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DECREE
of Národná banka Slovenska
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Establishing the method of proving the fulfilment of conditions for granting a licence to provide investment services

Národná banka Slovenska pursuant to § 55 Section 10 and § 56 Section 10 of the Act No. 566/2001 Coll. on Securities and Investment Services and on Amendments and Supplements of Certain Laws (Securities Act), as amended (hereinafter referred to only as the “Act”) hereby stipulates:

Method of proving the fulfilment of conditions for granting a licence to provide investment services pursuant to § 55 Section 10 of the Act

§ 1

The fulfilment of conditions pursuant to § 55 Section 2 of the Act for granting a licence to provide investment services pursuant to § 55 Section 1 of the Act shall be proved by submitting documents confirming the fulfilment of such conditions pursuant to § 2 to Národná banka Slovenska.

§ 2

(1) The fulfilment of the condition pursuant to § 55 Section 2 a) of the Act shall be proved by submitting a document of paid up registered capital¹⁾, in particular

- a) Written statement of the deposit trustee of paid up registered capital or paid up portion of registered capital by individual members²⁾ in the amount as provided by § 54 Sections 11 and 12 of the Act, for a securities dealer pursuant to § 54 Section 11 of the Act, and a securities dealer pursuant to § 54 Section 12 of the Act,
- b) Written statement of the deposit trustee of paid up deposit or paid up portions of deposit by individual members²⁾ in the amount as provided by § 54 Section 13 of the Act, or written statement of the founders of a securities dealer or of the bank board of directors on taking out of an insurance policy with the insurance benefit stipulated in § 54 Section 15 of the Act, for a securities dealer pursuant to § 54 Section 13 of the Act..

(2) The fulfilment of the condition pursuant to § 55 Section 2 b) of the Act shall be proved by submitting

- a) documents confirming credible source of monetary and non-monetary contributions deposited in the registered capital of a future securities dealer by its founders, and documents confirming the source of other financial resources of a future securities dealer, in particular
 - 1. in the case of a natural person
 - 1a. an overview of its property and financial situation,
 - 1b. account statements from accounts kept at banks or branches of foreign banks at the day of

¹⁾ § 55 Section 4 g) of the Act No. 566/2001 Coll. on Securities and Investment Services and on Amendments and Supplements of Certain Laws (the Securities Act), as amended.

²⁾ § 60 Section 4 of the Business Code.

making a request, and for the immediately preceding twelve months period,

1c. extracts from Land Register not older than three months before making a request,

1d. tax return of an employee who has income only from employment³⁾, or

1e. document confirming the tax base for income reached from business activities and from other economic activity for the immediately preceding three taxable years or for the period before the commencement of its business, if he started carrying on business less than three years ago before documenting the fulfilment of the condition,

2. in the case of a legal entity

2a. individual financial statements and consolidated financial statements audited by an auditor including auditor's statement,

2b. a director's report submitted to the General Meeting for the immediately preceding three accounting periods or for a period since its incorporation, if it was incorporated less than three years ago before documenting the fulfilment of the condition,

b) an officially verified written statement of persons who should have a qualified interest in a securities dealer that the financial resources used for contributions deposited in the registered capital of a future securities dealer do not originate from crime or participation in a crime committed on the territory of the Slovak Republic or outside the territory of the Slovak Republic.

(3) The fulfilment of the condition pursuant to § 55 Section 2 c) of the Act shall be proved by submitting

a) documents under 2,

b) a list of natural persons with a qualified interest in a future securities dealer specifying the percentage interest in the registered capital of a future securities dealer and voting rights therein, together with the submission of an extract from the Criminal Records Register not older than three months from such natural persons; a foreign natural person shall submit a similar valid certificate of no criminal records issued by the competent public body of the country of its permanent residence, and of countries where such a person stayed continuously for more than six months during the preceding five years; if the relevant countries do not issue such documents, they can be replaced by an affirmation of such a natural person,

c) a list of persons with close links⁴⁾ to natural persons with a qualified interest in a future securities dealer, who were at the time of submission of the application for a licence to provide investment services in labour relation or in similar legal relation with the securities dealer, a foreign securities dealer or a branch of a foreign securities dealer or with a financial institution⁵⁾, indicating the trade name, legal form, identification number and registered office of such institution and the name and surname of such persons with close links,

d) a list of legal entities with a qualified interest in a future securities dealer indicating the trade name, legal form, identification number, registered office, amount of registered capital and percentage interest in the registered capital of a future securities dealer and voting rights therein,

e) an affirmation of natural persons with a qualified interest in a future securities dealer on the fulfilment of conditions pursuant to § 8 b) second to fifth paragraph of the Act,

f) an affirmation of legal entities with a qualified interest in a future securities dealer that for the previous 10 years in their activity, no obligations have been breached for preventing and discovering the legalization of proceeds from crime and financing of terrorism, and that the natural persons liable for their management fulfil conditions pursuant to § 8 b) of the Act,

g) an affirmation of legal entities with a qualified interest in a future securities dealer indicating that

³⁾ § 3 Section 1 a) of the Act No. 595/2003 Coll. on Income Tax, as amended.

⁴⁾ § 116 the Civil Code.

⁵⁾ § 8 c) of the Act No. 566/2001 Coll.

they are not insolvent, winding up, and that no bankruptcy has been adjudicated in relation to their estate or any other restructuring measure under the system of law valid in the country of their seat,

h) List of legal entities indicating the trade name, legal form, identification number, registered office, amount of registered capital and percentage interest in the registered capital of legal entities and voting rights in legal entities, in which

1. A natural person with a qualified interest in a future securities dealer has a share in the registered capital or voting rights amounting to at least 10%, or is a member of their statutory bodies or supervisory bodies, or guarantees by its entire property their liabilities, or
2. A legal entity with a qualified interest in a future securities dealer has a share in the registered capital or voting rights amounting to at least 10%, or is represented in their statutory bodies or supervisory bodies, or guarantees by its entire property their liabilities.

(4) In the case of persons nominated as members of the Board of Directors and executive officers and in the case of persons responsible for execution of a position of fulfilment, position of risk management and position of an internal audit the fulfilment of the condition pursuant to § 55 Section 2 d) of the Act shall be proved by submitting

- a) A document of achieved education and professional experience in the field of financial market or capital market certifying the fulfilment of conditions pursuant to § 55 Section 11 of the Act,
- b) Brief professional CV,
- c) An extract from the Criminal Records Register not older than three months; a foreign natural person shall submit a similar valid certificate of no criminal records issued by the competent public body of the country of its permanent residence, and of countries where such a person stayed continuously for more than six months during the preceding five years; if the relevant countries do not issue such documents, they can be replaced by an affirmation,
- d) An affirmation of the fulfilment of conditions pursuant to § 8 b) par. two to five of the Act.

(5) The fulfilment of conditions pursuant to § 55 Section 2 e) to g) of the Act shall be proved by submitting

- a) Documents confirming transparency of a group with close links⁶⁾, of which a shareholder with a qualified interest in the future securities dealer is a member, indicating in particular the amount of direct and indirect interest in the registered capital or in voting rights in a legal person within such group, rights and obligations enabling such legal entity or natural person to perform control⁷⁾ of the shareholder with a qualified interest in the future securities dealer, in the form of copies of an entry in the Companies Register, extracts from the issuer's register or account statements of the owner of a book-entry security,
- b) Documents proving that close links within a group with close links⁶⁾, of which a shareholder with a qualified interest in the future securities dealer is a member, shall not prevent the execution of supervision, e.g. a graphical representation of the structure of such group,
- c) Affirmation of that the execution of supervision is not prevented by the system of law and the manner of its application in the country on whose territory a group of which a shareholder with a qualified interest in the future securities dealer is a member, has close links..

(6) The fulfilment of the condition pursuant to § 55 Section 2 h) of the Act shall be proved by submitting a document confirming that the registered office of the future securities dealer and its head office will be on the territory of the Slovak Republic, in particular

- a) Deed of Incorporation or Memorandum of

⁶⁾ § 8 e) of the Act No. 566/2001 Coll.

⁷⁾ § 8 h) of the Act No. 566/2001 Coll.

Association,

- b) Articles of Association or draft Articles of Association,
- c) A copy of an entry in the Companies Register,
- d) Ownership Certificate, lease contract or lease pre-contract proving the creation of an ownership relation or the creation of a lease relation, or
- e) Another document proving reliably fulfilment of the condition pursuant to § 55 Section 2 h) of the Act.

(7) If by granting a licence to provide investment services a securities dealer becomes a part of a consolidated unit, in which a financial holding institution is a member, the fulfilment of conditions for professional qualifications and credibility pursuant to § 55 Section 2 i) of the Act is proved in the case of natural persons being the members of the statutory body of the financial holding institution⁸⁾ by submitting

- a) A document on education and practice reached in the field of financial market or capital market confirming the fulfilment of conditions pursuant to § 55 Section 11 of the Act,
- b) Brief professional CV,
- c) An extract from the Criminal Records Register not older than three months; a foreign natural person shall submit a similar valid certificate of no criminal records issued by the competent public body of the country of its permanent residence, and of countries where such a person stayed continuously for more than six months during the preceding five years; if the relevant countries do not issue such documents, they can be replaced by an affirmation,
- d) An affirmation of the fulfilment of conditions pursuant to § 8 b) par. two to five of the Act.

(8) If by granting a licence to provide investment services a securities dealer becomes a part of a financial conglomerate, in which a mixed financial holding institution⁹⁾ is a member, the fulfilment of conditions for professional qualifications and credibility pursuant to § 55 Section 2 i) of the Act is proved in the case of natural persons being the members of the statutory body of the fixed financial holding institution⁸⁾ by submitting document as per par. 7.

(9) If by granting a licence to provide investment services a securities dealer becomes a part of a consolidated unit, in which a financial holding institution is a member, the fulfilment of conditions for the fitness of shareholders pursuant to § 55 Section 2 i) of the Act controlling the financial holding institution is proved by submitting

- a) List of shareholders controlling the financial holding institution,
- b) List of legal entities indicating the trade name, legal form, identification number, registered office, amount of registered capital and percentage interest, in which
 1. A natural person being a shareholder controlling the financial holding institution has a share in the registered capital or voting rights amounting to at least 10%, or is a member of their statutory bodies or supervisory bodies, or guarantees by its entire property their liabilities, or
 2. A legal entity being a shareholder controlling the financial holding institution has a share in the registered capital or voting rights amounting to at least 10%, or is represented in their statutory bodies or supervisory bodies, or guarantees by its entire property their liabilities..

(10) If by granting a licence to provide investment services a securities dealer becomes a part of a financial conglomerate, in which a mixed financial holding company is a member, the fulfilment of

⁸⁾ § 138 Section 10 a) of the Act No. 566/2001 Coll.

⁹⁾ § 138 Section 10 c) of the Act No. 566/2001 Coll.

⁸⁾ § 138 Section 10 a) of the Act No. 566/2001 Coll.

conditions for the fitness of shareholders pursuant to § 55 Section 2 i) of the Act controlling the fixed financial holding company is proved by submitting document as per par. 9.

Method of proving the fulfilment of conditions for granting a licence to provide investment services pursuant to § 56 Section 10 of the Act

§ 3

The fulfilment of conditions pursuant to § 56 Section 2 of the Act for granting a licence to provide investment services pursuant to § 56 Section 1 of the Act shall be proved by submitting documents confirming the fulfilment of such conditions pursuant to § 4 to Národná banka Slovenska.

§ 4

(1) The fulfilment of the condition pursuant to § 56 Section 2 a) of the Act shall be proved by submitting

a) A written declaration certified by a notary of the statutory body of the foreign securities dealer on the provision of financial resources to its branch established on the territory of the Slovak Republic that are sufficient with regard to the range and risk level of investment services provided by such branch, indicating the value of financial resources as at the date when such financial resources are to be provided,

b) Documents certifying the origin of financial resources provided by the foreign securities dealer to its branch established on the territory of the Slovak Republic, i.e. audited financial statements for the preceding three years including auditor's statement; in case when a foreign securities dealer is a member of a consolidated unit, also audited consolidated financial statements for the preceding three years including auditor's statement,

c) A written declaration certified by a notary of the foreign securities dealer that the financial resources provided to its branch established on the territory of the Slovak Republic do not originate from crime or participation in a crime committed on the territory of the Slovak Republic or outside the territory of the Slovak Republic.

(2) The fulfilment of the condition pursuant to § 56 Section 2 b) of the Act shall be proved by submitting

a) A written certificate of credibility of the foreign securities dealer and of its financial strength adequate to the scope and risk level of the intended provision of investment services by its branch on the territory of the Slovak Republic issued by a competent supervisory body of the country where the foreign securities dealer establishing its branch on the territory of the Slovak Republic has its registered office,

b) Documents certifying financial strength of the foreign securities dealer which is adequate to the scope and risk level of the intended provision of investment services by its branch on the territory of the Slovak Republic, i.e. audited financial statements of the foreign securities dealer including auditor's statement, business report for the preceding three years approved by the General Meeting, and in the case when such a foreign securities dealer is a member of a consolidated unit, also audited financial statements for the preceding three years and the development of book value of stock of the foreign securities dealer, and in the case when stock is traded on the stock market, also the development of share quotations for the preceding three twelve months periods, if the legal form of such a foreign securities dealer allows for issuing shares.

(3) The fulfilment of the condition pursuant to § 56 Section 2 c) of the Act shall be proved in the case of persons nominated by a foreign securities dealer to manage its branch by submitting

- a) A document of achieved education and professional experience in the field of financial market or capital market of the head of branch of the foreign securities dealer and his deputy, certifying the fulfilment of conditions pursuant to § 56 Section 11 of the Act,
- b) A brief professional CV of the head of branch of the foreign securities dealer and his deputy,
- c) Copy of an extract from the Criminal Records Register not older than three months; a foreign natural person shall submit also a document of similar nature issued by the competent authority of the country of its permanent residence, and of countries where such person stayed continuously for more than six months during the preceding five years; if the relevant countries do not issue such documents, they can be replaced by an affirmation,
- d) An affirmation of the fulfilment of conditions pursuant to § 8 b) second to fifth paragraph of the Act.

(4) The fulfilment of the conditions pursuant to § 56 Section 2 d) to f) of the Act shall be proved by submitting

- a) Documents confirming transparency of a group with close links, of which a foreign securities dealer is a member, indicating the amount of direct and indirect interest in the registered capital or in voting rights in a legal person within such group, rights and obligations allowing a legal entity or natural person to control the shareholder with a qualified interest in a foreign securities dealer,
- b) Documents proving that close links within a group with close links, of which a foreign securities dealer is a member, shall not prevent the execution of supervision, e.g. a graphical representation of the structure of such group,
- c) Affirmation of that the execution of supervision is not prevented by the system of law and the manner of its application in the country on whose territory a group of which a shareholder with a qualified interest in the future securities dealer is a member, has close links..

(5) The fulfilment of the condition pursuant to § 56 Section 2 g) of the Act shall be proved by submitting a proposal of business strategy showing that the foreign securities dealer that intends to operate through its branch on the territory of the Slovak Republic will carry out a substantial part of its activities on the territory of the country of its registered office..

(6) The fulfilment of the condition pursuant to § 56 Section 2 h) of the Act shall be proved by submitting generally binding legal regulations of the country of registered office of a foreign securities dealer for the purpose of review of the level of fulfilment of conditions for the execution of activity and the satisfaction of requirements for own resources of financing by a foreign securities dealer in comparison with the Act..

Common and final provisions

§ 5

(1) Documents pursuant to § 2 or § 4 shall be submitted as originals and if it is impossible to submit their originals, they shall be submitted as certified copies¹⁰⁾.

(2) If the documents pursuant to § 2 or § 4 are executed in a foreign language, the fulfilment of such conditions shall be proved also by an officially certified translation of such documents into the Slovak language.

¹⁰⁾ For instance, § 56 of the Act No. 323/1992 Coll. on Notaries and the Notary's Activity (Notarial Rules), as amended.

(3) Documents pursuant to § 2 or § 4 submitted to Národná banka Slovenska before submitting an application for granting a licence to provide investment services may be replaced by a written declaration of the applicant pursuant to § 55 Section 1 of the Act, or by a written declaration of the securities dealer that such documents are valid, complete, true, correct and original with attached attested signatures of the persons authorised to act on behalf of it and a list of documents already submitted and the date of their submission to Národná banka Slovenska..

§ 6

Decree of the Ministry of Finance of the Slovak Republic No. 42/2002 Coll., establishing the method of proving the fulfilment of conditions for granting a licence to provide investment services shall be repealed.

§ 7

This Decree shall come into effect on 1 July 2008.

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