

# ACT ON BANKS

The full wording of Act No. 483/2001 Coll. dated 5 October 2001 on banks and on changes and the amendment of certain acts, 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. 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, Act No. 297/2008 Coll. and those provisions of Act No. 659/2007 Coll. which became effective on 1 January 2008.

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

## SECTION I

### PART ONE BASIC PROVISIONS

#### Article 1

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

#### Article 2

(1) A bank is a legal entity with its registered office in the territory of the Slovak Republic, founded as a joint stock company,<sup>1</sup> which:

- a) accepts deposits and
- b) provides loans

and which holds a banking licence to perform activities according to a) and b) above. Any other legal form of a bank is prohibited.

(2) In addition to the activities specified in paragraph 1, a bank may carry out the following other activities, if these are specified in its licence:

- a) domestic fund transfers and cross-border fund transfers (hereinafter the "payments and clearing"),
- b) the provision of investment services, investment activities and ancillary services in accordance with a separate law,<sup>1a)</sup> and investments in securities for own account;
- c) trading for the bank's own account;
  - 1. in financial instruments of the money market in Slovak crowns and foreign currencies,

- including exchange services,
- 2. in financial instrument of the capital market in Slovak crowns and foreign currencies,
- 3. in precious metal coins, commemorative banknotes and coins, sheets of banknotes and sets of circulation coinage,
- d) management of receivables for the client's account, including advisory services,
- e) financial leasing,
- f) provision of guarantees,<sup>2</sup> and opening and endorsing of letters of credit,<sup>3</sup>
- g) issuing and administration of payment instruments,<sup>4</sup>
- h) business advisory services,
- i) issuing of securities, participation in securities issues, and provision of related services,
- j) financial brokerage,
- k) safe custody of assets,
- l) renting of safe deposit boxes,
- m) provisions of banking information,
- n) special mortgage transactions (hereinafter the "mortgage transactions") pursuant to Article 67, paragraph 1,
- o) performing the function of a depository pursuant to separate regulations,<sup>5</sup>
- p) processing of banknotes, coins, commemorative banknotes and coins.

(3) A banking licence is a licence to establish a bank or branch office of a foreign bank and to perform banking operations by this bank or branch office of a foreign bank in the extent specified by this licence and according to conditions established therein or by provisions of this Act and separate regulations.

(4) If a special permit is required for providing certain activities listed in paragraph 2 pursuant to a separate regulation,<sup>6</sup> a banking licence to perform these activities may only be issued after the special permit comes into force; this does not apply to foreign banks, which are subject to the provisions of Articles 11 to 20.

(5) Banking activities listed in paragraphs 1 and 2 (hereinafter referred to as "banking activities") may also be performed by foreign banks through their branch offices which have a banking licence to do so pursuant to Article 8.

(6) A bank may only issue registered shares in book entry form; a change of their form is prohibited.

(7) A foreign bank is a legal entity based outside the territory of the Slovak Republic, which has a licence to perform these activities granted in its home country.

(8) Branch office of a foreign bank is an organisational unit of a foreign bank located in the territory of the Slovak Republic<sup>7</sup> which directly performs activities specified in paragraph 1 in particular; all branch offices of a foreign bank established in the territory of the Slovak Republic by a bank based in a Member State of the European Union or other country of the European Economic Area (hereinafter referred to as "a Member State") are deemed to constitute a single branch office for the purposes of the licence to perform banking activities.

(9) A bank or branch office of a foreign bank, except as provided in paragraph 10, may not carry out business activities other than banking activities.

(10) A bank or branch office of a foreign bank may carry out other than banking activities for a third person only if these are related to its operations. Approval from the National Bank of Slovakia shall be required for these activities. These activities shall not be recorded in the Business Register.

(11) In association with performing banking activities, a bank or branch office of a foreign bank shall also be obligated to perform tasks assigned by the National Bank of Slovakia in the field of monetary policy and payments and settlements pursuant to a separate law.<sup>8</sup>

(12) The provisions of a separate law<sup>1</sup> shall apply to a bank or branch office of a foreign bank unless this Act stipulates otherwise.

(13) Banks and branch offices of foreign banks shall perform payments and clearing between themselves in the Slovak Republic pursuant to a separate regulation.<sup>9</sup>

### **Article 3**

(1) No person without a banking licence may accept deposits unless stipulated otherwise by a separate regulation.<sup>5</sup> No person without a banking licence may offer interest or other compensation on deposits, which constitutes a tax expense according to a separate regulation.<sup>10</sup>

(2) Unless stipulated otherwise by a separate regulation,<sup>11</sup> no person may provide, without a banking licence, loans or credits as part of its business or other activity by using repayable funds obtained from other persons on the basis of a public offer.

(3) No person may perform payments and clearing for another person as part of its business or other activity without a banking licence, unless stipulated otherwise by a separate regulation.<sup>12</sup>

(4) No person may issue bank payment cards without a banking licence.

### **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 which has been issued a banking licence. If confusion could arise, the National Bank of Slovakia may request that the bank, the branch of a foreign bank, or the other legal person modify its name; the bank, branch of a foreign bank, or other legal person shall comply with this request.

(2) Provisions of paragraph 1 shall not apply to legal persons whose trade name or designation is established or recognized by law or by an international treaty binding upon the Slovak Republic, or where it is evident from the trade name that the person using the word "bank" or

"saving bank" in its name does not engage in activities specified in Article 2, paragraph 1.

## Article 5

For the purposes of this Act:

- a) a deposit means entrusted funds that represent an obligation towards the depositor to repay them,
- b) a loan means funds temporarily provided in whatever form, including factoring and forfeiting,
- c) branch office of a bank is its organisational unit located in the territory of the Slovak Republic or outside the territory of the Slovak Republic, and directly performing primarily banking activities pursuant to Article 2, paragraph 1,
- d) investments in securities for own account means the acquisition of securities with the objective of exercising long-term influence over the activity of a commercial company and obtaining property and other benefits, however, for a period of at least one year, or the purchase of bonds<sup>13)</sup> and their holding from acquisition until maturity,
- e) financial instruments of the money market are interbank deposits, securities payable within one year, futures contracts up to one year involving securities maturing within one year as well as securities with a maturity exceeding one year, other derivatives<sup>13a)</sup> and yields therefrom, foreign exchange and gold,
- f) financial instruments of the capital market are shares, temporary certificates, participation certificates and other securities accepted for trading in the stock exchange market<sup>13b)</sup> with maturity exceeding one year and dividends and interest thereon,
- g) financial leasing means items leased for an agreed rent for a definite period, paid usually in regular instalments with the objective to transfer the ownership of the item to the lessee,
- h) the client of a bank or branch office of a foreign bank means a person with whom the bank or the branch office of the foreign bank has concluded a transaction as part of its banking business,
- i) a banking transaction (hereinafter the "transaction") means the formation, alteration or termination of relations arising according to the law of obligation between a bank or branch office of a foreign bank and its client, and any operations relating to the banking business, including the disposal of deposits,
- j) banking information means information concerning a bank's client acquired by the bank in the pursuit of banking activities and provided subject to the client's consent,
- k) financial brokerage means the mediation of banking services or other financial services, including insurance or reinsurance or operations related to financial assets,
- l) a public offer means any announcement, offer or recommendation made by any person to collect funds in its favour or in favour of a third person made by any means of promulgation, including by 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 or recommendation made solely in the form of a personal contact and intended for no more than ten persons shall not be considered as a public offer,
- m) a bank payment card means a payment medium used to carry out non-cash and cash payment operations through technological devices, debiting or crediting an account opened by a bank or a foreign bank's branch, for which the payment card was issued.

- n) a person means any legal or natural person, unless only a natural or only a legal person is expressly designated in individual provisions hereof.
- o) 'use of a deposit' shall mean 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;
- p) 'credit institution' shall mean a bank or electronic money institution where particular provisions of this Act do not mention only a bank or only an electronic money institution;
- r) 'foreign credit institution' shall mean a foreign bank or foreign electronic money institution where particular provisions of this Act do not mention only a foreign bank or only a foreign electronic money institution.

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

**Article 6**

(1) Activities of banks and branch offices of foreign banks shall be subject to supervision exercised by the National Bank of Slovakia;<sup>8)</sup> in the extent specified by this Act. Activities of other persons and entities associated with operations or management of banks or branch offices of foreign banks shall also be subject to making supervision. Supervision shall be exercised in the scope stipulated by this Act over individual banks and branch offices of foreign banks, other entities, and also over consolidated groups of which banks are members, and over financial conglomerates pursuant to Article 49c.

(2) In exercising supervision over a bank or branch of a foreign bank, the National Bank of Slovakia shall in particular examine and evaluate its management organization, division of responsibilities, adopted strategies, systems and procedures introduced within the performance of licensed banking activities, information flows, and the risks to which the bank or the branch of a foreign bank is or could be exposed; in doing so, it shall verify the adequacy of their own funds of financing (hereinafter "own funds"). The National Bank of Slovakia shall at least once a year carry out an examination and evaluation appropriate to the nature and scope of the banking activities. On the basis of exercised supervision, the National Bank of Slovakia shall assess whether the management organization of the bank or the branch of a foreign bank, the adopted strategies, the systems and procedures introduced within the performance of licensed banking activities, and the own funds correspond to the prudential management of the bank or the branch of a foreign bank, and it shall also assess the adequacy of risk coverage with own funds.

(3) The subject of supervision shall not be disputes resolution arising from contractual relations between banks or branch offices of foreign banks and their clients, the investigation of which or decisions on which fall within the jurisdiction of courts or other authorities according to separate regulations.<sup>14)</sup>

(4) Supervision on a consolidated basis shall not replace supervision of individual persons included in the consolidated group and shall not replace either the conduct of supervision of individual banks or branch offices of foreign banks hereunder or supervision of financial institutions according to separate regulations.<sup>15)</sup>

(5) 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 branch offices of foreign banks under this Act, or supervision pursuant to separate regulations.<sup>15b)</sup>

(6) The conduct of supervision on a consolidated basis or the conduct of supplementary supervision of financial conglomerates shall not place the National Bank of Slovakia under the obligation to exercise supervision of individual persons included in a consolidated group, or a financial conglomerate which are not subject to supervision by the National Bank of Slovakia.

(7) A bank or branch office of a foreign bank shall be obligated to allow persons authorised to perform supervision to attend the bank's general meeting, meetings of its supervisory board, statutory body, or management of branch office of a foreign bank.

(8) The National Bank of Slovakia is responsible for performing supervision. Persons who perform supervision on behalf of the National Bank of Slovakia are not liable to third persons for consequences caused by performing supervision; this does not preclude their responsibility pursuant to the provisions of criminal law or their liability towards the National Bank of Slovakia pursuant to the regulations governing employment relations.

(9) When the National Bank of Slovakia finds in the course of supervision any facts indicating that a criminal offence has been committed, it shall inform the relevant law enforcement authority without delay.

(10) A banking supervisory authority of a foreign state may perform supervision in the territory of the Slovak Republic over operations of branch office of a foreign bank and over a bank subsidiary of a foreign bank, solely on the basis of an agreement concluded between the National Bank of Slovakia and the supervisory authority of the foreign state, unless this Act stipulates otherwise; the National Bank of Slovakia may only conclude such an agreement on a reciprocal basis. The banking supervisory authority of another country shall be obligated to notify the National Bank of Slovakia beforehand of performance by it of on-site supervision. In performing such supervision, Commissioned persons of the banking supervisory authority of another country shall have the same powers, duties and responsibility as employees of the National Bank of Slovakia charged with the performance of on-site supervision according to a separate regulation<sup>15a)</sup>; they shall not however have the duty of making out a written protocol on supervision performed thereby and the duty of determining the time limits for the adoption and accomplishment of measures to remove the shortcomings revealed during supervision and of notifying of them the supervised entity in writing .

(11) The National Bank of Slovakia may perform supervision of branch offices of foreign banks operating in the territory of another country and over a bank subsidiary of a bank located in the territory of another state, if so permitted by legal regulations of that country and by an agreement concluded between the National Bank of Slovakia and the banking supervisory authorities of that country.

(12) The central securities depository<sup>16)</sup> and a member of the central securities depository<sup>16)</sup> shall have the duty of providing the National Bank of Slovakia with any information from the records they maintain, requested by the bank for the purposes of supervision.

(13) In performing supervision of individual banks and branch offices of foreign banks on a consolidated basis, the National Bank of Slovakia shall co-operate with the supervisory authorities supervising financial institutions and insurance companies in the Slovak Republic and authorities supervising banks and financial institutions and insurance companies of another country, with the Slovak Chamber of Auditors,<sup>17)</sup> with auditors, and with a specified legal entity<sup>9)</sup>, and has the right to exchange information with them and draw their attention to deficiencies detected by supervision.

The obligation of secrecy according to this Act and separate regulations <sup>18)</sup> shall not apply to disclosure of information in accordance with this paragraph. For the purposes of supervision of a branch of a bank established in another Member State, the National Bank of Slovakia shall provide the competent supervisory authority of the other Member State with, in particular, information on the bank's management and ownership structure, information on the bank's rules of liquidity, fulfilment of capital requirements and exposure limits, and information on the bank's deposit protection system, administrative and accounting procedures and internal control procedures. In the case of a branch of a foreign bank established in the Slovak Republic, the National Bank of Slovakia shall inform the competent supervisory authority of the other Member State about the deposit protection system applied in the Slovak Republic. The National Bank of Slovakia may not disclose confidential information received from other Member States' competent supervisory authorities without the consent of the foreign supervisory authority which provided this information. Unless otherwise provided by this Act, the National Bank of Slovakia may use confidential information received from other Member States' supervisory authorities only in the performance of its obligations and for the purposes of:

- a) supervision of supervised entities through the oversight and monitoring of compliance with conditions concerning the taking up and pursuit of the business of the supervised entities on a non-consolidated 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) imposing sanctions under this Act or separate regulations; <sup>6)</sup>
- c) appeal proceedings against decisions of the National Bank of Slovakia;
- d) judicial review of decisions of the National Bank of Slovakia or other judicial proceedings related to supervised entities or to the supervision of supervised entities.

(14) Information provided as stipulated in paragraph 12 may only be used for the purposes of supervision, oversight, audit, and payment and settlement by a designated legal entity <sup>9)</sup> and for purposes of control of auditors. Authorities and persons specified in paragraph 12 are obligated to ensure that such information remains confidential and maintain secrecy in accordance with this Act and separate regulations <sup>18)</sup>. This information can be mutually exchanged by the entities specified in paragraph 12 only with the consent of the National Bank of Slovakia.

(15) The National Bank of Slovakia shall publish methodical guidelines and recommendations relating to supervision in the Gazette of the National Bank of Slovakia [Vestník Národnej banky Slovenska].

(16) The National Bank of Slovakia shall publish the following on its Internet site:

- a) generally binding legal regulations, methodological instructions, and recommendations relating to financial market supervision;
- b) the method of exercising national decision-making in relation to the transposition of legal acts of the European Union and the selection possibilities that arise to banks under this Act;
- c) the general evaluation criteria and methodology which the National Bank of Slovakia uses for the exercise of supervision over banks and branches of foreign banks;
- d) aggregate statistical data and relevant indicators relating to changes in banking sector



- regulations;
- e) the process for recognizing the eligibility credit rating agencies and the list of recognized credit rating agencies in accordance with Articles 32 and 33b;
  - f) a list of regional governments and local authorities which, for the purposes of calculating risk-weighted exposures by the standardized approach for credit risk, is assigned the same risk weighting as the state.

(17) A financial institution for the purposes of this Act is a legal entity other than a bank, which as its business activity performs as a principal or major activity one of the activities specified in Article 2, paragraph 1, letter b) or paragraph 2, or whose principal line of business is the acquisition of equity holdings as stipulated by a separate regulation, <sup>5)</sup> an electronic money institution <sup>19)</sup> as well as any entity based abroad with a similar line of business. For the purposes hereof, any mutual funds <sup>20)</sup> managed by a legal person whose principal line of business is the acquisition of equity holdings according to a separate regulation <sup>5)</sup> shall constitute a part of such legal person.

## **PART THREE BANKING LICENCE**

### **Article 7**

(1) Decisions to grant a licence shall be made by the National Bank of Slovakia. Granting a banking licence pursuant to a separate regulation <sup>21)</sup> or a licence to provide mortgage transactions shall be decided by the National Bank of Slovakia following an agreement with the Ministry of Finance of the Slovak Republic (hereinafter referred to as the "Ministry"). An application for a banking licence shall be submitted to the National Bank of Slovakia.

(2) To obtain a banking licence as stipulated in paragraph 1, the following conditions must be met:

- a) a minimum monetary deposit towards a bank's registered capital of SKK 500,000,000 and a minimum monetary deposit towards the registered capital of a bank performing mortgage transactions of SKK 1,000,000,000,
- b) transparent and trustworthy origin of registered capital and other financial resources of the bank,
- c) eligibility and suitability of persons who would become shareholders with qualified interest in the bank, and transparency of their relations with other persons, above all transparency of their interests in registered capital and voting rights,
- d) proposal of members of the statutory body pursuant to Article 24, paragraph 1,
- e) professional competence and integrity of persons nominated as members of the statutory body, as a procurator, as members of the supervisory board, officers <sup>22)</sup>, as the head of the internal control department and the head of the internal audit department,
- f) draft Articles of Association,
- g) a business plan drawing on a proposed strategy for the bank's operations supported by realistic economic calculations,
- h) transparency of a closely connected group which includes the bank's qualified shareholder,
- i) close links within the group according to h) do not obstruct supervision,
- j) the system of law and its application in the country, in the territory of which the group according to h) has close ties, does not obstruct supervision,
- k) the registered office, head office, and principal banking activities of the future bank must be located or carried out in the territory of the Slovak Republic; the bank may conduct banking activities also outside the territory of the Slovak Republic through its branch office or without establishing branch office according to conditions established by this Act,
- l) document the ability of shareholders establishing the bank to overcome a potentially difficult financial situation of the bank;
- m) conditions equivalent to those for the issuance of an investment services licence are met, as appropriate, in respect of the requested scope of investment services, investment activities and ancillary services.

(3) The National Bank of Slovakia shall reject an application pursuant to paragraph 1 if the applicant does not meet one of the conditions specified in paragraph 2. The reason for rejecting an application pursuant to paragraph 1 may not be the economic needs of the financial market.

(4) Before commencing the licensed banking activities, a bank is obligated to demonstrate to the National Bank of Slovakia:

- a) that its registered capital has been fully paid up,
- b) technical, organisational, and personnel preparedness to conduct licensed banking activities of the bank, the existence of a management and control system of a bank, including an internal control department, an internal audit department, and a system of risk management,
- c) that it meets the requirements laid down in Article 27, paragraph 6.

(5) A bank may commence its banking activities specified in its licence on the basis of a written notification from the National Bank of Slovakia informing that the conditions pursuant to paragraph 4 have been met.

(6) A bank shall be obligated to observe the conditions stipulated in paragraphs 2 and 4 permanently throughout the validity of its banking licence.

(7) An applicant whose shareholder with a qualified interest is a foreign bank shall submit a statement from the banking 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 written commitment by the banking supervisory authority that it will advise in writing the National Bank of Slovakia in time of any changes in fulfilling capital requirements and liquidity and other facts that could adversely affect the ability of the foreign bank to meet its obligations.

(8) The National Bank of Slovakia shall discuss an application for a banking licence with the relevant supervisory authority of the Member State concerned pursuant to Article 7a, paragraph 1, where a banking licence is to be granted pursuant to paragraph 1 to an applicant:

- a) which will be a subsidiary of a foreign bank based in the Member State;
- b) which will be a subsidiary of the parent company of a foreign bank based in the Member State;
- c) which will be controlled by the same persons who/which control a foreign bank based in the Member State;
- d) which will be a subsidiary of an insurance company or a securities dealer based in the Member State;
- e) which will be a subsidiary of the parent company of an insurance company or a securities dealer based in the Member State;
- f) which is controlled by the same persons who/which control an insurance company or a securities dealer based in the Member State.

(9) The National Bank of Slovakia shall, by 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 particulars of an application for a banking licence, including the particulars of an application of a bank that performs its activities according to a separate regulation <sup>21)</sup> and a bank that seeks to provide mortgage transactions, and documents to be attached to the application,
- b) details of conditions specified in paragraph 2 and how compliance is to be demonstrated,
- c) how compliance with provisions of paragraph 4 should be demonstrated.

(10) A person is deemed suitable for the purposes of this Act, if he reliably documents meeting the criteria set out in paragraph 2, letter b) and if from all circumstances it is evident that he would ensure proper and safe conduct of banking activities in the interest of stability of the banking sector.

(11) Qualified interest for the purposes of this Act means direct or indirect interest or their sum representing at least 10% of registered capital of a legal entity or voting rights in a legal entity, or the ability to exercise influence on management of this legal entity comparable to influence corresponding to such interest (hereinafter referred to as "significant influence").

(12) Indirect influence for the purposes of this Act means interest held indirectly through a legal entity or entities over which it has control.

(13) For the purposes of this Act, a group of entities with close links means any relationship between two or more persons whereby one of the persons holds in the other, either directly or indirectly, 20 percent or more of registered capital or voting rights, or controls this person directly or indirectly, or any relationship between two persons controlled by the same person.

(14) Only a person with the proper professional qualification may be appointed as, and perform the duties of, a member of the statutory body of a bank, a member of the supervisory board of a bank, the head of a branch of a foreign bank, the deputy head of a branch of a foreign bank, a general proxy, a managerial employee or the head of the internal control and internal audit department of a bank or branch of a foreign bank. For the purposes of this Act, professional competence of persons nominated as members of the statutory body, as a procurator, as the chief executive officer of branch office of a foreign bank or his deputy, bank officers, and the head of the internal control department and the head of internal audit department means completed university education, at least three years of experience in the area of banking or another financial area, and three years of management experience in banking or another financial area. Also a person with a completed secondary education, a completed technical/business college education or another similar education gained abroad and at least seven years of experience in the area of banking or another financial area, of which at least three years were spent in a managerial position may be recognized by the National Bank of Slovakia as a professionally competent person. For persons nominated as members of the supervisory board, professional competence means appropriate knowledge and experience in the area of banking or another financial area. By a decree which may be issued by the National Bank of Slovakia and which shall be promulgated in the Collection of Laws, there shall be stipulated details of what is meant by professional qualification for the performance of the duties of a member of a bank's supervisory board, what is meant by professional qualification for the performance of the duties of a member of a bank's statutory body, the head of a branch of a foreign bank, the deputy head of a branch of a foreign bank, a general proxy, a managerial employee or the head of the internal control and internal audit department of a bank or branch of a foreign bank, and 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) he or she has not been lawfully sentenced for any property related criminal offence of financial nature, any criminal offence committed in connection with a managerial office or for any intentional criminal offence; these facts shall be proven and documented by a transcript from the Criminal Record Register <sup>24)</sup> not older than three months; in the case of a foreigner, these facts shall be proven and documented by a similar certificate issued by a competent authority in the state of his habitual residence,
- b) over the past ten years, he or she has not held an office specified in paragraph 2, letter e) or acted as the head of a foreign branch office in a bank, in branch office of a foreign bank or in a financial institution whose banking licence or another authorisation to conduct business was withdrawn, at any time within one year before the withdrawal of the licence,
- c) over the past ten years, he or she has not held an office specified in paragraph 2, letter e), in a bank or a financial institution placed under forced administration, at any time within one year before the imposition of such forced administration,
- d) over the past ten years, he or she has not held an office specified in paragraph 2, letter e) in a bank or a financial institution which entered liquidation or became insolvent, <sup>24aa)</sup> in respect of whose estate bankruptcy was declared, restructuring permitted, a forced settlement was confirmed or composition approved, in respect of which a bankruptcy petition was rejected or a bankruptcy proceeding 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 rise of such circumstance,
- e) he or she was not lawfully charged a fine of more than 50% of the sum which could have been imposed according to Article 50, paragraph 2,
- f) he or she is not considered as untrustworthy according to separate regulations <sup>24a)</sup> in the financial sector,
- g) over the past ten years, he or she has been holding his or her office or doing business reliably, fairly and without breaching generally binding regulations and, regarding that, provides a guarantee that he or she will be holding the proposed office reliably, fairly and without breaching generally binding regulations, including the performance of duties following from the generally binding regulations, from the bank's or foreign bank's articles of association and/or their internal regulations and management acts.

(16) The National Bank of Slovakia may recognize a person mentioned in Article 15, letters b), c) and d), as a trustworthy person if from the nature of the matter it is clear that as regards the time spent in the office specified in paragraph 2, letter e), or Article 8, paragraph 2, letter c), this person could not have influenced the bank's or foreign bank branch's operations and caused the consequences specified in the provisions of paragraph 15, letters b), c) and d).

(17) A subsidiary for the purposes of this Act means a legal entity over which control is exercised and also any subsidiary of such a subsidiary.

(18) A parent company for the purposes of this Act means a legal entity that exercises control.

(19) Control for the purposes of this Act means:

- a) direct or indirect share or the sum of direct and indirect share exceeding 50% in the

- b) registered capital of a legal person or the voting rights of a legal person, the right to appoint, otherwise establish, or dismiss a statutory body, the majority of members of a statutory body, the majority of members of a supervisory body or other governing, supervisory, or control body of a legal person,
- c) the ability to exercise influence over the management of a legal person (hereinafter "decisive influence"):
  - 1. comparable with the influence that would attach to a holding under subparagraph (a), whether on the basis of the articles of association of the legal person, or a contract concluded between the legal person and its partner or member;
  - 2. on the basis of the relationship between a partner or member of the legal person and a majority of the members of the statutory body or a majority of the members of the supervisory board or a majority of the persons constituting another management, supervisory or oversight body of the legal person, established on the basis of their appointment by the respective partner or member of the legal person, where the relationship of control so established lasts until the preparation of the next consolidated financial statements after the right of the respective partner or member of the legal person has expired under subparagraph (b);
  - 3. comparable with the influence that would attach to a holding under subparagraph (a), on the basis of an agreement between the partners of the legal person or".
- d) the ability to directly or indirectly exercise a controlling influence in any other way.

(20) For the purposes of this Act, an officer shall mean a person directly reporting to a statutory body of a bank or to the chief executive officer or his/her deputy of a branch office of a foreign bank who manages activities or a part thereof of the bank or branch office of the foreign bank.

## **Article 7a**

(1) The National Bank of Slovakia shall discuss the granting of a banking licence with the following authorities:

- a) the banking supervisory authority of the Member State in which the foreign bank is based, when a banking licence is to be issued pursuant to Article 7, paragraph 8, letters a) to c);
- b) the supervisory body of the Member State in charge of the supervision of insurance companies or securities business entities and in which the foreign insurance company or securities dealer is based, when a banking licence is to be issued pursuant to Article 7, paragraph 8, letters d) to f).

(2) The National Bank of Slovakia shall discuss, with the relevant supervisory authority of the Member State referred to in paragraph 1, mainly the eligibility and suitability of persons who are shareholders with a qualified share of a foreign bank, and the professional qualification and credibility of natural persons who are members of the statutory body of persons referred to in paragraph 1 letter b).

(3) If, after being granted a banking licence, a bank becomes part of a consolidated financial group pursuant to Articles 44 to 49, including a financial holding institution, or part of a financial conglomerate pursuant to Articles 49a to 49o, including a mixed financial holding

company, the granting of a banking licence shall be conditional upon the presentation of a proof of professional qualification and credibility in the case of natural persons, who are members of the statutory body of the aforementioned financial holding institution or mixed financial holding company.

(4) The professional qualification of persons referred to in paragraph 3 shall mean adequate knowledge of the financial sector and experience in the area of finance. The credibility of persons referred to in paragraph 3 shall also be verified according to Article 7, paragraph 15.

## **Article 8**

(1) A decision to grant a licence to a foreign bank to conduct banking activities through its branch office located in the territory of the Slovak Republic shall be made by the National Bank of Slovakia. A foreign bank shall submit an application for the banking licence to the National Bank of Slovakia.

(2) To obtain a banking licence pursuant to paragraph 1, the following conditions must be met:

- a) a sufficient volume and transparent origin of funding provided by a foreign bank to its branch office in relation to the scope and risk exposure of the business operations of the branch office,
- b) trustworthiness of the foreign bank and its financial strength adequate to the scope of business operations of its branch office,
- c) professional competence and trustworthiness of persons nominated by the foreign bank for the head and deputy head of a branch of a foreign bank and for the head of the internal control and internal audit department,
- d) the foreign bank's business plan drawing on a proposed strategy for the branch's operations supported by realistic economic calculations,
- e) transparency of a closely connected group that includes the foreign bank,
- f) close links within the group mentioned in e) do not obstruct supervision,
- g) the system of law and its application in the home country of the group specified in e) does not obstruct supervision,
- h) the foreign bank seeking to operate in the territory of the Slovak Republic through its branch office has its registered office and conducts a principal part of its activity in the same country;
- i) conditions equivalent to those for the issuance of an investment services licence are met, as appropriate, in respect of the requested scope of investment services, <sup>22a)</sup> investment activities and ancillary services.

(3) The National Bank of Slovakia shall reject an application pursuant to paragraph 1 if the applicant fails to meet any of the conditions specified in paragraph 2. The reason for rejecting an application according to paragraph 1 may not be the economic needs of the market.

(4) Before commencing the licensed banking activities, branch office of a foreign bank is

obligated to demonstrate to the National Bank of Slovakia:

- a) the technical, organisational, and personnel preparedness to conduct licensed banking activities of the branch office of a foreign bank, the existence of a management and control system of branch office of a foreign bank, including an internal control department, an internal audit department, and a system of risk management,
- b) that it meets the requirements laid down in Article 27, paragraph 6.

(5) Branch office of a foreign bank may commence its banking activities specified in the licence on the basis of a written notification from the National Bank of Slovakia informing that the conditions pursuant to paragraph 4 have been met.

(6) Branch office of a foreign bank shall be obligated to observe the conditions stipulated in paragraphs 2, 4 and 9 permanently throughout the duration of validity of the banking licence.

(7) A foreign bank shall submit together with an application for a banking licence a binding written statement from the banking supervisory authority of the country in which the foreign bank has its registered office concerning the establishment of its branch office in the territory of the Slovak Republic, as well as a written commitment by the banking supervisory authority that it will advise in writing the National Bank of Slovakia in time of any changes in fulfilling capital requirements and liquidity and on other facts that could adversely affect the ability of the foreign bank to meet its obligations.

(8) In labelling its head office and in written communications, branch office of a foreign bank shall be obligated to always include in its name the words "branch office of a foreign bank".

(9) The banking licence pursuant to paragraph 1 may only permit mortgage transactions if the foreign bank applying for the licence pursuant to paragraph 1 has a licence to perform mortgage transactions in its home country and when the law of that country guarantees equal rights for mortgage or municipal loan borrowers and for holders of mortgage bonds issued in the Slovak Republic pursuant to a separate regulation<sup>6</sup>, including equal ranking in bankruptcy proceedings, as for mortgage or municipal loan borrowers and mortgage bond holders in the country where it has its registered office, however, at least in the extent of rights given to mortgage or municipal loan borrowers and mortgage bond holders by the law of the Slovak Republic.

(10) The National Bank of Slovakia shall, by a decree<sup>23</sup> to be promulgated in the Collection of Laws, stipulate:

- a) the particulars of an application for a banking licence pursuant to paragraph 1, including the particulars of the application for branch office of a foreign bank pursuant to paragraph 1 that is to provide mortgage transactions, and documents to be attached to the application,
- b) details of conditions specified in paragraph 2 and how compliance is to be demonstrated,
- c) how compliance with the requirements set out in paragraph 4 is to be demonstrated.

(11) A reason for rejection of an application for a banking licence pursuant to paragraph 1 may not be the fact that the legal form of the foreign bank does not correspond to the form of a joint stock company.



## Article 9

(1) A banking licence shall be granted for an indefinite period and shall not be transferable to another person or to the bank's legal successor.

(2) A banking licence contains a precise definition of licensed banking activities and may also contain conditions that a bank or branch office of a foreign bank must meet before commencing the licensed activity or which they must observe when conducting any licensed banking activity.

(3) A banking licence may restrict the extent or manner of performance of certain banking activities. At the request of a bank or branch office of a foreign bank, the banking licence may be extended by a decision to include other banking activities; the same applies to any extensions of the restricted extent and manner of performance of banking activities. The National Bank of Slovakia shall send the banking licence for publication in the Commercial Bulletin within 30 days.<sup>24c</sup>

(4) A bank must inform the National Bank of Slovakia in writing in advance about any changes in the conditions which were a basis for the granting of a banking licence according to Article 7; a prior approval of the National Bank of Slovakia is required for any replacements of members and appointments of new members of its statutory body, appointment of a procurator, replacements of members and appointments of new members of its supervisory board, replacements of bank officers, replacements of the head of the internal control department and internal audit department, and for any change to the registered office of the bank; otherwise any such replacement, appointment or change shall be invalid. A precondition<sup>24b</sup> for the alteration of the bank's articles of association or the new articles of association (hereinafter the "alteration of articles") entering into force and becoming effective shall be the grant of approval from the National Bank of Slovakia. No later than within the third day of adopting a decision to alter its articles, a bank shall be obligated to deliver to the National Bank of Slovakia a written application for the grant of approval of the National Bank of Slovakia for the respective alteration of articles, with the annexed wording of this alteration and the full version of these articles prior to the alteration and after it. If the National Bank of Slovakia does not grant the approval to alter the articles, such an alteration shall be invalid. If, however, the National Bank of Slovakia does not decide on the application within 30 days of delivering the complete application, the approval for the respective alteration of the articles shall be deemed as granted.

(5) A foreign bank or branch office of the foreign bank has the duty to inform the National Bank of Slovakia in writing about any intended changes in the circumstances that were the basis for granting its banking licence pursuant to paragraph 8, always in advance; a prior approval from the National Bank of Slovakia shall be required for any replacements of the chief executive officer of branch office of a foreign bank, replacements of bank officers, replacements of the head of the internal control department and internal audit department, and for a change of the registered office of the branch office of the foreign bank, otherwise any such replacement or change shall be invalid.

(6) A bank or branch office of a foreign bank is obligated to submit a proposal to the competent court to enter its licensed activities into the Business Register on the basis of the banking licence within ten days of the date when the licence became legally effective, and shall deposit with

the National Bank of Slovakia a transcript from the Business Register within ten days of a legally effective decision of the court to make the entry into the Business Register or to change the entry in the Business Register.

### **Article 10**

A banking licence may not be granted, should it be in contradiction to an international treaty binding upon the Slovak Republic.

### **Article 11**

(1) A foreign bank based in a Member State may conduct, through its branch office, banking activities in the territory of the Slovak Republic pursuant to Article 2, paragraphs 1 and 2, except for banking activity pursuant to Article 2, paragraph 2, letters n) and o), without a banking licence, if a licence to perform these activities has been granted to this foreign bank in a Member State, subject to a written statement from the supervisory authorities of the Member State concerned delivered to the National Bank of Slovakia.

(2) A foreign bank pursuant to paragraph 1 shall furthermore be authorised to carry out banking activities specified in Article 2, paragraphs 1 and 2, except for banking activities specified in Article 2, paragraph 2, letters n) and o), also without having to establish a branch, on the basis of a notification of intended banking activities to the supervisory authority of the Member State concerned delivered to the National Bank of Slovakia before the first bank transaction is conducted.

(3) The same activities as noted in paragraphs 1 and 2 may also be conducted in the territory of the Slovak Republic in accordance with paragraphs 1 and 2 by a foreign financial institution based in a Member State 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 this allow, and according to the following terms:

- a) the foreign bank or foreign banks have a licence to conduct banking activities in the territory of a Member State whose law governs the foreign financial institution,
- b) the foreign financial institution actually performs banking activities in the territory of this Member State,
- c) the foreign bank or foreign banks hold at least 90 percent of voting rights in the foreign financial institution,
- d) the foreign bank or foreign banks shall ensure prudent management of the foreign financial institution and irrevocably assume joint and several liability for obligations taken on by the foreign financial institution; the banking 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 the National Bank of Slovakia by a written attestation of the supervisory authority of the Member State concerned. The provisions of Articles 16 to 18, and Article 20 shall apply as appropriate to such

foreign financial institution.

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

(6) A foreign bank pursuant to paragraph 1 may carry out the banking activities listed in Article 2, paragraph 2, letters n) and o), only according to a banking licence as stipulated in Article 8, paragraph 1.

(7) The provisions of Article 3, Article 4, paragraph 1, Article 6, the first sentence of paragraph 8 and paragraph 9, Article 7, paragraph 8, Article 8, paragraphs 1 to 8, Article 9, paragraph 5, Article 22, Article 28, paragraph 1, letter d), shall not apply to a foreign bank pursuant to paragraph 1 in case of a sale of branch office of a foreign bank or its part, and according to Article 64.

## **Article 12**

(1) The National Bank of Slovakia shall, within two months of receiving a statement from the supervisory authority of the Member State concerned that it has no reasons to question the organisational structure and financial situation of the foreign bank pursuant to Article 11, paragraphs 1 and 2, prepare to exercise supervision of the branch office of a foreign bank and, when necessary, 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 will likewise advise it of the provisions of the generally binding regulations of the Slovak Republic that would apply to its operation.

(2) Following the delivery of the statement according to paragraph 1 or after a two-month period lapses without a response, a foreign bank and a branch office of a foreign bank according to Article 11, paragraph 1, may begin to carry out banking activities in the territory of the Slovak Republic.

## **Article 13**

(1) A bank seeking to set up a branch office in the territory of a Member State shall apply in writing to the National Bank of Slovakia for permission to set up a branch office 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 office,
- b) the registered office of the branch in the Member State concerned,
- c) the names and surnames of persons responsible for managing the branch office,
- d) a business plan indicating in particular the contemplated activities and proposed strategy for the operations of the branch office based on realistic financial calculations, and
- e) the organisation structure of the branch office.

(2) The National Bank of Slovakia shall, if it has no reason to question the bank's organisational structure and financial situation in relation to the licensed banking activities, notify the 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, it 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 in the Slovak Republic

(3) If there are any doubts as to the facts specified in paragraph 2, the National Bank of Slovakia shall, within three months of the delivery an application in due form pursuant to paragraph 1, notify the supervisory authority of the relevant Member State of its decision to refuse permission.

(4) A bank shall notify the National Bank of Slovakia and the supervisory authority of the Member State concerned of any changes in the facts specified in paragraphs 1 and 2 at least 30 days before making such intended changes.

(5) If a bank seeks to conduct, in the territory of a Member State, banking activities pursuant to Article 2, paragraphs 1 and 2, other than banking activities specified in Article 2, paragraph 2, letters n) and o), without establishing branch office, it shall notify the intended banking activities before the first bank transaction in writing the National Bank of Slovakia, which shall then send this notification within one month to the supervisory authority of the Member State concerned.

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

(7) If a financial institution based in the territory of the Slovak Republic, which is a subsidiary of a bank or two or more banks, conducts activities specified in Article 2, paragraph 1, letter b), and paragraph 2, in a Member State and does not comply with similar terms as specified in Article 11, paragraph 3, letters a) to e), the National Bank of Slovakia shall without delay notify these facts to the supervisory authority of the Member State concerned.

## **Article 14**

(1) Supervision of branch office of a bank established in the territory of a Member State shall be performed by the National Bank of Slovakia. Supervision over liquidity of this branch office shall be performed by the bank supervisory authority of the Member State concerned in co-operation with the National Bank of Slovakia, unless they agree otherwise. This branch office shall also be subject to measures adopted by the Member State concerned within its monetary policy; in the case of countries that have introduced the euro as their currency, the branch office shall be subject to measures adopted by the European Central Bank.

(2) If the bank supervisory authority of the Member State concerned notifies the National Bank of Slovakia that branch office of a foreign bank violates any legislation by its banking activities in the territory of this Member State, the National Bank of Slovakia shall adopt necessary measures to end the unlawful condition.

(3) If branch office violates any legislation of a Member State by its banking activities in the territory of this Member State, it shall be obligated to implement or suffer measures adopted by the bank supervisory authority of the Member State concerned.

### **Article 15**

When performing supervision pursuant to Article 14 in the area of monitoring risks arising from activities on the financial market in the territory of a Member State concerned, the Member State concerned may demand from branch office of a bank the same information as from banks with registered offices on its territory. The Member State concerned may request from a bank that has a branch on its territory regular reports on its banking activities on its territory for statistical purposes. The bank shall be obligated to comply with the request.

### **Article 16**

Supervision of branch office of a foreign bank pursuant to Article 11, paragraph 1, in the territory of the Slovak Republic shall be performed by a banking supervisory authority of the Member State concerned. Supervision over the liquidity of such branch office shall be performed by the National Bank of Slovakia in co-operation with the banking supervisory authority of the Member State concerned, unless they agree otherwise. This branch office shall be subject to the decrees of the National Bank of Slovakia adopted as part of its monetary policy; when the Slovak Republic introduces the euro as its currency, this branch office shall also be subject to measures adopted by the European Central Bank. Measures of the National Bank of Slovakia may not be discriminating or restrictive.

### **Article 17**

(1) If the National Bank of Slovakia finds that branch office of a foreign bank pursuant to Article 11, paragraph 1, in performing banking activities, or a foreign bank pursuant to Article 11, paragraph 1, in performing banking activities pursuant to Article 11, paragraph 2, in the territory of the Slovak Republic, violates any applicable legislation, it shall ask the foreign bank to end the unlawful condition.

(2) If a foreign bank according to paragraph 1 fails to adopt the necessary measures, the National Bank of Slovakia shall notify the fact to the banking supervisory authority of the Member State concerned, and ask it to take immediate measures to terminate the unlawful condition and to inform about measures it has taken.

(3) If, despite a measure taken pursuant to paragraph 2, branch office of a foreign bank pursuant to paragraph 1 or a foreign bank pursuant to paragraph 1 continues to violate applicable legislation, the National Bank of Slovakia may, after informing the supervisory authority of the Member State, adopt necessary measures to terminate the unlawful condition, including measures needed to prevent and discontinue operations of the branch office of a foreign bank pursuant to paragraph 1. The branch office of the foreign bank and the foreign bank shall be obligated to implement the adopted measures.

(4) If the matter allows no delay, the National Bank of Slovakia may adopt a measure to protect the clients of branch office of a foreign bank pursuant to paragraph 1. The National Bank of Slovakia shall inform the European Commission and bank supervisory authorities of the Member State concerned of such measures being taken. The National Bank of Slovakia shall cancel or modify the measures adopted on the basis of a decision of the European Commission.

### **Article 18**

(1) The National Bank of Slovakia may demand, for statistical purposes, that a foreign bank as stipulated in Article 11, paragraph 1, providing banking services through its branch office or without establishing a branch in the territory of the Slovak Republic, supply regular reports on its activity in the territory of the Slovak Republic.

(2) For the purposes of supervision pursuant to Article 16, the National Bank of Slovakia shall be authorised to demand that branch office of a foreign bank as stipulated in Article 11, paragraph 1, submit reports, statements, and other data pursuant to Article 42, paragraphs 2 and 3.

### **Article 19**

(1) The National Bank of Slovakia shall inform without delay the banking supervisory authority of a Member State in which a bank has established a branch of the withdrawal of the licence of that bank.

(2) The National Bank of Slovakia shall inform the European Commission and the European Banking Committee of the number and nature of cases where it refused to submit information about the establishment of a branch in the territory of a Member State to the supervisory authority of the Member State concerned.

(3) The National Bank of Slovakia shall notify the European Commission and the European Banking Committee of the issue or withdrawal of a permit to establish a branch of a bank outside the territory of a Member State, or the issue or withdrawal of permission to a foreign bank based outside the territory of a Member State to establish a branch in the Slovak Republic.

(4) The National Bank of Slovakia shall notify the European Commission that a bank is or will become a subsidiary of a foreign bank that is governed by the law of a country which is not a Member State. At the same time, it shall notify it of the structure of a consolidated group to which

the bank belongs or will belong.

(5) The National Bank of Slovakia shall notify the European Commission of any difficulties that have occurred in connection with the establishment of a bank or branch office of a bank in a country which is not a Member State, or in the course of its operation.

## **Article 20**

Foreign banks with registered offices in a Member State may freely advertise banking activities provided 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) A bank shall be obligated to announce in advance to the National Bank of Slovakia the establishment of any representative office abroad. In its announcement it shall specify:

- a) the address of the representative office,
- b) name and surname of the head of this representative office and his/her permanent residence address.

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

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

**Article 22**

(1) A foreign bank or a similar foreign financial institution that carries out banking activities may establish its representative office in the territory of the Slovak Republic on the basis of registration. A decision on registration shall be made by the National Bank of Slovakia on the basis of an application for registration.

(2) For the purposes of this Act, a representative office of a foreign bank or of a similar foreign financial institution (hereinafter referred to as a "foreign representative office") shall mean its organisational unit that promotes the activity of the foreign bank or a similar foreign financial institution or acquires information about the potential for economic co-operation with the Slovak Republic. A foreign representative office must always state the words "representative office" in the label of its registered office and correspondence.

(3) A foreign representative office may not carry out banking activities or pursue business in any other way. It shall not be entered in the Business Register.

(4) A foreign bank or a similar foreign financial institution carrying out banking activities shall notify the National Bank of Slovakia in advance in writing of any change in the location of the foreign representative office, its head, or closure. In the case of changing the head, it shall be obligated to submit all documents a foreign bank or a similar foreign financial institution submits for a registration application for its representative office.

(5) The head of a foreign representative office may only carry out on behalf of a foreign bank or a similar foreign financial institution employment-related action in respect to other employees of the foreign representative office.



(6) The particulars of a registration application of a foreign representative office shall be stipulated by a decree<sup>23</sup> of the National Bank of Slovakia to be promulgated in the Collection of Laws.

(7) Within 30 days of its registration, a foreign representative office shall advise the National Bank of Slovakia of the bank or the branch office of a foreign bank in the Slovak Republic which maintains its accounts.

(8) A foreign representative office has the duty to report within 30 days to the National Bank of Slovakia any changes that have occurred in the facts constituting the basis for its registration.

(9) The National Bank of Slovakia is authorised to verify compliance with the conditions specified in a registration decision and stipulated by the laws and generally applicable legal regulations of the Slovak Republic. A foreign representative office shall be obligated to co-operate with the National Bank of Slovakia during any such inspection.

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

(11) The registration shall expire on the day specified in the notice to a foreign bank or a similar foreign financial institution that carries out banking activities about the closure of a foreign representative office or on the day the foreign bank or a similar foreign financial institution that carries out banking activities is dissolved.

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

**Article 23**

(1) A bank's articles of association shall regulate, apart from the particulars stipulated in a separate regulation,<sup>25)</sup> the bank's organizational structure and management system so as to ensure the proper and secure performance of licensed banking activities and to prevent a conflict of interests arising within the bank, and they shall regulate the relations and cooperation between the bank's statutory body, supervisory board, managerial employees, and internal control and internal audit department. A bank's articles of association shall also assign 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 under Article 27(1)(d);
- c) the internal control system, including a separate and independent internal control and internal audit department corresponding to the complexity and risks of banking activities;
- d) risk management separate from banking activities, including a management system for the risks to which the bank is exposed;
- e) separate execution of credit transactions and 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) anti-money laundering and counter-terrorist financing.

(2) A bank shall lay down in internal regulations details of:

- a) the organizational structure of the bank under paragraph (1), with emphasis on identification of the persons responsible for the performance of banking activities within the bank;
- b) the internal control system, encompassing also the internal control and internal audit department.

(3) In order to prevent losses or damage arising from shortcomings in the bank's management. A bank shall, within the internal control system, ensure the performance of:

- a) oversight activities included in operational work procedures, the identification of corrective measures on the basis of oversight activities, and the implementation of these measures in different organizational departments of the bank; such activities and measures shall be carried out by:
  - 1. the bank's employees or organizational departments which participate in the particular operational work procedures;
  - 2. the managerial employees of the bank's different organizational departments who are responsible for the checked processes and for the results of such checks, or employees authorized by them;

- b) oversight conducted independently of operational work procedures by the internal control and internal audit department; in exceptional and predetermined cases, a check may be carried out as part of the bank's operational work procedure, provided that independence is maintained and conflicts of interest are excluded.

(4) The internal control and internal audit department shall check for compliance with statutes, other generally binding legal regulations, and the bank's internal regulations and procedures; it shall examine and evaluate especially the functionality and effectiveness of the bank's management and control system, risk management system, and internal capital adequacy assessment process, the fulfillment of requirements for own funds and liquidity, and compliance with exposure limits; it shall examine and evaluate the bank's preparedness in terms of risk management for performing new types of transactions, and it shall examine and evaluate the information mentioned in Article 37. The internal control and audit department shall be responsible for monitoring the elimination of any shortcomings identified 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 department shall attach to the bank's statutory body; this responsibility may not be transferred to another person. The internal control and internal audit department shall report directly to the bank's statutory body, the supervisory board or to a member of the bank's statutory body or supervisory board.

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

(6) For the purposes of this Act:

- a) 'risk' shall mean a possible loss, including damage caused by the bank's own activities or damage caused to the bank by other circumstances; for the purposes of this Act, risks shall be differentiated into the following types:
1. credit risk, meaning the risk that a borrower or other contracting party will fail to meet its 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, arising from inappropriate or erroneous internal procedures, failure due to human error, system failure, or from external events; operational risk includes legal risk, meaning in particular the risk that contracts will not be enforceable, lawsuits will be lost, or court decisions will adversely affect the bank;
  4. liquidity risk, meaning the risk that the bank will not be able to meet its liabilities when they mature;
- b) 'dilution risk' shall mean the risk to the bank, as the transferee of a receivable, that the legal position of the debtor will be upheld after the transfer of the receivable or that the bank has not been adequately informed about the transferred receivable;

- c) 'risk management' shall mean the prevention of possible losses, including damage, by ensuring timely and appropriate identification of risks, measurement of the size of risks, monitoring of risks and their size, and mitigation of risks;
- d) 'risk management system' shall mean the system for ensuring timely and appropriate identification of risk, risk measurement, risk monitoring, risk mitigation, and appropriate reporting of all significant risks; the risk management system shall include the risk management strategy and organization, information flows and the risk management information system, the transaction origination system, the system for introducing new types of transaction, and the system for assessing the adequacy of internal capital;
- e) 'internal capital' shall mean the funds which a bank, on the basis of its own risk definition and assessment, maintains internally and allocates for risk coverage;
- f) 'small or medium-large legal person' shall mean a legal person with an annual turnover of up to EUR 50 million and employing fewer than 250 people;
- g) 'funded credit protection' shall mean credit risk mitigation by means of an agreement under which the creditor may satisfy its claim, where the borrower fails to fulfil his obligation or upon the occurrence of a predetermined condition, by enforcing a lien or by a form of netting or by retaining the pledged collateral;
- h) 'unfunded credit protection' shall mean credit risk mitigation in the form of a liability of a person other than the borrower to satisfy the claim of the creditor, where it has not been satisfied by the borrower himself or where another predetermined condition will be met.

(7) After making any change to its articles of association, a bank shall forthwith submit a copy of the latest version of the articles of association to the National Bank of Slovakia.

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

(9) By a decree<sup>23)</sup> to be issued by the National Bank of Slovakia and promulgated in the Collection of Laws, there shall be stipulated:

- a) details of the organizational structure and management system of a bank in accordance with paragraph (1);
- b) details of the internal control system of a bank in accordance with paragraph (3), details of the activities and responsibilities of the internal control and internal audit department, as well as the scope, number and dates of the audits performed by this department;
- c) what is meant by significant risk for the purposes of the risk management system;
- d) the extent to which branches of foreign banks are subject to the requirements laid down in subparagraphs (a) and (b);
- e) particulars of the application for prior approval in accordance with paragraph (8), including the documents to be enclosed with the application.

## **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) Members of the statutory body shall be responsible for the drawing up, approval of, and compliance with the organizational structure, for the introduction of and compliance with the bank's management system, and for the banking activities being performed in accordance with the bank's internal regulations.

(3) Members of the statutory body of a bank are obligated to know, manage, and control the conduct of licensed banking activities and ensure the safety and soundness of the bank. The safety and soundness of a bank for the purposes of this Act shall mean such conduct of banking activities which does not endanger fulfilment of requirements for own funds, liquidity and exposure limits and the legitimate interests of its depositors and other creditors or the banking system.

(4) Members of the supervisory board are obligated to know and supervise the performance of licensed banking activities, exercise of powers of the statutory body of the bank, and the performance of other activities of the bank.

(5) Members of the statutory body, members of the Supervisory Board and the bank officers<sup>22)</sup> shall be obligated to exercise their rights and obligations in accordance with the law of the Slovak Republic so as to achieve an increase in the value of the bank's shares or its permanent profit. The foregoing is without prejudice to their duty 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, a procurator, or a member of the supervisory board of another legal person which is a business person<sup>26a)</sup>. A bank's procurator or employee may not constitute or be a member of the statutory body, a procurator, or a member of the supervisory board of another legal person, which is a client of the same bank. The prohibitions and limitations stipulated by this paragraph in respect of members of the bank's statutory body or the bank's employees shall not apply to their membership in the statutory body or the supervisory board of the stock exchange<sup>26b)</sup>, the central securities depository<sup>16)</sup>, or a legal person controlled by this bank in accordance with Article 29, paragraph 1.

(2) A member of the bank's supervisory board may not be a member of the statutory body or an employee of the same bank, or a member of another bank's supervisory board or statutory body and, at the same time, may not be a procurator or a person empowered according to an entry in the Business Register to act on behalf of the same or another bank, or another legal person, which is a client of the same bank; this shall not apply where such a client is another bank or foreign bank

controlling the very same bank. A member of the supervisory board may be an employee of the same bank only when he or she is elected to the office by its employees.

(3) Members of the bank's statutory body or supervisory board, and employees may not misuse information acquired in association with performing their functions or employment to gain undue benefits either for themselves or for any other person.

(4) The head of the bank's internal control and internal audit department shall be appointed and dismissed with the prior approval of the supervisory board or at the proposal of the supervisory board. The remuneration of the head of the bank's internal control and internal audit department shall be determined according to the same conditions by the bank's statutory body. The bank's supervisory board shall be authorised to demand from the head of the internal control and internal audit department to conduct an audit in the bank to the extent it specifies.

(5) The head of the internal control and internal audit department shall be obligated to notify the bank's supervisory board and the National Bank of Slovakia without delay of any shortcomings found during the activity performed pursuant to Article 23, paragraph 2.

(6) The head of the internal control and internal audit department may not be a member of the statutory body or supervisory board of the same bank, or a member of the statutory body or supervisory board of another legal entity.

(7) A company providing auxiliary banking services means a legal person the principal activity of which consists in asset management, data processing services or any other similar activity that facilitates the conduct of the principal activity of one or more banks or branch offices of foreign banks.

## **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 shall similarly apply to a branch office of a foreign bank, the chief executive officer of a branch office of a foreign bank, and employees of a branch office of a foreign bank.

**PART SIX**  
**REQUIREMENTS FOR BANKING OPERATIONS OF A BANK**  
**OR BRANCH OFFICE OF A FOREIGN BANK**

**Article 27**

(1) A bank or branch of a foreign bank shall transact with its customers on a contractual basis. A bank or branch of a foreign bank shall proceed with prudence in the performance of its activities, and shall in particular carry out transactions:

- a) in a manner which takes into account and mitigates risks;
- b) in a manner which does not damage the interests of its depositors in regard to the recoverability of their deposits and which does not threaten the security and financial position of the bank or branch of a foreign bank, or the secure functioning of the banking system, by breaching statutes or other generally binding legal regulations;
- c) under financial and legal conditions favourable to the bank or branch of a foreign bank and to its customers when transactions are made for the customer's account, and while exercising professional care; the bank or branch of a foreign bank shall be required to provide credible proof of having exercised professional care;
- d) so that in each transaction at least two persons act on behalf of the bank or branch of a foreign bank; if this is not possible for operational reasons, it shall be ensured forthwith that the transaction is checked by persons who were not present when it was carried out.

(2) In order to prevent losses, including damage, arising from the incorrect performance of its banking activities, a bank or branch of a foreign bank shall follow the procedures for the conduct of banking activities and maintain an effective risk management system. The bank or branch of a foreign bank shall modify its risk management system on the basis of regular examinations of the system's effectiveness and adequacy, so that it takes into account the ability of the bank or branch of a foreign bank to expose itself to risk and the changing economic environment of the bank or branch of a foreign bank. The bank or branch of a foreign shall modify the risk management system and the method of its modification through internal regulations, in accordance with which the bank or branch of a foreign bank shall be required to proceed.

(3) A bank shall have in place its own system for assessing the adequacy of the internal capital which it considers appropriate for the coverage of risks to which it may be exposed. The system for assessing internal capital adequacy shall correspond to the nature, scope and complexity of the banking activities performed and shall include:

- a) a strategy for managing the amount of internal capital;
- b) a procedure for determining the adequate level of internal capital, the components of internal capital and the allocation of internal capital to risks; and
- c) a system for maintaining internal capital in the required amount.

(4) A bank or branch of a foreign bank shall:

- a) continuously maintain its solvency; and
- b) manage assets and liabilities so as to ensure uninterrupted liquidity and observance of

liquidity ratios.

(5) A bank shall perform its activities so as not to exceed the following percentage ratios laid down in paragraph 14(c):

- a) foreign exchange positions in different foreign currencies to own funds; and
- b) total foreign exchange positions to own funds.

(6) For the purposes of this Act:

- a) 'exercising professional care' shall mean in particular that a bank or branch of foreign bank shall:
  - 1. in each transaction, compare offer prices or demonstrate the unsuitability or impossibility of assessing several offers;
  - 2. record how a transaction is made, check the objectivity of the recorded data, and prevent own losses, including damage;
  - 3. carry out an analysis of the economic benefits of transactions on the basis of available information;
  - 4. draw up business and investment objectives as the basis for carrying out individual transactions;
- b) 'solvency' shall mean the ability to make due and timely payment of financial liabilities;
- c) 'liquidity' shall mean the ability to convert assets into cash without unnecessary losses in order to make due and timely payment of financial liabilities.

(7) If a bank or branch of a foreign bank makes a mistake when performing a settlement or payment, it shall forthwith, and at its own expense, ensure that the mistake is rectified.

(8) A bank or branch of a foreign bank must not conclude a contract conditions obviously disadvantageous to it, in particular such contracts which oblige it to make an economically unjustified payment or a payment evidently not corresponding to the countervalue provided, or which evidently fails to provide sufficient security for its receivables.

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

(10) A member of a statutory body shall be liable in full for damage he causes during the performance of his duties where this results from the breach of an obligation of a member of a bank's statutory body imposed by statute, other generally binding legal regulations, the bank's articles of association, or the bank's internal regulations.

(11) The head of a branch of a foreign bank shall be liable in full for damage he causes during the performance of his duties where this results from the breach of an obligation of the head of a branch of a foreign bank imposed by statute, other generally binding legal regulations or the internal regulations of the branch of a foreign bank.



(12) A bank or branch of a foreign bank must not perform any legal acts at its own expense in favour of a member of the bank's statutory body, a member of the bank's supervisory body, or the head of the branch of a foreign bank in regard to insurance against his liability for damage caused in the performance of his duties or in regard to insurance against being recalled from his position. If the bank or branch of a foreign bank recalls such person from their position on grounds of untrustworthiness under Article 50(2), it shall not pay them any agreed remuneration or remuneration conferred under internal regulations; the right to any such remuneration shall expire.

(13) The supervisory board of a bank shall ensure that compensation is claimed for damage caused to the bank and for which a member of the statutory body is responsible in accordance with paragraph (10).

(14) By a decree<sup>23)</sup> to be issued by the National Bank of Slovakia and promulgated in the Collection of Laws, there shall be stipulated:

- a) types of risk;
- b) liquidity ratios, details regarding liquidity in accordance with paragraph (4) and the method of determining liquidity;
- c) the percentage ratios under paragraph (5), which shall be mean the foreign exchange position in a foreign currency and the total foreign exchange position, as well as details of how to calculate foreign exchange positions and to calculate the total foreign exchange position; and
- d) the extent to which the rules under subparagraphs (a) to (c) apply to branches of foreign banks." details of the risk management system and other rules under paragraph (2), as well as other

## **Article 28**

(1) Prior approval of the National Bank of Slovakia is required:

- a) to acquire or exceed a share in the bank's registered capital or voting rights of 5 percent, 10 percent, 20 percent, 33 percent, 50 percent or 66 percent, in one or a series of operations directly or through concerted action,
- b) consolidate, merge, or split a bank, including a merger of another legal entity with the bank, or to return its licence, as well as to reduce the bank's registered capital, unless the reduction is due to a loss,
- c) to dissolve a bank for reasons other than those specified in letter b) or to change its legal form; in this case, the bank is obligated to return its licence on the date specified in the decision on prior approval,
- d) sell a bank, branch office of a foreign bank, or their parts<sup>28)</sup>,
- e) for a bank to become a subsidiary of another parent company,
- f) for using the shares issued by a bank as the subject of security on obligations of the holder of these shares or of another person except for cases where the subject of such security are shares accounting on the whole for less than 5% of the bank's registered capital in one or certain operations directly or through concerted action.

(2) For prior approval pursuant to paragraph 1 to be granted, the conditions specified in Article 7, paragraphs 2 and 4, must be met as appropriate; for prior approval to be granted, transparent and credible origin, sufficient volume and suitable structure of finances must be documented to carry out the operation for which prior approval is sought. Splitting, consolidating, merging, or dissolving a bank, including merging another legal entity with a bank, or the sale of a bank or its part,<sup>28</sup> may not be to the detriment of the creditors of the bank; this applies equally to the sale of branch office of a foreign bank or its part.<sup>28</sup>

(3) The provisions of a separate regulation<sup>29</sup> shall not be prejudiced by the provision of paragraph 1 above.

(4) It is only possible to proceed on the basis of a prior approval granted pursuant to paragraph 1 for one year, unless the decision stipulates a shorter period.

(5) Without prior approval of the National Bank of Slovakia as stipulated in paragraph 1 above, all legal acts requiring prior approval shall be null and void. Every legal act is also invalid that has been carried out on the basis of a prior approval granted on the basis of false data.

(6) An application pursuant to paragraph 1, letter a), above shall be submitted by persons acquiring a share in a bank. An application pursuant to paragraph 1, letters b) and c), shall be submitted by the bank and in the event of consolidation or merger, such an application shall be submitted jointly by the legal person and the bank to be consolidated or merged. An application pursuant to paragraph 1, letter d), shall be submitted jointly by the bank or the foreign bank and the person acquiring the bank, branch office of the foreign bank or its part. An application pursuant to paragraph 1, letter e) and letter g), shall be filed by the bank that is to become a subsidiary. An application pursuant to paragraph 1, letter f), shall be filed by the holder of shares who wants to use them as the subject of security on his or her obligations.

(7) The particulars of an application for prior approval pursuant to paragraph 1, and the documents to be attached to such application, shall be stipulated by the National Bank of Slovakia in a decree<sup>23</sup> promulgated in the Collection of Laws.

(8) Each person shall be obligated to provide to the National Bank of Slovakia at its written request and within a deadline it sets information necessary in order to determine whether an action has taken place that requires prior approval pursuant to paragraph 1, above all information about holders of shares in commercial companies or co-operatives, and information about agreements on the exercise of voting rights.

(9) A legal or a natural person intending to dispose of its holdings in the bank's registered capital or voting rights to an extent that would result in its share falling below 5%, 10%, 20%, 33%, 50 % or 66% shall be obligated to notify this intention, as well as the fact that the bank will no longer be its subsidiary, in writing beforehand to the National Bank of Slovakia.

(10) A bank is obligated to notify the National Bank of Slovakia in writing without delay of any facts specified in paragraph 1, letters a) to e), and paragraph 9.

(11) A bank shall be obligated, when requested, to inform the National Bank of Slovakia in writing without delay about its shareholders and other persons which exercised voting rights at a general meeting of the bank; a bank shall, when requested, be obligated to inform the Ministry in writing about its shareholders.

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

- a) any action aimed at the acquisition of a share in the bank's registered capital or voting rights taken by:
  - 1. a legal person and its associates or members, statutory bodies, members of statutory or supervisory bodies, employees of the legal person who directly report to the statutory body or its member, the chief executive officers of an organisational unit entered in the Corporate Register, procurators, liquidators, receivers or trustees of this legal person and persons standing in close relationship with them<sup>30</sup> or between any of these legal or natural persons,
  - 2. persons who have concluded an agreement on concerted exercise of voting rights in a bank in matters concerning its management regardless of the form of such agreement or whether it is valid or not,
  - 3. a controlling and controlled person or between persons controlled directly or indirectly by the same controlling person,
  - 4. closely related persons<sup>30</sup>,
- b) any action of two or more legal persons aimed at the acquisition of a share in the bank's registered capital or voting rights, where one and the same natural person is the statutory body, a member of the statutory body, a member of the supervisory body, a procurator, or holds at least 5 percent of the legal person's registered capital or voting rights, or has the ability to exercise for other reasons influence over the management of these legal entities that is comparable to influence arising from such share.

(13) For the purposes of concerted actions as specified in paragraph 12, a controlling person means any person who holds a majority share in a legal person's voting rights as a result of holding an 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, this person is able to exercise the majority of voting rights.

(14) For the purposes of this Act, a controlled person means a legal person, in which the controlling person has the position defined in paragraph 13 above.

(15) If, by acquiring a stake pursuant to paragraph 1 letter a), a bank becomes part of a consolidated financial group pursuant to Articles 44 to 49, which also includes a financial holding institution, or if it becomes part of a financial conglomerate pursuant to Articles 49a to 49o, which also includes a mixed financial holding company, the granting of prior approval by the National Bank of Slovakia shall be conditional upon the presentation of documents certifying the professional qualification and credibility of all natural persons who are members of the statutory body of this financial holding institution or mixed financial holding company.

(16) The professional qualification of persons referred to in paragraph 15 means

adequate knowledge of the financial sector and experience in the area of finance. The verification of the credibility of persons referred to in paragraph 15 shall also be governed by Article 7, paragraph 15.

(17) If the acquirer of a share in the bank's registered capital pursuant to paragraph 1 letter a) is a foreign bank, an insurance company from another Member State, or a non-resident securities dealer with a permit issued in another Member State, or the parent company of such persons or a person controlling such persons, as a result of which control over the bank is taken over by the acquirer, the National Bank of Slovakia shall discuss, with the relevant supervisory authority of the Member State concerned pursuant to Article 7a, paragraph 1, the eligibility and suitability of persons who are shareholders with a qualified share in the foreign bank and the professional qualification and credibility of natural person who are members of the statutory body of the persons referred to in Article 7a, paragraph 1, letter b).

## Article 29

(1) A bank may not have control over a legal person that is not a bank, a foreign bank, a financial institution, an insurance company<sup>30a</sup>, a reinsurance company<sup>30a</sup>, a payment system operator according to a separate regulation<sup>30b</sup>, a foundation<sup>30c</sup> or an auxiliary banking services company.

(2) When acquiring a share in registered capital of a legal person that is not a bank, a foreign bank, a financial institution, an insurance company<sup>30a</sup>, a reinsurance company<sup>30a</sup>, a payment system operator pursuant to a separate regulation<sup>30b</sup>, a foundation<sup>30c</sup> or an auxiliary services company, a bank may not exceed:

- a) in one legal person, 15 percent of the bank's capital (hereinafter referred to as "capital") and
- b) in all legal persons taken as a whole, 60 percent of the bank's capital.

(3) A bank may overstep the acquired share in registered capital as stipulated in paragraph 2 only if it increases its capital accordingly within three months from overstepping the share defined in paragraph 2. Prior approval from the National Bank of Slovakia shall be required for such a procedure.

(4) The restrictions according to paragraph 2 shall not apply in cases where shares are acquired with a view to their trading. A bank may not hold shares for these purposes for more than one year from their acquisition.

(5) Without prior approval from the National Bank of Slovakia pursuant to paragraph 3, every legal act for which prior approval is required shall be null and void.

(6) A bank is obligated to notify the National Bank of Slovakia without undue delay of any acquisition of interest as stipulated in paragraph 2.

(7) A bank may not be an associate to persons for whose obligations it would as the associate become liable with all its assets.

### Article 30

- (1) A bank shall calculate and systematically monitor the amount of its own funds.
- (2) A parent bank under Article 44(2)(a) shall calculate and continuously monitor the amount of own funds of the consolidated group.
- (3) The own funds of a bank shall comprise:
  - a) the original own funds of the bank and the supplementary own funds of the bank, the total of which is reduced by the value of deductible items in accordance with a separate regulation;<sup>30d)</sup>
  - b) the additional own funds of the bank.
- (4) A bank shall maintain its own funds at least at the level of its share capital referred to in Article 7(2)(a). This is without prejudice to the provision of paragraph (5).
- (5) A bank shall permanently maintain its own funds in an amount not less than the total of:
  - a) the amount corresponding to the capital requirement calculated under Articles 31 to 33b for the coverage of credit risk and dilution risk arising from the bank's activities recorded in the banking book;
  - b) the amount corresponding to the capital requirement calculated under Article 33c for the coverage of risk arising from positions recorded in the trading book;
  - c) the amount corresponding to the capital requirement calculated under Article 33c for the coverage of foreign exchange risk and commodity risk arising from the bank's activities recorded in the banking book and in the trading book;
  - d) the amount corresponding to the capital requirement calculated under Article 33d for the coverage of operational risk arising from all of the bank's trading activities.
- (6) Unless otherwise provided, assets and receivables or liabilities which a bank does not record in its balance sheet shall, for the purposes of calculating own funds, be valued in accordance with a separate regulation.<sup>30d)</sup>
- (7) A bank shall perform calculations for verifying compliance with the capital requirements laid down in paragraphs (4) and (5) as at the last day of each calendar month, and the results of these calculations, including other required data, shall be reported to the National Bank of Slovakia in accordance with Article 42(2).
- (8) By a decree<sup>23)</sup> to be issued by the National Bank of Slovakia and promulgated in the Collection of Laws, there shall be stipulated:
  - a) the items constituting and the items reducing the original own funds of a bank;
  - b) what is included in the supplementary own funds of a bank, and how such funds are to be calculated;

- c) what is included in the deductible items by which the total of the bank's original own funds and supplementary own funds is reduced, and how such items are to be calculated;
- d) what is included in the value of a bank's additional own funds, and how such funds are to be calculated;
- e) what is included in the calculation of own funds under paragraph (2);
- f) how to calculate a bank's own funds and how to calculate the own funds of a consolidated group.

### **Article 31**

(1) In order to calculate the amount corresponding to the capital requirement for the coverage of credit risk and dilution risk in accordance with Article 30(5)(a), a bank shall use the standardized approach for credit risk or the internal ratings based approach, on which basis the value of risk-weighted exposures shall be determined. The amount corresponding to the capital requirement for the coverage of credit risk and the impairment risk of collateral shall be equal to the multiple of the coefficient of the credit risk and the value of exposures adjusted by risk weights under this Act.

(2) For the purposes of this Act:

- a) 'exposure' shall mean the degree of exposure to credit risk, corresponding to:
  - 1. the value of an individual item of the bank's assets measured in accordance with a separate regulation,<sup>30d)</sup>
  - 2. the value of an off-balance sheet item measured in accordance with a separate regulation,<sup>30d)</sup> which is:
    - 2a. a receivable the establishment of which is contingent on the fulfilment of a condition precedent;
    - 2b. a future receivable to be established on the basis of a valid contract;
- b) 'central bank' shall mean also the European Central Bank unless otherwise provided in this Act;
- c) 'institution' shall mean a credit institution, foreign credit institution, securities dealer or foreign securities dealer;
- d) 'public sector entities' shall mean entities which are established by a public authority body at the level of the state, regional government or local authority and whose status, tasks and activity are stipulated in separate laws.<sup>30e)</sup>

(3) The exposure value of an off-balance sheet asset item shall be 100% of its nominal value if it is a full-risk item, 50% if it is a medium-risk item, 20% if it is a medium/low-risk item, and 0% if it is a low-risk item. When determining the exposure value of a derivative instrument, account shall be taken of the effects of netting agreements, including contracts of novation. The exposure value of derivative instruments, repo transactions, securities or commodities lending, long settlement transactions and margin transactions may also be determined by methods requiring the prior approval of the National Bank of Slovakia.

(4) Where an exposure is subject to funded credit protection, the exposure value under paragraph (3) may be adjusted in accordance with Article 33a.

(5) By a decree <sup>23)</sup> to be issued by the National Bank of Slovakia and promulgated in the Collection of Laws, there shall be stipulated:

- a) the coefficient of credit risk;
- b) what is meant by repo transaction, margin transaction, non-current receivable, and current receivable;
- c) the classification of receivables and liabilities not recorded on the balance sheet into different degrees of risk in order to calculate the exposure value of off-balance sheet items, and what, for this purpose, is meant by full-risk item, medium-risk item, medium/low risk item, and low risk item;
- d) methods for determining the exposure value of derivative instruments and the exposure value of repo transactions, securities and commodities lending, long settlement transactions and margin transactions, and which transactions require the prior approval of the National Bank of Slovakia;
- e) the conditions under which the National Bank of Slovakia will recognize the effects of netting agreements, including contracts of novation, for the purpose of determining the exposure value of derivative instruments;
- f) particulars of the application for prior approval in accordance with paragraph (3) and the documents to be enclosed with the application;
- g) the procedure for calculating the exposure value of other types of transactions.

## **Article 32**

(1) For the purposes of using the standardized approach for credit risk, each exposure shall be assigned to one of the following exposure classes:

- a) claims or contingent claims on countries or central banks;
- b) claims or contingent claims on regional governments and local authorities;
- c) claims or contingent claims on public authority bodies and on non-commercial undertakings;
- d) claims or contingent claims on multilateral development banks;
- e) claims or contingent claims on international organizations;
- f) non-current claims or contingent non-current claims on institutions;
- g) non-current claims or contingent non-current claims on corporates;
- h) retail claims or contingent retail claims under paragraph (2);
- i) claims or contingent claims secured on real estate;
- j) past due claims;
- k) claims belonging to high-risk categories;
- l) claims in the form of covered bonds;
- m) exposures to securitization positions;
- n) short-term claims on institutions and corporates;
- o) claims under collective investment in the form of shares in the assets of mutual funds or of legal persons whose scope of business involves investing in assets on the principle of risk spreading and limitation;

p) other items.

(2) An exposure shall be included in the class under paragraph (1)(h) where:

- a) it is a claim on a natural person or on a small or medium/large legal person;
- b) it is a standardized method of lending;
- c) the total amount, including past due exposures, except for claims or contingent claims secured by a lien on residential property, which the borrower or group of economically-related entities owes to a bank, the parent undertaking of a bank, or other subsidiaries of the parent undertaking of a bank does not exceed EUR 1,000,000; the bank shall adopt appropriate measures to acquire this information; and
- d) it is not a claim arising from a security.

(3) For the purpose of calculating the value of risk-weighted exposures, the exposure value, excluding that which is deductible from own funds, shall be multiplied by the risk weight assigned on the basis of credit risk quality assessed by a credit rating agency or by an export credit agency (hereinafter "credit rating agency").

(4) Unless otherwise provided for the calculation of risk-weighted exposures, an exposure shall be assigned a risk weight of 100%.

(5) A credit assessment of a credit rating agency may be used to determine the risk weight of an exposure provided that the credit rating agency has been recognized as eligible for these purposes on the basis of the prior approval of the National Bank of Slovakia.

(6) The National Bank of Slovakia shall recognize a credit rating agency as eligible for the purposes of paragraph (5) only if the assessment methodology used by that credit rating agency complies with the requirements of objectivity, independence, ongoing review and transparency, if its credit assessments meet the requirements of credibility transparency, and if the credit rating agency meets the relevant organizational and management requirements.

(7) If a credit rating agency has been recognized as eligible by another Member State's competent supervisory authority, the National Bank of Slovakia may recognize that credit rating agency as eligible without establishing whether it meets the requirements under paragraph (6).

(8) The National Bank of Slovakia shall revoke the recognition of a credit rating agency's eligibility under paragraph (5) where that credit rating agency has ceased to meet the requirements for the recognition of eligibility under paragraph (6). The National Bank of Slovakia may revoke the recognition of eligibility under paragraph (5) where the recognition of a credit rating agency's eligibility has been revoked by another Member State's supervisory authority.

(9) The National Bank of Slovakia shall determine with which of the credit quality steps the relevant credit assessments of an eligible credit rating agency are to be associated in accordance with paragraph (5).



(10) If another Member State's competent supervisory authority has determined the association of a credit assessment under paragraph (9), the National Bank of Slovakia may recognize this determination without itself determining the association.

(11) By a decree<sup>23)</sup> to be issued by the National Bank of Slovakia and promulgated in the Collection of Laws, the following shall be stipulated for the purpose of calculating risk-weighted exposures by the standardized approach for credit risk:

- a) details of the assignment or determination of risk weights for exposures in accordance with paragraph (3);
- b) rules for using the credit assessments of eligible credit rating agencies;
- c) particulars of the application for recognition of a credit rating agency's eligibility, the requirements for the organization and management of a credit rating agency, and details of other requirements mentioned in paragraph (6).

### **Article 33**

(1) The use of the internal ratings based approach for credit risk shall require the prior approval of the National Bank of Slovakia. Where the National Bank of Slovakia has issued such approval, the bank and any parent undertaking and its subsidiaries that are banks shall use the internal ratings based approach for all of their exposures.

(2) A bank intending to introduce the internal ratings based approach for credit risk on a sequential basis shall require the prior approval of the National Bank of Slovakia; the sequential introduction may be carried out vis-à-vis particular classes mentioned in paragraph (10), particular organizational departments of the bank, or for the use of own estimates of loss given defaults or own estimates of conversion factors for the calculation of risk weights for exposures to countries, central banks, institutions and corporates.

(3) When issuing prior approval under paragraph (2), the National Bank of Slovakia 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 mentioned in paragraph (10) or the bank's organizational departments, the use of a foundation internal ratings based approach is not postponed with the purpose of achieving reduced minimum capital requirements determined according to the standardized approach for credit risk for those exposure classes or those organizational departments. In regard to the sequential use of own estimates of loss given defaults or own estimates of conversion factors for the calculation of risk weights for exposures towards countries, central banks, institutions and corporates, the National Bank of Slovakia shall proceed similarly as in the previous sentence.

(4) In the case of exposures mentioned in paragraph (10)(d), the internal ratings based approach for credit risk may be introduced also within the respective class, provided that the exposures concerned are interdependent.

(5) A bank shall use the internal ratings based approach for credit risk with the class mentioned in paragraph (10)(e) where it already uses the internal ratings based approach with other classes mentioned in paragraph (10).

(6) The internal ratings based approach for credit risk may be a foundation or advanced approach; the advanced approach shall include the use of own estimates of loss given defaults and own estimates of conversion factors. 'Conversion factor' shall mean the ratio of a bank's total loan commitment to a customer and the estimated drawn amount of the commitment that will be outstanding at default.

(7) The prior approval of the National Bank of Slovakia under paragraph (1) shall be issued only if the bank consistently applies a system for the management and rating of credit risk exposures (hereinafter "rating system") which complies with technical requirements and meets the following requirements:

- a) the rating system provides for a meaningful assessment of the obligor and his transaction characteristics, a meaningful differentiation of risk, and accurate and consistent quantitative estimates of credit risk;
- b) internal ratings and estimates of defaults and losses used in the calculation of capital requirements, and associated systems and processes play an essential role in the risk management and decision-making process in credit approval, in internal capital allocation, and in procedures for ensuring the reliable and secure management of the bank;
- c) the bank has an independent credit risk management department responsible for its rating systems;
- d) the bank collects and processes all data to ensure effective support for the credit risk measurement and management process;
- e) the bank documents its rating systems and the rationale for their design; the bank regularly evaluates and examines these rating systems.

(8) A bank applying for prior approval for the use of the internal ratings based approach shall prove that over a period of at least three years it has been using for the respective classes mentioned in paragraph (10) the rating systems referred to in paragraph (7), based on the minimum technical requirements for the purposes of internal measurement and management of risks.

(9) A bank applying for prior approval from the National Bank of Slovakia for the use of own estimates of loss given defaults or own estimates of conversion factors shall prove that it has been using own estimates of loss given defaults or own estimates of conversion factors, by a method based on minimum technical requirements for the use of own estimates, over a period of at least three years prior to qualification to use own estimates of loss given defaults or own estimates of conversion factors.

(10) For the purposes of using the internal ratings based approach, each exposure shall be assigned to one of the following classes:

- a) claims or contingent claims on countries or central banks;
- b) claims or contingent claims on institutions;

- c) claims or contingent claims on corporates;
- d) retail claims or contingent retail claims under paragraph (14);
- e) equity claims;
- f) exposures to securitization positions;
- g) other non credit-obligation assets.

(11) The following exposures shall also be treated as exposures assigned to the class mentioned in paragraph 10(a):

- a) exposures to regional governments, local authorities or public sector entities which, under the standardized approach for credit risk, are treated as exposures to countries; and
- b) exposures to multilateral development banks and international organizations which, under the standardized approach for credit risk, attract a risk weight of 0%.

(12) The following exposures shall also be treated as exposures assigned to the class mentioned in paragraph (10)(b)

- a) exposures to regional governments or local authorities which, under the standardized approach for credit risk, are not treated as exposures to countries;
- b) exposures to public sector entities which, under the standardized approach for credit risk, are treated as exposures to institutions, and
- c) exposures to multilateral development banks which, under the standardized approach for credit risk, do not attract a risk weight of 0%.

(13) Within the class mentioned in paragraph (10)(c), banks shall separately identify the following as specialized lending exposures:

- a) exposures to an entity created specifically to finance or operate tangible assets;
- b) exposures where contractual arrangements give the creditor a substantial degree of control over the assets and income that they generate; and
- c) exposures where the primary source of repayment of the obligation is the income generated by the assets being financed.

(14) An exposure shall be assigned to the class mentioned in paragraph (10)(d) where:

- a) it is an exposure to a natural person or to a small or medium-sized legal person provided in the latter case that the amount owed to the bank and parent undertaking and its subsidiaries, including any past due exposure, by the obligor or group of economically-related persons, but excluding claims or contingent claims secured by a lien on residential property, does not exceed EUR 1 million; the bank shall take appropriate measures in order to acquire this information.
- b) there is no significant change in the way the bank treats the exposure over time in its risk management;
- c) it is not managed as individually as an exposure under paragraph (10)(c); and
- d) it represents a standardized method of lending.

(15) The following exposures shall be assigned to the class mentioned in paragraph (10)(e):

- a) shares;
- b) debt or non-debt exposures the economic substance of which is similar to the exposures mentioned in subparagraph (a);

(16) The exposure class mentioned in paragraph (10)(g) shall include the residual value of leased property and the amount of the rental which the natural person or the small or medium-sized legal person is obliged to pay in accordance with the contract.

(17) A claim not assigned to the classes mentioned in paragraph (10)(a), (b) and (d) to (f) shall be assigned to the class mentioned in paragraph (10)(c).

(18) Approval of the National Bank of Slovakia shall be required for the methodologies used to assign risk weights to specialized lending exposures.

(19) For any exposures belonging to the class mentioned in paragraph (10)(a) to (c), a bank may use own estimates of loss given defaults and own estimates of conversion factors on the basis of the prior approval of the National Bank of Slovakia.

(20) A bank permitted to use the internal ratings based approach in the calculation of risk-weighted exposure amounts and expected loss amounts for one or more exposures may, subject to the approval of the National Bank of Slovakia, use the standardized approach for credit risk for the following:

- a) exposures under paragraph 10(a) and (b) where the number of material counterparties is limited and it would be unduly burdensome for the bank to implement a rating system for these counterparties;
- b) exposures to non-significant counterparties as well as exposures that are immaterial in terms of size and perceived risk profile;
- c) exposures to the Slovak Republic and to its regional governments and local authorities, provided that they are assigned a 0% risk weight under the standardized approach for credit risk;
- d) exposures of a bank to its parent undertaking, its subsidiary or a subsidiary of its parent undertaking, or to another undertaking in connection with which the bank is required to prepare consolidated financial statements, provided that the counterparty is a bank, financial holding company, financial institution or ancillary services undertaking subject to requirements comparable to the requirements set out in part six.
- e) equity claims on entities which are assigned a 0% risk weight under the standardized approach for credit risk;
- f) exposures arising from minimum reserve requirements; and
- g) claims secured by a state guarantee or claims the pledge for which is secured by a state guarantee.

(21) A bank which has obtained prior approval to use the internal ratings based approach may, for the calculation of risk-weighted exposure amounts, revert to the standardized approach only with the approval of the National Bank of Slovakia and for demonstrated good cause, and provided that the objective of reverting to the standardized approach for credit risk is not to reduce or circumvent capital requirements and that such

procedure does not entail the non-fulfilment of quality requirements for the calculation of credit risk; for this purpose, 'good cause' shall mean the natural expiry of the discretion to use the internal ratings based approach owing, for example, to a substantial decline in the bank's activities in the selected exposure class or a shortage of data for the calculations.

(22) A bank which has obtained prior approval to use own estimates of loss given defaults and conversion factors may revert to the foundation internal ratings based approach for credit risk only with the approval of the National Bank of Slovakia and for demonstrated good cause, and provided that the objective of reverting to the foundation internal ratings based approach for credit risk is not to reduce or circumvent capital requirements and that such procedure does not entail the non-fulfilment of quality requirements for the calculation of credit risk; for this purpose, 'good cause' shall mean the natural expiry of the discretion to use the own calculation of loss given default or conversion factor values owing, for example, to a substantial decline in the bank's activities in the selected exposure class or a shortage of data for the calculations.

(23) If a bank ceases to comply with the requirements set out in paragraphs (1) to (22), it shall either present to the National Bank of Slovakia a plan for a return to compliance in as short a time as possible, or demonstrate that the effect on size of credit risk is immaterial.

(24) When the internal ratings based approach is intended to be used by an EU parent bank and its subsidiaries, or an EU parent financial holding company and its subsidiaries, the National Bank of Slovakia shall cooperate closely with other competent supervisory authorities in accordance with Articles 47 and 48.

(25) By a decree<sup>23)</sup> to be issued by the National Bank of Slovakia and promulgated in the Collection of Laws, the following shall be stipulated for the purpose of calculating risk-weighted exposures by the internal ratings based approach:

- a) technical requirements for the system of managing and assigning internal ratings under paragraph (7);
- b) minimum technical requirements for the system of managing and assigning internal ratings under paragraph (8);
- c) what is meant by default, probability of default, loss given default, expected loss and immaterial effect under paragraph (23);
- d) minimum technical requirements for the use of own estimates of loss given defaults and own estimates of conversion factors under paragraph (9);
- e) how to calculate the values of loss given defaults and conversion factors or how to determine them under paragraph (9);
- f) particulars of the application for prior approval in accordance with paragraph (1) and (2), including the documents to be enclosed with the application;
- g) particulars of the application for prior approval in accordance with paragraph (9), including the documents to be enclosed with the application;
- h) how to calculate risk-weighted credit risk exposure values for exposures classed under paragraph 10(a) to (g), provided that they are not deducted from the bank's own funds, and how to calculate risk-weighted dilution risk exposure values for purchased receivables;

- i) methodological requirements for assigning risk weights to exposures under paragraph (18), and particulars of the application for prior approval in accordance with paragraph 18, including the documents to be enclosed with the application;
- j) conditions for the issuance of prior approval under paragraph (19), and particulars of the application for this approval, including the documents to be enclosed with the application;
- k) other methods and techniques for the calculation of credit risk under the internal ratings based approach and details thereof;
- l) the period for the sequential use of the internal ratings based approach and the sequential use of own estimates of loss given defaults and own estimates of conversion factors under paragraph (3);
- m) details of requirements under paragraph 20(f) and (g);
- n) details of requirements under paragraph (8);
- o) how to assign risk weights to claims under collective investment in the form of shares in the assets of mutual funds or of legal persons whose scope of business involves investing in assets on the principle of risk spreading and limitation.

### **Article 33a**

(1) A bank using the standardized approach for credit risk or the foundation internal ratings based approach may use credit risk mitigation in the form of funded credit protection or unfunded credit protection when calculating risk-weighted exposure amounts for the purposes of Article 30(5)(a) or when estimating expected losses for the purposes of calculating own funds in accordance with Article 30.

(2) In the case of funded credit protection, to be eligible for recognition the assets relied upon shall be sufficiently liquid and their value shall be stable over time. The lending bank shall have the right to liquidate or retain the assets in a timely manner, in the event of the default, insolvency or bankruptcy of the obligor, or another similar event; the degree of correlation between the value of the assets relied upon for protection and the credit quality of the obligor shall not be undue.

(3) In the case of unfunded credit protection, to be eligible for recognition the party giving the undertaking shall be sufficiently reliable and the protection agreement shall provide appropriate certainty having regard to the approach used to calculate risk-weighted exposure amounts and to the degree of recognition allowed.

(4) A bank shall not apply credit risk mitigation to an exposure which produces a higher risk-weighted exposure amount than an otherwise identical exposure in respect of which there is no credit risk mitigation.

(5) Protection agreements concluded by a lending bank shall be legally effective and enforceable in all the respective legal systems which affect, or could affect, the credit protection or the exercise of rights under the credit protection.

(6) For the purposes of credit risk mitigation, the National Bank of Slovakia shall through the issuance of prior approval:

- a) recognize the measurement method for the risk arising from the basic netting agreement established by a bank for the purpose of calculating the effects of credit risk mitigation, provided that this method is reliable and credible;
- b) permit a bank to use empirical correlations within and between risk categories for the calculation of the effects of credit risk mitigation, provided that the system for measuring the correlation is reliable and credible.

(7) Where the risk-weighted exposure amount already takes account of credit protection under the standardized approach for credit risk or the internal ratings based approach for credit risk, the calculation of credit protection under paragraphs (1) to (6) shall not be used.

(8) By a decree<sup>23)</sup> to be issued by the National Bank of Slovakia and promulgated in the Collection of Laws, the following shall be stipulated for the purpose of applying credit risk mitigation techniques:

- a) what is meant by lending bank, sufficient liquidity under paragraph (2), stability over time under paragraph (2), undue correlation under paragraph (2), empirical correlation under paragraph 6(b), and reliability and credibility under paragraph (6)(a) and (b);
- b) the permitted forms of credit risk mitigation and the respective requirements; details of funded credit protection and unfunded credit protection, and how to calculate the effects of the credit risk mitigation, including the possibility to modify the calculation of risk-weighted exposure amounts and the expected loss amounts;
- c) details of eligibility and permission under paragraph (6);
- d) particulars of the application for prior approval in accordance with paragraph (6), including the documents to be attached with the application.

### **Article 33b**

(1) For the purposes of this Act:

- a) 'securitization' shall mean the coverage of a credit risk, predetermined exposure or pool of exposures by issuing securities or concluding credit protection contracts for the event of counterparty insolvency; income under securitization depends on the performance of the assets subject to the securitization; for securitization purposes, an issue or credit protection contract is divided into tranches, while the subordination of tranches determines the distribution of losses among the different tranches;
- b) 'tranche' shall mean the contractually stipulated extent of participation in the credit risk under securitization, where the degree of credit risk in the tranche is not affected by any pledges made by third parties.

(2) In order to determine the risk-weighted exposure amount of a securitization position, the credit assessment of a credit rating agency may be used, provided that this credit

rating agency has been recognized as eligible for this purpose under the prior approval of the National Bank of Slovakia.

(3) For the purposes of paragraph (2), the National Bank of Slovakia shall recognize the eligibility of a credit rating agency which meets the requirements laid down in paragraph 32(6) and provided that this credit rating agency demonstrates its experience in the field of securitization.

(4) If a credit rating agency has been recognized as eligible for the purposes of paragraph (2) by another Member State's competent supervisory authority, the National Bank of Slovakia may recognize the eligibility of that credit rating agency without itself establishing the fulfilment of the requirements laid down in paragraph (3).

(5) The National Bank of Slovakia shall revoke the recognition of eligibility under paragraph (2) where the eligible credit rating agency has ceased to meet the requirements for eligibility laid down in paragraph (3). The National Bank of Slovakia may revoke the recognition of eligibility under paragraph (4) where the recognition of the credit rating agency's eligibility has been revoked by another Member State's supervisory authority.

(6) For the purposes of applying risk weights for exposures to securitization positions, the National Bank of Slovakia shall determine the degree of credit risk with which the relevant credit assessments of an eligible credit rating agency are to be associated; in doing so, it shall seek to ensure that securitization positions to which the same risk weight is applied on the basis of the credit assessments of eligible credit rating agencies are subject to equivalent degrees of credit risk. The National Bank of Slovakia shall differentiate between the degrees of risk expressed by each credit assessment, and shall consider quantitative factors, such as default or loss rates, and qualitative factors such as the range of transactions assessed by the credit rating agency and the meaning of the credit assessment.

(7) If another Member State's competent supervisory authority has made a determination under paragraph (6), the National Bank of Slovakia may recognize that determination without carrying out its own determination.

(8) Within the calculation of risk-weighted exposure amounts for securitization positions, a bank shall not on the basis of prior approval issued by the National Bank of Slovakia disclose the assessment methodology of the rating agency; the National Bank of Slovakia shall issue the prior approval where the special structure of the securitization precludes the use of existing methodologies.

(9) By a decree<sup>23)</sup> to be issued by the National Bank of Slovakia and promulgated in the Collection of Laws, there shall be stipulated:

- a) how to calculate risk-weighted exposures for securitization positions under Article 32(1)(m) and Article 33(10)(f);
- b) conditions for recognizing the eligibility of credit rating agencies, particulars of the application for the recognition of a credit rating agency's eligibility, and details of the requirements laid down in paragraph (3);



- c) rules for using the credit assessments of credit rating agencies for exposures to securitization positions;
- d) particulars of the application for prior approval in accordance with paragraph (8), including the documents to be enclosed with the application.

### **Article 33c**

(1) For the purposes of calculating the amount corresponding to the capital requirement for risk coverage under paragraph 30(5)(b) and (c), a bank shall use a simplified approach. To determine the market risk value, a bank may instead of a simplified approach, or in combination with this approach, use an own model for the calculation of market risk, provided that the calculation is based on the conditions set out in paragraph (2). The use or modification of such an own model shall require the prior approval of the National Bank of Slovakia.

(2) The prior approval of the National Bank of Slovakia referred to in paragraph (1) shall be issued only if the bank meets the following conditions:

- a) the bank's risk management system is conceptually sound and the conditions exist for it to be implemented with integrity;
- b) the bank's risk management system meets the qualitative requirements;
- c) the own model for the calculation of market risk meets the criteria for the specification of risk factors and quantitative requirements;
- d) the bank performs on a daily basis back-testing of the own model for the calculation of market risk;
- e) the bank performs on a quarterly basis stress-testing, and all the conditions for stress-testing are met;
- f) the bank consistently complies with the rules for combining the calculation of the different components of market risk in the own model for market risk calculation with a simplified approach to the calculation of market risk;
- g) the bank meets the requirements for keeping documentation on the own model of market risk calculation and the use thereof.

(3) Where a bank uses an own model of market risk calculation also to calculate the values of specific risks, it shall apart from meeting conditions set out in paragraph (2), comply with additional quantitative requirements.

(4) For the issuance of the prior approval under paragraph (1), the National Bank of Slovakia may additionally require the bank to submit a report by an auditor or another person covering the development or assessment of risk calculation models over time, and the National Bank of Slovakia may do this only where, from the documents submitted for verification of the fulfilment of the requirements under paragraph (2) or paragraph (3), it cannot adequately assess the calculation accuracy of the own model of market risk calculation.

(5) By a decree <sup>23)</sup> to be issued by the National Bank of Slovakia and promulgated in the Collection of Laws, the following shall be stipulated for the calculation of risks arising

from positions recorded in the trading book and for the calculation of market risk by a simplified approach:

- a) what is meant by risks arising from positions recorded in the trading book;
- b) what is meant by positions, types of positions according to components of market risk, and how to calculate the values of such positions;
- c) the methods for calculating the risks under Article 30(5)(b) and (c) by a simplified approach;
- d) particulars of the application for prior approval in accordance with paragraph (1) and the documents to be enclosed with the application

(6) By a decree<sup>23)</sup> to be issued by the National Bank of Slovakia and promulgated in the Collection of Laws, the following shall be stipulated for the purpose of determining the calculation of market risk with an own model:

- a) qualitative requirements for a bank's risk management system;
- b) specification criteria for risk factors entered in the own model of market risk calculation;
- c) quantitative requirements for the own model of market risk calculation;
- d) requirements for performing back-testing of the own model of market risk calculation;
- e) qualitative and quantitative requirements for performing stress-testing and details related to the performance of stress testing;
- f) rules for combining the calculation of the different components of market risk in the own model for market risk calculation with a simplified approach to the calculation of market risk;
- g) requirements for keeping documentation on the own model of market risk calculation and the use thereof
- h) the method and periods of examination and re-examination of the own model of market risk calculation.

### **Article 33d**

(1) For the purposes of calculating the amount corresponding to the capital requirement for operational risk coverage under Article 30(5)(d), a bank shall use the basic indicator approach, standardized approach for operational risk or advanced measurement approach.

(2) The capital requirement for operational risk under the basic indicator approach shall be a percentage value of the respective indicator.

(3) For the purposes of determining the capital requirement for operational risk under the standardized approach for operational risk, a bank shall divide its activities into organizational departments. The capital requirement for operational risk under the standardized approach is then the sum of the capital requirements for operational risk for all organizational departments.

(4) The advanced measurement approach shall be based on the bank's own internal systems for the measurement of operational risk.

(5) A bank using the standardized approach for operational risk may revert to the basic indicator approach only for demonstrated good cause and subject to the prior approval of the National Bank of Slovakia issued at the bank's request, and provided that the objective of reverting to the basic indicator approach is not to reduce or circumvent capital requirements and that such procedure does not entail the non-fulfilment of quality requirements for the calculation of operational risk; for this purpose, 'good cause' shall mean the natural expiry of the discretion to use the standardized approach for operational risk owing, for example, to a substantial change in the bank's activities or a shortage of data for the calculations.

(6) A bank using the advanced measurement approach may revert to the basic indicator approach or the standardized approach for operational risk only for demonstrated good cause and subject to the prior approval of the National Bank of Slovakia issued at the bank's request, and provided that the objective of reverting to the basic indicator approach or standardized approach is not to reduce or circumvent capital requirements and that such procedure does not entail the non-fulfilment of quality requirements for the calculation of operational risk; for this purpose, 'good cause' shall mean the natural expiry of the discretion to use the advanced approach owing, for example, to a substantial change in the bank's activities or a shortage of data for the calculations.

(7) Subject to the prior approval of the National Bank of Slovakia, a bank may use the advanced measurement approach in combination with the basic indicator approach or with the standardized approach for operational risk; the approval of the National Bank of Slovakia shall also be required for the time schedule for the bank's transition from using a combination of the basic indicator approach and standardized approach for operational risk to the standardized approach for operational risk.

(8) On the basis of an application for prior approval, the National Bank of Slovakia shall:

- a) authorize a bank to use an alternative indicator for determining its capital requirements for operational risk, under the standardized approach for operational risk, across stipulated business lines;
- b) approve the use of respective models for the calculation of capital requirements under the advanced measurement approach;
- c) authorize the use of the interdependence between losses arising from operational risk among individual estimates of operational risk;
- d) authorize the methodology used by a bank for various activities, geographical areas and legal systems in regard to combining the advanced measurement approach with other approaches.

(9) Where an EU parent bank and its subsidiaries, or an EU parent financial holding company and its subsidiaries, intend to use an advanced measurement approach for operational risk, the National Bank of Slovakia shall cooperate closely with the other competent supervisory authorities in accordance with Articles 47 to 48.

(10) By a decree<sup>23)</sup> to be issued by the National Bank of Slovakia and promulgated in the Collection of Laws, there shall be stipulated:

- a) details of the calculations under the approaches mentioned in paragraph (1), conditions and additional conditions for the combinations of approaches under paragraph (7), as well as the conditions under which the National Bank of Slovakia will issue prior approval for the combination of approaches;
- b) individual business lines for the purposes of the standardized approach for operational risk under paragraph (3);
- c) conditions for the issuance of prior approval under paragraph (8);
- d) particulars of the applications for the prior approval under paragraphs (7) and (8), including the documents to be enclosed with the applications.

### **Article 33e**

(1) Unless otherwise provided by this Act, a bank shall continuously ensure that its exposures:

- a) corresponding to positions in the trading and banking books, including the date when the exposures arose, do not exceed:
  - 1. 20% of the sum of its original, supplementary and additional own funds less the respective deductible items vis-à-vis:
    - 1a. a parent undertaking;
    - 1b. a subsidiary;
    - 1c. a group of economically-related entities constituting the parent undertaking of the bank and other subsidiaries thereof; or
    - 1d. a group of economically-related entities constituting subsidiaries of the bank;
  - 2. 25% of the sum of its original, supplementary and additional own funds less the respective deductible items vis-à-vis:
    - 2a. another entity;
    - 2b. another group of economically-related persons; or
    - 2c. countries and central banks referred to in paragraph (12);
- b) corresponding to positions in the banking book, including the date when the exposures arose, does not exceed:
  - 1. 20% of the sum of its original and supplementary own funds less the respective deductible items vis-à-vis:
    - 1a. a parent undertaking;
    - 1b. a subsidiary;
    - 1c. a group of economically-related entities constituting parent undertaking of the bank and other subsidiaries thereof; or
    - 1d. a group of economically-related entities constituting subsidiaries of the bank.
  - 2. 25% of the sum of its original and supplementary own funds less the respective deductible items vis-à-vis:
    - 2a. another entity;
    - 2b. another group of economically-related entities; or
    - 2c. countries and central banks set out in paragraph (12).

(2) A bank may not incur large exposures which in total exceed 800% of its own funds, unless otherwise provided by this Act.

(3) If a bank exceeds any of the exposure limits laid down in paragraphs (1) or (2), it shall forthwith report that fact to the National Bank of Slovakia which shall, where the circumstances warrant it, set the bank a limited period of time in which to comply with the limits.

(4) A bank may exceed the exposure limits laid down in paragraph (1)(a) or paragraph (2) where:

- a) it complies with the exposure limits laid down in paragraph 1(b);
- b) in relation to exceeding the exposure limits laid down in paragraph (3), it calculates additional capital requirements of the bank;
- c) it ensures that the exposures under paragraph (9)(d) have not exceeded 500% of its own funds, provided that not more than 10 days have elapsed since the limits were exceeded;
- d) it ensures that the total amount in excess of the limits is not more than 600% of its own funds, provided that more than 10 days have elapsed since the limits were exceeded; and
- e) it submits to the National Bank of Slovakia on a quarterly basis a report on the limits exceeded in the respective quarter; the report shall contain information on the number of instances when the limits were exceeded, the amounts involved, and vis-à-vis which entities, groups of entities or other entities the limits were exceeded.

(5) For the purpose of limiting the occurrence of unduly high risks, a bank shall comply with its stipulated ratios of exposures to own funds or to assets or to groups of assets in relation to:

- a) other countries;
- b) geographical areas;
- c) industries;
- d) the banking activities in regard to which the exposures arose;
- e) entities in a special relationship with the bank, except for entities exercising direct or indirect control over the bank, entities directly or indirectly controlled by them, and legal persons controlled by the bank.

(6) Compliance with the procedure under paragraph (5) shall also be required, as appropriate, of a branch of a foreign bank other than a foreign bank under Article (11)(1).

(7) A parent bank under Article 44(2)(a) shall ensure compliance with the exposure limits mentioned in paragraphs (1) to (5) also in respect of the consolidated group. When calculating the exposures of a bank within a consolidated group, the exposures between entities which are included in the consolidated group under Article 44(2)(a) shall not be taken into account.

(8) For the purposes of assessing exposures, the National Bank of Slovakia may exempt an entity from a group of economically-related entities where all the entities in this group, including the bank, are subject to supervision on a consolidated basis exercised by the competent supervisory authority of a Member State.

(9) For the purposes of this Act, 'exposures' of a bank shall mean the sum of:

- a) the bank's claims and other property rights, including its claims and other property rights whose establishment is contingent on the fulfilment of a condition and which are not included in the records mentioned in Article 39(1) to (6);
- b) the bank's future claims which will arise on the basis of valid agreements concluded within the performance of banking activities – provided that they do not give rise to the possibility of withdrawal or unilateral renunciation – which are not included in the records mentioned in Article 39(1) to (6);
- c) derivative transaction exposures not included in the records mentioned in Article 39(1) to (6);
- d) the values of positions included in the records mentioned in Article 39(1) to (6).

(10) For the purposes of this Act, 'large exposure' shall mean an exposure to a single entity or group of economically-related entities which is equal to or more than 10% of own funds.

(11) For the purposes of this Act, 'group of economically-related entities' shall mean a group of entities representing a common risk which is the fact that:

- a) one entity of this group exercises control over the other entities; or
- b) the economic interrelationships in this group are of such a nature, and it is clear in all circumstances, that if one of the entities were to experience financial difficulties, the others would be unable to pay their liabilities on time.

(12) By a decree<sup>23)</sup> to be issued by the National Bank of Slovakia and promulgated in the Collection of Laws, there shall be stipulated:

- a) details of how to calculate a bank's exposures and how to calculate exposures on a consolidated basis under paragraphs (1), (2) and (7);
- b) details of a bank's exposures and exposures on a consolidated basis under paragraphs (8) and (9);
- c) details of a group of economic-related entities;
- d) countries and central banks under paragraph (1);
- e) what is meant by derivative transaction exposures which are not included in the records under Article 39(1) to (6) and the positions included in the records under Article 39 (1) to (6);
- f) details of how to calculate additional capital requirements under paragraph (4)(b);
- g) exposure ratios under paragraph (5) and the extent to which branches of foreign banks under paragraph (6) are subject to these rules.

## **Article 33f**

(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. In the event that a sudden and unexpected change in market interest rates, the result of which is calculated from positions recorded in the bank's banking book, causes the economic value of the bank to decline by more than 20% of its own funds, the National Bank of Slovakia shall impose a corrective measure on the bank in accordance with Article 50(1).

(2) For the purposes of this Act, 'economic value' shall mean 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) By a decree<sup>23)</sup> to be issued by the National Bank of Slovakia and promulgated in the Collection of Laws, there shall be stipulated what is meant by 'sudden and unexpected change in market interest rates.'.

#### **Article 34**

(1) Unless such information is generally available to the public, a bank or branch office of a foreign bank may not conclude investment operations:

- a) using information acquired in connection with its lending operations and vice versa,
- b) for its own account, using information acquired in connection with its investment operations for a client's account and vice versa.

(2) For the purposes of paragraph 1, a bank or branch office of a foreign bank shall in particular be obligated to make arrangements in its organisational, management, and control system to ensure the separation of lending operations from investment operations.

(3) Lending operations as stipulated in paragraph 1 shall mean activities related to the provision of loans and guarantees.

(4) Investment operations pursuant to paragraph 1 shall be activities related to:

- a) investing in securities,
- b) trading in securities,
- c) trading in rights associated with securities or derived from securities,
- d) participation in issues of securities and provision of related services,
- e) asset management, including advisory services.

(5) A bank and a foreign bank may carry out investment operations for a client's account only under terms advantageous for the client, in particular at a price advantageous for the client, exercising due professional care, unless something else is requested by a client order; the provisions of Article 27, paragraph 10, are not prejudiced by the foregoing.

(6) A bank or branch office of a foreign bank shall keep separate records of investment operations conducted for a client's account and for its own account.

### Article 35

(1) A bank or branch office of a foreign bank may not execute transactions with persons who have a special relationship to it, which it would normally, given their nature, purpose, or risk, not execute with other clients. Before concluding and conducting such a transaction, a bank or branch office of a foreign bank shall be obligated to check whether the person they conduct such a transaction with does not have a special relationship to them; such a person shall be obligated to provide a bank and branch office of a foreign bank with true information which the bank and the branch office of the foreign bank need for the purposes of such review. A bank and branch office of a foreign bank shall be obligated to see to it that the veracity of the data provided is ensured in writing through a contract on a guarantee provided by them or a contract on deposit pursuant to Article 5, letter a) subject to the sanction of invalidity of the conclusion of such a contract and through a loan agreement pursuant to Article 5, letter b) subject to the sanction of immediate maturity of the whole outstanding amount as from the day on which the bank or the branch office of a foreign bank has learnt of the falsity of the data, including the interest for the whole agreed-upon loan life falling due.

(2) A bank or branch office of a foreign bank 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 the chief executive officer of branch office of a foreign bank on the basis of a written assessment of the respective 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 a calendar year, every person specified in paragraph 4, letters a), b), c) and f), and paragraph 5, letters a), b), c) and f), shall notify the bank or branch office of a foreign bank in writing of all facts needed to determine further persons, who as a result of their relation towards the notifying person, have a special relationship with the bank or branch office of a foreign bank. The bank or branch office of a foreign bank shall be obligated to process this information into an overview of persons with a special relationship to the bank and, when requested, submit it to the National Bank of Slovakia and the Deposit Protection Fund for the purposes stipulated by a separate regulation<sup>32</sup>. The National Bank of Slovakia shall establish the particulars of this notification in a decree<sup>23</sup> promulgated in the Collection of Laws.

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

- a) members of the bank's statutory body, officers of the bank, other employees of the bank specified in its Articles of Association, and the bank's procurator,
- b) members of the bank's supervisory board,
- c) legal persons having control over a bank, members of statutory bodies of these legal persons and officers of these legal persons,
- d) persons related<sup>30</sup> to the members of the bank's statutory body, bank's supervisory board, officers of the bank, and natural persons exercising control over the bank,



- e) legal persons, in which some of the persons according to a), b) c) or d) hold a qualified interest,
- f) shareholders holding a qualified interest 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 the National Bank of Slovakia
- i) an auditor or a natural person which, on behalf of an audit firm, performs audit in the bank,
- j) a member of the statutory body of another bank, chief executive of branch office of a foreign bank,
- k) during forced administration, the administrator of the bank, his deputy, and any invited professional advisor,
- l) its mortgage controller and a deputy of its mortgage controller,
- m) persons who have entered into a legal relationship with the bank that may give rise to a qualified interest in the bank.

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

- a) the chief executive officer of the branch office of a foreign bank,
- b) members of the statutory body or the supervisory board of the foreign bank,
- c) persons having control over the foreign bank, and members of statutory bodies of legal persons having control over the foreign bank,
- d) persons related<sup>30</sup> to persons specified in a) and b) or natural persons having control over the foreign bank,
- e) legal persons in which some of the persons specified in letters a), b), c) or d) hold a qualified interest,
- f) shareholders holding a qualified interest in the foreign bank or any legal person under their control or which has control over them,
- g) legal persons under the control of the foreign bank,
- h) members of the Bank Board of the National Bank of Slovakia,
- i) an auditor or a natural person, who on behalf of an audit firm, performs audit in the branch office of a foreign bank,
- j) the chief executive of another branch office of a foreign bank, member of the statutory body of a bank,
- k) its mortgage controller and a deputy of its mortgage controller.

### **Article 36**

(1) The sum of loans not secured by a lien on real estate provided by a bank to its employee or a person with a special relationship to the bank pursuant to Article 35, paragraph 4, letters a), b), c), d) and f), may not exceed the total gross income of the person for the previous 24 months. The aggregate amount of loans extended by a bank to its employees under preferential terms may not exceed 20 percent of the bank's own funds.

(2) A bank may not provide a loan or guarantee liabilities under a loan for any acquisition of:

- a) shares it issued,
- b) shares issued by a person who holds a qualified interest in the bank,
- c) shares issued by legal persons who control or are controlled by persons holding a qualified

- interest in the bank,
- d) shares issued by legal persons controlled by the bank,
- e) repayment of another loan provided for any acquisition of shares pursuant to letters a) to d) or to guarantee liabilities under such a loan.

(3) A bank or branch office of a foreign bank may not acquire from a person with a special relationship towards it a claim about which it may reasonably assume that it will not be settled when and as due, or to take over a liability from such a person.

(4) Any contract mentioned in paragraphs 2 and 3 shall be null and void.

(5) A bank may not provide a loan or guarantee a loan to employees or persons with a special relationship to the bank if the bank does not meet its duty stipulated in Article 30, paragraph 1, or if the person does not meet its duty stipulated in Article 35, paragraph 3.

### **Article 37**

(1) A bank or branch of a foreign bank shall provide clear information in writing in the Slovak language, both on its Internet site and at its business premises, on the conditions for taking deposits, providing loans and the performance of all other transactions and on the prices thereof, including the presentation of examples. Where a bank or branch of a foreign bank makes a change in its commercial terms and conditions for the performance of transactions or in the prices of transactions, it shall give notice of this fact in the manner mentioned in the previous sentence and shall do so at least 15 days prior to the respective change entering into force, unless otherwise provided by a separate regulation or unless the bank or branch of a foreign bank has agreed otherwise with the customer. This is without prejudice to the provision of a separate regulation.<sup>33)</sup>

(2) When concluding any written transaction contract, a bank or branch of a foreign bank shall inform the customer of the annual percentage interest rate of the transaction, if an interest rate is agreed, and of the payments which the bank requires of the customer, or which are to be made in favour of the customer, insofar as they relate to the transaction contract; this obligation shall not apply to payments relating to the failure to meet liabilities arising under the transaction contract.

(3) A bank or branch of a foreign bank shall provide the Ministry and the National Bank of Slovakia with information on the payments which customers are required to make for selected types of transactions. This information shall be published by the National Bank of Slovakia on its Internet site.

(4) A bank or branch of a foreign bank shall, on its Internet site and at its business premises, publish written information on the protection of deposits in the extent stipulated by a separate law.<sup>32)</sup> Where information is published about a transaction of deposit-taking or a transaction involving deposit-taking, it must be expressly stated whether the deposit concerned is subject or not subject to protection under a separate law;<sup>32)</sup> the same shall apply to information stated in bank books, certificates of deposit, and in documents concerning similar deposit relations.

(5) A bank shall publish its annual report within 30 days after its approval by the general meeting of shareholders.<sup>34)</sup> This is without prejudice to the provision of a separate regulation.<sup>35)</sup> The annual report shall be published on the bank's Internet site and shall remain published there at least until the publication of the annual report for the subsequent accounting period.

(6) A foreign bank conducting business in the Slovak Republic shall publish its annual report in the Slovak language – including a summary of any differences between the rules 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 its approval. The annual report shall be published on the Internet site of the foreign bank conducting business in the Slovak republic and shall remain published there at least until the publication of the annual report for the subsequent accounting period.

(7) A bank or a foreign bank conducting business in the Slovak Republic shall provide a copy of its annual report, or a part thereof, to anyone who so requests; the price for such a copy shall not be higher than the cost of its production.

(8) A bank shall disclose information regarding:

- a) itself and its activities;
- b) any corrective measures or fines imposed on it;
- c) its financial indicators;
- d) the total remuneration of all members of the bank's statutory body and all members of its supervisory board 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) selected shareholders of the bank in the maximum extent of the information stipulated in Article 93(1)(a) points 1 and 2;
- f) the percentage of the capital and voting rights in the bank held by each of its shareholders;
- g) financial indicators of the consolidated group in which the bank is included and the structure of this consolidated group in terms of its interrelations and composition in accordance with Article 44;
- h) risks, and the objectives and policies of risk management for each risk separately;
- i) the extent of the application of prudential business rules on a consolidated basis;
- j) the bank's own funds;
- k) compliance with the bank's minimum capital and internal capital requirements;
- l) credit risk and dilution risk;
- m) risk-weighted exposures under the standardized approach for credit risk, under the internal ratings based approach and under securitization;
- n) market risk in the case of the own model used for market risk calculation;
- o) operational risk;
- p) exposures in shares not included in the trading book;
- r) exposures to interest rate positions not included in the trading book; and
- s) mitigation techniques for credit risk and operational risk;

(9) A branch of a foreign bank shall disclose information regarding itself and its activities, information about any corrective measures or fines imposed on it, and information about its financial indicators.

(10) A bank or branch of a foreign bank shall not be required to disclose material information, proprietary information or confidential information; whereas:

- a) material information shall mean information the disclosure or inaccurate disclosure of which could not change or affect an assessment or decision made by the user thereof, whose business decisions are based on that information.
- b) proprietary information shall mean information the disclosure of which could threaten the competitive position of the bank or branch of a foreign bank or could impair the value of investments made by the bank or branch of a foreign bank;
- c) confidential information shall mean information which the bank or branch of a foreign bank has undertaken vis-à-vis a customer or another counterparty to keep confidential.

(11) Where a bank or branch of a foreign bank decides not to disclose certain items of the information that is subject to the disclosure obligation because it considers them immaterial, proprietary or confidential, it shall notify the National Bank of Slovakia of these items. The bank or branch of a foreign bank shall notify the National Bank of Slovakia of this fact within the deadline by which it should disclose the respective information.

(12) A bank or branch of a foreign bank shall explain its credit assessment decision at the request of the respective small or medium-sized legal person or other loan applicant carrying on business, and at the request thereof it may also provide an explanation in writing; the operating costs related to the explanation shall be appropriate to the size of the loan.

(13) A bank or branch of a foreign bank shall draw up and adopt procedures for evaluating the eligibility of information for disclosure in accordance with the requirements for the disclosure of information laid down in paragraphs (8) and (9), including the verification and frequency of such information.

(14) If the information disclosed under paragraph (8) or (9) is incomplete or diverges substantially from reality, the bank or branch of a foreign bank shall issue a correction without delay.

(15) An EU parent bank shall disclose information under paragraph (8)(h) to (s) also in respect of the consolidated group and its major subsidiary.

(16) A bank controlled by an EU parent financial holding company, or in which an EU parent financial holding company has a participation, shall cooperate with that financial holding company in the disclosure of information under paragraph (8) in respect of the consolidated group of this financial holding company.

(17) A bank under paragraph (16) shall disclose the information stipulated by a decree<sup>23)</sup> of the National Bank of Slovakia in respect of the consolidated group under paragraph (16).

(18) By a decree<sup>23)</sup> to be issued by the National Bank of Slovakia and promulgated in the Collection of Laws, there shall be stipulated:

- a) to what extent, and how, the customer is to be informed in accordance with paragraph (2);
- b) the type of the transaction, and the extent, method and deadline for the submission of information under paragraph (3);

- c) the extent of the information mentioned in paragraph (8) and (9) which the bank or branch of a foreign bank is required to disclose;
- d) how often, how, and by when the information mentioned in paragraphs (8) and (9) is to be disclosed;
- e) how the correction is to be published, as well as what is meant under paragraph (14) by a substantial divergence of the disclosed information from reality;
- f) the extent of the information for the major subsidiary under paragraph (15), and what is meant by a major subsidiary;
- g) the extent of the information in respect of the consolidated group under paragraphs (15) and (17);

### **Article 38**

(1) A bank or branch office of a foreign bank shall be obligated, even without their client's consent and without unnecessary delay, to inform in writing the National Bank of Slovakia of loans provided to businesses or legal persons, of security for its assets under loans provided to business and legal persons, and obligations vis-à-vis businesses or legal persons assumed by the bank or branch office of a foreign bank in Slovak koruna or in foreign currencies.

(2) The National Bank of Slovakia<sup>36</sup> shall keep a register of bank loans and guarantees (hereinafter referred to as "the Register") containing information mentioned in paragraph 1; this register is not subject to registration pursuant to a separate regulation.<sup>37</sup>

(3) The National Bank of Slovakia may, even without the client's consent, use the data from the Register in performing its tasks, activities and the authority in accordance with this Act and a separate law<sup>8</sup> and it shall, even without the client's consent, provide information from the Register to a bank or branch office of a foreign bank.

(4) The data disclosed pursuant to paragraphs 1 and 3 shall continue to be subject to bank secrecy and it shall not be possible to provide it from the Register to persons other than banks, branch offices of foreign banks and the National Bank of Slovakia.

(5) The National Bank of Slovakia shall establish by a decree<sup>23</sup> promulgated in the Collection of Laws the particulars of keeping and using the register, the scope and method for disclosure of data as stipulated in paragraph 1, the scope and method for providing the data as stipulated in paragraph 3, and the method for technical protection of the sources disclosed and provided.

### **Article 38a**

(1) A bank or branch office of a foreign bank shall be obligated to elaborate a risk analysis related to the security of workplaces where business with customers is conducted and cash is handled.

(2) A bank or branch office of a foreign bank shall be obligated to secure workplaces in which business with customers is conducted and cash is handled as follows:

- a) with a security system and an alarm system, and to connect these systems 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 to protect such workplaces by guards;
- b) with a security camera monitoring system with 24 hour quality recording enabling identification of individuals;
- c) with other necessary security provisions based on the risk analysis pursuant to paragraph 1.

(3) Furthermore, a bank or branch office of a foreign bank shall be obligated to

- a) discuss with the respective Police Corps section the risk analysis pursuant to paragraph 1 and the security provisions pursuant to paragraph 2;
- b) provide the Police Corps, on request, with records and data obtained by devices set out under paragraph 2, letter b), for the purposes of discharging the responsibilities of the Police Corps.

(4) In a decree promulgated in the Collection of Laws, the National Bank of Slovakia shall specify the scope and content of the risk analysis pursuant to paragraph 1, everything understood under security provisions pursuant to paragraph 2, and the requirements related to these security provisions.

**PART SEVEN**  
**BUSINESS DOCUMENTATION**

**Article 39**

(1) A bank or branch of a foreign bank shall maintain a trading book and make daily entries therein of positions in individual financial instruments and commodities which it holds for trading or for hedging of its financial instrument or commodity transactions recorded in the trading book, provided that these financial instruments or commodities are negotiable or that these financial instrument or commodity transactions can be hedged. Requirements for how to maintain the trading book and the obligation to comply with them shall be laid down by the bank or branch of a foreign bank in an internal regulation.

(2) Positions in individual financial instruments and in individual commodities which a bank or branch of a foreign bank holds for trading shall mean those positions in which financial instruments or commodities are held for short-term sale and with the objective of achieving a yield on actual or expected differences between their buy and sell prices or on other changes in their prices or in the interest rates thereon.

(3) Positions which a bank or a branch of a foreign bank 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 customer, 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. A bank or branch of a foreign bank shall lay down rules and procedures for internal collateral in an internal regulation and shall also ensure consistent monitoring of all internal collateral agreements concluded.

(4) A bank or branch of a foreign bank shall lay down in an internal regulation the procedure and method for the management of individual positions or of the aggregate positions recorded in the trading book, and for the management of risks arising from these positions or aggregate positions. By such an internal regulation, the bank or branch of a foreign bank shall demonstrate its trading intention.

(5) For the purposes of calculating capital requirements, a bank or branch of a foreign bank shall lay down in an internal regulation the procedure for determining which positions in financial instruments or commodities should be recorded in the trading book, and it shall do so in accordance with the rules under paragraphs (1) to (4) and having regard to the character of its risk management system. The bank or branch of a foreign bank shall ensure 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 results of these verifications 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) A bank or branch of a foreign bank shall value on a daily basis all positions recorded in the trading book. For the valuation of positions recorded in the trading book, a bank or branch of a foreign bank 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 of a financial instrument or commodity, the bank or branch of a foreign bank shall use a qualified estimate based on its own method.

(7) A bank or branch of a foreign bank shall maintain a banking book and make daily entries therein of transactions and positions which are not recorded in the trading book under paragraphs (1) to (6).

(8) For the purposes of maintaining a trading book and banking book:

- a) 'financial instrument' shall mean an investment instrument,<sup>37a)</sup> other security, other derivative or legal relationship on which basis 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' shall mean a tangible object or controllable energy, especially output, electrical energy and raw materials, including precious metals other than gold, which is traded or may be traded on a secondary market in commodities.

(9) A bank or branch of a foreign bank shall keep analytical records of the assets and liabilities which it uses in its own name on another's account, separately from its own assets and liabilities.

(10) A bank or branch of a foreign bank shall, in accordance with a separate regulation,<sup>38)</sup> record in its accounts each accounting event related to a banking activity or other activity of the bank or branch of a foreign bank as at the date when the accounting event took place.

(11) In addition to financial statements under a separate regulation,<sup>39)</sup> a bank or branch of a foreign bank shall prepare interim financial statements as at the last day of each calendar quarter.

(12) In addition to financial statements under a separate regulation,<sup>30d)</sup> legal persons belonging to a consolidated group in accordance with Article 44 shall prepare interim financial statements as at the end of the calendar half-year.

(13) A parent bank or parent financial holding company shall prepare its interim consolidated financial statements as at the end of the calendar half-year.

(14) A bank or branch of a foreign bank shall keep records on assets and liabilities<sup>30d)</sup> according to the risks or losses associated with them. On the basis of these records, the bank or branch of a foreign bank shall produce and present to the National Bank of Slovakia a report on the balance of assets and liabilities.

(15) By a decree<sup>23)</sup> to be issued by the National Bank of Slovakia and promulgated in the Collection of Laws, there shall be stipulated:

- a) requirements for maintaining the trading book under paragraph (1) and what is meant by management of the trading book and hedging of transactions in financial instruments and in commodities;
- b) requirements for recording positions arising from internal collateral 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 applies the overall management of the trading book under paragraph (4);
- 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) details of how to maintain the trading book in accordance with paragraphs (1) to (6);
- g) details of the records of assets and liabilities and the keeping of them in accordance with paragraph (14), as well as the content, form and breakdown of the respective report and the deadlines, method and place of its submission.

#### **Article 40**

(1) In a written contract with an auditor<sup>40</sup> or an auditor company<sup>40</sup> (hereinafter the "auditor"), a bank or branch office of a foreign bank shall be obligated to provide for:

- a) the preparation of an auditor's report verifying data in reports required by the National Bank of Slovakia according to Article 42, paragraph 2,
- b) a verification of the correctness of accounting at the written request of the National Bank of Slovakia, in the course of a calendar year; if no shortcomings are detected, the National Bank of Slovakia shall compensate all necessary relevant costs to the bank,
- c) the preparation of an extended report<sup>41</sup> with a layout established by the National Bank of Slovakia by a decree<sup>23</sup> promulgated in the Collection of Laws.

(2) A bank or branch office of a foreign bank shall be obligated to submit to the National Bank of Slovakia a report on an audit of annual financial statements pursuant to a separate regulation<sup>40</sup> and a report pursuant to paragraph 1, letters a) and c), by 30 June of the calendar year following the calendar year audited.

(3) A bank or branch office of a foreign bank is obligated to notify the National Bank of Slovakia in writing of the auditor the appointment of which was approved by the supervisory board of the bank until June 30 of the calendar year for which the audit should be carried out; this shall also apply to an auditor rendering auditing services to a bank or branch office of a foreign bank on behalf and for the account of another auditor. The National Bank of Slovakia has the right to reject the auditor by 30 September of the calendar year. Within 15 days of the effective date of a decision rejecting the auditor, the bank or branch office of a foreign bank is obligated to notify the National Bank of Slovakia in writing of a new auditor approved by the supervisory board of the bank.

(4) A person, who has a special relationship to the bank pursuant to Article 35, paragraph 4, letters a) to h), and j) and k), and paragraph 5, letters a) to h) and j), for reasons stipulated in a separate regulation<sup>42</sup> and an auditor who fails to meet the requirements pursuant to paragraph 5, may not be appointed as an auditor. The same applies to natural persons who carry out an audit on behalf of an auditing firm.

(5) An auditor is obligated to inform without delay the National Bank of Slovakia and the supervisory board of the bank in writing of any facts the auditor found during an audit that concern facts leading to an expression of qualified opinion on the annual financial statements of the bank or branch office of a foreign bank and about identified violations of laws and other generally applicable legal regulations. An auditor shall immediately notify the National Bank of Slovakia of the following

findings:

- a) a bank is over-indebted<sup>43</sup>,
- b) a bank or branch office of a foreign bank is compiling untrue, incorrect, or incomplete financial statements and reports requested by the National Bank of Slovakia pursuant to Article 42, paragraph 2.

(6) A bank is deemed over-indebted if its assets, including claims, are lower than its liabilities.

(7) An auditor has the duty, at a written request of the National Bank of Slovakia, to provide documentation on facts pursuant to paragraph 5 and other information and supporting documentation ascertained during the performance of its activities in a bank or branch office of a foreign bank.

(8) A bank or branch office of a foreign bank is obligated to ensure the protection of electronically processed and stored data against misuse, destruction, damage, theft, or loss.

(9) A bank or branch office of a foreign bank is obligated to ensure once a year an audit of reliability of their information system used for banking data processing and storage and inform the National Bank of Slovakia about it in writing.

#### **Article 41**

(1) A bank is obligated to submit its annual report<sup>34</sup> to the National Bank of Slovakia within 30 days of its approval by its general meeting.

(2) A bank or branch office of a foreign bank is obligated to submit information to the National Bank of Slovakia of any intention to introduce new types of transactions together with an evaluation of this transaction by the internal control and internal audit department pursuant to Article 23, paragraph 2.

(3) A bank or branch office of a foreign bank is obligated to inform the National Bank of Slovakia without undue delay of shortcomings found in the course of activity pursuant to Article 23, paragraph 2.

(4) A bank or branch office of a foreign bank shall submit by 31 March of a calendar year to the National Bank of Slovakia a report on the results of the work of its internal control and internal audit department in the previous calendar year, on measures adopted to remedy any shortcomings in the operation of the bank or branch office of a foreign bank detected by the internal control and internal audit department, and an approved plan of controlling activities for the current calendar year. The report on the results of the work of the internal control and internal audit department shall also include the results of controlling activities and the findings and measures taken by the bank or branch office of a foreign bank in the field of money laundering prevention and against financing terrorism.

(5) For the purposes of this Act, types of transactions shall mean sets of transactions within the framework of activities specified in Article 2, paragraphs 1 and 2, for which certain attributes or contractual conditions for their provision by a bank or a branch office of a foreign banks are typical.

Changes in the interest rates or other price changes in a transaction contracted shall not constitute a new type of transaction.

## **Article 42**

(1) Banks, foreign banks and branch offices of foreign banks are obligated to store copies of documents and data on verification of client identity, documents determining ownership of money used by clients to conduct transactions, and documents on conducted operations for at least five years after a transaction is concluded.

(2) Banks, foreign banks and branch offices of foreign banks shall be obligated to produce and present to the National Bank of Slovakia returns, statements, and other reports, within specified deadlines; the structure, scope, contents, form, classification, deadlines, method, procedure, and place of their presentation, including the methodology of preparation shall be stipulated by the National Bank of Slovakia in a decree<sup>23</sup> promulgated in the Collection of Laws. Data and other information in returns, notifications and other reports must be comprehensible, easy to follow, supportable, and give a true and fair picture of reported facts, and must be presented in a time. When presented returns, notifications and other reports fail to comply with the prescribed methodology, or when reasonable doubts arise as to their correctness or completeness, banks, foreign banks and branch offices of foreign banks shall be obligated to provide the National Bank of Slovakia with supporting material and explanation at its request within a set deadline.

(3) A bank, foreign bank or branch office of a foreign bank is obligated to submit to the Ministry and the National Bank of Slovakia annual financial statements<sup>44</sup> and, in cases covered by a separate regulation<sup>44</sup>, also consolidated annual financial statements and data from its accounting and statistical records in the form of returns, reports and reviews, by established methods and deadlines; such data disclosures shall not be considered a violation of the bank secrecy as stipulated in Article 91. The scope, method, and deadlines for such submission shall be stipulated by a generally applicable legal regulation to be issued by the Ministry.

## **Article 43**

The provisions of this part of the Act are without prejudice to the duties of banks and branch offices 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 shall mean supervision of a consolidated group for the purpose of monitoring and limiting the risks to which a bank is exposed by virtue of its inclusion in the consolidated group.

(2) A consolidated group shall comprise:

- a) a parent bank or 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 participation;
- b) a parent financial holding company or EU parent financial holding company, and at least one bank over which the parent financial holding company or EU parent financial holding company exercises control or in which it has a participation; 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 participation.

(3) The National Bank of Slovakia shall exercise supervision over a consolidated group under paragraph (2)(c) to the extent of monitoring the intragroup transactions referred to in Article 49i(2) between the mixed-activity holding company and the bank which is included in the consolidated group under paragraph (2)(c), and to the extent of providing information in accordance with Article 45(8).

(4) The National Bank of Slovakia shall maintain a list of financial holding companies under paragraph (2)(b), and it shall forward this list to Member States' competent supervisory authorities and to the Commission.

(5) For the purposes of supervision of consolidated groups under paragraph (2)(a) or (b), the National Bank of Slovakia may exclude from a consolidated group under paragraph (2)(a) or (b) any entity:

- a) which has its registered office in another country where there are legal impediments to the exchange of information for the purposes of exercising supervision on a consolidated basis;
- b) which is of negligible significance for the purposes of supervision on a consolidated basis, in particular if the legal person has total assets of less than EUR 10 million or less than 1% of the total assets of this bank or financial holding company;
- c) whose inclusion in supervision on a consolidated based is not appropriate in respect of ensuring the tasks of supervision on a consolidated basis.

(6) Supervision on a consolidated basis shall, however, be exercised over entities mentioned in paragraph 5(b) if more than one of these entities jointly have relevance for the purposes of supervision on a consolidated basis.

(7) Where an entity is excluded under paragraph (5)(b) or (c), the National Bank of Slovakia shall notify it of this fact; such an entity shall provide on 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) The National Bank of Slovakia may request that subsidiaries of a bank, financial holding company or mixed-activity holding company which are not included in a consolidated group under paragraph (2) provide the information mentioned in Article 45(5) to (7) and Article 46(1). In that case, the procedures for the transmitting and verifying the information stipulated in the said provisions shall apply.

(9) The National Bank of Slovakia may exclude from supervision a subsidiary that is a bank and delegate the exercise of its supervision to another Member State's competent supervisory authority, provided that such authority exercises supervision over the parent undertaking of the bank and that the bank has been authorized by the National Bank of Slovakia. Any such exclusion shall be based on a written agreement concluded between the National Bank of Slovakia and that other Member State's competent supervisory authority. The National Bank of Slovakia shall inform the Commission of this agreement.

(10) Where a bank has a parent undertaking that is a foreign bank with its registered office in a non-Member State, or a financial holding company with its registered office in a non-Member State, it shall not be subject to supervision on a consolidated basis in accordance with this Act. The National Bank of Slovakia shall verify whether such bank is subject to supervision equivalent to supervision on a consolidated basis under this Act. When verifying this fact, the National Bank of Slovakia shall take into account any guidance issued by the Banking Advisory Committee of the European Commission and shall act in consultation with this Committee.

(11) The National Bank of Slovakia shall verify the fact stated in paragraph (10) at its own initiative or at the request of the regulated entity issued with a banking licence in a Member State, or at the request of the parent undertaking.

(12) If under paragraph (11) the National Bank of Slovakia finds that the supervision exercised over the bank is not equivalent to supervision on a consolidated basis under this Act, it shall, after consulting with the competent supervisory Authorities of Member States, include this bank in supervision on a consolidated basis or shall exercise another appropriate supervisory procedures that ensure the objectives of such supervision. For the purpose of inclusion in supervision on a consolidated basis, the National Bank of Slovakia may in particular require the establishment of a financial holding company with its registered office in a Member State. These procedures shall be notified by the National Bank of Slovakia to the competent supervisory authorities of Member States and to the Commission.

(13) For the purposes of this Act:

- a) 'financial holding company' shall mean a financial holding company which is not a mixed financial holding company and the subsidiaries of which are mainly banks or financial institutions, at least one of which is a bank;
- b) 'mixed-activity holding company' shall mean a parent undertaking other than a financial holding company, credit institution or mixed financial holding company, at least one subsidiary of which is a credit institution;
- c) 'mixed financial holding company' shall mean a parent undertaking, other than a regulated entity, which together with its subsidiaries, at least one of which is a regulated entity having its registered office in a Member State, and together with other controlled entities, constitutes a financial conglomerate;

- d) 'participation' shall mean the ownership, direct or indirect or a combination thereof, of at least 20% of the capital or voting rights in a legal person, or the possibility to exercise an influence over the management of this legal company which is comparable with the influence corresponding to such ownership;
- e) 'regulated entity' shall mean a credit institution, securities dealer, insurance company, asset management company or an equivalent foreign undertaking;
- f) 'parent bank' shall mean a bank a subsidiary of which is, or has a participation in, a bank or financial institution and is not a subsidiary of another bank authorized by the National Bank of Slovakia or of a financial holding company set up in the Slovak Republic;
- g) 'parent financial holding company' shall mean a financial holding company which is not a subsidiary of a bank authorized by the National Bank of Slovakia or of a financial holding company set up in the Slovak Republic;
- h) 'EU parent bank' shall mean a parent bank which is not a subsidiary of a bank authorized in a Member State or of a financial holding company set up in a Member State;
- i) 'EU parent financial holding company' shall mean a parent financial holding company which is not a subsidiary of a bank authorized in a Member State or of another financial holding company set up in a Member State.

#### **Article 45**

(1) A parent bank shall ensure that the consolidated group in which it is included complies with the provisions of Articles 23, 29, 30(5) and 33e.

(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, 29, 30(5) and 33e.

(3) Where a consolidated group under Article 44(2)(b) includes more than one bank, paragraph (2) shall apply only to that 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 whose registered office is in a non-Member State, or has a participation in such an entity, this bank shall ensure that the consolidated group in which it is included complies with the provisions of Articles 23, 29, 30(5) and 33(e); the same obligation shall fall to a bank where the said control or participation is exercised or held by its parent financial holding company.

(5) An entity included in a consolidated group under Article 44(2)(a) or (b) shall produce and submit to the National Bank of Slovakia, either directly or through a parent bank or parent financial holding company, or through a bank designated by the National Bank of Slovakia, all statements, reports and other disclosures required for the exercise of supervision on a consolidated basis in the stipulated manner and at the stipulated times, and a parent securities dealer or parent financial holding company shall produce and submit to the National Bank of Slovakia all statements, reports and other disclosures required for the exercise of supervision on a consolidated basis in the stipulated manner and at the stipulated times. The structure, scope, content, form and layout, and the times, method, procedure and place of

submission of these statements, reports and disclosures, including the methodology for their production, shall be stipulated by a decree<sup>23)</sup> to be issued by the National Bank of Slovakia and promulgated in the Collection of Laws. Data and other information contained in these statements reports and other disclosures shall be comprehensible, easily analysable and conclusive, shall give a true picture of the reported facts and shall be submitted in good time. If the submitted statements, reports or disclosures do not comply with the stipulated methodology, or if there are reasons to doubt their accuracy or completeness, the bank, financial holding company or other entity which produced and submitted them shall, at the request of the National Bank of Slovakia, submit documents and give an explanation within a time limit set by the National Bank of Slovakia.

(6) The auditor of an entity which 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 the National Bank of Slovakia and to the auditors of the parent bank or parent financial holding company.

(7) A parent bank or parent financial holding company shall notify the National Bank of Slovakia of the auditors who will perform the audit of entities included in the consolidated group under Article 44(2)(a) or (b) not later than the end of the calendar year for which the audit is to be carried out.

(8) Paragraphs (5) and (6) shall likewise apply to a mixed-activity holding company under Article 44(2)(c), to an entity included in a consolidated group under Article 44(2)(c) and to the auditors of such entities.

## **Article 46**

(1) An entity 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 it shall also ensure that the consolidated group complies with the provisions of Article 23 so that the control mechanisms within the internal control system are sufficiently harmonized and all the information required for supervision on a consolidated basis is accessible and sound. For the purposes of supervision on a consolidated basis, entities included in the consolidated group shall provide each other with the information required to meet the obligations arising from their inclusion in the consolidated group.

(2) The National Bank of Slovakia may conduct on-site inspections,<sup>45)</sup> or request that another Member State's competent supervisory authority conduct on-site inspections, of entities included in a consolidated group under Article 44(2) whose registered office is in another Member State, for the purposes of supervision on a consolidated basis; the National Bank of Slovakia shall conduct 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 the auditing of entities included in a consolidated group under Article 44(2). At the request of the parent bank or parent financial holding company, these entities shall conclude an audit contract.

## **Article 47**

(1) If a bank is included in a consolidated group over which supervision is exercised by another Member State's competent supervisory authority, the National Bank of Slovakia may agree the conditions for the exercise of supervision on a consolidated basis and the method of information exchange in a written agreement concluded between itself and the competent supervisory authority of the other Member State. The concluding of such an agreement shall be proposed by the National Bank of Slovakia where the bank included in the consolidated group under Article 44(2)(a) or (b) has its registered office in another Member State. In the absence of such an agreement, the National Bank of Slovakia shall exercise supervision on a consolidated basis where the bank with the largest balance sheet total within the consolidated group has its registered office in the Slovak Republic; if within the consolidated group, a bank has the same balance sheet total as a foreign bank with its registered office in another Member State, the National Bank of Slovakia shall exercise supervision on a consolidated basis if the bank was authorized before the foreign bank.

(2) The National Bank of Slovakia shall exercise supervision on a consolidated basis also over banks with a registered office in another Member State provided that they are included in a consolidated group under Article 44(2)(b).

(3) The National Bank of Slovakia shall exercise supervision under paragraph (2) only if the parent financial holding company or EU parent financial holding company has the largest balance sheet total among the other financial holding companies whose registered office is in another Member State and which have the same control over, or participation in, the said bank in another Member State.

(4) The National Bank of Slovakia shall exercise supervision under paragraph (2) only if at least one of the banks included in the consolidated group under Article 44(2)(b) has its registered office in the Slovak Republic; the National Bank of Slovakia 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 the 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.

(5) In the cases mentioned in paragraphs (2), (3) and (4), the National Bank of Slovakia may by common written agreement with the competent supervisory authorities of the other Member States waive the conditions laid down in these paragraphs if their application would be inappropriate taking into account the nature of the banks and the significance of their activities in different countries, and appoint the authority of another Member State which is competent to exercise supervision on a consolidated basis. In these cases, the National Bank of Slovakia shall, if necessary, give the EU parent bank or EU parent 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 competent supervisory authorities of the other Member States.

(6) At the request of another Member State's competent supervisory authority, the National Bank of Slovakia shall conduct on-site inspections on a consolidated basis, or shall allow persons authorized by another Member State's competent supervisory authority to



conduct on-site inspections, in entities included in supervision on a consolidated basis in the Member State of that competent supervisory authority; details of the exercise of these on-site inspections on a consolidated basis may be laid down by the agreement mentioned in paragraphs (1) and (5). Prior to conducting an on-site inspection in the territory of the Slovak Republic, another Member State's competent supervisory authority shall notify the National Bank of Slovakia thereof. Authorized persons of the competent supervisory authority of a Member State shall have the same powers, obligations and responsibilities as have personnel of the National Bank of Slovakia authorized to conduct an on-site inspection in accordance with a separate regulation; such persons are not, however, required to produce a written protocol on the inspection they carry out, nor are they required to stipulate to the inspected entity the time limit for adopting and fulfilling measures to remove any shortcomings found during the inspection or to give written notice thereof.

(7) The National Bank of Slovakia shall meet any request made by another Member State's competent supervisory authority for information related to the exercise of supervision on a consolidated basis.

(8) The National Bank of Slovakia shall notify the Commission of any written agreement concluded in accordance with paragraphs (1) and (5) and the contents thereof.

(9) Where the National Bank of Slovakia is responsible for the exercise of supervision on a consolidated basis over EU parent banks which are controlled by EU parent financial holding companies or in which EU parent financial holding companies have a participation, it shall:

- a) plan on-site inspections and coordinate on-site inspection activities in going concern and also emergency situations, in regard to obligations arising under Article 6(2) and, in cooperation with the competent supervisory authorities, in regard to obligations arising under Articles (6) and 48(5) and (6);
- b) conduct on-site inspections and check for compliance with the requirements laid down in Articles 37, 45(1) to (3) and 46(1);
- c) coordinate the gathering and dissemination of relevant or essential information in going concern and in emergency situations for other competent supervisory authorities of Member States.

(10) For the purposes of this Act:

- a) 'relevant information' shall mean information required for the exercise of consolidated supervision by competent supervisory authorities of Member States;
- b) 'essential information' shall mean information which could significantly affect the assessment of the reliability and security of a bank or financial institution in another Member State.

(11) In the case of applications for prior approval under Article 33 and 33d or prior approval to use own estimates of loss given defaults or 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, the National Bank of Slovakia shall cooperate with the competent supervisory of the 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 the National Bank of Slovakia only if it

concerns an EU parent bank or a bank controlled by an EU parent financial holding company or in which an EU parent financial holding company has a participation.

(12) The National Bank of Slovakia shall make its own decision on the application mentioned in paragraph (11) if within six months a joint decision has not been taken with the competent authorities of the other Member States, whereby it is jointly approved as a single document containing the rationale of the 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 the complete application by the National Bank of Slovakia, which shall forward it to the other competent supervisory authorities of Member States without delay.

(13) A decision taken by the National Bank of Slovakia under paragraph (11), including the complete rationale and the opinions of the other competent supervisory authorities of Member States expressed during the six-month period, shall be delivered to the applicant and forwarded to the other supervisory authorities.

(14) The National Bank of Slovakia shall proceed as appropriate under paragraphs (11) to (13) where a bank whose registered office is in the territory of the Slovak Republic is included in supervision on a consolidated basis exercised by another Member State's competent supervisory authority.

#### **Article 48**

(1) Where an emergency situation arises which potentially jeopardizes the stability of the financial system, including its integrity, the National Bank of Slovakia shall inform the Ministry of this fact without delay; this information shall be a matter of official secrecy.

(2) Where the National Bank of Slovakia requires information which has already been provided to another Member State's competent supervisory authority, it shall contact this supervisory authority whenever possible in order to prevent duplication of reporting to the various authorities responsible for supervision.

(3) In order to achieve effective and efficient supervision on a consolidated basis, the National Bank of Slovakia, as an authority responsible for such supervision, shall conclude with other Member States' competent supervisory authorities written coordination and cooperation agreements in regard to exercising supervision on a consolidated basis.

(4) The agreements mentioned in paragraph (3) may impose additional obligations on the National Bank of Slovakia in regard to the exercise of supervision on a consolidated basis, and stipulate details of the common approach to be followed by supervisory authorities in exercising supervision on a consolidated basis, and details of the decision-making process.

(5) When exercising supervision the National Bank of Slovakia shall cooperate with the competent supervisory authorities of the other Member States; in doing so, it shall provide them on request with any information relevant, and at its own initiative with any information essential, to their exercise of supervision on a consolidated basis in accordance with regulations comparable with this Act.

(6) If a bank having its registered office in another Member State is included in a consolidated group under Article 44(2)(a) or (b), the National Bank of Slovakia shall provide the competent authority of that Member State which exercises supervision over this bank with, in particular, all relevant information. In determining the extent of the relevant information, the National Bank of Slovakia shall take into account the importance of these subsidiaries within the financial systems of those Member States.

(7) The essential information mentioned in paragraph (5) shall include:

- a) the structure of the consolidated group at the requested level and a list of all major banks included in this group, as well as a list of other Member States' competent authorities which exercise supervision over these banks;
- b) procedures for the collection of information from banks under subparagraph (a) and for the verification of that information;
- c) the evaluation of adverse developments in the economic situation of banks under subparagraph (a) or other entities included in the same consolidated group whose behaviour could adversely affect the economic situation of these banks;
- d) major corrective measures taken by the National Bank of Slovakia under Article 50, including the imposition of a capital requirement higher than that laid down in paragraph 30(4) and (5), the imposition of fines by the National Bank of Slovakia under Article 50, or a decision to limit the use of the advanced measurement approach under Article 33d.

(8) By a decree<sup>23)</sup> to be issued by the National Bank of Slovakia and promulgated in the Collection of Laws, there shall be stipulated:

- a) the extent and manner of compliance with the obligations of a parent bank, as well as methods of consolidating data for these purposes;
- b) the extent and manner of compliance with the obligation of a bank included in a consolidated group under Article 44(2)(a) or (b);
- c) what is meant by emergency situation under Article 47(9) and Article 48(1), a major bank under Article 48 (7) and major measures under Article 48(7).

## **Article 49**

(1) The National Bank of Slovakia shall, prior to its decision, consult with other Member States' competent supervisory authorities 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 provided otherwise by this Act. This consultation obligation shall apply to decisions issued to a bank included in a consolidated group, under which:

- a) a change is permitted in the shareholder structure or the management structure of the bank;
- b) major corrective measures or fines under Article 50 are imposed.

(2) The National Bank of Slovakia shall, in accordance with paragraph (1), always consult with another Member State's competent supervisory authority where the decision under paragraph (1)(b) concerns an entity included in supervision on a consolidated basis which is exercised by that competent supervisory authority, unless such decision would prevent

effective decision-making process; in this case, the National Bank of Slovakia shall inform other Member States' competent supervisory authorities without delay.

(3) At the request of another Member State's competent authority responsible for supervision on a consolidated basis, the National Bank of Slovakia shall verify information required for the exercise of supervision on a consolidated basis regarding an entity subject to the said supervision which has its registered office in the territory of the Slovak Republic, or it shall have such information verified by authorized persons. Persons authorized by another Member State's competent supervisory authority may participate in verification carried out by the National Bank of Slovakia or may, with the approval of the National Bank of Slovakia, verify this information 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 of financial conglomerates which include banks, electronic money institutions, securities business entities, insurance undertakings, reinsurance undertakings, or asset management companies, for the purposes of minimising the risks to which a bank or other regulated person is exposed through its participation in a financial conglomerate.

**Article 49b**

For the purposes of this Act:

- a) ‘financial conglomerate’ shall mean
1. a group if
    - 1a. it is controlled by a regulated person;
    - 1b. a regulated person within the meaning of item 1a is a parent company of a person in the financial sector or a person holding a capital participation in a person in the financial sector pursuant to Article 44, paragraph 5, letter m), or a person linked to another person in the financial sector by a control relationship pursuant to Article 49b, letter d), item 3;
    - 1c. at least one of the persons in the group is from the insurance sector and at least one from the banking sector or the sector of investment services; and
    - 1d. the consolidated or aggregate activities of persons in the insurance sector and the consolidated or aggregate activities of persons in the banking sector and in the sector of investment services are significant pursuant to Article 49e, paragraphs 2 and 4;
  2. a group if
    - 2a. at least one of the persons in the group is a regulated person;
    - 2b. it is not controlled by a regulated person and the activity of the group is concentrated in the financial sector pursuant to Article 49e, paragraph 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 the sector of investment services;
    - 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 sector and the sector of investment services are significant pursuant to Article 49e, paragraphs 2 and 4; or
  3. a subgroup of another financial conglomerate which meets the conditions pursuant to items 1 or 2;
- b) ‘financial sector’ shall mean a sector composed of one or more of the following legal entities:
1. a bank, an electronic money institution, other financial institution pursuant to Article 6, paragraph 15, or an auxiliary banking services undertaking; these entities constitute the banking sector;

2. an insurance undertaking, a reinsurance undertaking or a legal person controlling a financial consolidated group pursuant to separate regulations;<sup>45a</sup> these constitute the insurance sector;
  3. a securities dealer or other financial institution within the meaning of Article 6, paragraph 15, except electronic money institutions; these form the investment services sector;
  4. a mixed financial holding company;
- c) 'group' shall mean a group of persons linked to each other by a control relationship within the meaning of Article 44, paragraph 5, letter l).
- d) 'control' shall mean a relationship where:
1. one entity controls another entity;
  2. one entity has a participation in another entity; or
  3. entities are interlinked in a relationship involving influence over the management comparable with the influence that would attach to a participation, or by the fact that two or more of the entities have as members of their statutory body or supervisory board a majority of the same persons.

#### **Article 49c**

- (1) The National Bank of Slovakia shall conduct supplementary supervision where
- a) a financial conglomerate is controlled by a bank or an electronic money institution;
  - b) a financial conglomerate is controlled by a mixed financial holding company which is the parent company of a bank or an electronic money institution and the financial conglomerate comprises no other regulated persons;
  - c) the parent company of a bank or an electronic money institution is a mixed financial holding company and the financial conglomerate includes further regulated persons based in a Member State and the most significant financial sector for the financial conglomerate is the banking sector;
  - d) a financial conglomerate is controlled by more than one mixed financial holding companies based in various Member States, and in each of which a regulated person is based, while the regulated person with the largest amount of total assets within the financial conglomerate is a bank or an electronic money institution or if the financial conglomerate's most significant financial sector is the banking sector; if the financial sector also includes a foreign bank or a foreign electronic money institution based in a Member State, on the basis of an agreement between the National Bank of Slovakia and the relevant supervisory authority of the Member State;
  - e) a financial conglomerate is controlled by a mixed financial holding company based in the Slovak Republic, which is the parent company of more than one regulated persons based in a Member State, and none of these regulated persons were granted a licence in the Slovak Republic and the most significant financial sector for the financial conglomerate is the banking sector;
  - f) a financial conglomerate is not controlled by the parent company or is controlled in a way other than specified under letters a) to e), if the financial conglomerate's most significant financial sector is the banking sector and the regulated person with the largest amount of total assets in this sector is a bank or an electronic money institution.

(2) The National Bank of Slovakia may, on the basis of an agreement with the Office or the relevant supervisory authorities of Member States that are responsible for the supervision

of regulated persons included in a financial conglomerate and after having received the opinion of the person controlling the relevant financial conglomerate, undertake the conduct of supplementary supervision even in cases that are not stated in paragraph 1, if appropriate in terms of the goals of supplementary supervision.

(3) The National Bank of Slovakia may, on the basis of an agreement with the Office or the relevant supervisory authorities of Member States that are responsible for the supervision of regulated persons included in a financial conglomerate and after having received the opinion of the person controlling the relevant financial conglomerate, leave the conduct of supplementary supervision in cases stated in paragraph 1 to the Office or the relevant supervisory authority of a Member State, if appropriate in terms of the goals of supplementary supervision.

#### **Article 49d**

(1) The National Bank of Slovakia shall determine, on the basis of criteria pursuant to Article 49e and in cooperation with the Office and the relevant supervisory authorities of Member States that are responsible for the supervision of regulated persons included in a financial conglomerate, which financial conglomerates are subject to supplementary supervision.

(2) The National Bank of Slovakia shall report to the Office and the relevant supervisory authorities of Member States that are responsible for the supervision of regulated persons who/that are part of a financial conglomerate, any further proposal for the inclusion of a financial conglomerate in supplementary supervision.

(3) The National Bank of Slovakia shall inform the entity which controls a financial conglomerate pursuant to Article 49c, paragraph 1 or the bank or electronic money institution with the largest amount of total assets if the most important financial sector for the financial conglomerate is the banking sector, that the financial conglomerate concerned shall be subject to supplementary supervision. The National Bank of Slovakia shall report this fact to the Office and the relevant supervisory authority of the Member State in which the mixed financial holding company is based, and to the Commission.

(4) The National Bank of Slovakia shall notify the Committee for Financial Conglomerates at the European Commission of the principles applied during the supplementary supervision of risk concentration pursuant to Article 49h and of intra-group transactions pursuant to Article 49i.

#### **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 pertaining to the financial sector within the group 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 of a financial conglomerate is the financial sector with the lowest average value of proportions pursuant to paragraph 2; the most significant financial sector of a financial conglomerate is the financial sector with the highest average value of proportions pursuant to paragraph 2. For the purposes of calculating the average proportion pursuant to paragraph 2 for determining the smallest and most significant financial sectors, the banking sector and the investment services sector are regarded as one sector.

(4) If a group does not achieve the average value of proportions pursuant to paragraph 2 but total assets in the smallest financial sector within the group amount to more than EUR 6 billion, the National Bank of Slovakia shall be entitled to decide, upon agreement with the Office and the relevant supervisory authorities of Member States that are responsible for the supervision of regulated persons who/that are part of a financial conglomerate, that the group will not be considered to be a financial conglomerate or that the provisions of Articles 49g to 49j will not be applied where the conduct of supplementary supervision is not appropriate in terms of the goals of supplementary supervision, mainly if

- a) the average value of proportions pursuant to paragraph 2 does not exceed 5%, or
- b) one of the proportions calculated pursuant to paragraph 2 does not exceed 5%, or
- c) the market share of the smallest financial sector does not exceed 5% in any of the Member States, if measured in terms of total assets in the banking sector or the investment services sector and in terms of the gross amount of insurance premium prescribed in insurance contracts concluded in the insurance sector.

(5) The National Bank of Slovakia shall report its decisions taken according to paragraph 4 to the Office and the relevant supervisory authorities of Member States that are responsible for the supervision of regulated persons who/that are part of a financial conglomerate.

(6) The National Bank of Slovakia is authorised, upon agreement with the Office and the relevant supervisory authorities of Member States that are responsible for the supervision of regulated persons who/that are part of a financial conglomerate, to exclude a legal person from the calculation of proportions pursuant to paragraphs 1 to 3, if the person concerned:

- a) is based in a country which is not a Member State and the law of that country does not enable the exchange of information for the purposes of supplementary 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) The National Bank of Slovakia is authorised to take into account, after consultation with the Office and the relevant supervisory authorities of Member States that are responsible for the supervision of regulated persons who/that are part of a financial conglomerate, the values of proportions given in paragraphs 1 and 2 for three consequent 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) The National Bank of Slovakia shall be entitled, in fully justified cases and after consultation with the Office and the relevant supervisory authorities of Member States 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 or off-balance-sheet operations in calculations of proportions pursuant to paragraphs 1 and 2, i.e. with one or two criteria at the same time, or to add one or two criteria if they are of special importance in terms of the goal of supplementary supervision.

(9) If the value of proportion pursuant to paragraph 1 drops below 40% or the average value of proportions pursuant to paragraph 2 falls below 10% for financial conglomerates that are subject to supplementary supervision, the value of proportion calculated according to paragraph 1 shall be 35% in the next three years, and the average value of proportions calculated according to paragraph 2 shall be 8%.

(10) If, in the case of a group that is already subject to supplementary supervision, total assets in the smallest financial sector of the group fall below EUR 6 billion, the amount to be used in calculations pursuant to paragraph 4 shall be EUR 5 billion in the next three years.

(11) The National Bank of Slovakia is authorised to stipulate, with the consent of the Office and the relevant supervisory authorities of Member States in charge of supervision of regulated persons who/that are part of 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 concerning 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 capital participation has been acquired, the amount of the acquired participation is taken into account. If consolidated financial statements are available, such statements will be used instead of a summary of data.

(13) The minimum amount of own funds of banks for the purposes of supplementary supervision is defined as the bank's capital requirements.

(14) Requirements for the minimum amount of own funds of regulated persons other than banks, which are taken into account in the calculations pursuant to paragraphs 2 to 6, are stipulated according to 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.

## **Article 49f**

(1) A bank or an electronic money institution that is part of a financial conglomerate shall be obliged to observe the conditions pursuant to Articles 49g to 49j, if

- a) it controls the financial conglomerate;
- b) its parent company is a mixed financial holding company based in a Member State;

- c) it is linked with a legal person from another financial sector by a control relationship pursuant to Articles 49 letter d) item 3, or
- d) its parent company is a regulated person or a mixed financial holding company based in a country which is not a Member State, but where financial conglomerates are under supervision that is equivalent to supplementary supervision.

(2) If a financial conglomerate is a subgroup of another financial conglomerate, which includes a bank or an electronic money institution meeting one of the conditions laid down in paragraph 1, the conditions stipulated in Articles 49g to 49j apply to a bank or an electronic money institution that is part of a financial conglomerate comprising a subgroup.

(3) A bank or an electronic money institution whose parent company is a regulated person or a mixed financial holding company based in a country which is not a Member State and where financial conglomerates are not subject to supervision that is equivalent to supplementary supervision, shall be obliged to 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 the state, which is not a Member State, is not equivalent to supplementary supervision, the National Bank of Slovakia shall be entitled to stipulate that a bank or an electronic money institution that is part of such a financial conglomerate shall supply the National Bank of Slovakia with special reports, returns, and other statements about participation in such a financial conglomerate, and to restrict or prohibit such a bank or electronic money institution from conducting intra-group transactions that may affect compliance with the requirement to maintain an adequate amount of own funds at the level of the financial conglomerate.

(4) The National Bank of Slovakia shall verify whether a financial conglomerate referred to in paragraph 3 is under supervision that is equivalent to supplementary supervision, if it is so agreed with the Office, the supervisory authorities of the Member State in which the regulated persons constituting the financial conglomerate are based, at the request of the parent company pursuant to paragraph 3, at the request of the regulated person who/that is part of the financial conglomerate, or on its own initiative. The National Bank of Slovakia shall discuss the issue of a decision pursuant to paragraph 3 with the Committee for Financial Conglomerates at the European Commission and shall report the issue of a decision pursuant to paragraph 3 to the Commission.

(5) If legal persons hold a capital participation in one or several regulated persons or they exercise considerable influence over regulated persons without capital participation other than influence pursuant to paragraphs 1 to 3, the National Bank of Slovakia shall determine, in cooperation with the Office and the relevant supervisory authorities of Member States that are responsible for the supervision of regulated persons included in a financial conglomerate, whether and to what extent the regulated persons will be subject to supplementary supervision as if they were a financial conglomerate subject to supplementary supervision. For supplementary supervision to be conducted, at least one of the legal persons pursuant to the first sentence must be a bank or an electronic money institution, the conditions stipulated in Article 49b, letter a), items 1c and 1d must be satisfied; this is necessary for the goals of supplementary supervision to be fulfilled.

#### **Article 49g**

(1) A bank or an electronic money institution referred to in Article 49f, paragraph 1 shall be obliged to 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 for the maintenance of an adequate amount of own funds. 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) A bank or an electronic money institution that is part of a financial conglomerate shall be obliged to calculate the adequate amount of own funds according to one of the methods stipulated by generally binding legal regulations issued by the National Bank of Slovakia pursuant to paragraph 9.

(3) The National Bank of Slovakia shall be entitled, after consultation with the Office and the relevant supervisory authorities of Member States that are responsible for the supervision of regulated persons included in a financial conglomerate, to instruct a regulated person or a mixed financial holding company on its own initiative or at the request of the regulated person or the mixed financial holding company pursuant to paragraph 4, which of the methods stipulated by generally binding legal regulations pursuant to paragraph 9 is to be applied for determining the adequate amount of own funds.

(4) A bank or an electronic money institution controlling a financial conglomerate is obliged to supply the National Bank of Slovakia, semi-annually and at the request of the National Bank of Slovakia, 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 an adequate amount of own funds in a financial conglomerate that is subject to supplementary supervision. If a financial conglomerate is not controlled by a bank or an electronic money institution, the data referred to in the first sentence must be delivered to the National Bank of Slovakia by a mixed financial holding company or a regulated person selected by the National Bank of Slovakia after consultation with the regulated persons or mixed financial holding companies that constitute the financial conglomerate.

(5) Requirements for own funds are taken into account in calculations of the adequate amount of own funds at the level of financial conglomerates exclusively from persons specified in Article 49b, letter b).

(6) The National Bank of Slovakia shall be entitled to decide to omit, from the calculation of the adequate amount of own funds at the level of a financial conglomerate that is subject to supplementary supervision, a person:

- a) based in a country which is not a Member State and the law of which does not enable the exchange of information for the purposes of supplementary supervision;
- b) having negligible significance for the purposes of supplementary supervision of regulated persons within a financial conglomerate; this shall not apply where more legal persons are to be left out from the calculation, whose total share of the financial conglomerate is significant pursuant to Article 49e, paragraphs 2 and 4;
- c) whose inclusion in the calculation would be inappropriate or inadequate in terms of the goals of supplementary supervision.

(7) The National Bank of Slovakia shall discuss the omission of a person pursuant to paragraph 6 letter c) with the Office and the supervisory authorities of Member States that are responsible for supplementary supervision in the relevant Member State.

(8) The provisions of paragraph 6 shall not affect the obligation of the persons concerned to supply information for the purposes of supplementary supervision or the authorisation of supervisory bodies to provide information about these persons for the purposes of supplementary supervision or the supervision of financial conglomerates in another Member State.

(9) The National Bank of Slovakia shall issue a decree for the purposes of calculating the adequate amount of own funds at the level of financial conglomerates. The decree shall be promulgated in the Collection of Laws and shall 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 in a financial conglomerate and the method of their calculation;
- c) methods for calculating the adequate amount of own funds for financial conglomerates.

#### **Article 49h**

(1) A bank or an electronic money institution controlling a financial conglomerate shall be obliged to supply the National Bank of Slovakia, semi-annually or at the request of the National Bank of Slovakia, with data on risk concentration in the financial conglomerate. If a financial conglomerate is not controlled by a bank or an electronic money institution, data as referred to in the first sentence shall be supplied to the National Bank of Slovakia by a mixed financial holding company or a regulated person determined by the National Bank of Slovakia after consultation with the regulated persons or mixed financial holding companies that constitute the financial conglomerate.

(2) Risk concentration within a financial conglomerate shall mean, for the purposes of supplementary supervision, any activity performed by persons within a financial conglomerate which may cause a loss large enough to threaten the solvency or safety and the financial position of the regulated persons in the financial conglomerate; such risk concentration may be caused by credit risk, investment risk, insurance risk, market risk, liquidity risk, client risk, operation risk, other risks, or a combination of these risks.

(3) If a financial conglomerate is controlled by a bank or an electronic money institution, risk concentration within the financial conglomerate shall also be governed by the provisions of Article 31. If a financial conglomerate is controlled by another regulated person, risk concentration within the financial conglomerate shall be governed by the provisions of separate regulations.<sup>45b</sup>

(4) If a financial conglomerate is controlled by a mixed financial holding company and if the most significant financial sector of the financial conglomerate is the banking sector, risk concentration in the banking sector and in a mixed financial holding company shall be governed by the provisions of Articles 31 to 33.

(5) In a decree promulgated in the Collection of Laws, the National Bank of Slovakia shall stipulate, for the purposes of determining the degree of risk concentration, details about:

- a) the calculation of asset exposure of a financial conglomerate and details about asset exposure of a financial conglomerate;
- b) the calculation of asset exposure in the banking sector and details about asset exposure in the banking sector;
- c) the calculation of asset exposure of a mixed financial holding company and details about asset exposure of a mixed financial holding company;
- d) risk concentration in a financial conglomerate and the method of its calculation.

#### **Article 49i**

(1) A bank or an electronic money institution controlling a financial conglomerate shall be obliged to supply the National Bank of Slovakia, semi-annually or at the request of the National Bank of Slovakia, with data on significant intra-group transactions conducted by the financial conglomerate. If a financial conglomerate is not controlled by a bank or an electronic money institution, data as referred to in the first sentence shall be supplied to the National Bank of Slovakia by a mixed financial holding company or a regulated person determined by the National Bank of Slovakia after consultation with the regulated persons or mixed financial holding companies that constitute the financial conglomerate.

(2) For the purposes of supplementary supervision, intra-group transactions shall mean all transactions by which regulated persons forming a financial conglomerate rely either directly or indirectly upon other persons within the same group or upon any natural or legal person they control, for the fulfilment of an obligation, regardless of whether or not contractual, and whether or not for payment.

(3) For the purposes of supplementary supervision, a significant intra-group transaction shall mean an intra-group transaction, amounting to at least 5% of the amount of own funds in a financial conglomerate determined pursuant to Article 49g, paragraph 9, letter a).

(4) Significant intra-group transactions with persons with 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 of the financial conglomerate is the banking sector, intra-group transactions in the banking sector and the mixed financial holding company shall be governed by Article 44, paragraph 4.

#### **Article 49j**

(1) A bank or an electronic money institution that is part of a financial conglomerate shall be obliged to 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 law in financial conglomerates.

(2) For the purposes of supplementary supervision, a risk management system shall include:

- a) an appropriate management system ensuring the approval of regular inspection of the business strategy of a financial conglomerate in relation to the risks arising from the activities of the financial conglomerate;
- b) procedures for ensuring an adequate amount of own funds, which include the possible impact of the business strategy on the risk profile and on the own funds of a bank or an electronic money institution;
- c) procedures for monitoring the risks and measures designed to ensure the monitoring and management of risks within the financial conglomerate.

(3) For the purposes of supplementary supervision, an internal control system shall include:

- a) an evaluation of the procedures followed in identifying and measuring the risks affecting the observance of provisions concerning the adequate amount of own funds in a financial conglomerate and an evaluation of their functioning and effectiveness;
- b) an evaluation of the procedures applied in bookkeeping and the supply of information for the purpose of identifying, measuring, monitoring, and inspecting intra-group transactions and the concentration of risks.

#### **Article 49k**

(1) In conducting supplementary supervision, the National Bank of Slovakia shall:

- a) ensure coordination of the collection and dissemination of information for monitoring the activities of a financial conglomerate and the provision of vital information for the performance of supplementary supervision in individual financial sectors to the Office and the relevant supervisory authorities of other countries that are responsible for the supervision of regulated persons included in a financial conglomerate;
- b) gather information for evaluating the financial situation of the financial conglomerate for the purposes of supplementary supervision;
- c) monitor the observance of provisions concerning the adequate amount of own funds, risk concentration, and intra-group transactions;
- d) monitor the structure of the financial conglomerate, their organisation, and the functioning of internal control systems pursuant to Article 49j;
- e) plan and coordinate the performance of supplementary supervision under any conditions in cooperation with the Office or the relevant supervisory authorities of other countries that are responsible for the supervision of regulated entities included in the financial conglomerate;
- f) perform other tasks in connection with the conduct of supplementary supervision.

(2) The National Bank of Slovakia shall be obliged to coordinate, in collaboration with the Office and the relevant supervisory authorities of other states that are responsible for the supervision of regulated entities who/that are part of a financial conglomerate, the conduct of supplementary supervision, and to stipulate the forms of cooperation in implementing the provisions of Article 49d, Article 49e, Article 49f, paragraphs 3 and 5, Article 49g, Article 49l, paragraph 2, and Article 51a.

(3) Information needed for the conduct of supplementary supervision, which has already been provided to the Office or the relevant supervisory authority of another country in

charge of the supervision of regulated persons who/that are part of a financial conglomerate, shall be obtained from the Office or the supervisory authority at the request of the National Bank of Slovakia. If the said information cannot be obtained according to the first sentence, the National Bank of Slovakia shall be entitled to obtain it directly from the persons included in the financial conglomerate, set out in Article 49g, paragraph 2.

### **Article 49l**

(1) In conducting supplementary supervision, the National Bank of Slovakia shall cooperate with the Office and the relevant supervisory authorities of Member States that are responsible for the supervision of regulated persons included in a financial conglomerate, even if the supplementary supervision is conducted by the Office or the relevant supervisory authority of a Member State, at least in a scope pursuant to paragraph 3.

(2) The National Bank of Slovakia shall be obliged to provide, at the request of the Office and the relevant supervisory authorities of Member States that are responsible for the supervision of regulated entities who/that are part of a financial conglomerate, information required for the supervision of regulated entities in a financial conglomerate and the supervision of financial conglomerates, at least in the scope specified in paragraph 3. The National Bank of Slovakia shall also be obliged to provide such information on its own initiative, if the information is deemed to be important for the supervision of financial conglomerates. The National Bank of Slovakia is entitled to obtain, from the Office and the relevant supervisory authorities of Member States in charge of supervision of regulated persons included in a financial conglomerate, information for the needs of supplementary supervision, at least in the scope specified in paragraph 3, and is also authorised to exchange information needed for the supervision of financial conglomerates with foreign central banks, the European System of Central Banks, and the European Central Bank.

(3) Cooperation and the exchange of information pursuant to paragraphs 1 and 2 concern mainly:

- a) the structure of a financial conglomerate and the relevant supervisory authorities of Member States that are responsible for the supervision of regulated persons who/that are part of the financial conglomerate;
- b) the strategy and specialisation of a financial conglomerate;
- c) the financial situation of a financial conglomerate, mainly the adequate amount of own funds, intra-group transactions, risk concentration, and the results of operations;
- d) shareholders with qualified participations in persons who/that are part of a financial conglomerate and the members of the statutory bodies of the financial conglomerate;
- e) organisation, risk management, and the system of internal control within a financial conglomerate;
- f) procedures for the collection of information from persons who/that are part of a financial conglomerate and the verification of such information;
- g) unfavourable developments in regulated persons or other persons within a financial conglomerate, which could have a serious negative impact on a bank or electronic money institution;
- h) serious penalties and extraordinary measures adopted by the National Bank of Slovakia, the Office, and the relevant supervisory authorities of Member States that are responsible for the supervision of regulated persons included in a financial

conglomerate.

(4) The National Bank of Slovakia shall be obliged to discuss, with the Office or the relevant supervisory authorities of Member States that are responsible for the supervision of regulated persons included in a financial conglomerate, the following:

- a) the issue of a decision on prior approval pursuant to Article 28, paragraph 1, letters a) and b) and Article 9, paragraph 4, where changes in the structure of shareholders or changes in the bodies of a bank or an electronic money institution affect the performance 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 who/that are subject to supplementary supervision conducted by the Office or the relevant supervisory authorities of Member States that are responsible for the supervision of regulated persons who/that are part of the financial conglomerate.

(5) The National Bank of Slovakia is not obliged to conduct negotiations pursuant to paragraph 4 if such negotiations may threaten the adoption of decisions within the prescribed time limit or if the imposition of penalties and measures cannot be postponed. In such cases, the National Bank of Slovakia shall, without undue delay, inform the Office or the relevant supervisory authorities of Member States that are responsible for the supervision of regulated persons included in the financial conglomerate.

(6) In conducting supplementary supervision, the National Bank of Slovakia shall be authorised to call upon the relevant supervisory authority of a Member State that is responsible for the supervision of regulated persons who/that are part of a financial conglomerate, in the Member State in which the parent company is based, to instruct the parent company to provide information for the performance of tasks by the National Bank of Slovakia pursuant to Article 49k and to deliver this information to the National Bank of Slovakia.

(7) The provisions of paragraphs 1 to 6 also apply to cooperation between the National Bank of Slovakia and the supervisory authorities of countries with which the European Union has signed a treaty on cooperation during the supervision of financial conglomerates.

(8) The provisions of paragraph 7 shall not affect the right to conclude an agreement on the terms and conditions of supervision of financial conglomerates and on the mutual exchange of information with the relevant supervisory authority of another country which is not a Member State, unless such agreement contradicts the rules of supplementary supervision.

#### **Article 49m**

(1) The National Bank of Slovakia shall verify, at the request of the relevant supervisory authority of a Member State that is responsible for the supervision of regulated persons included in a financial conglomerate, any information needed for the supervision of the financial conglomerate about a person who/that is part of the financial conglomerate and whose registered office is in the territory of the Slovak Republic, or shall verify this information through authorised persons. The persons authorised by the relevant supervisory authority of the Member State are entitled to participate in the process of verification by the National Bank of Slovakia or to verify this information separately with the consent of the



National Bank of Slovakia.

(2) The National Bank of Slovakia is authorised to request the relevant supervisory authority of a Member State that is responsible for the supervision of regulated persons included in a financial conglomerate, to verify any information necessary for the supervision of the financial conglomerate about a person who/that is part of the financial conglomerate and whose registered office is in the territory of a Member State, or to verify this information through authorised persons. Persons authorised by the National Bank of Slovakia are entitled to participate in the process of verification conducted by the relevant supervisory authority of a Member State or to verify this information on an individual basis, with the consent of the relevant supervisory authority of the Member State.

#### **Article 49n**

Persons who/that are part of a financial conglomerate shall be obliged to exchange, for the purposes of supplementary supervision, any information needed for the discharge of obligations pursuant to Articles 49g to 49j.

#### **Article 49o**

(1) Mixed financial holding companies as referred to in Article 49c shall be obliged to prepare and submit to the National Bank of Slovakia any and all reports, returns, and other statements containing data needed for the conduct of supplementary supervision pursuant to Article 49g, paragraph 2, Article 49h, paragraph 1, and Article 49i, paragraph 1, in the stipulated manner and in the prescribed time limits; 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 the National Bank of Slovakia and promulgated in the Collection of Laws.

(2) Data and other information contained in a report, return, and other statement must be clear, well-arranged, transparent, they must give a true picture of the reported facts, and must be submitted in due time. If the submitted reports, returns, and other statements fail to correspond to the prescribed methodology or if there are justified doubts about their correctness or completeness, the mixed financial holding company shall be obliged to submit to the National Bank of Slovakia new data and give an explanation within the time limit set by the National Bank of Slovakia.

## **PART TEN CORRECTIVE MEASURES AND FINES**

### **Article 50**

(1) If the National Bank of Slovakia finds any shortcomings in the operations of a bank or branch office of a foreign bank consisting in a failure to comply with the terms specified in its bank licence or a decision on a prior approval, or the requirements and obligations specified in other decisions of the National Bank of Slovakia imposed on a bank or branch office of a foreign bank, a failure to meet the conditions stipulated in Article 7, paragraphs 2, 4, and 6, and Article 8, paragraphs 2, 4, and 6, or a violations or circumvention of other provisions of this Act, legally binding Acts of the European Communities and the European Union pertaining to banking activities, separate regulations<sup>46</sup>, or generally binding regulations governing the conduct of banking operations, the National Bank of Slovakia may, depending on the seriousness, scope, duration, consequences, and nature of detected shortcomings:

- a) order a bank or branch office of a foreign bank to adopt recovery measures,
- b) order a bank or branch office of a foreign bank to submit special returns, reports, and statements,
- c) order a bank or branch office of a foreign bank that the unauthorised activity be terminated,
- d) impose on a bank or branch office of a foreign bank a penalty of SKK 100,000 to SKK 10,000,000, and in case of a recurrent or grave default up to SKK 20,000,000.
- e) limit or suspend the conduct of certain banking activities of a bank or branch office of a foreign bank or the conduct of certain types of transactions,
- f) revoke the banking licence for some banking activities,
- g) order a reconciliation of accounting books or other records on the basis of findings of the National Bank of Slovakia or an auditor,
- h) order the publication of a correction of incomplete, incorrect, or untrue information that a bank or branch office of a foreign bank published according to a disclosure obligation stipulated by law,
- i) order the settlement of a loss from business operations using registered capital, after using retained earnings, and funds created from profit, and capital funds to cover the loss,
- j) introduce forced administration over a bank for reasons stipulated in Article 53,
- k) revoke the banking licence of a bank or branch office of a foreign bank for reasons stipulated in Article 63.
- l) order a bank or a branch office of a foreign bank to adopt measures to improve its risk management.
- m) require a bank to maintain own funds in an amount exceeding the capital requirements stipulated by this Act in Article 30(4) and (5);
- n) require a bank, for the purpose of meeting capital requirements, to apply special procedures taking into account the impairment of its assets and expected losses on its off-balance sheet items where the value of assets or the expected losses on off-balance sheet items calculated by the bank does not correspond to the objective facts;
- o) require a bank or branch of a foreign bank to reduce significant risks undertaken during the course of its activities.

(2) The National Bank of Slovakia may impose a fine on a member of the statutory body or supervisory board of a bank, the chief executive officer of branch office of a foreign bank or his deputy, a procurator or officer of a bank or branch office of a foreign bank, or a forced

administrator or his deputy, or a member of a statutory body, supervisory body, or a senior officer of a financial holding institution pursuant to Article 44, paragraph 3 or a mixed financial holding company pursuant to Article 49c, paragraph 1, letters b) to e) for any violation of the provisions of this Act, separate laws<sup>46</sup> and 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, and for any breach of conditions or obligations imposed by a decision issued by the National Bank of Slovakia, 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 branch office of a foreign bank or from the members of a consolidated group or the members of a financial conglomerate that the bank or branch office of a foreign bank is a part of; a bank officer<sup>22</sup> may be charged a fine of up to 50% of his total remuneration for the past year received from a bank or branch office of a foreign bank or from the members of a consolidated or subconsolidated group that the bank or branch office of a foreign bank is a part of. If the person concerned has received income from a bank or branch office of a foreign bank and from the members of a consolidated or subconsolidated group or the members of a financial conglomerate that the bank or branch office of a foreign bank is a part of, only for a part of the previous year, the monthly average will be determined by its total remuneration for the relevant part of the year. A bank, foreign bank, financial holding institution pursuant to Article 44, paragraph 3, or a mixed financial holding company pursuant to Article 49c, paragraph 1, letter b) are obligated to dismiss without delay from their office persons who lose their trustworthiness as a result of a lawfully imposed fine pursuant to Article 7, paragraph 15, letter e).

(3) Measures designed to ensure the recovery of a bank or branch office of a foreign bank mean:

- a) submitting a binding recovery program, which must contain:
  1. a plan for meeting capital requirements
  2. a plan projecting the present and anticipated development of the economic situation of the bank or branch office of the foreign bank at least in the scope of balance sheets, profit and loss accounts, the budget, a strategic business plan, profitability analysis of achieving the objectives of the program,
  3. other information that the National Bank of Slovakia finds necessary.
- b) submission of a binding plan for the adoption of measures to comply with Articles 23 and 27
- c) limiting or suspending the payment of dividends<sup>47</sup>, bonuses<sup>48</sup> and other profit shares, remuneration and non-pecuniary consideration to members of the statutory body, members of the supervisory board, and employees,
- d) limiting or suspending salary rises to members of the statutory body, members of the supervisory board, and all employees of the bank or branch office of the foreign bank ,
- e) introduction of daily monitoring of the financial position of the bank or branch office of the foreign bank ,
- f) limiting or suspending the expansion of new transactions of the bank or branch office of the foreign bank; the provision of such transactions may only start following a prior approval by the National Bank of Slovakia,
- g) adopting measures to improve the risk management.
- h) the adoption of measures to prevent the transfer of risk in securitization

(4) The National Bank of Slovakia shall invite a bank to adopt recovery measures where the bank does not fulfil an obligation under Articles 23 or 30 or where the National Bank of Slovakia finds latent support for securitization on more than one occasion

(5) The statutory body of a bank which fails to meet the obligation laid down in Articles 23 or 30 has the duty to submit to the National Bank of Slovakia a binding recovery program within 30 days of becoming aware of the fact. The binding recovery program must be approved by the statutory body and the supervisory board of the bank. The National Bank of Slovakia is obligated to approve or reject the binding recovery program within ten days of receiving it.

(6) Should the reasons cease for which the measure as stipulated in paragraph 1, letter e), was issued, the National Bank of Slovakia shall give a written notice to the bank or branch office of a foreign bank concerned.

(7) The fine stipulated in paragraph 1, letter d), may also be imposed by the National Bank of Slovakia on persons found to have violated the provisions of Article 4, paragraph 1, or Article 28. It may also impose a measure on them to redress the unlawful condition.

(8) A fine pursuant to paragraphs 1, 2, or 7, shall not prejudice liability according to separate regulations.

(9) A penalty and corrective measures stipulated in paragraph 1 may be imposed concurrently and repeatedly. A fine pursuant to paragraphs 1, 2, or 7, is payable within 15 days of the effective date of the decision imposing the fine. A fine imposed with finality shall be enforced by a financial control administration competent according to the registered office of a legal person and, in the case of a natural person, according to his or her place of business or permanent residence, if different from the place of business. Imposed fines shall constitute the revenue of the state budget of the Slovak Republic.

(10) The fines stipulated in paragraph 1, letter d), paragraph 7, Article 51, paragraph 1, Article 51a, paragraph 1, or Article 82, paragraph 2, may be imposed within two years of detecting the shortcomings, but no later than within ten years of their occurrence. The fine stipulated in paragraph 2 may be imposed within one year of detecting the shortcomings, but no later than within three years of their occurrence.

(11) The National Bank of Slovakia may, even outside corrective measure or fine require a bank or branch of a foreign bank to submit separate statements, reports and disclosures and proceedings, discuss shortcomings in the operation of a bank or branch office of a foreign bank with members of the bank's statutory body, chief executive officer of branch office of a foreign bank, members of the supervisory board of a bank, bank officers, and heads of the internal control and internal audit departments, who shall be obligated to afford the National Bank of Slovakia any requested assistance.

## **Article 51**

(1) The National Bank of Slovakia may impose a fine on a legal person that is part of a consolidated group over which it performs supervision on a consolidated basis, according to the seriousness, scope, duration, consequences, and nature of the revealed shortcomings, in the amount of SKK 100,000 to SKK 20,000,000, if the legal person:

a) does not enable on-site supervision,

- b) fails to supply the requested returns, reports, and other statements for the purposes of supervision on a consolidated basis,
- c) provides incorrect, untrue, or incomplete returns, reports, and other statements, or fails to observe the deadlines set for their delivery, or
- d) fails to observe the duty stipulated in Article 47, paragraph 1.

(2) The provisions of Article 50, paragraphs 7 to 9, apply to fines according to paragraph 1 and the first sentence of paragraph 10.

### **Article 51a**

(1) The National Bank of Slovakia may impose a fine on a mixed financial holding company or another person included in a financial conglomerate over which the National Bank of Slovakia exercises supplementary supervision, according to the seriousness, scope, duration, consequences, and nature of the revealed shortcomings, in the amount of SKK 100,000 to SKK 20,000,000, if the person concerned:

- a) does not enable on-site supervision,
- b) fails to supply the requested returns, reports, and other statements for the purposes of supplementary supervision,
- c) provides incorrect, untrue, or incomplete returns, reports, or other statements, 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 an adequate amount of own funds is not observed in a financial conglomerate that is subject to supplementary supervision, the National Bank of Slovakia, in relation to the mixed financial company, shall be entitled to:

- a) impose measures designed to ensure the recovery of the financial conglomerate pursuant to Article 50, paragraph 3, or
- b) restrict or suspend the conduct of certain intra-group transactions.

(3) If a financial conglomerate includes a person who/that is under supervision conducted by the National Bank of Slovakia pursuant to Article 6, paragraph 1, the National Bank of Slovakia shall also be entitled to impose a penalty pursuant to Article 50 on the basis of a notice from the Office about a breach of the provisions of separate regulations<sup>45b</sup> or on the basis of a notice from the relevant supervisory authority of a Member State that is responsible for the supervision of the financial conglomerate in which the person referred to in Article 6, paragraph 1 is included.

(4) If the National Bank of Slovakia imposes a penalty pursuant to Article 6, paragraph 1 on a person included in a financial conglomerate that is subject to supplementary supervision by the Office or the relevant supervisory authority of a Member State and if the imposition of such penalty has some significance for the conduct of supplementary supervision, the National Bank of Slovakia shall report this fact to the Office or the relevant supervisory authority of the Member State concerned.

### **Article 52**

(1) The National Bank of Slovakia 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 of the bank to a person who has performed a deed in violation of Article 28, paragraph 1, letter a), or who acquired a prior approval pursuant to Article 28, paragraph 1, letter a), on the basis of a misstatement. The exercise of these rights may also be suspended by the National Bank of Slovakia to a person whose action is detrimental to proper and prudent operation of the bank or where such action can reasonably be expected in cases specified in Article 28, paragraph 12.

(2) Five working days before the date a general meeting is held, in accordance with a separate regulation<sup>49</sup>, a bank shall be obligated to give an order to register a suspension of exercise of the right to dispose of all book-entry shares it issued.

(3) A bank is obligated to present to the National Bank of Slovakia a transcript from its register of an issuer of book-entry securities made on the day of when the bank's order to register a suspension of exercise of the right to dispose of book-entry securities was executed in accordance with a separate regulation<sup>49</sup> for all book-entry shares issued by the bank. The transcript may not be made before such registration. The bank shall be obligated to deliver the transcript to the National Bank of Slovakia on the day it is made. Without undue delay, the National Bank of Slovakia shall mark in this transcript a person the exercise of whose rights as stipulated in paragraph 1 have been suspended and deliver the transcript to the bank no later than the day preceding the bank's general meeting. When in the transcript the National Bank of Slovakia marks a person for whom it again found a reason to suspend the rights referred to in paragraph 1, this shall mean commencing proceedings for the suspension of this person's rights as stipulated in paragraph 1; a preliminary injunction in the matter of suspending rights as stipulated in paragraph 1 shall be delivered by the National Bank of Slovakia to the person concerned and to the bank no later than on the day of the general meeting.

(4) A preliminary injunction according to paragraph 3 shall be binding upon the bank.

(5) A preliminary injunction according to paragraph 3 is also deemed delivered when given to a proxy Commissioned to represent the person concerned at the general meeting.

(6) A bank may not allow the presence at its general meeting of persons identified by the National Bank of Slovakia pursuant to paragraph 3, or persons not included in the transcript submitted by the bank pursuant to paragraph 3, or persons Commissioned to act on their behalf.

(7) The shares affected by a suspended exercise of rights pursuant to paragraph 1, during the suspension of these rights, are not deemed shares with voting rights. These shares are not taken into account in determining whether a general meeting has a quorum required to adopt decisions or for decisions of a general meeting. The resulting increase in the share of voting rights of the remaining persons who are specified in the transcript submitted by the bank pursuant to paragraph 3 does not require prior approval of the National Bank of Slovakia pursuant to Article 28, paragraph 1, letter a).

(8) When reasons cease for a suspension of exercise of the rights specified in paragraph 1, the National Bank of Slovakia shall lift the suspension without delay.

(9) The National Bank of Slovakia has the right to file a request in court to declare invalid a decision of a general meeting of a bank due to violation of laws, other generally binding regulations, or articles of association of the bank within three months from the date it learned of this, but not later than within a year from the date the decision was adopted.

### **Article 53**

(1) The purpose of forced administration over a bank is in particular:

- a) to prevent the bodies of a bank responsible for the deterioration of the economic situation in the bank from performing their functions,
- b) to eliminate the most serious shortcomings in management and activities of the bank with the objective of stopping further deterioration of the bank's economic situation,
- c) to determine the true condition of the bank in all areas of its activities and economic performance,
- d) to protect deposits and other rights of clients of the bank against damage or growing damage,
- e) to adopt a recovery program, if an economic recovery of the bank is feasible, including the adoption and performance of organisational and other measures designed to gradually stabilise the bank and restore its liquidity, primarily in co-operation with the major shareholders of the bank,
- f) to ensure conditions for the enforcement of claims of depositors ensuing from the system of deposit protection pursuant to a separate regulation<sup>32</sup>, where the deposits become inaccessible<sup>32</sup> and, where inevitable, lead the bank towards the declaration of bankruptcy or entering liquidation.

(2) Forced administration is a reorganisation measure which may impact upon the existing rights of third persons, including the possibility of suspension of disposal by depositors of their deposits and the suspension of payments and clearing in a bank subject to forced administration.

(3) The National Bank of Slovakia shall be obligated to introduce forced administration if the adequacy of own funds in a bank falls below 4 percent.

(4) The National Bank of Slovakia may introduce forced administration if shortcomings in the bank's operation put its safe functioning at risk and the bank's shareholders have not taken steps necessary to eliminate these shortcomings, if the results of operations for the current period and for previous periods ended up in the bank's loss exceeding 30 percent of its registered capital or in the case of another serious shortcoming in the bank's operation.

(5) Forced administration shall be introduced from the moment of delivery of a decision on forced administration to a bank and it shall have immediate effect on the bank and other persons. Through the delivery of this decision the information obligation of the National Bank of Slovakia pursuant to Article 97, paragraph 1 shall be met.

(6) From the moment of its introduction, forced administration over a bank shall also apply to its branch offices located within the territories of Member States and shall take effect vis-à-vis third persons. Forced administration in a branch office of a bank located within the territory of a Member State shall be performed and its effects shall be governed by this Act, unless provided

otherwise hereunder.

(7) The National Bank of Slovakia may not introduce forced administration over a branch office of a foreign bank established by a foreign bank based in another Member State. Forced administration over a branch office of a foreign bank shall be governed by the same provisions that apply to forced administration over 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 forced administration (hereinafter the "foreign reorganisation measure") introduced in a Member State in a foreign bank with its registered office in this Member State, shall from the moment of its introduction also apply to its branch office located within the territory of the Slovak Republic and shall also take effect vis-à-vis third persons within the territory of the Slovak Republic. A foreign reorganisation measure introduced in a Member State over a branch office of a foreign bank with its registered office outside the European Union, shall from the moment of its introduction also take effect vis-à-vis third persons within the territory of the Slovak Republic. A foreign reorganisation measure introduced in a Member State shall be performed within the territory of the Slovak Republic and its effects shall be governed by regulations of this Member State, unless provided otherwise hereunder.

(9) The National Bank of Slovakia shall forthwith provide for the publication of the pronouncement of a decision on the imposition of forced administration, an instruction concerning the appeal and the purpose of the imposition of forced administration in the Journal of the National Bank of Slovakia, in at least two nation-wide dailies and on publicly accessible premises of the head office and in commercial offices of the bank placed under forced administration; any persons the National Bank of Slovakia asks to disclose such data shall be obligated to do so. Where forced administration is imposed upon a bank that has its branch office located within the territory of a Member State, the National Bank of Slovakia shall forthwith provide for the publication of the pronouncement of a decision on the imposition of forced administration, an instruction concerning the appeal and the purpose of the imposition of forced administration also in the Official Journal of the European Union and in at least two nation-wide dailies of the respective state, both in Slovak language and in the official language of the respective Member State. The publication of the data shall not have impact upon the effects of the imposition of forced administration.

(10) The National Bank of Slovakia shall forthwith inform a banking supervisory authority of the Member State about the imposition of forced administration upon a bank that has its branch office located within the territory of this Member State. This information shall also comprise the explication of effects ensuing from the imposition of forced administration.

(11) If, while performing supervision in accordance with Article 16 over a branch office of a foreign bank, the National Bank of Slovakia reveals any reasons for the introduction of a foreign reorganisation measure in the foreign bank that has its registered office in a Member State to which this branch belongs, it shall inform about it a banking supervisory authority of the respective Member State.

## **Article 54**

(1) Forced administration of a bank shall be performed by an administrator of a bank (hereinafter the "administrator") and a deputy administrator. An administrator and at most three



deputy administrators shall be appointed and recalled by the National Bank of Slovakia. The administrator and deputy administrators may also be appointed for a definite period.

(2) A certificate of the appointment of an administrator and deputy administrator for performance of forced administration and of persons performing 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 the National Bank of Slovakia or a foreign banking supervisory authority of the 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) An administrator may be a natural or legal person specified in paragraph 5, a deputy administrator may only be a natural person.

(4) An administrator, if being a natural person, and deputy administrator must be persons professionally competent in accordance with Article 7, paragraph 14. An administrator or deputy administrator may not be a person who:

- a) is or was an employee of the National Bank of Slovakia at any time over the past two years before the introduction of forced administration,
- b) has been lawfully sentenced for a criminal offence committed in a managerial position or for an intentional criminal offence,
- c) at any time in the past three years has held office as a member of the supervisory board, the statutory body, procurator, or an executive officer,<sup>22</sup> in the bank placed under forced administration, unless he or she voluntarily resigned from this office,
- d) has a special relationship pursuant to Article 35, paragraph 4, to the bank placed under forced administration,
- e) is a debtor or creditor of the bank placed under forced administration,
- f) is an employee or member of the statutory or supervisory body of a legal person which is a debtor or creditor of the bank placed under forced administration,
- g) is a member of the statutory or supervisory body of another bank, or an executive officer, or his or her deputy, of another branch office of a foreign bank;
- h) at any time in the past year, provided the bank placed under forced administration with audit services, without expressing qualified opinion about the bank's activities.

(5) An administrator, where it is a legal person, may only be a legal person established for a joint conduct of counselling-at-law or who is an audit company according to a separate regulation<sup>49a</sup>, provided that this legal person has unlimited insurance against liability for damage caused in connection with its activities when performing forced administration and acting in the capacity of an administrator and provided that partners of this legal person, the statutory body, members of the statutory body, members of the supervisory body of this legal person or employees of this legal person do not include even one person who according to paragraph 4 may not be an administrator. Where the administrator is a legal person, no deputy administrator shall be appointed, no professional advisors shall be hired, and such a legal person shall only be allowed to conduct forced administration through persons who meet the conditions of paragraph 4 and are not excluded hereunder.

(6) An administrator shall be authorised to manage the bank and its employees. The powers of the administrator are defined by this Act, special regulations<sup>49b</sup> and a contract to perform the function of administrator concluded in accordance with Article 57, paragraph 1, to which a separate

regulation shall not apply.<sup>27</sup> Acting in the capacity of an administrator, who is a natural person, shall be considered as a public office, for the performance of which days off shall be provided according to a separate regulation. The administrator shall be bound by limitations specified in a decision of the National Bank of Slovakia on the introduction of forced administration or the contract to perform the function of an administrator.

(7) A deputy administrator shall be responsible for the sphere of activity of a bank entrusted to him or her by the administrator and shall report to the administrator when performing forced administration. The powers of a deputy administrator are defined in a contract to perform the function of a deputy administrator concluded with the National Bank of Slovakia in accordance with Article 57, paragraph 1, to which a separate regulation shall not apply.<sup>27</sup> Acting in the capacity of a deputy administrator shall be considered as a public office, for the performance of which days off shall be provided according to a separate regulation. Subject to prior written approval from the National Bank of Slovakia, the administrator may empower in writing one of his deputies to perform acts in his name, on the basis of a written power of attorney with a signature verified pursuant to separate regulations;<sup>50</sup> such prior approval may be expressed directly in the contract to perform the function of an administrator.

(8) In conducting forced administration within the territory of another Member State, an administrator and deputy administrator must proceed in accordance with laws and other generally applicable regulations of the Member State within the territory of which they operate, especially when realising the assets and providing information to employees.

(9) A person performing a foreign reorganisation measure introduced in a Member State and his deputy shall have, when performing this foreign reorganisation measure, the same legal status and shall be authorised to perform all the powers within the territory of the Slovak Republic as if conducting forced administration within 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 laws and other generally applicable regulations of the Slovak Republic, especially when realising the assets and providing information to employees.

(10) When performing forced administration, subject to prior written approval of the National Bank of Slovakia, an administrator shall be entitled, with a view to accelerating the solution of serious problems of the bank, to hire professional advisors; such prior approval may be expressed directly in the contract to perform the function of administrator. A professional advisor must be a competent professional. The professional advisor may not be a person who according to paragraph 4 may not be an administrator.

(11) The office of the administrator and deputy administrators shall terminate on the date when forced administration terminates, on the lapse of period for which they were appointed, or on the day of their dismissal from the office. The National Bank of Slovakia shall dismiss an administrator and deputy administrators, if in connection with forced administration they violate this Act or other generally binding regulations, or if the reasons for their dismissal as determined in the contract to perform the function of forced administrator or deputy administrator are met.

## **Article 55**

(1) Upon introduction of forced administration, the execution of functions shall be

suspended for all bodies of the bank and officers of the bank and the duties of the board of directors and the supervisory board are transferred to the administrator; at the same time, the rights of shareholders are suspended to the extent specified in Article 52, paragraph 1, except for the right to participate and vote at a general meeting convened by the administrator pursuant to paragraph 2. During this time, the term of office of members of the statutory body and the supervisory board does not elapse. This does not preclude the right of the board of directors to appeal against the decision to impose forced administration. The provisions of a separate regulation<sup>1</sup> do not apply to the administrator while he is performing the duties of the board of directors and the supervisory board.

(2) An administrator has the right to convene a general meeting of the bank, direct its proceedings, and bring proposals. A general meeting may adopt decisions only after prior approval by the National Bank of Slovakia.

(3) An administrator has the right to take measures needed to restore the stability and liquidity of the bank, in particular to dispose of its accounts receivable and other assets, including the sale of branch office or another organisational unit of the bank as part of the bank's business or the bank's entire business for an appropriate price, close down branch office or another organisational unit of the bank, or to discontinue their operations; the foregoing is without prejudice to the provisions of Article 28, paragraph 1. No approval of a general meeting is required for these steps.

(4) An administrator is obligated, not later than within 30 days of introducing forced administration, to submit to the National Bank of Slovakia a recovery program for the bank placed under forced administration, or propose another solution to the situation of the bank.

(5) When the situation of the bank requires, an administrator may, after prior approval from the National Bank of Slovakia, partly or completely suspend the right of depositors to dispose of their deposits in the bank, however, not for longer than 30 days.

(6) An administrator may, with the prior approval of the National Bank of Slovakia, file a motion for bankruptcy proceedings<sup>52</sup> if a bank is insolvent<sup>24aa</sup>.

(7) An administrator may file a motion for the withdrawal of the banking licence if he/she finds facts stated in Article 63.

(8) An administrator may submit a proposal to the National Bank of Slovakia to revoke a banking licence if he finds any of the facts specified in Article 63.

## **Article 56**

(1) Administrators, deputy administrators, and invited professional advisors are obligated to perform their duties with due professional care and are liable for damage caused by their activity. Administrator and deputy administrator have the duty to report to the National Bank of Slovakia regularly about steps they have taken during forced administration.

(2) Administrators, deputy administrators, and invited professional advisors may not misuse

information they acquire while performing forced administration in their favour or in favour of other persons, and may not dispose of assets of a bank in their favour or in favour of close persons.<sup>30</sup>

(3) Administrators, deputy administrators, and invited professional advisors must keep confidential all facts associated with performing forced administration from all persons, except the National Bank of Slovakia in association with its functions pursuant to this Act or a separate regulation;<sup>8</sup> they have this duty of confidentiality also when they end their function associated with performing forced administration. The foregoing is without prejudice to the provisions of Article 91, paragraphs 2 to 7, Article 92, paragraphs 1 to 6, and Article 93.

### **Article 57**

(1) The National Bank of Slovakia shall conclude a contract with an administrator to perform the function of an administrator, which shall specify in detail his rights and duties, and define his liability for damages caused in conjunction with performing his function. The National Bank of Slovakia shall conclude a contract with a deputy administrator to perform the function of a deputy administrator, which shall specify in detail his rights and duties, and define his liability for damage caused in association with performing his function.

(2) An administrator shall invite professional advisors pursuant to Article 54, paragraph 10, on a contractual basis and according to terms approved by the National Bank of Slovakia.

(3) The remuneration due to the administrator and deputy administrator for their office shall be set by the National Bank of Slovakia.

(4) Expenses associated with performing forced administration, including remuneration of an administrator, deputy administrators, and professional advisors shall be covered by the bank placed under forced administration.

### **Article 58**

(1) Members of the statutory body, members of the supervisory board, bank officers<sup>22</sup> and the head of the internal control and internal audit department are obligated, at the request of an administrator, to co-operate with the administrator, in particular to provide him with all documents and other documentation requested by the administrator in association with the performance of forced administration.

(2) An administrator has the right to immediately terminate employment contracts, give a dismissal notice, or transfer to another position<sup>27</sup> bank officers<sup>22</sup>, or the head of the internal control and internal audit department.

(3) As a result of introduced forced administration, members of the statutory body and the supervisory board may not receive any severance pay or any benefits upon termination of their membership in these bank bodies provided for in contracts between the bank and statutory board members or supervisory board members, or according to the bank's internal regulations.

## Article 59

(1) The effects of the introduction of forced administration in a bank having its branch office located on another Member State, if concerned are

- a) labour contracts and labour legal relations, shall be governed by the system of law of the Member State governing the labour contract,
- b) purchase contracts and lease contracts relating to real property, shall be governed by the system of law of the Member State, within the territory of which the real property is located,
- c) any titles relating to the 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 system of law of the Member State, within the territory of which the respective public register is kept; this shall equally apply to legal acts carried out upon the introduction of forced administration, relating to the real property, a ship or an airplane and to the titles associated with it that are required to be entered in the public register or another similar records kept in the Member State,
- d) ownership or other rights to investment instruments<sup>37a</sup> which must be entered in a public register of securities or another similar records and which are held or are located in a Member State, shall be governed by the system of law of the Member State, within the territory of which the respective public register or other similar records are kept; this shall equally apply to legal acts carried out upon the introduction of forced administration, relating to the investment instruments and the rights associated with it that are required to be entered in the public register or another similar records kept in the Member State,
- e) contracts on settlement or other similar agreements, the purpose of which is to compensate or alter the overall difference between several mutual claims and obligations of contracting parties to one only summary mutual claim and obligation of these contracting parties, contracts on purchase and repurchase and contracts on stock exchange transactions, shall be governed by the system of law ruling these contracts.

(2) For a period of six months from the introduction of forced administration, no assignment of claims against a bank or claim setoffs between the bank placed under forced administration and other persons shall be permitted except for cases where the system of law of another Member State in which the creditor has residence or registered office allows for the assignment of a claim and claim setoffs even during the introduction of an reorganisation measure. This is without prejudice to the final settlement of gains and losses under a contract on final settlement of gains and losses, provided that such contract meets the requirements of a separate regulation;<sup>52a)</sup> within compulsory administration, this final settlement of gains and losses shall be governed exclusively by that legal system of a Member State under which the contract on final settlement of gains and losses is governed.

(3) An administrator may challenge a legal act<sup>53</sup> carried out in the past three years prior to the introduction of forced administration with the intention to harm the bank or its creditors, if such intention must have been known to the bank; this does not apply if the counter party can document that even despite due care it could not have been aware of the intention of the bank to harm the bank's creditor.

(4) An administrator may also challenge a legal act<sup>53</sup> inflicting damage on the bank which occurred within three years prior to the introduction of forced administration between the bank and a person with a special relationship to the bank.

(5) The introduction of forced administration or of a foreign reorganisation measure in a Member State shall not influence the real rights of creditors or third persons in relation to the assets belonging to the bank or foreign bank, which at the time of introducing the forced administration or the foreign reorganisation measure are located within the territory of another Member State.

(6) The introduction of forced administration in a bank purchasing an asset or of a foreign reorganisation measure in a foreign bank purchasing an asset shall not influence the entitlement of the seller to maintain the ownership, if, at the time of introducing the forced administration or the foreign reorganisation measure in the Member State, this asset has been located within the territory of another Member State.

(7) The introduction of forced administration in a bank selling an asset or of a foreign reorganisation measure in a foreign bank selling an asset shall not constitute the 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 of introducing the forced administration or the foreign reorganisation measure in the Member State, the asset under sale has been located within the territory of another Member State.

(8) The introduction of forced administration 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 detrimental to creditors, a motion to determine the right of withdrawing 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 under forced administration or creditors of a foreign bank in which a foreign reorganisation measure has been introduced. If before the introduction of forced administration court proceedings have been commenced in a Member State concerning an asset or the right withdrawn from a bank, such proceedings shall be governed, even after the introduction of forced administration, by the system of law of a Member State in which the proceedings has been commenced and conducted.

## **Article 60**

(1) Introduction of forced administration, information on the administrator and his deputy, and the end of forced administration and associated changes shall be recorded into the Business Register.<sup>1</sup> A proposal to record the introduction of forced administration shall be submitted by the National Bank of Slovakia; provisions of a separate regulation<sup>54</sup> shall not apply to submitting such a proposal.

(2) The following information on the administrator and his deputy shall be recorded in the Business Register: name, surname, permanent residence, and birth register number.

(3) An administrator may propose that the forced administration be entered in the Business Register or a similar public register kept in another Member State within the territory of which a branch of the bank placed under forced administration is located, provided that such entry is allowed by the system of law of the respective 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 office placed within the territory of the Slovak Republic, its termination and changes related thereto shall be entered in the Business Register. A motion for entry shall be filed by a banking supervisory authority of the Member State or a person conducting the foreign reorganisation measure. Also the first name, surname and the address of stay of the person conducting the foreign reorganisation measure shall be entered in the Business Register.

### **Article 61**

(1) During forced administration, the National Bank of Slovakia 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 according to paragraph 1 shall have priority over the bank's other liabilities, except for such other liabilities that have priority in the satisfaction of claims pursuant to special regulations.<sup>55</sup>

### **Article 62**

(1) Forced administration shall end:

- a) upon delivery of a decision by the National Bank of Slovakia to end forced administration, when reasons for its continuation cease,
- b) when the bankruptcy of the bank is declared,
- c) upon expiry of 12 months from the introduction of forced administration,
- d) by revocation or expiry of the banking licence.

(2) The end of forced administration pursuant to paragraph 1 shall be promulgated without delay by the National Bank of Slovakia in at least one nation-wide daily and on publicly accessible premises of the bank placed under forced administration and in all its commercial offices. Persons asked by the National Bank of Slovakia to promulgate this announcement have the duty to do so.

(3) A bank is obligated to convene an extraordinary general meeting without delay after forced administration ends, so that it is held within 30 days of the end of forced administration. The bank shall be obligated to include in the agenda of the extraordinary general meeting the dismissal of the present and the election of new members of the statutory body and the supervisory board; new members of the statutory body and the supervisory board must comply with the criteria stipulated in Article 7, paragraph 2, letter e).

### **Article 63**

(1) The National Bank of Slovakia shall have the duty to revoke a banking licence if:

- a) a bank's capital falls below the registered capital limit pursuant to Article 7, paragraph 2, letter a),
- b) a bank meets less than 25% of its capital requirements;

- c) a bank or branch office of a foreign bank does not start providing services pursuant to Article 2, paragraph 1, letters a) and b), permitted in its banking licence within 12 months after the licence comes into force, or at any time ceases to provide these services for a period of 12 months ,
- d) a bank or branch office of a foreign bank acquired its banking licence on the basis of any misstatement in its licence application,
- e) a bank or branch office of a foreign bank is unable, for a period of at least 30 days, to pay its due liabilities, or has been declared unable to repay deposits pursuant to a separate regulation,<sup>32</sup>
- f) if branch office of a foreign bank, the foreign bank concerned lost in its home country the licence to provide banking services.

(2) The National Bank of Slovakia may revoke a banking licence if serious shortcomings occur in the operation of a bank or branch office of a foreign bank, and in case of failure to observe the requirements for business activities of banks and branch offices of foreign banks, if:

- a) a bank suffers loss exceeding 50 percent of its registered capital in single year, or 10 percent per year in three consecutive years,
- b) a bank, branch office 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 the branch office of a foreign bank without prior approval of the National Bank of Slovakia or without a decision made pursuant to a separate regulation<sup>56</sup>,
- c) a bank or branch office of a foreign bank fails to meet the obligations specified in a separate regulation<sup>57</sup>,
- d) a bank or branch office of a foreign bank fails to meet the terms concerning the commencement of its activities in a time limit specified in its banking licence,
- e) a bank fails to comply with the terms of Article 7, paragraph 2, or branch office of a foreign bank fails to comply with the terms of Article 8, paragraph 2,
- f) a bank or branch office of a foreign bank has changed its registered office without prior approval of the National Bank of Slovakia.

## **Article 64**

(1) A banking licence shall expire:

- a) for a bank, on the date of its dissolution for reasons other than the revocation of its banking licence,
- b) for a bank, on the date of declaration of its bankruptcy in accordance with a separate regulation<sup>58</sup>,
- c) for branch office of a foreign bank, 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 licence,
- d) for a bank or branch office of a foreign bank, on the date it returns its banking licence; a licence may only be returned in writing with prior approval as stipulated in Article 28, paragraph 1, letter b),
- e) if a bank or branch office of a foreign bank failed to file for entry in the Business Register pursuant to Article 9, paragraph 6,
- f) on the date a bank or branch office of a foreign bank is sold<sup>28</sup>,
- g) for branch office of a foreign bank, on the date its operation is discontinued by the foreign bank,



h) for a bank or branch office of a foreign bank, for those banking activities for which a special licence pursuant to Article 2, paragraph 4, has expired.

(2) A bank, foreign bank or branch office of a foreign bank is obligated to notify the National Bank of Slovakia in writing of any facts mentioned in paragraph 1, letters a), b), c), d), e), and g), within 30 days of their occurrence.

## **Article 65**

(1) Following the delivery of a decision to withdraw a banking licence or expiry of a banking licence, the National Bank of Slovakia shall forthwith discontinue, for the legal person whose licence was withdrawn or expired, the execution of payments and settlements, and its clearing conducted pursuant to Article 2, paragraph 13.

(2) From the moment of delivery of a decision to withdraw a licence or from the day on which the licence expires, the legal person mentioned in paragraph 1 may not accept deposits or extend loans, or 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) The legal person whose licence was withdrawn or expired shall carry out activities pursuant to paragraph 2 as a bank or branch office of a foreign bank pursuant to 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 decision comes into force, the National bank of Slovakia shall send the decision on the withdrawal of the banking licence for publication in the Commercial Bulletin.<sup>24c</sup>

(5) A valid decision on the withdrawal of a banking licence of a foreign bank to conduct banking operations through branch office shall be notified by the National Bank of Slovakia to the banking supervisory authority in the country where the foreign bank has its registered office. If a decision is issued to revoke a banking licence of a legal person that has branch office abroad, the National Bank of Slovakia shall notify this fact to the banking supervisory authority in the country where the legal person has its branch.

(6) The revocation of a banking licence shall be recorded in the Business Register.<sup>1</sup> Within 15 days from the effective date of the decision to revoke a licence, the National Bank of Slovakia shall send a proposal to register this fact to the court keeping the Business Register; provisions of a separate regulation<sup>54</sup> shall not apply to the submission of such proposal.

(7) Without delay after the effective date of a decision to revoke a licence, the National Bank of Slovakia shall file a proposal to the court keeping the Business Register to dissolve and liquidate the bank and to appoint a liquidator. Before making its decision on the dissolution, the court may not apply the procedure according to a separate regulation<sup>60</sup>.

(8) The National Bank of Slovakia will discontinue the proceedings to revoke a banking licence on the basis of a decision to declare bankruptcy pursuant to a separate regulation.<sup>58</sup>



## **PART ELEVEN LIQUIDATION OF A BANK**

### **Article 66**

(1) When a bank is wound up by liquidation, only the National Bank of Slovakia may file a proposal to appoint and dismiss a liquidator. A separate regulation<sup>54</sup> shall not apply to the filing of such proposal.

(2) A liquidator may not be a person who has or has had a special relationship to the bank, who is or has been, in the past five years, an auditor of the bank, or has been engaged in its audit in any way, without expressing a qualified opinion on the bank's operation.

(3) The National Bank of Slovakia shall set the liquidator's remuneration, taking into account the extent of his activity, and it shall also set the due date for such remuneration.

(4) Persons involved in the liquidation of a legal person whose banking licence has been withdrawn or expired shall be obligated to maintain secrecy about all the facts associated with the conduct of liquidation vis-à-vis all persons except for the National Bank of Slovakia in association with performance by it of its tasks pursuant to this Act or pursuant to 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 be obligated to submit to the National Bank of Slovakia forthwith accounting statements and documents processed in the course of liquidation in accordance with a separate regulation<sup>1</sup> and other supporting documentation requested by the National Bank of Slovakia in order to review the liquidator's activity and the progress of liquidation.

(6) A liquidator shall be obligated to 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. He only may perform these activities with the approval of the National Bank of Slovakia. Articles 94 to 114 or generally applicable regulations on administrative proceedings shall not apply to the grant of such approval.<sup>83</sup>

(7) A liquidator shall publish the pronouncement of a decision on the liquidation of a legal person whose licence has been withdrawn or expired in the Official Journal of the European Union and at least two nation-wide dailies in each Member State where a branch office of this legal person is located, namely in the Slovak language and the official language of the respective Member State.

(8) The provisions of paragraphs 1 to 7 shall likewise apply to the liquidation of a branch office of a foreign bank having its registered office outside the European Union.

(9) The provisions of Article 54, paragraph 2 and Article 59, paragraphs 1, 2 and 5 to 8 shall equally apply to the liquidation of a legal person whose banking licence has been withdrawn or ceased, including its branch office located within the territory of another Member State, to the liquidation of a branch office of a foreign bank having its registered office outside the European Union, as well as to the liquidator's procedure.

## **PART TWELVE MORTGAGE BANKING**

### **Article 67**

(1) For the purposes of this Act, a 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 Slovak crowns or in a foreign currency.

(3) In case of their execution in a foreign currency, the exchange rate risk shall be born by the bank or branch office of a foreign bank conducting mortgage transactions (hereinafter referred to as "mortgage bank"). A mortgage bank has the duty to adopt measures to prevent exchange rate risks arising from 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 the right of lien established upon a domestic real estate, including an uncompleted construction, which is at least to the amount of 90 percent financed by the issue and sale of mortgage bonds by a mortgage bank pursuant to a separate regulation<sup>61</sup>, which a mortgage bank provides for the following purposes:

- a) acquisition of domestic real estate or any part thereof,
- b) construction or modification of existing structures<sup>63</sup>,
- c) maintenance of domestic real estate, or
- d) repayment of an outstanding loan drawn for purposes specified in letters a) to c), which is a mortgage loan provided by a mortgage bank in bankruptcy.
- e) repayment of an outstanding loan drawn for purposes mentioned in letters a) to c) other than a mortgage loan.

### **Article 69**

A municipal loan is a loan with a maturity of at least four years and a maximum of thirty years, secured by the right of lien established upon real estate owned by a municipality or a regional authority, financed at least by 90% by the issue and sale of municipal bonds according to a separate regulation<sup>62</sup>, which banks provide for the acquisition of domestic real estate, construction or modification of existing structures<sup>63</sup>, maintenance of domestic real estate and other buildings with the objective of their use for public service purposes.

### **Article 70**

A mortgage bank may deposit its temporarily unemployed funds raised in mortgage transactions in a bank or branch office of a foreign bank. 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) bank bills issued by the National Bank of Slovakia,
- d) government bonds<sup>64</sup>,
- e) treasury bills.

### **Article 71**

The issues and the particulars of mortgage bonds and municipal bonds shall be governed by a separate regulation<sup>13</sup>. The National Bank of Slovakia may stipulate for a mortgage bank in its licence to perform mortgage transactions special conditions for financing of mortgage and municipal loans for a maximum period of two years after such licence was granted.

### **Article 72**

(1) Mortgage bonds and municipal bonds issued may only be duly secured by mortgage bank's claims from mortgage and municipal loans which are secured by a pledge on real estate in accordance with Article 74 and which do not exceed 70 percent of the value of pledged real estate valued in accordance with Article 73.

(2) Mortgage and municipal loans going beyond the limit stipulated in paragraph 1 may only be granted on condition that the total amount of claims of a mortgage bank overrunning the limit does not exceed 10 percent of the total amount of outstanding mortgage and municipal loans.

(3) Assets used to secure the principal of issued mortgage bonds and municipal bonds, including the right of lien to real estate pursuant to Article 74, may not be pledged by the mortgage bank or otherwise used to guarantee its liabilities.

### **Article 73**

(1) For the purposes of this Act, the value of real estate shall be determined by a mortgage bank on the basis of an overall assessment of the real estate concerned. In determining the value, the mortgage bank may only take into account permanent features of the real estate and benefits that can be derived by the owner from the real estate in the long run. For real estate burdened by a lien or transfer restrictions in accordance with Article 74, paragraph 2, a mortgage bank shall lower the value of the real estate by the amount of claims guaranteed by such lien or transfer restrictions.

(2) A mortgage bank shall only be bound by its own valuation of real estate.

### **Article 74**

(1) The right of lien securing claims of a mortgage bank under mortgage or municipal loans shall arise upon its entry in the real estate register of the Slovak Republic pursuant to a separate regulation<sup>65</sup> on the basis of a proposal of the mortgage bank and the owner of the real estate. The mortgage bank shall have the status of a mortgagee.

(2) A mortgage loan or a municipal loan may not be secured by a lien on real estate on which other lien has already been established and is still outstanding, or which is subject to a real estate transfer restriction, except for liens and transfer restrictions established in accordance with a separate regulation<sup>66</sup>, liens established in favour of the same mortgage bank in order to secure another mortgage or municipal loan it has provided, liens established in favour of a building savings bank or the State Housing Development Fund, and liens established in order to secure the fulfilment of claims resulting from transfers of residential or non-residential premises for a regulated price pursuant to a separate regulation<sup>66a</sup>. Until the expiration of such a lien, a mortgage bank may not agree according to a separate regulation<sup>66aa</sup> or allow for the entry of the right of lien, which has already been entered in the real estate register in the first order, in any other order decisive in terms of satisfaction of the rights of lien, except for the rights of lien specified in the first sentence which are to secure the claims of the mortgage bank from a mortgage loan or a municipal loan.

(3) Real estate shall not be deemed encumbered by a lien or transfer restriction where a claim charged with another lien or a transfer restriction expires as a result of the extended mortgage loan or municipal loan used to settle this claim, and where the lien on real estate or transfer restriction expires. For the purposes of this Act, real estate shall also not be deemed encumbered by a lien where a mortgage bank, for at least a period from the first day of providing even a part of funds under a mortgage or municipal loan through to the expiration of the right of lien used to secure the mortgage bank's claims from mortgage or municipal loans, agrees according to a separate regulation<sup>66aa</sup> the first order decisive in terms of satisfaction of the rights of lien for this particular right of lien, except for the rights of lien specified in the first sentence of paragraph 2, and secures this order by way of its entry in the real estate register.

(4) A lien on real estate established to secure claims under a mortgage loan or municipal loan shall expire upon repayment of the loan and accessories. A mortgage bank shall announce the expiry of the lien on real estate to the relevant state administration authority in charge of the real estate register.<sup>65</sup>

(5) In exercising its right of lien, a mortgage bank may sell real estate pledged as security by distraint in accordance with 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 debtor, and the mortgagor, where not identical with the debtor, if the parties agree on a distraint in accordance with 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, a legal cause, objects and time limits for the completion.

## **Article 75**

(1) A mortgage bank shall provide mortgage and municipal loans according to general terms and conditions it issues for granting mortgage and municipal loans that must in particular contain:

- a) the due form of application for a mortgage or municipal loan,
- b) a procedure for applying for a mortgage and municipal loan,
- c) the terms and conditions for granting mortgage and municipal loans, 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 the definition of costs to be claimed from the client and associated with the mortgage loan or the municipal loan and the conclusion of such an agreement,

- d) the manner in which a mortgage or municipal loan agreement may be terminated,
- e) a procedure to be followed by a mortgage bank in the event a debtor defaults on repayment of a mortgage or municipal loan or its accessories,
- f) changes in a mortgagor's situation, which shall entitle a mortgage bank to demand early repayment of a mortgage loan or municipal loan,
- g) the conditions for exercising liens on real estate established to secure mortgage or municipal loans.

(2) A mortgage bank may not demand early repayment of its claims under mortgage or municipal loans for reasons on part 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 is obligated to make available within its operating premises according to Article 37, paragraph 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 percent amount of the bonus pursuant to Article 84, paragraph 1 and Article 85a, paragraph 1 set for individual calendar years. The mortgage bank shall be obligated to provide the client with additional information at his request.

(4) A mortgage loan agreement or a municipal loan agreement must be in writing and it must contain:

- a) the identification data of a mortgage bank and the client on at least the following scope:
  - 1. the first name, surname, birth register number, if such has been assigned, the date of birth and the address of permanent residence, where concerned is a natural person,
  - 2. the name, identification number, if such has been assigned, and the address of registered office and place of business, where concerned is a legal person,
- b) the amount of a mortgage loan or a municipal loan granted and its maturity, the rules for principal and interest payments on the granted mortgage or municipal loan, the level of per annum percent interest rate on the granted mortgage or municipal loan and a detailed specification of other costs to be claimed from the client that are associated with the mortgage or municipal loan and the conclusion on an agreement on such a loan,
- c) the precise designation of domestic real estate on which a mortgage loan or a municipal loan is granted; the precise designation of such domestic real estate in supplement to a mortgage loan agreement or a municipal loan agreement concluded no later than before even a part of funds is provided under the mortgage or municipal loan shall be deemed as meeting this condition,
- d) the conditions dependent on objective circumstances, on the occurrence of which the level of per annum percent interest rate or other costs to be claimed from the client may be adjusted,
- e) a detailed specification of the type, method and extent of securing the mortgage bank's claims under a mortgage loan agreement or a municipal loan agreement,
- f) other terms and conditions for granting and repayment of a mortgage loan or a municipal loan required according to the mortgage bank's general terms and conditions for granting mortgage and municipal loans,
- g) the conditions for accelerated repayment, if any, of a mortgage loan or a municipal loan at the client's initiative.

(5) A mortgage loan agreement or a municipal loan agreement may also contain other requisites agreed between a mortgage bank and the client.

(6) A mortgage bank may not claim from the client the payment of interest, charges and other costs that are not determined in a mortgage loan agreement or a municipal loan agreement.

#### **Article 76**

(1) A list of mortgage and municipal loans and their amounts, liens and claims of a mortgage bank under mortgage and municipal loans that serve to back mortgage and municipal bonds, or other assets serving as substitute coverage, must be kept separately by a mortgage bank in its register of mortgages.

(2) The register of mortgages and the documents on the basis of which the 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, a mortgage bank shall be obligated to notify the National Bank of Slovakia and the Ministry of all entries made in the register of mortgages in the last six months.

(4) The due form and method for keeping the register of mortgages pursuant to paragraph 2 and the due form of information disclosed pursuant to paragraph 3 shall be determined in detail by the National Bank of Slovakia and the Ministry by means of a generally applicable regulation.

#### **Article 77**

A mortgage bank shall be obligated to maintain separate analytical records of mortgage transactions in its accounting system.

#### **Article 78**

(1) The National Bank of Slovakia shall appoint a mortgage controller to each mortgage bank to supervise the conduct of mortgage transactions in accordance with this Act and a separate regulation.<sup>13</sup> In the same manner, it shall appoint a deputy for each mortgage controller who shall represent the mortgage controller in his absence in the full extent of all his rights and obligations.

(2) The National Bank of Slovakia shall discuss the appointment of a mortgage controller and his deputy beforehand with the mortgage bank concerned.

(3) A mortgage controller and his deputy shall be dismissed by the National Bank of Slovakia.

(4) A mortgage controller or his deputy may only be a natural person who has the necessary professional competence and integrity to carry out 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 he has not been lawfully sentenced for a criminal offence committed in the discharge of a



management office or any intentional criminal offence.

### **Article 79**

(1) A mortgage controller shall perform his duties on his own, independently and impartially. In carrying out his activity, he shall only be bound by generally binding regulations, a contract to perform the function of a mortgage controller and decisions issued in the course of supervision or oversight pursuant to a separate regulation<sup>13</sup> over the operation of a mortgage controller.

(2) Any disputes between a mortgage controller and a mortgage bank shall be settled by the National Bank of Slovakia where the matter relates to supervision, or a supervisory authority pursuant to a separate regulation<sup>15</sup> in case of matters falling into the jurisdiction of such supervisory authority pursuant to a separate regulation.<sup>15</sup>

### **Article 80**

(1) A mortgage controller shall supervise the issuance of mortgage bonds and municipal bonds with regard to their particulars and coverage pursuant to a separate regulation.<sup>13</sup>

(2) Prior to each issue of mortgage bonds or municipal bonds, a mortgage controller shall be obligated to issue a written certificate testifying that they are covered in accordance with a separate regulation,<sup>68</sup> and that an entry was made in the register of mortgages.

(3) A mortgage controller shall check whether a mortgage bank provides mortgage and municipal loans, including their securing through mortgage and whether a mortgage bank meets its obligations in respect of the mortgage register in accordance with this Act and other generally binding regulations.

(4) If requested by a mortgage bank, a mortgage controller shall be obligated to assist in activities related to the performance of mortgage operations, which could not be completed by the mortgage bank without his assistance.

### **Article 81**

(1) If a mortgage controller detects any shortcomings pursuant to Article 80, he shall be obligated to immediately notify his findings in writing to the National Bank of Slovakia, and in case of shortcomings described in Article 80, paragraph 1, also to a supervisory authority pursuant to a separate regulation.<sup>15</sup> Article 93 of this Act shall not apply to the disclosure of information according to this paragraph.

(2) In performing his duties, a mortgage controller shall act in his own name and for the account of the mortgage bank.

(3) A mortgage bank has the duty to enable the mortgage controller to perform his duties, in particular it shall be obligated to allow him to inspect accounting records, the register of mortgages,

and other documents related to mortgage transactions.

(4) The amount of remuneration of a mortgage controller and his deputy shall be determined by the National Bank of Slovakia 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 function of mortgage controller detailing the rights and duties of the mortgage bank and the mortgage controller. A mortgage bank shall conclude with a deputy mortgage controller a contract to perform the function of deputy mortgage controller detailing the rights and duties of the mortgage bank and the deputy mortgage controller.

## **Article 82**

(1) The activity of a mortgage controller and his deputy shall be subject to supervision exercised by the National Bank of Slovakia and supervision performed by a supervisory authority pursuant to a separate regulation.<sup>15</sup>

(2) If, in the course of supervision, the National Bank of Slovakia detects shortcomings in the activity of a mortgage controller or his deputy, other than shortcomings described in Article 80, paragraph 1, it may fine him up to SKK 100,000.

(3) If, in the course of supervision performed according to separate regulations,<sup>69</sup> a supervisory authority<sup>15</sup> detects shortcomings in the activity of a mortgage controller or his deputy described in Article 80, paragraph 1, it shall proceed in accordance with a separate regulation.<sup>70</sup>

## **Article 83**

The National Bank of Slovakia and the Ministry shall stipulate the details of the position and activity of a mortgage controller and his deputy by a generally applicable legal regulation.

## **Article 84**

(1) A borrower under a mortgage loan agreement (Article 75, paragraph 4), for purposes set out in Article 68, letters a) to d), (hereinafter referred to as "mortgagor"), who is a natural person, shall be entitled to a bonus from the state budget of the Slovak Republic according to terms conditions set out in this Act (hereinafter referred to as "government bonus").

(2) The government bonus means a percentage by which the rate of interest fixed in a mortgage loan agreement is reduced. The government bonus shall be determined for individual calendar years by the respective State Budget Act and shall apply to all mortgage loan agreements in the relevant year; without prejudice to Article 122a.

(3) For the purposes of calculation of the government bonus on a mortgage loan provided in a foreign currency, the amount of mortgage loan shall be converted to Slovak crowns using the exchange rate announced by the National Bank of Slovakia<sup>31</sup> as of the date when the mortgage loan

agreement was concluded.

(4) A government bonus may be granted for a mortgage loan of up to SKK 2,500,000 per residential real estate, also in case of a married couple and the acquisition of such real estate into shared ownership. For the purposes hereof, residential real estate means apartment buildings as defined in a separate regulation.<sup>71</sup>

(5) A mortgage loan on which a government bonus is granted shall typically be repaid in regular monthly instalments. If instalments of a mortgage loan are agreed-upon otherwise, the sum of government bonuses on this mortgage loan may not exceed the sum that would have been provided as a government bonus in the instance of regular monthly instalments.

## Article 85

(1) A claim to a government bonus from the state budget of the Slovak Republic shall be exercised by a mortgagor via a mortgage bank on the basis of an application submitted to the mortgage bank.

(2) A government bonus shall be granted to a mortgagor on an annual basis throughout the loan maturity period fixed in a mortgage loan agreement, but only under one mortgage loan agreement. Any amendment to a mortgage loan agreement which results in an increase in the mortgage loan amount up to the limit fixed in Article 84, paragraph 4, is deemed to be the same mortgage loan agreement.

(3) If the mortgagor concludes more than one mortgage loan agreement, the government bonus shall be provided on the agreement to which a written statement to that effect is attached; if such statement is contained in several mortgage loan agreements concluded in the same year, the mortgagor shall lose his claim for a government bonus under all agreements for that year for a period of the next 12 calendar months, starting on the first day of the calendar month following the receipt of the written information from the Ministry or an entity appointed by it concerning the existence of several agreements on which a claim for a government bonus has been exercised. For a married couple or co-owners the claim in this case expires for both spouses or all co-owners.

- (4) The claim to a government bonus 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. fails to use the loan for the intended purpose,
    - 2. transfers an obligation 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 its granting.

(5) When shared ownership of a married couple or co-ownership expires or when a mortgagor dies, a claim to government bonus shall pass onto a person to which outstanding obligations from the mortgage loan will pass.

(6) If the borrower of a mortgage loan fails to meet the conditions set out in paragraph 4 letter b) item 3, the borrower shall be obliged to repay, via the mortgage bank, the government bonus provided 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 agreement (Article 75(4)) concluded for the purposes mentioned in Article 68(a) to (c) shall be entitled, under the conditions laid down in this Act, to a young people's subsidy from state budget funds (hereinafter "young people's state subsidy"), 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 mortgagor is a married couple, the age requirement under the first sentence must be met by each spouse.

(2) The young people's state subsidy shall mean a percentage by which the interest rate stipulated in the mortgage agreement is reduced by the state. The young people's state subsidy shall be set each year in the State Budget Act for the respective budgetary year and shall, for the duration of that year, apply to all mortgage agreements concluded under the conditions laid down in paragraphs (1) and (3).

- (3) A young mortgagor shall receive a young people's state subsidy where:
- a) as at the date of the mortgage loan application, the young mortgagor has an average monthly income, calculated over the calendar year preceding the year when the mortgage loan application was made, not exceeding 1.3-fold of the national monthly nominal wage in the Slovak Republic, as established by the Statistical Office of the Slovak Republic for the second but one calendar quarter preceding the calendar quarter in which the application for the mortgage loan was made; if the young mortgagor is a married couple, the average monthly income of each spouse may not exceed 1.3-fold of the national monthly nominal wage in the Slovak Republic, as established by the Statistical Office of the Slovak Republic for the second but one calendar quarter preceding the calendar quarter in which the application for the mortgage loan was made;
  - 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 agreement reduced by an amount equal to the young people's state subsidy under paragraph (2) but not by more than 1%;
    2. may defer repayment of the mortgage loan principal;
    3. may make the 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 purposes of calculating the young people's state subsidy for a mortgage loan provided in foreign currency, the amount of the mortgage loan shall be converted according to the exchange rate published by the National Bank of Slovakia <sup>31)</sup> for the date when the mortgage loan agreement was concluded.

(5) The young people's state subsidy shall be provided for an amount not exceeding

SKK 1.5 million of a mortgage loan provided for a single piece of residential property; this shall also apply in cases of married couples or the acquisition of such property into a tenancy in common.

(6) Where a mortgage loan is provided together with the young people's state subsidy, it shall usually be agreed that the repayments, including interest, will be made in regular monthly instalments. If the mortgage loan repayments are agreed otherwise, the amount provided through the young people's state subsidy for the mortgage loan may not exceed the amount that would be provided through that subsidy were the repayments to be made on a regular monthly basis. The provisions of the first and second sentences are without prejudice to the provision of paragraph 3(b) points 2 and 3.

### **Article 85b**

(1) A young mortgagor who exercises his right to the young people's state subsidy shall do so on the basis of an application submitted to the mortgagee bank.

(2) The young people's state subsidy to a young mortgagor shall be provided on an annual basis for a period of five years from when interest is first charged on the mortgage loan, and only under one mortgage agreement. Any amendment to a mortgage agreement which results in an increase in the mortgage loan up to the amount mentioned in Article 85a(5) shall be deemed the same mortgage loan agreement.

(3) If a young mortgagor concludes more than one mortgage agreement, the young people's state subsidy shall be provided under that agreement to which a written statement to this effect is attached. If such statement is contained in more than one mortgage agreement concluded in the same calendar year, the young mortgagor shall lose his right to the young people's state subsidy under all the mortgage agreements for the period of the next 12 calendar months; this period shall commence on the first day of the calendar month following receipt of written information from the Ministry, or a legal person appointed by it, regarding the existence of more than one mortgage agreement under which the right to the young people's bonus has been claimed. Where such a case involves a married couple or co-owners, the right shall expire for both spouses or all co-owners.

(4) A young mortgagor who has fallen into arrears on his mortgage loan shall not be entitled to the young people's state subsidy for the period that the mortgagee bank, for this reason, classifies the mortgage loan as a claim that it may reasonably expect will not be repaid in the full amount of its nominal value.

(5) The right to the young people's state subsidy shall expire where:

a) the young mortgagor:

1. does not use the mortgage loan for its intended purpose;
2. transfers an obligation under 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 a period of four years from when it was provided;
4. when concluding the mortgage agreement that includes the young people's state

- subsidy, submitted false information about his average monthly income; or
- b) a natural person granted the young people's state subsidy submitted false information about his age when concluding the mortgage agreement including the young people's state subsidy.

(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 he dies, his right to the young people's state subsidy shall pass to whomever assumes his outstanding obligations under the mortgage agreement.

(7) Where a young mortgagor loses his right to the young people's state subsidy under paragraph 5(a) points 3 or 4, he shall, through the mortgagee bank, return without delay the amount of that subsidy which he has already received. Where a natural person loses his right to the young people's state subsidy under paragraph 5(b), he shall, through the mortgagee bank, return without delay the amount of that subsidy which he has already received.

(8) The mortgagee bank shall bear no liability for the truthfulness of the information on the amount of the average monthly income referred to in Article 85a(3)(a).

(9) After five years have passed from when interest was first charged on the mortgage loan, the young mortgagor shall lose his right to the young people's state subsidy and shall at the same time gain the right to a state subsidy.

(10) The provisions of Articles 86 to 88 shall also apply to a mortgage agreement including the young people's state subsidy.

## **Article 86**

(1) The Ministry of Construction and Regional Development of the Slovak Republic shall remit government bonus payments to mortgage banks on a monthly basis.

(2) Requests for a government bonus payment 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 pursuant to paragraph 2 by the 25th day of the month following the delivery of a request by a mortgage bank for a government bonus, to a special account of the mortgage bank opened for this purpose with the National Bank of Slovakia. From this account, the mortgage bank may draw funds for individual mortgagors eligible to government bonuses.

(4) Government bonuses granted to mortgagors for the year in question shall be cleared by a mortgage bank within the time limit set by the Ministry of Construction and Regional Development of the Slovak Republic.

- (5) A mortgage bank is responsible for:
- a) timely exercise of claims to government bonuses from the state budget,

- b) correct calculation of the amount of government bonuses,
- c) return of government bonuses in case of violations of the government bonus terms and conditions.

### **Article 87**

(1) A central register of mortgage loan agreements on which a government bonus is claimed shall be kept by the Ministry or a legal person it Commissions to do so.

(2) Mortgage banks shall be obligated to provide the Ministry or a person Commissioned by it with information on new mortgage loan agreements for the purposes mentioned in paragraph 1. Such information must contain:

- a) the mortgagor's birth certificate number,
- b) the mortgage loan agreement number,
- c) a statement on the exercise of claim to a government bonus,
- d) the amount of a mortgage loan in Slovak crowns,
- e) the amount of monthly instalments,
- f) the mortgage loan maturity date,
- g) the interest rate agreed in the mortgage loan agreement,
- h) the purpose of the mortgage loans granted,
- i) the amount of government bonus in Slovak currency,
- j) the precise designation of real estate 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 for the distribution of government bonuses shall be ensured by the Ministry. The Ministry shall be authorised to request from a mortgage bank any information and documents needed to review compliance with the terms and conditions of government bonuses. The provisions of a separate regulation<sup>72</sup> shall apply as appropriate to such state supervision.

(4) The employees and members of bodies or the person Commissioned pursuant to paragraph 1 and the Ministry shall be obligated to keep confidential all facts connected with the performance of activities pursuant to paragraphs 1 to 3. Such obligation shall continue to apply after the termination of the Commission given to such a person to perform the task mentioned in paragraph 1, or the termination of employment or a similar work relationship or office in the bodies of such person. The foregoing is without prejudice to the provisions of Article 91, paragraphs 2 to 7, Article 92, paragraphs 1 to 6, and Article 93.

(5) If, in performing the state supervision, the Ministry reveals shortcomings in a mortgage bank's operation consisting of a failure to comply with the terms and conditions for granting government bonuses, it shall charge the mortgage bank with an obligation to return to the state budget a sum amounting to the government bonus illegitimately used.

(6) In addition to the measure according to paragraph 5, the Ministry may also impose upon a mortgage bank, depending on the severity of the breach of the obligation and the length of duration of the unlawful condition, a fine up to the double of the illegitimately used amount of a government bonus on a mortgage loan. In the event of a failure to meet the measure in accordance with paragraph 5, such a fine may also be imposed repeatedly, but not more than to a total amount not exceeding the amount according to the first sentence. Such fines shall constitute the revenue to

the state budget.

(7) Proceedings pursuant to paragraphs 5 and 6 shall abide by the provisions of a generally applicable 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 government bonuses at individual mortgage banks in the given calendar month, in order that the funds are remitted in accordance with Article 86, paragraph 3; this information shall be provided no later than the 20th day of the following month. The Ministry shall also provide the Ministry of Construction and Regional Development of the Slovak Republic, in order to facilitate its work in granting government bonuses, with summary data on the purposes for which mortgage loans have been provided on the basis of information from mortgage banks pursuant to Article 76, paragraph 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 government bonuses, the provisions of this Act and a separate law<sup>13)</sup> relating to real estate shall apply equally to residential and non-residential premises.



## **PART THIRTEEN BANK SECRECY**

### **Article 89**

(1) A bank or branch office of a foreign bank shall be obligated to demand proof of identity from their clients in each transaction, except for the transactions specified in paragraph 4; a client shall be obligated to comply with such requests of a bank or branch office of a foreign bank in each transaction. A bank or branch office of a foreign bank shall be obligated to refuse to conduct transactions for clients on an anonymous basis.

(2) For the purposes of paragraph 1, the identity of a client may be demonstrated by a document of identity according to separate legal provisions on identity documents<sup>73)</sup> or by his signature, provided that the client is known in person and the signature is identical beyond any doubt with the client's specimen signature kept at the bank or branch office of a foreign bank and taken after the client had proved his identity by an identity document; in case of transactions concluded through electronic devices, a client shall be identified by his personal identification number or a similar code assigned to the client by a bank or branch office of a foreign bank, and an authentication code agreed by a bank or branch office of a foreign bank with the client, or an electronic signature pursuant to a separate law. In case of a juvenile client who has no identity document, the identity of his legal representative shall be verified and a document is presented which evidently demonstrates that he is authorised to act for and on behalf of the client, as well as the birth register certificate of the juvenile client concerned.

(3) A bank or branch office of a foreign bank shall be obligated in every transaction worth more than EUR 15,000 to determine the ownership of funds a client used for the transaction. For the purposes of this provision, ownership of funds shall be determined by a binding written statement of the client in which the client is obligated to declare whether these funds are his property and whether he is conducting the transaction for his own account; this written statement by the client that he is the owner of the funds may be a part of a written agreement concluded between the bank or branch office of a foreign bank 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 name, surname, birth register number or date of birth, and permanent residence 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 is also obligated to deliver to the bank or branch office of a foreign bank a written approval from the natural person or legal person concerned to use his funds for the conducted transaction and to execute the transaction for his account. The obligation to deliver a written approval according to the preceding sentence shall not apply to the National Bank of Slovakia, a bank, branch office of a foreign bank, the stock exchange, the commodity exchange, the central depository of securities, a securities dealer, branch office of a foreign securities dealer, an investment services intermediary, an insurance company, branch office of a foreign insurance company, reinsurance company, a branch office of a foreign reinsurance company, an asset management company or branch office of a foreign asset management company, if in a binding written statement delivered in accordance with this paragraph they state that they conduct transactions exclusively for their own account or for the account of their clients pursuant to a separate law<sup>6</sup> and that in conducting the transactions they exclusively use their own funds or their clients' funds which have been entrusted to them and which they manage on behalf of their clients pursuant to a separate law<sup>6</sup>; this shall equally apply to a pension management company or a

complementary pension company if they are obliged persons pursuant to a separate regulation.<sup>74</sup> Neither shall the obligation to deliver a written approval pursuant to this paragraph apply to a foreign bank based in a Member State, a foreign electronic money institution based in a Member State, nor to a foreign financial institution based in a Member State. If the client fails to meet the requirements laid down in this paragraph, the bank or branch office of a foreign bank shall decline to execute the requested transaction.

(4) If a customer in the following cases uses an amount not exceeding EUR 2,000, a bank or branch of a foreign bank shall not, unless otherwise provided by a separate law,<sup>74)</sup> be required to demand proof of the customer's identity:

- a) in transactions carried out through currency exchange machines;
- b) within the provision of financial services at a distance;<sup>74a</sup>
- c) when using a deposit other than to establish a deposit

(5) The provisions of paragraphs 1 and 3 are without prejudice to the duties of banks and branch offices of foreign banks pursuant to a separate regulation.<sup>74</sup>

## **Article 90**

A bank or branch office of a foreign bank shall be obligated to notify in writing to the relevant tax office according to the registered office or domicile of a business person<sup>75</sup> who is its client, the number of each opened and closed current or deposit account held by the business person who is or has been its client, within 10 days of the end of the calendar month in which the account was opened or closed; such information may only be further disclosed by the tax office in accordance with a separate regulation.<sup>76</sup>

## **Article 91**

(1) Subject to bank secrecy shall be all information and documents on matters concerning the clients of a bank or branch office of a foreign bank which are not publicly available, especially information on transactions, account and deposit balances. A bank or branch office of a foreign bank shall be obligated to keep such information confidential and protect it against disclosure, misuse, damage, destruction, loss or theft. Information and documents on matters covered by bank secrecy may be disclosed by a bank or branch office of a foreign bank to a third person only subject to prior written consent of the client concerned or upon his written instruction, unless stipulated otherwise by this Act. In return for payment of practical costs, a client shall have the right to obtain information kept on him in the database of a bank or branch office of a foreign bank, and to receive a transcript of such information. Disclosure of information in summary form where the name of a bank or branch office of a foreign bank, the name and surname of a client is not evident, is not considered a violation of bank secrecy.

(2) For the purposes of bank secrecy and the joint register of banking information according to Article 92a, a person is deemed a client of a bank or branch office of a foreign bank, if the bank or branch office of a foreign bank has negotiated a transaction with him, even if the transaction eventually did not take place, a person who ceased to be a client of a bank or branch office of a foreign bank, as well as a person about whom a bank or branch office of a foreign bank received data hereunder from another bank or branch office of a foreign bank, data from the register of loans

and guarantees according to Article 38, data from the register of clients according to Article 92, paragraph 6 or data from the joint register of banking information according to Article 92a.

(3) A bank or branch office of a foreign bank shall be obligated to submit to the National Bank of Slovakia 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 Article 6, paragraph 7 and in Article 49, paragraph 2 and auditors during assignments stipulated by this Act or a separate law,<sup>40</sup> and to the Deposit Protection Fund to perform tasks pursuant to a separate regulation;<sup>77</sup> a home savings bank shall disclose such information also to persons Commissioned to control the use of government bonuses in home savings<sup>78</sup>, and a mortgage bank shall disclose such information to its mortgage controller and his deputy and to persons Commissioned to control the use of government bonuses in mortgage transactions.

(4) A report on matters concerning a client that are subject to bank secrecy shall be submitted by a bank or branch office of a foreign bank without the prior approval of the client concerned solely upon request made in writing by:

- 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 branch of a foreign bank is a party, or the subject of which is the property of the client of the bank or branch office of a foreign bank,<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> custom authority<sup>80b</sup> or municipality being the tax administrator<sup>80c</sup>, for the purposes of tax or customs proceedings to which the client of the bank or branch of foreign bank is a party pursuant to a separate regulation,<sup>81</sup> including a client's participation in exacting tax arrears in tax or execution proceedings or exacting customs debt in customs execution proceedings,
- d) a financial control authority performing financial control pursuant to a separate regulation<sup>82</sup> of the client of the bank or branch office of a foreign bank,
- e) a court executor assigned to perform execution pursuant to 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 pursuant to a separate law,<sup>82a</sup> by the Slovak Chamber of Executors,
- f) a state administration authority for the purposes of executing a decision<sup>83</sup> imposing an obligation on the client of the bank or branch office of a foreign bank, or on a creditor of the client of the bank or branch office of a foreign bank, to make a certain payment,
- g) the criminal police and financial police services of the Police Corps for the purposes of detecting criminal acts, the detection of and search for their perpetrators,<sup>84</sup> and especially in the case of tax evasion, illegal financial operations, money laundering and financing terrorism,<sup>84</sup>
- h) the Ministry in the course of control exercised hereunder or according to a separate regulation,<sup>85</sup>
- i) receiver and preliminary receiver in bankruptcy, restructuring, composition or debt restructuring proceedings or supervising administrator conducting supervisory administration if matters related to the client of the bank or branch office of a foreign bank whose estate is the subject of bankruptcy, restructuring, composition or debt restructuring proceedings or over whom supervisory administration pursuant to a separate regulation<sup>58</sup> has been introduced are affected,
- j) a competent state authority for the purposes of discharging obligations arising from an international treaty binding upon the Slovak Republic<sup>86</sup>, where the discharge of obligations according to this treaty may not be declined on account of bank secrecy,

- k) the National Security Office, the Slovak Information Service, the Military Intelligence and the Police Corps for the purposes of performing security checks within their fields of the competence in accordance with a separate legal provision,<sup>86a)</sup>
- l) the Office for Personal Data Protection for the purposes of supervising pursuant to a separate law<sup>37</sup> the processing and protection of personal data of a client of a bank or a branch office of a foreign bank,
- m) the Supreme Control Office of the Slovak Republic for the purposes of an inspection pursuant to a separate law<sup>86b)</sup> of a client of a bank or a branch office of a foreign bank,
- n) the Judicial Treasury for the purposes of collecting a judicial claim under a separate law<sup>86c)</sup> from a client of a bank or the branch office of a foreign bank.
- o) the Slovak Information Service for the purposes of the fight against organised criminal activity and terrorism pursuant to a separate regulation.<sup>86d)</sup>

(5) A written request made pursuant to paragraph 4 shall contain information which enable a bank or branch office of a foreign bank to identify the matter in question, in particular a precise identification of the person on which data is requested, and the extent of requested data; such identification details need not be stated in a written request made according to paragraph 4, letters b) and g), and o). A written request made according to paragraph 4, letter a), must include an authorisation by the court Commissioning a notary as a court Commissioner; a written request made according to paragraph 4, letter e), must contain an authorisation by the court Commissioning a court executor to conduct enforcement. A written request made according to paragraph 4, letter i) must contain a decision of the bankruptcy court on the appointment to the office of 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 notification of the introduction of the supervisory administration was published. The court's decision on such a delegation or appointment must be delivered in the original or as a copy certified in accordance with separate regulations<sup>50</sup> if it has not been previously published in the Commercial Bulletin,

(6) Disclosure of information needed for proper execution of payments and settlements through a designated legal person<sup>9</sup> is not deemed a violation of bank secrecy.

(7) Compliance with the obligation of banks and branch offices of foreign banks to report suspicious banking transactions pursuant to a separate law,<sup>74)</sup> shall not be deemed a violation of bank secrecy. The same applies to the obligation of banks and branch offices of foreign banks to notify, pursuant to a separate law,<sup>80)</sup> the law enforcement authorities of any suspicion of a criminal act committed or contemplated in connection with matters which are otherwise subject to bank secrecy.

(8) A bank and branch office of a foreign bank shall be obligated to provide the Ministry, within the deadlines set thereby, with a written list of clients subject to international sanctions imposed according to a separate regulation<sup>86a)</sup>; the provided list must also contain account numbers and account balances of these clients.

## **Article 92**

(1) Banks and branch offices of foreign banks shall be obligated, at a written request and without the client's consent, to provide information needed to identify the client, his account

number, and payment operation data, to a person who presents a written statement to the bank or branch of a foreign bank that:

- a) as a result of an error in the execution of a payment or settlement, he suffered damage consisting in the transfer of funds owned or managed by him and the crediting of these funds to the client's account, and
- b) the recovery of such wrongly transferred funds requires data for the identification of the client concerned and details of his account to which the funds have been credited as a result of an error mentioned in letter a).

(2) A bank or branch office of a foreign bank shall not provide information specified in paragraph 1 if the client, after receiving a written notice from the bank concerning the request for information, orders the bank or branch office of a foreign bank to transfer back the funds from his account within seven calendar days from the date of delivery of a written request for client identification data to the bank or branch office of a foreign bank.

(3) If a client of a bank or branch office of a foreign bank fails to meet his obligations towards the bank or branch office of a foreign bank duly and in time despite the bank's written notice, then the bank or branch office of a foreign bank may, without a consent from the client concerned, provide the information about this client on the scope set by Article 93a, paragraph 1, letter a) , points 1 to 3 and the information and documentation on the client's defaulted obligations to an expert supposed to appraise the client's obligations <sup>87)</sup>, to a court executor designated thereby in a proposal for distraint against the client or with whom it files its title against the client subject to distraint and to an auctioneer with whom it has concluded a contract to perform 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 branch office of a foreign bank fails to meet his obligations towards the bank or branch office of a foreign bank duly and in time despite the bank's written notice, or if another dispute between the bank or branch office of a foreign bank and their client has arisen, the bank or branch office of a foreign bank may, without a consent from the client concerned, provide the information about this client on the scope set by Article 93a, paragraph 1, letter a) , points 1 to 3 and the information and documentation on the dispute in question to an attorney or commercial lawyer whom it authorised in writing to represent it against the respective client in order to seek protection or enforcement of unsatisfied or disputed rights of the bank or branch office of a foreign bank. In so doing, the bank or branch office of a foreign bank may only provide information and documentation on the client's defaulted obligations or its disputed relations with the client subject to the written power of attorney; the bank and branch office of a foreign bank may only provide information and documentation concerning other individual relations with the client according to the conditions and on the scope stipulated hereunder.

(4) The persons and authorities mentioned in paragraphs 1 to 3 or in Article 91, paragraphs 3 to 7, may use the information and reports provided by a bank or branch office of a foreign bank on matters that are subject to bank secrecy only for the purposes or proceedings for which them the information and reports were disclosed; and in doing so they shall be obligated to keep the information confidential. The persons and authorities specified in paragraphs 1 to 3 or in Article 91, paragraphs 3 to 7, may exchange information between themselves only for the purposes for which them the information was provided; otherwise they may only disclose such information with the consent of the bank or branch office of a foreign bank in accordance with the conditions set in paragraphs 1 to 3 and in Article 91, paragraphs 3 to 7.

(5) If, on the grounds of the client's default, a claim of a bank or branch office of a foreign

bank from a granted loan or guarantee is classified according to Article 39, paragraphs 11 and 12 to such classified claims that can be reasonably expected not to be satisfied to the full amount of their nominal value, then the bank or branch office of a foreign bank shall be entitled, without a consent from the client concerned, provide other banks and branch offices of foreign banks with data to the effect that this client, identified to no more than the extent set by Article 93a, paragraph 1, letter a), points 1 and 2, has violated his duties and defaults on the performance of his claim, as well as the data concerning the respective claim and its classification. If despite a written notice given by a bank or branch office of a foreign bank, its client is more than 90 days in delay on the settlement of any part of his financial liability or another duty towards the bank or branch office of a foreign bank, or if the client repeatedly fails to meet his obligations towards the bank or branch office of a foreign bank, the bank or branch office of a foreign bank may, after giving a prior notice to the client and without his consent, notify other banks and branch offices of foreign banks that the client defaulted on his liabilities towards the bank agreed-upon in a contract or in generally applicable regulations. In such case, the bank may specify only the name of the client, including the place of his registered office or permanent residence, and the client's default. The bank may not carry on providing such information on a client default after the client has fully and completely redressed the consequences of his default, in particular after the client has settled its overdue liability in full, including its accessories; it shall inform other banks and branch offices of foreign banks of this rectification without delay. Information provided in this way is subject to bank secrecy.

(6) A bank or branch office of a foreign bank may:

- a) keep a register of clients who do not meet their commitments properly and in time ensuing from contractual relations between the bank and a client, clients who make what a bank or branch office of a foreign bank considers an unusual commercial transaction as stipulated by a separate regulation<sup>74)</sup>, and clients to whom international sanctions pursuant to a separate regulation apply,<sup>89d)</sup>
- b) disclose, even without a client's approval, information from this register to other banks or branch offices of foreign banks; the information disclosed shall be subject to bank secrecy for these banks and branch offices of foreign banks.

(7) If, despite a written notice given by a bank or branch office of a foreign bank, its client is constantly for over 90 days late with the settlement of even a part of his financial liability towards the bank or branch office of a foreign bank, the bank or branch office of a foreign bank may assign its claim under the financial liability by a written contract to a third person, including a non-bank person (hereinafter referred to as "assignee") also without the client's consent. The bank or branch office of a foreign bank may not have recourse to this right if the client has discharged the overdue liability to the bank or branch office of a foreign bank in full, including accessories, before the claim assignment; this does not apply if the sum of all defaults of the client on the settlement of even a part of the same financial liability towards the bank or branch office of a foreign bank has exceeded one year. When assigning a claim, the bank or branch office of a foreign bank shall also be obligated to hand over to the assignee the documentation on the liability relationship underlying the claim transferred; the bank or branch office of a foreign bank may provide information to the assignee on other individual liability relationships between the bank or branch office of a foreign bank and the client only according to the terms and in the extent stipulated by this Act.

(8) Information subject to banking secrecy may be disclosed only with the prior approval of the National Bank of Slovakia in connection with the sale of a bank or branch of a foreign bank, or a 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 branch of a foreign bank may provide such information only to an entity with whom it is negotiating the signing of such a contract, or to an entity with whom it is expected to undergo a merger or consolidation, or to an entity producing documents required for a decision on a contract concerning the sale, merger or consolidation of a bank. Entities who learn information protected by banking secrecy shall keep this 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 entities, the bank or branch of a foreign bank shall conclude a written contract governing the obligation of confidentiality and the protection of information subject to banking secrecy, as well as responsibility for its misuse. Unless this contract is concluded, the approval of the National Bank of Slovakia may not be granted.

(9) For submitting a report to an auditor pursuant to Article 91, paragraph 3, and a report pursuant to Article 91, paragraph 4, letters a), e), and i), a bank or branch office of a foreign bank shall be entitled to receive a reimbursement of its expenses. A reimbursement of expenses is also due to a bank or branch office of a foreign bank for submitting a report pursuant to Article 91, paragraph 4, letters a), e), and i), if the person on which data is requested in writing is not a client of the bank or branch office of a foreign bank. For the reimbursement of expenses associated with the sending of the report pursuant to Article 91, paragraph 4, letter i), a separate regulation shall not apply.<sup>87aa)</sup>

(10) 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 the state of its registered office, shall have the right, without the client's consent, to provide information subject to bank secrecy to a person controlling this group, namely on the scope as necessary for the compilation of statements and reports on a consolidated basis, but not more than on the scope prescribed by Article 93a, paragraph 1, letter a) and subject to the condition that the person controlling this group will provide for the protection of supplied information on the level at least equal to the level present in the bank supplying the information. The information so provided shall continue to be subject of bank secrecy and may only be used for the purpose for which they were provided.

## **Article 92a**

(1) For the purposes of preparing, concluding and executing transactions with their clients and for the purposes of documenting the operations of banks and branch offices of foreign banks, the banks and branch offices of foreign banks may, by automated or non-automated means, create a joint register of banking information (hereinafter the "joint banking register"), using which the banks and branch offices of foreign banks shall be entitled, subject the client's consent, to make available and provide to each other, solely according to the conditions stipulated by this Act and by a separate law<sup>37)</sup>, free of charge or in consideration for the real costs recovered, the data on loans and bank guarantees granted to their clients, the data on requested loans and bank guarantees, where the clients have demonstrably applied for them, the data on these clients on the scope set by Article 93a, paragraph 1, letter a), points 1 to 3, the data on their claims and the security on such claims against the clients from the loans and bank guarantees granted, the data on the repayment of the clients' obligations from the loans and bank guarantees granted and the data on the financial standing and trustworthiness of their clients in terms of the repayment of their obligations from the loans and bank guarantees granted.

(2) Banks and branch offices of foreign banks may, according to the conditions stipulated by this Act and by a separate law<sup>37)</sup>, entrust the operation of the joint banking register, including the cost of processing the data in the joint banking register, only to a joint undertaking for auxiliary banking services in the capacity as an operator<sup>87b)</sup>, the interests in whose registered capital may only be held by banks, branch offices of foreign banks and the National Bank of Slovakia. Such a joint undertaking for auxiliary banking services shall be obligated to store the joint banking register and the information therein, and to adequately back it up, hold it in secrecy and protect it against unauthorised access, disclosure, misuse, modification, damage, destruction, loss or alienation. This joint undertaking for auxiliary banking services and the joint banking register shall be subject to supervision. The joint undertaking for auxiliary banking services shall be entitled to Commission third persons<sup>87b)</sup> with the processing of data in the joint banking register according to the conditions stipulated by a separate law<sup>37)</sup>; where the data processing is done in the manner requiring an approval from the Office for Protection of Personal Data pursuant to a separate law<sup>37)</sup>, the joint undertaking for auxiliary banking services shall only be entitled to Commission third persons<sup>87b)</sup> with such data processing subject to approval from the Office for Protection of Personal Data.

(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 about other particulars relating to the operation of the joint banking register may only be provided to banks, branch offices of foreign banks and the National Bank of Slovakia. Pursuant to paragraph 2, employees and members of bodies of the joint undertaking for auxiliary banking services shall be obligated to maintain secrecy about such information vis-à-vis all the other persons.

(4) Information about the client and his transactions specified in paragraph 1, which a bank or branch office of a foreign bank has provided to the joint banking register, may be stored in the joint banking register for five years from the expiration of the client's obligations from transactions specified in paragraph 1, unless the client demonstrably gives his consent for a different period for filing of such information in the joint banking register. The bank and branch office of a foreign bank that has supplied data on the client and his transactions specified in paragraph 1 to the joint banking register shall be obligated to demonstrably notify the joint undertaking for auxiliary banking services according to paragraph 2 of the date of expiry of the client's obligations from transactions specified in paragraph 1.

(5) Subject to the conditions stipulated by a separate law<sup>37)</sup>, the client of a bank or branch office of foreign bank shall have the right to be acquainted with information maintained on this client and his transactions in the joint banking register.

### **Article 93**

(1) Employees of a bank or branch office of a foreign bank, members of a bank's statutory body or supervisory board, the mortgage controller and his deputy, and persons making translations or conducting activities pursuant to Article 92, paragraph 3, shall be obligated to keep confidential any matters relevant to the interests of the bank or branch office of a foreign bank and its clients, unless this Act stipulates otherwise. The aforementioned persons may be exempted from this obligation by the statutory body of the bank or the chief executive officer of the branch office of a foreign bank due to reasons listed in Article 91, paragraphs 3 to 7, and Article 92, paragraphs 1 to 5.



(2) Employees and members of bodies of a designated legal person<sup>9)</sup> ensuring the execution of payments and clearing shall be obligated not to disclose any matters associated with the execution of such payments and clearing to any third person, except to the National Bank of Slovakia in performing its tasks in accordance with this Act or a separate regulation<sup>8)</sup>.

(3) The obligation of confidentiality shall extend beyond the term of employment or other work contract and 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 laid down in 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 concluding and executing transactions with the clients and for other purposes listed in paragraph 3, the clients and their proxies, shall be obligated, any time a transaction occurs, at request from a bank and branch office of a foreign bank:

a) to provide:

1. if concerned is a natural person, including a natural person representing a legal person, the personal data<sup>88a)</sup> concerning the identity on the scope of the first name, surname, the address of permanent residence, the address of temporary residence, the birth register number, if assigned, the date of birth, citizenship, the type and number of identity document, and if concerned is a natural person who is a business person, to also supply the address of place of business, the line of business, the designation of an official register or another official records in which he is entered, and the number of entry in this register or records,
2. if concerned is a legal person, the identification data on the scope of the name, identification number, if assigned, the address of registered office, the line of business or other activities, the address of place of business or location of branches and another address of the place of performance of activities, as well as the list of persons constituting the statutory body of this legal person and the data on them on the scope prescribed by the first point, the list of persons constituting this legal person whose share in the registered capital or voting rights of this legal person exceeds 10% and their identification data; in the case of legal persons, on the scope of the name, legal form, headquarters address, identification number and country ISO code; in the case of natural persons, on the scope described in the first point, as well as the designation of an official register or another official records in which the legal person concerned is entered<sup>88b)</sup>, and the number of entry in this register or records,
3. contact telephone number, fax number and e-mail address, if any,
4. documents and data proving and documenting:
  - 4a. the client's ability to discharge his obligations from a transaction,
  - 4b. a security required in respect of the obligations from the transaction,
  - 4c. authorisation to 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 and by separate regulations or agreed with a bank or branch office of a foreign bank;

- b) to enable it to obtain through copying, scanning or other recording:
1. the personal data<sup>88a</sup> concerning the identity from an identity document on the scope of the degree, first name, surname at birth, the birth register number, the date of birth, the place and district of birth, the address of permanent residence, the address of temporary residence, citizenship, any record of restriction of the capacity to legal acts, the type and number of an identity document, the issuing body, the issue date and the validity period of the identity document, and
  2. other data from documents proving and documenting the data subject to letter a).

(2) For the purposes of ascertaining, reviewing and checking the identity of clients and their proxies, for the purposes of preparing, concluding and executing transactions with the clients and for other purposes listed in paragraph 3, a bank and branch office of a foreign bank shall be entitled, any time a transaction occurs, to request from the client and his proxy the data on the scope pursuant to paragraph 1 and to obtain it repeatedly at each transaction in the manner specified in paragraph 1, letter b). The client and his proxy shall be obligated to satisfy each such request from the bank and branch office of a foreign bank.

(3) For the purposes of ascertaining, reviewing and checking the identity of clients and their proxies, for the purposes of concluding and executing transactions between a bank and branch office of a foreign bank and their clients, for the purposes of protection and enforcement of the rights of the bank and branch office of a foreign bank against their clients, for the purposes of documenting the operations of the bank and branch office of a foreign bank, for the purposes of performing supervision over banks and branch offices of foreign banks and over their operations and with a view to performing the tasks and duties of banks and branch offices of foreign banks hereunder or according to separate regulations<sup>88c)</sup>, a bank and branch office of a foreign bank shall be entitled, even without consent from and advising of the persons concerned<sup>88d)</sup>, to ascertain, acquire, record, store, use or otherwise process<sup>88e)</sup> the personal data and other data on the scope prescribed by paragraph 1, Article 91, paragraph 1, Article 38, paragraph 3 and Article 92a; in so doing, the bank or branch office of a foreign bank shall be entitled, either by automated or non-automated means, to make copies of identity documents and process birth register numbers<sup>88f)</sup> and other data and documents on the scope prescribed by paragraph 1, Article 91, paragraph 1, Article 38, paragraph 3 and Article 92a.

(4) A bank and branch office of a foreign bank shall be obligated, even without consent from and advising of the persons concerned<sup>88d)</sup>, to make available and provide<sup>88g)</sup> the data subject to paragraphs 1 to 3, Article 91, paragraph 1, Article 38, paragraph 3 and Article 92a for processing to other persons determined by law only subject to the conditions stipulated by this Act or a separate law<sup>88h)</sup> and to the National Bank of Slovakia for the purposes of maintaining the register of bank loans and guarantees and performing the authority, supervision and activities pursuant to this Act and separate laws. For the purposes prescribed by paragraph 3, the National Bank of Slovakia shall be entitled to process and make available and provide<sup>88g)</sup> to banks and branch offices of foreign banks from its information system the data subject to paragraphs 1 to 3, Article 91, paragraph 1, and Article 92a that is entered in the register of bank loans and guarantees.

(5) A bank and branch office of a foreign bank shall be entitled, even without consent from and advising of the persons concerned<sup>88d)</sup>, to make available and provide<sup>88g)</sup> the data subject to paragraphs 1 to 3, Article 91, paragraph 1, Article 38, paragraph 3 and Article 92a from its information system only to persons and bodies to whom it is obligated by law to provide or to whom it is entitled according to the law to provide information protected by bank secrecy, but just

on the scope prescribed for the provision of information protected by bank secrecy.

(6) A bank and branch office of a foreign bank may make available and provide abroad the data subject to paragraphs 1 to 3, Article 91, paragraph 1, Article 38, paragraph 3 and Article 92a only subject to the conditions stipulated by a separate law <sup>88i)</sup> or where so stipulated by an international treaty binding on the Slovak Republic and taking precedence over the laws of the Slovak Republic.

(7) The premises of a bank, branch of a foreign bank and the National Bank of Slovakia, and ATM machines and currency exchange machines not located in the premises of a bank or branch of a foreign bank, may be monitored by video or audio recordings even where there is no notice that the area is under surveillance; <sup>88ia)</sup> the recordings may be used to reveal crimes, detect and search for their perpetrators, and especially for the purposes of anti-money laundering and against financial terrorism, uncovering illegal financial operations, judicial proceedings, criminal proceedings, misdemeanour proceedings, and supervision of the discharge of the obligations imposed by law on banks and the branches of foreign banks. <sup>88ia)</sup> Any such video or audio recordings made by a bank, branch of a foreign bank or the National Bank of Slovakia 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 by whoever made it not later than 12 months after its making. <sup>88ia)</sup>

(8) A bank may process the personal data of customers and other relevant persons for the purpose of assessing risks related to a planned transaction between the customer and the bank in the scope defined in paragraph 1(a). The prior approval issued by the National Bank of Slovakia under Article 33 shall include a decision of the National Bank of Slovakia on whether the processed personal data set out by the bank in its application for prior approval corresponds to the purpose of their processing in terms of the scope, content and method of processing or use, whether they are compatible with the given purpose of processing, whether they are essential to achieving 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 branch offices of foreign banks shall be obligated to 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, letter i)] shall be decided in arbitration proceedings by a standing arbitration court established pursuant to a separate law <sup>88k)</sup>.

(2) Banks and branch offices of foreign banks shall be obligated to present a draft arbitration agreement according 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 obligated to accept the draft arbitration agreement presented pursuant to paragraph 1; should the client not accept the draft arbitration agreement presented pursuant to paragraph 1, any disputes that may arise from the 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 an arbitration court established pursuant to 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 this arbitration court in respect of disputes between the clients and their banks and branch offices of foreign banks and also for the purposes of documenting the activities of such standing arbitration court. This standing arbitration court shall however make available and provide <sup>88g)</sup> the data subject to Article 93a, paragraphs 1 to 3, Article 91, paragraph 1, Article 38, paragraph 3 and Article 92a only to the National Bank of Slovakia for the purposes of performance of the authority, supervision and activities pursuant to this Act and separate laws and only to parties to arbitration proceedings before such standing arbitration court on the scope necessary for the purposes of such arbitration proceedings <sup>88m)</sup>.

**PART FOURTEEN**  
**PROCEEDINGS BEFORE THE NATIONAL BANK OF SLOVAKIA**

**Article 94**

(1) Proceedings in matters assigned to the National Bank of Slovakia according to this Act or a separate law <sup>89)</sup> shall commence on the basis of a written request made by a party involved in the proceedings, or on the initiative of the National Bank of Slovakia; generally applicable regulations on administrative proceedings<sup>83)</sup> do not apply to proceedings before the National Bank of Slovakia. In any proceedings, the National Bank of Slovakia shall proceed without undue delay to discover the merits of case, which serve as the basis for its decision-making. Where necessary, the National Bank of Slovakia shall set a deadline for actions to be taken in the proceedings, unless it is stipulated by this Act.

(2) The provisions on proceedings according to this Act and generally applicable regulations on administrative proceedings <sup>83)</sup> shall not apply to tasks assigned to banks or branch offices of foreign banks by the National Bank of Slovakia in the monetary policy area and the payment and settlement system pursuant to a separate regulation.<sup>8</sup>

**Article 95**

(1) An employee of the National Bank of Slovakia shall be barred from proceedings when, due to his relation to the matter, the parties involved or their representatives, any doubts may arise as to his impartiality.

(2) A person who took part in proceedings related to the same case as an employee of the banking supervisory unit of the National Bank of Slovakia, shall also be barred from proceedings in the matter concerned hereunder.

(3) A party to the proceedings shall notify the National Bank of Slovakia of any reasons for barring an employee of the National Bank of Slovakia as soon as it becomes aware of the same.

(4) Whenever an employee of the National Bank of Slovakia becomes aware of any reason for which he should be barred, he shall report it without delay to his immediate superior.

(5) An employee of the National Bank of Slovakia affected by doubts as to his impartiality shall only carry out such acts that warrant no delay.

(6) A decision whether or not an employee of the National Bank of Slovakia shall be barred from proceedings shall be made by his immediate superior <sup>22)</sup> who was informed about the reasons for exclusion, if the objection to bias concerns several employees, such decision shall be made by their common superior; a decision to bar a member of the Bank Board of the National Bank of Slovakia shall be made by the Bank Board of the National Bank of Slovakia. If a decision was made that an employee of the National Bank of Slovakia is barred, his superior or, where appropriate, the Bank Board of the National Bank of Slovakia shall take measures to ensure a proper conduct of further proceedings.

(7) A decision shall be issued on the exclusion of an employee of the National Bank of

Slovakia from proceedings for instances specified in paragraphs 1 to 6.

### **Article 96**

(1) A party in the proceedings is a person whose rights or obligations shall be the subject of the proceedings; in proceedings concerning the application of a penalty or corrective measure pursuant to Article 50 or 51 and in proceedings concerning the granting of prior approval for an increase or decrease in a bank's registered capital pursuant to Article 28, paragraph 1, letter b), for the winding up of a bank according to Article 28, paragraph 1, letter c) or for the provision of information according to Article 92, paragraph 8, the party in the proceedings shall be a bank or branch office of a foreign bank, or a person specified in Article 50, paragraphs 2 and 7, and Article 51, paragraph 1.

(2) A legal person shall be represented by its statutory body, or its employee or member, producing a written power of attorney from the statutory body stating that he is authorised to act for and on behalf of the legal person concerned.

(3) A party to the proceedings can be represented by another person in the proceedings. In one and the same case, a party can only be represented by one representative given a written or verbal, for the record, power of attorney either for the whole proceedings or only certain deeds. A power of attorney to represent a legal person needs to be issued by a person authorised to act on its behalf.

### **Article 97**

(1) Proceedings shall commence on the date of delivery of a written application made by the party involved in the proceedings to the National Bank of Slovakia. When proceedings are initiated by the National Bank of Slovakia, proceedings shall commence on the date when the National Bank of Slovakia takes the first step towards the party involved, unless this Act stipulates otherwise; the National Bank of Slovakia shall forthwith inform about this first action all the parties to the proceedings known to it.

(2) An application must, on the scope of data stipulated by a separate law<sup>89a)</sup>, contain the identification of a person submitting the application. The application must evidently show the subject of request; and it must give a true description of all decisive facts and specification of proofs to which the applicant refers. The application must, on the scope of data stipulated by a separate law<sup>89a)</sup>, and even without consent from the persons concerned, specify any persons other than the applicant who must be stated in an application for the grant of a requested banking licence, approval or prior approval of the National Bank of Slovakia, as well as other parties to the proceedings, where known to the applicant. The application must, on the scope of data stipulated by a separate law<sup>89a)</sup>, and even without consent from the persons concerned, also indicate proxies of the parties to the proceedings, if any. Any deeds needed for a decision to be made in the matter by the National Bank of Slovakia, particularly the deeds credibly proving and documenting the fulfilment of conditions that have to be met in order for a banking licence, approval or prior approval requested in the application to be granted by the National Bank of Slovakia, must be annexed to the application. The application must also contain a statement concerning the completeness, accuracy, truthfulness, authenticity and up-to-datedness of the presented application, including the annexes

thereto, where a person submitting the application shall be held responsible for the truthfulness of such statement.

(3) If a delivered application is incomplete, the National Bank of Slovakia shall ask the applicant to complete the application and set a deadline for this, generally not longer than 30 calendar days.

(4) A party to the proceedings, on the basis of a request from the National Bank of Slovakia, shall deliver its view on the reasons for proceedings initiated by the National Bank of Slovakia, unless this Act stipulates otherwise. The period for submitting such view may not be shorter than five working days from the date the request is delivered, unless this Act stipulates otherwise.

### **Article 98**

(1) Proceedings before the National Bank of Slovakia are not open to the public.

(2) When necessary to decide on a subject matter, the National Bank of Slovakia shall decide on the basis of a verbal proceeding to which it shall summon the parties; any verbal proceedings shall be recorded in written minutes.

(3) Such minutes must clearly indicate, in particular, where, when and who conducted the verbal proceedings, the subject of verbal proceedings, the names of persons taking part in the same, indicate the course of proceedings, any proposals presented, and any measures adopted.

(4) Following the reading of such minutes, they must be signed by each person who took part in the proceedings and by an employee of the National Bank of Slovakia conducting the proceedings. A person's refusal to sign the minutes, the reasons for such refusal and its objections to the contents of the minutes, shall be recorded in the minutes.

(5) Parties involved in the proceedings have the right to inspect relevant files and to take notes and make photocopies of them. At a party's request, the National Bank of Slovakia shall, at its expense, furnish the party with one copy of the minutes or another document on the file.

### **Article 99**

(1) Communications addressed to legal persons shall be delivered to employees authorised to receive such communications for the legal person or to an authorised agent of the legal person.

(2) Should the addressee decline to accept a communication, the communication is deemed to have been delivered on the date of its rejection.

(3) If an addressee of a communication sent by registered mail is not reached at the delivery address, although it does normally stay at that address, the courier shall give him an appropriate notice of re-delivery. If the re-delivery is unsuccessful again, the courier shall deposit the communication at the post office or the municipal authority and shall give the addressee a notice to collect the communication. If the addressee still fails to collect the delivery within three working

days from its depositing, the document shall be deemed to have been delivered on the last day of this time limit, even though the addressee may be unaware of the communication having been deposited.

(4) Paragraph 3 shall not apply to the delivery of a decision on the introduction of forced administration.

(5) A party to proceedings having its registered office or permanent residence in another country shall appoint a servicing agent to receive communications in the Slovak Republic and notify its name, surname and address in writing to the National Bank of Slovakia. If a proceeding is launched at the request of such party, the party concerned shall appoint a servicing agent in its request or, alternatively, in its first written application to the National Bank of Slovakia. If such party fails to appoint a servicing agent, all communications addressed to it shall be deposited at the National Bank of Slovakia with the effect of delivery.

### **Article 100**

(1) The National Bank of Slovakia shall suspend a proceeding when a party involved is asked to supply additional information on its application, or if the Ministry is asked for its opinion. The Ministry shall deliver its opinion to the National Bank of Slovakia within 30 calendar days, or 60 calendar days in particularly complicated cases, from the delivery of a request for opinion from the National Bank of Slovakia.

(2) There is no right to appeal against the decision to suspend a proceeding.

(3) As long as a proceeding is suspended, the time limits defined herein Act are not elapsing.

### **Article 101**

(1) The National Bank of Slovakia shall terminate proceedings launched at the request of a party, where such party has withdrawn its application, failed to submit the required particulars of application, or failed to complete the application within a period stipulated by the National Bank of Slovakia.

(2) Proceedings initiated by the National Bank of Slovakia may be terminated, when the reasons for such proceedings cease to exist or if in the course of proceedings it is found that there are insufficient reasons for it to continue.

(3) In case of death of a party to the proceedings, further proceedings shall be discontinued.

### **Article 102**

Any expenses incurred by the National Bank of Slovakia in connection with a proceeding shall be borne by the National Bank of Slovakia. Any expenses incurred by a party involved in a proceeding shall be borne by the party concerned, including expenses related to a witness.



### **Article 103**

(1) Any legitimate means that may help determine and clarify the facts of case, may be delivered as evidence.

(2) A party to the proceedings shall be obligated to propose to deliver evidence known to it in support of its allegations.

(3) Evidence means in particular testimonies of parties to the proceedings, expert opinions, deeds, and on-site inspections.

(4) No evidence needs to be delivered in respect of facts that are generally known or known to the National Bank of Slovakia as a result of its activities.

(5) The National Bank of Slovakia may summon persons whose presence at the proceedings is necessary and ask them to disclose facts or present evidence which may be relevant to the proceedings and its outcome.

(6) The delivery of evidence shall be conducted in a manner ensuring the protection of any state secrets, professional secrets, commercial secrets, tax-related secrets, and any confidentiality obligation explicitly stipulated or recognized by law. In such cases, hearings may only be held if the person heard was exempted from the obligation to maintain secrecy or confidentiality by a relevant authority or the person protected by such obligation. This also applies, as appropriate, to the delivery of evidence in a way other than by hearing.

(7) When summoned by the National Bank of Slovakia, any natural person shall be obligated to appear at the National Bank of Slovakia as witness and give testimony in proceedings in matters falling into the jurisdiction of the National Bank of Slovakia; a witness shall be obligated to tell the truth and not to conceal any facts. A witness may refuse to testify in cases where, as a consequence, the witness itself or a closely related person<sup>30</sup> might face the threat of prosecution. Before a hearing begins, it is necessary to determine the identity of the witness and advise him on his rights and obligations, and legal consequences of untrue or incomplete testimony or a refusal to testify without a reason hereunder.

(8) If the clarification and assessment of a fact which is important for the outcome of the proceedings requires expert skills, the National Bank of Slovakia may appoint an expert witness pursuant to separate regulations<sup>90</sup> and instruct him to prepare an expert opinion in writing or hear him.

(9) The National Bank of Slovakia may instruct a person who is in possession of a document needed to deliver evidence, to present the document. Such request for documents may only be refused for the same reasons as for the refusal to testify by a witness.

(10) The National Bank of Slovakia shall assess evidence at its own discretion, with each piece of evidence considered separately and in relation to one another; in the process, the National Bank of Slovakia shall pay due regard to any fact discovered in the course of the proceedings.

### **Article 104**

(1) The National Bank of Slovakia may, by way of a preliminary measure, issued no later than before the end of proceedings and in the extent necessary for attaining the purpose thereof:

- a) order the parties involved to take, refrain from or bear certain measures,
- b) order the safekeeping of any items needed to deliver evidence.

(2) If a preliminary measure has been issued on the initiative of the National Bank of Slovakia, then the proceedings in the matter on which such preliminary measure has been issued shall commence upon its delivery to a party to this proceedings, and the information obligation of the National Bank of Slovakia pursuant to Article 97, paragraph 1 shall be met vis-à-vis this party to proceedings.

(3) The National Bank of Slovakia shall cancel a preliminary injunction pursuant to paragraph 1 as soon as the reason for it ceases to exist; otherwise it shall lose effect on the date a decision on the matter comes into force.

(4) An appeal against a decision to impose a preliminary injunction pursuant to paragraph 1 shall have no staying effect.

#### **Article 105**

The National Bank of Slovakia may impose a repeated fine of up to SKK 20,000 on any person hindering the progress of proceedings, in particular by disregarding summons to appear at proceedings without a serious reason, declining to give testimony without a reason, refusing to present a requested document or to allow an inspection, or giving an incomplete or false testimony.

#### **Article 106**

Unless stipulated otherwise by this Act, before ruling its decision in a proceeding, the National Bank of Slovakia shall be obligated to invite the parties to inspect the proceeding files and deliver their written views within a period set by the National Bank of Slovakia; unless stipulate otherwise by this Act, this period may not be shorter than five working days from the delivery of the invitation. This shall not apply in cases where a preliminary measure is issued, forced administration is introduced or proceedings commenced at request from the parties to proceedings is involved, and in which the only supporting documentation for a decision to be made in such proceedings are the deeds presented by the parties to proceedings.

#### **Article 107**

(1) The decision shall include a ruling, an explanation of reasons, and appeal instructions.

(2) A ruling shall include resolution of the case, together with an indication of legislation referred to in arriving at a decision. A ruling shall also state requirements, if any, which must be met in the resolution of the case; the fulfilment of the requirements shall be communicated to the National Bank of Slovakia. A ruling does not include duties imposed by law.

(3) A ruling of an enforceable decision on the revocation or cessation of a banking licence shall be published by the National Bank of Slovakia in at least one nation-wide daily. If deemed appropriate, it may also publish a ruling of another enforceable decision, explanation of reasons, or any part thereof.

(4) An explanation of reasons shall specify the facts of case constituting the basis for the decision and legislative provisions referred to while considering the discovered facts of case.

(5) The appeal instructions shall include a statement indicating whether the decision is final, or whether it may be appealed against, whether an appeal can be waived, together with the deadlines and the relevant authorities to which to appeal.

(6) A decision made in writing shall state the body which made the decision, the date of decision, trade names and registered addresses or, as appropriate, names and permanent residences of the parties involved. A decision must bear the official stamp of the National Bank of Slovakia, and the signature, full name and position of the person authorised. In proceedings in the first instance, the authorised person shall be the director of the supervision department or a deputy authorised by him.

(7) The National Bank of Slovakia shall at any time, even if not prompted, correct errors in writing, calculations, and other evident mistakes in a written form of a decision and inform the parties without delay to that effect.

### **Article 108**

(1) A decision shall be served upon a party involved in the proceedings by delivery of the decision in writing. The date of delivery shall be deemed the date of announcement.

(2) A decision against which there is no right of appeal, is deemed to come into effect upon delivery.

(3) A delivered decision shall be enforceable if it may not be appealed against, or if an appeal does not have the effect of staying its execution.

(4) The ruling of an enforceable decision shall be binding upon all parties to the proceedings and public authorities; this does not prejudice the provisions of Article 113.

### **Article 109**

(1) Proceedings in the first instance shall be conducted by the supervision department of the National Bank of Slovakia. The supervision department proceeds in its activity independently from other departments and bodies of the National Bank of Slovakia, it co-operates with them when necessary in order to obtain documentation needed for the proceedings and objectivity of a decision.

(2) The supervision department of the National Bank of Slovakia shall decide on an application to grant prior approval pursuant to Article 30, paragraph 3 within nine months of delivering the complete application, on an application to issue a banking licence within six months of

receiving a complete application, and within three months from the delivery of a complete application concerning other matters, except for requests for prior approval pursuant to Article 9, paragraph 4, which shall be decided within one month of receipt of the information; however, it shall decide within 12 months at the latest.

(3) A party to the proceedings has the right to appeal against a decision of the supervision department of the National Bank of Slovakia if, after the delivery of the decision, the party did not waive the right to appeal in writing or verbally for the record; the withdrawal of an appeal shall also be deemed a waiver of appeal. A waiver of appeal is irrevocable. An appeal made does not stay the execution, unless this Act stipulates otherwise.

(4) An appeal shall be filed with the banking supervisory department of the National Bank of Slovakia.

(5) An appeal may be filed within 15 calendar days of the date of delivery of the decision.

### **Article 110**

(1) The supervision department of the National Bank of Slovakia may decide on an appeal by itself, provided it satisfies the appeal in full extent.

(2) In case the supervision department of the National Bank of Slovakia does not decide on an appeal as provided in paragraph 1, the appeal shall be referred, along with the results of the previous proceedings, files, and the opinion of the supervision department on the appeal to the Bank Board of the National Bank of Slovakia within 30 days of the date when the supervision department received the appeal.

### **Article 111**

If the nature of the matter so allows and if a remedy cannot be otherwise achieved, the Bank Board of the National Bank of Slovakia shall itself decide on the matter if the supervision department fails to launch proceedings despite being obligated to do so or if it fails to make a decision within the time limit defined in Article 13, paragraph 2, and Article 109, paragraph 2.

### **Article 112**

(1) Appeals against decisions made by the banking supervisory department of the National Bank of Slovakia shall be decided upon by the Bank Board of the National Bank of Slovakia. On the basis of an appeal against a decision made by the supervision department of the National Bank of Slovakia, the Bank Board of the National Bank of Slovakia may grant a licence on modify a licence granted upon an agreement with the Ministry pursuant to Article 7, paragraph 1, only with the prior approval of the Ministry.

(2) If a decision was issued contrary to the law or another generally applicable regulation, or on the basis of insufficiently discovered facts of case, or if the supervision department of the National Bank of Slovakia decided incorrectly although it properly discovered the facts of case, the

Bank Board of the National Bank of Slovakia shall change or cancel the decision, otherwise it shall reject an appeal and confirm the decision. The Bank Board of the National bank of Slovakia shall reject an appeal submitted with a delay or one submitted by a person not authorised to submit such an appeal or if such an appeal is directed against a decision that may not be appealed against. The Bank Board of the National Bank of Slovakia may furnish additional proofs, provided that these can be effected without causing procrastination in the proceedings and if this is necessary for a decision in the matter to be made, whilst effecting the proofs and acts according to Article 106 either on its own or through an organisational unit of the National Bank of Slovakia designated thereby; the acts according to Article 106 shall not be effected, if in the proceedings on an appeal additional proofs have not been furnished.

(3) A decision on an appeal may not be appealed against any more.

(4) A decision which has entered into effect may be reviewed by the Bank Board of the National Bank of Slovakia on its own or another person's initiative. A valid decision made after agreement with the Ministry pursuant to Article 7, paragraph 1, may be amended or cancelled by the Bank Board of the National Bank of Slovakia in agreement with the Ministry. An appealed decision may be amended or cancelled if such decision is contrary to the law, or other generally applicable regulation, within three years from the date the decision came into effect. Such a decision of the Bank Board of the National Bank of Slovakia shall not be subject to appellation.

### **Article 113**

The lawfulness of the decisions made by the National Bank of Slovakia according to this Act, may be reviewed by a court of law pursuant to a separate regulation<sup>91</sup>; the Supreme Court of the Slovak Republic shall have jurisdiction to review such decisions.

### **Article 114**

If a party involved in the proceedings fails to comply with the obligation imposed by the decision, within the specified period of time, the National Bank of Slovakia shall ensure enforcement of the decision; for this purpose it may file a petition to enforce the decision in court.

**PART FIFTEEN**  
**COMMON, TRANSITIONAL AND FINAL PROVISIONS**

**Article 114a**

By virtue of this Act, the legal acts of the European Communities and the European Union listed in the Annex are incorporated in the law.

**Article 115**

The protection of deposits by banks and branch offices of foreign banks, including any interest and other financial benefits accrued on such deposits, shall be stipulated by a separate law.<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 thereout prior to the effective date hereof shall be considered pursuant to the current regulations, unless this Act stipulates otherwise.

**Article 117**

(1) Banks which have granted loans or assumed receivables under loans granted prior to 1 January 1990, which have been classified due to the risk that their principal would 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, according to its authorisation, the Ministry may extend to a bank mentioned in paragraph 1 special guarantees for the purpose of restructuring its loan portfolio.

(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, including a non-banking legal person, the guarantee shall be transferred along with the liabilities assumed and apply to the assuming legal person as well.

(4) If a bank mentioned in paragraph 1, in the process of restructuring of its loan portfolio, assigns its loan assets to another person, including a non-banking legal person, the requirement set out in Article 38, paragraph 1, shall apply to such legal person. A bank mentioned in paragraph 1 may, in the process of restructuring of its loan portfolio, assign its assets to another legal person even if the default duration or another condition specified in Article 92, paragraph 7, has not been satisfied.

**Article 118**

(1) If a bank suffers a loss, after 1 February 1992, on obligatory loans granted according to

legislation adopted prior to 1 February 1992, the bank shall be entitled to compensation for such loss from the state budget in an amount which can be documented by loan agreements according to conditions stipulated in paragraphs 2 and 3.

(2) A bank shall be obligated to inform the Ministry of the expected loss within deadlines specified for the preparation of draft state budget for the following fiscal year.

(3) The Ministry shall compensate a bank for an actually documented loss, provided that the bank has met its obligation pursuant to paragraph 2, but only up to the amount laid down in the law on the state budget for the relevant year. The bank shall be obligated to document the actual amount of its loss to the Ministry within 5 calendar days from the end of a calendar month, and the Ministry shall pay the bank a compensation for the loss within 15 days after the loss is documented, unless they agree otherwise.

### **Article 119**

(1) Proceedings started but still pending a valid decision before this Act takes effect shall be completed pursuant to the current legislation, unless this Act stipulates otherwise. From the effective date hereof, any shortcomings found in activities of banks, branch offices of foreign banks, and other persons that occurred according to the current legislation and on which no proceedings have started pursuant to the current legislation shall be considered and resolved pursuant to this Act, provided they also deemed shortcomings pursuant to this Act. From the effective date hereof, however, only such measures to eliminate an unlawful state, fines, or corrective measures can be imposed which are allowed hereunder. Legal effects of deeds that occurred in proceedings before this Act became effective shall remain unaffected.

(2) The provisions of this Act shall apply to deadlines that have not yet elapsed on the date this Act takes effect. Where the current legislation did not establish deadlines to issue a decision or to carry out other acts in proceedings that have started and have not been lawfully completed before this Act became effective, the deadlines defined in this Act shall apply and start to run on the date this Act becomes effective; where the current legislation established longer deadlines to carry out these acts than those defined in this Act, the deadlines set in the current legislation shall apply.

(3) Banks, branch offices of foreign banks, and other persons shall be required to bring their legal relations to third persons arising from activities carried out pursuant to the current legislation in line with this Act within six months from the effective date hereof; from the effective date hereof, however, no person may carry on an activity the conduct of which is at odds with this Act. Every bank is also obligated within 12 months of the effective date hereof to modify its articles of association so as to comply with this Act; if a bank fails to adapt any provisions of its articles of association to this Act within this deadline, such provisions shall become invalid upon expiration of the deadline.

(4) The National Bank of Slovakia 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 licence on the effective date hereof, which submits a written request for the determination of such special financing conditions.

## Article 120

(1) A banking licence granted to a bank or branch office of a foreign bank pursuant to the current legislation which is valid as of the date this Act becomes effective shall be deemed a banking licence granted pursuant to this Act. If the licence includes activities that are not banking activities pursuant to Article 2, paragraphs 1 and 2, the banking licence shall expire in the extent of these activities on 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 of the date this Act comes into force shall be deemed 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 according to the current legislation shall be transformed into a joint stock company pursuant to 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 pursuant to 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 above all contain:

- a) trade name, registered office and identification number of the bank organised as a state financial institution before the transformation,
- b) trade name and registered office of the bank organised as a joint stock company after the transformation,
- c) line of business of the bank organised as a joint stock company after the transformation; this line of business (activity) may be defined only within the scope of banking activities the state financial institution was licensed to carry out at the time of transformation,
- d) amount of registered capital of the bank organised as a joint stock company after the transformation; the amount of registered capital shall be the same as the amount of capital of the state financial institution before the transformation;
- e) number, type, par value, class, and form of shares which, in accordance with Article 2, paragraph 6, constitute the registered capital of the bank organised as a joint stock company after the transformation;
- f) articles of association of the bank organised as a joint stock company after the transformation attached to the decision on transformation; in addition to the particulars stipulated in a separate regulation<sup>25</sup> these articles of association must also contain the particulars established by this Act,
- g) names, surnames, birth register numbers, and permanent residence addresses of members of the statutory body of the bank organised as a joint stock company after the transformation, and a description of the manner in which they act in its name,
- h) names, surnames, birth register numbers, and permanent residence addresses of members of the supervisory board of the bank organised as a joint stock company after the transformation.

(2) The founder of a state financial institution shall issue a decision pursuant to paragraph 1 without an invitation to subscribe shares within six months from the effective date hereof. 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 a founding document and decisions of founders to establish a joint stock company without an invitation to subscribe its shares and which, for the purposes of registration in the Business Register, shall be a document on facts that should be entered into the Business Register in respect of the transformation of a state financial institution into a bank organised as a joint stock company. Such transformation and its effects take place on the date the transformation is recorded into the Business Register, whereby all data about the transformation shall be entered into the Business Register as of the same date; from the effective date of this Act until such transformation, the current legislation shall apply to legal relations of a bank organised as a state financial institution.

(3) On the date of transformation pursuant to paragraphs 1 and 2, the registered capital of the bank formerly organised as a state financial institution shall become a deposit of the state in the registered capital of the transformed bank organised as a joint stock company, with the state acquiring shares that the registered 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 pursuant to paragraphs 1 and 2, the banking licence granted to the transforming bank organised as a state financial institution at the time of transformation shall be transferred in full extent to the transformed bank organised as a joint stock company; the limitation stipulated in Article 9, paragraph 1, shall not apply to this transfer; the banking licence shall be deemed a banking licence pursuant to this Act in accordance with the provisions of Article 120, paragraph 1.

(5) As of the date of transformation pursuant to paragraphs 1 and 2, the financing sources of the transformed bank organised as a joint stock company shall comprise:

- a) own funds consisting of the registered capital, funds, and current year profits;
- b) temporarily disposable borrowed funds;
- c) entrusted funds allocated from the state budget.

(6) As of the date of transformation pursuant to paragraphs 1 and 2 without liquidation, all assets, receivables, liabilities and other commercial property of the transforming bank organised as a state financial institution shall be transferred to the transformed bank organised as a joint stock company in full extent. Any security for claims and liabilities of the transforming bank organised as a state financial institution shall remain effective, including government guarantees for liabilities incurred by decision of a relevant state authority, including liabilities incurred as a result of a decision adopted prior to the effective date hereof; all rights and obligation under such security and guarantees shall be transferred in full extent to the transformed bank organised as a joint stock company as of the date of transformation pursuant to paragraphs 1 and 2.

(7) Both before and after a transformation pursuant to paragraphs 1 and 2, the Ministry has the right to control compliance of the bank's activities pursuant to paragraph 1 with laws and other generally binding regulations, the bank's articles of association and decisions adopted by a general meeting of the bank. The procedure set out in Article 91 shall not apply to disclosure of information to employees of the Ministry assigned to carry out control in the extent of the subject of control specified in a written control authorisation issued by the Ministry; a copy of such written authorisation must be given to the bank pursuant to paragraph 1. Employees of the Ministry charged with control have the duty to ensure protection of information and documentation acquired in association with the exercise of control so as to protect state secrets, professional secrets,

commercial secrets, bank secrecy, tax secrets, and a duty of confidentiality explicitly imposed or recognized by law; disclosure of information and documentation acquired in association with the conduct of control for the purposes of proceedings according to this Act or separate regulations<sup>93</sup> shall not be deemed a violation of this duty. Otherwise, provisions of a separate regulation<sup>72</sup> shall apply as appropriate to such control.

## **Article 122**

Banks and branch offices of foreign banks shall be required to ensure the conversion of funds in national currencies of the European Union Member States into euro, namely funds deposited with banks and branch offices of foreign banks as at 31 December 2001 in currencies set to be retired and replaced by euro in 2002.

### **Article 122a Temporary provision for stipulations being in force from 1 July 2003**

Legal relations arising from mortgage loan agreements concluded prior to 1 July 2003 shall be governed by the previous regulations.

### **Article 122b Transitional provisions relating to the statutes effective from 1 January 2004**

(1) A banking licence granted to a bank or branch office of a foreign bank according to the legislation in force so far, which is effective as of 1 January 2004 and has been granted for the execution of payments and clearing, shall be considered to be a banking licence for the execution of domestic fund transfers and cross-border fund transfers beginning with 1 January 2004, on the scope and in the manner determined in this banking licence, and according to the terms and conditions imposed by this banking licence or other decisions of the National Bank of Slovakia enforceable as of 1 January 2004.

(2) Beginning with 1 January 2004, the provisions hereof shall also govern legal relations that have arisen before 1 January 2004 in connection with banking activities or other activities of banks or branch offices 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 legislation in force so far. Unless provided otherwise hereunder, banks and branch offices of foreign banks shall be obligated, by 31 December 2004 at the latest, to harmonise their legal relations vis-à-vis third persons, including members of their bodies, that have arisen before 1 January 2004 in connection with banking activities or other activities of banks or branch offices of foreign banks; the provision of Article 122a shall not be prejudiced thereby. Each bank shall also be obligated, no later than by 31 December 2004, to harmonise its articles of association with this Act; if a bank does not harmonise certain provisions of its articles of association with this Act by the lapse of this time period, such provisions shall become null and void on the lapse of 31 December 2004. From the effective date of this Act, it shall not be possible to change the amount of a mortgage loan by altering a mortgage loan

agreement subject to government bonus, whose percent level may not be changed during the entire maturity period of the mortgage loan. If, in a mortgage loan agreement concluded before the effectiveness of this Act or in another written document in accordance with the agreement delivered to a mortgage bank before the effectiveness of this Act real estate on this the mortgage loan is granted has not been precisely designated, or if before the effectiveness of this Act no pledge agreement has been concluded between a mortgage bank and the client precisely designating the real estate to be subject to mortgage used to secure the mortgage bank's claims from the mortgage loan, the mortgage bank and the client shall be obligated to meet both of these conditions no later than within 60 days of this Act coming into force, or otherwise the claim to government bonus shall cease.

(3) Proceedings on forced administration commenced and not completed with finality before 1 January 2004 and the performance of forced administration commenced and still pending before 1 January 2004 shall be completed in accordance with legislation in force as of 31 December 2003. Other proceedings commenced and not completed with finality before 1 January 2004 shall be completed in accordance with this Act.

(4) The Securities Registration Centre, which temporarily operates according to a separate regulation<sup>94</sup>, shall be obligated to provide, based on the records it maintains, the National Bank of Slovakia with information requested thereby for the purposes of performing the supervision.

(5) For a period till 31 December 2006 at the latest, the National Bank of Slovakia may stipulate special terms and conditions for financing mortgage loans and municipal loans also for a mortgage bank that has so requested and which as of 1 January 2004 has a banking licence granted to it for the conduct of mortgage business. If a mortgage bank submits such a written application to the National Bank of Slovakia by 1 January 2004, then, from the effective date of a decision of the National Bank of Slovakia on this application, the mortgage bank shall be entitled to provide for the funding of mortgage loans and municipal loans in accordance with legislation in force as of 31 December 2003.

**Article 122c**  
**Temporary provision**  
**for stipulations being in force from 1 January 2004**

Supplementary supervision shall be conducted after the financial situation and results of operations of financial conglomerates are taken into account in the course of 2005.

**Article 122d**  
**Temporary provision**  
**for stipulations being in force from 1 January 2006**

(1) Proceedings commenced and not completed with finality prior to 1 January 2006 shall be completed in accordance with this Act and a special law.<sup>89</sup> Legal effects of deeds that occurred in proceedings prior to 1 January 2006 shall remain unaffected.

(2) On-site inspections commenced and not completed prior to 1 January 2006 shall be

completed in accordance with this Act and special laws.<sup>89</sup> Legal effects of deeds that occurred in on-site inspections prior to 1 January 2006 shall remain unaffected.

**Article 122e**  
**Temporary provision**  
**for stipulations being in force from 1 May 2006**

The provisions of this Act shall also govern legal relations arising from municipal loan agreements concluded prior to 1 May 2006; however, the origination of these legal relations and any claims arising thereout prior 1 May 2006 shall be considered pursuant to the current regulations.

**Article 122f**  
**Transitional provisions for regulations effective from 1 January 2007**

(1) A bank which calculates a risk-weighted exposure amount using the internal ratings based approach shall during 2007, 2008 and 2009 have own funds equal to or more than the amount mentioned in paragraph (2). A banks which uses the advanced measurement approach to calculate capital requirements for operational risk shall have own funds equal to or greater than the amount mentioned in paragraph (2) during the second and third calendar year after 1 January 2007.

(2) Of the total minimum capital requirements laid down by regulations effective as at 31 December 2006, the amount of own funds under paragraph (1) shall represent 95% during 2007, 90% during 2008 and 80% during 2009.

(3) Until 31 December 2007, banks may use instead of the standardized approach for credit risk, the calculation of risk-adjusted assets and off-balance sheet items in accordance with regulations effective as at 31 December 2006.

(4) Where a bank proceeds in accordance with 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 regulations effective as at 31 December 2006;
- b) the value of credit equivalents for derivative instruments shall be calculated in accordance with regulations effective as at 31 December 2006, irrespective of whether the on-balance and off-balance items arising therefrom and the values of credit equivalents are deemed to be risk-weighted exposure amounts.

(5) Where a bank proceeds in accordance with paragraph (3), then in respect of exposures for which the standardized approach is used, provisions on credit risk mitigation under this Act shall not be applied, but procedures shall be used under regulations effective as at 31 December 2006.

(6) Where a bank proceeds in accordance with paragraph (3), the capital requirements for operational risk under Article 30(5)(d) shall be lowered by the percentage representing the ratio of the value of the bank's exposures for which risk-weighted exposure amounts are calculated in accordance with the discretion referred to in paragraph (3) to the total value of its exposures.

(7) Where a bank proceeds in accordance with paragraph (3), its exposures shall be subject to regulations effective as at 31 December 2006.

(8) Where a bank proceeds under paragraph (3), all references to the standardized approach for credit risk shall be construed as references to provisions on the calculation of risk-weighted assets under regulations effective as at 31 December 2006.

(9) Where a bank proceeds under paragraph (3), provisions concerning the system for assessing internal capital adequacy and Article 33f shall not apply before 1 January 2008 and the bank's disclosure obligation shall be subject to regulations effective as at 31 December 2006.

(10) Where a bank proceeds under paragraph (3), Article 6(2) shall apply before 1 January 2008 to the extent stipulated by provisions effective as at 31 December 2006.

(11) Where a bank proceeds under paragraph (3), risks arising from the trading book, foreign exchange risk and commodity risk shall be subject to regulations effective as at 31 December 2006.

(12) The National Bank of Slovakia 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 no shorter than one year until 31 December 2009;
- b) for banks applying to use own estimates of loss given defaults or own calculations of 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, permit banks to continue to apply to participations under a separate regulation acquired prior to the entry into force of this Act the treatment stipulated by 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 conditions laid down in a separate regulation.

(13) Until 31 December 2010, the exposure-weighted average loss given defaults 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 own estimates of loss given defaults or own calculations of conversion factors may use relevant data from two years when implementing the internal ratings based approach, but not later than 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, a bank may begin using the advanced internal ratings based approach for credit risk under Article 33(6) from 1 January 2008.

(16) A bank may, for the purpose of calculating the corresponding capital

requirement, begin using the advanced approach under Article 33d(4) from 1 January 2008.

### **Article 122g**

#### **Transitional provisions effective as of 1 January 2008**

(1) Each bank, other credit institution [Article 5(p)], branch of foreign bank, branch of other foreign credit institution [Article 5(r)], foreign bank and other foreign institution conducting banking activities in the territory of the Slovak Republic [Article 11(1) to (3)] shall prepare, not later than three months before the euro introduction date in the Slovak Republic, and implement measures, rules and procedures through which it shall secure continuous and undisturbed changeover from the Slovak currency to the euro by conduct of banking activities, in particular measures, rules and procedures applied in redenomination, conversion and rounding of funds which they hold as deposits or which are provided by them in the Slovak currency, to the euros.

(2) Bank, other credit institution, branch of foreign bank, branch of other foreign credit institution, foreign bank and other foreign institution conducting banking activities in the territory of the Slovak Republic shall, not 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 its website and at all its business premises used in communicating with clients relevant information on measures, rules and procedures which will be implemented, are implemented or were implemented for securing the changeover from the Slovak currency to the euro.

(3) As at the euro introduction date in the Slovak Republic, bank, other credit institution, branch of foreign bank, branch of other foreign credit institution, foreign bank and other foreign institution conducting banking activities in the territory of the Slovak Republic shall, free of any charge, ensure and perform redenomination and conversion of funds which they hold as deposits or which were provided by them in the Slovak currency, to the euros, at the conversion rate pursuant to this Act and separate legal provisions on introduction of the euro in the Slovak Republic.<sup>95)</sup> The same obligation shall apply to redenomination and conversion of funds in other currency, if such other currency ceases to exist and is replaced by the euro, as at the date of replacement of the such other currency by the euro and simultaneously in accordance with the fixed conversion rate designed for the conversion of such other currency to the euro and with other rules applicable to the changeover from such other currency to the euro.

### **Article 123**

The following are hereby repealed: Banking Act No. 21/1992 Coll., as amended by Act No. 264/1992 Coll., Act of the National Council of the Slovak Republic No. 249/1994 Coll., Act of the National Council of the Slovak Republic No. 374/1994 Coll., Act of the National Council of the Slovak Republic No. 58/1995 Coll., Act of the National Council of the Slovak Republic No. 233/1995 Coll., Act of the National Council of the Slovak Republic No. 58/1996 Coll., Act of the National Council of the Slovak Republic No. 118/1996 Coll., Act of the National Council of the

Slovak Republic No. 386/1996 Coll., 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.

## **Section II**

### **Effective Date**

This Act shall become effective on 1 January 2002, with the exception of the provisions of Section V, which shall become effective on the day of its promulgation (29 November 2001), and with the exception of Section I, Article 2, the part of the sentence after the semicolon of paragraph 8, Articles 11 to 20, Article 45, paragraph 2, and Article 49, paragraph 3, which shall become effective on the date the agreement on the accession of the Slovak Republic to the European Union becomes valid (i.e. on 1 May 2004). (Note: The original Section V has been cancelled by Act No. 460/2002 Coll. on the application of international sanctions ensuring international peace and security, in effect since 1 September 2002).

Act No. 430/2002 Coll. became effective on 1 September 2002.

Act No. 510/2002 Coll. became effective on 1 January 2003, with the exception of the provisions of Section III, items 1 to 10, 12, 14, 17 to 22, and Section VI, which became effective on 1 September 2002, and with the exception of the provisions of Section I, Article 12, paragraph 2, Article 13, paragraph 3, Article 15, paragraph 2, Article 16, the first sentence of paragraph 1, the second sentence of paragraph 2, and the second sentence of paragraph 3, Article 17, the second sentence of paragraph 2, Article 19, the second sentence of Article 20, Article 25, paragraphs 2 to 3, Article 36, paragraph 6, and Article 65, paragraph 1, letter b) and paragraphs 3 and 6, stipulations of Section III, Point 13, Article 99, the second sentence of paragraph 16, and Point 16, Article 107a, paragraph 8, and stipulations of Section IV, Point 4, Article 14, paragraph 7, which shall come into effect on the date the agreement on the accession of the Slovak Republic to the European Union becomes valid (i.e. on 1 May 2004). (Note: The amendments to the Act on banks became effective on 1 September 2002).

Act No. 165/2003 Coll. became effective on 1 July 2003, with the exception of stipulations of Section I, Article 10, paragraphs 3 and 6, which shall become effective on 1 January 2004. (Note: The amendments to the Act on banks became effective on 1 July 2003).

Act No. 603/2003 Coll. became effective on 1 January 2004

Act No. 215/2004 Coll. became effective on 1 May 2004.

Act No. 554/2004 Coll. became effective on 1 January 2005.

Act No. 747/2004 Coll. became effective on 1 January 2006, with the exception of Sections XVII, XVIII, XIX and XX, which became effective on 1 January 2005, and with the exception of Section I, Article 45, the third sentence of paragraph 5 and Section XII item 1 (Article 21, paragraph 2, letter d), item 3 (Article 71a) and item 4 (Article 72a), which became effective on 1 February 2005. (Note: The amendments to the Act on banks became effective on 1 January 2006).

Act No. 69/2005 Coll. became effective on 1 May 2005, with the exception of Section IV, which became effective on 1 January 2006, and with the exception of item 4 in the Section V, which became effective on the day of promulgation (26 February 2005). (Note: The amendments to the Act on banks became effective on 1 January 2006).



Act No. 340/2005 Coll. became effective on 1 September 2005.

Act No. 341/2005 Coll. became effective on 1 September 2005, with the exception of stipulations of the third item of Section I, which became effective on 1 January 2006. (Note: The amendments to the Act on banks became effective on 1 September 2005).

Act No. 214/2006 Coll. became effective on 1 May 2006.

Act No. 644/2006 Coll. came into force on 1 January 2007, with the exception of Article VI, which came into force on the date of promulgation, Article III par. (2) which came into force on 30 December 2006, and Article II paragraph (1), which shall come into force on 1 January 2008.

Act No. 209/2007 Coll. came into force on 1 November 2007, except for 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 and 154 to 165, Section II, Section IV points 5 to 8, Section V points 2, 27, 41, 42, 44, 49, 50, 56, 57, 65 and 66, and Section VI points 1, 3, 5 to 8, 10 to 32 and 34 to 39, which came into force on 1 May 2007.

Act No. 297/2008 Coll. came into force on 1 September 2008.

Act No. 659/2007 Coll. came into force on 1 January 2008, except for the provisions of Section II, point 2 [Article 2(1)(a) and (b)], point 6 [Article 3], points 8 and 9 [Article 4(4), Article 6(1)(a)], point 12 [Article 6(2)(e)], points 28 to 30 [Articles 15, 16 and 17(1)], point 32 [Article 17c], point 34 [Article 17h(2)], point 37 [Articles 20 and 21], point 45 [Article 28], point 51 [Article 31(1)] and point 58 [Articles 38 and 39], the provisions of Section III, point 1 [Article 5(6)], the provisions of Section IV, point 2 [Article 93(3)], points 4 and 5 [Article 108(1) and Article 109(1)], point 13 [Article 157(1), fourth sentence], point 14 [Article 162(3)], point 17 [Article 223(3)] and point 21 [Article 369(1)], the provisions of Section V, point 5 [Article 40(10)] and point 7 [Article 42(7)], the provisions of Section VI, point 4 [Article 3 (2)(c), point 1], point 35 [Article 76(2)], point 39 [Article 85(4)], points 41 to 43 [Article 87(2) and (3) and Article 88(8)] and point 63, the provisions of Section VII, point 3 [Article 3(1)(c) point 1], the provisions of Section VIII, point 2 [Section I, Article 48(2)], the provisions of Section X, point 1 [Article 2(2)(c), points 1 and 2, Article 38(1), Article 67(2), Article 87(2)(d)] and points 10 to 12 [Article 84(2) and (3), Article 85a(2) and (4), Article 87(2)(i)], the provisions of Section XI, the provisions of Section XII, point 2 [Article 7(4)] and points 4 to 7 [Article 9(1), Article 9(2)(b), Article 9(3), Article 10(8)], the provisions of Section XIII, point 1 [Article 4(4)(d)], point 3 [Article 8(3)], points 5 and 6 [Article 21a(2)(b), Article 30(2)] and points 10 to 12 [Article 75, Article 77(2) to (5), Article 78a] and point 13, the provisions of Section XIV, the provisions of Section XV, points 1 and 2 [Article 23(11), Article 75(2)], the provisions of Section XVI, point 2 [Article 61], the provisions of Section XVII points 1 to 6 [Article 56(1), Article 64(5), Article 116(8), Article 129(2), Article 138(1)(a), and Article 138(25)], and the provisions of Section XVIII and Sections XXII to XXVI which shall enter into force on the euro introduction date in the Slovak Republic.



---

**Footnotes relating to references:**

- 1) Act No. 513/1991 Coll., the Commercial Code, as amended.
- 1a) Article 6 of Act No. 566/2001 Coll. on securities and investment services and on changes and the amendment of certain acts (Securities Act).
- 2) Articles 313 to 322 of the Commercial Code.
- 3) Articles 682 to 691 of the Commercial Code.
- 4) Article 31, paragraph 2 of National Council of the Slovak Republic Act No. 566/1992 Coll. on the National Bank of Slovakia, as amended by Act No. 149/2001 Coll.
- 5) E.g. Act No. 594/2003 Coll. on collective investments and on changes and amendments to certain other laws.
- 6) E.g. Act No. 594/2003 Coll. (Act on collective investment).
- 7) Article 21, paragraph 3 and 4 and Article 28, paragraph 3 to 6 of the Commercial Code.
- 8) Act of the National Council of the Slovak Republic No. 566/1992 Coll., as amended.
- 9) Act No. 510/2002 Coll. on payment system and the amendment of certain acts, as amended.
- 10) Article 19, paragraph 1 of Act No. 565/2003 Coll. on income taxes..
- 11) E.g. Act of the National Council of the Slovak Republic No. 124/1996 Coll. on the State Housing Development Fund, as amended.
- 12) E.g. Act No. 510/2002 Coll., as amended, Act No. 507/2001 Coll. on postal services.
- 13) Act No. 530/1990 Coll. on bonds, as amended.
- 13a) Article 5, letters f) to i) and Article 8, letter d) of Act No. 566/2001 Coll.
- 13b) Articles 25 to 32 of Act No. 429/2002 Coll. on the stock exchange.
- 14) Civil Court Procedures.  
Act No. 244/2002 Coll. on arbitration proceedings.  
Articles 67 to 71 of Act No. 510/2002 Coll., as amended by Act No. 604/2003 Coll.
- 15) Act. No. 96/2002 Coll. on the financial market supervision and the amendment of certain acts.

- 15a) Articles 6 to 11 of Act no. 747/2004 Coll. on financial market supervision, including consequential amendments to certain laws, as amended."
- 15b) Act No. 96/2002 Coll., as amended by Act No. 43/2004 Coll.  
Act No. 510/2002 Coll., as amended.
- 16) Articles 99 to 111 of Act No. 566/2001 Coll., as amended by Act No. 510/2002 Coll.
- 17) Articles 27 and 28 of Act No. 466/2002 Coll. on auditors and the Slovak Chamber of Auditors.
- 18) E.g. Articles 40 and 41 of National Council of the Slovak Republic Act 566/1992 Coll., as amended by Act No. 149/2001 Coll.
- 19) Article 21, paragraph 2, letter d) and Articles 21a to 21c of Act No. 510/2002 Coll., as amended by Act No. 604/2003 Coll.
- 20) Articles 25 to 49 of Act No. 385/1999 Coll., as amended.
- 21) Article 2 of Slovak National Council Act No. 310/1992 Coll. on home savings, as amended.
- 22a) Article 54 and 55 of Act No. 566/2001 Coll., as amended.
- 23) Article 1, paragraph 1 of National Council of the Slovak Republic Act No. 1/1993 Coll. on the Collection of Laws of the Slovak Republic, as amended.
- 24) Article 7 of Act No. 311/1999 Coll. on the Criminal Record Register, as amended
- 24a) Article 8, letter b) of Act No. 566/2001 Coll.  
Article 6, paragraphs 11 and 12 of Act No. 594/2003 Coll. (Act on collective investment)  
Article 3, letter a) of Act No. 95/2002 Coll. on insurance business and on changes and amendment of certain acts.
- 24aa) Article 3 of Act No. 7/2005 Coll. on bankruptcy and restructuring and on the amendment of certain acts, as amended by Act No. 520/2005.
- 24b) Article 36, paragraphs 1 and 2 of the Civil Code.
- 24c) Article 1, paragraph 2, Article 6, paragraph 3, and Article 8, paragraph 3 of Decree of the Government of the Slovak Republic No. 42/2004 Coll. on the Commercial Bulletin, as amended by Decree of the Government of the Slovak Republic No. 76/2005 Coll.
- 25) Articles 173 and 174 of the Commercial Code.
- 26a) Article 2, paragraph 2 and Article 23 of the Commercial Code.
- 26b) Article 2 of Act No. 429/2002 Coll.

- 27) The Labour Code.
- 28) Articles 476 to 488 of the Commercial Code.
- 29) Act No. 136/2001 Coll. on protection of economic competition and changes and amendments to Slovak National Council Act No. 347/1990 Coll. on organisation of ministries and other central state administration authorities of the Slovak Republic, as amended by Act No. 465/2002 Coll.
- 30) Article 116 of the Civil Code.
- 30a) Article 4, paragraph 1 and Article 11 of Act No. 95/2002 Coll. on insurance business and the amendment of certain acts.
- 30b) Article 31, paragraph 5, letter b) and Article 61 of Act No. 510/2002 Coll.
- 30c) Act No. 34/2002 Coll. on foundations and amending the Civil Code, as amended.
- 30d) Act no. 431/2002 Coll. on accountancy as amended.  
Regulation (EC) No 1606/2002 of the European Parliament and of the Council on the application of international accounting standards.
- 30c) For example, Act no. 619/2003 Coll. on Slovak Radio and Act no. 16/2004 Coll. on Slovak Television.
- 31) Article 28, letter a) of Act of the National Council of the Slovak Republic No. 566/1992 Coll.
- 32) Act of the National Council of the Slovak Republic No. 118/1996 Coll. on protection of deposits and changes and the amendment of certain acts, as amended.
- 33) Article 6, paragraph 1, Articles 13 and 23, paragraph 1 of Act No. 510/2002 Coll.  
Article 273, paragraph 1 of the Commercial Code.
- 34) Article 21 of Act No. 431/2002 Coll. on accounting
- 35) Article 20, paragraph 2 of Act No. 431/2002 Coll.
- 36) Articles 36 of Act of the National Council of the Slovak Republic No. 566/1992 Coll., as amended.
- 37) Act No. 428/2002 Coll. on protection of personal data, as amended by Act No. 602/2003 Coll.
- 37a) Article 5 of Act No. 566/2001 Coll.
- 38) Article 2, paragraph 4, letters a) and b), and Articles 24 to 29 of Act No. 431/2002 Coll.

Regulation of the Ministry of Finance of the Slovak Republic No. 20 359/2002-92 of 13 November 2002, establishing the chart of accounts and accounting procedures for banks, branch offices of foreign banks, the National Bank of Slovakia, the Deposit Protection Fund, securities dealers, branch offices of foreign securities dealers, Guarantee Fund for Investment, asset managers, branch offices of foreign asset managers, and mutual funds (Official announcement No. 644/2002 Coll.)

- 39) 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 the financial statements, contents of the items, and the scope of financial data to be disclosed by banks, branch offices of foreign banks, the National Bank of Slovakia, the Deposit Protection Fund, securities dealers, branch offices of foreign securities dealers, Guarantee Fund for Investment, asset managers, branch offices of foreign asset managers, and mutual funds (Official announcement No. 738/2002 Coll.).
- 40) Act No. 466/2002 Coll.
- 41) Article 2, paragraph 1, letter c), and Article 15, paragraph 5, letter c) of Act No. 466/2002 Coll.
- 42) Article 19 of Act No. 466/2002 Coll.
- 43) Article 3, paragraph 3 of Act No. 7/2005 Coll., as amended by Act No. 520/2005 Coll.44) Article 6, paragraphs 4 and 5 and Article 22, paragraph 2 of Act No. 431/2002 Coll.
- 45) Article 36, paragraph 4 of the National Council of the Slovak Republic Act No. 566/1992 Coll., as amended by Act No. 149/2001 Coll.
- 45a) Article 43, paragraph 6 of Act No. 95/2002 Coll.
- 45b) 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.
- 46) E.g. National Council of the Slovak Republic Act No. 566/1992 Coll., as amended, National Council of the Slovak Republic Act No. 202/1995 Coll., the Foreign Exchange Act, changing and amending the Slovak National Council Act No. 372/1990 Coll. on infringements, as amended, National Council of the Slovak Republic Act No. 118/1996 Coll., as amended, Act No. 431/2002 Coll., as amended, Act No. 510/2002 Coll., as amended, Act No. 367/2000 Coll. on protection against laundering of proceeds from criminal activity and on changes and the amendment of certain acts, as amended, 266/2005 Coll. on the consumer protection in connection with the distance financial services and on the amendment of certain acts.47) Article 178, paragraphs 1, 2, 5, and 6, Article 179, paragraphs 3 to 5, and Article 187, letter e) of the Commercial Code, Act No. 659/2007 Coll. on the introduction of the euro currency in the Slovak Republic (including amendments to certain acts).

- 48) Article 178, paragraphs 3 and 4 and Article 187, letter e) of the Commercial Code.
- 49) Act No. 566/2001 Coll., as amended.
- 49a) Articles 13, 14 and 15 of Act No. 586/2003 Coll. on legal counselling and changes and amendments to Act No. 455/1991 Coll. on trading (the Trading Act), as amended.  
Article 2, paragraph 5, Article 6, paragraph 2 and Article 8 of Act No. 466/2002 Coll.
- 49b) E.g. Article 9, paragraph 1, the first sentence of the Labour Code, Article 20, paragraph 1 of the Civil Code.
- 50) Act No. 323/1992 Coll. on notaries and notary work (Notarial Order), as amended.  
Act No. 599/2001 Coll. on certification of documents and signatures on documents by local administration authorities.
- 52) Articles 3 to 107 and Articles 176 to 195 of Act No. 7/2005 Coll., as amended.
- 52a) Article 180 of Act no. 7/2005 Coll. on bankruptcy and restructuring, including consequential amendments to certain laws, as amended.  
Article 151me of the Commercial Code."
- 53) Articles 42a and 42b of the Civil Code.
- 54) Article 31, paragraph 3 of the Commercial Code.
- 55) E.g. Articles 70, 87 and 94 to 101 of Act No. 7/2005 Coll., as amended.
- 56) Article 8, paragraphs 3 and 6 of Act of the National Council of the Slovak Republic No. 118/1996Coll., as amended.
- 57) Articles 6, 7, and 12, paragraphs 4 and 5 of Act of the National Council of the Slovak Republic No. 118/1996 Coll., as amended.
- 58) Act No. 328/1991 Coll. on bankruptcy and composition, as amended.  
Act No. 7/2005, as amended.
- 60) Article 68, paragraph 7 of the Commercial Code.
- 61) Article 14 of Act No. 530/1990 Coll., as amended.
- 62) Article 20, paragraph 1, letter a) of Act No. 530/1990, as amended.
- 63) Article 139b, paragraph 4 of Act No. 50/1976 Coll. on territorial planning and construction order (Building Act), as amended by Act No. 237/2000 Coll.
- 64) Article 18 of Act No. 530/1990 Coll., as amended.
- 65) National Council of the Slovak Republic Act No. 162/1995 Coll. on the real estate register

and on registration of ownership rights and other rights to real estate (Cadastre Law), as amended.

- 66) Article 15, paragraph 1 of Act of the National Council of the Slovak Republic No. 182/1993 Coll. on the ownership of apartments and non-residential premises, as amended.

Article 17 of Decree 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 No. 136/1985 Coll. on financial, credit and other assistance for co-operative individual apartment housing construction and private home modernisation, as amended.

- 66a) Article 151k, paragraph 3 of the Civil Code.
- 66b) Articles 16 to 18b of Act No. 182/1993 Coll. of the National Council of the Slovak Republic, as amended.
- 67) Act of the National Council of the Slovak Republic No. 233/1995 Coll. on court officers and distraints (Distraintment Code) and changes and the amendment of certain acts, as amended.
- 68) Article 16, paragraphs 4 and 5 and Article 20, paragraph 4 of Act No. 530/1990 Coll., as amended.
- 69) Act No. 566/2001 Coll.  
Act No. 530/1990 Coll., as amended.
- 70) Article 22, paragraph 3 of Act No. 530/1990 Coll., as amended.
- 71) Article 43b, paragraphs 3 to 6 of Act No. 50/1976 Coll., as amended by Act No. 237/2000 Coll.
- 72) Act of the National Council of the Slovak Republic No. 10/1996 Coll. on control in state administration, as amended.
- 72a) Act No. 71/1967 Coll. on administrative proceedings (the Administrative Procedure Order), as amended.
- 73) Act No. 224/2006 Coll. on identity card (including amendments to certain acts), as amended by Act No. 693/2006 Coll.  
Act No. 381/1997 Coll. on travel documents, as amended.  
Act No. 48/2002 Coll. on the stay of aliens (including amendments to certain acts), as amended.

Act No. 480/2002 Coll. on asylum (including amendments to certain acts), as amended..

- 74) Act No. 367/2000 Coll. as amended.
- 74a) Act no. 266/2005 Coll. on consumer protection in financial services at a distance,



including consequential amendments to certain laws

- 75) Article 2, paragraph 2 of the Commercial Code.
- 76) Article 23 of Slovak National Council Act No. 511/1992 Coll. on administration of taxes and fees and on changes in the system of territorial financial authorities, as amended.
- 77) Article 3, paragraph 5 and Article 12, paragraph 1 of the Act No. 118/1996 Coll., as amended.
- 78) Slovak National Council Act No. 310/1992 Coll., as amended.
- 79) Civil Court Order.
- 80) Act No. 141/1961 Coll. on criminal court proceedings (Criminal Order), as amended.
- 80a) 150/2001 Coll. on tax authorities, amending and supplementing Act No. 440/2000 Coll. on financial control administrations, as amended.
- 80b) 199/2004 Coll. the Customs Act and amending certain Acts, as amended.
- 80c) E.g. Article 4, paragraph 3, letter c), of Slovak National Council Act No. 369/1990 Coll. on municipalities, as amended by Act No. 453/2001 Coll. 81) Slovak National Council Act No. 511/1992 Coll. , as amended.  
Act No. 199/2004 Coll., as amended.
- 82) Act No. 440/2000 Coll. on financial control authorities, as amended.
- 82a) Article 16b of Act of the National Council of the Slovak Republic No. 233/1995 Coll, as amended by Act No. 341/2005 Coll.
- 83) Act No. 71/1967 Coll. on administrative proceedings (the Administrative Procedure Order), as amended by Act No. 215/2002 Coll.
- 84) Article 2(1)(b), (c) and (l) and Article 29a of Act of the National Council of the Slovak Republic no. 171/1993 Coll. on the Police Force as amended .
- 85) E.g. Articles 5 and 6 of Act of the Slovak National Council No. 310/1992 Coll., as amended; Article 5 and Article 10, paragraph 8 of Act No. 460/2002 on application of international sanctions ensuring international peace and security.
- 86) E.g. the United Nations Convention on the Fight against Illicit Trade in Narcotic and Psychotropic Substances (official announcement No. 462/1991 Coll.), Convention on the Fight against Bribery of Foreign Public Officials in International Trade Transactions (official announcement No. 318/1999 Coll.), Convention on Money Laundering, Detection, Seizure and Confiscation of the Proceeds from Crime, (official announcement No. 109/2002 Coll.), Criminal Law Convention on Corruption, (official announcement No. 375/2002 Coll.), International Convention for the Suppression of the Financing of Terrorism, (Official announcement No. 593/2002 Coll.).

- 86a) Act No. 215/2004 Coll. on protection of confidential information and on amendments of certain Acts, as amended.
- 86b) 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.
- 86c) Articles 6 to 13 of Act No. 65/2001 Coll. on the enforcement of judicial claims.
- 86d) Act No. 460/2002 Coll. Article 2, paragraph 1, letter d), and paragraph 2 of National Council of the Slovak Republic Act No. 46/1993 on the Slovak Information Service, as amended by Act No. 256/1999. Coll.87) E.g. Act No. 36/1967 Coll. on experts and interpreters, as amended by Act No. 238/2000 Coll., Act No. 466/2002 Coll.
- 87a) Act No. 527/2002 Coll. on voluntary auctions and on the amendment of the Slovak National Council Act No. 323/1992 Coll. on notaries and notarial activity (The Notarial Order), as amended.
- 87aa) Article 75, paragraph 12, of Act No. 7/2005 Coll.
- 87b) Article 4, paragraph 3, Articles 5, 23 and 55 of Act No. 428/2002 Coll.
- 88) Act No. 140/1961 Coll., the Criminal Order, as amended.
- 88a) Article 3 of Act No. 428/2002 Coll.
- 88b) E.g. Act No. 530/2003 Coll. on the Companies Register and on changes and amendments to certain other laws, Articles 3a and 27 to 33 of the Commercial Code, Article 2, paragraph 2, Articles 10 and 11 of Act No. 34/2002 Coll. on foundations and changes and amendments to the Civil Code, as amended, Article 9, paragraphs 1 and 2 and Article 10 of Act No. 147/1997 Coll. on non-investment funds and on changes amendments to the National Council of the Slovak republic Act No. 207/1996 Coll., Article 9, paragraphs 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 association of citizens, as amended, Article 6, paragraph 1 and Article 7 of the National Council of the Slovak Republic Act No. 182/1993 Coll. on ownership of apartments and non-residential premises, as amended, Article 4, paragraph 3 of Act No. 515/2003 Coll. on regional and county offices and district offices and the amendment of certain acts.
- 88c) E.g. Act No. 367/2000 Coll., as amended, Act No. 431/2002 Coll., as amended by Act No. 562/2003 Coll., Act No. 395/2002 Coll. on archives and registrars and the amendment of certain acts.
- 88d) Article 4, paragraph 5 and Article 7, paragraph 3 of Act No. 428/2002 Coll.
- 88e) Article 4, paragraph 1, letters a), b) and c), Article 7, paragraph 3, the second sentence of paragraph 5 and the second sentence of paragraph 6, Article 8, paragraph 2 and Article 10, paragraph 6 of Act No. 428/2002 Coll.

- 88f) Article 2 of the National Council of the Slovak Republic Act No. 301/1995 Coll. on birth register number.
- 88g) Article 7, paragraph 6 of Act No. 428/2002 Coll.
- 88h) E.g. Article 12, paragraphs 1 and 2 and Article 22b of the National Council of the Slovak Republic Act No. 118/1996 Coll., as amended.
- 88i) Articles 23 and 55 of Act No. 428/2002 Coll., as amended by Act No. 602/2003 Coll.
- 88ia) Article 10(7) and Article 13(7) of Act no. 428/2002 Coll
- 88j) Article 4, paragraphs 1 and 2 of Act No. 244/2002 Coll.
- 88k) Article 67, paragraph 1 of Act No. 510/2002 Coll.  
Act No. 244/2002 Coll.
- 88l) E.g. Civil Procedure Order, the National Council of the Slovak Republic Act No. 233/1995 Coll., as amended.
- 88m) Act No. 244/2002 Coll.
- 89) Article 22 of the National Council of the Slovak Republic Act No. 118/1996 Coll., as amended by Act No. 154/1999 Coll.
- 90) Act No. 36/1967 Coll., as amended by Act No. 238/2000 Coll.
- 91) Articles 244 and 247 of the Civil Court Order.
- 92) Act No. 92/1991 Coll. on conditions for the transfer of state property to other persons, as amended.
- 93) The Criminal Order, Article 4, paragraph 1 of the National Council of the Slovak Republic Act No. 171/1993 Coll., as amended by Act No. 116/2000 Coll.
- 94) Article 163, paragraphs 1 and 6 and Article 163a of Act No. 566/2001 Coll., as amended.
- 95) Act No. 659/2007 Coll. [*note: Act on the introduction of the euro currency in the Slovak Republic*]



**SCHEDULE OF TRANSPOSED LEGAL ACTS OF THE EUROPEAN  
COMMUNITIES AND THE EUROPEAN UNION**

1. Directive 2000/46/EC of the European Parliament and of the Council of 18 September 2000 on the taking up, pursuit and prudential supervision of the business of electronic money institutions (OJ L 275 of 27.10.2000, OJ Special Edition Chapter 6, Volume 03).
2. Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganization and winding up of credit institutions (OJ L 125 of 5.5.2001, OJ Special Edition Chapter 6, Volume 04).
3. Directive of 2002/87/EC the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, 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, 93/22/EEC and Directives 98/78/EC and 2000/12/EC the European Parliament and of the Council (OJ L 35 of 11.2.2003, OJ Special Edition Chapter 6, Volume 04).
4. 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 and repealing Council Directive 93/22/EEC (OJ L 145 of 30.4.2004, OJ Special Edition Chapter 6, Volume 07).
5. 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 of the European Parliament and of the Council in order to establish a new organizational structure for financial services committees (OJ L 79 of 24.3.2005).
6. 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 of 27.4.2006).
7. 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 institution (recast) (OJ L 177 of 30.6.2006).
8. 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 of 30.6.2006)."