receivership shall be submitted by Národná banka Slovenska; the submission of such proposal shall not be subject to any separate regulation.<sup>54</sup>

(2) The following information shall be recorded in the Commercial Register:

- a) the first name, last name, permanent residence, and birth registration number of the receiver and deputy receiver, if they are natural persons; and
- b) the business name, registered office, and identification number of the receiver and deputy receiver, if they are legal persons.

(3) A receiver may propose that receivership be entered in the Commercial Register or a similar public register kept in another Member State within the territory of which a bank branch placed in receivership is located, provided that such entry is allowed by the legal system of the relevant Member State.

(4) The introduction of a foreign reorganisation measure in a foreign bank having its registered office in a Member State and a branch in the territory of the Slovak Republic, its termination and changes related thereto shall be entered into the Commercial Register. A motion for entry shall be filed by the competent supervisory authority of the Member State concerned or by the person implementing the foreign reorganisation measure. Also the first name, last name, and address of residence of the person in charge of the foreign reorganisation measure shall be entered into the Commercial Register.

## Article 61

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<sup>53a</sup>) Article 151me of the Civil Code, as amended.  
Articles 53a to 53e of Act No 566/2001 Coll., as amended.  
Article 180 of Act No 7/2005 Coll.

<sup>54</sup>) Article 5b of Act No 530/2003 Coll. on the Commercial Register and on amendments to certain laws, as amended by Act No 136/2010 Coll.

(1) During receivership, Národná banka Slovenska may provide financial assistance to a bank in order to overcome a temporary lack of liquidity. A loan by which such financial assistance is provided must be adequately secured by assets serving as collateral; no bank may be favoured or disfavoured in the provision of such financial assistance.

(2) Claims for the repayment of financial assistance provided in accordance with paragraph (1) shall have priority over the bank's other liabilities, except for such other liabilities that have priority in the satisfaction of claims under special regulations.<sup>55</sup>

## Article 62

(1) Receivership shall end:

- a) upon delivery of a decision by Národná banka Slovenska to end receivership, when reasons for its continuation cease;
- b) when the bankruptcy of the bank in receivership is declared;
- c) upon expiry of twelve months from the imposition of receivership; this shall not apply where Národná banka Slovenska assesses that, upon expiry of the twelve-month period, the reasons for receivership still persist; or
- d) by revocation or expiry of the banking authorisation.

(2) The end of receivership under paragraph (1) shall be promulgated without delay by Národná banka Slovenska in at least one nationwide daily and on the publicly accessible premises of the bank in receivership and in all its commercial offices. Persons asked by Národná banka Slovenska to promulgate this announcement have the duty to do so.

(3) A bank whose receivership ends shall convene an extraordinary general meeting without delay so that it is held within 30 days of the end of receivership. The bank shall include in the agenda of the extraordinary general meeting the dismissal of the present and the election of new members of the bank's statutory body and supervisory board; the new statutory body and supervisory board members must comply with the criteria stipulated in Article 7(2)(e).

## Article 62a

(1) Národná banka Slovenska as a supervisory authority responsible for the exercise of supervision on a consolidated basis shall notify the European supervisory authority (European Banking Authority) and the College members of its intention to issue a decision to impose receivership upon a bank that is a parent undertaking and shall discuss the matter with the College. Národná banka Slovenska shall take into account the impact of receivership on the bank's subsidiaries. The decision issued shall be delivered to both the College and the European supervisory authority (European Banking Authority). If, before the expiry of the period set for discussing the intention of Národná banka Slovenska mentioned in the first sentence, a member of the College requests assistance from the European supervisory authority (European Banking Authority), Národná banka Slovenska shall decide in accordance with the decision of the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) fails to issue a decision within three days of the delivery date of the request for assistance, Národná banka Slovenska shall decide on its own.

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<sup>55</sup>) For example, Articles 70, 87, and 94 to 101 of Act No 7/2005 Coll., as amended.

(2) If Národná banka Slovenska as a supervisory authority responsible for the exercise of supervision on a consolidated basis is notified that the supervisory authority of another Member State exercising supervision over a company that is part of a consolidated group intends to issue a decision in respect of a foreign reorganisation measure, Národná banka Slovenska may assess the probable impact of that decision on the group or on its members from other Member States and report its comments to the competent supervisory authorities of those Member States within three days.

(3) Národná banka Slovenska shall notify the European supervisory authority (European Banking Authority) of its intention to issue a decision to impose receivership upon a bank that is part of a consolidated group and shall discuss the matter with the competent supervisory authority exercising supervision on a consolidated basis. The decision shall be delivered to both the College and the European supervisory authority (European Banking Authority). If, before the expiry of the period set for discussing the intention of Národná banka Slovenska mentioned in the first sentence, a College member requests assistance from the European supervisory authority (European Banking Authority), Národná banka Slovenska shall discontinue the proceedings and decide in accordance with the decision of the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) fails to issue a decision within three days of the delivery date of the request for assistance, Národná banka Slovenska shall decide on its own.

(4) If Národná banka Slovenska as a supervisory authority responsible for the exercise of supervision on a consolidated basis is notified pursuant to paragraph (2) that the supervisory authority of a bank that is part of a consolidated group intends to issue a decision in respect of a foreign reorganisation measure, Národná banka Slovenska shall cooperate with the supervisory authority referred to in paragraph (2) to determine whether it would be more appropriate to appoint one receiver for all the banks concerned with a view to improving the bank's economic situation. If Národná banka Slovenska fails to reach an agreement with the supervisory authority referred to in the first sentence within five days of the delivery date of the notification mentioned in paragraph (2), Národná banka Slovenska shall decide in respect of the bank on its own. If, within the period defined in the second sentence, any of the supervisory authorities requests assistance from the European supervisory authority (European Banking Authority) to reach an agreement under a separate regulation,<sup>19</sup> Národná banka Slovenska shall decide in accordance with the decision of the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) fails to issue such decision within three days of the delivery date of the request for assistance, Národná banka Slovenska shall decide in respect of the bank on its own. Národná banka Slovenska shall also deliver its decision to the competent supervisory authorities of other Member States.

(5) If Národná banka Slovenska disagrees with the relevant supervisory authority's intention to issue a decision in respect of a foreign reorganisation measure in relation to a parent undertaking that is part of a consolidated group and a subsidiary that is subject to supervision by Národná banka Slovenska, or a subsidiary established in another Member State belonging to a consolidated group supervised by Národná banka Slovenska, it may, before the expiry of the period set for discussing the matter in the College, request assistance from the European supervisory authority (European Banking Authority) in accordance with a separate regulation.<sup>19</sup>

## Article 63

(1) Národná banka Slovenska shall revoke a banking authorisation where:

- a) a bank's own funds fall below the share capital limit specified in Article 7(2)(a);
- b) a bank maintains its own funds at a level lower than 25% of the sum of values corresponding to the bank's own funds requirements;<sup>20a</sup>
- c) a bank or a foreign bank branch does not start providing services under Article 2(2) introductory sentence within 12 months after its banking authorisation enters into force, or ceases to provide services for a period of 12 months;
- d) a bank or a foreign bank branch has acquired its banking authorisation on the basis of any misstatement in its authorisation application;
- e) a bank or a foreign bank branch is unable, for a period of at least 30 days, to pay its due liabilities or has been declared unable to repay deposits under a separate regulation;<sup>32</sup>
- f) in the case of a foreign bank branch, the parent bank has lost its authorisation to operate as a bank in its home country.
- g) a bank or a foreign bank branch violates the provisions of Article 7(6) and (7), Article 8(6) and (7), and Article 28(5), (8) and (9).

(2) Národná banka Slovenska may revoke a banking authorisation if serious shortcomings occur in the operation of a bank or a foreign bank branch, and in case of failure to observe the requirements regarding the business activities of banks and branches of foreign banks, if:

- a) a bank suffers a loss exceeding 50% of its share capital in single year, or 10% per year in three consecutive years;
- b) a bank, branch of a foreign bank, or a foreign bank, either in part or in full, prevents depositors from disposing of their deposits in the bank or foreign bank branch without the prior approval of Národná banka Slovenska or without a decision made under a separate regulation;<sup>56</sup>
- c) a bank or a foreign bank branch fails to meet the obligations laid down in a separate regulation;<sup>57</sup>
- d) a bank or a foreign bank branch fails to meet the terms and conditions for the commencement of its activities within the time limit specified in its banking authorisation;
- e) a bank fails to comply with the terms of Article 7(2), or a foreign bank branch fails to comply with the terms of Article 8(2);
- f) a bank or a foreign bank branch has changed its registered office without the prior approval of Národná banka Slovenska;
- g) a bank or a foreign bank branch repeatedly or after the imposition of a disciplinary fine mars the exercise of supervision;
- h) sanctions imposed under this Act or a separate law<sup>89</sup> have not led to the correction of shortcomings found.

## Article 64

(1) A banking authorisation shall expire:

- a) for a bank, on the date of its dissolution for reasons other than the revocation of its banking authorisation;
- b) for a bank, on the date of declaration of its bankruptcy under a separate regulation;<sup>58</sup>

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<sup>56</sup>) Article 8(3) and (6) of Act No 118/1996 Coll. of the National Council of the Slovak Republic, as amended.

<sup>57</sup>) Articles 6 and 7, and Article 12(4), (5) and (7) of Act No 118/1996 Coll. of the National Council of the Slovak Republic, as amended. Article 98(2)(b) of Act No 371/2014 Coll.

<sup>58</sup>) Act No 328/1991 Coll. on bankruptcy and composition, as amended.  
Act No 7/2005 Coll., as amended.

- c) for a foreign bank branch, on the date of declaration of bankruptcy of the foreign bank or on the day the foreign bank is dissolved for reasons other than the revocation of its banking authorisation;
- d) for a bank or a foreign bank branch, on the date it returns its banking authorisation; such authorisation may only be returned in writing with prior approval as stipulated in Article 28(1)(b);
- e) if a bank or a foreign bank branch has not filed a proposal for entry in the Commercial Register under Article 9(6);
- f) on the date a bank or a foreign bank branch is sold;<sup>28</sup>
- g) for a foreign bank branch, on the date its operation is discontinued by the foreign bank;
- h) for a bank or a foreign bank branch, for those banking activities for which a special authorisation as mentioned in Article 2(4) has expired.

(2) A bank, foreign bank, or branch of a foreign bank shall notify Národná banka Slovenska in writing of any facts mentioned in paragraph (1)(a), (b), (c), (d), (e), and (g), within 30 days of their occurrence.

## **Article 65**

(1) Following the delivery of a decision to revoke a banking authorisation or the expiry of a banking authorisation, Národná banka Slovenska shall forthwith discontinue, for a legal person whose authorisation expired or was revoked, the provision of payment and settlement services under Article 2(13).

(2) From the delivery of a decision to revoke a banking authorisation or from the day on which a banking authorisation expires, the legal person mentioned in paragraph (1) may not accept deposits or provide loans, nor perform activities other than those necessary to settle its outstanding claims and liabilities; such a legal person shall make payments to settle its existing claims and liabilities through an account established in another bank.

(3) A legal person whose banking authorisation has been revoked, or has expired, shall conduct activities under paragraph (2) as a bank or a foreign bank branch under this Act until its claims and liabilities are settled. The duty to submit accounting statements, statistical reports, and prudent banking reports shall not apply to such a legal person.

(4) Within 30 days after the entry into force of a decision to revoke a banking authorisation, Národná banka Slovenska shall send the decision for publication in the Commercial Bulletin.<sup>24c</sup>

(5) A valid decision to revoke a foreign bank's authorisation to conduct banking activities through a branch shall be reported by Národná banka Slovenska to the competent supervisory authority of the country in which the foreign bank has its registered office. If a decision is issued to revoke a banking authorisation of a legal person that has a branch abroad, Národná banka Slovenska shall report this fact to the competent supervisory authority of the country in which the legal person has its branch.

(6) The revocation of a banking authorisation shall be recorded in the Commercial Register.<sup>1</sup> Within 15 days from the effective date of a decision to revoke a banking

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<sup>24c</sup>) Article 1(1) of Act No 1/1993 Coll. of the National Council of the Slovak Republic on the Collection of Laws of the Slovak Republic, as amended.

authorisation, Národná banka Slovenska shall send a proposal to register this fact to the court keeping the Commercial Register; the submission of such proposal shall not be subject to any separate regulation.<sup>54</sup>

(7) As soon as a decision to revoke a banking authorisation enters into force, Národná banka Slovenska shall forthwith file a proposal to the court keeping the Commercial Register to dissolve and liquidate the bank and to appoint a liquidator. Before deciding in the matter of dissolution, the court may not apply a procedure under a separate regulation.<sup>60</sup>

(8) Národná banka Slovenska shall discontinue the proceedings to revoke a banking authorisation on the basis of a decision to declare bankruptcy under a separate regulation.<sup>58</sup>

## **PART ELEVEN** **LIQUIDATION OF A BANK**

### **Article 66**

(1) When a bank is wound up by liquidation, only Národná banka Slovenska is entitled to file a proposal to appoint and dismiss a liquidator. The filing of such proposal shall not be subject to a separate regulation.<sup>54</sup>

(2) A liquidator may not be a person who has or had a special relationship with the bank, who is or was at any time in the last five years an auditor of the bank, or was engaged in its audit in any way, without expressing a qualified opinion on the bank's operations.

(3) Národná banka Slovenska shall set the liquidator's remuneration, taking into account the range of their activities, and it shall also determine the due date for such remuneration.

(4) Persons involved in the liquidation of a legal person whose banking authorisation has been revoked, or has expired, shall keep confidential any facts associated with the conduct of liquidation vis-à-vis all persons except for Národná banka Slovenska in connection with the performance of its tasks under this Act or under a separate law,<sup>8</sup> even upon the termination of liquidation; the provisions of Articles 91 to 93a shall not be prejudiced thereby.

(5) A liquidator shall forthwith submit to Národná banka Slovenska accounting statements and documents processed in the course of liquidation under a separate regulation<sup>1</sup> and other supporting documentation requested by Národná banka Slovenska in order to review the liquidator's activity and the progress of liquidation.

(6) A liquidator shall enforce the surrender of any consideration paid according to invalid or disputable legal acts which harmed the bank or its creditors. The liquidator shall also perform other activities necessary for the purposes of liquidation of this legal person. Such activities may only be performed with the approval of Národná banka Slovenska. The provisions of Articles 94 to 114 or other generally binding regulations on administrative proceedings<sup>83</sup> shall not apply to the granting of such approval.

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<sup>60</sup>) Article 68(7) of the Commercial Code.

(7) A liquidator shall publish the pronouncement of a decision on the liquidation of a legal person whose banking authorisation has been revoked, or has expired, in the Official Journal of the European Union and at least two nationwide dailies in each Member State where a branch of this legal person is located, namely in the Slovak language and the official language of the relevant Member State.

(8) The provisions of paragraphs (1) to (7) shall likewise apply to the liquidation of a foreign bank branch having its registered office outside the European Union.

(9) The provisions of Article 54(2) and Article 59(1), (2) and (5) to (8) shall equally apply to the liquidation of a legal person whose banking authorisation has been revoked or has expired, including its branch located in the territory of another Member State, to the liquidation of a foreign bank branch having its registered office outside the European Union, as well as to the liquidator's procedures.

## **PART TWELVE MORTGAGE BANKING**

### **Article 67**

(1) For the purposes of this Act, 'mortgage transaction' means:

- a) the provision of mortgage loans and the related issuance of mortgage bonds;<sup>61</sup>
- b) the provision of municipal loans and the related issuance of municipal bonds by a bank.<sup>62</sup>

(2) Mortgage transactions may be effected in euro or in a foreign currency.

(3) In case of transactions made in a foreign currency, the exchange rate risk shall be borne by the bank or branch of a foreign bank conducting mortgage transactions (hereinafter referred to as 'mortgage bank'). A mortgage bank shall adopt measures to prevent exchange rate risks arising from the coverage of mortgage bonds or municipal bonds by assets under mortgage loans and municipal loans.

### **Article 68**

A mortgage loan is a loan with a maturity of at least four years and a maximum of thirty years, secured by a security interest established in any domestic real property, including property under construction, and financed, up to at least 90% unless this Act provides otherwise, through the issuance and sale of mortgage bonds by a mortgage bank under a separate regulation,<sup>61</sup> which mortgage banks provide for the following purposes:

- a) acquisition of domestic real property or any part thereof;
- b) construction or modification of existing buildings or structures;<sup>63</sup>
- c) maintenance of domestic real properties; or
- d) repayment of an outstanding mortgage loan drawn for any of the purposes mentioned in subparagraphs (a) to (c);
- e) repayment of an outstanding loan drawn for any of the purposes mentioned in subparagraphs (a) to (c), other than a mortgage loan.

<sup>61</sup>) Article 14 of Act No 530/1990 Coll., as amended.

<sup>62</sup>) Article 20(1)(a) of Act No 530/1990 Coll., as amended.

<sup>63</sup>) Article 139b(4) of Act No 50/1976 Coll. on territorial planning and construction order (Building Act), as amended by Act No 237/2000 Coll.

## **Article 69**

A municipal loan is a loan with a maturity of at least four years and a maximum of thirty years, secured by a security interest established in a real property owned by a municipality or a higher territorial unit, and financed, up to at least 90% unless this Act provides otherwise, through the issuance and sale of municipal bonds under a separate regulation,<sup>62</sup> which banks provide for the acquisition of any domestic real property, construction or modification of existing buildings or structures,<sup>63</sup> maintenance of domestic real properties, buildings or structures with the objective of using them for public service purposes.

## **Article 70**

A mortgage bank may deposit its temporarily unused funds raised in mortgage transactions in a bank or a foreign bank branch. Furthermore, it may use these funds to purchase:

- a) mortgage bonds issued by another mortgage bank;
- b) municipal bonds<sup>62</sup> issued by another mortgage bank;
- c) central bank bills issued by Národná banka Slovenska;
- d) government bonds;<sup>64</sup>
- e) Treasury bills.

## **Article 71**

(1) The issuance and the elements of mortgage bonds and municipal bonds shall be governed by a separate regulation.<sup>13</sup> Národná banka Slovenska may stipulate for a mortgage bank in its authorisation to conduct mortgage transactions special terms and conditions for financing mortgage and municipal loans for a maximum period of two years after such authorisation is granted.

(2) Národná banka Slovenska may, in its decision issued on the basis of a mortgage bank's application, for reasons worthy of special attention, for a period of maximum two years, stipulate special conditions for financing mortgage and municipal loans up to at least 70%, through the issuance or sale of mortgage bonds by a mortgage bank under a separate regulation<sup>61</sup> or through the issuance and sale of municipal bonds by a bank under a separate regulation,<sup>62</sup> even repeatedly. A reason worthy of special attention is, in particular, an attempt to maintain the stability of the financial sector.

## **Article 72**

(1) Mortgage bonds and municipal bonds issued may be duly secured only by a mortgage bank's claims from mortgage and municipal loans which are secured by a security interest in real property under Article 74 and which do not exceed 70% of the value of pledged real property in accordance with Article 73.

(2) Mortgage and municipal loans going beyond the limit set in paragraph (1) may only be granted on condition that the total amount of claims of a mortgage bank overrunning

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<sup>64)</sup> Article 18 of Act No 530/1990 Coll., as amended.

the limit does not exceed 10% of the total amount of outstanding mortgage and municipal loans.

(3) Assets used to secure the nominal value of issued mortgage bonds and municipal bonds, including security interest in real property under Article 74, may not be pledged by the mortgage bank, nor otherwise used to guarantee its liabilities.

(4) Mortgage bond owners shall have pre-emptive security right to assets used to secure issued mortgage bonds, including security interest in real property under Article 74, and municipal bond owners shall have pre-emptive security right to assets used to secure issued municipal bonds, including security interest in real property under Article 74; this security right in a procedure under this Act or separate regulations<sup>64a</sup> shall secure the receivables of mortgage bond owners and the receivables of municipal bonds owners from the mortgage bank for the payment of nominal values and yields of mortgage bonds and municipal bonds.

## **Article 73**

(1) For the purposes of this Act, the value of real property shall be determined by a mortgage bank on the basis of an overall assessment of the real property concerned. In determining this value, the mortgage bank may only take into account the permanent features of the real property and the benefits that can be derived by the owner from the real property in the long run. For real property burdened by a security interest or transfer restrictions in accordance with Article 74(2), a mortgage bank shall lower the value of this real property by the amount of claims guaranteed by such security interest or transfer restriction.

(2) A mortgage bank shall only be bound by its own real property valuation.

## **Article 74**

(1) A security interest in a mortgage bank's claims from mortgage loans or municipal loans shall be established through its entry into the real estate register under a separate regulation<sup>65</sup> on the basis of a proposal of the mortgage bank and the owner of the real property. The mortgage bank shall have the status of a mortgagee.

(2) A mortgage loan or a municipal loan may not be secured with a security interest in a real property in which another security interest has already been established and is still outstanding, or which is subject to a real property transfer restriction, except for security interest and transfer restrictions established under a separate regulation,<sup>66</sup> and a security interest established in favour of the same mortgage bank in order to secure another mortgage loan or municipal loan it has provided, security interests established in favour of a home savings bank or the State Housing Development Fund, and security interests established in order to secure the fulfilment of claims resulting from transfers of apartments or non-

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<sup>64a)</sup> For example, Article 8, Article 28(2), and Articles 69 and 176 to 196 of Act No 7/2005 Coll., as amended.

<sup>65)</sup> Act No 162/1995 Coll. of the National Council of the Slovak Republic on the real estate register and on the registration of ownership rights and other rights to real estate (Cadastre Law), as amended.

<sup>66)</sup> Article 15(1) of Act No 182/1993 Coll. of the National Council of the Slovak Republic on the ownership of apartments and non-residential premises, as amended.

Article 17 of Decree No 136/1985 Coll. of the Federal Ministry of Finance, Ministry of Finance of the Czech Socialist Republic, Ministry of Finance of the Slovak Socialist Republic, and governor of the Czechoslovak State Bank on financial, credit and other assistance for cooperative apartment housing construction and private home modernisation, as amended.

residential premises for a regulated price under a separate regulation.<sup>66b</sup> Until the expiration of this security interest, a mortgage bank may not agree under a separate regulation<sup>66a</sup> or allow for the entry of a security interest which has already been entered in the real estate register in the first order or in any other order decisive in terms of satisfaction of security interests, except for the security interests specified in the first sentence, and which is to secure the claims of the mortgage bank from a mortgage loan or a municipal loan.

(3) Real property shall not be deemed encumbered by a security interest or transfer restriction where a claim secured by another security interest or transfer restriction expires as a result of the provided mortgage loan or municipal loan used to settle this claim, and where the security interest in real property or transfer restriction expires. For the purposes of this Act, real property shall not be deemed encumbered by a security interest even where a mortgage bank, for at least a period from the first day of providing a mortgage loan or municipal loan or part thereof to the expiration of the security interest used to secure the mortgage bank's claims from mortgage loans or municipal loans, agrees under a separate regulation<sup>66a</sup> the first order decisive in terms of satisfaction of the security interests, except for the security interests specified in the first sentence of paragraph (2), and secures this order by way of its entry in the real estate register.

(4) A security interest in real property established to secure claims from a mortgage loan or municipal loan shall expire upon repayment of the loan and its accessories. A mortgage bank shall announce the expiry of a security interest in real property to the state administration authority in charge of the real estate register.<sup>65</sup>

(5) In enforcing its security interest, a mortgage bank may sell the real property pledged as security by distraint under a separate regulation,<sup>67</sup> on the basis of an agreement made in the form of a notarial deed between the mortgage bank, its borrower, and the mortgagor, if not identical with the borrower, provided the parties agree on a distraint under a separate regulation<sup>67</sup> in the said agreement. Such agreement shall establish a legal obligation, and specify the beneficiary and the person subject to this obligation, the legal grounds, objects, and the time limit for its fulfilment.

## Article 75

(1) A mortgage bank shall provide mortgage loans and municipal loans under the general terms and conditions it issues for granting mortgage and municipal loans, which shall contain in particular:

- a) the elements of an application for a mortgage loan or a municipal loan;
- b) the procedure to be followed in applying for a mortgage loan or a municipal loan;
- c) the terms and conditions for granting a mortgage loan or a municipal loan, including an overall definition of the type, method and extent of securing a mortgage bank's claims under a mortgage or municipal loan agreement and a definition of the costs to be claimed from the client in connection with a mortgage loan or a municipal loan and the conclusion of such an agreement;
- d) the manner in which a mortgage or municipal loan agreement may be terminated;
- e) the procedure to be followed by a mortgage bank in the event a borrower defaults on repayment of a mortgage loan or a municipal loan or its accessories;

<sup>66b</sup>) Articles 16 to 18b of Act No 182/1993 Coll. of the National Council of the Slovak Republic, as amended.

<sup>66a</sup>) Article 151k(3) of the Civil Code.

<sup>67</sup>) Act No 233/1995 Coll. of the National Council of the Slovak Republic on court officers and distrainments (Distraintment Code) and on amendments to certain laws, as amended.

- f) the changes in a mortgagor's situation which shall entitle a mortgage bank to demand early repayment of a mortgage loan or a municipal loan;
- g) the conditions for enforcing a security interest established in a real property to secure a mortgage loan or a municipal loan;
- h) information on the rights of clients in accordance with paragraphs (6) to (12).

(2) A mortgage bank may not demand early repayment of its claims from a mortgage loan or a municipal loan for reasons on the side of the mortgage bank or its legal successors; this shall also apply where a mortgage bank is wound up and liquidated.

(3) The information that a mortgage bank shall make available on its business premises under Article 37(1) must also include the mortgage bank's general terms and conditions for granting mortgage loans and municipal loans in accordance with paragraph (1) and the values of the state interest subsidy in percentage terms under Article 84(1) and Article 85a(1) set for individual calendar years. The mortgage bank shall provide additional information at the client's request.

(4) A mortgage loan agreement or a municipal loan agreement shall be made in writing and it shall contain:

- a) the identification data of the mortgage bank and the client in at least the following range:
  - 1. first name, last name, birth registration number, if assigned, date of birth, permanent residence address (for a natural person);
  - 2. designation, identification number, if assigned, registered office address or place of business (for a legal person);
- b) the amount of a mortgage loan or a municipal loan provided and its maturity, the rules for principal and interest repayment on a mortgage loan or a municipal loan provided, the annual percentage interest rate on a mortgage loan or a municipal loan provided, which is composed, in the case of a mortgage loan, of the mortgage bank's valid basic interest rate and gross margin, and a detailed specification of other costs to be claimed from the client in connection with a mortgage loan or a municipal loan, and the conclusion of an agreement on such a loan; for the purposes of this Act, 'valid basic interest rate of a mortgage bank' means the valid basic interest rate set by a mortgage bank in percentage terms and published pursuant to paragraph (9) as at the date when the mortgage loan agreement is concluded, and 'gross margin of a mortgage bank' means a gross margin set by a mortgage bank in percentage terms;
- c) the precise designation of the domestic real property pledged as security for a mortgage loan or a municipal loan provided; the precise designation of this domestic real property in a supplement to the mortgage or municipal loan agreement concluded no later than before the funds, or part thereof, are provided from the mortgage or municipal loan shall be deemed to be the meeting of this condition;
- d) the conditions dependent upon the objective circumstances under which the level of annual percentage interest rate or other costs to be claimed from the client may be adjusted;
- e) a detailed specification of the type, method, and range of securing a mortgage bank's claims under a mortgage loan agreement or a municipal loan agreement;
- f) other conditions stipulated for the provision and repayment of a mortgage loan or a municipal loan in accordance with the mortgage bank's general terms and conditions for the provision of mortgage loans and municipal loans;
- g) the conditions for accelerated repayment, if any, of a mortgage loan or a municipal loan on the client's initiative;
- h) an undertaking that, if the client is a natural person under Article 85a(1) and becomes the parent of a child, the mortgage bank will allow this client to defer the date of repayment

of the mortgage loan principal or to reduce the amount of monthly repayments by up to one half for a period of 24 months, provided that the client applies in writing for such deferral or reduction within three months following the birth of the child and encloses a copy of the child's birth certificate in the application.

(5) A mortgage loan agreement or a municipal loan agreement may also contain other requisites agreed between the mortgage bank and the client.

(6) A mortgage bank may not charge a client any interest, fees or other costs that are not included in the relevant mortgage loan agreement or municipal loan agreement. The mortgage bank shall not charge a client any interest, fees, or other costs related to the early repayment of a mortgage loan or part thereof at the client's request, if such early mortgage loan repayment occurs in connection with the expiration of the initial rate fixation period of the mortgage loan or a change in the rate of interest on the mortgage loan; in the case of a variable interest rate, the mortgage bank shall notify the client free of charge of:

- a) the expiry date of the initial rate fixation period of the mortgage loan no later than two months before that date, unless paragraph (11) provides otherwise;
- b) the date of any change in the mortgage loan interest rate, the new interest rate for the next interest rate period, the current level of the basic interest rate published in accordance with paragraph (9) as at the date of its publication, and the amount of gross margin for the next interest rate period no later than two months before the change is made and applied, unless paragraph (11) provides otherwise.

(7) A client who is a natural person under Article 85a(1) may apply for a deferral of mortgage loan principal repayments or a reduction of monthly mortgage loan repayments under Article 4(h) within five years after the mortgage loan is provided and interest is first charged thereon, provided that the client has not applied for a deferral of mortgage loan principal repayments under point two of Article 85a (3)(b); in this case, the claim to a state interest subsidy for young people shall be preserved.

(8) A deferral of mortgage loan principal repayments or a reduction of monthly mortgage loan repayments in accordance with paragraph (4)(h), as selected by the client under paragraph (4)(h), shall be deemed to apply as of the effective date of the amendment to the mortgage loan agreement under which such deferral or reduction is made.

(9) A mortgage bank shall publish its basic interest rate on its website.

(10) A mortgage bank shall inform its clients in accordance with paragraph (6) of the terms of conditions of mortgage loan repayment before maturity in full or in part, for which interest, fees or other costs may not be charged to the client.

(11) Where a mortgage bank requires that an application for mortgage loan repayment in full or in part before maturity be submitted before the initial rate fixation period expires or before the mortgage loan interest rate is changed, the mortgage bank shall send a notification pursuant to paragraph (6) no later than two months before the deadline set by the mortgage bank for the submission of such application.

(12) In the case of a mortgage loan with a variable interest rate where the mortgage loan interest rate did not change during the previous calendar year, the client shall be entitled to repay such mortgage loan or part thereof once a year, while the mortgage bank shall be prohibited to charge the client interest, fees or other costs in connection with such repayment

of a mortgage loan before maturity.

## **Article 76**

(1) A list of mortgage loans and municipal loans and their amounts, security interests, and the mortgage bank's claims from mortgage loans and municipal loans that serve to back mortgage and municipal bonds, or other assets serving as substitute coverage, shall be kept separately by the mortgage bank in its register of mortgages.

(2) The register of mortgages and the documents on the basis of which entries have been made in the register of mortgages must be kept by a mortgage bank separately from other documents and protected against misuse, destruction, damage or loss.

(3) By the end of January and July of each calendar year, mortgage banks shall notify Národná banka Slovenska and the Ministry of all entries made in the register of mortgages in the last six months.

(4) The due form and method of keeping the register of mortgages pursuant to paragraph (2) and the due form of information disclosed pursuant to paragraph (3) shall be stipulated in a generally bonding legal regulation issued by Národná banka Slovenska and the Ministry.

## **Article 77**

Mortgage banks shall maintain a separate analytical record of mortgage transactions in their accounting system.

## **Article 78**

(1) Národná banka Slovenska shall appoint a mortgage controller to each mortgage bank to supervise the conduct of mortgage transactions in the scope defined by this Act and a separate regulation.<sup>13</sup> Likewise, Národná banka Slovenska shall appoint a deputy mortgage controller to each mortgage bank, who shall represent the mortgage controller in their absence in the full range of their rights and obligations.

(2) Národná banka Slovenska shall discuss the appointment of a mortgage controller and their deputy beforehand with the mortgage bank concerned.

(3) A mortgage controller and/or their deputy shall be dismissed by Národná banka Slovenska.

(4) A mortgage controller and their deputy may only be a natural person who has the necessary professional competence and integrity to pursue this activity. A natural person with completed university education, who has at least five-years' experience in economics or law in the banking sector shall be deemed professionally competent. A person shall be deemed to have the necessary integrity if they have not been lawfully sentenced for any criminal offence committed in a managerial position or for any intentional criminal offence.

## **Article 79**

(1) A mortgage controller shall perform their duties on their own, independently and

impartially. In pursuing their activity, a mortgage controller shall only be bound by the generally binding legal regulations, a contract to perform the tasks of a mortgage controller, and decisions issued in the course of banking supervision or oversight under a separate regulation<sup>13</sup> over the activities of a mortgage controller.

(2) Any disputes between a mortgage controller and a mortgage bank shall be settled by Národná banka Slovenska.

## **Article 80**

(1) A mortgage controller shall supervise the issuance of mortgage bonds and municipal bonds with regard to their elements and coverage under a separate regulation.<sup>13</sup>

(2) Prior to each issue of mortgage bonds or municipal bonds, a mortgage controller shall issue a written certificate testifying that they are covered in accordance with a separate regulation,<sup>68</sup> and that an entry has been made in the register of mortgages.

(3) A mortgage controller shall verify whether a mortgage bank provides mortgage loans and municipal loans, secured by a security interest in real property, and whether a mortgage bank meets its obligations in relation to the mortgage register under this Act and other generally binding legal regulations.

(4) If requested by a mortgage bank, a mortgage controller shall assist in activities related to the performance of mortgage transactions, which could not be completed by the mortgage bank without such assistance.

## **Article 81**

(1) Where a mortgage controller detects any shortcomings pursuant to Article 80, the mortgage controller shall forthwith report this fact in writing to Národná banka Slovenska. The provisions of Article 93 shall not apply to the disclosure of information under this paragraph.

(2) In performing their duties, a mortgage controller shall act in their own name, for the account of the mortgage bank.

(3) A mortgage bank shall enable a mortgage controller to perform their duties, in particular it shall allow the mortgage controller to inspect their accounting records, register of mortgages, and other documents related to mortgage transactions.

(4) The amount of remuneration due to a mortgage controller and their deputy shall be determined by Národná banka Slovenska upon agreement with the mortgage bank. The remuneration shall be paid by the mortgage bank.

(5) A mortgage bank shall conclude with a mortgage controller a contract to perform the tasks of a mortgage controller, detailing the rights and duties of the mortgage bank and the mortgage controller. The mortgage bank shall also conclude a contract with a deputy mortgage controller, detailing the rights and duties of the mortgage bank and the deputy mortgage controller.

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<sup>68)</sup> Article 16(4) and (5) and Article 20(4) of Act No 530/1990 Coll., as amended.

## **Article 82**

(1) The activities of a mortgage controller and a deputy mortgage controller shall be subject to banking supervision by Národná banka Slovenska under this Act.

(2) If, in the course of supervision, Národná banka Slovenska detects any shortcomings in the activity of a mortgage controller or deputy mortgage controller, it may impose a fine of up to EUR 3,300.

## **Article 83**

Národná banka Slovenska and the Ministry shall stipulate details about the position and activities of a mortgage controller and deputy mortgage controller in a generally binding legal regulation.

## **Article 84**

(1) A borrower under a mortgage loan agreement (Article 75(4)), for purposes set out in Article 68(a) to (d), (hereinafter referred to as ‘mortgagor’), who is a natural person, shall be entitled to receive an interest subsidy from the state budget of the Slovak Republic (hereinafter referred to as ‘state interest subsidy’) under the terms and conditions stipulated in this Act.

(2) ‘State interest subsidy’ means a percentage by which the rate of interest set in a mortgage loan agreement is reduced by the State. The state interest subsidy for mortgage loans shall be determined for each calendar year by the respective State Budget Act and shall apply to all mortgage loan agreements in the relevant year; without prejudice to Article 122a. The state interest subsidy shall be rounded up to the nearest whole euro cent.

(3) For the purposes of state interest subsidy calculation for a mortgage loan provided in a foreign currency, the amount of the mortgage loan shall be converted at the reference exchange rate set and published by the European Central Bank or Národná banka Slovenska<sup>31</sup> in a ruling as of the date when the mortgage loan agreement was concluded.

(4) A state interest subsidy may be granted for a mortgage loan of up to EUR 83,000 per residential real property, also in case of a married couple or the acquisition of such real property into shared ownership. For the purposes hereof, ‘residential real property’ means apartment buildings as defined in a separate regulation.<sup>71</sup>

(5) A mortgage loan for which a state interest subsidy is granted shall usually be repaid in regular monthly instalments. If instalments of a mortgage loan are agreed-upon otherwise, the sum of funds granted as a state interest subsidy for such mortgage loan may not exceed the sum that would have been provided as a state interest subsidy in the case of regular monthly instalments.

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<sup>31</sup>) Section 12(12.1) of the Protocol on the Statute of the European System of Central Banks and the European Central Bank (OJ C 321E, 29.12.2006).

Article 28(2) of Act No 566/1992 Coll. of the National Council of the Slovak Republic, as amended.

<sup>71</sup>) Article 43b(3) to (6) of Act No 50/1976 Coll., as amended by Act No 237/2000 Coll.

(6) Where the interest rate – set when a mortgage loan was provided or after the expiration of the initial rate fixation period of a mortgage loan or when any other change was made in the mortgage loan rate – is lower than the state interest subsidy, a mortgagor shall only be entitled to a state interest subsidy up to the level of the interest rate agreed for the mortgage loan.

## **Article 85**

(1) A claim to a state interest subsidy from the state budget of the Slovak Republic shall be lodged by a mortgagor via a mortgage bank on the basis of an application submitted to the mortgage bank.

(2) A state interest subsidy shall be granted to a mortgagor on an annual basis throughout the loan maturity period fixed in a mortgage loan agreement, but for only one mortgage loan agreement. Any amendment to a mortgage loan agreement which results in an increase in the mortgage loan up to the amount given in Article 84(4) shall be deemed to be the same mortgage loan agreement.

(3) If a mortgagor concludes more than one mortgage loan agreement, the state interest subsidy shall be granted for the agreement to which a written statement to that effect is attached; if such statement is attached to several mortgage loan agreements concluded in the same year, the mortgagor shall lose their claim to a state interest subsidy under all agreements for a period of the next 12 calendar months, starting on the first day of the calendar month following the receipt of written information from the Ministry or a legal person appointed by it concerning the existence of several agreements on which a claim to a state interest subsidy has been lodged. For a married couple or co-owners, the claim in this case shall expire either for both spouses or for all co-owners.

(4) A claim to a state interest subsidy shall expire:

- a) during a period when, on the grounds of default on the part of a mortgagor, a mortgage bank reclassifies a claim arising under a mortgage loan to such classified claims for which it is reasonably assumed that they will not be satisfied to the full amount of their nominal value; or
- b) when a mortgagor
  - 1. does not use the mortgage loan for its intended purpose;
  - 2. transfers the liability arising from the mortgage loan to another person except to a person close to him; or
  - 3. repays the mortgage loan before the lapse of four years since when it was provided.

(5) When shared ownership by a married couple or co-ownership expires or when a mortgagor dies, a claim to a state interest subsidy shall pass onto the person to whom the outstanding liabilities from the mortgage loan will pass.

(6) Where the borrower of a mortgage loan fails to meet the conditions laid down in paragraph (4)(b) point three, the borrower shall be obliged to repay, via the mortgage bank, the state interest subsidy granted for the entire period of maturity of the mortgage loan agreed in the mortgage loan agreement, without undue delay.

## **Article 85a**

(1) A borrower under a mortgage loan agreement (Article 75(4)), concluded for the purposes set out in Article 68(a) to (c), shall be entitled, under the terms and conditions laid down in this Act, to a state interest subsidy for young people from the state budget (hereinafter referred to as ‘state interest subsidy for young people’), provided that this borrower is a natural person not younger than 18 years and not older than 35 years (hereinafter ‘young mortgagor’). If the young mortgagors are a married couple or several co-borrowers, the age requirement under the first sentence is to be met by each person.

(2) ‘State interest subsidy for young people’ means a percentage by which the rate of interest rate set in a mortgage loan agreement is reduced by the State. The value of such state interest subsidy shall be determined each year in the State Budget Act for the respective fiscal year and shall, for the duration of that year, apply to all mortgage loan agreements concluded under the terms and conditions laid down in paragraphs (1) and (3). The state interest subsidy for young people shall be rounded up to the nearest whole euro cent.

(3) A young mortgagor shall receive a state interest subsidy for young people where:

- a) as at the date of submission of a mortgage loan application, the young mortgagor has an average monthly income, calculated for the calendar year preceding the year of application, not exceeding more than 1.3-fold the national monthly nominal wage in the Slovak Republic, as reported by the Statistical Office of the Slovak Republic for the second but one calendar quarter preceding the calendar quarter in which the mortgage loan application was submitted; if the young mortgagor is a married couple, their combined average monthly income may not exceed more than 2.6-fold the national monthly nominal wage in the Slovak Republic, as reported by the Statistical Office of the Slovak Republic for the second but one calendar quarter preceding the calendar quarter in which the mortgage loan application was submitted; if the young mortgagor comprises several co-borrowers, their combined average monthly income may not exceed the product of the number of co-borrowers and 1.3-fold the average monthly nominal wage in the Slovak Republic, as reported by the Statistical Office of the Slovak Republic for the second but one calendar quarter preceding the calendar quarter in which the mortgage loan application was submitted;
- b) the mortgagee bank undertakes that, for a period of five years from when the mortgage loan is provided and interest is first charged thereon, the mortgagor:
  - 1. will have the interest rate stipulated in the mortgage loan agreement reduced by the state interest subsidy for young people as defined in paragraph (2) but by no more than 1%;
  - 2. may defer the date of repayment of the mortgage loan principal;
  - 3. may make mortgage loan repayments on an extraordinary and free-of-charge basis;
- c) the mortgage loan application was submitted after 1 January 2007.

(4) For the purpose of calculating the state interest subsidy for young people for a mortgage loan provided in a foreign currency, the amount of the mortgage loan shall be converted at the reference exchange rate set and published by the European Central Bank or Národná banka Slovenska<sup>31</sup> in a ruling as of the date when the mortgage loan agreement was concluded.

(5) A state interest subsidy for young people shall be provided for a mortgage loan of up to EUR 50,000 per residential real property, also for a married couple or for the acquisition of such real property into shared ownership.

(6) Where a mortgage loan is provided together with a state interest subsidy for young people, it shall usually be agreed that the repayments, including interest, will be made in regular monthly instalments. If mortgage loan repayments are agreed otherwise, the amount of funds provided in the form of state interest subsidies for young people for mortgage loans may not exceed the amount that would be provided in the form of such subsidies were the repayments to be made on a regular monthly basis. The provisions of the first and second sentences are without prejudice to the provisions of paragraph (3)(b) points 2 and 3.

## **Article 85b**

(1) A young mortgagor who lodges a claim for a state interest subsidy for young people shall do so on the basis of an application submitted to the mortgage bank.

(2) A state interest subsidy to a young mortgagor shall be granted on an annual basis for a period of five years from when interest is first charged on the mortgage loan, and only for one mortgage loan agreement. Any amendment to a mortgage loan agreement leading to an increase in the mortgage loan up to the amount specified in Article 85a(5) shall be deemed to be the same mortgage loan agreement.

(3) Where a young mortgagor concludes more than one mortgage loan agreements, a state interest subsidy for young people shall be provided for the agreement to which a written statement to this effect is attached. If such statement is attached to more than one mortgage loan agreement concluded in the same calendar year, the young mortgagor shall lose their claim to a state interest subsidy for young people under all mortgage loans agreements for the next 12 calendar months; this period shall commence on the first day of the calendar month following the receipt of written information from the Ministry, or a legal person appointed by it, regarding the existence of more than one mortgage loan agreement under which a state interest subsidy for young people has been claimed. Where such a case involves a married couple or co-owners, the entitlement to a state interest subsidy for young people shall expire either for both spouses or for all co-owners.

(4) A young mortgagor who has fallen into arrears with mortgage loan repayment shall not be entitled to a state interest subsidy for young people in the period when the mortgage bank, for this reason, classifies the mortgage loan as a claim that cannot reasonably be expected to be settled in the full amount of its nominal value.

(5) The entitlement to a state interest subsidy for young people shall expire where:

- a) the young mortgagor:
  1. does not use the mortgage loan for its intended purpose;
  2. transfers the liability arising from the mortgage loan to another person who is not a close person; for a transfer to a close person, this person must meet the conditions laid down in Article 85a(1) and 3(a);
  3. repays the mortgage loan within four years from when it was provided;
  4. submitted false information about their average monthly income for the purposes of a mortgage loan agreement, including a state interest subsidy for young people; or
- b) a natural person who has received a state interest subsidy for young people submitted false information about their age when the mortgage loan agreement was concluded.

(6) Where a young mortgagor ceases to be a joint tenant in a joint tenancy between spouses or a co-owner in a tenancy in common, or where a young mortgagor dies, the

entitlement to a state interest subsidy for young people shall pass to the person who assumes the outstanding liabilities under the mortgage loan agreement.

(7) Where a young mortgagor loses their entitlement to a state interest subsidy for young people under paragraph 5(a), points 3 or 4, the young mortgagor shall, through the mortgage bank, return without delay the amount of the subsidy they have already received. Where a natural person who has received a state interest subsidy for young people loses their entitlement to such subsidy under paragraph 5(b), the natural person shall, through the mortgagee bank, return without delay the amount of the subsidy they have received.

(8) A mortgage bank shall bear no liability for the truthfulness of the data provided on the average monthly income as referred to in Article 85a(3)(a).

(9) After five years from when interest was first charged on a mortgage loan borrowed by a young mortgagor, the young mortgagor shall lose their entitlement to a state interest subsidy for young people and shall at the same time gain right to a state interest subsidy; the provisions of Article 85(3) shall equally apply in this case.

(10) The provisions of Articles 86 to 88 shall also apply to a mortgage loan agreement, including a state interest subsidy for young people.

## **Article 86**

(1) The Ministry of Construction and Regional Development of the Slovak Republic shall remit payments to mortgage banks for the granting of state interest subsidies on a monthly basis.

(2) Requests for state interest subsidies for a specific month shall be submitted by mortgage banks to the Ministry of Construction and Regional Development of the Slovak Republic no later than the 25th day of the following month.

(3) The Ministry of Construction and Regional Development of the Slovak Republic shall transfer the funds mentioned in paragraph (2) by the 25th day of the month following the receipt of a request from a mortgage bank for state interest subsidies, to a special account opened by the mortgage bank for this purpose. From this account, the mortgage bank may draw funds on a monthly basis for individual mortgagors entitled to a state interest subsidy.

(4) State interest subsidies granted to mortgagors for a given year shall be cleared by the relevant mortgage bank within the time limit set by the Ministry of Construction and Regional Development of the Slovak Republic.

(5) Mortgage banks shall be responsible for:

- a) the timely submission of claims to a state interest subsidy from the state budget;
- b) the correct calculation of the amount of state interest subsidies;
- c) the return of state interest subsidies in case of non-compliance with the terms and conditions stipulated for the granting of a state interest subsidy.

## **Article 87**

(1) A central register of mortgage loan agreements for which a state interest subsidy is claimed shall be kept by the Ministry or a legal person it commissions to do so.

(2) Mortgage banks shall provide the Ministry or the person commissioned by it with information on a monthly basis about new mortgage loan agreements for the purposes stated in paragraph (1) within the time limits, in the form and under the conditions agreed with the Ministry. The information so provided shall contain:

- a) the mortgagor's birth registration number;
- b) the mortgage loan agreement number;
- c) a statement of claim to a state interest subsidy;
- d) the amount of the mortgage loan in euro;
- e) the amount of monthly instalments;
- f) the mortgage loan maturity date;
- g) the interest rate agreed in the mortgage loan agreement;
- h) the period for which a mortgage loan claim is reclassified owing to arrears on the part of the mortgagor;
- i) the purpose for which the mortgage loan is provided;
- j) the amount in euro of the state interest subsidy;
- k) the precise designation of real property to be mortgaged in order to secure a mortgage bank's claims from a mortgage loan.

(3) State supervision over compliance with the terms and conditions stipulated for the granting of a state interest subsidy shall be ensured by the Ministry. The Ministry shall be entitled to request from a mortgage bank any information and documents needed to review compliance with the terms and conditions stipulated for the granting of a state interest subsidy. The provisions of a separate regulation<sup>72</sup> shall apply as appropriate to the exercise of such state supervision.

(4) The employees and members of bodies of the Ministry and the person it commissions under paragraph (1) shall keep confidential all facts associated with the performance of activities under paragraphs (1) to (3). The confidentiality obligation shall remain in effect after the termination of the commission given to this person to perform the tasks specified in paragraph (1) or after the termination of employment or a similar work relationship or office in the bodies of that person; the foregoing is without prejudice to the provisions of Article 91(2) to (7), Article 92(1) to (7), and Article 93.

(5) If, in performing state supervision, the Ministry reveals any shortcomings in a mortgage bank's operations consisting in a failure to comply with the terms and conditions stipulated for the granting of a state interest subsidy, it shall place the mortgage bank under the obligation to return to the state budget an amount corresponding to the illegitimately used state interest subsidy.

(6) In addition to the measure under paragraph (5), the Ministry may also impose upon a mortgage bank, depending on the severity of the breach of obligation and the duration of an unlawful situation, a fine up to the double of the illegitimately used amount of a state interest subsidy granted for a mortgage loan. If the measure referred to in paragraph (5) fails to be respected, a fine may be imposed repeatedly, but its total amount is not to exceed the sum given in the first sentence. Such fines shall bring in revenues for the state budget.

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<sup>72)</sup> Act No 10/1996 Coll. of the National Council of the Slovak Republic on controls in state administration, as amended.

(7) Proceedings under paragraphs (5) and (6) shall be governed by the provisions of a generally binding regulation on administrative proceedings.<sup>72a</sup>

(8) The Ministry shall supply the Ministry of Construction and Regional Development of the Slovak Republic on a monthly basis with information on total claims for state interest subsidies in individual mortgage banks in the given calendar month, in order that the funds are remitted in accordance with Article 86(3); this information shall be provided no later than the 20th day of the following month. The Ministry shall also supply the Ministry of Construction and Regional Development of the Slovak Republic, in order to facilitate its work in providing state interest subsidies, with summary data on the purposes for which mortgage loans have been provided on the basis of information from mortgage banks under Article 76(3), within ten working days of the date of delivery of this information to the Ministry.

## **Article 88**

For the purposes of mortgage transactions and state interest subsidies, the provisions of this Act and a separate regulation<sup>13</sup> pertaining to real property shall apply equally to residential and non-residential premises.

## **PART THIRTEEN** **LOANS FOR YOUNG MARRIED COUPLES**

### **Article 88a**

(1) Where the borrowers under a loan agreement are a married couple and none of the spouses is older than 35 years and the marriage has lasted for maximum two years (hereinafter referred to as ‘a young married couple’) as at the date when they apply for a loan (hereinafter ‘loan for young married couples’), the borrowers shall, under the terms and conditions laid down in this Act, be entitled to receive an interest subsidy from the state budget (hereinafter ‘state interest subsidy for young married couples’).

(2) ‘State interest subsidy for young married couples’ means a percentage by which the State reduces the rate of interest set in a loan agreement made between a bank and a young married couple. The percentage of a state interest subsidy for young married couples shall remain unchanged throughout the loan repayment period, as agreed when the loan agreement with the young married couple is concluded. Such state interest subsidy for young married couples for loan agreements concluded in individual calendar years shall be specified in percentage terms in the State Budget Act for the corresponding fiscal years. The value of a state interest subsidy for young married couples shall be rounded up to the nearest whole euro cent.

(3) A young married couple shall be granted a state interest subsidy for young married couples if:

- a) as at the date when they file an application for a loan for young married couples, the spouses together have an average monthly income, calculated from their income in the calendar year preceding the year of application for a loan for young married couples, of no more than 2.6 times the average monthly nominal wage of an employee in the Slovak Republic’s national economy, as ascertained by the Statistic Office of the Slovak

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<sup>72a</sup>) Act No 71/1967 Coll. on administrative proceedings (the Administrative Procedure Order), as amended.

Republic for the calendar quarter preceding the calendar quarter in which the application for a loan for young married couples is submitted;

- b) the bank or branch of a foreign bank undertakes to reduce the interest rate fixed in the loan agreement with the young married couple, starting from when the loan is provided to the young married couple and interest is first charged thereon and throughout the loan repayment period, by at least one half of the state interest subsidy for newly married couples determined in accordance with paragraph (2);
- c) the application for a loan for a young married couple was filed on or after 1 April 2010.

(4) For the purposes of calculating the state interest subsidy for a foreign currency loan provided to a young married couple, the amount of the loan shall be converted at the reference exchange rate set and published by the European Central Bank or Národná banka Slovenska, and effective as at the date when the loan agreement with the young married couple is concluded.

(5) A state interest subsidy for young married couples shall be granted for loans not exceeding EUR 10,000.

(6) Loans, including interest, provided to young married couples eligible for a state interest subsidy for young married couples are normally agreed to be repaid in regular monthly instalments. Where the repayment of a loan by a young married couple is agreed differently, the amount of funds granted in form of a state interest subsidy for young married couples shall not exceed the amount that would be granted as a state interest subsidy for young married couples with that loan if it were to be repaid in monthly instalments.

## **Article 88b**

(1) A state interest subsidy for young married couples shall be claimed by a young married couple from the state budget in an application submitted to a bank or a foreign bank branch.

(2) A state interest subsidy for young married couples shall be granted to a young married couple in each year of the loan repayment period as agreed when the loan agreement with the young married couple was concluded, provided that it is granted for one loan only. Any amendment to a loan agreement with a young married couple increasing the loan amount up to the limit defined in Article 88a(5) shall be deemed to be the same loan agreement with the young married couple in question.

(3) Where a young married couple concludes more than one agreement on loans for young married couples, the state interest subsidy for young married couples shall be granted for the agreement for which a written statement to that effect is made; if such statement is made for more than one agreement on loans for young married couples in the same year, the young married couple's entitlement to a state interest subsidy shall lapse in respect of all such agreements for the next 12 calendar months, starting from the first day of the calendar month following the receipt of notification in writing from the Ministry or a legal person appointed by it of the existence of more than one agreement on loans for young married couples for which a state interest subsidy for young married couples has been claimed.

(4) A young married couple shall not be entitled to a state interest subsidy for young married couples during any period when, on grounds of the young married couple's default lasting for more than 90 days, the bank or branch of a foreign bank reclassifies the claim

arising from the loan for married couples to such classified claims for which it is reasonably assumed that they will not be satisfied in the full amount of their nominal value.

(5) The entitlement to a state interest subsidy for young married couples shall lapse if the young married couple:

- a) transfer the liability from a loan for young married couples to another person, except to a person close to them; a close person must, as at the date of transfer of liability, meet the conditions laid down in Article 88a(1) and (3)(a);
- b) when entering into a loan agreement including a state interest subsidy for young married couples, submitted false information regarding the average monthly income or age;
- c) divorce during the term of a loan agreement made for a loan for young married couples.

(6) If either or both of the spouses die, the entitlement to a state interest subsidy for young married couples shall be assigned to the person to whom the outstanding liabilities from the loan for young married couple are assigned.

(7) If a young married couple's entitlement to a state interest subsidy for young married couples lapses under paragraph 5(b), the young married couple shall forthwith return any state interest subsidy they have been granted, through the bank or branch of a foreign bank.

(8) The bank or branch of a foreign bank shall not bear any liability for the veracity of the information regarding average monthly income as referred to in Article 88a(3)(a).

### **Article 88c**

(1) The Ministry shall remit payments to banks and branches of foreign banks for state interest subsidies on a monthly basis.

(2) Requests for state interest subsidy payments for young married couples for a specific month shall be submitted by banks and branches of foreign banks to the Ministry no later than the 25th day of the next month.

(3) The Ministry shall remit the funds under paragraph (2) to a bank or a foreign bank branch to a special account opened for this purpose in the bank or foreign bank branch in question, by the 25th day of the month following the receipt of a request from the bank or foreign bank branch for state interest subsidies for young married couples. From that account, the bank or foreign bank branch shall draw the appropriate amounts for individual couples eligible for a state interest subsidy for young married couples on a monthly basis.

(4) Banks and branches of foreign banks shall ensure the settlement of state interest subsidy payments received for young married couples for a specific year within the time limit set by the Ministry.

(5) Banks and branches of foreign banks shall be responsible for:

- a) the timely submission of claims for state interest subsidies for young married couples from the state budget;
- b) the correct calculation of the amount of state interest subsidies for young married couples;

- c) the return of a state interest subsidy by a young married couple in the event of non-compliance with the terms and conditions stipulated for the granting of a state interest subsidy.

## **Article 88d**

(1) A central register of loan agreements with young married couples eligible for a state interest subsidy for young married couples shall be kept by the Ministry or by a legal person it commissions to do so.

(2) Banks and branches of foreign banks shall supply the Ministry or a legal person commissioned by the Ministry, on a monthly basis and in compliance with the time limits, methods and conditions agreed with the Ministry, with information on new loan agreements made with young married couples for the purposes set out in paragraph (1). Such information must contain:

- a) the spouses' birth registration numbers;
- b) the reference numbers of loan agreements made with young married couples;
- c) statements of entitlement to a state interest subsidy for young married couples;
- d) the amount of loans provided to young married couples in euro;
- e) the amount of monthly loan repayments in euro;
- f) the repayment dates of loans provided to young married couples;
- g) the interest rates agreed in loan agreements made with young married couples;
- h) the period for which claims from loans provided to young married couples have been reclassified under Article 88b(4);
- i) the amount of a state interest subsidy for young married couples in euro.

(3) State supervision of compliance with the terms and conditions stipulated for the granting of a state interest subsidy to young married couples shall be exercised by the Ministry. The Ministry shall be entitled to request from a bank or a foreign bank branch any supporting documents needed to verify compliance with the terms and conditions stipulated for the granting of a state interest subsidy to young married couples. The provisions of a separate regulation<sup>72</sup> shall apply as appropriate to the exercise of such state supervision.

(4) If, in exercising state supervision, the Ministry reveals any shortcomings in the operations of a bank or a foreign bank branch, consisting in non-compliance with the terms and conditions stipulated for the granting of a state interest subsidy to young married couples, it shall place the bank or foreign bank branch under the obligation to repay to the state budget any state interest subsidy illegitimately used by young married couples.

(5) In addition to the measure mentioned in paragraph (4), the Ministry may also impose upon a bank or a foreign bank branch, depending on the severity and duration of non-compliance, a fine of up to twice the amount of a state interest subsidy illegitimately used by a young married couple. If the measure under paragraph (4) is not respected, a fine may be imposed repeatedly, in a total amount not exceeding the limit defined in the first sentence. Such fines shall bring in revenues for the state budget.

(6) Proceedings under paragraphs (4) and (5) shall be subject to a generally binding regulation on administrative procedure.<sup>72a</sup>

(7) The employees and members of bodies of the Ministry or of the person it commissions under paragraph (1) shall keep confidential any facts that are associated with the

pursuit of activities mentioned in paragraphs (1) to (3). The confidentiality obligation shall survive the lapse of that person's commission to pursue the activity mentioned in paragraph (1), or the termination of employment or other legal relationship, or termination of office in that person's bodies; the foregoing is without prejudice to the provisions of Article 91(2) to (7), Article 92(1) to (7), and Article 93.

## **PART FOURTEEN** **CLIENT PROTECTION AND BANK SECRECY**

### **Article 89**

(1) Banks and branches of foreign banks, pursuing banking activities in the territory of the Slovak Republic, conduct transactions for their clients on a contractual basis in accordance with the legal system of the Slovak Republic. Clients are entitled to conclude a contract in the Slovak language, as well to receive information from banks and branches of foreign banks, to make submissions to banks and branches of foreign banks, and to communicate with banks and branches of foreign banks in any other form in the Slovak language; this shall not exclude the possibility of using any other language in parallel where this is required by a separate law or by a written agreement made between the bank or foreign bank branch and the client, while the client is entitled to select the decisive language, unless a separate law provides otherwise.<sup>72b</sup> In contracts made with their clients, banks and branches of foreign banks may define the rights and duties arising from transactions in contrast with the relevant law or regulation, unless this is explicitly prohibited by any other law or regulation, or unless the relevant provisions stipulate that no deviation is allowed;<sup>72c</sup> such contract is to be made in the due form as required by law or agreed upon by the parties, while the bank or foreign bank branch concerned shall be liable for its preparation in paper form or electronically on durable media,<sup>72d</sup> no later than the day when the transaction is concluded, as well as for its storage and protection under Article 42(1).

(2) Bank and branches of foreign banks shall request proof of identity from their clients in each transaction, except for those specified in paragraph (5); clients shall comply with such request in each transaction. Bank and branches of foreign banks shall refuse to carry out transactions for clients on an anonymous basis.

(3) For the purposes of paragraph (1), the identity of a client can be verified on the basis of the client's identity document pursuant to separate regulations on identity documents<sup>73</sup> or the client's signature, provided that the client is known in person and the signature is identical beyond any doubt to the client's specimen signature kept at the bank or foreign bank branch and taken after the client had proved their identity using an identity

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<sup>72b</sup>) For example, Article 8(5) of Act No 270/1995 Coll. of the National Council of the Slovak Republic on the state language of the Slovak Republic, as amended.

<sup>72c</sup>) For example, Articles 2(3) and 53(1) and (4) of the Civil Code, Articles 87(f) and 88(2) of the Code of Civil Procedure, Articles 6 and 19 of Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) (OJ L 177, 4.7.2008), as amended.

<sup>72d</sup>) Article 2(m) of Act No 129/2010 Coll. on consumer credits and other credits and loans for consumers and on amendments to certain laws.

<sup>73</sup>) Act No 224/2006 Coll. on identity cards and on amendments to certain laws, as amended by Act No 693/2006 Coll.; Act No 381/1997 Coll. on travel documents, as amended; and Act No 48/2002 Coll. on the stay of foreigners and on amendments to certain laws, as amended.  
Act No 480/2002 Coll. on asylum and on amendments to certain laws, as amended.

document. Where transactions are conducted electronically, a client shall be identified on the basis of a personal identification number or a similar code assigned by a bank or a foreign bank branch, and an authentication code agreed between the bank or foreign bank branch and the client, or an electronic signature under a separate law. In case of a juvenile client who has no identity document, the identity of the client's legal representative shall be verified and a document shall be presented to prove that the legal representative is authorised to act for and on behalf of the client, as well as the birth certificate of the juvenile client.

(4) Banks and branches of foreign banks shall, in every transaction worth no less than EUR 15,000, determine the ownership of funds used in the transaction. For the purposes of this provision, the ownership of funds shall be determined on the basis of a binding written statement in which the client shall declare whether the funds are their property and whether the client is conducting the transaction for their own account; this written statement of ownership may be part of a written agreement concluded between the bank or foreign bank branch and the client in connection with the agreed transaction. If the funds are owned by another person or if the transaction is conducted for the account of another person, the client's statement must specify the first name, last name, birth registration number or date of birth, and the permanent residence address of the natural person, or the name, registered office, and identification number, if assigned, of the legal person who is the owner of the funds and for whose account the transaction is conducted; in this case the client shall deliver to the bank or foreign bank branch a written approval from the natural or legal person concerned to use the funds for the transaction in question and to carry out the transaction for that person's account. The obligation to deliver a written approval in accordance with the preceding sentence shall not apply to Národná banka Slovenska, the Resolution Council, banks, branches of foreign banks, the stock exchange, the commodity exchange, the central securities depository, investment firms, branches of foreign investment firms, investment service intermediaries, insurance companies, branches of foreign insurance companies, reinsurance companies, branches of foreign reinsurance companies, asset management companies or branches of foreign asset management companies, if they declare in a binding written statement that they conduct transactions exclusively for their own account or for the account of their clients under a separate law,<sup>6</sup> and they use exclusively their own funds for these transactions or the funds of their clients they manage under a separate law;<sup>6</sup> this shall equally apply to pension funds management companies, supplementary pension management companies, and apartment house custodians under a separate regulation,<sup>73a</sup> if they are obliged persons under a separate regulation.<sup>21a</sup> Nor shall the obligation to deliver a written approval under this paragraph apply to foreign banks established in a Member State, foreign electronic money institutions established in a Member State, or to foreign financial institutions established in a Member State. If a client fails to meet the requirements laid down in this paragraph, the bank or foreign bank branch concerned shall decline to carry out the requested transaction.

(5) Where a client uses an amount not exceeding EUR 2,000, banks and branches of foreign banks shall not demand, unless a separate law provides otherwise,<sup>21a</sup> proof of the client's identity:

- a) in transactions carried out through currency exchange machines;
- b) in providing distance financial services;<sup>74a</sup>
- c) in handling deposits, except when a deposit is established.

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<sup>73a</sup>) Article 6(1) and (2), Articles 8 to 8b, and Article 10(4) of Act No 182/1993 Coll. of the National Council of the Slovak Republic, as amended.

<sup>74a</sup>) Act No 266/2005 Coll. on consumer protection in distance financial services and on amendments to certain laws.

(6) The provisions of paragraphs (2) and (4) are without prejudice to the duties of banks and branches of foreign banks under a separate regulation;<sup>75a</sup> nor shall these provisions apply to the right of banks and foreign bank branches to use third parties in determining a client's identity under a separate law.<sup>76a</sup>

## Article 90

(1) Banks and branches of foreign banks shall notify in writing the competent tax authority according to the registered office or permanent residence of their business clients,<sup>75</sup> the number of each current or deposit account opened and closed by a current or former business client, within 10 days of the end of the calendar month in which the account was opened or closed; such information may be further disclosed by the tax authority in accordance with a separate regulation.<sup>76</sup>

(2) Banks and branches of foreign banks shall provide information to legal persons in which the government has a 100% holding and which is involved, under a resolution of the Government of the Slovak Republic, in the assistance scheme for clients who have lost their ability to repay a housing loan as a consequence of the economic crisis (hereinafter referred to as 'client assistance agency'), at the request of the client assistance agency and in the range needed for the verification of data on loan repayment and data on the financial and economic situation of clients asking for being included in that scheme.

## Article 91

(1) Subject to bank secrecy shall be all information and documents on matters concerning the clients of banks or foreign bank branches, especially information and documents concerning transactions, account and deposit balances which are not publicly available. Banks and branches of foreign banks shall keep such information confidential and protect it against disclosure, misuse, damage, destruction, loss or theft. Information and documents on matters that are subject to bank secrecy may be disclosed by a bank or a foreign bank branch to a third person only with the prior written consent of the client concerned or upon their written instruction for the purposes and subject to the conditions stated in this consent or instruction, unless this Act provides otherwise. In return for payment of the material costs, clients shall have the right to become acquainted with the information kept on them in the database of a bank or a foreign bank branch, and to receive a transcript of such information. The disclosure of information in summary form, where the name of the bank or foreign bank branch and the full name of the client are not stated, is not deemed to be a violation of bank secrecy under a separate regulation.<sup>76a</sup>

(2) For the purposes of this part of the Act, the following persons shall also be deemed to be clients of a bank or a foreign bank branch: a legal successor of an existing client within the scope of the rights and duties that the legal successor has acquired; a person with whom a bank or a foreign bank branch has negotiated a transaction, even if the transaction did not actually take place; a person who has ceased to be a client of a bank or a foreign bank branch; and any person about whom a bank or a foreign bank branch has received data hereunder from another bank or foreign bank branch, data from the Register of Loans and

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<sup>75</sup>) Article 2(2) of the Commercial Code.

<sup>76</sup>) Article 23 of Act No 511/1992 Coll. of the National Council of the Slovak Republic on the administration of taxes and fees and on changes in the system of territorial financial authorities, as amended.

<sup>76a)</sup> Article 38(6) of Act No 492/2009 Coll., as amended with effect from 24 October 2012.

Guarantees under Article 38, data from the Register of Clients under Article 92(7), or data from the Joint Register of Banking Information under Article 92a.

(3) Banks and branches of foreign banks shall submit to Národná banka Slovenska a report on all facts that are subject to bank secrecy, also without the client's consent, to persons commissioned to exercise supervision, including invited persons<sup>15a</sup> and persons specified in Articles 6(7) and 49(2), to the Resolution Council for the purpose of exercising its powers under this Act or a separate regulation,<sup>30zx</sup> to auditors during assignments stipulated by this Act or a separate law,<sup>40</sup> and to the Deposit Protection Fund for the performance of tasks under a separate regulation;<sup>77</sup> home savings banks shall disclose such information also to persons commissioned to control the use of state interest subsidies in home savings,<sup>78</sup> and mortgage banks shall disclose such information to their mortgage controllers, deputy mortgage controllers, and to persons commissioned to control the use of state interest subsidies in mortgage transactions.

(4) Where matters concerning a client are subject to bank secrecy, the bank or foreign bank branch shall submit, without the client's consent, a report on these matters to any of the following entities on the basis of a request in writing from the respective entity:

- a) a court of justice, including a notary public in the capacity of a court commissioner, for the purposes of civil proceedings to which the client of the bank or foreign bank branch is a party, or the subject of which is the property of the client of the bank or foreign bank branch;<sup>79</sup>
- b) a law enforcement authority or court for the purposes of criminal prosecution;<sup>80</sup>
- c) a tax authority,<sup>80a</sup> customs authority,<sup>80b</sup> or municipality being a tax administrator,<sup>80c</sup> for the purposes of tax or customs proceedings to which the client of the bank or foreign bank branch is a party under a separate regulation,<sup>81</sup> including the recovery of tax arrears in tax execution proceedings or the recovery of a customs debt in customs execution proceedings;
- d) a financial audit authority conducting financial audit activities under a separate regulation<sup>82</sup> in respect of the client of the bank or foreign bank branch;
- e) a court executor assigned to conduct execution proceedings under a separate regulation,<sup>67</sup> or, for the purpose of auditing the accounts and execution proceedings of an executor who has been relieved from duty under a separate law,<sup>82a</sup> by the Slovak Chamber of Executors;

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<sup>77</sup>) Articles 3(5) and 12(1) of Act No 118/1996 Coll. of the National Council of the Slovak Republic, as amended.

<sup>78</sup>) Act No 310/1992 Coll. of the Slovak National Council, as amended.

<sup>79</sup>) The Code of Civil Procedure.

<sup>80</sup>) The Criminal Code.

<sup>80a</sup>) Act No 150/2001 Coll. on tax authorities, amending Act No 440/2000 Coll. on financial control administration, as amended.

<sup>80b</sup>) Act No 199/2004 Coll. on customs (the Customs Act) and on amendments to certain laws, as amended.

<sup>80c</sup>) For example, Article 4(3)(c) of Act No 369/1990 Coll. of the Slovak National Council on municipalities, as amended by Act No 453/2001 Coll.

<sup>81</sup>) Act No 511/1992 Coll. of the Slovak National Council, as amended.

Act No 199/2004 Coll., as amended.

<sup>82</sup>) Act No 440/2000 Coll. on financial control authorities, as amended.

<sup>82a</sup>) Article 16b of Act No 233/1995 Coll. of the National Council of the Slovak Republic, as amended by Act No 341/2005 Coll.

- f) a state administration authority for the purpose of executing a decision<sup>83</sup> imposing an obligation upon the client of the bank or foreign bank branch, or a creditor of the client of the bank or foreign bank branch, to make a specific payment;
- g) the Criminal Police or Financial Police of the Police Force for the purposes of detecting criminal acts, investigating and searching for the perpetrators,<sup>84</sup> or in order to support the Financial Police in their tasks under a separate regulation<sup>84a</sup> in proving the origin of property;
- h) the Ministry in exercising control as stipulated by this Act or by a separate regulation;<sup>85</sup>
- i) a receiver or preliminary receiver in bankruptcy, restructuring, composition or debt restructuring proceedings, or a supervising administrator conducting supervisory administration in matters related to the client of a bank or a foreign bank branch whose property is the subject of bankruptcy, restructuring, composition or debt restructuring proceedings or who has been placed under supervisory administration in compliance with a separate regulation;<sup>58</sup>
- j) a competent state authority for the purpose of discharging obligations arising from an international treaty binding upon the Slovak Republic,<sup>86</sup> where the discharge of obligations under this treaty may not be declined on account of bank secrecy;
- k) the National Security Office, the Slovak Information Service, Police Force, and Military Intelligence for the purpose of performing security checks within their fields of competence in accordance with a separate regulation;<sup>86a</sup>
- l) the Office for Personal Data Protection for the purpose of supervising under a separate law<sup>37</sup> the processing and protection of personal data of clients of a bank or a foreign bank branch;
- m) the Supreme Control Office of the Slovak Republic for the purpose of checking a client of a bank or a foreign bank branch under a separate law;<sup>86b</sup>
- n) the Judicial Treasury for the purpose of collecting a judicial claim under a separate law<sup>86c</sup> from a client of a bank or a foreign bank branch;
- o) the Slovak Information Service for the purposes of fight against organised crime and terrorism in accordance with a separate regulation;<sup>86d</sup>
- p) the Military Intelligence for the purposes of obtaining, concentrating and evaluating any information that is important for the defence of the Slovak Republic under a separate

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<sup>83</sup>) Act No 71/1967 Coll. on administrative proceedings (the Administrative Procedure Order), as amended by Act No 215/2007 Coll.

<sup>84</sup>) Article 2(1)(b), (c) and (l), and Articles 29a and 76 of Act No 171/1993 Coll. of the National Council of the Slovak Republic on the Police Force, as amended

<sup>84a</sup>) Article 4(5)(c) of Act No 101/2010 Coll. on proving the original of property.

<sup>85</sup>) For example, Articles 5 and 6 of Act No 310/1992 Coll. of the Slovak National Council, as amended; Articles 2(a), 6, 12(1), 14(6), and 16(6) of Act No 126/2011 on the enforcement of international sanctions.

<sup>86</sup>) For example, the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Announcement No 462/1991 Coll.), the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Announcement No 318/1999 Coll.), the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (Announcement No 109/2002 Coll.), the Council of Europe Criminal Law Convention on Corruption (Announcement No 375/2002 Coll.), and the International Convention for the Suppression of the Financing of Terrorism (Announcement No 593/2002 Coll.).

<sup>86a</sup>) Act No 215/2004 Coll. on protection of confidential information and on amendments to certain laws, as amended.

<sup>86b</sup>) Articles 2 and 4 of Act No 39/1993 Coll. of the National Council of the Slovak Republic on the Supreme Control Office of the Slovak Republic, as amended.

<sup>86c</sup>) Articles 6 to 13 of Act No 65/2001 Coll. on the enforcement of judicial claims.

<sup>86d</sup>) Article 2(1)(d) and (2) of Act No 46/1993 Coll. of the National Council of the Slovak Republic on the Slovak Intelligence Service, as amended by Act No 256/1999 Coll.

regulation;<sup>86da</sup> especially information about the activities of foreign intelligence services, terrorists, and facts that may seriously endanger or damage the military and economic interests of the Slovak Republic;

- r) a client assistance agency in the range needed for verifying the data concerning the repayment of liabilities from loans and the net worth of the clients included or applying for inclusion in the assistance scheme for clients who have lost their ability to repay a housing loan as a consequence of the economic crisis;
- s) the Criminal Office of the Financial Authority for the purposes of performing tasks in investigating criminal offences, identifying and searching for the perpetrators.<sup>86bd</sup>
- t) the Ministry in connection with the imposition of international sanctions under a separate regulation.<sup>86dc</sup>

(5) A written request made under paragraph (4) shall contain information that enables a bank or a foreign bank branch to identify the matter in question, especially the full name of the person on which data are requested and the range of the data requested; such information need not be stated in the written request made in accordance with paragraph (4)(b), (g), and (o). A written request made pursuant to paragraph (4)(a) must include an authorisation from the court commissioning a notary to act as a court commissioner; a written request made under paragraph (4)(e) must contain an authorisation from the court commissioning a court executor to conduct enforcement. A written request made pursuant to paragraph (4)(i) must contain the bankruptcy court's decision to appoint an administrator or a preliminary administrator or a reference to the Commercial Bulletin in which such decision has been published; if this refers to a written request made by the supervising administrator, the request must contain a reference to the Commercial Bulletin in which the introduction of supervisory administration was announced. The court's decision on such delegation or appointment must be delivered in the original or as copy certified pursuant to separate regulations,<sup>50</sup> unless it has been previously published in the Commercial Bulletin. Subsequent to an agreement with a bank or a foreign bank branch, it is also possible to submit written requests as stipulated in paragraph (4) in electronic form, using an electronic signature, a guaranteed electronic signature, or other ways of verifying the applicant's identity as agreed in writing; in such cases, it is not necessary to present a court decision on delegation or appointment.

(6) Disclosure of information needed for the provision of payment services through a designated legal person<sup>9</sup> is not deemed to be a violation of bank secrecy.

(7) Compliance with the obligation of banks and branches of foreign banks to report unusual banking transactions under a separate law<sup>21a</sup> shall not be deemed to be a violation of bank secrecy. The same applies to the obligation of banks and foreign bank branches to notify, under a separate law,<sup>80</sup> the law enforcement authorities of any suspicion of a criminal act committed or contemplated in connection with matters that are otherwise subject to bank secrecy.

(8) Banks and branches of foreign banks shall provide the Ministry, within the time limits set thereby, with a written list of clients subject to international sanctions imposed

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<sup>86da</sup> Article 2(1)(b) to (d) of Act No 198/1994 Coll. of the National Council of the Slovak Republic on the Military Intelligence Service.

<sup>86bd</sup> Article 11(2) of Act No 199/2004 Coll., as amended.

Article 5(3)(h), (i) and (l) of Act No 333/2011 Coll. on state administration authorities in the area of taxes, fees and customs, as amended by Act No 441/2012 Coll.

<sup>86dc</sup> Articles 4(2), 14(5) and (6), and 16(6) of Act No 126/2011 Coll., as amended by Act No 394/2011 Coll.

under a separate regulation;<sup>86e</sup> the provided list must also contain the account numbers and account balances of these clients.

(9) Banks and branches of foreign banks can also send such reports as stipulated in paragraph (4) by electronic means; this is without prejudice to the provisions of paragraph (10).

(10) A written request to a bank or a foreign bank branch under paragraph (4) can be filed in electronic form and the bank or foreign bank branch addressed shall also deliver the requested information on a client in electronic form in accordance with paragraph (4), while the transfer of information between the applicant and the bank or foreign bank branch shall take place through an automated electronic communication system operated by an interest group of banks and branches of foreign banks.<sup>86f</sup> A written request according to the first sentence shall be made in the manner and form specified in paragraph (5) on the basis of an agreement made between the applicant or group of applicants and the interest group of banks and branches of foreign banks, which shall forthwith provide each bank or foreign bank branch with the text of the agreement made and the procedure agreed therein shall be observed by each bank or foreign bank branch. If the applicant or group of applicants as referred to in paragraph (4) agrees with the interest group of banks and branches of foreign banks upon the written application form, the relevant applicant or group of applicants shall use this form when making a written application pursuant to paragraph (4), even if the written application is not filed through the automated electronic communication system operated by the interest group of banks and branches of foreign banks.

## Article 92

(1) Banks and branches of foreign banks shall, upon written request – with or without the consent of the client concerned, provide any data needed to identify a client, including the client's account number and payment operations data, to any person who presents a written statement to the bank or foreign bank branch that:

- a) owing to an error in payment or settlement operations, the person concerned suffered damage consisting in the transfer of funds owned or managed by that person and the crediting of these funds to the client's account, and
- b) the recovery of such wrongly transferred funds requires data for identifying the client concerned and details of that client's account to which the funds have been credited as a result of an error mentioned under letter a).

(2) A bank or a foreign bank branch shall not provide the data specified in paragraph (1) if the client concerned, after receiving a written notice from the bank or foreign bank branch regarding the client's request, orders the bank or foreign bank branch to transfer back the funds from the client's account within seven calendar days from the date of delivery to the bank or foreign bank branch of a written request for client identification data.

(3) If a client of a bank or a foreign bank branch fails to meet the obligations of a client towards the bank or foreign bank branch duly and in time despite a written appeal, the bank or foreign bank branch may, without the client's consent, provide information about this client in the range specified in Article 93a(1)(a), points 1 to 3, as well as information and documentation on the client's defaulted obligations to an expert supposed to appraise the

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<sup>86e</sup>) Act No 126/2011 Coll.

<sup>86f</sup>) Articles 20f to 20j of the Civil Code.

client's obligations,<sup>87</sup> to a court executor it has designated in a proposal for distress against the client or with whom it files its title against the client subject to distress, or to an auctioneer with whom it has made a contract to conduct a voluntary auction pursuant to a separate regulation<sup>87a</sup> in connection with the client's defaulted obligation. If a client of a bank or a foreign bank branch fails to meet the obligations of a client towards the bank or foreign bank branch duly and in time despite a written appeal, or if another dispute between the bank or foreign bank branch and the client occurs, the bank or foreign bank branch may, without the client's consent, provide information about this client in the range specified in Article 93a(1)(a), points 1 to 3, as well as information and documentation on the dispute in question to an attorney whom it has authorised in writing to represent it against the relevant client in seeking protection or enforcement of unsatisfied or disputed rights of the bank or foreign bank branch. In so doing, the bank or foreign bank branch may only provide information and documentation on the client's defaulted obligations or its disputed relations with the client to which the power of attorney applies; the bank and foreign bank branch may only provide information and documentation concerning other individual relations with the client under the conditions and in the range specified in this Act.

(4) The persons and authorities mentioned in paragraphs (1) to (3), or in Article 91(1) to (7), may use the information, data, and reports provided by a bank or a foreign bank branch on matters that are subject to bank secrecy only for purposes or proceedings for which the information, data, and reports in question were disclosed; in so doing, they shall comply with the confidentiality obligation. The persons and authorities specified in paragraphs (1) to (3), or in Article 91(1) to (7), may exchange such information between themselves only for the purposes for which the information was provided; otherwise they may disclose such information only with the consent of the bank or foreign bank branch in accordance with the conditions set out in paragraphs (1) to (3) and in Article 91(1) to (7).

(5) If, on the grounds of arrears on the client's part, a claim of a bank or a foreign bank branch from a granted loan or guarantee is classified under Article 39(11) and (12) as a classified claim that can reasonably be expected not to be satisfied to the full amount of its nominal value, the bank or foreign bank branch concerned shall be entitled, without the client's consent, to provide other banks and branches of foreign banks with data to the effect that this client, identified to no more than the extent set in Article 93a(1)(a), points 1 and 2, has violated their duties and is in arrears with the settlement of the said claim, as well as with data on this claim and its classification. If a client of a bank or a foreign bank branch is, despite being notified in writing by the bank or foreign bank branch, more than 90 days in arrears with the settlement of any part of a financial liability or other obligation towards the bank or foreign bank branch, or if the client repeatedly fails to meet any obligation towards the bank or foreign bank branch, the bank or branch of a foreign bank concerned may, after giving a prior notice to the client and without the client's consent, notify other banks and branches of foreign banks that the client has defaulted on certain liabilities towards the bank agreed-upon in a contract or in a generally applicable regulation. In such cases, the bank may disclose only the client's name, place of registered office or permanent residence, and the obligation violated by the client. The bank may not carry on providing such information on a client's default after the client has fully and completely redressed the consequences of the default, in particular after the client has settled a past-due liability in full, including its

<sup>87</sup>) For example, Act No 36/1967 Coll. on experts and interpreters, as amended by Act No 238/2000 Coll. and Act No 466/2002 Coll.

<sup>87a</sup>) Act No 527/2002 on voluntary auctions and on amendments to Act No 323/1992 Coll. of the Slovak National Council on notaries and notarial activity (the Notarial Order), as amended.

accessories; the bank shall inform other banks and branches of foreign banks of this rectification without delay. Information provided in this way is subject to bank secrecy.

(6) In the event of security interest enforcement by a pledgee whose turn it is to satisfy their claim from the collateral after the bank or foreign bank branch concerned, such bank or branch of a foreign bank shall disclose information subject to bank secrecy on the amount of the claim secured by a security interest of the bank or foreign bank branch, needed to assess the collateral, only to the person assessing the collateral for the purposes of security interest enforcement under a separate regulation.<sup>87ab</sup>

(7) Banks and branches of foreign banks shall be entitled:

- a) to keep a register of clients who do not meet, duly and in time, their commitments ensuing from contractual relationships between the bank and a client, clients who make what a bank or a foreign bank branch considers an unusual business transaction as defined in a separate regulation,<sup>21a</sup> and clients to whom international sanctions apply under a separate regulation;<sup>86d</sup>
- b) to disclose, even without the client's consent, information from this register to other banks or branches of foreign banks; the information disclosed shall be subject to bank secrecy for these banks and branches of foreign banks.

(8) If, despite being notified in writing by the bank or foreign bank branch concerned, a client is permanently more than 90 days in arrears with the discharge of a financial liability or part thereof towards the bank or foreign bank branch, such bank or branch of a foreign bank may assign its claim corresponding to this liability by way of a written contract to a third person, including a non-bank person (hereinafter referred to as 'assignee'), with or without the client's consent. The bank or foreign bank branch may not have recourse to this right if the client repays the past-due liability to the bank or foreign bank branch in full, including accessories, prior to the date of claim assignment; this shall not apply if the sum of the client's all arrears with the discharge of the same financial liability of part thereof towards the bank or foreign bank branch exceeds one year. When assigning a claim, the bank or foreign bank branch shall also hand over to the assignee the documentation on the liability relationship underlying the claim transferred; the bank or foreign bank branch may provide information to the assignee on other liability relationships between the bank or foreign bank branch and the client only under the conditions and in the range stipulated by this Act.

(9) Information subject to bank secrecy may be disclosed only with the prior approval of Národná banka Slovenska in connection with the sale of a bank or a foreign bank branch, or part thereof, under a separate regulation,<sup>28</sup> or in connection with the sale of a share of at least 33% in the capital of a bank, or in connection with the merger or consolidation of a bank, including the merger of another legal person with a bank. A bank or a foreign bank branch may provide such information only to a person with whom negotiations are underway on the signing of a contract, or to a person with which the bank is expected to merge or consolidate, or to a person producing documents required for the conclusion of a contract on the sale, merger or consolidation of a bank. Persons receiving information that is subject to bank secrecy shall keep such information confidential even after the negotiations have ended, or the documents have been produced, or the merger or consolidation of the bank has taken effect. With such persons, the bank or foreign bank branch concerned shall conclude a written contract governing the obligation of confidentiality and the protection of information subject

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<sup>87ab</sup>) For example, Act No 527/2002 Coll., as amended; Act No 233/1995 Coll. of the National Council of the Slovak Republic, as amended; Articles 251 to 351 of the Code of Civil Procedure.

to bank secrecy, as well as responsibility for its misuse. Unless this contract is concluded, the approval of Národná banka Slovenska may not be granted.

(10) For submitting a report to an auditor under Article 91(3) and a report under Article 91(4)(a), (e) and (i), banks and branches of foreign banks shall be entitled to reimbursement for their expenses. Reimbursement for expenses is also due to a bank or a foreign bank branch for the submission of a report under Article 91(4)(a), (e) and (i), if the person on which data are requested in writing is not a client of the bank or foreign bank branch in question. The reimbursement of expenses incurred in connection with the delivery of a report under Article 91(4)(i) shall not be subject to a separate regulation.<sup>87aa</sup>

(11) A bank that is part of a consolidated group controlled by another bank, foreign bank or financial institution, which is subject to supervision on a consolidated basis in its home country, shall be entitled, with or without the client's consent, to provide information subject to bank secrecy to a person that controls this group, specifically to the extent necessary to compile statements and reports on a consolidated basis, but to no more than the extent specified in Article 93a(1)(a) and on condition that the person controlling this group will provide for the protection of the information supplied, at least at the same level as the bank supplying the information. The information so provided shall continue to be subject to bank secrecy and may only be used for the purpose for which it was provided.

## Article 92a

(1) For the purposes of preparing, concluding and executing transactions with clients and for the purposes of documenting the operations of banks and branches of foreign banks, banks and branches of foreign banks may, by automated or non-automated means, create a Joint Register of Banking Information (hereinafter referred to as 'Joint Banking Register'), through which banks and branches of foreign banks shall be entitled, with the client's consent in accordance with Article 91(1), to make available and provide to each other, solely under the conditions stipulated by this Act and by a separate law,<sup>37</sup> free of charge or in consideration for the real costs incurred, data on loans and bank guarantees granted to their clients, data on requested loans and bank guarantees where the clients have demonstrably applied for them, data on these clients in the range specified in Article 93a(1)(a), points 1 to 3, data on their claims arising from loans and bank guarantees granted to clients and the securing of these claims, data on liability repayment by clients in respect of the loans and bank guarantees granted, and data on the financial standing and trustworthiness of clients in terms of liability repayment in respect of the loans and bank guarantees granted.

(2) Banks and branches of foreign banks may, under the conditions stipulated by this Act and by a separate law,<sup>37</sup> entrust the operation of the Joint Banking Register, including data processing in the Joint Banking Register, only to a joint auxiliary banking services undertaking acting in the capacity of an operator;<sup>87b</sup> interests in the share capital of this undertaking may be held exclusively by banks, branches of foreign banks, or by Národná banka Slovenska. Such a joint auxiliary banking services undertaking shall store the Joint Banking Register and the data therein in an appropriate manner, to make backup copies of the data stored, to keep them strictly confidential and protect them against unauthorised access, disclosure, misuse, modification, damage, destruction, loss or alienation. The joint auxiliary banking services undertaking and the Joint Banking Register shall be subject to supervision.

<sup>87aa</sup> Article 75(12) of Act No 7/2005 Coll.

<sup>87b</sup> Article 4(3) and Articles 5, 23, and 55 of Act No 428/2002 Coll.

The joint auxiliary banking services undertaking shall be entitled to commission third persons<sup>87b</sup> to process the data stored in the Joint Banking Register under the conditions laid down in a separate law;<sup>37</sup> where data processing is done in a manner requiring approval from the Office for Personal Data Protection under a separate law,<sup>37</sup> the joint auxiliary banking services undertaking shall only be entitled to commission third persons to process data that are subject to approval by the Office for Personal Data Protection.

(3) Information supplied to or from the Joint Banking Register shall continue to be subject to bank secrecy. Information from the Joint Banking Register and information on other facts about the operation of the Joint Banking Register may only be provided to banks, branches of foreign banks, Národná banka Slovenska, or to a client assistance agency in a range needed for the verification of data on the discharge of liabilities in respect of loans and on the financial and economic situation of clients included or applying for inclusion in the assistance scheme for clients who have lost their ability to repay a housing loan as a consequence of the economic crisis and, with the client's consent under Article 91(1), also to another person named therein, if that person ensures the protection of the information provided, at least at the same level as the operator of the Joint Banking Register pursuant to paragraph (2) and the information provided may only be used in accordance with the client's consent under Article 91(1) and for the purpose for which it was provided. Information from the Joint Banking Register on consumers shall also be made available to other persons as specified in a separate law<sup>87c</sup> under the same conditions as to banks and branches of foreign banks. In relation to any other persons, the employees and members of bodies of the joint auxiliary banking services undertaking shall keep such information confidential in accordance with paragraph (2).

(4) Information about clients and their transactions as specified in paragraph (1), supplied to the Joint Banking Register by a bank or a foreign bank branch, may be stored in the Joint Banking Register for five years from the expiration of the clients' obligations from transactions mentioned in paragraph (1), unless the clients demonstrably give their consent under Article 91(1) to the storage of this information in the Joint Banking Register for a different period; this period may not be reduced additionally. The bank or foreign bank branch that has supplied data on clients and their transactions pursuant to paragraph (1) to the Joint Banking Register shall demonstrably notify the joint auxiliary banking services undertaking under paragraph (2) of the date of expiry of the clients' obligations from transactions mentioned in paragraph (1).

(5) The clients of banks and branches of foreign banks shall be entitled, under the conditions stipulated by a separate law,<sup>37</sup> to obtain at no charge information from the Joint Banking Register regarding clients and their transactions; to obtain from the operator of the Joint Banking Register, at least once a year and at no charge, the list of persons to whom information on clients and their transactions has been provided from the Joint Banking Register; and to require, at no charge and under the conditions stipulated by a separate law,<sup>37</sup> the Joint Banking Register to correct or remove any inaccurate, incomplete, or outdated information in the Joint Banking Register regarding clients and their transactions.

## Article 92b

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<sup>87c</sup>) Article 8 of Act No 129/2010 Coll. on consumer credits and other credits and loans for consumers, and on amendments to certain laws.

(1) For the purpose of providing basic banking products pursuant to Article 27c, banks and branches of foreign banks may, by automated or non-automated means, create a joint register of consumers to whom a basic banking product has been provided. Through this register, banks and branches of foreign banks shall be entitled, with or without the consent of the consumer in the capacity of the person concerned under a separate law,<sup>37</sup> to make available and provide to each other, solely under the conditions stipulated by this Act and by a separate law,<sup>37</sup> free of charge or in consideration of the real costs incurred, information about the basic banking products provided to consumers in the range specified in Article 93a(1)(a), points 1 and 3.

(2) Information provided to or from the joint register of consumers to whom a basic banking product has been granted shall continue to be subject to bank secrecy. Information from the joint register and information about other facts about the operation of this register may only be provided to banks and branches of foreign banks. In relation to any other persons, the employees and members of bodies of the joint auxiliary banking services undertaking shall keep such information confidential.

(3) The joint register of consumers to whom a basic banking product has been provided shall be equally subject to the provisions of Article 92a(2), (4) and (5).

### **Article 92c**

For the purposes of exercising its powers and performing its tasks under this Act and separate regulations<sup>1a</sup> and for statistical purposes, the Ministry may request the association<sup>86f</sup> of banks and foreign bank branches to release a statement, explanation, and other data and information concerning the activity of that association or its members. For the purposes of such cooperation, the association in question may collect and process data and information from its members in order to meet the Ministry's request.

### **Article 93**

(1) The employees of banks and foreign bank branches, members of their statutory or supervisory bodies, mortgage controllers and their deputies, and persons doing translations or conducting activities under Article 92(3) shall keep confidential any matters relevant to the interests of the bank or foreign bank branch concerned and their clients, unless this Act provides otherwise. The aforementioned persons may be exempted from this obligation by the statutory body of the bank or chief executive officer of the foreign bank branch concerned owing to reasons listed in Article 91(3) to (7), and Article 92(1) to (5). The confidentiality requirement as defined in this paragraph shall not apply to persons assigned to exercise banking supervision.

(2) The employees and members of bodies of a designated legal person<sup>9</sup> ensuring the provision of payment and settlement services shall not disclose any matters relating to payment and settlement services to any third person, except to Národná banka Slovenska performing tasks under this Act or under a separate regulation<sup>8</sup> and to the Resolution Council performing tasks under this Act or under a separate regulation.<sup>30zx</sup>

(3) The confidentiality obligation shall remain in effect after the termination of the employment relationship or other legal relationship or after the term of office pursuant to paragraphs (1) or (2).

(4) The provisions of paragraphs (1) to (3) are without prejudice to the obligation to prevent or report a criminal offence in accordance with a separate law.<sup>88</sup>

### **Article 93a**

(1) For the purposes of ascertaining, reviewing, and checking the identity of clients and their proxies, for the purposes of conducting and executing transactions with clients, and for other purposes listed in paragraph (3), the clients and their proxies shall, when entering into a transaction, meet the request of the bank and foreign bank branch:

a) to provide:

1. if a natural person is concerned, including a natural persons representing a legal person, personal identification data<sup>88a</sup> such as first name, last name, address of permanent residence, address of temporary residence, birth registration number, if assigned, date of birth, citizenship, and the type and number of the identity document; and, if a natural persons engaged in business is concerned, the field of business, address of the place of business, designation of the official register or other official record in which the person is registered, and the number of entry in this register or record;
2. if a legal person is concerned, identification data such as name, company registration number, if assigned, registered office address, field of business or other activities, organisational units, address of the place of business and any other place where business activities are performed, list of statutory body members and data on them as specified under point 1, list of partners holding more than 10% of the share capital or voting rights of this legal person, including their identification data such as name, legal form, registered office address, company registration number, and country ISO code (for legal persons), or data as specified under point 1 (for natural persons), as well as the designation of the official register or other official record in which the relevant legal person is registered,<sup>88b</sup> and the number of its entry in this register or record;
3. a contact telephone number, fax number, and electronic mail address, if any;
4. documents and data proving and documenting:
  - 4a the client's ability to discharge the liabilities arising from transactions;
  - 4b the required coverage of liabilities arising from transactions;
  - 4c authorisation for representation, where a proxy is involved;
  - 4d the fulfilment of other requirements and conditions for the conclusion and execution of a transaction, stipulated by this Act or by separate regulations or agreed with the bank or foreign bank branch concerned;

b) to enable the following to be obtained by photocopying, scanning, or other means of recording:

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<sup>88</sup>) The Criminal Code.

<sup>88a</sup>) Article 3 of Act No 428/2002 Coll.

<sup>88b</sup>) For example, Act No 530/2003 Coll. on the Commercial Register and on amendments to certain laws; Articles 3a and 27 to 33 of the Commercial Code; Article 2(2) and Articles 10 and 11 of Act No 34/2002 Coll. on foundations and on amendments to the Civil Code, as amended; Article 9(1) and (2) and Article 10 of Act No 147/1997 Coll. on non-investment funds and on amendments to Act No 207/1996 Coll. of the National Council of the Slovak Republic; Article 9(1) and (2) and Article 11 of Act No 213/1997 Coll. on non-profit organisations providing community services, as amended by Act No 35/2002 Coll.; Articles 6, 7, 9, and 9a of Act No 83/1990 Coll. on associations of citizens, as amended; Article 6(1) and Article 7 of Act No 182/1993 Coll. of the National Council of the Slovak Republic on ownership of apartments and non-residential premises, as amended; Article 4(3) of Act No 515/2003 Coll. on regional and district authorities and on amendments to certain laws.

1. personal identification data<sup>88a</sup> from an identity document, including degree, first name, last name, maiden name, birth registration number, date of birth, place and district of birth, address of permanent residence, address of temporary residence, citizenship, record of any restriction in legal capacity, type and number of the identity document, issuing authority, and the date of issue and date of expiry of the identity document; and
2. additional information from documents proving the information to which subparagraph (a) applies.

(2) For the purposes of ascertaining, reviewing, and checking the identity of clients and their proxies, for the purposes of preparing, conducting and executing transactions with clients, and for other purposes listed in paragraph (3), banks and branches of foreign banks shall be entitled, for each transaction, to request from clients and their proxies data in the range specified in paragraph (1) and to request such data repeatedly for each transaction in the manner specified in paragraph (1)(b); they shall also be entitled, when concluding and executing transactions via the telephone service of electronic communications, to process for such purposes, with or without obtaining the consent of or informing the clients or their proxies, biometric data from clients or their proxies, including voice biometrics. Clients and their proxies shall satisfy each such request received from a bank or a foreign bank branch.

(3) For the purposes of ascertaining, reviewing, and checking the identity of clients and their proxies, for the purposes of concluding and executing transactions with clients, for the purposes of protecting and enforcing their rights against clients, for the purposes of documenting their operations, for the purposes of exercising supervision over their operations, and for the purposes of performing the tasks and duties of a bank or a foreign bank branch hereunder or under separate regulations,<sup>88c</sup> banks and branches of foreign banks shall be entitled, with or without obtaining the consent of and informing the persons concerned,<sup>88d</sup> to ascertain, acquire, record, store, use or otherwise process<sup>88e</sup> personal data and other data in the range specified in paragraph (1), Article 91(1), Article 38(3) and Article 92a; in so doing, banks and branches of foreign banks shall be entitled, by automated or non-automated means, to make copies of the identity documents and process birth registration numbers<sup>88f</sup> and other data and documents in the range specified in paragraph (1), Article 91(1), Article 38(3) and Article 92a.

(4) Banks and branches of foreign banks shall, with or without obtaining the consent of or informing the persons concerned,<sup>88d</sup> make available and provide<sup>88g</sup> for processing the data specified in paragraphs (1) to (3), Article 91(1), Article 38(3), and Article 92a to other persons determined by law only under the conditions stipulated by this Act or by a separate law<sup>88h</sup> and to Národná banka Slovenska for the purposes of maintaining the register of bank loans and guarantees and performing tasks, activities, and supervision under to this Act and separate laws. For the purposes specified in paragraph (3), Národná banka Slovenska shall be entitled to process, make available and provide<sup>88g</sup> to banks and branches of foreign banks

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<sup>88c</sup>) For example, Act No 367/2000 Coll., as amended; Act No 431/2002 Coll., as amended by Act No 562/2003 Coll.; and Act No 395/2002 Coll. on archives and registries and on amendments to certain laws.

<sup>88d</sup>) Articles 4(5) and 7(3) of Act No 428/2002 Coll.

<sup>88e</sup>) Article 4(1)(a), (b) and (c), Article 7(3), (5) second sentence and (6) second sentence, and Articles 8(2) and 10(6) of Act No 428/2002 Coll.

<sup>88f</sup>) Article 2 of Act No 301/1995 Coll. of the National Council of the Slovak Republic on the birth certificate number.

<sup>88g</sup>) Article 7(6) of Act No 428/2002 Coll.

<sup>88h</sup>) For example, Article 12(1) and (2) and Article 22b of Act No 118/1996 Coll. of the National Council of the Slovak Republic, as amended.

from its information system the data specified in paragraphs (1) to (3), Article 91(1), and Article 92a and registered in the register of bank loans and guarantees.

(5) Banks and branches of foreign banks shall be entitled, with or without obtaining the consent of or informing the persons concerned,<sup>88d</sup> to make available and provide<sup>88g</sup> the data specified in paragraphs (1) to (3), Article 91(1), Article 38(3) and Article 92a, from their information system only to persons and bodies which are required by law to provide or which are entitled by law to provide information that is protected under bank secrecy, but only in the range specified for the provision of information that is protected under bank secrecy.

(6) Banks and branches of foreign banks may make available and provide abroad the data specified in paragraphs (1) to (3), Article 91(1), Article 38(3) and Article 92a only under the terms and conditions stipulated by a separate law<sup>88i</sup> or where so stipulated by an international treaty binding upon the Slovak Republic and taking precedence over the laws of the Slovak Republic.

(7) The premises of banks, branches of foreign banks, and Národná banka Slovenska, as well as automated teller machines and currency exchange machines located outside the premises of banks and branches of foreign banks, may be monitored using video cameras or sound recording equipment even where there is no notice that the area is under surveillance;<sup>88ia</sup> the recordings may be used to reveal criminal acts, detect and search for the perpetrators, and in particular to ensure effective protection against money laundering and terrorist financing, to uncover illegal financial operations, judicial proceedings, criminal proceedings, misdemeanour proceedings, and to supervise the discharge of obligations imposed by law on banks and branches of foreign banks.<sup>88ia</sup> Any such video or audio recording made by a bank, foreign bank branch or Národná banka Slovenska shall be handed over without delay to the authority mentioned in Article 91(4)(b), (g) and (o), if it so requests. If a recording is not used for these purposes, then it shall be destroyed without delay by the person who made it, after the expiration of thirteen months after its making.<sup>88ia</sup>

(8) Banks shall be entitled to process the personal data of clients and other persons concerned for the purpose of assessing risks related to a planned transaction between the client and the bank in the scope defined in paragraph 1(a). A prior approval issued by Národná banka Slovenska under Article 30 shall include a decision of Národná banka Slovenska on whether the processed personal data requested by a bank in its application for prior approval correspond to the purpose of their processing in terms of scope, content, and method of processing or use, whether they are compatible with the given purpose of processing, whether they are essential to achieve this purpose, or whether they are out of date in time and subject-matter terms in relation to this purpose.

## Article 93b

(1) Banks and branches of foreign banks shall offer to their clients an irrevocable proposal for the conclusion of an arbitration agreement<sup>88j</sup> to the effect that their mutual disputes that may arise from transactions [Article 5(i)] shall be decided in arbitration proceedings by a standing arbitration court established under a separate law;<sup>88k</sup> in a manner

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<sup>88i</sup>) Articles 23 and 55 of Act No 428/2002 Coll., as amended by Act No 602/2003 Coll.

<sup>88ia</sup>) Articles 10(7) and 13(7) of Act No 428/2002 Coll.

<sup>88j</sup>) Article 4(1) and (2) of Act No 244/2002 Coll.

<sup>88k</sup>) Article 67(1) of Act No 510/2002 Coll.

Act No 244/2002 Coll.

allowing the client to select whether or not to accept the proposal to conclude an arbitration agreement. When proposing to conclude an arbitration agreement, the bank or foreign bank branch shall also provably inform the client of the implications of the proposed arbitration agreement for the resolution of their mutual disputes in connection with the transactions.

(2) Banks and branches of foreign banks shall present a draft arbitration agreement pursuant to paragraph (1) to their clients no later than on the conclusion of a transaction to which an arbitration agreement already concluded does not apply. The client shall not be obliged to accept a draft arbitration agreement presented pursuant to paragraph (1); should the client not accept the draft arbitration agreement presented under paragraph (1), any disputes that may arise from a transaction with such client shall be resolved through a procedure in accordance with separate regulations.<sup>88l</sup>

(3) The provisions of Article 93a shall be likewise applied to a standing arbitration court established under a separate law,<sup>88k</sup> namely to the provision, acquisition, disclosure and processing of data for the purposes of proceedings before and decisions taken by such arbitration court in respect of disputes between clients and their banks or foreign bank branches, and also for the purpose of documenting the activities of this standing arbitration court. Such standing arbitration court shall, however, make available and provide<sup>88g</sup> the data specified in Article 93a(1) to (3), Article 91(1), Article 38(3), and Article 92a only to Národná banka Slovenska for the purposes of exercising powers, supervision, and activities under this Act and separate laws, and only to parties to arbitration proceedings before such standing arbitration court in the scope necessary for the purposes of arbitration proceedings.<sup>88m</sup>

## **PART FIFTEEN PROCEEDINGS BEFORE NÁRODNÁ BANKA SLOVENSKA**

### **Article 94**

(1) Proceedings in matters assigned to Národná banka Slovenska under this Act shall be governed by a separate law,<sup>89</sup> unless this Act or a separate law<sup>89a</sup> provides otherwise.

(2) Národná banka Slovenska shall decide in first instance on applications as referred to in Articles 30 to 32 within nine months of the date of receipt of a complete application, and on applications for approval mentioned in Article 9(4) within thirty days of the date of receipt of a complete application. An application for approval or prior approval under Article 9(4) shall be submitted by a bank. An application for prior approval to remove a member of a bank's statutory body or supervisory board and to appoint a new member thereto, or to replace a managerial employee, may also be submitted by any of the shareholders with a qualifying holding in the bank, provided that the replacement of such staff members falls within the competence of the bank's general meeting and that the duties of these employees are linked with the duties of a member of the bank's statutory body.

(3) In proceedings as described in paragraph (2), Národná banka Slovenska may, before issuing its decision on the matter, carry out an on-site inspection at the bank to check,

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<sup>88l</sup>) For example, the Code of Civil Procedure, Act No 233/1995 Coll. of the National Council of the Slovak Republic, as amended.

<sup>88m</sup>) Act No 244/2002 Coll.

<sup>89</sup>) Act No 747/2004 Coll. on financial market supervision, including amendments to certain laws.

<sup>89a</sup>) For example, Act No 310/1992 Coll. of the Slovak National Council, as amended.

if necessary, whether the relevant conditions are met. If Národná banka Slovenska finds that the conditions have been met, it shall make an official record of that fact. This record shall include a description of the actual situation, an assessment of compliance with the conditions referred to in the first sentence, any deficiencies found in the application, the time limits and conditions for removing these deficiencies or a request to supplement the application, and any other relevant facts.

(4) Where the decision to grant prior approval in accordance with Articles 30 to 32 is conditional upon compliance with the requirements set out in the operative part of this decision, the bank shall prove the meeting of these requirements to Národná banka Slovenska within the time limit and scope determined by Národná banka Slovenska. Where fulfilment of these requirements is not proved within this period or scope, Národná banka Slovenska shall modify or cancel the decision. Where different time limits are set for the individual requirements in the operative part, the bank shall prove the meeting of these requirements to Národná banka Slovenska within the respective time limits; otherwise Národná banka Slovenska shall cancel the decision when, with regard to the prescribed time limits, the meeting of the last requirement to be proved is not demonstrated.

## **PART SIXTEEN COMMON, TRANSITIONAL AND FINAL PROVISIONS**

### **Article 114a**

This Act transposes the legally binding acts of the European Union listed in the Annex hereto.

### **Article 114b**

(1) Národná banka Slovenska shall perform the tasks and exercise the powers of a competent supervisory authority<sup>13h</sup> in the Slovak Republic under a separate regulation,<sup>30x</sup> delegated Commission directive on the issuance of regulatory technical standards or implementing Commission directive on the issuance of implementing technical standards related to a separate regulation<sup>30x</sup> issued at the suggestion of the European supervisory authority (European Banking Authority).<sup>30zg</sup> Unless a separate regulation,<sup>30x</sup> delegated Commission directive on the issuance of regulatory technical standards or implementing Commission directive on the issuance of technical standards provide otherwise, Národná banka Slovenska shall proceed in performing these tasks and exercising these powers in accordance with the provisions of this Act and separate regulations.<sup>90</sup>

(2) Národná banka Slovenska as a competent supervisory authority<sup>13h</sup> shall apply national discretions under a separate regulation,<sup>30x</sup> stipulate conditions for the exercise of national discretions in the Slovak Republic, and report these national discretions to the Commission.

(3) In a decree<sup>23</sup> to be promulgated in the Collection of Laws, Národná banka Slovenska shall stipulate requirements, limits, methods, levels, percentage rates, proportions, ratios, indicators, and exceptions for the implementation of Articles 4, 6, 8, 9, 10, 11, 15, 18,

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<sup>90</sup>) For example, Act No 566/1992 Coll. of the National Council of the Slovak Republic, as amended, and Act No 747/2004 Coll., as amended.

19, 24, 27, 31, 49, 78, 79, 83, 84, 89, 95, 97, 99, 116, 124, 125, 126, 129, 151, 152, 164, 178, 179, 225, 243, 244, 282, 283, 284, 311, 315, 317, 327, 329, 352, 358, 366, 380, 382, 395, 396, 400, 412, 413, 415, 416, 420, 422, 425, 450, 458, 465, 467, 468, 471, 473, 478, 479, 480, 481, 493, 495, 496, 499, and 500 of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.06.2013).

## **Article 115**

The protection of deposits held with banks and branches of foreign banks, including interest and other financial benefits accrued on such deposits, shall be governed by a separate regulation.<sup>32</sup>

## **Article 116**

The provisions of this Act shall also govern legal relations arising prior to the effective date hereof; however, the origination of these legal relations and any claims arising therefrom prior to the effective date hereof shall be considered pursuant to the current regulations, unless this Act provides otherwise.

## **Article 117**

(1) Banks that granted loans or assumed claims on loans granted before 1 January 1990, which have become classified owing to the risk that their principal may not be repaid when and as due in full, will complete the process of loan portfolio restructuring with government participation launched and implemented according to the current legislation.

(2) The government or, on the basis of its authorisation, the Ministry shall be entitled to provide banks as referred to in paragraph (1) with special guarantees for the purposes of loan portfolio restructuring.

(3) If the liabilities of a bank mentioned in paragraph (1) backed by a special guarantee pursuant to paragraph (2) are assumed by another legal person, even a non-bank entity, the guarantee shall be transferred along with the liabilities assumed and shall apply to the assuming legal person, too.

(4) If, in the process of loan portfolio restructuring, a bank mentioned in paragraph (1) assigns its loan claims to any other legal person, including a non-bank entity, the requirement set out in Article 38(1) shall apply to such legal person. A bank mentioned in paragraph (1) may, in the process of loan portfolio restructuring, assign its claims to another legal person even if the duration of default or another condition stipulated in Article 92(8) has not been satisfied.

## **Article 118**

(1) If, after 1 February 1992, a bank suffered a loss on the obligatory provision of loans under the legal regulations issued before 1 February 1992, the bank shall be entitled to compensation for such loss from the state budget in an amount that can be documented by loan agreements under the conditions stipulated in paragraphs (2) and (3).

(2) Banks shall inform the Ministry of the amount of their expected loss within the time limit set for the preparation of a draft state budget for the following fiscal year.

(3) The Ministry shall compensate banks for their actually documented losses, provided that the banks have met their obligations under paragraph (2), but only up to the amount specified in the State Budget Act for the relevant year. Banks shall document the actual amount of their losses to the Ministry within five calendar days from the end of the relevant calendar month, and the Ministry shall pay them compensation for their losses within fifteen days after the losses are documented, unless they agree otherwise.

## **Article 119**

(1) Proceedings started but still pending a valid decision before this Act takes effect shall be completed according to the current legislation, unless this Act provides otherwise. From the effective date hereof, any shortcomings found in the activities of banks, branches of foreign banks, and other persons, occurring under the current legislation and not being subject to any proceedings under the current legislation, shall be deemed to be resolved pursuant to this Act, provided they are also deemed to be shortcomings under this Act. From the effective date hereof, however, measures to eliminate an unlawful state, fines, or corrective measures may only be imposed in accordance with this Act. The legal effects of deeds that occurred in the proceedings before this Act entered into force shall remain unaffected.

(2) The provisions of this Act shall apply to time limits that have not yet elapsed at the date when this Act takes effect. Where the current legislation did not set time limits for the issuance of decisions or for other acts in proceedings that have started but have not been lawfully completed before this Act becomes effective, the time limits set in this Act shall apply and start to run on the day when this Act takes effect; where the current legislation set longer time limits for these acts than those defined in this Act, the time limits set in the current legislation shall apply.

(3) Banks, branches of foreign banks, and other persons shall bring their legal relations with third parties arising from activities pursued under the current legislation into line with this Act within six months from the effective date hereof; from the same date, however, no person may carry on an activity that is inconsistent with this Act. Every bank shall, within twelve months of the effective date hereof, modify its articles of association so as to comply with this Act; if a bank fails to adapt any of the provisions of its articles of association to this Act within this time limit, such provisions shall become invalid after the time limit has elapsed.

(4) Národná banka Slovenska may also stipulate special conditions for the financing of mortgage and municipal loans for a period of no more than two years from the effective date hereof for a mortgage bank already possessing a mortgage banking authorisation at the effective date hereof, which submits a written request for the determination of such special financing conditions.

## **Article 120**

(1) A banking authorisation granted to a bank or a foreign bank branch under the current legislation and valid as at the date when this Act takes effect shall be deemed to be a banking authorisation granted under this Act. If the authorisation includes activities that are

not banking activities under Article 2(1) and (2), the banking authorisation shall expire in the range of these activities at the effective date hereof.

(2) Application rules issued under Act No 21/1992 Coll. on banks in the wording of subsequent regulations, which are valid as at the date when this Act enters into force, shall be deemed to be application rules issued under this Act until new application rules are issued.

## Article 121

(1) The legal form of a bank established as a state financial institution under the current legislation shall be transformed into a joint stock company under a separate law<sup>1</sup> by a decision of the founder of the state financial institution to be transformed; the foregoing does not apply to a state financial institution whose entire assets and business have been transferred under a separate regulation<sup>92</sup> before the end of the period set in paragraph (2). A decision to transform a state financial institution into a joint stock company must at least contain the following information:

- a) the business name, registered office, and identification number of the bank organised as a state financial institution before transformation;

- b) the business name and registered office of the bank organised as a joint stock company after transformation;
- c) the line of business (activity) of the bank organised as a joint stock company after transformation; the line of business (activity) may be defined only in the range of banking activities the state financial institution was authorised to perform at the time of transformation;
- d) the amount of share capital of the bank organised as a joint stock company after the transformation; the share capital shall be equal in amount to the capital of the state financial institution before transformation;
- e) the number, type, par value, class, and form of shares which, in accordance with Article 2(6), constitute the share capital of the bank organised as a joint stock company after transformation;
- f) the articles of association of the bank organised as a joint stock company after transformation attached to the decision on transformation; in addition to the elements stipulated in a separate regulation,<sup>25</sup> these articles of association must also contain the elements established by this Act;
- g) the first and last names, birth registration numbers, and permanent residence addresses of members of the statutory body of the bank organised as a joint stock company after transformation, and a description of the manner in which they act for and on behalf of the bank;
- h) the first and last names, birth registration numbers, and permanent residence addresses of members of the supervisory board of the bank organised as a joint stock company after transformation.

(2) The founder of a state financial institution shall issue a decision in accordance with paragraph (1) without an invitation to subscribe shares within six months of the date when this Act takes effect. A proposal to register the transformation of a state financial institution into a joint stock company shall be submitted by the founder of the state financial institution being transformed; attached to this proposal shall be a decision pursuant to paragraph (1), which replaces the foundation deed and the founders' decisions to establish a joint stock company without an invitation to subscribe its shares and which, for the purposes

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<sup>92</sup>) Act No 92/1991 Coll. stipulating conditions for the transfer of state-owned property to other persons, as amended.

of registration in the Commercial Register, shall be a document on facts that should be entered into the Commercial Register in respect of the transformation of a state financial institution into a bank organised as a joint stock company. Such transformation shall take effect on the day when the transformation is recorded into the Commercial Register, whereby all data on the transformation shall be entered into the Commercial Register as at the same date; from the effective date of this Act to the date of transformation, the current legislation shall apply to the legal relations of a bank organised as a state financial institution.

(3) As of the date of transformation under paragraphs (1) and (2), the share capital of a bank formerly organised as a state financial institution shall become a deposit of the state in the share capital of the bank transformed into a joint stock company, with the state acquiring shares that the share capital is divided into, whereby all shareholder rights attached to these shares held by the state shall be exercised by the Ministry.

(4) As of the date of transformation under paragraphs (1) and (2), the banking authorisation granted to a bank organised as a state financial institution before transformation shall be transferred in full range to the same bank transformed into a joint stock company; the limitation stipulated in Article 9(1) shall not apply to this transfer; the banking authorisation shall be deemed to be a banking authorisation under this Act in accordance with the provisions of Article 120(1).

(5) As of the date of transformation under paragraphs (1) and (2), the sources of financing for a bank transformed into a joint stock company shall comprise:

- a) the bank's own funds consisting of its share capital, funds, and profit for the current year;
- b) temporarily disposable borrowed funds;
- c) entrusted funds allocated from the state budget.

(6) As of the date of transformation under paragraphs (1) and (2) without liquidation, all assets, claims, liabilities, and other commercial property of a bank organised as a state financial institution before transformation shall be transferred in full range to the same bank transformed into a joint stock company. Any security for the claims and liabilities of the transforming state financial institution shall remain effective, including government guarantees for liabilities incurred as a result of a decision taken by the relevant state authority, including liabilities incurred as a result of a decision taken prior to the effective date hereof; all rights and obligations under such security and guarantees shall be transferred in full range to the bank transformed into a joint stock company as of the date of transformation pursuant to paragraphs (1) and (2).

(7) Both before and after transformation pursuant to paragraphs (1) and (2), the Ministry shall be entitled to monitor whether a bank's activities under paragraph (1) are in accordance with the applicable laws and other generally binding regulations, the bank's articles of association, and decisions taken by the bank's general meeting. The procedure set out in Article 91 shall not apply to the disclosure of information to the Ministry's employees assigned to ensure such monitoring, specifically to the extent of the subject of monitoring specified in a written authorisation issued by the Ministry; an original copy of such written authorisation shall be given to the bank in accordance with paragraph (1). The Ministry's employees assigned to perform monitoring activities shall ensure the protection of information and documentation acquired in the course of monitoring so as to protect state secrets, professional secrets, commercial secrets, bank secrecy, tax secrets, and to comply with the confidentiality requirement explicitly imposed or recognised by law; the disclosure of information and documentation acquired during monitoring for the purposes of

proceedings under this Act or separate regulations<sup>93</sup> shall not be deemed to be a violation of this requirement. Otherwise, the provisions of a separate regulation<sup>72</sup> shall apply as appropriate to such monitoring.

## **Article 122**

Banks and branches of foreign banks shall at no charge ensure the conversion of funds denominated in the national currencies of European Union Member States into euro, namely funds deposited with banks and branches of foreign banks as at 31 December 2001 in currencies set to be retired and replaced by the euro in 2002.

### **Article 122a Transitional provision for amendments in force as of 1 July 2003**

Legal relations arising from mortgage loan agreements concluded before 1 July 2003 shall be governed by the regulations in force at that time.

### **Article 122b Transitional provisions for amendments in force as of 1 January 2004**

(1) A banking authorisation granted to a bank or a foreign bank branch under the legislation in force at that time, effective as at 1 January 2004 and granted for the provision of payment and settlement services, shall be deemed to be a banking authorisation for the execution of domestic fund transfers and cross-border fund transfers as from 1 January 2004, in the scope and in the manner specified in this banking authorisation, and according to the terms and conditions stipulated by this banking authorisation or other decisions of Národná banka Slovenska enforceable as from 1 January 2004.

(2) As from 1 January 2004, the provisions of this Act shall also govern legal relations that arose before 1 January 2004 in connection with banking activities or other activities of banks or branches of foreign banks, unless provided otherwise hereunder; the rise of such legal relations, as well as any claims arising thereunder before 1 January 2004 shall, however, be judged by the legislation in force at that time. Unless provided otherwise hereunder, banks and branches of foreign banks shall, by 31 December 2004 at the latest, harmonise with this Act their legal relations with third parties, including the members of their bodies that were set up before 1 January 2004 in connection with the banking activities or other activities of banks and foreign bank branches; the provisions of Article 122a shall not be prejudiced thereby. By 31 December 2044, banks shall also bring their articles of association into line with this Act; if a bank fails to harmonise any of the provisions of its articles of association with this Act by this date, such provisions shall become null and void after 31 December 2004. From the effective date of this Act, it shall not be possible to increase the amount of a mortgage loan by altering the mortgage loan agreement under which a state interest subsidy is granted, the level of which in percentage terms may not be changed during the maturity period of the mortgage loan. If, in a mortgage loan agreement concluded before the effective date of this Act or in another written document based on a mortgage loan agreement and delivered to a mortgage bank before the effective date of this Act, the real

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<sup>93</sup>) The Code of Criminal Procedure, Article 4(1) of Act No 171/1993 Coll. of the National Council of the Slovak Republic, as amended by Act No 116/2000 Coll.

property to be pledged as security for the mortgage loan is not designated precisely or if, before the effective date of this Act, no pledge agreement is concluded between the mortgage bank and the client clearly designating the real estate in which a security interest will be established to secure the mortgage bank's claims from the mortgage loan, the mortgage bank and the client shall meet both of these conditions within sixty days of the date when this Act takes effect, or otherwise the claim to a state interest subsidy shall cease to exist.

(3) Receivership proceedings that commenced but were not finally concluded before 1 January 2004 and the conduct of receivership commenced but not completed before 1 January 2004 shall be completed in accordance with the legal regulations in force as at 31 December 2003. Any other proceedings commenced but not finally concluded before 1 January 2004 shall be brought to their conclusion in accordance with this Act.

(4) The Securities Registration Centre, which temporarily operates under a separate regulation,<sup>94</sup> shall provide, from the records it maintains, Národná banka Slovenska with information requested thereby for the purposes of banking supervision.

(5) Until 31 December 2006 at the latest, Národná banka Slovenska may stipulate special terms and conditions for financing mortgage loans and municipal loans also for a mortgage bank which has so requested and which, as at 1 January 2004, has a banking authorisation to conduct mortgage transactions. If a mortgage bank submits a written application to Národná banka Slovenska by 1 January 2004, then, after Národná banka Slovenska issues a valid decision on this application, the mortgage bank shall be entitled to provide for the funding of mortgage loans and municipal loans in accordance with the legislation in force as at 31 December 2003.

### **Article 122c Transitional provision for amendments in force as of 1 January 2005**

Supplementary supervision shall be conducted after the net worth and results of operations of financial conglomerates for 2005 have been taken into account.

### **Article 122d Transitional provisions for amendments in force as of 1 January 2006**

(1) Proceedings that commenced but were not finally concluded before 1 January 2006 shall be brought to their conclusion in accordance with this Act and a separate law.<sup>89</sup> The legal effects of acts that occurred in the proceedings before 1 January 2006 shall be preserved.

(2) Any on-site inspections commenced but not completed before 1 January 2006 shall be completed in accordance with this Act and separate laws.<sup>89</sup> The legal effects of acts that occurred during on-site inspections before 1 January 2006 shall be preserved.

### **Article 122e Transitional provision for amendments in force as of 1 May 2006**

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<sup>94)</sup> Article 163(1) and (6) and Article 163a of Act No 566/2001 Coll., as amended.

The provisions of this Act shall also govern legal relations arising from municipal loan agreements concluded before 1 May 2006; however, the origination of these legal relations and any claims arising therefrom before 1 May 2006 shall be assessed according to the regulations in force at that time.

**Article 122f**  
**Transitional provisions**  
**for amendments in force as of 1 January 2007**

(1) Banks using the internal ratings-based approach to calculate the amount of risk-weighted exposures shall, during 2007, 2008 and 2009, have own funds equal to or more than the amount specified in paragraph (2). Banks using the advanced measurement approach to calculate the capital requirements for operational risk shall have own funds equal to or more than the amount specified in paragraph (2) over the second and third calendar years after 1 January 2007.

(2) Of the total minimum capital requirement defined in the regulations in force as at 31 December 2006, own funds as referred to in paragraph (1) shall account for 95% in 2007, 90% in 2008, and 80% in 2009.

(3) Until 31 December 2007, banks may calculate their risk-adjusted assets and off-balance sheet items according to the regulations in force as at 31 December 2006, instead of using the standardised approach for credit risk.

(4) Where a bank proceeds according to paragraph (3):

- a) credit derivatives shall be included in the list of full-risk items and shall thereby attract a credit weight of 100% under the regulations in force as at 31 December 2006;
- b) the values of credit equivalents for derivative instruments shall be calculated according to the regulations in force as at 31 December 2006, irrespective of whether the on-balance or off-balance sheet items arising therefrom and the values of credit equivalents are deemed to be risk-weighted exposure amounts.

(5) Where a bank proceeds according to paragraph (3), then in respect of exposures for which the standardised approach is used, the provisions pertaining to credit risk mitigation under this Act shall not be applied, but the procedures established by the regulations in force as at 31 December 2006 shall be used.

(6) Where a bank proceeds according to paragraph (3), the capital requirement for operational risk as defined in Article 30(5)(d) shall be lowered by the percentage ratio of the amount of the bank's exposures for which risk-weighted exposure amounts are calculated in accordance with the discretion mentioned in paragraph (3) to the total amount of its exposures.

(7) Where a bank proceeds according to paragraph (3), its exposures shall be subject to the regulations in force as at 31 December 2006.

(8) Where a bank proceeds according to paragraph (3), all references to the standardised approach for credit risk shall be construed as references to provisions on the calculation of risk-weighted assets under the regulations in force as at 31 December 2006.

(9) Where a bank proceeds according to paragraph (3), the provisions concerning the internal capital adequacy assessment system and those of Article 33f shall not apply before 1 January 2008 and the bank's disclosure obligation shall be subject to the regulations in force as at 31 December 2006.

(10) Where a bank proceeds according to paragraph (3), the provisions of Article 6(2) shall apply before 1 January 2008 to the extent specified by the regulations in force as at 31 December 2006.

(11) Where a bank proceeds according to paragraph (3), the foreign exchange risk, commodity risk, and risks arising from the trading book shall be subject to the regulations in force as at 31 December 2006.

(12) Národná banka Slovenska may:

- a) for banks applying to use the internal ratings-based approach before 31 December 2009, approve a reduction in the three-year period prescribed for the use of eligible rating systems to a period of one year until 31 December 2009;
- b) for banks applying to use their own estimates of loss given default values or conversion factors, approve a reduction in the approved three-year period to a period of two years until 31 December 2008;
- c) until 31 December 2012, allow banks to continue to apply to participations under a separate regulation, acquired prior to the entry into force of this Act, the treatment defined in a separate regulation;
- d) until 31 December 2017, exempt from the application of the internal ratings-based approach certain equity claims held by a bank or its subsidiary as at 31 December 2007, under the conditions stipulated by a separate regulation.

(13) Until 31 December 2010, the exposure-weighted average loss given default for all retail exposures, secured by residential properties and not benefiting from state guarantees, may not be lower than 10%.

(14) Banks not permitted to use their own estimates of loss given default values or conversion factors may use relevant data from two years when implementing the internal ratings-based approach, until 31 December 2007 in regard to the observation period. Until 31 December 2010, the observation period shall be extended each year by one year.

(15) For the purpose of calculating the corresponding capital requirement, banks may start using the advanced internal ratings-based approach for credit risk pursuant to Article 33(6) from 1 January 2008.

(16) For the purpose of calculating the corresponding capital requirement, banks may start using the advanced approach pursuant to Article 33d(4) from 1 January 2008.

### **Article 122g Transitional provisions in force as of 1 January 2008**

(1) Banks, other banks [Article 5(p)], branches of foreign banks, branches of other foreign banks [Article 5(r)], foreign banks, and other foreign institutions carrying on banking activities in the territory of the Slovak Republic [Article 11(1) to (3)] shall, no later than three months before the euro introduction date in the Slovak Republic, prepare and implement measures, rules, and procedures through which they shall, while conducting banking

activities, ensure continuous and undisturbed changeover from the Slovak currency to the euro, in particular measures, rules, and procedures applied in the redenomination, conversion, and rounding of funds which they hold as deposits or which are provided by them in the Slovak currency, to the euro.

(2) Banks, other banks, branches of foreign banks, branches of other foreign banks, foreign banks, and other foreign institutions conducting banking activities in the territory of the Slovak Republic shall, no later than three months before the euro introduction date in the Slovak Republic and for a period of at least six months following the euro introduction date in the Slovak Republic, publish on their website and on their business premises used in communicating with clients relevant information on measures, rules, and procedures that will be implemented, are implemented, or were implemented for ensuring the changeover from the Slovak currency to the euro.

(3) As at the euro introduction date in the Slovak Republic, banks, other banks, branches of foreign banks, branches of other foreign banks, foreign banks, and other foreign institutions conducting banking activities in the territory of the Slovak Republic shall, free of charge, ensure and perform redenomination and conversion of the funds which they hold as deposits or which are provided by them in the Slovak currency, to the euro, at the conversion rate stipulated by this Act and separate legal regulations on the introduction of the euro in the Slovak Republic.<sup>95</sup> The same obligation shall apply to the redenomination and conversion of funds in any other currency, if that currency ceases to exist and is replaced by the euro, as at the date of its replacement by the euro and in accordance with the fixed conversion rate set for the conversion of that currency to the euro and with other rules applicable to the changeover from that currency to the euro.

### **Article 122h Transitional provision**

Banks, other banks, branches of foreign banks, branches of other foreign banks, foreign banks, and other foreign institutions conducting banking activities in the territory of the Slovak Republic shall, from the effective date of this Act to the euro introduction day in the Slovak Republic, accept valid Slovak coins in payments and cash deposits, free of charge and without limiting their total number; while accepting valid Slovak coins free of charge, they shall not charge any fees, costs or consideration for their acceptance, processing, counting, or depositing on accounts, nor for any other procedures or activities related to the acceptance of valid Slovak coins.

### **Article 122i Transitional provisions in force as of 1 January 2009**

(1) Prior approval proceedings under Article 28(1)(a), commenced but not finally concluded before 1 January 2009, shall be brought to their conclusion in accordance with the regulations in force at that time.

(2) Funds held on current accounts, deposit accounts, or passbook accounts, certificates of deposit or other materialised securities, which serve in the stage of preparation for the euro changeover as collateral to cover the value of euro banknotes or euro coins

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<sup>95</sup>) Act No 659/2007 Coll.

provided to clients for their frontloading or sub-frontloading under a separate regulation,<sup>96</sup> shall not be subject to decisions issued under separate regulations<sup>97</sup> until the end of dual cash circulation under a separate regulation on the euro introduction in the Slovak Republic.

(3) Subsequent to the euro changeover, no later than on the second business day following the euro introduction date, banks and branches of foreign banks shall block the funds held on accounts on the basis of an execution order or notification of the commencement of execution by establishing claims on these accounts under separate regulations,<sup>97</sup> which shall be delivered to the bank or foreign bank branch concerned on the last business day prior to the euro introduction date or on the first business day following the euro introduction date.

**Article 122j**  
**Transitional provisions**  
**in force as of 1 March 2009**

Banks, other banks, branches of foreign banks, branches of other foreign banks, foreign banks, and other foreign institutions conducting banking activities in the territory of the Slovak Republic shall, from 1 March 2009 to 31 August 2009, accept euro banknotes and euro coins in cash deposits free of charge and without limitations to their nominal structure and total number; while accepting euro banknotes and euro coins free of charge, they shall not charge any fees, costs or consideration for their acceptance, processing, or counting, nor for any other procedures or activities related to cash deposits. This is without prejudice to the provisions of separate regulations on cash circulation<sup>98</sup> and on the exchange of Slovak banknotes and Slovak coins for euros.<sup>99</sup>

**Article 122k**  
**Transitional provision**  
**for amendments in force as of 1 December 2009**

A banking authorisation granted to a bank or a foreign bank branch under the existing legislation and effective as at 30 November 2009, applying to the execution of domestic and cross-border funds transfers and to the issuance and administration of payment instruments, shall, as from 1 December 2009, be deemed to be a banking authorisation granted for the provision of payment and settlement services in the scope and manner specified therein and under the terms and conditions stipulated thereby or by other decisions of Národná banka Slovenska legally enforceable as at 1 December 2009.

**Article 122l**  
**Transitional provision**  
**for amendments in force as of 1 June 2010**

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<sup>96</sup>) Guideline No ECB/2006/9 (2006/525/EC) of the European Central Bank of 14 July 2006 on certain preparations for the euro cash changeover and on frontloading and sub-frontloading of euro banknotes and coins outside the euro area (OJ L 207, 28.7.2006).

<sup>97</sup>) For example, Act No 233/1995 Coll. of the National Council of the Slovak Republic, as amended; Articles 251 to 251 of the Code of Civil Procedure.

<sup>98</sup>) For example, Articles 17a and 17b of Act No 566/1992 Coll. of the National Council of the Slovak Republic, as amended.

<sup>99</sup>) Articles 3(4) to (9) of Act No 659/2007 Coll. on the introduction of the euro in the Slovak Republic, including amendments to certain laws.

Banks and branches of foreign banks shall commence providing a basic banking product within three months of the date when the generally binding legal regulation issued under Article 27c(5) enters into force.

**Article 122m**  
**Transitional provisions**  
**for amendments in force as of 1 April 2011**

(1) Until 31 December 2012, Národná banka Slovenska shall issue a joint decision in accordance with Article 47(15)(c) within six months.

(2) The provisions of Article 75(4)(h), Articles 75(6) to (8) and 85a(1), Article 85a(3)(a), and Article 85b(9) of the regulation effective from 1 April 2011 shall first apply to mortgage loan agreements concluded after 1 April 2011.

(3) Banks using the internal ratings-based approach to calculate the amount of risk-weighted exposures shall, by 31 December 2011, have own funds equal to or more than the amount mentioned in paragraphs (4) and (5). Banks using the advanced measurement approach to calculate the capital requirement for operational risk shall, by 31 December 2011, have own funds equal to or more than the amount mentioned in paragraphs (4) and (5).  
(4) The amount of own funds pursuant to paragraph (3) shall constitute 80% of the total minimum capital requirement stipulated by the regulations in force as at 31 December 2006.

(5) The amount of own funds pursuant to paragraph (3) shall constitute 80% of the total minimum capital requirement stipulated by the regulations in force as at 31 March 2011, with the prior approval of Národná banka Slovenska and provided that the bank started to use the internal models-based approach or advanced measurement approach to calculate its capital requirements on or after 1 January 2010.

(6) Until 31 December 2012, the exposure-weighted average loss given default for all retail exposures secured by residential properties and not benefiting from state guarantees may not be lower than 10%.

**Article 122n**  
**Transitional provisions**  
**for amendments in force as of 1 December 2011**

(1) The provisions of this Act shall also apply to legal relations established under this Act before 1 December 2011; however, the origination of such legal relations and any claims arising therefrom before 1 December 2011 shall be assessed under the regulations effective until 30 November 2011, unless this Act provides otherwise in the following paragraphs.

(2) A banking authorisation granted to a bank or a foreign bank branch under the regulations in force before 30 November 2011 and effective as at 1 December 2011, applying to the provision of payment and settlement services, shall, as from 1 December 2011, be deemed to be a banking authorisation granted for payment and settlement services, and for electronic money issuance and administration in the scope and manner specified therein and under the terms and conditions stipulated thereby or by other legally enforceable decisions of Národná banka Slovenska.

(3) Banks shall establish and apply remuneration principles in accordance with this Act by 31 July 2012 at the latest.

(4) Banks and other persons as referred to in Article 23a(1) shall bring into line with this Act the clauses of employment contracts, mandate contracts, or other mutual agreements in which the conditions of remuneration or other benefits offered to persons mentioned in Article 23a(1) are determined, by 31 July 2012 at the latest; where banks and other persons under Article 23a(1) fail to bring the clauses of their mutual agreements into line with this Act by 31 July 2012, these clauses shall become null and void on 1 August 2012.

(5) Where the term ‘credit institution’ is used in other generally binding legal regulations, it shall mean a ‘bank’ or ‘electronic money institution’. Where the term ‘foreign credit institution’ is used in other generally binding legal regulations, it shall mean a ‘foreign bank’ or ‘foreign electronic money institution’.

**Article 122o**  
**Transitional provisions**  
**for amendments in force as of 1 January 2012**

(1) Mortgagors who have taken out a mortgage loan after 31 December 2011 to repay another mortgage loan received before 1 July 2003, to which a state interest subsidy belongs, shall be entitled to receive a state interest subsidy in the amount approved under the regulations in force before 1 July 2003, provided that:

- a) the interest rate on the new mortgage loan is lower than the interest rate on the mortgage loan granted before 1 July 2003 to which a state interest subsidy belongs, and
- b) the maturity period of the new mortgage loan is no longer than the residual maturity of the mortgage loan granted before 1 July 2003 to which a state interest subsidy belongs.

(2) The provisions of Article 84(6), as amended with effect from 1 January 2012, shall equally apply to new mortgage loans as referred to in paragraph (1). The provisions of Article 84(6), as amended with effect from 1 January 2012, shall be first applied only after 31 December 2011.

(3) The provisions of Article 75(6), second sentence, as amended with effect from 1 January 2012, concerning:

- a) the prohibition on charging interest, fees, or other costs incurred in connection with the repayment of a mortgage loan before maturity, shall be first applied when, after 31 December 2011, the initial rate fixation period of the mortgage loan expires or the interest rate on the mortgage loan is next changed;
- b) the notification obligation of mortgage banks, shall be first applied when the initial rate fixation period of a mortgage loan expires on 15 March 2012 or when the interest rate on the mortgage loan is changed on 15 March 2012.

**Article 122p**  
**Transitional provisions**  
**for amendments in force as of 31 December 2011**

(1) The provisions of this Act shall also apply to legal relations established under this Act before 31 December 2011; however, the origination of such legal relations and any claims arising therefrom before 31 December 2011 shall be assessed under the regulations in force before 30 December 2011.

(2) Proceedings that commenced but were not finally concluded before 31 December 2011 shall be brought to their conclusion in accordance with this Act. The legal effects of acts that occurred in the proceedings before 31 December 2011 shall be preserved.

**Article 122q**  
**Temporary provisions**  
**for amendments in force as of 1 September 2012**

(1) Banks and branches of foreign banks shall start providing a basic banking product as from 1 July 2013 at the latest.

(2) The provisions of Article 75(6), second sentence, as amended with effect from 1 January 2012, concerning:

- a) the prohibition on charging interest, fees, or other costs incurred in connection with the repayment of a mortgage loan before maturity, shall be first applied when, after 31 August 2012, the initial rate fixation period of the mortgage loan expires or the interest rate on the mortgage loan is next changed;
- b) the notification obligation of mortgage banks shall be first applied when the initial rate fixation period of a mortgage loan expires on 15 November 2012 or when the interest rate on the mortgage loan is changed on 15 November 2012.

(3) The provision of Article 75(11), as amended with effect from 1 September 2012, shall be first applied when the initial rate fixation period of a mortgage loan expires on 15 January 2013, or when the interest rate on a mortgage loan is changed on 15 January 2013.

(4) Mortgage banks shall, by 1 November 2012 at the latest, bring their general terms and conditions for the provision of mortgage loans into line with the provisions of Article 75(1)(h).

**Article 122r**  
**Transitional provision**  
**for amendments in force as of 1 January 2013**

A banking authorisation granted to a bank or a foreign bank branch under the existing regulations and effective as at 1 January 2013, applying to trading in gold as a money market instrument for own account, shall, as from 1 January 2013, be deemed to be a banking authorisation for trading in gold for own account, in the scope and manner specified therein and under the terms and conditions stipulated thereby or by other decisions of Národná banka Slovenska legally enforceable as at 1 January 2013.

**Article 122s**  
**Transitional provisions**  
**for amendments in force as of 10 June 2013**

(1) The provisions of this Act shall, as from 10 June 2013, also apply to legal relations established under this Act before 10 June 2013; however, the origination of these legal relations and any claims arising therefrom before 10 June 2013 shall be assessed under the regulations in force before 9 June 2013.

(2) Proceedings that commenced but were not finally concluded before 10 June 2013 shall be brought to their conclusion under this Act and a separate law,<sup>89</sup> while the time limits that have not yet elapsed at the date when this Act takes effect shall be subject to the provisions of this Act and a separate law. The legal effects of acts that occurred in the proceedings before 10 June 2013 shall be preserved.

(3) Any on-site inspections commenced but not completed before 10 June 2013 shall be completed in accordance with this Act and a separate law.<sup>89</sup> The legal effects of acts that occurred during on-site inspections before 10 June 2013 shall be preserved.

(4) The prohibition mentioned in Article 37(21) shall be first applied to the payment of fees, cost reimbursement, or other payments for the registration, management or administration of loans or accounts, or for the cancellation of a loan account, which is a condition for a credit relationship, due after 9 June 2013.

(5) The provisions of Article 75(12) shall be first applied to the repayment of mortgage loans of part thereof before maturity after 9 June 2013.

### **Article 122t Transitional provisions for amendments in force as of 1 August 2014**

(1) With effect from 1 August 2014, the provisions of this Act shall also apply to legal relationships established under this Act before 1 August 2014; such legal relationships and the claims arising therefrom, however, shall be assessed on the basis of the regulations effective until 31 July 2014, unless paragraphs (2) and (3) provide otherwise.

(2) Banks shall, in accordance with Article 33b(1), maintain a capital conservation buffer of 1.5% of the total risk exposure amount calculated in accordance with a separate regulation,<sup>30v</sup> from 1 August 2013 to 30 September 2014.

(3) Banks and other persons as referred to in Article 23a(1) shall, by 30 November 2014 at the latest, bring into line with this Act the provisions of their labour contracts, mandate contracts or other agreements, in which the terms of remuneration payment or the payment of other benefits to persons are agreed in accordance with Article 23a(1); if any of the banks or other persons mentioned in Article 23a(1) fail to bring certain provisions of their contracts into line with this Act by 30 November 2014, these provisions shall become null and void with effect from 1 December 2014.

### **Article 122u Transitional provisions for amendments in force as of 1 January 2015**

(1) The provisions of Article 36a(1), which take account of Article 75(1)(h) effective from 1 January 2015 and Article 75(4)(a) to (g), including the deviations referred to in Article 36a(2) and (3), shall be first applied to loan agreements concluded after 31 December 2014.

(2) The provisions of Article 36a(1), which take account of the provisions of Article 75(6), (10) and (11), including the deviations referred to in Article 36a(2) and (3), shall be first applied to loans with an interest rate fixation period expiring on 15 March 2015 or to loans with an interest rate changed on 15 March 2015.

(3) The provisions of Article 36(1), which take account of the provisions of Article 75(12), including the deviations referred to Article 36a(2) and (3), shall be first applied to loans repaid before maturity in full or in part after 31 December 2014.

(4) The provisions of Article 36a(4) and (5) shall be first applied to loan agreements concluded after 31 December 2014.

(5) The provisions of Article 75(1)(h), effective from 1 January 2015, shall be first applied to loan agreements concluded after 31 December 2014.

**Article 122v**  
**Transitional provisions**  
**for amendments in force as of 1 January 2016**

Banks shall maintain a G-SII buffer on a consolidated basis in accordance with Article 33d(4) in the following amounts:

- a) from 1 January 2016 to 31 December 2016: 25% of the buffer;
- b) from 1 January 2017 to 31 December 2017: 50% of the buffer;
- c) from 1 January 2018 to 31 December 2018: 75% of the buffer;
- d) from 1 January 2019 to 31 December 2019: 100% of the buffer.

**Article 122z**  
**Repealing provisions**

Decree No 11/2010 of Národná banka Slovenska of 8 June 2010 stipulating methods for valuing positions recorded in the banking book and details about the valuation of positions recorded in the banking book, including the frequency of such valuations (Notification No 278/2010 Coll.), as amended by Decree No 4/2012 (Notification No 45/2012 Coll.), is hereby repealed.

**Article 123**

The following laws are hereby repealed: Act No 21/1992 Coll. on banks, as amended by Act No 264/1992 Coll.; Act No 249/1994 Coll. of the National Council of the Slovak Republic; Act No 374/1994 Coll. of the National Council of the Slovak Republic; Act No 58/1995 Coll. of the National Council of the Slovak Republic; Act No 233/1995 Coll. of the National Council of the Slovak Republic; Act No 58/1996 Coll. of the National Council of the Slovak Republic; Act No 118/1996 Coll. of the National Council of the Slovak Republic; Act No 386/1996 Coll. of the National Council of the Slovak Republic; Act No 12/1998 Coll.; Act No 44/1998 Coll.; Act No 170/1998 Coll.; Act No 252/1999 Coll.; Act No 215/2000 Coll.; Act No 329/2000 Coll.; Act No 367/2000 Coll.; and Act No 149/2001 Coll.

**Article 123a**

Decree No 290/2010 Coll. of the Ministry of Finance of the Slovak Republic on the range and method of payment services provided in euro for basic banking products is hereby repealed.

## SECTION II

### Effective date

This Act shall enter into force on 1 January 2002, with the exception of Section V, which entered into force on the promulgation date, and Section I, Article 2(8), part of the sentence after the semicolon, Articles 11 to 20 and Articles 45(2) and 49(3), which shall enter into force on the effective date of the Treaty on the Accession of the Slovak Republic to the European Union (1 May 2004).

Act No 430/2002 Coll. entered into force on 1 September 2002.

Act No 510/2002 Coll. entered into force on 1 January 2003, with the exception of Section III, points 1 to 10, 12, 14, 17 to 22, and Section VI, which entered into force on 1 September 2002, and with the exception of Section I, Articles 12(2), 13(3) and 15(2), the first sentence of Article 16(1), the second sentence of Article 16(2), the second sentence of Article 16(3), the second sentence of Article 17(2), Article 19, the second sentence of Article 20, Article 25(2) and (3), Article 36(6), Article 65(1)(b), 65(3) and 65(6); Section III, point 13, the second sentence of Article 99(16), and point 16, Article 107a(8); and Section IV point 4, Article 14(7), which entered into force on the effective date of the Treaty on the Accession of the Slovak Republic to the European Union (1 May 2004).

Act No 165/2003 Coll. entered into force on 1 July 2003, with the exception of Section I, Article 10(3) and 6), which entered into force on 1 January 2004.

Act No 603/2003 Coll. entered into force on 1 January 2004.

Act No 215/2004 Coll. entered into force on 1 May 2004.

Act No 554/2004 Coll. entered into force on 1 January 2005.

Act No 747/2004 Coll. entered into force on 1 January 2006, with the exception of Sections XVII, XVIII, XIX and XX, which entered into force on 1 January 2005, and with the exception of Section I, the third sentence of Article 45(5), and Section XII, point 1 (Article 21(2)(d)), point 3 (Article 71a) and point 4 (Article 72a), which entered into force on 1 February 2005.

Act No 69/2005 Coll. entered into force on 1 May 2005, with the exception of Section IV, which entered into force on 1 January 2006, and Section V, point 4, which entered into force on the promulgation date (26 February 2005).

Act No 340/2005 Coll. entered into force on 1 September 2005.

Act No 341/2005 Coll. entered into force on 1 September 2005, with the exception of Section I, point 3, which entered into force on 1 January 2006.

Act No 214/2006 Coll. entered into force on 1 May 2006.

Act No 644/2006 Coll. entered into force on 1 January 2007, with the exception of Section VI, which entered into force on the promulgation date; Section III, point 2, which entered into force on 30 December 2006; and Section II, point 1, which entered into force on 1 January 2008.

Act No 209/2007 Coll. entered into force on 1 November 2007, with the exception of Section I, points 2, 6, 7, 11 to 14, 16, 18, 23 to 25, 27, 57, 58, 60, 73 to 81, 91, 93 to 96, 100 to 102, 106, 116, 117, 124 to 136, 139, 144 to 151, 154 to 165; Section II; Section IV, points 5 to 8; Section V, items 2, 27, 41, 42, 44, 49, 50, 56, 57, 65, 66; and Section VI, points 1, 3, 5 to 8, 10 to 32, 34 to 39, which entered into force on 1 May 2007.

Act No 659/2007 Coll. entered into force on 1 January 2008, with the exception of Section X, point 1 [Article 2(2)(c) points 1 and 2, Articles 38(1) and 67(2), and Article 87(2)(d)] and points 10 to 12 [Article 84(2) and (3), Article 85a(2) and (4), Article 87(2)(i)], which entered into force on the day when the euro was introduced in the Slovak Republic.

Act No 297/2008 Coll. entered into force on 1 September 2008.

Act No 552/2008 Coll. entered into force on 1 January 2009, with the exception of Section III, points 35 to 37 [Articles 68, 69, 71 and Article 72(4)] and point 49 [Article 122h], which shall enter into force on the promulgation date.

Act No 66/2009 Coll. entered into force on 1 March 2009.

Act No 186/2009 Coll. entered into force on 27 May 2009.

Act No 276/2009 Coll. entered into force on 7 October 2009.

Act No 492/2009 Coll. entered into force on 1 December 2009, with the exception of Section XI, point 17 [Articles 88a to 88d], which entered into force on 1 April 2010.

Act No 129/2010 Coll. entered into force on the promulgation date, with the exception of Section XI, which entered into force on 2 April 2010; Section II, Section III, points 1 and 3, Section IV, points 1 to 21 and 23 to 27, Section V, Section VII, Section IX, and Section X, which entered into force on 1 June 2010; Section I, Articles 1 to 16, Article 17(1) to (2), and Articles 18 to 27, Section III, points 2 and 4, Section VI, and Section VIII, which entered into force on 11 June 2010; and with the exception of Section I, Article 17(3) and (4), which entered into force on 1 January 2011.

Act No 46/2011 Coll. entered into force on 1 April 2011.

Act No 130/2011 Coll. entered into force on 30 June 2011.

Act No 314/2011 Coll. entered into force on 1 January 2012.

Act No 394/2011 Coll. entered into force on 1 December 2011.

Act No 520/2011 Coll. entered into force on 31 December 2011.

Act No 234/2012 Coll. entered into force on 31 September 2012.

Act No 352/2012 Coll. entered into force on 1 January 2013.

Act No 132/2013 Coll. entered into force on 10 June 2013.

Act No 547/2011 Coll., as amended by Act No 440/2012 Coll., entered into force on 1 January 2014.

Act No 352/2013 Coll. entered into force on 1 January 2014.

Act No 213/2014 Coll. entered into force on 1 August 2014, except for Section I, Article 6(13), (16), (28), and (29) points 9, 25, 55, 106, and 107, and except for Section I, Article 33d point 52, which shall enter into force on 1 January 2016.

Act No 371/2014 Coll. entered into force on 1 January 2015.

Act No 374/2014 Coll. entered into force on 1 January 2015.

Act No 35/2015 Coll. entered into force on 1 April 2015.

**SCHEDULE OF TRANSPOSED LEGALLY BINDING ACTS  
OF THE EUROPEAN UNION**

1. Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding up of credit institutions (OJ L 125, 5.5.2001, Special Edition, Chapter 6, Volume 04).
2. Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of banks, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council (OJ L 35, 11.2.2003, Special Edition, Chapter 6, Volume 04).
3. Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council repealing Council Directive 93/22/EEC (OJ L 145, 30.4.2004, Special Edition, Chapter 6, Volume 07).
4. Directive 2005/1/EC of the European Parliament and of the Council of 9 March 2005 amending Council Directives 73/239/EEC, 85/611/EEC, 91/675/EEC, 92/49/EEC and 93/6/EEC and Directives 94/19/EC, 98/78/EC, 2000/12/EC, 2001/34/EC, 2002/83/EC and 2002/87/EC in order to establish a new organisational structure for financial services committees (OJ L 79, 24.3.2005).
5. Directive 2006/31/EC of the European Parliament and of the Council of 5 April 2006 amending Directive 2004/39/EC on markets in financial instruments, as regards certain deadlines (OJ L 114, 27.4.2006).
6. Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast) (OJ L 177, 30.6.2006).
7. Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions (recast) (OJ L 177, 30.6.2006).
8. Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector (OJ L 247, 21.9.2007).
9. Directive 2009/111/EC of the European Parliament and of the Council of 16 September 2009 amending Directives 2006/48/EC, 2006/49/EC and 2007/64/EC as regards banks affiliated to central institutions, certain own funds items, large exposures, supervisory arrangements, and crisis management (OJ L 302, 17.11.2009).
10. Directive 2010/76/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and for re-securitisations, and the supervisory review of remuneration policies (OJ L 329, 14.12.2010).

11. Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009).
12. Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European supervisory authority (European Banking Authority), the European supervisory authority (European Insurance and Occupational Authority), and the European supervisory authority (European Securities and Markets Authority) (OJ L 331, 15.12.2010).
13. Directive 2011/89/EU of the European Parliament and of the Council of 16 November 2011 amending Directives 98/78/EC, 2002/87/EC, 2006/48/EC and 2009/138/EC as regards the supplementary supervision of financial entities in a financial conglomerate (OJ L 326, 8.12.2011).
14. Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ EU L 176, 27.06.2013).
15. Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/37/EC, 2011/36/EC, 2011/35/EC, 2012/30/EU, and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ EU L 173, 12.06.2014).

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