

**Recommendation No 1/2020 of Národná banka Slovenska
of 28 July 2020 on capital and profit distribution by banks and insurers during
the COVID-19 pandemic**

Národná banka Slovenska, in accordance with Section 1(3)(a), point 3, and Section 2(9) of Act No 747/2004 on financial market supervision (and amending certain laws), as amended, with Section 6(19) of Act No 483/2001 on banks (and amending certain laws), as amended by Act No 46/2011 (hereinafter 'the Banking Act'), and with Section 79(20)(a) of Act No 39/2015 on insurance (and amending certain laws), as amended (hereinafter 'the Insurance Act'), has adopted this Recommendation:

**Article I
Purpose**

- (1) In order to mitigate systemic risk in the financial sector and contribute to economic recovery, on 27 May 2020 the European Systemic Risk Board (ESRB) issued a Recommendation on restriction of distributions during the COVID-19 pandemic (ESRB/2020/7).¹ The ESRB Recommendation is addressed to the competent authorities of Member States and aims at ensuring that banks and insurers are adequately capitalised at the highest level of consolidation and, where appropriate, at the individual or sub-consolidated level.
- (2) Národná banka Slovenska (NBS) considers it crucial that participants in the Slovak financial market remain able to fulfil their tasks vis-à-vis the real economy amid the fallout from the COVID-19 pandemic. At a time of growing uncertainty, it is also important that Slovak financial market participants conserve capital in order to strengthen the sector's resilience, to increasing their loss-absorption capacities, and to support lending to households, small and medium-sized enterprises, and large enterprises. NBS therefore deems it appropriate to apply the ESRB Recommendation at the sub-consolidated level to banks and insurers that have a significant position in the Slovak financial market.
- (3) Given that bank loan delinquency risk is growing, that claims paid in non-life insurance classes covering economic damage are expected to increase, and that maturity transformation risk in life insurance business is increasing, NBS considers it appropriate that, for the duration of the economic shock related to the COVID-19 pandemic, banks and insurers with a significant position in the Slovak financial market refrain from paying dividends to their shareholders, from paying variable remuneration to material risk takers, and from executing transactions that could otherwise reduce the quantity and quality of their capital.

**Article II
Definitions**

The definitions used in this Recommendation have the same meaning as the definitions used in the Banking Act, Insurance Act, 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

¹https://www.esrb.europa.eu/pub/pdf/recommendations/esrb_recommendation200608_on_restriction_of_distributions_during_the_COVID-19_pandemic_2~f4cdad4ec1.en.pdf

firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013), as amended (hereinafter 'Regulation (EU) No 575/2013'), Commission Delegated Regulation (EU) No 604/2014 of 4 March 2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards with respect to qualitative and appropriate quantitative criteria to identify categories of staff whose professional activities have a material impact on an institution's risk profile (OJ L 167, 6.6.2014), as amended (hereinafter 'Commission Delegated Regulation (EU) No 604/2014'), and Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 12, 17.1.2015), as amended (hereinafter 'Commission Delegated Regulation (EU) No 2015/35').

Article III Scope

This Recommendation applies to:

- a) banks established in the Slovak Republic which operate on the basis of a banking authorisation as defined in the Banking Act and have total assets exceeding €2 billion as at 31 December 2019 (hereinafter 'banks'); and
- b) insurance undertakings established in the Slovak Republic which are authorised by NBS to conduct insurance business in accordance with the Insurance Act and have total assets exceeding €500 million as at 31 December 2019 (hereinafter 'insurers').

Article IV Restrictions on capital and profit distribution by banks

- (1) The restrictions on capital and profit distribution apply exclusively to the following transactions and payments:
 - a) dividend payments to shareholders:
 1. from retained earnings and reserves;
 2. from interim profit not included in Common Equity Tier 1 capital;
 3. from year-end profit not included in Common Equity Tier 1 capital;
 - b) payments of variable remuneration to members of the statutory body, members of the supervisory board, and managers as defined in Section 7(21) of the Banking Act whose professional activities have a material impact on the institution's risk profile in accordance with Commission Delegated Regulation (EU) No 604/2014;
 - c) payments of coupons and their equivalents with respect to Additional Tier 1 capital instruments;
 - d) buybacks of shares other than preferred shares, and buybacks of other capital or debt instruments included in Common Equity Tier 1 capital, Additional Tier 1 capital or Tier 2 capital.
- (2) The restrictions referred to in paragraph 1 do not apply where the conditions set out in Article 78(1)(a) of Regulation (EU) No 575/2013 are met.
- (3) The payments and transactions referred to in paragraph 1 concern profits generated in 2019 and 2020 as well as retained earnings and other reserves from previous years.
- (4) NBS recommends that, for so long as this Recommendation is in effect, banks refrain from making irrevocable commitments to execute transactions and payments referred to in paragraph 1 from profits generated in 2019 and 2020.

Article V
Restrictions on capital and profit distribution by insurers

- (1) The restrictions on capital and profit distribution apply exclusively to the following transactions and payments:
 - a) dividend payments to shareholders;
 - b) payments of variable remuneration to members of the statutory body, members of the supervisory board, and managers directly reporting to the statutory body or the supervisory board, who at the same time are persons defined under Article 275(1)(c) and Article 275(2) of Commission Delegated Regulation (EU) No 2015/35;
 - c) share buybacks and buybacks of other capital or debt instruments included in capital.
- (2) The restrictions referred to in paragraph 1 do not apply where the insurer, before or while executing any of the transactions referred to in paragraph 1, replaces in full the instruments or related accounts of the share premium with capital instruments of equal or higher quality under conditions that are sustainable with respect to the insurer's income capacity.
- (3) The payments and transactions referred to in paragraph 1 concern profits generated in 2019 and 2020 as well as retained earnings and other reserves from previous years.
- (4) NBS recommends that, for so long as this Recommendation is in effect, insurers refrain from making irrevocable commitments to execute transactions and payments referred to in paragraph 1 from profits generated in 2019 and 2020.

Article VI
Date of effect

This Recommendation takes effect on 1 August 2020 and expires on 31 December 2020.

Peter Kažimír [signed]
Governor