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ACT
of 19 June 2009
**on measures to mitigate the effects of the global financial crisis on banking sector
and on amendments and supplements to certain laws**

The National Council of the Slovak Republic has adopted the following Act:

**Section I
Article 1**

Subject of the Amendment

(1) This Act amends

- a) terms and conditions for the provision of aid to a bank¹⁾ for the remedy of serious deficiencies in economy functioning²⁾ with a view to mitigate the transfer of the global financial crisis effects from the banking sector to the economy of the Slovak Republic or to strengthen the preconditions for the preservation of stability of the financial system in its entirety (hereinafter referred to as the “stabilization aid”),
- b) procedures of the Government of the Slovak Republic (hereinafter referred to as the “Government”), the Ministry of Finance of the Slovak Republic (hereinafter referred to as the “Ministry of Finance”), other public administration authorities and the National Bank of Slovakia in the provision of the stabilization aid,
- c) control of the observance of the stabilization aid provision terms and conditions.

(2) This Act constitutes the State aid scheme in accordance with special legislation.³⁾

**Article 2
Stabilization aid**

(1) The stabilization aid may be provided pro tempore to a bank whose financial situation has been caused particularly by a global financial crisis in the form of

- a) a pecuniary contribution from the State financial assets managed by the Ministry of Finance to the bank registered capital,⁴⁾
- b) the provision of a special guaranty for
 1. bonds issued by the bank with the nominal value actual term of payment no less than three (3) months and no more than three (3) years (hereinafter referred to as the “bond”),
 2. a credit provided to the bank with its maturity no less than three (3) months and no more than one (1) year⁵⁾ (hereinafter referred to as the “short-term credit”).

(2) The stabilization aid may be provided only in order to

- a) support the economy by means of further provision of credits by a bank with the view to meet the existing demands for credits on the part of the persons having situated their permanent residence, registered office or place of business in the European Union Member State, or
- b) stabilize the financial situation of the bank
 1. in which, with regard to the economic development in the Slovak Republic prospective in the time of the assessment of the bank application for the stabilization aid (hereinafter referred to as the “application”), and with respect to all circumstances, it is possible to

assume reasonably that the bank is able to keep its own resources⁶) in the amount no less than one hundred per cent (100%) of the demands for its own resources within the period of time no more than one (1) year after the submission of the application, or

2. that keeps its own resources in the amount less than one hundred per cent (100%) but more than fifty per cent (50%) of the demands for its own resources.

(3) For the purposes of this Act the stabilization aid amount shall mean

- a) the value of the pecuniary contribution to the bank registered capital in case of the stabilization aid in accordance with paragraph (1) subparagraph (a),
- b) the amount of the bank liability for which a special guaranty is provided in case of the stabilization aid in accordance with paragraph (1) subparagraph (b).

(4) The amount of the stabilization aid under paragraph (1) subparagraph (b) provided to one bank may not exceed fifty per cent (50%) of the demands for its own resources.

(5) The Ministry of Finance shall be the provider and a bank shall be the recipient of the stabilization aid.

(6) The stabilization aid may be provided even repeatedly and concurrently. In relation to one emission of bonds the stabilization aid under paragraph (1) subparagraph (b) first point shall be provided for the period of time no more than three (3) years. In relation to one short-term credit the stabilization aid under paragraph (1) subparagraph (b) second point shall be provided for the period of time no more than one (1) year.

(7) The provision of the stabilization aid shall be discretionary.

Stabilization aid approval procedure

Article 3

(1) The stabilization aid shall be provided upon the application submitted by a bank to the Ministry of Finance in two paper counterparts and in an electronic form. The Ministry of Finance shall send one paper counterpart of the application and the application in the electronic form to the National Bank of Slovakia without undue delay.

(2) The application shall include

- a) the commercial name, registered office, company registration number and the taxpayer registration number of the bank,
- b) the names and surnames of the members of the bank statutory body,
- c) the form of the stabilization aid in accordance with Article 2 paragraph (1) for the provision of which the bank requests,
- d) indication of the purpose in accordance with Article 2 paragraph (2) for which the stabilization aid provision is requested,
- e) detailed reasoning of the need for the stabilization aid provision, including the amount of meeting the demands for the bank own resources on the date of the application submission,
- f) the stabilization aid requested amount,
- g) specification of the short-term credit or bonds for which a special guaranty is to be provided in case that the bank requests for the stabilization aid under Article 2 paragraph (1) subparagraph (b),
- h) the period of time for which the provision of the stabilization aid is requested,
- i) information on the impact on the bank business activities and economy in case that the stabilization aid is not provided,
- j) a proposal for the measures in accordance with Article 5 paragraph (6),

- k) declaration of the completeness, correctness, up-to-dateness and truthfulness of the data stated in the application,
- l) the date and the place of the application drawing up, the names, surnames and signatures of the persons authorised to act on behalf of the bank.

(3) The application shall be supported by the annexes as follows

- a) the abstract of the Companies Register issued no more than three (3) months before its submission,
- b) the recent audited financial statements or the recent semi-annual financial statements of the bank,
- c) a proposal for a bank stabilization plan containing detailed information on the manner of the requested stabilization aid use in accordance with the purpose under Article 2 paragraph (2) and measures for the bank financial situation improvement (hereinafter referred to as the “stabilization plan”).

(4) The bank shall be obliged to submit an original or a certified copy of the annex to the application under paragraph (3) subparagraph (b); in case that the annex is drawn up in a foreign language, the bank shall be obliged to enclose also its translation into the Slovak language performed in compliance with special legislation.⁷⁾

(5) Where the application is complete, the Ministry of Finance shall ask immediately the National Bank of Slovakia to take a stand on the application; in the drawing up of the stand the National Bank of Slovakia shall not act upon a separate regulation concerning the procedures in the matters of the financial market supervision.⁸⁾ The National Bank of Slovakia shall submit its stand on the application to the Ministry of Finance within two (2) calendar days after its delivery to the National Bank of Slovakia. Where the application is not complete, the Ministry of Finance shall immediately invite a bank to remove the deficiencies within the time limit determined by the Ministry of Finance. In case that the bank does not remove the deficiencies within the determined time limit, the Ministry of Finance shall notify the bank of the fact that it has rejected the application.

(6) The stand of the National Bank of Slovakia shall include

- a) the assessment of the bank financial situation in relation to the submitted application, including the conclusions of the performed financial analysis of the bank development and condition,
- b) opinions on the application reasonableness in terms of the requirements under paragraph (2) subparagraphs (c) through (i),
- c) the assessment of a proposal for the measures in accordance with paragraph (2) subparagraph (j) and a draft stabilization plan,
- d) opinions whether the bank financial situation has been caused mainly by the global financial crisis,
- e) the assessment of the bank importance within the banking system,
- f) the recommendation whether to provide or reject the stabilization aid in case of the stabilization aid under Article 2 paragraph (1) subparagraph (a); the recommendation of the National Bank of Slovakia to provide the stabilization aid shall be considered as a prior approval in accordance with special legislation,⁹⁾
- g) a proposal for the amount of the consideration for the stabilization aid provision (hereinafter referred to as the “consideration”) in case that the stabilization aid is provided.

Article 4

Decision on the stabilization aid approval

- (1) In case that in the stand under Article 3 paragraph (6) the National Bank of Slovakia
- a) recommends to provide the stabilization aid, the Ministry of Finance shall submit the proposal for the provision of the stabilization aid to the Government for its approval within two (2) calendar days after the delivery of the stand,
 - b) does not recommend to provide the stabilization aid, the Ministry of Finance shall notify a bank that the application has been rejected.

(2) The proposal for the provision of the stabilization aid in accordance with paragraph (1) subparagraph (a) shall include

- a) the requirements in compliance with Article 3 paragraph (2) subparagraphs (a) through (h),
- b) a draft stabilization plan,
- c) the stand of the National Bank of Slovakia in accordance with Article 3 paragraph (6).

(3) The Government shall decide on the proposal for the provision of the stabilization aid within two (2) calendar days after its submission. After the provision of the stabilization aid has been approved by the Government, the Ministry of Finance shall immediately issue the decision on the stabilization aid approval and notify the National Bank of Slovakia of its issue.

(4) Where the Government does not approve the provision of the stabilization aid, the Ministry of Finance shall notify a bank of the fact that it has rejected the application.

(5) Besides the requirements under a separate regulation on the administrative procedure,¹⁰ the decision on the stabilization aid approval shall include a form in which the approved stabilization aid is to be provided, its amount, the purpose in accordance with Article 2 paragraph (2) and the period of time for which it is to be provided; a stabilization plan shall form annex to the decision. Where the fact that the financial situation of the bank is exceptionally unfavourable results from the stand of the National Bank of Slovakia in accordance with Article 3 paragraph (6) the stabilization plan must satisfy also the requirements of a restructuring plan stipulated by the Community guidelines on State aid for rescuing and restructuring firms in difficulty. In case of the stabilization aid under Article 2 paragraph (1) subparagraph (b), the decision shall include also the specification of the short-term credit or bonds for which a special guaranty is to be provided.

(6) Any application for remedial measure to review the decision on the stabilization aid approval may not be filed and the decision may not be reviewed by a court.

Article 5

Terms and conditions for the provision of the stabilization aid

- (1) A bank as the stabilization aid recipient shall be obliged
- a) to pay the consideration in the form of
 1. interest on the provided amount of the stabilization aid in case of the stabilization aid under Article 2 paragraph (1) subparagraph (a),
 2. a fee for the provided amount of the stabilization aid in case of the stabilization aid under Article 2 paragraph (1) subparagraph (b),
 - b) to use the stabilization aid for the approved purpose in accordance with Article 2 paragraph (2) and in compliance with a contract for the provision of the stabilization aid concluded between the Ministry of Finance and the bank (hereinafter referred to as the “contract of the stabilization aid”) and with a stabilization plan,

c) to observe further terms and conditions for the provision of the stabilization aid referred to in the contract of the stabilization aid.

(2) The interest under paragraph (1) subparagraph (a) first point shall mean the sum of

a) the current market revenues from interest on the State bonds whose time to maturity approximates mostly to the period of time for which the stabilization aid is to be provided,

b) a risk loading whose amount shall be determined according to

1. the class of the shares to be issued by a bank in connection with the provision of the stabilization aid,

2. the purpose under Article 2 paragraph (2),

3. the bank risk profile to be determined with regard to the amount of the bank own resources in relation to the demands on its own resources, the bank sensitivity to risks and the bank rating,

c) a time loading whose amount shall be determined according to the period of time for which the stabilization aid is to be provided,

d) a loading for expenses whose amount shall be determined in dependence on operational costs related to the provision of the stabilization aid.

(3) The fee under paragraph (1) subparagraph (a) second point shall be determined according to

a) the period of time for which a special guaranty is to be provided,

b) the bank risk profile to be determined with regard to the amount of the bank own resources in relation to the demands on its own resources, the bank sensitivity to risks and the bank rating.

(4) The consideration amount may be changed if after the provision of the stabilization aid the change in any of the criteria upon which the consideration amount has been determined occurs.

(5) The details on the determination of the consideration amount, its change, the manner of its payment and the details on the manner of the stabilization aid repayment shall be stipulated in a generally binding legal regulation to be issued by the Ministry of Finance by the consent of the National Bank of Slovakia.

(6) A bank shall be obliged to take and perform measures to prevent from the misuse of the stabilization aid that the bank has undertaken in the contract of the stabilization aid, in particular,

a) not to use the information on the provision of the stabilization aid in advertising and promotion,

b) not to pay dividends throughout the period of at least twelve (12) months after the provision of the stabilization aid; such obligation of the bank must be approved by the bank General Assembly,

c) to decrease a salary or any other remuneration for work of the members of the Board of Directors, members of the Supervisory Board and chief executives¹¹) of the bank to a certain percentage of the salary or the other remuneration paid to such persons six (6) months prior to the application submission for the entire period of time for which the stabilization aid is provided,

d) not to pay remunerations to the members of the Board of Directors, members of the Supervisory Board, chief executives and proctors of the bank within the period from the submission of the application up to the elapse of the time for which the stabilization aid is provided; such obligation must be approved by the General Assembly of the bank,

e) to refrain from any acting that could be in conflict with the approved purpose in accordance with Article 2 paragraph (2).

(7) Where, in case of the stabilization aid under Article 2 paragraph (1) subparagraph (a), the conditions referred to in paragraph (1) subparagraphs (a), (b) are breached or the measures under

paragraph (6) are not fulfilled, a bank shall be obliged, within two (2) months after the ascertainment of such breach, to repay the provided stabilization aid to its full extent in the manner referred to in the contract of the stabilization aid and pay the double interest in accordance with paragraph (2) that the bank would pay for the entire period of time for which it is provided with the stabilization aid if the obligation to repay the stabilization aid under this paragraph did not occur to the bank

(8) Where, in case of the stabilization aid under Article 2 paragraph (1) subparagraph (b), the conditions referred to in paragraph (1) subparagraphs (a), (b) are breached or the measures under paragraph (6) are not fulfilled, a bank shall be obliged to pay the triple fee in accordance with paragraph (3) that the bank would pay for the entire period of time for which it is provided with the stabilization aid if the obligation to repay the stabilization aid under this paragraph did not occur to the bank

Article 6

Contract of the stabilization aid

(1) The Ministry of Finance shall conclude the contract of the stabilization aid with a bank without undue delay after the issue of the decision in accordance with Article 4 paragraph (3) second sentence.

(2) The contract of the stabilization aid shall include

- a) indication of the contracting parties, their registered office and identification number,
- b) subject of the contract,
- c) the approved form of the stabilization aid, its amount, purpose in accordance with Article 2 paragraph (2), and the period for which the stabilization aid is provided,
- d) specification of the bonds or credits for which a special guaranty is provided in case of the stabilization aid under Article 2 paragraph (1) subparagraph (b),
- e) the obligation of the bank to repay the stabilization aid after the elapse of the period of time for which the stabilization aid is provided in case of the stabilization aid under Article 2 paragraph (1) subparagraph (a), the manner of its repayment, including the manner of its repayment in case under Article 5 paragraph (7),
- f) the obligation of the bank to pay the consideration in accordance with Article 5 paragraph (1) subparagraph (a),
- g) the obligation of the bank to take and perform the measures in accordance with Article 5 paragraph (6),
- h) the obligation of the bank to ensure that the representative of the Ministry of Finance is a member of the bank statutory or supervisory body throughout the period of the stabilization aid provision if required by the Ministry of Finance and if such person has been given a prior consent of the National Bank of Slovakia,
- i) the obligation of the bank to submit, to the Ministry of Finance, a written information on its economy and financial situation for each calendar month within fifteen (15) working days after the end of the respective calendar month at the latest,
- j) the obligation of the bank to notify the Ministry of Finance of prospective threat to the further provision of credits by the bank and on the bank liquidity decrease without undue delay,
- k) the obligation of the bank to notify the Ministry of Finance of its financial situation for a preceding calendar half-year by 30 September of the respective calendar year at the latest and for a preceding calendar year by 30 April of the subsequent calendar year,

- l) the obligation of the bank to enable the Ministry of Finance to perform control of the observance of the terms and conditions for the provision of the stabilization aid and the fulfilment of the obligations arising from the contract in accordance with Article 7,
 - m) the obligation of the bank to notify the Ministry of Finance, in writing and without undue delay, of the fact that a petition for bankruptcy or restructuring has been filed or that the liquidation of the bank has commenced,
 - n) the obligation of the bank to fulfil a stabilization plan,
 - o) further terms and conditions for the provision of the stabilization aid,
 - p) contractual fines to be imposed in case of the non-observance of the contract stipulations, except for the breaches for which a sanction in accordance with Article 5 paragraphs (7) and (8) is to be imposed,
 - q) the date of the contract conclusion and the signatures of the contracting parties.
- (3) A stabilization plan shall form annex to the contract of the stabilization aid.

Article 7

Control

(1) The control of the observance of the terms and conditions under which the stabilization aid is provided as well as of the fulfilment of the obligations arising from the contract of the stabilization aid by a bank shall be performed by the Ministry of Finance. Sanctions in accordance with Article 5 paragraphs (7) and (8) for the breach of the terms and conditions referred to in Article 5 paragraph (1) subparagraphs (a) and (b) and for the non-fulfilment of the measures under Article 5 paragraph (6) shall be imposed and enforced by the Ministry of Finance. The general regulation on the administrative procedure¹⁰⁾ shall apply to the imposition and enforcement of such sanctions.

(2) The Ministry of Finance shall perform the control for the first time after the elapse of two (2) months from the contract of the stabilization aid conclusion.

(3) In the performance of the control the Ministry of Finance shall act accordingly upon special legislation.¹²⁾

(4) In case that the subject of the control is the fulfilment of the obligation under Article 5 paragraph (1) subparagraph (a), the Ministry of Finance shall be entitled to call the employees of the National Bank of Slovakia who may take part in such control upon a contractual relation.

Common and transitional provisions

Article 8

(1) To create the preconditions for the provision of the stabilization aid in accordance with Article 2 paragraph (1) subparagraph (a) a bank shall be required to ensure the exclusion of the shareholders' right to the preferential subscription of shares.¹³⁾

(2) In case of repayment of the stabilization aid referred to in Article 2 paragraph (1) subparagraph (a) the procedure in accordance with special legislation¹⁴⁾ shall not apply to the disposal of the shares issued by a bank in connection with the provision of the stabilization aid.

(3) Special guaranties in accordance with Article 2 paragraph (1) subparagraph (b) shall be administered by the Ministry of Finance. The administration of the special guaranties shall mean the record and accounting of the special guaranties, fulfilment of the obligation arising

from the special guaranty for a bank (hereinafter referred to as the “realization of a special guaranty”) and exacting of the State receivables arising from the realized special guaranties.

(4) Where the Ministry of Finance realizes a special guaranty, a bank shall be obliged to conclude a written contract of repayable financial aid with the Ministry of Finance.

The contract of repayable financial aid shall include

- a) indication of the contracting parties, their registered office or permanent residence, identification number and bank connection,
- b) the subject of the contract in accordance with the contract of the stabilization aid,
- c) the amount of repayable financial aid corresponding to the realized special guaranty,
- d) the date of the special guaranty realization,
- e) the interest rate to be determined accordingly in compliance with Article 5 paragraph (2),
- f) the manner and the timetable for the repayment of the repayable financial aid and the interest on it in accordance with subparagraph (e),
- g) the agreement on the establishment of the right of pledge in relation to the bank property with the view to secure the State receivables in case that the bank has the property suitable for the establishment of the right of pledge,
- h) the obligation of the bank to notify the Ministry of Finance twice a year of its financial situation for a preceding calendar half-year by 30 September of the respective calendar year at the latest and for a preceding calendar year by 30 April of the subsequent calendar year,
- i) the obligation of the contracting parties to notify each other of any change in their bank connections.

(5) Where a bank does not conclude the contract under paragraph (4) within six (6) months after the realization of a special guaranty, it shall be obliged to pay off the sum of the realized special guaranty by equal semi-annual instalments so that the whole amount of the realized special guaranty is paid within four (4) years after the realization of the special guaranty at the latest; concurrently, the bank shall be obliged to pay the interest in the amount of the double reference interest rate EURIBOR with a six-month maturity increased by four (4) percentage points.

(6) The Ministry of Finance shall notify the European Commission of each provision of the stabilization aid in accordance with this Act without undue delay after its provision; such notice shall be supported by the stand of the National Bank of Slovakia in accordance with Article 3 paragraph (6).

(7) Every six (6) months the Ministry of Finance shall submit, to the European Commission, a report on the reassessment of the State aid scheme reasonableness stipulated hereby. Where the Ministry of Finance, by the consent of the National Bank of Slovakia, ascertains that the further continuance of the State aid scheme is not reasoned, the Ministry of Finance shall make a motion for its cancellation.

Article 9

The provisions of special legislation on the financial market supervision proceedings⁸⁾ or the general regulation on the administrative procedure¹⁰⁾ shall not apply to the proceedings under this Act, unless otherwise stipulated by Article 4 paragraph (5) and Article 7 paragraph (1) hereof.

Article 10

The contract of the stabilization aid may be concluded by 31 December 2010 at the latest.

Section II

This Act shall come into effect on the date of its publication in the Collection of Laws.

Ivan Gašparovič, by his own hand

Pavol Paška, by his own hand

Robert Fico, by his own hand

Footnotes

- 1) Article 2 paragraph (1) of Act No. 483/2001 Coll. on banks and on amendments and supplements to certain laws.
- 2) Article 87 paragraph 3 subparagraph (b) of the Treaty on Establishing the European Community as amended.
Article 4 paragraph (1) subparagraph (b) of Act No. 231/1999 Coll. on State aid as amended by subsequent legislation.
- 3) Article 5 paragraph (3) of Act No. 231/1999 Coll. as amended by subsequent legislation.
- 4) Article 13 of Act No. 523/2004 Coll. on budgetary rules for public administration and on amendments and supplements to certain laws as amended by Act No. 383/2008 Coll. Articles 202 through 206 and Article 210 of the Commercial Code.
- 5) For example, Article 24 paragraph (1) of Act of the National Council of the Slovak Republic No. 566/1992 Coll. on the National Bank of Slovakia as amended by subsequent legislation.
- 6) Article 30 paragraph (5) of Act No. 483/2001 Coll. as amended by subsequent legislation.
- 7) Act No. 382/2004 Coll. on experts, interpreters and translators and on amendments and supplements to certain laws as amended by subsequent legislation.
- 8) Act No. 747/2004 Coll. on financial market supervision and on amendments and supplements to certain laws as amended by subsequent legislation.
- 9) Article 28 paragraph (1) subparagraph (a) of Act No. 483/2001 Coll. as amended by subsequent legislation.
- 10) Act No. 71/1967 Coll. on administration procedure (Rules of Administrative Procedure) as amended by subsequent legislation.
- 11) Article 7 paragraph 20 of Act No. 483/2001 Coll. as amended by Act No. 214/2006 Coll.
- 12) Act of the National Council of the Slovak Republic No. 10/1996 Coll. on control in the State administration as amended by subsequent legislation.
- 13) Article 204a paragraph (5) of the Commercial Code.
- 14) Act No. 92/1991 Coll. on the conditions for the transfer of State property to other persons as amended by subsequent legislation.