NÁRODNÁ BANKA SLOVENSKA

ACT ON COLLECTIVE INVESTMENT

Peter Goceliak
Association of Asset Management Companies

The basic legislative framework for the business of asset management companies is Act no. 385/1999 Z. z. on Collective Investment as amended.

This Act governs:

a) collective investment,
b) the activity of an asset management company and depositary,
c) investor protection,
d) supervision.

Collective investment is defined as the gathering of financial resources from the public on the basis of a public offering in accordance with this Act, with the aim of investing the financial resources gathered in this way into assets delimited by the Act. Collective investment is also the administration of assets acquired through investing financial resources gathered in this way and the performance of forced administration of such assets. The gathering of financial resources from the public is defined as their gaining from more than ten natural persons on the basis of a public offering. A public offering is defined as any announcement, offering or recommendation for the gathering of financial resources made by a legal entity or natural person in its favour or in favour of a third party through any means of publication in respect of an indeterminate circle of persons unspecified in advance. Collective investment may be performed only on the basis of a permit from the supervisory authority, which is the Financial Market Office (FMO), and in accordance with the rules on the limitation and distribution of risk in accordance with the Act.

The asset management company

An asset management company is a legal entity whose subject of activity is the gathering of financial resources from the public on the basis of a public offering for the purpose of their investment into assets delimited by the Act and to create and administer mutual funds of gathered assets and to perform the forced administration of mutual funds. An asset management company may not perform an activity other than that defined by the Act on Collective Investment. An asset management company may take only the legal form of a joint stock company and may not change the subject of its activity or its legal form.

For the establishment and activity of an asset management company, its merging or combination, or for its dissolution through liquidation a permit from the supervisory authority is needed.

An application for a permit for the establishment and activity of an asset management company is submitted by the founder. In this application, the founder is obliged to state inter alia also the name, permanent residence and birth identification numbers of natural persons proposed for the position of members of the board of directors, members of the supervisory board, company secretary, information on their professional capacity, integrity and data on their economic and personal interconnections. An important component of the application is also proof of the material, personnel and organisational provision necessary for the activity of an asset management company.

A permit for the establishment and activity of an asset management company is granted for an indefinite period. If the applicant requests so in the application, it may also be granted for a definite period. A permit may not be transferred to another entity or assignee of the asset management company and may not be the subject of the enforcement of a court order.

The articles of association of an asset management company and their changes are approved by the supervisory authority; these are otherwise not legally effective. The general meeting of the asset management company may accept decisions on the election or appointment of new members of the board of directors for the supervisory board only following the prior consent of the supervisory authority. The supervisory authority shall not grant consent if it reaches the conclusion that the suggested persons are not persons suitable for the activity of an asset management company, in particular from the aspect of undesirable personal or economic connections, conflict of interests, or that he/she does not have the necessary experience or education for performing the function of a member of the board of directors, supervisory board or company secretary.

An asset management company may issue only inscribed stock. The registered capital of the asset management company must be at least SKK 50 million and must be paid up fully prior to submitting the application for a permit for its establishment and activity.

At least 40% of the assets of the asset management company must comprise highly liquid assets in the form of securities accepted for trading on a listed market of a stock exchange, securities issued by the state or with a state guarantee and financial resources in a current or term deposit bank account. An asset management company may not

provide credits or loans from its assets nor guarantee by them liabilities of other entities. The assets of an asset management company may not be the subject of a silent partnership agreement. In disposing with its assets an asset management company may not give priority to its interests over those of its investors. The assets of an asset management company must be accounted for and recorded separately from assets in their mutual funds. An asset management company is obliged to open exclusively a current account at its depositary. The asset management company must set up and use only one special securities assets account for the disposing with its assets created by domestic inscribed stock entered in the register of issuers at the central depositary.

The asset management company can charge a fee for administering assets in a mutual fund. The fee of the asset management company for one year of a mutual fund's administration, this being determined in the mutual fund's statute, must not, however, exceed 4 % of the average annual net value of the assets in an open-end mutual fund or 3% of the average annual net value of assets in a closed-end mutual fund.

An asset management company is liable to mutual fund shareholders whose assets it administers in a mutual fund for all damages arisen in consequence of the non-fulfilment or insufficient fulfilment of its duties resulting from the Act or from the statute of the mutual fund.

An asset management company may end its activity only in a manner provided for by the Act.

An asset management company may be put into dissolution without liquidation only through merging with another asset management company or through the combination of asset management companies on the basis of a permit from the supervisory authority, where an entry on the dissolution of an asset management company without liquidation may be made in the register only after there having become legally valid the permit of the supervisory authority for the transfer of the mutual funds' administration to an asset management company with which they are to be merged, or to an asset management company which is established through their combination.

Upon the request of an asset management company for dissolution with liquidation on the basis of a decision of the general meeting, the asset management company is obliged to submit a proposal for the appointment of a liquidator and a proposal for determining its remuneration. Through acquiring legal validity the decision of the supervisory board on the withdrawal of a permit for establishment and activity with dissolution of the asset management company with liquidation the asset management company is put into dissolution with liquidation.

If the supervisory authority decides on dissolution of the asset management company with liquidation, it shall withdraw its permit for establishment and activity and the rights and the duties of the asset management company in relation to the mutual funds pass to that depositary. The depositary is obliged within one month of taking over the duties of the asset management company to propose to the supervisory authority the transfer of the mutual funds' administration to another asset management company or propose termination of the mutual funds' operation. The supervisory authority shall decide on the transfer of the mutual funds' administration to another asset management company or decide on the termination of the mutual funds' operation, where it is not bound by the proposal of the depositary. The depositary following a legally valid decision on termination of a mutual funds' operation shall:

a) perform an extraordinary closing of accounts
b) sell assets in the mutual fund,
c) ensure repayment of liabilities in favour of assets in the mutual fund,
d) settle all liabilities from the mutual fund's operation,
e) pay out to mutual fund shareholders their shares in the mutual fund assets,
f) terminate the mutual fund's operation.

Deletion of the asset management company in liquidation from the register may not be performed prior to complete settlement among mutual fund shareholders or prior to the decision of the supervisory authority on the transfer of the mutual funds' administration to another asset management company acquiring a legal validity.

On the day of the declaration of bankruptcy of an asset management company, the permit for performing the activity of an asset management company lapses. Assets in a mutual fund are not a part of the bankrupt estate of the asset management company.

Depositary

The assets in a mutual fund and the assets of an asset management company comprising securities and financial resources must be entrusted to a depositary. Only a bank or a branch of a foreign bank with a registered office in the Slovak Republic, and which has a permit for providing investment services pursuant to the particular act and is not in forced administration may be a depositary for an asset management company and mutual fund.

A depositary acts independently and exclusively in the interest of shareholders of the mutual funds. It performs its activity on the basis of a written contract with the asset management company for the performance of activity and in accordance with a decision of the supervisory authority performs the activity of a forced administrator in accordance with the Act. An asset management company may have at any one time only one depositary. In the contract on the performance of depositary activity there must be agreed the activities of the depositary in at least the scope stipulated by the Act.

The depositary is obliged to administer a current account in a certain currency for the asset management company and one current account in a certain currency for each mutual fund administered by the asset management company. The depositary may not administer more than one current account in a certain currency for each mutual fund administered by the asset management company. All payments, payouts and transfers of financial funds that are the assets of the asset management company and assets in a mutual fund must pass through this current account. Through the current account administered at the depositary, there must also pass financial resources deposited in deposit accounts in other banks. Any payments or transfers from the current account are performed by the depositary only at the instruction of the asset management company. A bank other than the depositary may not administer a current account of an asset management company or of a mutual fund without the consent of its depositary. An asset management company can open only deposit accounts in a different bank, and this only with the consent of its depositary. The transfer of financial resources from the deposit account to another deposit account is performed by the bank at the instruction of the asset management company following presentation of the depositary's consent.

If physical securities are a part of the assets of a mutual fund or of the assets of an asset management company, these must be deposited at the depositary. If in the case of foreign physical securities it is not possible to ensure deposit at the depositary, the physical securities must be deposited at a subject designated by the depositary. However, for the securities deposited in this manner, the depositary is liable as if they were deposited at the depositary itself. The asset management company disposes with securities only via instructions to its depositary or with the consent of its depositary. An asset management company may conclude credit contracts or loan contracts in favour of assets in a mutual fund only following the prior consent of its depositary.

The depositary is in performing its activity obliged to check:

a) the accuracy of the stated value of assets acquired in the property of a mutual fund or the property of an asset management company, or the stated value of assets sold from the property of the mutual fund or asset management company in accordance with the Act,

b) adherence to rules on the limitation and distribution of risk,

c) adherence to procedure in the issuing and presentation of mutual fund shares for payout, which is performed by the asset management company in accordance with the Act and with the statute of the mutual fund,

d) the calculation and payment of the asset management company's fee for administration of the mutual fund,

e) the accordance of the use of revenues of a mutual fund with the Act, with the statute and with the prospectus of the mutual fund.

The depositary performs the activities stipulated by the Act or agreed in the contract on performing depositary activity on the basis of instructions from the asset management company, unless these are contrary to the Act or to the statute of the mutual fund. These instructions must be recorded in written form, deposited at the depositary and provided to the supervisory authority at its request. The depositary in doing so fulfils only those instructions of the asset management company which are in accordance with the Act and with the statute of the mutual fund. If an instruction of an asset management company to the depositary is in conflict with the Act or the statute of the mutual fund, the depositary shall not perform it and warn the asset management company of this. If, despite this warning, the asset management company insists on the performance of this instruction, the depositary shall not perform it and notify the supervisory authority of this fact. The depositary besides this also has further information duties. It is obliged to inform in writing and without delay the supervisory authority of the fulfilment or non-fulfilment of the condition of gathering the minimum amount of assets in a mutual fund, on a breaching of the Act's provisions, on the manner of disposing with assets in the mutual fund; it is obliged upon written request to provide without delay information on a mutual fund and on an asset management company, gained in the performance of depositary activity, this being to the supervisory authority, the criminal police service and the financial police service. If the depositary in the performance of its activity finds that an asset management company has violated the Act on collective investment or the statute of a mutual fund that it administers it shall without delay inform the supervisory authority and asset management company of this fact.

The depositary is liable to the asset management company for damages caused through the breaching of duties resulting from this Act and from the contract on the performance of depositary activity in the course of the performance of its activity, and this also following its termination. The depositary's liability for damages caused through the non-fulfilment of duties resulting from this Act and from the contract for the performance of depositary activity is not affected by the fact that the depositary entrusted fulfilment of these duties to a third party.

Mutual fund

A mutual fund does not have legal capacity and the assets in a mutual fund are not a part of the assets of the asset management company. Assets in a mutual fund comprise securities, financial resources and other asset valuables that are in the common ownership of investors and whose ownership rights are represented by mutual fund shares. An asset management company administers separate and independent accounting and compiles a closing of accounts, which must be verified by an auditor, for each mutual fund separately and independently.

Open-end mutual fund

An open-end mutual fund is a mutual fund the shareholder of which is entitled to submit for redemption a share owned by him of the mutual fund to the asset management company administering this mutual fund. An open-end mutual fund is created by an asset management company through the issuing of mutual fund shares in accordance with the statute of the open-end mutual fund and on the basis of a permit from the supervisory authority for establishing an open-end mutual fund, if the creation of an open-end mutual fund has not already been stated in the permit from the supervisory authority issued for the establishment and activity of an asset management company. A component of the permit is a decision on the approval of the statute of the open-end mutual fund and the permit for issuing mutual fund shares. In this the statute is assessed in particular from the aspect of sufficient protection of mutual fund shareholders.

Financial resources gained through the issuing of mutual fund shares and the assets acquired for them are the common property of the mutual fund shareholders. Each mutual fund shareholder can apply their rights separately in respect of the asset management company.

The title of an open-end mutual fund must contain both the business name of the asset management company and the designation of the open-end mutual fund with a statement of the words “open-end mutual fund” or its Slovak abbreviation “o.p.f.” This name and that interchangeable with it in the Slovak language or in a foreign language may not for its name or for the description of its activity be used by any other natural person or legal entity.

The minimum amount of the net asset value in an open-end mutual fund is SKK 50 million. If an asset management company within six months from the date of the commencement of issuing mutual fund shares gathers through the issuing of mutual fund shares less than SKK 50 million, the permit for the creation of the open-end mutual fund lapses and the asset management company is obliged to pay out to mutual fund shareholders their share in the assets.

Closed-end mutual fund

A closed-end mutual fund is a mutual fund the shareholder of which is not entitled to present for redemption a share owned by him of the closed-end mutual fund to the asset management company that administers this mutual fund. The asset management company that administers a closed-end mutual fund is not obliged to ensure redemption payment to the mutual fund shareholder in respect of a presented mutual fund share. A closed-end mutual fund is created by an asset management company through the issuing of mutual fund shares on the basis of a permit from the supervisory authority for the creation of a closed-end mutual fund. A part of the name of a closed-end mutual fund must be both the business name of the asset management company and the name of the closed-end mutual fund with a statement of the words “closed-end mutual fund” or its Slovak abbreviation “u.p.f.” This name and that interchangeable with it in the Slovak language or in a foreign language may not for its name or for the description of its activity be used by any other natural person or legal entity.

An asset management company may issue mutual fund shares of a closed-end mutual fund over the period of at most two years from the commencement of issuing mutual fund shares. The asset management company is obliged to take without delay necessary measures so that the mutual fund shares of a closed-end mutual fund are accepted on the stock exchange market.

Financial resources gained through the issuing of mutual fund shares and the assets acquired for them are the common property of the mutual fund shareholders. Each mutual fund shareholder can apply his rights separately in respect of the asset management company.

The minimum amount of the net asset value of the property in a closed-end mutual fund is SKK 50 million. If the asset management company within six months of the commencement of issuing mutual fund shares gathers through the issuing of mutual fund shares less than SKK 50 million, the permit for the creation of a mutual fund lapses and the asset management company is obliged to pay out to mutual fund shareholders their share in a the assets.

A closed-end mutual fund may be created only for a definite period, which may not be longer than 10 years. If the asset management company, prior to the elapsing of the period for which the closed-end mutual fund was created, does not request its transformation into an open-end mutual fund, the permit for its creation lapses and the asset management company is obliged to cancel the closed-end mutual fund in an appropriate manner in accordance with the Act.

A closed-end mutual fund may not be merged, combined or divided.

Special mutual fund

A special mutual fund is a particular type of mutual fund which can have at most 10 mutual fund shareholders (up to 1 January, 2003, only legal entities). The mutual fund shareholder of a special mutual fund has the right to present a mutual fund share for redemption. The asset management company must in accordance with its statute and following agreement with the mutual fund shareholders ensure that mutual fund shares can be transferred to another mutual fund shareholder only with the consent of the asset management company.

A special mutual fund is created by an asset management company through the issuing of mutual fund shares on the basis of a permit from the supervisory authority for the creation of a special mutual fund. A special mutual

fund may be created only for a definite period and this at most for the period of 10 years. Upon the written request of the asset management company and all mutual fund shareholders of the special mutual fund the supervisory authority may permit the extension of this term.

A part of the name of a special mutual fund must be both the business name of the asset management company and the name of the special mutual fund with a statement of the words "special mutual fund" or its Slovak abbreviation "š.p.f." This name and that interchangeable with it in the Slovak language or in a foreign language may not for its name or for the description of its activity be used by any other natural person or legal entity. The name of a special mutual fund may not be interchangeable with that of a different special mutual fund.

The minimum net value of assets in a special mutual fund is SKK 50 million. The asset management company in the statute shall define the details for the application of the right to present a mutual fund share for redemption. In the statute there may be defined the fact that an asset management company can interrupt the redemption of presented mutual fund shares. This interruption and its reason however must without delay be notified to the supervisory authority and reported to the notice of mutual fund shareholders. The supervisory authority can cancel the decision of the asset management company on the interruption to the right to present mutual fund shares for redemption, if it finds that the interruption is contrary to the interests of the mutual fund shareholders, otherwise the decision of the asset management company shall be confirmed. During an interruption to the right to submit mutual fund shares for redemption the asset management company may not issue mutual fund shares.

The statute and prospectus of a mutual fund

Every mutual fund must have its own statute and prospectus. Rules on the acceptance of the statute of a mutual fund are governed by the Act; rules on its changes are defined by the Act and the statute itself. Rules on the acceptance and changes to the prospectus are defined by the statute. An investor must have the possibility to familiarise themselves with the statute and the prospectus of the fund prior to the issuing of mutual fund shares. The statute of a fund and its changes are approved by the supervisory authority, otherwise the statute or its changes are not legally effective. A change in the facts stated in the statute of a mutual fund do not require the consent of the supervisory authority, if this has occurred on the basis of a legally valid decision of the supervisory authority, by which these changes were permitted or ordered. The asset management company is obliged to update at least half-yearly, unless the mutual fund's statute sets a shorter period, the data in the prospectus and to provide it upon request to a mutual fund shareholder in its current wording.

An asset management company is liable for the accuracy and completeness of data stated in the prospectus. If in the prospectus there is stated untrue or incomplete information, the mutual fund shareholder has the right to submit their mutual fund share for redemption to the asset management company regardless of whether mutual fund shareholder was familiarised with the prospectus. The mutual fund shareholder can apply this right within one year from the date of issuing the mutual fund share. The asset management company is obliged to pay out to the mutual fund shareholder the purchase price at the time of issuing the mutual fund share. The difference between the purchase price at the time of issuing the mutual fund share and the market price of the mutual fund share at the date of returning the mutual fund share is met by the asset management company from its own assets.

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