

ACT ON COLLECTIVE INVESTMENT

The full wording of Act No. 594/2003 Coll. on collective investment, as amended by Act No. 635/2003 Coll., Act No. 747/2004 Coll., Act No. 213/2006 Coll., Act No. 209/2007 Coll. and Act No. 659/2007 Coll.

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

SECTION I

FIRST PART

GENERAL PROVISIONS

ARTICLE 1

Scope of the Act

This Act governs:

- a) collective investment;
- b) activities of management companies;
- c) the establishment and management of mutual funds;
- d) activities of depositaries;
- e) the operation of foreign collective investment undertakings, foreign management companies, and foreign depositaries in the territory of the Slovak Republic;
- f) the protection of investors;
- g) activities of other entities involved in collective investment;
- h) supervision.

ARTICLE 2

Collective investment

(1) Collective investment shall mean raising funds from the public on the basis of a public offering, the objective being to invest the raised funds in liquid financial assets in the meaning of Article 44 and in assets stipulated by this Act and on the principle of risk spreading and limitation.

(2) Collective investment may be conducted only through mutual funds established under the conditions laid down by this Act and in accordance with the principles of risk spreading and limitation. Collective investment in the territory of the Slovak Republic may also be conducted by foreign collective investment entities and foreign management companies only under the conditions laid down by this Act.

(3) The raising of funds by a financial institution within the scope of its business regulated by a separate law ¹⁾ shall not be deemed to constitute the raising of funds from the public for the purposes of collective investment in the meaning of this Act.

ARTICLE 3

Management companies and foreign management companies

(1) A management company is a joint stock company, established for the purpose of conducting business, which has its registered office in the territory of the Slovak Republic and whose scope of business is the establishment and management of mutual funds under a licence granted by the National Bank of Slovakia for the establishment and activities of a management company; it is entered in the Commercial Register. ²⁾

(2) The management of mutual funds shall be understood to mean:

- a) the management of investments;
- b) administration, meaning mainly-
 1. maintaining the accounts of an investment fund,
 2. ensuring legal services for an investment fund,
 3. determining the value of assets in a mutual fund and determining the price of the fund shares,
 4. ensuring that tax liabilities relating to a mutual fund's assets are met,
 5. maintaining a list of fund shareholders and a list of the book-entry share owners' accounts kept under separate records of book-entry shares in open-end funds (hereinafter referred to as "separate records"),
 6. distributing and paying out income generated on mutual-fund assets,
 7. issuing fund shares and redeeming fund shares,
 8. concluding contracts on the issuing of fund shares or securities of foreign collective investment undertakings or on the redemption of fund shares or securities of foreign collective investment undertakings, and the settlement thereof,
 9. keeping business documentation,
 10. informing investors and handling any complaints they make,
 11. internal control for compliance with generally binding legal regulations, decisions of the National Bank of Slovakia and internal regulations of the management company;
- c) distribution of fund shares and the promotion of mutual funds.

(3) Apart from establishing mutual funds and performing the activities mentioned in paragraph (2) a management company may also perform the following activities provided that they are stated in the licence for its establishment and activities and that it manages at least one open-end fund:

- a) the management of a portfolio ³⁾ comprising one or more investment instruments ⁴⁾ in accordance with the customer's authorization, based on a contract on managing a portfolio separately from the portfolios of other customers, or the management of investments for funds established under a separate law;
- b) advisory activities ⁵⁾ in matters related to investment in instruments;
- c) the safe-keeping and management of fund shares issued by management companies and securities issued by foreign collective investment undertakings.

(4) Management companies may perform an activity mentioned in paragraph (2) for another management company, a foreign management company, or a foreign investment company provided that these activities were delegated to it on the basis of a contract and that the conditions mentioned in Article 25 are met.

(5) In order to perform the activities of a management company referred to in paragraphs (2) and (3), it is not required to have a licence to provide investment services in accordance with a separate law.⁶⁾

(6) A management company may not perform any activity other than activities in accordance with this Act or investment management in accordance with a separate law. A management company may perform an activity mentioned in paragraph (3)(b) and (c) only if this activity is stated in the licence for the establishment and activities of the management company, along with the activity mentioned in paragraph (3)(a).

(7) An entity other than a management company may not perform an activity mentioned in paragraph (1), unless provided otherwise by this Act or a separate law.⁷⁾

(8) A management company may issue shares only in the form of registered book-entry ordinary shares.⁸⁾

(9) The business name of a management company shall include the designation "správcovská spoločnosť, akciová spoločnosť" (management company, joint stock company) or the abbreviation "správ. spol., a.s.". No other natural or legal person may have a business name that uses the designation and abbreviation mentioned in the first sentence, or the designation "správcovská spoločnosť" (management company), or a designation in the Slovak language or a foreign language which is confusable with them, unless provided otherwise in a separate law.

(10) A management company:

- a) may not change the scope of its activities or legal form; an amendment to the licence for the establishment and activities of a management company, approved by the National Bank of Slovakia, shall not be deemed to constitute a change to the scope of activities;
- b) may not change the form and type of its shares;
- c) may not be split;
- d) may not be consolidated with another legal person.

(11) A foreign management company is a legal person which has its registered office outside the territory of the Slovak Republic, which establishes and manages a foreign collective investment undertaking, and which is authorized to conduct such activities by the country in which it has its registered office.

(12) A branch of a foreign management company is an organizational unit of a foreign management company which is situated in the territory of the Slovak Republic;⁹⁾ all the branches established in the Slovak Republic by a foreign management company based in a Member State of the European Union or European Economic Area (hereinafter referred to as a "Member State") shall, in regard to the authorization to conduct activities in the Slovak Republic, be considered as a single branch.

(13) Management companies are subject to the provisions of the Commercial Code, unless provided otherwise by this Act.

ARTICLE 4

Mutual funds and foreign collective investment undertakings

(1) A mutual fund shall be understood to mean the common assets of fund shareholders raised by a management company through the issuing of fund shares and through the investment of these assets. The fund shares represent equity rights of fund shareholders.

(2) A mutual fund is a collective investment entity and it is not a legal person. A mutual fund shall be managed by a management company. The mutual fund's assets shall not be included in the assets of the management company.

(3) Where a separate regulation or legal action requires information on the owner of a mutual fund's assets, the information on all fund shareholders shall be substituted with the name of the mutual fund and information on the management company which manages this mutual fund.

(4) A management company and the mutual funds under its management may be established only on the basis of a licence pursuant to this Act. A licence for the establishment of a mutual fund may only be granted after the management company has been established.

(5) A foreign collective investment undertaking shall be:

- a) a foreign mutual fund, or
- b) a foreign investment company.

(6) A foreign mutual fund shall be:

- a) a mutual fund established and managed outside the territory of the Slovak Republic by a foreign management company; or
- b) another collective investment undertaking without a legal personality, established or managed by a foreign management company.

(7) A foreign investment company shall mean a foreign legal person that is collective investment undertaking under the law of the country in which it has its registered office.

(8) Where a foreign collective investment undertaking meets the conditions laid down by the European Union's legal provision on collective investment, it shall for the purposes of this Act be deemed a European fund.

(9) A branch of a foreign investment company shall mean an organizational unit of a foreign investment company located in the territory of the Slovak Republic; ⁹⁾ all the branches of a foreign investment company which are established in the territory of the Slovak Republic by a foreign investment company whose registered office is in a Member State shall, in regard to the authorization to perform activities in the Slovak Republic, be considered as a single branch.

ARTICLE 5

Definitions

For the purposes of this Act,

- a) "public offering" shall mean any announcement, offer or recommendation in regard to the raising of funds which is made by a legal or natural person for their own benefit or the benefit of a third party, through any distribution channel, to a group of natural persons who are more than 50 in number;
- b) "distribution channels" shall mean-
 - 1. the press, radio and television,
 - 2. circulars, booklets or other written materials and durable records, and includes those addressed to the recipient in person;
 - 3. the internet and other electronic communication or information systems,
 - 4. unsolicited personal contact;
- c) "investor" shall mean a natural or legal person to whom a public offering is addressed, or who has used his funds to acquire fund shares issued by a management company or securities issued by a foreign collective investment undertaking, or who is interested in so doing;
- d) "fund shareholder" shall mean an investor who has used his funds to acquire shares in a mutual fund or securities issued by a foreign collective investment undertaking; another entity may act on behalf of the fund shareholder on the basis of a contract on the management of securities;
- e) "transferable securities" shall mean-
 - 1. shares, interim certificates and other securities carrying similar rights to those attached to shares issued by a domestic or foreign company either in the Slovak Republic or abroad,
 - 2. bonds and securities established by the transformation of credits or loans (hereinafter referred to as "debt securities"), issued in the Slovak Republic or abroad,
 - 3. other tradable securities issued in the Slovak Republic or abroad which carry the right to acquire the securities mentioned in indents (1) and (2) either through subscription or exchange;
- f) "home Member State" shall mean-
 - 1. for a foreign management company, the Member State in which the foreign management company has its registered office,
 - 2. for a foreign collective investment undertaking, the Member State in which the foreign management company that manages the foreign mutual fund or foreign investment company has its registered office;
- g) "host Member State" shall mean-
 - 1. for a management company, the Member State in whose territory the management company has established a branch or provides services,
 - 2. for a mutual fund, the Member State in which shares in this mutual fund are offered to the public;
- h) "initial capital" shall mean the aggregate of the paid-up share capital, issue agio, retained earnings from previous years, the reserve fund and other funds raised from profits, less accumulated losses from previous years;
- i) "own funds" shall mean capital and additional own funds;

- j) "regulated market" shall mean a market in listed securities on a stock exchange, a market in listed securities on a foreign stock exchange, or another market for investment instruments that meets the criteria laid down in Article 44; in the Slovak Republic, "another regulated market" shall be understood to mean a regulated open market on a stock exchange;
- k) "headquarters" shall mean the place from where the activities of a management company are controlled, or the place where documents necessary for exercising supervision over the management company may be located;
- l) "durable medium" shall mean an instrument or technical device, especially a technical information carrier, which enables an investor to store information addressed to him, and in such a way that it may be used in the future to meet its intended purposes and that allows for the unaltered reproduction of the stored information;
- m) "net asset value of a mutual fund" shall mean the difference between the value of assets in the mutual fund and the liabilities of the mutual fund;
- n) "financial institution" shall mean a stockbroker, a branch of a foreign stockbroker, ¹⁰⁾ a bank, a branch of a foreign bank, ¹¹⁾ an insurance company, a branch of a foreign insurance company, ¹²⁾ a reinsurance company, a branch of a foreign reinsurance company, ¹³⁾ the central securities depository ¹⁴⁾ (hereinafter the "central depository"), a stock exchange, ¹⁵⁾ a pension fund management company, or an undertaking with a similar scope of activities which has its registered office outside the territory of the Slovak Republic;
- o) "money market instruments" shall mean instruments typically traded on a money market which are liquid and which have a monetary value that can be accurately determined at any time;
- p) "investment management" shall mean the appreciation of a mutual fund's assets on the basis of decisions taken by the legal person performing this activity;
- q) "financial derivative" shall mean a derivative ¹⁶⁾ whose value is not based on commodities;
- r) "risk profile of a mutual fund" shall mean a representation of the types of risk related to investing in a mutual fund and the degree of such risks;
- s) "entity" shall mean a natural or legal person, unless stipulated by this Act to be only a natural person or only a legal person.

SECOND PART

THE MANAGEMENT COMPANY

DIVISION I

LICENCE FOR THE ESTABLISHMENT AND ACTIVITIES OF A MANAGEMENT COMPANY

Licence for the establishment and activities of a management company

ARTICLE 6

(1) The decision on whether to grant a licence for the establishment and activities of a management company shall be taken by the National Bank of Slovakia. An application for a licence for the establishment and activities of a management company shall be submitted to the National Bank of Slovakia by the founders of the management company.

(2) The National Bank of Slovakia shall not grant the licence mentioned in paragraph (1) unless the following conditions are proved to have been met:

- a) the value of the initial capital is in accordance with Article 18(1);
- b) the management company's share capital and other financial resources have a transparent and trustworthy provenance;
- c) entities with a qualified participation ¹⁷⁾ in the management company are eligible and their relations with other entities are transparent, especially as regard interests in the share capital and in the voting rights;
- d) any natural person, nominated to be a member of the board of directors, a member of the supervisory board, a chief clerk, a management employee ¹⁸⁾ reporting directly to the board of directors who is responsible for professional activities in accordance with this Act, one of the two employees responsible for professional activities under this Act, or the employee responsible for internal control, are professionally qualified and trustworthy;
- e) a group with close links ¹⁹⁾ that includes the shareholder with a qualified participation in the management company is transparent;
- f) the close links within the group mentioned in paragraph (e) do not impede the exercise of supervision;
- g) the exercise of supervision is not impeded by the legal system, application of laws or enforceability of laws in a country which is not a Member State and in which the group mentioned in paragraph (e) has close links;
- h) the registered office and headquarters of the management company is situated in the territory of the Slovak Republic;
- i) the articles of association of the management company comply with this Act and with other generally binding legal regulations;
- j) the founder of the management company is not a natural or legal person which is in liquidation or which is subject to a bankruptcy order, or it is not less than five years since any such bankruptcy proceedings were concluded or a mandatory settlement was reconfirmed, and not sooner than one year after the settlement of liabilities under the bankruptcy proceedings in accordance with a court-approved timetable; ²⁰⁾

- k) the material provisions for the operation of the management company, meaning the material-technical provisions for the activities of the management company and the organizational provisions for the operation of the management company, have been met in such a way that ensures compliance with the rules of prudent business (Article 11) and compliance with the rules for activities (Article 19);
- l) the natural persons who are members of the statutory body of a financial holding company or mixed financial holding company, and the eligibility of shareholders controlling the financial holding company or the mixed financial holding company, where the granting of a licence would mean the management company becoming part of the consolidated financial group of which the financial holding company is a part, or becoming part of the financial conglomerate of which the mixed financial holding company is a part, are professionally qualified and trustworthy;
- m) conditions the same as those for the granting of a licence to provide investment services^{20a)} have been met in regard to the requested scope of activities mentioned in Article 3(3).

(3) An application for the licence mentioned in paragraph (1) shall state:

- a) the business name and registered office of the prospective management company;
- b) the identification number of the prospective management company, if assigned;
- c) the amount of the share capital;
- d) a list of the shareholders with a qualified participation in the prospective management company; the list shall state the name, permanent residence and birth registration number, if a natural person, or the business name, registered office and identification number, if a legal person, and the amount of the qualified interest;
- e) the name, permanent residence and birth registration number of any person nominated to be a member of the board of directors, a member of the supervisory board, a chief clerk, a management employee¹⁸⁾ reporting directly to the board of directors who is responsible for professional activities in accordance with this Act, one of the two employees responsible for professional activities under this Act, or the employee responsible for internal control, and information on their professional qualification and trustworthiness;
- f) a proposal on the extent to which the management company will perform the activities mentioned in Article 3(3), where it plans to perform these activities;
- g) information on the material, personnel and organizational provisions for the operation of the management company;
- h) a declaration by applicants that the submitted information is complete and true.

(4) The following shall be attached to the licence application referred to in paragraph (1):

- a) the founder's deed or founder's contract;
- b) a draft of the articles of association of the management company;
- c) a draft of the organizational structure of the management company;
- d) draft internal regulations and operational procedures of the management company for ensuring the fulfilment of prudent business rules;
- e) draft regulations and operational procedures of the management company for ensuring the fulfilment of rules for activities, including draft rules for customer-related activities in accordance with a separate law²¹⁾ where the company will also perform activities referred to in Article 3(3),

- f) a brief professional resumé, and document on the attained education and professional experience of the persons referred to in paragraph (3)(e), a document affirming their clean criminal record that is not older than three months and a statutory declaration that they meet the requirements laid down by this Act;
- g) a declaration by the applicant that their property has not been subject to bankruptcy proceedings or a mandatory settlement;²⁰⁾
- h) a document showing that the share capital has been paid up;
- i) repealed as of 1 January 2006.

(5) The National Bank of Slovakia shall decide on a licence application made in accordance with paragraph (1) within a time limit stipulated by a separate law,²²⁾ but not later than six months after the application was submitted.

(6) The National Bank of Slovakia shall refuse the licence application referred to in paragraph (1) where the applicant does not fulfil, or does not evidence fulfilment of, a condition mentioned in paragraph (2). The National Bank of Slovakia may not grant a licence for the activities referred to in Article 3(3)(b) and (c) where the management company has simultaneously or previously not been granted a licence for the activities referred to in Article 3(3)(a).

(7) The conditions referred to in paragraph (2) shall be fulfilled without interruption for so long as the licence for the establishment and activities of a management company is valid.

(8) For the purposes of this Act, the professional qualification of any person nominated to be a member of the board of directors of a management company, a chief clerk of a management company, a management employee reporting directly to the board of directors who is responsible for professional activities under this Act, or the employee responsible for internal control, shall be understood to mean the completion of university education with at least three years' experience in the financial market or capital market sectors and three years' management experience in the capital market sector; for the two employees in charge of professional activities under this Act, it shall be necessary to show appropriate experience in the investment management or portfolio sectors. The National Bank of Slovakia may also recognize the professional qualification of a person who has completed full secondary education, full secondary vocational education, or a similar education abroad, and who has at least seven years' experience in the capital market sector or another financial sector while holding a management position for at least three of these years.

(9) The professional qualification of a person nominated to be a member of the supervisory board of a management company shall be understood to mean appropriate knowledge and experience in the capital market sector or in another financial sector. A member of the statutory body of a financial holding institute or mixed financial holding company shall be deemed to be professionally qualified if he is a natural person with knowledge and experience in the financial sector.

(10) For the purposes of this Act, a natural person shall be deemed trustworthy if he has no criminal record and:

- a) has not held a position mentioned in paragraph 3(e) in a management company, nor has been a management employee or a member of the statutory body or supervisory board in

- a financial institution, at any time within one year before the licence for the establishment and activities of such a company or institution was revoked;
- b) has not held a position mentioned in paragraph (3)(e) in a management company, nor has been a management employee or member of the statutory body or supervisory board of a financial institution, in which compulsory administration has been introduced, or in a management company managing mutual funds whose assets have come under compulsory administration, where any such position was held within one year before the compulsory administration was introduced;
 - c) has not held a position mentioned in paragraph 3(e) in a management company, nor has been a management employee or member of the statutory body or supervisory board in a financial institution, at any time within one year before such company or institution went into liquidation or was declared bankrupt, or before the mandatory settlement of its property was confirmed or permitted, or a petition for a bankruptcy order against it was rejected on grounds of insufficient assets;
 - d) has not been validly fined an amount in excess of 50% of a fine that could be imposed under this Act or under a separate law;²³⁾
 - e) has over the past ten years performed his duties or conducted his business in a reliable and conscientious manner and without breaching any generally binding legal regulations, and, having regard to this fact, guarantees that he will likewise exercise the office for which he has been nominated, including the fulfilment of obligations arising under generally binding legal regulations, under the articles of association of the management company, and under any internal regulations.

(11) A natural person shall be deemed not to have a criminal record if he has not been sentenced for an intentional criminal offence or for a criminal offence committed in connection with the exercise of his duties; the clean criminal record shall be evidenced with an extract from the Criminal Register that is not older than three months or, if the person is a foreigner, with a similar confirmation of a clean criminal record issued by the competent authority of the country in which he has permanent residence or in which he usually resides.

(12) In licensing proceedings, the National Bank of Slovakia may recognize the trustworthiness of a natural person mentioned in paragraph (10)(a) to (c), where the nature of the matter implies that the natural person, in exercising the office mentioned in paragraph 10(a) to (c), could not have influenced the activities of the management company or financial institution, nor have caused the consequences referred to in paragraph 10(a) to (c).

(13) During assessment of the conditions mentioned in paragraph 2(c), a legal person or trustworthy natural person who provides credible evidence of having met the conditions laid down in paragraph (2)(b) shall be deemed to be eligible provided that it is clear from all the circumstances that they will carry out collective investment in a proper manner in the interests of financial market stability.

(14) The eligibility of shareholders controlling a financial holding company or a mixed financial holding company shall be understood to mean their ability to ensure, in the interests of financial market stability, the proper and secure performance of activities of regulated entities that are part of a consolidated financial group controlled by the financial holding company or part of a financial conglomerate controlled by the mixed financial holding company.

ARTICLE 7

(1) Prior to granting a licence for the establishment and activities of a management company of a legal person which is:

- a) a subsidiary²⁴ of a foreign management company, foreign stockbroker, foreign bank, or foreign insurance company;
- b) a subsidiary of the parent company²⁵ of a foreign management company, foreign stockbroker, foreign bank, or foreign insurance company;
- c) controlled by the same natural or legal persons that control a foreign management company, foreign stockbroker, foreign bank, or foreign insurance company;
- d) a subsidiary of a bank or insurance company which has its registered office in the territory of a Member State;
- e) a subsidiary of the parent company of a bank or insurance company which has its registered office in the territory of a Member State;
- f) controlled by the same entities that control a bank or insurance company which has its registered office in the territory of a Member State;

the National Bank of Slovakia shall consult the competent supervisory authority of the Member State which has granted the respective licence to the foreign management company, foreign stockbroker, foreign bank, or foreign insurance company which has its registered office in the territory of that Member State.

(2) The consultation mentioned in paragraph (1) shall concern mainly an assessment of the eligibility of shareholders of the management company, the trustworthiness and professional qualification of the persons mentioned in Article 6(2)(d) working in an entity referred to in paragraph (1), and an assessment of compliance with the conditions under which such persons perform these activities. The National Bank of Slovakia shall, upon request, furnish the competent supervisory authority, banking supervisory authority or insurance supervisory authority of a Member State, with the information needed to assess the eligibility of the shareholders of a foreign management company, the trustworthiness and professional qualification of the persons who are to work in a foreign management company, and the information needed to assess whether entities subject to supervision by the National Bank of Slovakia comply with the conditions under which they perform their activities.

ARTICLE 8

(1) A licence for the establishment and activities of a management company shall be granted for an unlimited period; it may not be transferred to another entity, nor passed on to the legal successor of the management company.

(2) A licence for the establishment and activities of a foreign management company granted in a Member State shall apply in the territory of the Slovakia Republic and shall entitle the foreign management company to perform the licensed activities in the territory of the Slovak Republic through a branch or on the basis of the right of freedom to provide services in accordance with Articles 28 and 29.

(3) The statement of a decision to license the establishment and activities of a management company, taken in accordance with a separate regulation,²⁶⁾ shall state in addition to the general particulars of the decision:

- a) the business name and registered office of the management company whose establishment and activities is the subject of the licence;
- b) the scope of the management company's activities;
- c) information on the extent to which the management company is authorized to perform activities referred to in Article 3(3);
- d) the name, permanent residence and date of birth of any natural person who may exercise the office of a member of the board of directors, a member of the supervisory board, or a chief clerk;
- e) the approval of the management company's articles of association.

(4) A licence for the establishment and activities of a management company may also state the conditions which the management company must meet before commencing the licensed activities, or the conditions with which the management company is required to comply when performing any of the licensed activities. A licence for the establishment and activities of a management company may include restrictions on performing certain activities.

(5) The National Bank of Slovakia may amend a licence for the establishment and activities of a management company at the request of the management company. The assessment of an application to amend a licence for the establishment and activities of a management company shall be subject, as appropriate, to Article 6. Where information stated in a licence for the establishment and activities of a management company is amended on the basis of a prior approval granted by the National Bank of Slovakia in accordance with Article 10, such amendment shall be deemed to be approved upon the granting of the prior approval by the National Bank of Slovakia. An amendment to a licence for the establishment and activities of a management company involving only a change in the name or permanent residence of a natural person or persons, already approved under the procedure referred to in Article 6 or Article 10, shall not require the approval of the National Bank of Slovakia. A management company shall, however, give the National Bank of Slovakia written notification of any such change not later than 10 days from the day when it was informed or otherwise became aware of this fact.

(6) A management company shall, on the basis of a licence for the establishment and activities of a management company or an amendment thereto, file with the competent registration court a petition for the registration of its licensed activities in the Commercial Register and shall do so within 30 days from when the licence or the amendment thereto came into effect; it shall then submit to the National Bank of Slovakia an extract from the Commercial Register within ten days from the effective date of the registration court's decision on making the entry in the Commercial Register or on amending the entry in the Commercial Register.

(7) A petition for the entry of a management company in the Commercial Register or a petition for an amendment to an entry shall include the valid decision of the National Bank of Slovakia made in accordance with this Act. The implementation of the entry is also contingent on the submission of the valid decision of the National Bank of Slovakia made in accordance with this Act.

(8) A management company may commence the activities stated in the licence for the establishment and activities of the management company, or in an amendment thereto, only after its registration in the Commercial Register and after the conditions under paragraph (4) have been met.

(9) A management company shall forthwith give the National Bank of Slovakia written notification of any change in the conditions based on which it was granted the licence for its establishment and activities, and of any changes in the facts mentioned in Article 6(3)(a) to (d), and changes in information under Article 6(3)(e), concerning management employees who report directly to the board of directors and are responsible for professional activities in accordance with this Act or the employee responsible for internal control. In addition, a management company shall forthwith give notice of any change in the facts mentioned in Article 6(3)(g), where such changes could affect the ability of the management company to perform its activities to the extent laid down in the licence.

ARTICLE 9

(1) A licence for the establishment and activities of a management company shall expire:

- a) as of the date when the management company is wound up for a reason other than the revocation of the licence for its establishment and activities;
- b) as of the effective date of a bankruptcy order against the management company in accordance with a separate regulation;²⁰⁾
- c) as of the date when the licence for the establishment and activities of the management company is returned; such licence may only be returned in writing and with the prior approval of the National Bank of Slovakia in accordance with Article 10(1)(i);
- d) as of the date of the deadline for registering the licensed activities in the Commercial Register in accordance with Article 8(6), where the management company has not filed a petition for the registration of the licence on the establishment and activities of the management company in the Commercial Register;
- e) as of the effective date of a decision to revoke the licence for the establishment and activities of the management company, where this decision does not stipulate another date for the termination of the licence;
- f) as of the date when an undertaking of the management company, or a part thereof, is sold.²⁷⁾

(2) A management company shall forthwith give the National Bank of Slovakia written notification of any facts mentioned in paragraph 1(a),(b) and (d).

(3) The National Bank of Slovakia shall forthwith notify any fact mentioned in paragraph 1(c) to the competent registration court.

DIVISION II

CONDITIONS FOR THE PERFORMANCE OF A MANAGEMENT COMPANY'S ACTIVITIES

ARTICLE 10

Prior approval of the National Bank of Slovakia

(1) The prior approval of the National Bank of Slovakia shall be required for:

- a) acquiring or exceeding an interest of 10%, 20%, 33%, 50% or 66% in the share capital of a management company, or in the voting rights in a management company, in one or more transactions, either directly or acting in concert; ²⁸⁾ or such an interest that results in the management company becoming the subsidiary of another parent company;
- b) a reduction in the share capital of a management company, except for a reduction made because of losses;
- c) the election of any person nominated to be a member of the board of directors of a management company or a member of the supervisory board of a management company, or for the appointment of a chief clerk of a management company;
- d) the merger of a management company with another management company,
- e) an amendment to the articles of association of a management company;
- f) delegating the performance of activities mentioned in Article 3(2)(a) to another legal person;
- g) establishing a branch of a management company in the territory of a country which is not a Member State (hereinafter referred to as "non-Member State"), where such approval is required by the law of this non-Member State;
- h) the sale of an undertaking of a management company or a part thereof; ²⁷⁾
- i) the return of a licence for the establishment and activities of a management company.

(2) For prior approval to be issued:

- a) under paragraph (1)(a), the conditions laid down in Article 6(2)(c), (e), (f) and (g) shall apply and shall be contingent on evidence of the transparent and trustworthy provenance, sufficient amount and appropriate composition of the funds with which the operation is to be executed;
- b) under paragraph (1)(b), the conditions laid down in Article 18(1) shall apply;
- c) under paragraph (1)(c), the conditions laid down in Article 6(2)(d) shall apply;
- d) under paragraph (1)(d), it shall be proved that the management company with which another management company is to merge meets the conditions laid down in Article 6(2), and there shall be a successful transfer of administration of the mutual funds managed by the management company that is to be wound up without liquidation to the management company's successor or to another management company, or it shall be shown that these mutual funds have been wound up in accordance with the procedure laid down in Article 59;
- e) under paragraph (1)(e), the conditions laid down in Article 6(2)(i) shall apply;
- f) under paragraph (1)(f), it shall be proved that the conditions laid down in Article 25 are met;
- g) under paragraph (1)(g), it shall be proved that the organizational, material and personnel provisions necessary for the activities of a branch are in place, while the scope of the licensed activities and financial position of the management company shall be appropriate in regard to the proposed activities of the branch;

h) under paragraph (1)(h) and (i), it shall be proved that the management company is no longer managing any mutual funds, while the management company shall prove that it has duly transferred the management of the mutual funds to another management company or that it has settled all liabilities towards fund shareholders, including any liabilities arising under wound-up mutual funds.

(3) The provisions of paragraph (1)(a), (b) and d) are without prejudice to the provisions of a separate regulation.²⁹⁾

(4) An application for prior approval:

- a) under paragraph (1)(a), shall be submitted by the legal or natural persons who plan to acquire an interest in the share capital of the management company or the entity which plans to become the parent company of the management company;
- b) under paragraph (1)(b), (e), (f), (g) and (i), shall be submitted by the management company;
- c) under paragraph (1)(c), shall be submitted by the management company or a shareholder of the management company;
- d) under paragraph (1)(d), shall be submitted by the management companies which are to be merged;
- e) under paragraph (1)(h), shall be submitted jointly by the management company and the entity which is to acquire the management company or a part thereof.

(5) A decision on the application mentioned paragraph (1)(a) shall be taken by the National Bank of Slovakia within three months from when the application was delivered or supplemented. A decision on the application mentioned in paragraph (1)(c) shall be taken by the National Bank of Slovakia within 15 days from when the application was delivered or supplemented.

(6) The National Bank of Slovakia shall reject an application referred to in paragraph (1) where the applicant does not fulfil, or does not evidence fulfilment of, a condition mentioned in paragraph (2).

(7) Where the acquirer of an interest in the share capital of a management company, or in the voting rights mentioned in paragraph (1)(a), is a foreign stockbroker, a foreign bank, a foreign management company, an insurance company authorized in another Member State, or the parent company of such company, or an entity controlling such person, and where this entity's acquisition of an interest under paragraph (1)(a) would make the management company a subsidiary of the entity, or bring it under the control of the entity, the granting of prior approval under paragraph (1)(a) shall be subject to consultation in accordance with Article 7.

(8) Where the acquisition of an interest in accordance with paragraph (1)(a) would result in the management company becoming a part of a consolidated financial group that includes a financial holding company, or a part of a financial conglomerate that includes a mixed financial holding company, the granting of prior approval by the National Bank of Slovakia shall be contingent on evidence of the trustworthiness and professional qualification of the natural-person members of the statutory body of this financial holding company or mixed financial holding company, and on the eligibility of the shareholders controlling the financial holding company or mixed financial holding company.

(9) Where the general meeting or another competent body of a management company takes a decision on any matter for which the National Bank of Slovakia has granted prior approval, a notarized deed shall be drawn up for the proceedings of the management company's general meeting or other competent body. Within 15 days after the management company's general meeting or other competent body has decided on a matter for which the National Bank of Slovakia has granted prior approval, the management company shall submit to the National Bank of Slovakia the notarized deed or minutes of the respective body of the management company. The management company shall forthwith inform the National Bank of Slovakia of the performance of any acts for which prior approval has been granted.

(10) Following the registration of changes in the Commercial Register, or the expiry of information ³⁰⁾ registered in the Commercial Register, for which the National Bank of Slovakia has granted approval, the management company shall submit an extract from the Commercial Register to the National Bank of Slovakia within ten days after the respective entry was made.

(11) If a natural person who has received prior approval from the National Bank of Slovakia in accordance with paragraph (1)(c) is not appointed or elected to the respective position within six months after acquiring the valid decision, the prior approval shall expire.

(12) In a decision on granting prior approval in accordance with paragraph (1)(a), (b), and (d) to g), the National Bank of Slovakia shall state the period after which the prior approval will expire if the operation for which it was granted has not been performed. This period may not be shorter than three months, nor longer than one year, from when the prior approval was granted, unless the National Bank of Slovakia stipulates a different period in order to protect fund shareholders.

Rules of prudent business

ARTICLE 11

(1) A management company shall comply with the rules of prudent business in accordance with Articles 12 to 18.

(2) A management company which has been granted by the National Bank of Slovakia a licence to perform activities mentioned in Article 3(3) shall be subject to the provisions of a separate law on the protection of customers ³¹⁾ to whom it provides investment services, and in this regard it is required to contribute to the Investment Guarantee Fund ³¹⁾ and it shall at the same time be subject to the provisions on the organisation and management of a securities dealer laid down in a separate regulation, insofar as the scope of these provisions exceed the provisions on the organisation and management of a management company in accordance with this Act ^{31a)}.

ARTICLE 12

Organization, management and organizational structure of the management company

(1) The articles of association of a management company shall regulate relations and cooperation between the board of directors, supervisory board, chief clerks, management employees reporting directly to the board of directors who are responsible for professional activities under with this Act, employees responsible for professional activities under this Act, and the employee responsible for internal control. A management company's articles of association shall also apportion and regulate powers and responsibilities within the company in regard to protection against the legalization of income from illegal activities and against financing terrorism.

(2) A management company shall draft and comply with internal regulations and procedures aimed at ensuring adherence to the rules of prudent business and rule for activities.

(3) The organizational structure and management system of a management company shall ensure the due and secure performance of activities mentioned in the licence, compliance with the principle of equality and investor protection, and the effective examination and handling of investor complaints; it shall minimize risks to fund shareholders and customers resulting from a conflict of interests between the management company and its fund shareholders or customers or between its customers or fund shareholders. Where a management company has established a branch in a host Member State, the organizational structure and management structure of this branch may not be contrary to the rules of prudent business applied in the host Member State.

(4) The organizational structure of a management company shall include an employee responsible for internal control.

(5) A management company shall present its organizational structure to the National Bank of Slovakia within ten days after making any amendment thereto.

(6) The board of directors of a management company shall have at least three members.

(7) Where a decision taken by the board of directors of a management company affects a third party, it shall require approval by a majority of members of the board of directors. The persons signing on behalf of the board of directors shall be members of the board of directors, at least two in number, and they shall always sign jointly.

(8) The board of directors of a management company may award a chief clerkship to at least two natural persons.

(9) Where a decision affects third parties, it shall require approval by a majority of the chief clerks of the management company. The persons signing of behalf of the management company shall be chief clerks, at least two in number, and they shall always sign jointly.

(10) A management company shall regulate legal relations with members of the board of directors on the basis of a contract subject to a general regulation.³²

(11) Any member of the board of directors or chief clerk who, in exercising the office of a member of the board of directors or chief clerk, has breached their obligations and caused damage to the fund shareholders in a mutual fund, shall be jointly and severally liable to the fund shareholders for such damage. A member of the board of directors or a chief clerk shall not be liable for damage if he proves that he acted with professional care in the exercise of his duties.

ARTICLE 13

Internal control

(1) A management company shall draft and maintain an effective internal control system. For the purposes of this Act, internal control shall be understood to mean control for compliance with laws and other generally binding legal regulations, the fund deeds of the managed mutual funds, the articles of association of the management company, the rules of prudent business, and other internal regulations and procedures within the management company's activities, where the control is performed by one or more employees of the management company or by another entity on the basis of a contract. For such a contract to be valid, it shall require the prior written consent of the management company's employee responsible for internal control.

(2) The supervisory board of a management company may require the employee responsible for internal control to perform an internal control audit on the implementation of control in the management company, to the extent defined by the board.

(3) If during the exercise of his duties, the employee responsible for internal control becomes aware of any fact indicating a breach of the management company's obligations under generally binding legal regulations, the fund deeds of the managed mutual funds, the articles of association of the management company, the rules of prudent business or other internal regulations and procedures within the management company's activities, and where such breach could affect the proper performance of the management company's activities, it shall forthwith provide written notification of this fact to the supervisory board, the depository, and the National Bank of Slovakia.

(4) The employee responsible for internal control, or the person delegate to perform an internal control audit, may not be a member of the board of directors of the management company, a member of its supervisory board, nor one of its chief clerks.

(5) The employee responsible for internal control shall submit to the National Bank of Slovakia by 31 March of the current calendar year a report on its activities for the previous calendar year, on any shortcomings detected in the management company's activities and on measures adopted to redress the detected shortcomings.

(6) The employee responsible for internal control shall be accountable for the fulfilment of the obligations mentioned in paragraphs (3) and (5) even where the internal control audit was, in accordance with paragraph (1), performed by another entity on the basis of a contract.

ARTICLE 14

Accounting

(1) A management company shall maintain separate and independent accounts and prepare financial statements for itself and each mutual fund.³³⁾ The financial statements of a management company and a mutual fund must be audited by an auditor. In the interests of investors' protection, the National Bank of Slovakia may order a management company to replace an auditor.

(2) Apart from ordinary financial statements, a management company shall prepare interim financial statements³³⁾ as at the last day of each calendar quarter.

(3) An auditor who during the course of auditing the financial statements of a management company finds any facts which:

- a) indicate a breach of the management company's obligations under laws and other generally binding legal regulations;
- b) may affect the proper performance of the management company's activities; or
- c) may lead to a refusal to sign off on the financial statements or to the expression of reservations;

shall forthwith notify the National Bank of Slovakia thereof.

(4) Paragraph (3) shall apply to an auditor who audits the financial statements of the natural persons and legal person who together with the management company constitute a group with close links.¹⁹⁾

ARTICLE 15

Business documentation

(1) A mutual fund's assets, as well as transactions in a mutual fund's assets, shall be recorded separately from the assets of the management company and from the assets of other mutual funds.

(2) A management company shall keep records of contracts and instructions which apply to the use of a mutual fund's assets, especially contracts on the purchase and sale of securities and money market instruments and contracts related to derivative transactions. Access to these records shall be provided forthwith upon request to the National Bank of Slovakia and the depository.

(3) The records mentioned in paragraph (2) shall be maintained in such an extent and manner that makes it possible to document the way in which a transaction was conducted and to identify retrospectively any transaction in a mutual fund's assets since the establishment of the mutual fund, including the time and place of the transaction and the identification of the trading partners; they shall include especially:

- a) the serial number of the contract,
- b) information on the other contracting partner,
- c) information on the intermediary if the contract was concluded indirectly,
- d) the date when the contract was concluded and the date when it came into effect,
- e) information on the subject-matter of the contract.

(4) If a management company performs activities mentioned in Article 3(3), it shall additionally maintain a daily log of customer instructions to the extent and under the conditions laid down by a separate law.³⁴⁾

(5) A management company shall keep the records referred to in paragraphs (1) to (4), and other documentation concerning the managed mutual funds and its investment services, for a period of ten years from when they were drawn up. It shall forthwith upon request provide this documentation to the National Bank of Slovakia.

(6) A management company may keep the records referred to in paragraphs (1) to (4), concerning the managed mutual funds and its investment services, either in paper form or electronically on a durable medium, provided that the condition of information retrieval is met and that the management company has a system in place to protect against information loss. At the request of the National Bank of Slovakia, a management company shall demonstrate the security of its information system.

ARTICLE 16

Conflict of interests

(1) A management company may not acquire for a mutual fund's assets:

- a) shares of joint-stock companies with a qualifying holding¹⁷⁾ in its share capital or securities of joint-stock companies in which the management company has a qualifying holding¹⁷⁾ in their share capital or over the management of which the management company may exercise significant influence¹⁷⁾ in relation to the mutual funds under its management;
- b) securities which it has issued, except for shares in mutual funds under its management;
- c) securities of a legal person to whom investment management has been delegated in accordance with Article 25, except for shares in open-end funds and securities of foreign collective investment undertakings.

(2) A management company may not acquire for a mutual fund's assets any securities, money market instruments or derivatives from the assets of a company, nor may it sell securities, money market instruments or derivatives from a mutual fund's assets to a company in which:

- a) a member of the board of directors or supervisory board, a chief clerk, or a management employee is a board member, chief clerk or management employee in the management company, or a person close³⁵⁾ to any of them;
- b) an interest of more than 5% in the share capital or in the voting rights is owned by a member of the board of directors or supervisory board, a chief clerk or an employee of the management company, or by a person close to any of them.

(3) The provision of paragraph (2) shall not apply where the management company by means of an anonymous transaction^{34a)} acquires securities, money market instruments or derivatives from a company's assets for a mutual fund's assets, or sells securities, money market instruments, or derivatives from a mutual fund's assets.

(4) A management company performing activities mentioned in Article 3(3) may not invest any part of the client portfolio in:

- a) shares in mutual funds under its management unless the client has granted prior written consent to such investment; or
- b) shares in mutual funds managed by another management company in which the management company has a qualifying holding ¹⁷⁾ in its share capital or over the management of which the management company may exercise significant influence ¹⁷⁾ in relation to the mutual funds under its management, unless the client has granted prior written consent to such investment.

(5) An employee, a chief clerk or a member of the board of directors of a management company may not be an employee, chief clerk or member of a statutory body of another financial institution or management company; this shall not apply where the financial institution or management company are part of a single consolidated group or sub-consolidated group subject to consolidated supervision under a separate law, ³⁶⁾ provided that the prudent business rules of the management company or foreign management company include procedures to prevent such persons having a conflict of interests when performing activities within the management company, and that the provisions on conflict of interests under separate regulations ³⁷⁾ are not affected.

(6) A member of the board of directors, a chief clerk or an employee of a management company may not be a member of the supervisory board of:

- a) the depositary with which the management company has concluded a contract for the performance of depositary activities (hereinafter referred to as a "depositary contract");
- b) another management company.

(7) Members of the Government of the Slovak Republic, heads of other central state administration authorities, deputies of the National Council of the Slovak Republic, prosecutors, judges, employees of central state administration authorities of the Slovak Republic, the Office of the President of the Slovak Republic, the Office of the National Council of the Slovak Republic, the Supreme Audit Office of the Slovak Republic, the Constitutional Court of the Slovak Republic, the Supreme Court of the Slovak Republic, the Office of the Attorney General of the Slovak Republic and the Slovak Information Service, and members of bodies of the National Bank of Slovakia and employees of the National Bank of Slovakia, may not be members of the board of directors or supervisory board, a chief clerk or an employee of a management company, nor the head of the branch of a foreign management company.

(8) Members of the board of directors or supervisory board, chief clerks and employees of a management company may not, within the activities of the management company, place their own interests ahead of the interests of investors.

ARTICLE 17

Investment and sale of assets by a management company, members of its bodies, and its employees

(1) A management company may not, when investing its own assets into securities, money market instruments or financial derivatives, or when selling securities, money market

instruments or financial derivatives from its own assets, place its own interests ahead of the interests of the fund shareholders in the mutual funds under its management.

(2) Members of the board of directors or supervisory board, chief clerks and employees of a management company, and persons close to them, may not acquire securities, money market instruments or derivatives nor other assets from the assets of a mutual fund managed by this management company, and nor may they sell such securities, money market instruments, or derivatives for this mutual fund's assets. These persons may acquire shares in mutual funds managed by the management company only if the prudent business rules of the management company include procedures to prevent them gaining an advantage over the other fund shareholders and procedures to restrict the misuse of confidential information related to the management of the relevant mutual funds when these persons acquire or return fund shares.

(3) The limitations mentioned in paragraph (2) shall also apply to the acquisition and sale of securities, money market instruments, derivatives or other assets from the assets of a mutual fund managed by another management company in which the management company has a qualifying holding ¹⁷⁾ in its share capital or over the management of which the management company may exercise significant influence ¹⁷⁾ in relation to any of the mutual funds under its management, and to the acquisition of shares in mutual funds managed by that other management company in which the management company has a qualifying holding ¹⁷⁾ in its share capital or over the management of which the management company may exercise significant influence ¹⁷⁾ in relation to any of the mutual funds under its management. ¹⁷⁾

ARTICLE 18

Initial capital and capital adequacy of a management company

(1) The initial capital of a management company shall be at least EUR 1 million.

(2) A management company shall maintain capital adequacy. For the purposes of this Act, own funds are adequate if they are not less than:

- a) EUR 1 million plus 0.02% of the value of the mutual-fund assets managed by the management company in excess of EUR 250 million; the maximum level of this amount shall be EUR 10 million;
- b) one quarter of the average general operating costs of the management company for the previous calendar year; if the management company was established less than one year earlier, one quarter of the general operating costs contained in its business plan.

(3) The calculation of the amount mentioned in paragraph (2)(a) shall include the assets of mutual funds managed by the management company, including mutual funds which have had some of their related activities under Article 3(2) delegated to another person in accordance with Article 25. The calculation of the amount mentioned in paragraph (2)(a) shall not include mutual funds which involve the management company only to the extent of performing activities delegated thereto in accordance with Article 25.

(4) A management company may meet up to 50% of the capital adequacy requirements mentioned in Article 2(a) in excess of EUR 1 million with a guarantee issued

by a bank, a foreign bank whose registered office is in a Member State, an insurance company or a foreign insurance company whose registered office is in a Member State. The bank, foreign bank, insurance company or foreign insurance company shall undertake that these funds are not subject to additional conditions and they are freely at the disposal of the management company for the purpose of covering risks arising from its activities.

(5) A management company performing activities under Article 3(3) shall also maintain capital adequacy in accordance with a separate law,³⁸⁾ to the same extent as a stockbroker which is entitled to provide investment services involving portfolio management and which, in providing investment services, may use the customer's funds or investment instruments.

Rules for activities

ARTICLE 19

(1) A management company shall draft and observe rules for the activities mentioned in Articles 20 and 21:

- a) for the management of mutual funds,
- b) in regard to customers,
- c) for preventing the legalization of income from illegal activities and financing terrorism.

(2) A management company shall perform its activities so as not to breach the security of the financial system and it may not manipulate securities prices.³⁹⁾

(3) Where a management company performs an activity mentioned in Article 3(3), it shall observe the rules for customer-related activities in accordance with a separate law.²¹⁾

Rules for the management of mutual funds

ARTICLE 20

(1) In managing a mutual fund's assets, a management company shall act independently, in its own name and for the account of fund shareholders; this is without prejudice to the management company's entitlement to delegate the performance of certain activities to another entity in accordance with Article 25.

(2) In managing a mutual fund, a management company shall in particular:

- a) act in accordance with the principles of good practice, in accordance with the principles of an honest business relationship, in the best interests of fund shareholders in the mutual fund and in the interests of financial market stability;
- b) act with professional care and circumspection in the best interests of fund shareholders in the mutual fund under its management and in the interests of financial market stability;
- c) make effective use of personnel and material-technical resources for the proper performance of its activities;
- d) act in accordance with the rules referred to in Articles 16 and 17, mainly to prevent a conflict with the interests of the fund shareholders in the mutual funds under its

management, and, where such conflict of interests is unavoidable, to place the interests of the fund shareholders ahead of its own interests, the interests of the management company's shareholders and the interests of other entities, and, in the event of a conflict of interests among fund shareholders, to ensure the equal and fair treatment of all fund shareholders;

- e) perform activities in the best interests of its investors and customers and in the interests of financial market stability, while complying with generally binding legal regulations, fund deeds, and decisions of the National Bank of Slovakia;
- f) apply the principle of equality of treatment in dealings with all investors.

(3) Acting with professional care under paragraph (2) shall mean in particular:

- a) managing the mutual fund's assets in accordance with the orientation of the investment strategy and with the risk profile defined in the fund deed;
- b) preventing the risk of financial losses;
- c) analysing the economic suitability of transactions on the basis of accessible information;
- d) comparing the rates or prices of each purchase or sale with others, and comparing them with the development of rates and prices, and with the demand for, and supply of, transferable securities, money market instruments and derivatives;
- e) concluding transactions in a mutual fund's assets in such a way that the countervalue is transferred in favour of the mutual fund's asset on the principle of payment versus delivery, where this is not precluded by the nature of the transaction, and within the time limits usual for the regulated market in which the transaction is made, or, where the transaction is made outside a regulated market, within the contractually agreed time limits that are usual for the respective type of transaction;
- f) buying or selling securities or money market instruments from the assets or for the assets of a mutual fund for the best price that may be obtained in favour of the mutual fund;
- g) acquiring for the assets of a real-estate special fund only real estate found in the territory of a country in which the acquisition of real estate is not restricted and in which there is a register of real estate wherein are entered the ownership and other material rights to real estate;
- h) in regard to the possibility of damage or destruction of the real estate included in the assets of a real-estate special fund, concluding an insurance contract which would provide damage compensation to the full extent;
- i) fulfilling the obligations laid down in Articles 73e, 73f and 73j.

(4) A management company shall evidence the exercise of professional care at the request of the National Bank of Slovakia. If a management company fails to comply with this request, it shall be deemed not to have acted with professional care.

(5) A management company may not purchase securities for a mutual fund's assets, or sell securities from a mutual fund's assets, on a public securities market by a method other than anonymous transactions^{34a} unless it is possible through this method, at the time when the transaction is concluded, to obtain a price more favourable for the mutual fund.

(6) A management company may not use a mutual fund's assets to cover or pay liabilities not directly related to the management of these assets or with the use thereof.

ARTICLE 21

(1) A management company shall, in each transaction, require the investor or customer to prove his identity, and the investor or customer shall meet the request of the management company. A management company may not make a transaction where the investor or customer retains anonymity.

(2) For the purposes of paragraph (1), the identity of an investor or customer may be proved by an identity document or by a signature, provided that the investor or customer is personally known and that his signature undoubtedly corresponds to the specimen signature deposited with the management company, upon the signing of which the investor or customer proved his identity with an identity document. For transactions made through technical devices, identity shall be proved with a personal identification number or a similar code assigned to the customer or investor by the management company and with authentication information agreed between the management company and the investor or customer, or with an electronic signature in accordance with a separate law.⁴⁰⁾

(3) For each transaction with a consideration of at least EUR 15 000, a management company shall establish the ownership of the funds used by the investor or customer to make the transaction. For this purpose, ownership of the funds shall be established with a binding written declaration by the investor or customer, in which the investor or customer shall state whether he owns the funds and whether the transaction is being made for his own account. If the funds are owned by another entity, or if the transaction is to be made for the account of another entity, the investor or customer shall state in the declaration the name, birth registration 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 owns the funds and for whose account the transaction is made; in this case, the investor or customer shall also present the management company with a written consent from the entity concerned to use its funds for the transaction, to make the transaction for its account, and to state information about it in the declaration. If the investor or customer fails to meet a condition laid down in this paragraph, the management company shall refuse to make the requested transaction.

(4) The obligation to establish the ownership of funds in accordance with paragraph (3) shall not apply where the management company is dealing with an investor or customer which is another management company or a financial institution making a transaction on behalf of its customer, whose ownership of the funds has already been established by this other management company or financial institution; in the case of foreign management companies or financial institutions, this obligation shall apply only if their registered office is in a country in which requirements for protection against the legalization of income from illegal activities and against financing terrorism are applied at least to the same extent as in Member States of the Organization for Economic Cooperation and Development. The management company or financial institution shall prove these facts to the management company which is to make the respective transaction; in the event of any doubt, the management company may, without giving a reason, insist on proof of ownership of the funds.

(5) A management company shall, for at least ten years after concluding a transaction, store identification information and copies of documents proving the identity of investors and customers and documents confirming the ownership of funds used by investors and customers to make the transaction.

(6) For the purposes of concluding and making transactions with investors and customers, and the follow-up control thereof, for the purposes of investor and customer identification, and for the additional purposes stated in paragraph (8), investors and customers, and their representatives, shall for each transaction meet any request of the management company-

a) to provide the following:

1. if a natural person, including a natural person representing a legal person, personal identification information ⁴¹⁾ that includes his name, address of permanent residence, address of temporary residence, birth registration number, if assigned, date of birth, citizenship, and the type and number of the identity document; in addition, if a natural person-entrepreneur, his business address, the designation of the official register or other official record in which the natural person-entrepreneur is registered, and the number of his entry in this register or record;
2. if a legal person, identification information that includes the name, identification number, if assigned, address of the registered office, address of the place of business or organizational units, or the address of another place where his activities are carried out, and a list of the members of the statutory body of this legal person and information thereon to the extent laid down in indent (1), the designation of the official register or other official record in which the legal person is registered, ⁴²⁾ and the number of its entry in this register or record;
3. contact telephone number, fax number and electronic mail address, if any;
4. documents and information proving representational authority, in the case of a representative, and meeting the other requirements and conditions for concluding or making a transaction as laid down in this Act or by separate regulations or which have been agreed with the management company;

b) to enable the following to be obtained by photocopying, scanning or other means of recording:

1. personal identification information ³⁸⁾ that includes a visual likeness, title, name, maiden name, birth registration number, date of birth, place and district of birth, address of permanent residence, address of temporary residence, citizenship, record of any restriction of legal capacity, the type and number of the identity document, the issuing authority, date of issue and expiry date of the identity document; and
2. additional information from documents corroborating the information subject to paragraph (a)(2) to (4).

(7) For the purposes of concluding and making transactions with investors and customers, and the follow-up control thereof, for the purposes of investor and customer identification, and for the additional purposes mentioned in paragraph (8), a management company may in each transaction require the investor, the customer, or the representative thereof to provide the information mentioned in paragraph (6)(a) and may obtain it by a method pursuant to paragraph 6(b).

(8) A management company may establish, obtain, record, store, use and otherwise process ⁴⁵⁾ personal information and other information to the extent laid down in paragraph (6) in order to conclude and make transactions with investors or customers and to perform follow-up control thereof, to identify investors, customers and their representatives, to protect and enforce the rights of the management company towards investors or customers, to document the activities of the management company, to exercise supervision, and to meet the tasks and obligations of the management company under this Act or separate

regulations,⁴³ without the consent of and without informing the persons concerned,⁴⁴; a management company may at the same time, by automated or non-automated means, make copies of identity documents, and process the birth registration numbers and other information and documents referred to in paragraph (6).

(9) A management company shall, with or without the consent of, or informing, the entities concerned,⁴¹ make available and provide⁴⁶ information subject to paragraphs (6) to (8) for processing to other entities in the cases laid down in a separate law,⁴⁶ and to the National Bank of Slovakia for the purpose of exercising supervision in accordance with this Act and separate laws.

(10) A management company may, with or without the consent of, or informing, the entities concerned,⁴¹ make available and provide⁴³ information subject to paragraphs (6) to (8), from its information systems, only to entities and authorities to which it is obliged to provide information protected under Article 98.

(11) A management company may make available or provide information subject to paragraphs (6) to (8) in another country only under the conditions laid down in a separate law⁴⁸ or where provided by an international agreement binding upon the Slovak Republic.

(12) The provisions of paragraphs (1) to (11) shall also apply to the branch of a foreign management company or the branch of a foreign investment company insofar as it carries on activities in the territory of the Slovak Republic.

ARTICLE 22

(1) A management company is liable to the fund shareholders in mutual fund under its management for any damage resulting from a failure to meet, or inadequate fulfilment of, obligations arising under a law or under the fund deed.

(2) In the event of proceedings for damage compensation, a management company shall, at the fund shareholder's request, demonstrate that it has acted with professional care. If the management company fails to meet this request or fails to evidence professional care, it shall be deemed not to have acted with professional care.

(3) If in connection with a breach of any obligation under this Act, a material gain is acquired by the entity which breached the obligation, by an entity close to this entity, or by an entity with close links to it, this entity shall return the material gain to the entity at whose expense the material gain was acquired.

ARTICLE 23

Remuneration of the management company

(1) A management company is entitled to remuneration for managing a mutual fund. The calculation of the remuneration for managing a mutual fund shall be based on the net value of the mutual fund's assets for the respective period.

(2) A management company's remuneration for managing a mutual fund shall include all costs incurred by the management company in connection with the management of the mutual fund's assets, except for:

- a) taxes levied on the mutual fund's assets;
- b) the fee for depositary activities;
- c) fees paid to a regulated market, an entity arranging the settlement of securities transactions, a bank, a branch of a foreign bank, a stockbroker, a branch of a foreign stockbroker the central depositary or a member of the central depositary, ⁴⁹⁾ or to an entity performing any similar activity which has its registered office outside the territory of the Slovak Republic;
- d) fees paid to a real estate agency for services rendered to the management company in relation to the management of assets in a real-estate special fund, the remuneration of experts for real-estate valuations, administrative fees paid to a land registry, and fees paid to a similar registry of real estate in the case of real estate located abroad, and the insurance of real estate.

ARTICLE 24

Reporting obligation

(1) A management company shall forthwith notify the National Bank of Slovakia of any change in its financial position or any other facts which could threaten its ability to meet liabilities towards fund shareholders or customers.

(2) A legal person or a natural person which intends to reduce its interest in the share capital of a management company or in the voting rights of a management company to below 66%, 50%, 33%, 20%, or 10%, in one or several operations, directly or by action in concert, ²⁸⁾ or which intends to cease being the parent company of a management company, must give the National Bank of Slovakia written notification of this fact.

(3) The notification mentioned in paragraph (2) shall state:

- a) the name, birth registration number, and place of permanent residence, if a natural person, or business name, identification number, and registered office, if a legal person;
- b) the extent to which the legal or natural person in intends, in accordance with paragraph (2), to reduce his interest in the share capital or voting rights of the management company.

(4) A management company shall notify the National Bank of Slovakia of any change in its share capital which results in the interest of a single entity, or entities acting in concert, ²⁸⁾ increasing to more than 10%, 20%, 33%, or 50%, or where the interest of a single entity, or entities acting in concert, in the share capital or voting rights of the management company decreases to below 50%, 33%, 20%, or 10%, and it shall do so forthwith after receiving this information.

(5) A management company shall submit a list of its shareholders to the Ministry of Finance of the Slovak Republic (hereinafter the "the Ministry") and to the National Bank of Slovakia by 31 March of the current calendar year and the list shall be current as of 15 March of that calendar year.

(6) A management company performing an activity mentioned in Article 3(3) shall also fulfil reporting obligations in accordance with a separate law ⁵⁰⁾ to the extent which exceeds the terms of the reporting obligation laid down by this Act.

(7) A management company which has decided to perform an activity, or to establish, a branch in the territory of a non-Member State shall give the National Bank of Slovakia advance notice in writing of this intention. This obligation shall not apply to the establishment of a management company's branch under the procedure mentioned in Article 10(1)(g).

(8) After establishing a branch or commencing activities in a non-Member State, a management company shall forthwith give the National Bank of Slovakia written notice of the following:

- a) the granting of a licence to perform activities or to establish a branch in the non-Member State, where such a licence is required in the non-Member State;
- b) the date when it commenced activities or established a branch in the non-Member State;
- c) a plan of activities including a listing of the projected activities in the non-Member State;
- d) the address of the branch whereat information and documents may be requested;
- e) the name of the head of the branch and his deputy;
- f) the organizational structure of the branch.

(9) A management company shall forthwith inform the National Bank of Slovakia in writing of any sanctions imposed on it by the competent authority of a non-Member State.

ARTICLE 25

Delegation of activities

(1) A management company may, on the basis of a contract, delegate the performance of one or more activities mentioned in Article 3(2) to another entity which is authorized to perform the delegated activities. A management company may not delegate the performance of such activities to an entity whose interest may conflict with the interests of the management company or fund shareholders. The activity mentioned in Article 3(2)(a) may be delegated only to a legal person that is a stockbroker, management company, foreign stockbroker, foreign management company, or another foreign entity authorized to manage portfolios subject to supervision in the country in which its registered office is situated; a management company may not delegate the performance of such activity to a depositary for mutual funds.

(2) Activities related to the management of a mutual fund may be delegated in accordance with paragraph (1) provided that:

- a) the National Bank of Slovakia is informed in advance of the management company's intention to delegate one or more activities to another entity;
- b) in both the fund deed and prospectus of the mutual fund there is a list of the activities which may be delegated to the entities mentioned in paragraph (1);
- c) this does not prevent the exercise of effective supervision over the management company;
- d) this does not prevent the management company from acting in the best interests of investors;

- e) this does not prevent the mutual fund from being managed in the best interests of investors;
- f) where an activity under Article 3(2)(a) is delegated to a legal person which has its registered office in a non-Member State, cooperation is ensured between the National Bank of Slovakia and the supervisory authority in the non-Member State;
- g) the management company adopts measures enabling the depositary and the natural persons managing the business of the management company to monitor on a continuous and effective basis the activity of the legal person mentioned in paragraph (1);
- h) this does not prevent the natural persons managing the management company from giving binding instructions at any time to the legal person to whom part of the activities have been delegated;
- i) this does not prevent the management company from withdrawing from the contract mentioned in paragraph (1) with immediate effect;
- j) the entity mentioned in paragraph (1) has given a written undertaking to comply with the fund deed;
- k) the legal person mentioned in paragraph (1) has in place the material, personnel and organizational provisions for the performance of the delegated activities.

(3) A management company shall forthwith deliver to the National Bank of Slovakia the contract on the delegation of activities and any amendments thereto, and it shall forthwith notify its withdrawal from this agreement.

(4) The delegation of activities related to the management of mutual funds is without prejudice to the liability of the management company and the depositary for any damage caused to the fund shareholders within the management of the mutual fund's assets.

(5) A management company may not delegate all activities related to the management of mutual funds to other entities, nor delegate activities to such an extent that the management company ceases to fulfil the purpose for which the licence for its establishment and activities was granted, and nor may it delegate the management of investments amounting to more than 50% of the assets in the mutual funds under its management. The delegation of activities mentioned in paragraph (1) may not be used to circumvent the obligation to perform management company activities exclusively on the basis of the licence for the establishment and activities of the management company.

DIVISION III

COOPERATION AND FREE MOVEMENT OF SERVICES WITHIN THE EUROPEAN ECONOMIC AREA

Performing management company activities in a Member State

ARTICLE 26

(1) If a management company has decided to establish a branch in the territory of a Member State, it shall give the National Bank of Slovakia written notification of this intention and shall, at the same time, state the following information:

- a) the country in which it intends to establish the branch;

- b) a plan of activities of the branch including a listing of the projected activities and services in accordance with Article 3(1) and (3);
- c) the address of the branch whereat information and documents may be requested;
- d) the name of the head of the branch and his deputy;
- e) the organizational structure of the branch.

(2) The National Bank of Slovakia shall assess the organizational, material and personnel provisions, the scope of the licensed activities and the financial position of the management company, and provided that it finds no grounds to doubt their adequacy in regard to the proposed activities, it shall, within three months of the delivery of the complete notification mentioned in paragraph (1), deliver this notification to the competent authority of the host Member State. If the management company also intends to provide services mentioned in Article 3(3), the competent authority of the host Member State shall inform the National Bank of Slovakia about the conditions of customer protection (Article 11(2)). The National Bank of Slovakia shall forthwith inform the management company of the delivery of the notification and the information.

(3) If the National Bank of Slovakia does not consider that the organizational, material and personnel provisions, the scope of the licensed activities and the financial position of the management company are adequate in regard to the proposed activities, it shall not deliver the notification mentioned in paragraph (1) to the competent authority of the host Member State. Within two months after receiving the complete notification mentioned in paragraph (1), the National Bank of Slovakia shall issue the decision on its refusal to deliver the notification mentioned in paragraph (1). The decision shall be delivered to the management company.

(4) A management company may establish a branch in the territory of a host Member State and commence activities there only after receiving notification from the competent authority of the host Member State, including notification of the conditions under which the activities may be performed in the host Member State, or after a period of two months without a response have elapsed since the notification to the National Bank of Slovakia was received by the competent authority of the host Member State in accordance with paragraph (2). From that moment, the management company may commence distribution in the host Member State of shares in open-end funds which are under its management and which meet the requirements of the European Union's legal provision on collective investment under the conditions mentioned in Article 60; this shall not apply where, within the period mentioned in the first sentence, the competent authority of the host Member State has decided that the proposed method of offering fund shares to the public and the measures for securing the rights of fund shareholders in the respective Member State do not meet the requirements of the European Union's legal provision on collective investment and are not in accordance with other legal regulations applicable in this Member State.

(5) A management company shall give the National Bank of Slovakia and the competent authority of the host Member State written notification of any change in the information mentioned in paragraph (1)(b) to (e) at least 30 days prior to its being made. After receiving the information mentioned in the first sentence, the National Bank of Slovakia shall proceed in accordance with paragraphs (2) and (3). A management company may make the change referred to in the first sentence only in accordance with the procedure laid down in paragraph (4).

(6) The National Bank of Slovakia shall inform the competent authority of a host Member State of any change in the information which it has submitted to this authority in accordance with paragraph (2).

ARTICLE 27

(1) A management company which has decided to perform activities in a Member State on the basis of the right of freedom to provide services, without establishing a branch, shall notify the National Bank of Slovakia of this intention.

(2) In the notification mentioned in paragraph (1), the management company shall state:

- a) the Member State in which it has decided to perform the activities;
- b) a plan of activities, stating in particular the scope of the activities and services mentioned in Article 3(1) and (3) which the management company has decided to provide in this Member State.

(3) Within one month after receiving the information stated in the notification under paragraph (2), the National Bank of Slovakia shall send it to the competent authority of the host Member State. If the management company also intends to provide services in accordance with Article 3(3), the National Bank of Slovakia shall additionally inform the respective authority of the host Member State about the conditions of customer protection (Article 11(2)).

(4) After the National Bank of Slovakia has submitted the information mentioned in paragraph (1) to the competent authority of the host Member State, the management company may commence activities in the territory of the host Member State in the way stipulated by the legal regulations of the host Member State.

(5) A management company shall give the National Bank of Slovakia and the competent authority of the host Member State written notification of any change in the information provided under paragraph 2(b), and shall do so forthwith but not later than 30 days before the respective changes are made. After receiving the information mentioned in the first sentence, the National Bank of Slovakia shall proceed in accordance with paragraph (3). The management company may make the change mentioned in first sentence only in accordance with the procedure laid down in paragraph (4).

(6) A management company is subject to the reporting obligation mentioned in paragraph (5) also where it is to distribute shares in open-end funds by means of another entity.

Performance of activities by a foreign management company whose registered office is in the territory of a Member State

ARTICLE 28

(1) A foreign management company which has its registered office in the territory of a Member State may establish a branch in the territory of the Slovak Republic without the licence mentioned in Article 75 and may perform activities for which it has been granted a licence in its home Member State, on the basis of a notification delivered by the competent authority of the home Member State to the National Bank of Slovakia, along with information on the planned operation of this foreign management company in the territory of the Slovak Republic.

(2) Within two months after delivery of the notification from the competent authority of the home Member State in accordance with paragraph (1), the National Bank of Slovakia shall make preparations for supervision of the branch of the foreign management company and, where necessary, notify the foreign management company of the conditions under which its planned activities may or must, in regard to the public interest, be carried out in the territory of the Slovak Republic; it shall also communicate to the company the text of any generally binding legal regulations of the Slovak Republic to which its activities will be subject, in particular the provisions of this Act regulating the conditions for the distribution of European funds' securities (Article 61(3)), and, where the foreign management company will provide services mentioned in Article 3(3) in the territory of the Slovak Republic, the rules for customer-related activities in accordance with a separate law.

(3) After delivery of the notification to the National Bank of Slovakia in accordance with paragraph (2), or after the period mentioned in paragraph (2) has elapsed without a response, the foreign management company mentioned in paragraph (1) may establish a branch in the Slovak Republic and commence activities in the territory of the Slovak Republic. The foreign management company may also commence the distribution of European funds' securities under its management. This is without prejudice to the provisions of Article 61.

(4) The branch of the foreign management company mentioned in paragraph (1) shall notify the National Bank of Slovakia of any changes in the following not later than 30 days before they are made:

- a) the scope of its activities,
- b) the address of the branch,
- c) the name and surname of the head of the branch and his representative,
- d) the organizational structure of the branch.

(5) After the statement of the competent authority of the home Member State on the changes mentioned in paragraph (4) has been delivered to the National Bank of Slovakia, the National Bank of Slovakia may, if the nature of the notified changes so demands, make a corresponding change or addendum to the notification mentioned in paragraph (2).

ARTICLE 29

(1) A foreign management company which has its registered office in the territory of a Member State may, on the basis of the right of freedom to provide services and without establishing a branch, perform in the territory of the Slovak Republic the activities for which it has been granted a licence in its home Member State, provided that the competent authority of the Member State has delivered a notification to the National Bank of Slovakia containing

information about the planned operation of the foreign management company in the territory of the Slovak Republic.

(2) After receiving the notification mentioned in paragraph (1), the National Bank of Slovakia shall inform the foreign management company of this fact and, where necessary, it shall inform the company about the conditions under which the planned activities may or must, in regard to the public interest, be carried out in the territory of the Slovak Republic, including mainly the rules for customer-related activities in accordance with a separate law,²¹ if the foreign management company is to provide services mentioned in Article 3(3) in the territory of the Slovak Republic, and the part of this Act governing conditions for the distribution of European funds' securities (Article 61(3)).

(3) After delivering notification to the National Bank of Slovakia in accordance with paragraph (2), the foreign management company mentioned in paragraph (1) may commence activities in the territory of the Slovak Republic. The foreign management company may also commence the distribution of European funds' securities under its management. This is without prejudice to the provisions of Article 61.

(4) The foreign management company mentioned in paragraph (1) shall notify the National Bank of Slovakia of any changes to the information notified under paragraph (1) not later than 30 days before they are made.

(5) After the statement of the competent authority of the home Member State on the changes mentioned in paragraph (4) has been delivered to the National Bank of Slovakia, the National Bank of Slovakia may, if the nature of the notified changes so demands, make a corresponding change or addendum to the notification given to the National Bank of Slovakia in accordance with paragraph (2). The National Bank of Slovakia shall notify the foreign management company of this change or addendum.

(6) A foreign management company shall not be subject to the reporting obligation mentioned in paragraphs (1) to (4) where its activity in the Slovak Republic will be confined to the distribution of European funds' securities through another entity.

ARTICLE 30

(1) The National Bank of Slovakia may, for statistical purposes, require that a foreign management company that has established a branch in the Slovak Republic in accordance with Article 28 submit a regular report on its activities in the Slovak Republic.

(2) The National Bank of Slovakia may, for the purposes of supervision, require that the branch of a foreign management company submit information to the same extent as does a management company under this Act.

(3) The National Bank of Slovakia may require that the foreign management company mentioned in Article 29 submit information necessary for monitoring the compliance of its activities with the provisions of the generally binding legal regulations that apply to its activities. The National Bank of Slovakia may not require a foreign management company to submit information which it could not require from a management company.

(4) A management company shall meet any request by the competent authority of a host Member State for the submission of regular reports, for statistical purposes, on its activities in the territory of that Member State, or information necessary for monitoring the compliance of its activities with the provisions of the host Member State's generally binding legal regulations that apply to the company's activities.

ARTICLE 31

The National Bank of Slovakia shall inform the Commission of the European Communities (hereinafter "the Commission") about the number and nature of cases where it refused to submit to the competent authority of a host Member State information on the establishment of a branch of a management company in the territory of the host Member State and on measures adopted by the National Bank of Slovakia in accordance with Article 104(5).

DIVISION IV

WINDING UP OF A MANAGEMENT COMPANY

ARTICLE 32

Winding up of a management company without liquidation

(1) A management company may be wound up without liquidation only through a merger with another management company, on the basis of the prior approval of the National Bank of Slovakia in accordance with Article 10. The decision by a management company's general meeting to wind up the management company without liquidation, through a merger, may only be taken after the prior approval of the National Bank of Slovakia has come into effect.

(2) A management company may not merge with a legal person other than a management company, and a merger of management companies shall establish a management company in accordance with this Act.

(3) A management company's merger may not be to the detriment of fund shareholders in the managed mutual funds, nor to the detriment of creditors of the management company.

(4) The winding up of a management company without liquidation may be registered in the Commercial Register only after the mutual funds under its management have been transferred to the management company with which it is merging or to another management company, or after these mutual funds have been wound up in accordance with the procedure laid down in Article 59.

ARTICLE 33

Winding up and liquidation of a management company

(1) The decision of a management company's general meeting to wind up and liquidate the management company may only be taken after the National Bank of Slovakia has issued a prior approval for the return of the licence, granted under Article 10, for the establishment and activities of the management company.

(2) The liquidation of a management company, except for the liquidation of a management company in accordance with paragraph (3), shall be subject to the provisions of the Commercial Code. The liquidator of a management company shall cooperate with the National Bank of Slovakia.

(3) Where the licence for the establishment and activities of a management company includes one or more of the activities mentioned in Article 3(3), the liquidation of the company shall be subject to the provisions of a separate law.⁵¹⁾

ARTICLE 34

(1) After a bankruptcy order has been made against a management company, the management company shall not be allowed to use the assets in the mutual funds under its management; this does not apply to acts necessary for securing a mutual fund's assets against the occurrence of damage or for ensuring the transfer of the management of mutual funds to another management company.

(2) Where a bankruptcy order has been made against a management company, the receiver in bankruptcy shall, in regard to the introduction and exercise of compulsory administration under Article 109 or the winding up of mutual funds under Article 59, cooperate with the National Bank of Slovakia, the depositary and the compulsory administrator.

(3) A mutual fund asset's shall not be subject to a bankruptcy order against the management company, nor may they be used for a settlement with the management company's creditors made in accordance with a separate law.²⁰⁾

THIRD PART

OPEN-END FUNDS

ARTICLE 35

(1) An open-end fund is a mutual fund in which a fund shareholder is entitled, at his request, to the redemption of fund shares from the mutual fund's assets.

(2) An open-end fund shall be established by a management company through the issuing of fund shares.

(3) Funds raised through the issuing of fund shares and assets acquired with such funds for an open-end fund (hereinafter an "open-end fund's assets") shall be the common assets of the fund shareholders. An open-end fund's assets are not subject to the provisions of the general regulation ⁵²⁾ on co-ownership. Each fund shareholder may exercise his rights towards the management company independently.

(4) The name of an open-end fund shall include the business name of the management company which manages the open-end fund and the name of the open-end fund, as well as the words "otvorený podielový fond" (open-end fund) or the abbreviation "o.p.f.". Neither this name, nor a designation confusable with it in either the Slovak language or a foreign language, may be used by a natural or legal person for its own designation or the description of its activities, unless otherwise provided by this Act. The name of an open-end fund shall not be confusable with the name of another mutual fund and shall not provide a misleading impression of the orientation and objectives of the open-end fund's investment strategy.

(5) It is not allowed to:

- a) split an open-end fund,
- b) consolidate open-end funds,
- c) convert an open-end fund into a closed-end fund or into a special fund.

(6) An open-end fund may be established for a definite period or an indefinite period.

(7) The number of issued share in an open-end fund may only be restricted if so provided in the fund deed.

ARTICLE 36

Licence for the establishment of an open-end fund

(1) In order to establish an open-end fund, a licence is required from the National Bank of Slovakia.

(2) The licence mentioned in paragraph (1) shall not be granted unless the following conditions are proved to have been met:

- a) the management company meets the material, personnel and organizational provisions mentioned in Article 6 for the management of the open-end fund, and it complies with the rules of prudent business (Article 11) and the rules for activities (Article 19);
- b) any member of the board of directors, chief clerk or management employee of the depositary who ensures the activities of the depositary is professionally qualified and trustworthy;
- c) the fund deed is in accordance with this Act and it provides for adequate protection of fund shareholders in regard to the investment strategy and the risk profile of the open-end fund;
- d) a prospectus and simplified prospectus of the open-end fund have been prepared in accordance with this Act;
- e) shares in the open-end fund which are to be publicly offered in the territory of a Member State will at the same time be publicly offered in the territory of the Slovak Republic; this is without prejudice to the option of publicly offering the shares in the territory of a non-Member State;
- f) the choice of depositary is in accordance with this Act.

(3) The application for the licence mentioned in paragraph (1) shall be submitted by the management company. The application shall state:

- a) the business name, registered office and identification number of the management company;
- b) the name of the open-end fund;
- c) the period for which the open-end fund has been established;
- d) the business name, registered office and identification number of the depositary;
- e) the name, permanent residence and birth registration number of a member of the board of directors, a member of the supervisory board and a chief clerk of the management company, and a management employee of the management company reporting directly to the board of directors who is responsible for the professional activities of the management company;
- f) the name, permanent residence and birth registration number of a member of the board of directors, a chief clerk, and a management employee of the depositary who ensures the activities of the depositary.

(4) The following shall be attached to the licence application referred to in paragraph (1):

- a) a draft of the fund deed;
- b) a draft of the prospectus;
- c) a draft of the simplified prospectus;
- d) the preliminary approval of the depositary for the performance of depositary activities on behalf of the open-end fund;
- e) a list of the changes made in those documents which were submitted to the National Bank of Slovakia within application proceedings for the establishment and activities of the management company in order to evidence the material and organizational provisions for the establishment and activities of the management company;
- f) a brief professional resumé and document on attained education and professional experience of the persons referred to in paragraph (3)(e) and the management employees of the depositary who ensure its activities, and a document affirming their clean criminal record (Article 6(11)) that is not older than three months and a statutory declaration that they meet the requirements laid down by this Act;

g) information about the countries in which the management company plans to make a public offering of shares in the open-end fund.

(5) Where documents mentioned in paragraph (4)(f) have been submitted to the National Bank of Slovakia in proceedings that pre-dated the submission of the licence application mentioned in paragraph (1), it shall suffice to submit instead of them a written declaration that the documents are up-to-date, complete and truthful, that there has been no change in any of the facts they present, and that they continue to meet the requirements laid down by this Act; the declaration shall be signed by the persons authorized to act on behalf of the applicant and shall include a list of the documents already submitted.

(6) The National Bank of Slovakia shall decide on a licence application made under paragraph (1) within a time limit stipulated by a separate law,²²⁾ but not later than six months after the application was submitted.

(7) The National Bank of Slovakia shall refuse the application mentioned in paragraph (1) where the applicant does not fulfil, or does not evidence fulfilment of, a condition laid down in paragraph (2).

(8) The conditions mentioned in paragraph (2) shall be fulfilled without interruption for so long as the licence for the establishment of the mutual fund is valid.

(9) Any person nominated to be a management employee of a depositary with responsibility for ensuring the activities of the depositary shall be deemed professionally qualified if they are a natural person meeting the conditions laid down in Article 6(9).

(10) The professional qualification of members of the board of directors and supervisory board of a depositary is governed by the provisions of separate regulations;⁵³⁾ for the purposes of proceedings for the licence application mentioned in paragraph (1), it shall be deemed to be proved if it has been evidenced in accordance with the separate regulations.⁵³⁾

ARTICLE 37

(1) A licence for the establishment of an open-end fund may only be transferred to another management company with the prior approval of the National Bank of Slovakia in accordance with Article 57(1)(a). A licence for the establishment of an open-end fund is valid in all Member States.

(2) The announcement of a decision to license the establishment of an open-end fund, taken in accordance with a separate regulation,²⁶⁾ shall state in addition to the general particulars of the decision:

- a) the name of the open-end fund;
- b) the period for which the open-end fund has been established;
- c) the business name, registered office, and identification number of the management company;
- d) the business name, registered office and identification number of the depositary;
- e) the approval of the fund deed;

- f) the approval of the prospectus;
- g) the approval of the simplified prospectus.

(3) The National Bank of Slovakia may, at the request of a management company, amend a licence for the establishment of an open-end fund. The examination of a request to amend a licence for the establishment of an open-end fund shall be subject, as appropriate, to Article 36. Where information stated in a licence for the establishment of an open-end fund is amended on the basis of a prior approval granted by the National Bank of Slovakia in accordance with Articles 10 and 57, such amendment shall be deemed to be approved upon the granting of the prior approval by the National Bank of Slovakia. The management company shall, however, notify the National Bank of Slovakia in writing of this amendment and the date when it was made not later than 30 days after the date when it was made. Any amendment to the particulars of the prospectus or simplified prospectus made in accordance with this Act shall not be deemed an amendment to the licence.

(4) A management company shall, on the basis of a licence for the establishment of an open-end fund, file with the competent registration court a petition for the registration of its licensed activities in the Commercial Register and shall do so within 30 days from when the licence or an amendment thereto came into effect; it shall then submit to the National Bank of Slovakia an extract from the Commercial Register within ten days from the effective date of the registration court's decision on making the entry in the Commercial Register or on amending the entry in the Commercial Register.

(5) A petition for the entry of licensed activities in the Commercial Register based on a licence for the establishment of an open-end fund, or a petition for an amendment to an entry, shall include the valid decision of the National Bank of Slovakia made in accordance with this Act. The implementation of the entry is also contingent on the submission of the valid decision of the National Bank of Slovakia made in accordance with this Act.

(6) A management company may commence the activities stated in the licence for the establishment of a mutual fund, or in an amendment thereto, only after the licence or amendment has been entered in the Commercial Register.

(7) A management company shall forthwith give the National Bank of Slovakia written notification of any changes in the conditions based on which it was granted a licence for the establishment of an open-end fund.

ARTICLE 38

(1) The minimum net asset value of an open-end fund shall be SKK 50 million.

(2) If within six months after the date when the issuing of fund shares commenced, a management company has raised less than SKK 50 million through such fund shares, the licence for the establishment of the open-end fund shall expire as of the day following the last day of this six-month period.

(3) A management company shall forthwith give the National Bank of Slovakia written notification of the date:

- a) when shares in each open-end fund will start to be issued;
- b) when it secures the minimum net asset value of an open-end fund in accordance with paragraph (1).

(4) If a management company does not begin issuing fund shares within six months from acquiring a valid licence for the establishment of an open-end fund, the licence shall expire.

ARTICLE 39

The fund deed

(1) Every open-end fund shall have its own fund deed.

(2) The fund deed shall constitute an integral part of the contract between a fund shareholder and a management company. By acquiring a fund share, the fund shareholder accepts the provisions of the fund deed.

(3) A fund deed and any amendments thereto shall take effect upon the entry into force of a valid decision of the National Bank of Slovakia in accordance with Articles 36 and 57, or the decision of the National Bank of Slovakia that prescribed these amendments.

(4) Within ten days after each amendment to a fund deed, the management company shall submit to the National Bank of Slovakia the respective amendments to the fund deed and the updated full text of the fund deed, and it shall acquaint the fund shareholders with the respective changes by the method stipulated in the fund deed.

(5) A fund deed shall state in particular:

- a) the name of the open-end fund, the year of its establishment, and the period for which it has been established;
- b) the business name of the management company which manages the open-end fund, its registered office, and its identification number;
- c) the business name and registered office of the depositary and the amount of the remuneration agreed in the depositary contract for the performance of depositary activities;
- d) the orientation and objectives of the management company's investment strategy for the open-end fund's assets, especially which securities and money market instruments are to be procured with the raised funds, and on which regulated markets, as well as any sectoral or territorial division of the investments, and the principles of risk spreading and limitation if these are more precise than this Act stipulates;
- e) the principles under which the open-end fund's assets are managed, in particular, which costs may be met out of the mutual fund's assets besides the costs mentioned in paragraphs (c) and (h) and the method of their calculation;
- f) the valuation rules for the open-end fund's assets and the rules for determining and using the income from these assets;
- g) the publishing method for reports on the management of the open-end fund's assets and where these reports may be obtained;
- h) the amount of the remuneration for managing the open-end fund and the method of its calculation;

- i) the method by which voting rights attached to securities in the open-end fund's assets may be exercised;
- j) the type and form of the fund shares, the initial value of the share, and the procedure and conditions for issuing fund shares and for exercising the right to redemption of the fund shares;
- k) the upper limit of the fees for the issue and redemption of a fund share charged to a fund shareholder, and the method of setting them;
- l) the procedure for amending the fund deed and the method of informing the fund shareholders about such amendments;
- m) the procedure for amending the prospectus and simplified prospectus, and the method of informing the fund shareholders about such amendments;
- n) a declaration by the board of directors of the management company that the facts stated in the fund deed are up-to-date, complete and true.

ARTICLE 40

Mutual fund shares

(1) A fund share is a security which carries a fund shareholder's right to a corresponding share in an open-end fund's assets and a right to a proportion of the income from these assets. A fund share may correspond to one or more shares in an open-end fund's assets.

(2) Fund shares in a single open-end fund with the same number of shares establish identical rights of the fund shareholders. A paper fund share may be also issued as a collective fund share. A collective fund share is a fund share which replaces a number of shares in the same mutual fund that have shares of an identical initial value. A collective fund share shall state the date of its issue and the designation of the fund shares which it replaces. A management company shall hand over to a fund shareholder, at his request, the individual fund shares that the collective fund share replaces, and shall do so by the method stipulated in the fund deed. The collective fund share shall cease to exist once all the fund shares constituting the collective fund share have been handed over to the fund shareholder. The handover of only a part of the fund shares constituting the collective fund share shall be deemed to be a change in the collective fund share, and this change shall be indicated thereon.

(3) A share in an open-end fund may only be issued in the form of registered or bearer fund shares.

(4) A fund share shall state:

- a) the name of the open-end fund;
- b) the business name and registered office of the management company which issued the fund share;
- c) the number of shares and the initial value of each share (Article 41(2));
- d) information on the type of the fund share;⁵⁴
- e) the issue date of the fund-share issue; in the case of book-entry shares, the common operating rules may stipulate that information on the issue date of the fund-share issue be replaced by information on the issue date of the fund shares themselves;

f) in the case of a paper fund shares, the name or business name of the fund shareholder, the number of the fund share, and the signatures of at least two members of the board of directors of the management company.

(5) In the case of book-entry shares in an open-end fund, the records⁵⁵⁾ of book-entry shares in the open-end fund may be kept by the central depository or, under separate records, by the depository of the respective open-end fund and the management company. These activities require prior approval in accordance with Article 57.

(6) A depository's activities in keeping the records mentioned in paragraph (5) shall be subject, as appropriate, to the provisions of a separate law⁵⁶⁾ on the keeping of records of book-entry securities by the central depository, unless otherwise provided by this Act.

(7) A management company shall keep a list of fund shareholders in registered fund shares. For registered paper fund shares, a management company may delegate the keeping of the list of fund shareholders to its depository. For registered book-entry shares, a management company may delegate the keeping of the list of fund shareholders to the legal person which, in accordance with Article (5), keeps the records of the respective registered book-entry shares, provided that the legal person has agreed beforehand to do this. For registered book-entry shares, a separate record shall replace the list of fund shareholders.

(8) The list of fund shareholders shall include:

- a) in the case of a paper fund share, the numeric designation of the fund share;
- b) the number of shares in the assets of a fund shareholder along with the number of shares per fund share;
- c) the business name and identification number, if the fund shareholder is a legal person, or the name, residence and birth registration number, if the fund shareholder is a natural person; the date of birth shall be stated if a birth registration number has not been assigned.

(9) A management company, or legal person delegated by a management company to keep a list of fund shareholders, shall ensure that a change in the entry of a fund shareholder on the list of fund shareholders is made forthwith after the change is proved to the company or legal person.

(10) The list of fund shareholders shall not be made public. A fund shareholder may, at his own expense, request an extract from that part of the list of fund shareholders which concerns him.

(11) A management company may not restrict or preclude the transferability of fund shares, nor make the transfer of fund shares subject to its approval.

(12) A registered paper fund share may be exchanged for two or more registered paper fund shares held by the same fund shareholder in the same open-end fund. The replaced fund share shall be deemed to be returned as of its issue date, and the replacement fund shares shall be deemed to be issued as of the issue date of the replaced fund share. The sum of the number of shares of the replacement fund shares must equal the number of shares of the replaced fund share. Such replacement fund shares are not subject to Article 41(5).

ARTICLE 40a
Separate records

(1) Separate records include the following:

- a) a fund-share issuer's register, kept by the depositary;
- b) book-entry share owners' accounts, kept by the management company which manages the respective open-end fund or by the depositary;
- c) a register of liens on fund shares, kept under separate records by the depositary or the management company (hereinafter the "register of liens on fund shares");
- d) a register of pledged fund shares, kept under separate records by the depositary or the management company (hereinafter the "register of pledged fund shares").

(2) A depositary shall, at the request of a management company, establish a fund-share issuer's register. A depositary shall, for the management company, keep no more than one fund-share issuer's register for each open-end fund. The legal relationship between the management company and the depositary in regard to the keeping of this register is governed by this Act and the Commercial Code.

(3) A fund-share issuer's register shall state the following information:

- a) the numeric designation of the fund-share issuer's register and the date when it was established;
- b) the business name, identification number and registered office of the management company;
- c) the following information on each open-end fund for which the depositary keeps a fund-share issuer's register-
 - 1. the name of the open-end fund,
 - 2. information on the type of the fund shares,
 - 3. the initial value of a single fund share,
 - 4. the ISIN number, unless the common operating rules stipulate otherwise,
 - 5. the issue date of the fund shares' issue,
 - 6. the total number of fund shares in circulation and the total number of shares in circulation.

(4) Information on fund-share owners under separate records shall be kept by the management company or depositary in book-entry share owners' accounts. The account of a book-entry share's owner shall contain the following information:

- a) the numeric designation of the book-entry share owner's account and the date of its establishment;
- b) the following information on the holder of the book-entry share owner's account-
 - 1. the business name or name, identification number and registered office, if a legal person;
 - 2. name, birth registration number and permanent residence, if a natural person;
- c) the following information on the fund shares held in the book-entry share owner's account-
 - 1. information from the fund-share issuer's register in accordance with paragraph 3(c), indents one to three;
 - 2. the number of fund shares and the total number of shares to which these fund shares correspond, separately for each mutual fund;

3. the business names or names and the identification numbers of the fund share's co-owners, if legal persons, and the size of their co-ownership share; or their names, permanent residences and birth registration numbers, if natural persons, and the size of their co-ownership share;
 4. information on the registration of a suspension of the right of use in a fund share and any restriction on the exercise of this right;^{56a)}
 5. the business name and registered office of the management company or foreign management company which manages the fund share or uses it to perform activities mentioned in Article 3(3), or the business name and registered office of the stockbroker or foreign stockbroker which manages the fund share or uses it to perform activities in accordance with a separate regulation;^{56b)}
 6. information on whether a lien has been established on the fund share and, if so, identification information on the lienor to the extent laid down in paragraph (b);
- d) information on the entities authorized to use the fund shares recorded in the book-entry share owner's account, to the extent laid down in paragraph (b), and the scope of the authorization;
 - e) information on entities authorized to request information on these securities, to the extent laid down in subparagraph (b) and within the scope of the authorization,
 - f) the date and time when the respective accounting entry was made in the book-entry share owner's account.

(5) A management company or depositary shall establish a book-entry share owner's account for a natural person or legal person,

- a) who is a fund shareholder;
- b) who has requested the establishment of a book-entry share owner's account; or
- c) on the basis of an application made by a stockbroker, foreign stockbroker or issuer of fund shares.

(6) The numeric designation of a book-entry share owner's account shall be communicated by the management company or depositary to no one except the holder of the book-entry share owner's account, or an entity which proves its authorization to act on his behalf. The management company and depositary shall each provide the other with information kept in the book-entry share owner's account so as to fulfil their obligations in accordance with this Act.

(7) The legal relationship between a management company or depositary and the holder of a book-entry share owner's account shall be governed by this Act and the Commercial Code.

(8) A statement on the book-entry share owner's account shall be provided by the management company or depositary to the fund shareholder forthwith after an accounting entry has been made to the credit or debit of this account, unless otherwise agreed, or it shall be provided at the fund shareholder's request. Where a statement on a book-entry share owner's account is issued after an accounting entry to the credit or debit of the account, it shall state, separately for each open-end fund, information on the fund shares to which such change relates, and the number of fund shares and shares to which these fund shares correspond. A statement on a book-entry owner's account issued at the request of the account holder shall state, separately for each open-end fund, information on the number of fund shares and the number of shares to which these fund shares correspond.

(9) The information on fund-share owners under separate records shall be backed up by the management company during the period laid down in Article 15(5) at least at the end of each trading day. The depositary shall also back up this information to the same extent and at least once per week. If the depositary maintains book-entry share owners' accounts, it shall back up the information on fund-share owners on a daily basis.

(10) If a fund share has more than one owner, the management company or depositary shall record the fund share in a book-entry share owner's account on the basis of:

- a) a contract made in accordance with a separate regulation; ⁵⁶⁾ in this case the method and procedure of recording shall be governed by common operating rules;
- b) a valid decision on inheritance;
- c) a valid decision of a state authority;
- d) other legal facts.

(11) If a fund share has more than one owner, the co-ownership share of any one of the co-owners may not be less than one share, unless provided otherwise by the fund deed of the mutual fund.

(12) Where the client of a management company is a securities dealer carrying out transactions for the account of its clients, the owner's account shall include the information mentioned in paragraph (4) regarding that securities dealer. This shall be without prejudice to the provision of Article 21.

ARTICLE 40b

Common operating rules

(1) Where a management company and depositary have decided to request prior approval to keep separate records in accordance with Article 57(1)(g), they shall submit for approval to the National Bank of Slovakia, along with the application for prior approval, a draft of the common operating rules.

(2) The common operating rules shall govern the procedures and method to be used for keeping separate records.

(3) The common operating rules shall include mainly:

- a) rules for establishing and terminating a fund-share issuer's register; the method and procedures for issuing, redeeming, amending the particulars of, and terminating fund shares; the method and procedures for changing the form of fund shares; the method and procedures for registering a lien on a fund share; and the method and procedures for providing information from the register of liens on fund shares and from the register of pledged fund shares;
- b) rules for establishing and terminating book-entry share owners' accounts maintained by the management company or the depositary;
- c) the method and procedures for making orders for the transfer or conversion of book-entry fund shares;
- d) the method and procedures for submitting an order for the registration of the suspension of the right of use in a fund share;

- e) rules for handling complaints made by entities to whom the depositary and management company provide services related to the keeping of separate records;
- f) the method and procedures for correcting erroneous information in the separate records;
- g) the method and procedures for other activities performed by the depositary and management company in regard to keeping the separate records.

(4) The common operating rules and any amendments thereto shall enter into force not earlier than the effective date of the decision of the National Bank of Slovakia on their approval, but not later than the date stipulated in the decision of the National Bank of Slovakia on their approval. The National Bank of Slovakia shall not approve the common operating rules if they conflict with the provisions of this Act or other generally binding legal regulations.^{56c)}

(5) If the National Bank of Slovakia does not issue the decision mentioned in paragraph (4) within 30 days from the date when it received the draft of the common operating rules or amendments thereto, or from the date when supplements to the draft were submitted, the common operating rules and amendments thereto shall be deemed to be approved; the provisions of Article 57 shall apply, as appropriate, to the approval process for the draft common operating rules, submitted with an application for prior approval in regard to the keeping of separate records by the depositary and management company.

(6) A management company and depositary shall make the common operating rules and amendments thereto available to the public both in writing, at the registered offices of the management company and depositary, and on their internet site, and they shall also publish a notice about it in a daily newspaper with nationwide circulation or sufficient dissemination in the territory of the Slovak Republic.

(7) The common operating rules are binding upon the management company, depositary, fund shareholders, any legal person delegated to keep a list of fund shareholders in accordance with Article 40(7), upon entities to whom the depositary and management company provide services related to the keeping of separate records, upon legal or natural persons that make an order for the registration of the establishment, amendment or termination of a lien on a fund share or pledge of a fund share, and upon legal or natural persons that request an extract from the register of liens on fund shares or from the register of pledged fund shares.

ARTICLE 40c

(1) If a management company decides to convert a paper fund share into a book-entry share to be kept under separate records, it shall forthwith give written notice that such decision has been taken to the National Bank of Slovakia, the central depositary, and all fund shareholders in the mutual fund. This decision shall state the date of registration.

(2) A depositary and management company shall forthwith carry out the registration consisting of the entry of the book-entry fund share under separate records as at the date stipulated in the decision mentioned in paragraph (1). The fund shares entered in the separate records shall not include those for which an application for redemption has been submitted in accordance with Article 42. The period between the announcement of the decision mentioned

in paragraph (1) and the registration mentioned in the first sentence may not be shorter than 60 days. During this period, the management company may not charge the fund shareholder a fee under Article 42(2).

(3) Where a management company exchanges a fund shareholder's paper fund share for one or more book-entry shares held by the same fund shareholder, it shall do so in such a way that the aggregate number of shares in the paper fund share is the same as the number of shares in the book-entry fund shares.

(4) As of the registration date mentioned in paragraph (2), the paper fund shares shall cease to exist, except where they are paper fund shares for which a redemption application has been submitted in accordance with Article 42 and which have not yet been redeemed.

(5) The consequences of establishing a lien on paper fund shares, or pledging paper fund shares, which are converted into book-entry shares shall not be affected by the registration mentioned in paragraph (2). The central depositary shall, as of the registration date mentioned in paragraph (2), hand over to the depositary of the respective mutual fund the record from that part of the register of liens on fund shares, or the register of pledged fund shares, which concerns the converted paper fund shares. The central depositary shall be entitled to reimbursement of costs related to the handover of this record. As of the date when this information is handed over, persons authorized under the lien or pledge shall cease to have the right to require the central depositary to provide services related to the information handed over. The depositary shall inform the lienee and lienor about the change in the management of the register of liens on fund shares or the register of pledged fund shares.

(6) The provisions of a separate law^{56d} on changing the form of securities shall not apply to the conversion of a paper fund share into a book-entry share.

ARTICLE 41 **Issuing a fund share**

(1) A fund share shall be issued by a management company for a price equivalent to the product of the number of shares indicated on the fund share and the value of the share, determined as a share of the net asset value of the open-end fund and the number of shares in circulation (hereinafter the "current price") as at the relevant date designated by the management company in the fund deed. The relevant date for designating a share's value may not fall on the day that follows the third working day from when the completed application for the issuing of the fund share was delivered to the management company. From the date when the issue of the fund shares commenced, the management company shall have up to three months to set the current price as the product of the number of shares indicated on the fund share and the initial value of the share.

(2) The initial value of the share shall be the value of the first share designated by the fund deed. In any one open-end fund, only fund shares with shares of an identical initial value shall be issued.

(3) A fund share may not be issued before the current price has been paid in full to the account of the open-end fund; this is without prejudice to the option of issuing fund

shares as a method of paying income to fund shareholders, provided that it complies with the fund deed. A management company may stipulate to the investor who submitted an application for the issuing of a mutual fund the deadline by which he is required to pay the current price to the account of the open-end fund, and the deadline by which he is required to pay the fees mentioned in paragraph (5). These periods may not be shorter than three working days from the relevant date mentioned in paragraph (1). If the management company has issued the fund shares without the current price having been paid, or having been paid only in part, then it shall supplement the unpaid amount in the open-end fund's assets with its own assets.

(4) The number of shares in circulation shall be represented by the number of issued shares less the number of redeemed shares.

(5) A management company may charge an investor a fee, but not more than 5% of either the current price mentioned in paragraph (1) or the investment amount. This fee constitutes income of the management company. The sum of the current price and fee represents the sale price of the mutual fund.

(6) The sale price of a fund share may not be paid other than by monetary payment to the current account maintained for the open-end fund.

(7) The asset value of an open-end funds, the net asset value of an open-end fund, and the current price based on it shall be updated by the management company by the method and at the times stipulated in the fund deed, but at least with the frequency stipulated in Article 95.

(8) Initial value of a share in a mutual fund and the current price of a mutual fund unit shall be calculated to a precision of four decimal places when stated in the Slovak currency, and to a precision of six decimal places when stated in the euros. Total final amounts of the selling price of fund units and total final amounts of the purchase price of fund units, which are paid in form of monetary performance, shall be rounded in accordance with rules laid down by the statute of the mutual fund, unless otherwise provided in this Act or in a separate legal provision; by the changeover from the Slovak currency to the euros, such paid monetary performances shall be converted and rounded from the Slovak currency to the euros in accordance with the conversion rate and other rules governing the changeover from the Slovak currency to the euro.^{56e)}

(9) A management company may refuse to issue a fund share, especially where it involves an unusually high amount of funds or where there is a suspicion that the funds originate from illegal activities.⁵⁷

(10) If a share in an open-end fund is in the form of a book-entry security, the fund share may, upon its issue, be entered in a book-entry securities owner's account⁵⁸ (hereinafter "owner's account") or in a book-entry share owner's account only with the consent of the depository.

ARTICLE 42

Redemption of the fund share

(1) If a fund shareholder has requested redemption of a fund share, the management company shall, forthwith following delivery of the completed application, redeem the fund shareholder's fund share out of the open-end fund's assets, at the current price as of the date of delivery of the completed application for redemption.

(2) A management company may charge the fund shareholder a fee, but not more than 5% of the current price mentioned in paragraph (1), and this fee may be deducted from the current price; a fund shareholder may not be required to pay the fee, if the sum of this amount and the fee charged to the fund shareholder under Article 41(5) would exceed 5% of the current price of the fund share at the time of its redemption. This fee shall constitute income of the management company. The difference between the current price and the fee shall represent the purchase price of the fund share.

(3) The fund share shall terminate with the redemption of the amount mentioned in paragraph (1).

ARTICLE 43

Suspension of the redemption of fund shares

(1) A management company may, in exceptional cases and for a temporary period not exceeding three months, suspend the redemption of fund shares, and only where this is in the interests of the fund shareholders. The decision to suspend the redemption of fund shares shall be taken by the board of directors of the management company; a record of the decision shall be drawn up and this shall state the date and time of the decision, its grounds, and the exact period of the suspension.

(2) Having decided to suspend the redemption of fund shares, a management company shall forthwith inform the National Bank of Slovakia about the decision and deliver to the National Bank of Slovakia the record mentioned in paragraph (1) and the minutes from the meeting of the management company's board of directors. The decision to suspend the redemption of fund shares shall forthwith be communicated by the management company also to the competent supervisory authority of a Member State in which the management company sells fund shares.

(3) Where the suspension of the redemption of fund shares is contrary to the interests of the fund shareholders, the National Bank of Slovakia shall annul the decision of the management company referred to in paragraph (1). An appeal against the decision of the National Bank of Slovakia shall not have a suspensive effect.

(4) The National Bank of Slovakia may request a management company to suspend the redemption of fund shares in accordance with paragraph (1), where this is in the interests of fund shareholders or in the public interest. A management company shall forthwith meet such a request from the National Bank of Slovakia.

(5) From the beginning of the period during which the redemption of fund shares is suspended in accordance with a decision under paragraph (1), a management company may not redeem or issue any shares in the open-end fund to which this decision applies. This

prohibition extends to the payment and issue of fund shares where, prior to the suspension period for the redemption of fund shares, their redemption or issue was requested and they had still not been redeemed and no instruction to credit them to the owner's account had been given.

(6) During the suspension of the redemption of fund shares referred to in paragraph (2), the management company shall at least once in every seven calendar days inform the National Bank of Slovakia about measures taken to restore the redemption of fund shares.

(7) A management company shall, by the method stipulated in the fund deed, inform fund shareholders about the grounds for the suspension of the redemption of fund shares, the period thereof, and about the restoration of the redemption of fund shares.

(8) After restoring the issue and redemption of fund shares, the management company shall issue or redeem those fund shares whose issue or redemption was suspended, at the current price as of the date when the redemption of fund shares was restored.

(9) A fund shareholder is not entitled to arrears interest for the period when the redemption of fund shares was suspended; this is not the case if the management company was in arrears when the suspension of the redemption of fund shares took effect, or if the National Bank of Slovakia has annulled the decision of the management company in accordance with paragraph (3). In that case, the management company shall pay arrears interest out of its own assets.

(10) In the event of a temporary shortage of liquidity in an open-end fund, the management company may use its own funds for the redemption of returned fund shares. For such use of its own funds, the management company may not charge any interest or fees to the open-end fund's assets.

ARTICLE 44

- (1) An open-end fund's assets may only be invested in:
- a) transferable securities or money market instruments admitted to trading on a regulated market stated in the list prepared by Member States and published by the Commission in accordance with the European Union's legal provision on investment services;
 - b) transferable securities and money market instruments admitted to trading on a regulated market other than one referred to in paragraph (a), whether in the Slovak Republic or another Member State, which operates regularly, is open to the public, and is licensed by the National Bank of Slovakia or another competent supervisory authority of a Member State;
 - c) transferable securities and money market instruments admitted to trading on a listed securities market of a foreign stock exchange or on another regulated market in a non-Member State, provided that this foreign stock exchange or other regulated market operates regularly, is open to the public, and is licensed by the competent supervisory authority of the country in which it is headquartered; this option only applies where it is stated in the fund deed approved by the National Bank of Slovakia along with the business name of this stock exchange or other regulated market;
 - d) transferable securities from a new issue of securities, where-

1. the issue conditions include an undertaking to submit an application for the admission of the securities to trading on a regulated market mentioned in paragraphs (a) or (b) or an application for admission to a listed securities market of a foreign stock exchange in accordance with paragraph (c); this option only applies where it is stated in the fund deed along with the business name of the stock exchange or other regulated market;
 2. it is clear from all circumstances that this admission will take place within one year from the date of the issue;
- e) shares in other open-end funds, European funds' securities, and securities of other foreign collective investment undertakings, where-
1. this other foreign collective investment undertaking is open-ended, it invests in transferable securities and money market instruments on the principle of risk spreading and limitation, it holds a licence granted in accordance with the legal regulations of the country in which its registered office is situated, it is subject to supervision which is equivalent to the supervision exercised by the National Bank of Slovakia or by the competent authority of a Member State, and where cooperation between the National Bank of Slovakia and the competent supervisory authority is provided for;
 2. the level of protection for the owners of the securities of this other foreign collective investment undertaking is equivalent to the protection for fund shareholders in an open-end fund, especially in that the rules for lending and borrowing securities and money market instruments and the rules for the uncovered sale of securities and money market instruments are in accordance with the European Union's legal provision on collective investment, and that the assets of foreign mutual funds are recorded separately;
 3. this other foreign collective investment undertaking publishes annual and half-yearly management reports that allow evaluation of its assets and liabilities, income, and its activities for the period to which the respective report applies;
 4. up to 10% of the value of the assets in the other open-end fund, in the European fund, or in the other open-end foreign collective investment undertaking may, in accordance with their fund deed or similar document, be completely invested in mutual funds or securities of other open-end funds, other European funds and other foreign collective investment undertakings which meet the conditions mentioned in indents (1) to (3);
- f) deposits in current accounts or in deposit accounts with a requested maturity or a maturity of up to 12 months, and made with banks which have a registered office in the territory of the Slovak Republic or in foreign banks which have a registered office in a Member State, or in a non-Member State provided that the non-Member State requires compliance with rules of prudent banking business which the National Bank of Slovakia deems to be equivalent to the rules under a separate regulation⁵⁹ or with a Member State's rules of prudent banking business;
- g) financial derivatives, including equivalent instruments, which carry a right to settlement in cash and which are admitted to trading on a regulated market in accordance with paragraphs (a), (b) or (c), and financial derivatives not admitted to trading on a regulated market where-
1. the instrument underlying the derivatives not admitted to trading on a regulated market is an instrument mentioned in this paragraph, a financial index, an interest rate, an exchange rate of currencies, or a currency in which the mutual fund's assets may be invested in accordance with the investment strategy set out in the fund deed;
 2. the other contracting party (hereinafter the "counterparty") is a financial institution subject to supervision; the fund deed shall state which categories of financial

- institutions may be a counterpart in transactions in derivatives not admitted to trading on a regulated market;
3. the derivatives not admitted to trading on a regulated market are valued on a daily basis with professional care, by a reliable and verifiable method, and may at any time be sold, realized or closed at their market price on the initiative of the management company;
- h) money market instruments other than those stated in paragraphs (a) to (c), where their issue or issuer is subject to supervision for the protection of investors and savings, and where they were-
1. issued or guaranteed by
 - 1a. the Slovak Republic,
 - 1b. self-government bodies,
 - 1c. the National Bank of Slovakia,
 - 1d. a Member State and its central bodies, regional bodies or civic administration bodies,
 - 1e. the central bank of a Member State,
 - 1f. the European Central Bank,
 - 1g. the European Union,
 - 1h. the European investment bank,
 - 1i. a non-Member State, and where the country is a federation, also by the entities making up the federation,
 - 1j. a public international organization which includes at least one Member State among its members (hereinafter "international organization");
 - 1k. an entity subject to supervision for prudent business, exercised by the National Bank of Slovakia or by the competent supervisory authority of a Member State, or
 - 1l. an entity which is subject to, and meets, the rules of prudent business and at least to the extent of the rules of prudent business ensured by legal regulations of the Slovak Republic or a Member State;
 2. issued by an issuer whose securities are admitted to trading on a regulated market in accordance with paragraphs (a), (b) or (c); or
 3. issued by other legal persons, provided that the categories of these legal persons are stated in the fund deed, that investments in such money market instruments are subject to investor protection which is equivalent to the protection related to the money market instruments mentioned in indents (1) to (3), and that the issuer is a legal person whose share capital and reserves together amount to at least EUR 10 million, it publishes its financial statements in accordance with a separate law, it is part of a group of commercial companies at least one of which is an issuer of securities admitted to trading on a listed securities market of a stock exchange or a foreign stock exchange, and it is designated to finance this group or to provide financing through securitization instruments with the use of bank loans;
- i) transferable securities and money market instruments other than those stated in paragraphs (a) to (h), but in an amount not exceeding 10% of the value of the open-end fund's assets.

(2) An open-end fund's assets may also include ancillary liquid assets, which are understood to mean funds in cash, funds in current accounts and short-term time deposits, which meet the conditions mentioned in paragraph (1) and whose total value significantly exceeds the value of deposits designated by the mutual fund's investment strategy. Ancillary

liquid assets are not funds earmarked for the settlement of transactions in the open-end fund's assets which have already been concluded. The value of ancillary liquid assets in an open-end fund may only exceed 50% of the value of the open-end fund's assets if this is justified by the situation on the financial market or as a result of a significant increase in the number of applications for the redemption of fund shares. After any such excess arises, the management company shall forthwith give the National Bank of Slovakia written notice thereof and a statement on the accompanying reasons.

(3) An open-end fund's assets may not include precious metals nor any certificates representing them.

Principles of risk spreading and limitation for an open-end fund

ARTICLE 45

(1) The value of transferable securities and money market instruments issued by the same issuer may not constitute more than 5% of the value of an open-end fund's assets, unless otherwise provided by this Act.

(2) Deposits in a single bank or a branch of a foreign bank may not constitute more than 20% of an open-end fund's assets.

(3) Asset exposure towards a counterparty in transactions in financial derivatives not admitted to trading on a regulated market may not exceed:

- a) 10% of the value of an open-end fund's assets, if the counterparty is a bank meeting the conditions laid down in Article 44(1)(f);
- b) 5% of the value of an open-end fund's assets, if the counterparty is an entity other than the bank mentioned in paragraph (a).

(4) The National Bank of Slovakia may, by approving a fund deed, increase the limit mentioned in paragraph (1) up to 10%; the total value of the securities of issuers whose transferable securities and money market instruments account for more than 5% of an open-end fund's assets may not, however, exceed 40% of the value of the open-end fund's assets.

(5) The aggregate investments in transferable securities and money market instruments issued by a single entity, deposits with the same entity and the asset exposure towards this entity during transactions in financial derivatives may not exceed 20% of an open-end fund's assets, unless provided otherwise by this Act.

(6) The value of transferable securities and money market instruments issued or guaranteed by a single Member State, single self-government body of a Member State, single non-Member State, or single international organization may not constitute more than 35% of the value of an open-end fund's assets.

(7) The value of bonds issued by a single bank, or by a foreign bank in a Member State which is subject to supervision that protects the interests of bondholders, may not constitute more than 25% of the value of an open-end fund's assets. Funds raised by the issue of bonds shall be invested in such assets which, until the maturity of the bonds, cover the

issuer's liabilities related to the bond issue and which may, in the event that the issuer becomes insolvent, be used to redeem the nominal value of the bonds and to pay the income on them. The aggregate value of bonds acquired for an open-end fund's assets under the first sentence may not exceed 80% of the value of the open-end fund's assets.

(8) The value of transferable securities and money market instruments mentioned in paragraphs (6) and (7) shall not count towards the 40% limit stipulated in paragraph (4).

(9) The limits stipulated in paragraphs (1) to (7) may not be added together. The aggregate of investments in transferable securities and money market instruments issued by a single entity, the asset exposure towards the same entity during derivative transactions, and deposits with a bank which is the issuer of these securities or which is affected by this asset exposure may not exceed 35% of the value of an open-end fund's assets, not even when these investments are made in accordance with paragraphs (1) to (7).

(10) For the purpose of calculating the limits mentioned in paragraphs (1) to (9), legal persons belonging to a group which prepares consolidated financial statements in accordance with a separate law or with international accounting standards shall be considered as a single entity. Where the group mentioned in the first sentence is controlled by a financial institution, the National Bank of Slovakia may, by approving a fund deed, increase the limit of 10% mentioned in paragraph (4) up to 20%.

(11) Bonds which are issued in the Slovak Republic and meet the criteria laid down in paragraph (7) shall be deemed to include mortgage bonds⁶⁰ and municipal bonds (municipal debt) issued by a bank which, with the funds raised from their sale, provides a municipal loan to a municipality or higher territorial fund share, and provided that these municipal bonds are guaranteed in accordance with the conditions stipulated by a separate law.⁶¹ In regard to the bonds mentioned in paragraph (7) that are issued in a Member State, the management company shall take into account the similar list of bonds compiled in accordance with the law of this Member State, provided that such a list exists.

ARTICLE 46

(1) The value of shares and bonds issued by a single issuer may constitute up to 20% of the value of an open-end fund's assets, provided that the investment strategy of the open-end fund, as laid down in the fund deed, is to match the composition of a recognized index of shares or debt securities.

(2) An index of shares or bonds shall be recognized where:

- a) it is composed of a sufficient number of shares or bonds and issuers thereof;
- b) it represents with sufficient accuracy the overall price movements on the market to which it applies;
- c) it is published in the same way as are the prices of its constituent shares and bonds.

(3) The National Bank of Slovakia may, by approving a fund deed, increase the limit of 20% mentioned in paragraph (1) up to 35%, provided that this is justified by exceptional conditions on the regulated market where the majority transactions includes shares or bonds

mentioned in paragraph (1). Such an increase in the limit is only possible for transferable securities issued by a single issuer.

ARTICLE 47

(1) The National Bank of Slovakia may, by approving a fund deed, stipulate that up to 100% of the value of an open-end fund's assets can be invested in transferable securities and money market instruments issued or guaranteed by any Member State, self-government body of a Member State, non-Member State, or international organization. The National Bank of Slovakia shall not approve the fund deed unless investor protection is guaranteed to the same level which pertains to open-end funds that comply with the principles of risk spreading and limitation under Article 45. An open-end fund's assets shall include at least six issues of the transferable securities mentioned in the first sentence, while the value of a single issue mentioned in the first sentence may not account for more than 30% of the value of an open-end fund's assets.

(2) The fund deed of the open-end fund mentioned in paragraph (1) shall also state the designation of any Member State, self-government body of a Member State, non-Member State or international organization which issued the transferable securities or money market instruments, or which guaranteed the transferable securities or money market instruments, in which it is planned to invest more than 35% of the value of the open-end fund's assets.

(3) Prospectuses, simplified prospectuses, and notices, advertisements, posters and other documents promoting a mutual fund or the open-end fund mentioned in paragraph (1) (hereinafter "advertising materials") shall contain comprehensible information about the permitted method of investment and the information mentioned in paragraph (2).

ARTICLE 48

(1) The value of shares in another open-end fund and securities of an open-end foreign collective investment undertaking as referred to in Article 44(1)(e) may not constitute more than 20% of the value of an open-end fund's assets.

(2) The total value of shares in other open-end funds and securities of open-end foreign collective investment undertakings which do not meet the requirements of the European Union's legal provision on collective investment may not constitute more than 30% of an open-end fund's assets.

(3) When investing an open-end fund's assets in securities and fund shares in accordance with Article 44(1)(e), a management company may not use the open-end fund's assets under its management to pay any fees or costs related to the issue or redemption of shares in other open-end funds or securities of open-end foreign collective investment undertakings which:

- a) it manages or for which it performs activities delegated under Article 25;
- b) are managed by, or for which activities delegated under Article 25 are performed by, another management company or a foreign management with which the management company forms a group with close links.

ARTICLE 49

(1) In managing an open-end fund's assets, a management company shall employ risk management procedures that enable continuous monitoring of the degree of position risk and its effect on the overall risk attached to the investment of the open-end fund's assets, and it shall use procedures that give an accurate and objective evaluation of financial derivatives. The overall risk attached to the investment of the open-end fund's assets may not exceed 200% of the value of the open-end fund's assets; upon the receipt of financial loans and credits referred to in Article 54, this limit may be increased to 210% of the value of the open-end fund's assets.

(2) A management company shall, at least once every six months, submit to the National Bank of Slovakia a written report on the classes of financial derivatives in which assets were invested within the management of an open-end fund's assets, on the risks attached to these financial derivatives and their underlying instruments, and on the quantitative restrictions and methods used to assess the risks related to transactions in the financial derivatives; this it shall do for each open-end fund under its management.

(3) If provided for in the fund deed, techniques and instruments that apply to transferable securities and money market instruments may be used to the credit or debit of an open-end fund's assets, but only for the purpose of effective investment management of the open-end fund's assets and subject to the conditions and limits stated in the fund deed. If the use of such techniques and instruments includes the use of derivatives, these limits shall comply with the principles of risk spreading and limitation laid down by this Act.

(4) The techniques and instruments mentioned in paragraph (3) may only be used to such an extent that does not change the method of investing the open-end fund's assets and its investment strategy as set out in the fund deed.

(5) The total asset exposure in regard to financial derivatives may not exceed the net value of the open-end fund's assets. In calculating the total asset exposure, account shall be taken of the present value of the underlying instruments, the risk posed by the trading partner, expected future movements in the financial market, and the period remaining until the closure of positions in the financial derivatives.

(6) Investments in financial derivatives may constitute part of a management company's investment strategy for an open-end fund's assets. For investments in financial derivatives, the calculation of the limits mentioned in Article 45 shall also include the values of the underlying instruments of these financial derivatives; this does not apply to financial derivatives whose underlying instruments are financial indices fulfilling the conditions laid down in Article 46(2).

(7) If a transferable security or money market instrument includes a derivative, this derivative shall be taken into account when complying with the restrictions laid down in this Act.

(8) The National Bank of Slovakia may stipulate conditions under which a management company can use its own models for monitoring the degree of position risk in accordance with paragraph (1), for calculating the asset exposure mentioned in paragraph (5), and for calculating the asset exposure towards the counterparty mentioned in Article 45, and it may condition their use on the prior approval of the National Bank of Slovakia.

(9) Where an open-end fund's assets include a financial derivative which requires delivery of its underlying financial instrument, or where a counterparty is entitled to request delivery of this underlying instrument, the management company shall ensure coverage in the mutual fund's assets, which shall be understood to mean a sufficient number of underlying financial instruments of the respective derivative or sufficient funds or other liquid assets that may be used to purchase the delivered underlying financial instrument, with provision so that the purchase may be made on the date requested for the delivery of the underlying instrument.

(10) In managing an open-end fund's assets, a management company may not conclude transactions in financial derivatives which would require coverage in the meaning of paragraph (9) with assets that may not, in accordance with the open-end fund's investment strategy, be acquired for the open-end fund's assets.

ARTICLE 50

(1) A management company may not acquire for the assets of an open-end fund under its management, or for its own assets where it is acting in relation to any of the mutual funds under its management, more than 10% of the aggregate nominal value of the voting shares issued by a single issuer.

(2) A management company acting in relation to an open-end mutual fund under its management may not acquire for the assets of the mutual fund any voting shares which would allow it to exercise significant influence over the management of an issuer whose registered office is situated in the Slovak Republic or in a non-Member State. The holding of issuers' voting rights shall be calculated by the procedure laid down in a separate law. A management company shall comply with any restrictions imposed by the law of a Member State on the acquisition of significant influence over the management of an issuer which has its registered office in that Member State, while having regard to the assets in open-end mutual funds under its management.

(3) An open-end fund's assets may not include more than:

- a) 10% of the aggregate values of non-voting shares issued by a single issuer;
- b) 10% of the aggregate nominal values of debt securities issued by a single issuer;
- c) 25% of the aggregate shares of the shares in a single open-end fund, 25% of the aggregate nominal value of securities of a foreign collective investment undertaking, or 25% of the number of securities of a foreign collective investment undertaking where the share of the nominal value cannot be determined;
- d) 10% of the aggregate nominal values of money market instruments issued by the same issuer, or 10% of the total number of money market instruments issued by the same issuer where the share of the nominal value cannot be determined.

(4) The limits mentioned in paragraph (3)(b) to (d) do not have to be taken into account where the securities or money market instruments are acquired without the possibility of determining their total nominal value or the total number of securities necessary to calculate the limits under paragraph (3). In that case, the management company shall observe the limits mentioned in paragraph (3) using an estimate of the missing information made with professional care; where the limits are exceeded, it shall forthwith inform the National Bank of Slovakia. The procedure followed by the National Bank of Slovakia and the management company is subject to Article 51.

- (5) The restrictions mentioned in paragraphs (1) to (3) shall not apply to:
- a) transferable securities or money market instruments issued or guaranteed by the Slovak Republic, a Member State, or a self-government body of the Slovak Republic or a Member State;
 - b) transferable securities or money market instruments issued or guaranteed by a non-Member State;
 - c) transferable securities or money market instruments issued by an international organization;
 - d) shares in the assets of a company which is based in a non-Member State and invests its assets in securities issued by an issuer which has its registered office in that country, provided that, under law of that country, the holding of such a share is the only way to invest an open-end fund's assets in securities issued by an issuer whose registered office is in that country; this only applies where the company based in that country complies with the limits laid down in Articles 45, 48 and in paragraphs (2) and (3) and where, in the event that these limits are exceeded, the rules laid down in Article 51 are applied as appropriate.

(6) For the purposes of this paragraph and the provisions of Article 16(1) and (4), 'acting in relation to any mutual funds managed by a management company' means investing the own assets of a management company in the securities of an issuer whose securities are part of the assets of any mutual fund under the management of that management company or which are to be acquired for the assets of any mutual fund under its management.

ARTICLE 51

(1) A management company may exceed the limits and restrictions mentioned in Articles 44 to 50 only when exercising a subscription purchase option arising under transferable securities or money market instruments belonging to an open-end fund's assets.

(2) The restrictions mentioned in Articles 44 to 50 pertaining to an open-end fund's assets shall not apply for a period of six months from when the decision on granting the licence for the establishment of the open-end fund entered into force.

(3) If any of the shares and restrictions mentioned in Articles 44 to 50 are exceeded owing to causes which the management company could not influence or as a result of the exercise of the subscription purchase option mentioned in paragraph (1), the management company shall forthwith notify this fact to the National Bank of Slovakia and shall forthwith take measures to conform with the limits and restrictions mentioned in Articles 44 to 50

while taking into account the interests of fund shareholders; this is without prejudice to the management company's obligation to proceed in accordance with the first sentence upon a breach of the restrictions mentioned in Articles 44 to 50, whether committed knowingly or as a result of failure to exercise professional care. The sale of assets for the purpose of bringing the composition of the open-end fund's assets into line with the limits and restrictions mentioned in Articles 44 to 50 shall take precedence over other sales. The obligation to take measures in accordance with the first and second sentences shall not cease with the imposition of a sanction under Article 106.

(4) The National Bank of Slovakia may set a management company a time limit for bringing the composition of an open-end fund's assets into line with the limits and restrictions mentioned in Articles 44 to 50; this is without prejudice to the right of the National Bank of Slovakia to impose a sanction on the management company for breaching any of the provisions of Articles 44 to 50. The National Bank of Slovakia may extend the time limit mentioned in the first sentence only at the request of the management company, submitted not later than the last day of the period for rectifying the composition of the assets and provided that an extension is in the interests of the fund shareholders' protection.

ARTICLE 52

(1) An open-end fund's assets may not be used to provide loans, gifts, credits or any collateral for the obligations of other natural persons or legal persons. This is without prejudice to the provisions of Articles 44 and 49.

(2) A management company may acquire for an open-end fund's assets the transferable securities, fund shares or securities mentioned in Article 44(1)(e), financial derivatives mentioned in Article 44(1)(g) or money market instruments mentioned in Article 44(1)(b) and (h), even if they have not been fully paid.

ARTICLE 53

In managing an open-end fund's assets, a management company may not carry out an uncovered sale, which shall be understood to mean the sale of transferable securities, fund shares, or securities mentioned in Article 44(1)(e), financial derivatives mentioned in Article 44(1)(g) or the money market instruments mentioned in Article 44(1)(b) and (h) which are not part of the open-end fund's assets.

ARTICLE 54

(1) Financial loans or credits to the credit of an open-end fund's assets may only be received where this is in the interests of fund shareholders and where it is provided for by the fund deed of the open-end fund, and provided that the maturity is restricted to a period of up to one year from when the right to draw the credit or loan arises.

(2) The total funds received from financial loans and credits may not exceed 10% of the value of an open-end fund's assets.

ARTICLE 55

(1) In exercising the right to the securities in an open-end fund's assets, the management company shall comply with the fund deed and act solely in the interests of the fund shareholders.

(2) A management company shall, every calendar year, pay fund shareholders the income from a mutual fund's assets, in the amount of the income from the securities, money market instruments and deposit accounts paid to the management company for the respective year. This obligation shall be deemed to be fulfilled also by the issuing of fund shares to a fund shareholder in an amount corresponding to this income or by including the previously issued fund shares in the current price, provided that the fund deed allows for such an alternative. The National Bank of Slovakia may, by approving a fund deed, stipulate another time limit for the payment of income in accordance with the first sentence.

ARTICLE 56

(1) A management company shall forthwith inform the National Bank of Slovakia when the current price of a share in an open-end fund has decreased by one-third in comparison with the average value of the current prices for the previous six months or by 50% of the share's initial value.

(2) If the net value of an open-end fund's assets falls below the minimum net asset value mentioned in Article 38, the management company and depositary shall forthwith notify the National Bank of Slovakia of this situation and of measures adopted to rectify it. If within three months from when this situation arose, the net value of the assets in the open-end fund's has not reached the value stated in Article 38(1), the National Bank of Slovakia shall revoke the management company's licence for the establishment of the mutual fund. Where the minimum net value of the open-end fund's assets has been restored, the management company and depositary shall forthwith notify the National Bank of Slovakia. If during the 12 months following the restoration of the minimum net value of the open-end fund's assets, the value again falls below the level stated in Article 38(1), the National Bank of Slovakia shall revoke the management company's licence for the establishment of the open-end fund.

ARTICLE 57

Prior approval

- (1) The prior approval of the National Bank of Slovakia is a condition for:
- a) the transfer of the management of an open-end fund or a foreign mutual fund to another management company;
 - b) a change in the depositary of an open-end fund;
 - c) an amendment to the fund deed of an open-end fund;
 - d) a merger of open-end funds;
 - e) the return of a licence for the establishment of an open-end fund;

- f) the acquisition of securities for an open-end fund's assets from the shareholders of the management company that manages the open-end fund, or the sale of securities from an open-end fund's assets to the shareholders of the management company that manages the open-end fund, with the exception of an acquisition of securities which involves a shareholder of the management company in the provision of a core investment service that is a subscription or placement in accordance with a separate law,^{62a)} and with the exception of anonymous transactions;
- g) the keeping of separate records by a depositary and a management company.

(2) For prior approval to be issued:

- a) under paragraph (1)(a), the management company to which the management should be transferred shall be subject to the conditions laid down in Article 36(2)(a) and (e) and it shall prove that the transfer of the open-end fund's management does pose a threat to the interests of fund shareholders; the transfer of a foreign mutual fund's management to a management company may not be approved by the National Bank of Slovakia if it is contrary to the law of the country where the licence for the establishment of the foreign mutual fund was granted, or if it does not have the consent of the competent supervisory authority of this country, or if provision has not been made for the redemption of fund shares held by fund shareholders abroad, nor for the provision of information to the fund shareholders in a language which they understand, or the transfer of management concerns an open-end fund whose book-entry shares are kept under separate records and the management company to which the management will be transferred keeps separate records;
- b) under paragraph (1)(b), the depositary shall be subject to the conditions laid down in Article 36(2)(b) and (f);
- c) under paragraph (1)(c), the conditions under Article 36(2)(c) shall apply;
- d) under paragraph (1)(d), the open-end fund into which open-end fund are to be merged shall be subject to the conditions under Article 36(2); the open-end funds which the merger involves shall meet the requirements stipulated in this Act and their merger shall not threaten the interests of fund shareholders;
- e) under paragraph (1)(e), it shall be shown that the management company has the ability to ensure activities related to the winding up of the open-end fund;
- f) under paragraph (1)(f), the conditions under Article 20(3)(f) shall be fulfilled, and it shall be shown that that the acquisition of assets for the open-end fund's assets, or the sale of securities from the open-end fund's assets, is in the interests of the fund shareholders;
- g) under paragraph (1)(g), it shall be shown that the depositary and management company have the material, personnel and organizational provisions for keeping a separate record and that they are organizationally and technically prepared for performing the licensed activities, and they shall fulfil the condition that the fund shares which are to be kept under separate records are not admitted to trading on a regulated market.

(3) Unless provided otherwise in this Act, the submission of an application for prior approval shall be made:

- a) under paragraph (1)(a), by the management company managing the open-end fund, a compulsory administrator, or the foreign management company managing the foreign mutual fund, and this shall be done in concert with the management company to which the management should be transferred;
- b) under paragraph (1)(b) to (e), by the management company managing the open-end trust;

- c) under paragraph (1)(f), by the management company and a shareholder of the management company;
- d) under paragraph (1)(g), by the depositary and management company that manages the open-end fund whose fund shares should be kept under separate records.

(4) The National Bank of Slovakia shall decide on the application made under paragraph (1)(f) within a period of 15 days from when it was delivered or supplemented.

(5) The National Bank of Slovakia shall refuse an application made under paragraph (1), where the applicant has not fulfilled, or has not evidenced fulfilment of, a condition mentioned in paragraph (2).

- (6) The decision mentioned in paragraph (1)(a) shall state in particular:
- a) the business name of the management company to which management of the open-end fund is to be transferred, its registered office, identification number, and the year of its establishment;
 - b) the name of the open-end fund;
 - c) the approval of the change in the fund deed of the open-end fund in regard to the management company;
 - d) the business name, registered office, and identification number of the depositary.

(7) As of the date stated in the decision to grant the prior approval mentioned in paragraph (1)(a), the licence for the establishment of the open-end fund shall be transferred to the management company to which the management of the open-end fund has been transferred. Upon the transfer of the management of a foreign open-end fund to a management company, the foreign open-end fund shall be deemed to be an open-end fund established in accordance with this Act. Within one month after the decision mentioned in paragraph (1) enters into force, the management company shall publish this decision along with the fund deed of the open-end fund, and it shall do by the same method that the fund deed stipulates for the submission of reports to fund shareholders.

(8) If the open-end fund whose management was transferred under the prior approval mentioned in paragraph (1)(a) has a depositary other than that of the mutual funds managed by the management company granted prior approval under paragraph (1)(a), the management company shall forthwith take the measures necessary to ensure the fulfilment of the conditions under Article 81(4).

- (9) The decision on allowing the merger of mutual funds shall state:
- a) the business name of the management company that manages the open-end funds, its registered office, identification number and the year of the management company's establishment;
 - b) the names of the open-end funds undergoing merger and the name of the open-end fund into which they are being merged;
 - c) the approval of the change in the fund deed of the open-end fund into which the open-end funds are being merged;
 - d) the business name, registered office and identification number of the depositary.

(10) The decision made under paragraph (1)(g) shall state mainly:

- a) the business name of the management company that manages the open-end fund whose fund shares are to be kept under separate records;
- b) the name of the open-end fund whose fund shares are to be kept under separate records;
- c) the approval of the common operating rules,
- d) the business name, registered office and identification number of the depositary.

(11) In the decision on granting approval under paragraph (1)(a) to (c), (f) and (g), the National Bank of Slovakia shall also stipulate the validity period of the prior approval in the event that the operation for which it was granted is not carried out. This period may not be shorter than three months, nor longer than one year, from when the approval was granted, unless the National Bank of Slovakia has stipulated another period in the interests of fund shareholder protection.

ARTICLE 58

Merger of open-end funds

(1) The merger of open-end funds means the process of merging the assets of open-end funds so that the assets of the open-end funds undergoing the merger become the assets of the open-end fund into which the open-end funds are merged. Fund shareholders in the terminated open-end funds shall become fund shareholders in the open-end fund into which the open-end funds are merged.

(2) Open-end funds may only be merged where they are managed by the same management company and where the open-end fund into which they are merged complies with this Act.

(3) The licence for the establishment of the open-end funds that are being terminated by a merger shall expire as of the entry into force of the National Bank of Slovakia's decision on prior approval under Article 57(1)(d). As of that date, the fund shareholders in the terminated mutual funds shall become fund shareholders in the open-end fund into which these have been merged.

(4) Where a management company intends to merge open-end funds, it shall inform the fund shareholders of this intention prior to submitting the application for prior approval under paragraph (1)(d); within one month after the entry into force of the National Bank of Slovakia's decision on prior approval under Article 57(1)(d), the management company shall publish both this decision, and the prospectus and simplified prospectus of the open-end fund into which the terminated open-end funds have been merged, and it shall inform the fund shareholders in accordance with the procedures laid down in the fund deed for acquainting fund shareholders with changes to the fund deed and prospectus.

(5) Within one month after the entry into force of the decision under Article 57(1)(d), the management company shall replace the fund shares held by fund shareholders in the terminated open-end fund with shares in the open-end fund into which the open-end funds have been merged. Fund shareholders in terminated open-end funds are entitled to shares in the open-end fund into which these have been merged in an amount that corresponds to their share in the net asset value of the terminated open-end funds, calculated as of the date of the entry into force of the prior approval under Article 57(1)(d).

ARTICLE 59
Winding up of an open-end fund

(1) An open-end fund may only be wound up upon a decision of the National Bank of Slovakia to revoke the licence for the establishment of the open-end fund, or upon the prior approval of the National Bank of Slovakia granted under Article 57(1)(e), or where the licence for the establishment of the open-end fund has expired, including where the licence has expired upon the completion of the period for which the open-end fund was established.

(2) A fund shareholder is not entitled to request the winding up of an open-end fund.

(3) After the entry into force of a decision to revoke a licence for the establishment of an open-end fund or the National Bank of Slovakia's decision on prior approval under Article 57(1)(e), or where a licence for the establishment of an open-end fund has expired, the management company shall immediately cease the issuing of fund shares and the redemption of fund shares and shall end the management of the open-end fund's assets in accordance with the procedure laid down in paragraph (4). In the interest of protecting the fund shareholders' rights, the National Bank of Slovakia may assign the performance of this activity to the depositary or another management company.

(4) A management company or entity designated under paragraph (3) shall, within three months after the occurrence of a situation mentioned in paragraph (3):

- a) draw up extraordinary financial statements for the open-end fund;
- b) sell the open-end fund's assets;
- c) secure the payment of receivables to the credit of the open-end fund's assets;
- d) settle all liabilities arising under the management of the open-end fund's assets;
- e) pay the fund shareholders their share of the open-end fund's assets.

(5) The National Bank of Slovakia may, upon request, extend the time limit mentioned in paragraph (4) by up to 12 months, provided that this is justified in order to protect the fund shareholders from suffering a loss as a result of the open-end fund's assets being sold under time pressure.

(6) The sale of an open-end fund's assets under paragraph (4) shall not be subject to the obligation to comply with the limits on risk spreading and limitation laid down in this Act.

(7) A management company or an entity designated under paragraph (3) shall, at least once every calendar month, inform the National Bank of Slovakia about the procedure laid down in paragraph (4).

**Cooperation and free movement within the European Union
and the European Economic Area**

ARTICLE 60

(1) A management company which has decided that shares in a mutual fund under its management will be publicly offered in the territory of another Member State shall, prior to commencing this activity, notify its intention to the competent authority of the host Member State. Along with the notification mentioned in the first sentence, the management company shall submit to the competent authority of the host Member State a certificate, issued by the National Bank of Slovakia, confirming that the management company and the mutual fund under its management meet the requirements of the European Union's legal provision on collective investment, and it shall also submit other information and documents required under the law of the host Member State. The certificate shall be issued by the National Bank of Slovakia at the request of the management company.

(2) A management company may, in accordance with paragraph (1), commence the public offering of shares in a mutual fund under its management in the territory of a host Member State, if within two months of the delivery of the notification and documents mentioned in paragraph (1), the competent authority of the host Member State has not decided whether the planned method of offering the fund shares to the public and the measures to secure the rights of fund shareholders in the Member State meet the requirements of the European Union's legal provision on collective investment, or whether they comply with laws and other legal regulations applicable in the host Member State.

(3) A management company which, under paragraph (1), makes a public offering of shares in a mutual fund under its management in the territory of a host Member State shall:

- a) in accordance with the laws and generally binding legal regulations of the host Member State, and with the provisions issued by the competent authority of the host Member State, take whatever measures are necessary to ensure that fund shareholders in the host Member State may have their fund shares and related income redeemed in the territory of the host Member State and that the fund shareholders have access to information which the management company is required to provide;
- b) publish and distribute in the host Member State the same documents and information about this mutual fund which it is required by this Act to publish and distribute in the territory of the Slovak Republic; the management company shall publish and distribute these documents and information in at least one of the official languages of the host Member State or in a language stipulated by the competent authority of the host Member State;
- c) comply with the legal regulations of the host Member State on the conduct of advertising and other legal regulations applicable in the host Member State.

ARTICLE 61

(1) A European fund which has decided to make a public offering of its securities in the territory of the Slovak Republic shall, prior to the commencement of this activity, notify its intention to the National Bank of Slovakia. Along with the notification mentioned in the first sentence, the European Fund is required to submit the following to the National Bank of Slovakia:

- a) a certificate, issued by the competent authority of the home Member State, proving that it meets the requirements of the European Union's legal provision on collective investment;
- b) a fund deed, articles of association or a document fulfilling a similar function;
- c) a prospectus and simplified prospectus;

- d) the most recent annual and half-yearly report on its management;
- e) information on the methods by which it is planned to make a public offering of the securities in the territory of the Slovak Republic and on measures for securing the rights of the owners of the securities in the Slovak Republic.

(2) The information mentioned in paragraph (1)(e) shall be given in the state language.⁶⁴⁾ The documents mentioned in paragraph (1)(b) to (d) shall be submitted in the state language in an officially certified translation. The certificate required under paragraph (1)(a) shall be translated into the state language or into a language customary in the sphere of international finance.

(3) In performing activities under paragraph (1) and in conducting advertising in the territory of the Slovak Republic, a European fund shall:

- a) comply with the provisions on promotional activities in accordance with Article 88;
- b) adopt measures necessary to ensure that the securities owners have the option to redeem their securities and yields in the territory of the Slovak Republic, through a bank, stockbroker, management company, branch of a foreign stockbroker, branch of a foreign bank, or branch of a foreign management company, or through an organizational unit established in the territory of the Slovak Republic if established by the European fund, and it shall provide the information that a European fund is required to provide;
- c) distribute and publish, in the state language, the prospectus, simplified prospectus and updates thereof, annual and half-yearly reports, and other information, in the way and to the extent stipulated by the legal regulations of the home Member State.

(4) A European mutual fund may commence the public offering of its securities as of the date when it receives notification from the National Bank of Slovakia that the methods by which it is planned to make the public offering of securities in the territory of the Slovak Republic and the measures for securing the rights of the securities' owners in the Slovak Republic meet the conditions set out in paragraph (3)(b), or if within two months after the delivery date of the notification mentioned in paragraph (1), the National Bank of Slovakia has not decided whether the methods by which it is planned to make the public offering of securities in the territory of the Slovak Republic and the measures for securing the rights of the securities' owners in the Slovak Republic meet the conditions set out in paragraph (3)(b). Such decision may not be appealed.

(5) A European fund performing activities in the Slovak Republic may have the same name that it has in the home Member State. In the event of potential confusion between the designation of the European fund and another mutual fund or another entity, the European fund shall supplement its name in such a way as to distinguish it.

(6) A European fund is not subject to the provisions of Articles 75 to 79.

(7) If a European fund is a foreign mutual fund, the foreign management company which manages it shall act on its behalf.

FOURTH PART

CLOSED-END FUNDS

ARTICLE 62

(1) A closed-end fund is a mutual fund in which the fund shareholder is not entitled, at his request, to the redemption of shares in the mutual fund's assets.

(2) A closed-end fund shall be established by a management company through the issuing of fund shares.

(3) The name of a closed-end fund shall include the business name of the management company which manages the closed-end fund and the name of the closed-end fund, as well as the words "uzavretý podielový fond" (closed-end fund) or the abbreviation "u.p.f.". Neither this name, nor a designation confusable with it in either the Slovak language or a foreign language, may be used by a natural or legal person for its own designation or the description of its activities. The name of a closed-end fund shall not be confusable with the name of another mutual fund and shall not provide a misleading impression of the orientation and objectives of the closed-end fund's investment strategy.

(4) It is not allowed to:

- a) split a closed-end fund,
- b) consolidate a closed-end fund,
- c) convert a closed-end fund into special fund.

(5) A closed-end fund shall be established for a definite period, which may not be longer than ten years.

(6) If not later than six months before the completion of the period for which a closed-end fund was established, the management company has not applied for the conversion of the closed-end fund into an open-end fund in accordance with Article 68, the licence mentioned in Article 63 shall expire and the management company shall wind up the closed-end fund in accordance with the procedure laid down in Article 59.

(7) A closed-end fund and the management company which manages it shall be subject, as appropriate, to Articles 35(3), 38, 39, 55, 56, 58 and 59.

ARTICLE 63

Licence for the establishment of a closed-end fund

(1) In order to establish a closed-end fund, a licence is required from the National Bank of Slovakia.

(2) The licence mentioned in paragraph (1) shall not be granted unless the following conditions are proved to have been met:

- a) the conditions laid down in Article 36(2)(a) to (d) and f);

- b) the protection of fund shareholders is sufficiently provided for, especially in regard to the orientation and objectives of the investment strategy;
- c) during the three years preceding the submission of the licence application, the average net asset value of the open-end funds under the management of the management company did not fall below SKK 100 million.

(3) The application for the licence mentioned in paragraph (1) shall be submitted by the management company. The application shall state the name of the closed-end fund and the particulars mentioned in Article 36(3)(a), (c), (d), (e) and (f); attached thereto shall be a draft of the fund deed, a draft of the prospectus, a draft of the simplified prospectus, and the depositary's preliminary written consent to the performance of depositary activities.

(4) The National Bank of Slovakia shall refuse the application mentioned in paragraph (1) where the applicant does not fulfil, or does not evidence fulfilment of, a condition laid down in paragraph (2).

(5) The conditions mentioned in paragraph (2) shall be fulfilled without interruption for so long as the licence for the establishment of the closed-end fund is valid.

(6) A licence for the establishment of a closed-end fund shall be subject, as appropriate, to Article 37.

ARTICLE 64

Fund shares and shares

(1) Shares in a closed-end fund, and the issuing thereof, shall be subject, as appropriate, to Article 40(1) to (4) and (7) and Article 41.

(2) Not later than six months before the commencement of the issuing of shares in a closed-end fund, the management company shall submit the application for the admission of the fund shares to a regulated market. If the management company applies for the admission of the fund shares to a stock exchange market, the fund shares must be in the form of book-entry securities and must be fungible.

(3) If within 12 months of the submission of the application mentioned in paragraph (2), the shares in the closed-end fund have not been admitted to a regulated market, the licence for the establishment of the closed-end fund shall expire. If the shares in the closed-end trust have been excluded from a regulated market and are no longer tradable on another regulated market, the licence for the establishment of the closed-end fund shall expire as of the date when the fund shares were last excluded from a regulated market.

ARTICLE 65

The assets of a closed-end fund

(1) The investment of a closed-end fund's assets shall be subject to Article 44(1) and (2).

(2) A closed-end fund's assets may also be invested in:

- a) shares in open-end funds and securities of open-end foreign collective investment undertakings which do not fulfil the condition laid down in Article 44(1)(e) indent (4);
- b) shares in other closed-end funds and securities of closed-end collective investment undertakings, provided that-
 - 1. the other closed-end foreign collective investment undertaking invests exclusively in assets pursuant to this Act and on the principle of risk spreading and limitation, it holds a licence granted under the legal regulations of the country in which its registered office is situated, and it is subject to supervision which is equivalent to the supervision exercised by the National Bank of Slovakia;
 - 2. the level of protection for the owners of the securities of the other foreign collective investment undertaking is equivalent to the protection for fund shareholders in the closed-end fund, and the assets of foreign mutual funds are recorded separately;
 - 3. the other foreign collective investment undertaking publishes annual and half-yearly management reports that allow for evaluation of its assets and liabilities, income, and activities;
 - 4. up to 10% of the value of the assets in the other closed-end fund or in the other foreign collective investment undertaking may, in accordance with their fund deed be invested in fund shares or securities of other mutual funds and other foreign collective investment undertakings which meet the conditions mentioned in indents (1) to (3);
- c) precious metals and certificates representing them.

(3) A closed-end fund's assets may also include ancillary liquid assets under the conditions laid down in Article 44(2).

ARTICLE 66

Principles of risk spreading and limitation for a closed-end fund

(1) The principles of risk spreading and limitation for a closed-end fund shall be subject to Article 45(2), (3), (6), (7) and (10) in the first sentence, Article 48(3), Articles 49 to 54, with the exceptions mentioned in paragraphs (2) and (3).

(2) The value of transferable securities and money market instruments issued by the same issuer may not constitute more than 20% of the value of a closed-end fund's assets, with the exceptions mentioned in Articles 45, 48 and 67.

(3) The aggregate investments in transferable securities and money market instruments issued by a single entity, the asset exposure towards this entity during transactions in financial derivatives, and deposits with the same bank that is the issuer of the securities or to which the asset exposure relates, may not exceed 40% of the value of a closed-end fund's assets.

(4) For the purposes of risk spreading and limitation in a closed-end fund, certificates representing precious metals shall be deemed to constitute transferable securities. The value of a single type of precious metal may not account for more than 20% of the value of a closed-end fund's assets.

ARTICLE 67

(1) The National Bank of Slovakia may, by approving a fund deed, stipulate that up to 100% of the value of the closed-end fund's assets can be invested in transferable securities and money market instruments issued or guaranteed by a country, self-government body of a Member State, or international organization. The National Bank of Slovakia shall not approve the fund deed unless investor protection is guaranteed to the same level which pertains to closed-end funds that comply with the principles of risk spreading and limitation under Article 66. A closed-end fund's assets under the first sentence shall include at least six issues of transferable securities, while the value of a single issue may not account for more than 30% of the value of a closed-end fund's assets.

(2) The closed-end fund mentioned in paragraph (1) shall be subject, as appropriate, to Article 47(2) and (3).

ARTICLE 68 **Prior approval**

(1) The prior approval of the National Bank of Slovakia shall be required for:

- a) the transfer of the management of a closed-end fund;
- b) a change in the depositary of a closed-end fund;
- c) an amendment to a fund deed;
- d) the return of a licence for the establishment of a closed-end fund;
- e) the acquisition of securities for a closed-end fund's assets from the shareholders of the management company that manages the closed-end fund, or the sale of securities from a closed-end fund's assets to the shareholders of the management company that manages the closed-end fund;
- f) the conversion of a closed-end fund into an open-end fund (hereinafter referred to as a "conversion");
- g) a merger of closed-end funds.

(2) For prior approval to be issued:

- a) under paragraph (1)(a) to (e), the provisions of Article 57(2) shall apply as appropriate;
- b) under paragraph (1)(f), it shall be shown that the composition of the assets and the principles of risk spreading and limitation are in accordance with Articles 44 to 54, that the mutual fund meets the conditions laid down in Article 63(2), and that the fund shareholders have been informed, at least six months prior to the submission of the application, about the management company's intention to carry out a conversion;
- c) under paragraph (1)(g), the conditions laid down in Article 63(2) shall apply, the closed-end funds which the merger concerns shall meet the requirements stipulated by this Act, and their merger shall not threaten the interests of fund shareholders; the period for which a closed-end fund was established may not be extended by the merger of closed-end funds, which applies to all of the closed-end funds involved in the merger.

(3) Unless provided otherwise in this Act, the submission of an application for prior approval shall be made:

- a) under paragraph (1)(a), by the management company that manages the closed-end fund or by a compulsory administrator;

- b) under paragraph (1)(b) to (d), (f) and (g), by the management company that manages the closed-end fund or by a compulsory administrator;
- c) under paragraph (1)(e), by the management company and a shareholder of the management company.

(4) The National Bank of Slovakia shall decide on the application made under paragraph (1)(e) within a period of 15 days from when it was delivered or supplemented.

(5) The National Bank of Slovakia shall refuse an application made under paragraph (1), where the applicant has not fulfilled, or has not evidenced fulfilment of, a condition mentioned in paragraph (2).

(6) The particulars of a decision under paragraph (1)(a) and the publication of the decision shall be regulated, as appropriate, by Article 57(6) and (7). The particulars of a decision under paragraph (1)(g) shall be regulated, as appropriate, by Article 57(9).

(7) A conversion in accordance with paragraph (1)(f) shall take effect as of the date stipulated in the decision of the National Bank of Slovakia. Within ten days after the entry into force of this decision, the management company shall publish the decision and the prospectus and simplified prospectus of the open-end fund that resulted from the conversion, and it shall inform fund shareholders in accordance with procedure laid down in the fund deed for acquainting fund shareholders with amendments to the fund deed or the prospectus. It shall at the same time publish an announcement about the establishment of the right to submit a fund share for redemption, including information on the current price.

(8) In the decision on granting approval under paragraph (1)(a), (b), (c), (e) and (g), the National Bank of Slovakia shall also stipulate the validity period of the prior approval in the event that the operation for which it was granted is not carried out. This period may not be shorter than three months, nor longer than one year, from when the approval was granted, unless the National Bank of Slovakia has stipulated another period in the interest of fund shareholder protection.

FIFTH PART

SPECIAL FUNDS

ARTICLE 69

(1) A special fund is a mutual fund whose fund shares may not be publicly offered in a Member State by the procedure laid down in Article 60.

(2) A special fund may be established as:

- a) a higher-risk special fund,
- b) a diversified special fund,
- c) a real-estate special fund.

(3) A higher-risk special fund shall not have more than 50 fund shareholders, or the issuing of its fund shares shall be restricted in such a way that its fund shares may only be acquired at a current price of more than EUR 40 000 per investor or that the initial value of a share is at least EUR 40 000. The restrictions laid down in the first sentence shall be stated in the fund deed, prospectus and simplified prospectus. The restrictions laid down in the first sentence shall not apply to a diversified special fund. The number of fund shareholders or number of issued shares in a diversified special fund may only be restricted if so stated in the fund deed.

(4) The number of fund shareholders or number of issued shares in a real-estate special fund may only be restricted if so stated in the fund deed.

(5) A special fund shall be established by a management company through the issuing of fund shares.

(6) The name of a special fund shall include the business name of the management company which manages the special fund and the name of the special fund, as well as the words " špeciálny podielový fond" (special fund) or the abbreviation "š.p.f.". Neither this name, nor a designation confusable with it in either the Slovak language or a foreign language, may be used by a natural or legal person for its own designation or the description of its activities. The name of a special fund shall not be confusable with the name of another mutual fund and shall not provide a misleading impression of the orientation and objectives of the special fund's investment strategy.

(7) It is not allowed to:

- a) split a special fund,
- b) merge or consolidate a special fund,
- c) convert a special fund into a closed-end fund.

(8) A special fund shall be established for a definite period which may not be longer than ten years, unless the National Bank of Slovakia has granted an extension of this period; this does not apply to a real-estate special fund. A higher-risk special fund and diversified special fund may be established as open-end funds.

(9) A special fund and the management company which manages it shall be subject, as appropriate, to Articles 35(3), 38, 39, 55, 56 and 59, unless provided otherwise by this Act.

ARTICLE 70

Licence for the establishment of a special fund

(1) In order to establish a special fund, a licence is required from the National Bank of Slovakia.

(2) The licence mentioned in paragraph (1) shall not be granted unless the following conditions are proved to have been met:

- a) the conditions laid down in Article 36(2)(a) to (d) and f);
- b) the protection of fund shareholders is sufficiently provided for, especially in regard to the orientation and objectives of the investment strategy;
- c) during the three years preceding the submission of the licence application, the average net asset value of the open-end funds under the management of the management company or its shareholder which has a qualifying holding ¹⁷⁾ and is a management company, did not fall below SKK 100 million; this condition shall not apply to the creation of a real-estate special fund.

(3) The application for the licence mentioned in paragraph (1) shall be submitted by the management company. The application shall state the name of the special fund and the particulars mentioned in Article 36(3)(a), (c), (d) and (e); attached thereto shall be a draft of the fund deed, a draft of the prospectus, a draft of the simplified prospectus, and the depositary's preliminary written consent to the performance of depositary activities.

(4) The National Bank of Slovakia shall refuse the application mentioned in paragraph (1) where the applicant does not fulfil, or does not evidence fulfilment of, a condition laid down in paragraph (2).

(5) The conditions mentioned in paragraph (2) shall be fulfilled without interruption for so long as the licence for the establishment of the special fund is valid.

(6) A licence for the establishment of a special fund shall be subject, as appropriate, to Article 37.

ARTICLE 71

Fund shares and shares

(1) Shares in a special fund, and the issuing and redemption of these fund shares, shall be subject, as appropriate, to Articles 40 to 43. A management company may, in the fund deed, extend the time limit for the redemption of shares in a real-estate special fund, though not by longer than 12 months, while the prospectus and advertising materials shall include a conspicuous notice of this fact.

(2) Shares in a special fund may only be issued as registered fund shares. Shares in a higher-risk special fund may be transferred to another fund shareholder only with the consent of the management company.

ARTICLE 72

The assets of a special fund

The investment of a special fund's assets shall be subject to Article 44 (1) and Article 65(2) and (3), unless provided otherwise by this Act.

ARTICLE 73

The principles of risk spreading and limitation for a special fund

(1) The principles of risk spreading and limitation for a diversified special fund shall be subject to Articles 45 to 47, Article 48(3), and Articles 49 to 54, with the exception mentioned in paragraphs (2) and (3).

(2) The value of shares in another mutual fund and securities of a foreign collective investment undertaking may not constitute more than 20% of the asset value of a diversified special fund.

(3) The value of transferable securities and money market instruments issued by the same issuer may not constitute more than 25% of the asset value of a higher-risk trust, with the exceptions mentioned in Articles 45 to 47.

(4) The aggregate of the investments in transferable securities and money market instruments issued by a single entity, the asset exposure towards this entity during transactions in financial derivatives, and deposits with the same bank that is the issuer of the securities or to which the asset exposure relates, may not exceed 40% of the asset value of a higher-risk special fund.

(5) The principles of risk spreading and limitation for a higher-risk special fund shall be subject, as appropriate, to Article 45(2), (3), (6) and (10), Article 48(3), and Articles 49, 51 to 56, and 67.

(6) For the purposes of risk spreading and limitation in a special fund, certificates representing precious metals shall be deemed to constitute transferable securities. The value of a single type of precious metal may not account for more than 20% of the value of a special fund's assets.

(7) The value of the transferable securities and money market instruments mentioned in Article 44(1)(i) may not constitute more than 25% of the asset value of a higher-risk special fund.

(8) The principles of risk spreading for a real-estate special fund shall be subject to Articles 45 to 54 with the exceptions laid down in Article 73c and 73j. Where the limits

mentioned in Articles 73a and 73i are exceeded, the conditions laid down in Article 51(3) shall apply in the same way unless otherwise provided in this Act.

ARTICLE 73a **Real-estate special funds**

(1) A real-estate special fund may be established as an open-end fund or closed-end fund.

(2) The assets of a real-estate special fund shall be invested mainly in:

- a) real estate, including appurtenances, for the purposes of its management and sale;
- b) participations in real estate companies under the conditions laid down in Article 73f;
- c) other assets meeting the criteria mentioned in Article 44(1), which in their essential economic terms give rise to a close connection with the real estate market.

(3) In addition to the assets mentioned in paragraph (2)(a) to (c), the only assets in which the assets of a real-estate special fund may be invested shall be those stated in Article 44(1) in such a way as not to alter the focus and objectives of the investment strategy of the real-estate special fund in accordance with paragraph (2)(a) to (c).

(4) For management purposes, the real estate acquired for the assets of a real-estate special fund shall be such that is, under proper management, capable of bringing a regular and long-term income to the credit of assets of the real-estate special fund and whose price may be determined by the yield method, unless provided otherwise by this Act.

(5) For sale purposes, the real estate acquired for the assets of a real-estate special fund shall be such that brings a profit upon sale and whose price may be determined by the comparative method.

(6) The fund deed of a real-estate special fund shall also state the designation of the countries which are the location of the real estate in which it is planned to invest the assets of the real-estate special fund, or where there are registered offices of the real-estate companies in whose shares it is planned to invest the assets of the real-estate special fund, and the maximum limit of any such investment.

(7) At least 10% of the asset value of a real-estate special fund shall include:

- a) deposits meeting the conditions laid down in Article 44(1)(f);
- b) securities issued by an open-end fund, European fund, or foreign collective investment undertaking which meet the conditions laid down in Article 44(1)(e);
- c) Treasury bills; or
- d) bonds which meet the conditions laid down in Article 44(1)(a) to (c) and have a remaining maturity period of not more than three years.

ARTICLE 73b

(1) To acquire real estate on which a lien is established for the assets of a real-estate special fund, the prior approval of the depositary shall be required. To establish a lien on real

estate belonging to the assets of a real-estate special fund, the approval of the depositary shall be required and the purpose of the lien shall be to secure a loan in the favour of the assets in the real-estate special fund.

(2) Real estate subject to a material encumbrance may be acquired for the assets of a real-estate special fund, provided that such encumbrance is related to the management or use of the real estate and that the depositary has given its prior approval. To establish a material encumbrance on real estate belonging to the assets of real-estate special fund, the approval of the depositary shall be required.

ARTICLE 73c

(1) The value of real estate acquired for the assets of a real-estate special fund shall not, as of the date when the contract for the purchase or the sale of the real estate is concluded, exceed 20% of the value of the assets in the real-estate special fund.

(2) The total value of real estate whose value cannot be determined by the yield method shall not exceed 25% of the asset value of a real-estate special fund. Included within this limit shall be the value of real estate belonging to the assets of the real estate company into which assets of the real-estate special fund are invested, and only that part of the real estate which cannot be valued by the yield method; such value shall be a proportion based on the participating interest in the real estate company.

(3) If following the acquisition of real estate for the assets of a real-estate special fund, the limit mentioned in paragraph (1) or (2) is exceeded by more than 10%, the management company shall bring the composition of the assets in the real-estate special fund into line with such limit, not later than two years after the limit was exceeded.

(4) The limit mentioned in paragraph (1) shall not be used for longer than the three years following the entry into force of the decision to grant the licence for the establishment of the real-estate special fund; this period shall be stipulated in the fund deed and it may be shorter than three years. During this period the management company shall not be obliged redeem shares in the real-estate special fund.

(5) For the purposes of calculating limits laid down by this Act, pieces of real estate with interconnected economic use shall be deemed to constitute a single piece of real estate.

ARTICLE 73d

(1) In acquiring real estate for the assets of a real-estate special fund, a management company shall require the prior approval of the depositary in order to buy the real estate for a price of more than 5% of the value given in the expert opinion mentioned in Article 73g(3), or to sell the real estate for price of less than 5% of the value given in the expert opinion. The prior approval of the depositary shall be conditional on evidence of the economic justification for the purchase or sale of the real estate.

(2) A management company shall not acquire for the assets of a real-estate special fund any real estate from the assets of:

- a) the management company which manages the real-estate special fund;
- b) its depositary;
- c) any entities from a group with close links whose members include a shareholder that has a qualified participation in the management company.

(3) Any acquisition of assets for a real-estate special fund or sale of assets from a real-estate special fund shall require the prior approval of the depositary.

ARTICLE 73e **Real estate companies**

(1) For the purposes of this Act, 'real estate company' means a joint-stock company or foreign company whose scope of business covers the following activities:

- a) the acquisition of real estate, including appurtenances;
- b) the letting of real estate together with the provision of services other than core services related to the letting;
- c) mediation of the sale, letting and purchase of real estate (real estate activity);
- d) the selling of real estate.

(2) The scope of business of a real estate company as defined in paragraph (1) may also extend to the construction of and modifications to buildings.

(3) In addition to the activities mentioned in paragraphs (1) and (2) the scope of business of a real estate company may include only such activities that are essential to its operation in accordance with this Act.

(4) Apart from performing the activities mentioned in paragraph (1), a real estate company may also invest in:

- a) deposits fulfilling the conditions laid down in Article 44(1)(f);
- b) securities issued by an open-end fund, European fund or foreign collective investment undertaking which fulfil the conditions laid down in Article 44(1)(e);
- c) Treasury bills, or
- d) bonds which fulfil the conditions laid down in Article 44(1)(a) to (c) and have a remaining maturity period of not more than three years.

ARTICLE 73f **Acquisition of participating interests in real estate companies**

(1) For the assets of a real-estate special fund, a management company may acquire a participating interest in a real estate company:

- a) whose shares have been subscribed, or whose share capital has been increased, solely through monetary contributions;
- b) whose shareholders have fully paid up their shares;

- c) which invests exclusively in real estate in the territory of the country in which it has its registered office;
- d) which ensures compliance with the conditions laid down in Article 73a(3) and (4) and Article 73b(1) and (2);
- e) which does not have a participating interest in another real estate company.

(2) The provisions of paragraph (1)(a) and (b) shall not apply in the case where shares in a newly floated real estate company are subscribed for the assets of real-estate special fund and the assets of that real estate company do not yet include any real estate. Where the procedure under the first sentence is followed, the subsequent subscription of all shares must be made by means of monetary contributions and shares in the real estate company must be paid up in full.

(3) A management company may not acquire a participating interest in a real estate company for the assets of a real-estate special fund unless the following conditions are met:

- a) the participating interest in the real estate company represents a majority of the voting rights needed to amend the articles of association of the real estate company;
- b) the articles of association of the real estate company that acquires real estate for its own assets, or sells real estate from its own assets, comply with the procedure laid down in Article 73(g) and Article 73d(1);
- c) once every month, the real estate company submits to the management company and the depositary a listing of the real estate in its assets;
- d) the proper fulfilment of the depositary's responsibilities vis-à-vis the real estate company can be ensured;
- e) in the event of the reduction or termination of the participating interest of a shareholder in the real estate company, the management company has a right of pre-emption to the purchase of its participating interest in the assets of the real-estate special fund.

(4) The conditions laid down in paragraph (1)(c), (e) and (f) and in paragraph (2) (e) shall be fulfilled not later than six months prior to the acquisition of the participating interest in the real estate company for the assets of the real-estate special fund. If these conditions have not been fulfilled within six months after the acquisition of the participating interest in the real estate company, the management company shall sell this participating interest not later than six months prior to the completion of the period for the fulfilment of these conditions.

(5) The value of a participating interest in a real estate company within the assets of a real-estate special fund may at the time of its acquisition constitute not more than 30% of the value of the assets in the real-estate special fund.

(6) If following the acquisition of the participating interest in a real estate company, the value of this participating interest exceeds 40% of the value of the assets of the real-estate special fund, the management company shall bring the composition of the assets of the real-estate special fund into line with the limit laid down in paragraph (4) not later than two years after the limit was exceeded.

(7) The provisions of paragraph (6) shall not apply in the case where shares in a newly floated real estate company are subscribed for the assets of real-estate special fund and the assets of that real estate company do not yet include any real estate.

(8) Prior to the acquisition of a participating interest in a real estate company for the assets of a real-estate special fund, the participating interest shall be valued and the following shall be submitted to the management company:

- a) financial statements of the real-estate company, audited by an auditor, which as of the valuation date are not older than three months;
- b) an up-to-date statement of the assets and liabilities of the real estate company, audited by an auditor;
- c) a valuation of the real estate included in the assets of the real estate company; the valuation of the real estate shall be carried out in accordance with Article 73g.

(9) To acquire, increase, reduce, or terminate the participating interest in a real estate company shall require the prior approval of the depositary. The depositary's prior approval shall also be required for:

- a) an amendment to the founder's deed or founder's contract of the real estate company, or to its articles of association;
- b) an acquisition of real estate for the assets of the real estate company, or a sale of real estate from its assets.

(10) A real estate company shall not provide a loan, credit or gift, nor use its assets to secure or meet the liabilities of a third party, unless provided otherwise by this Act (Article 73j).

(11) A real estate company may not conclude a silent partnership agreement.

ARTICLE 73g **Determining the value of assets**

(1) Where a management company plans to acquire real estate for the assets of a real-estate special fund, or to sell real estate belonging to the assets of a real-estate special fund, this real estate shall be valued by two independent experts in accordance with a separate law.^{64a)} Each piece of real estate in the assets of a real-estate special fund shall be valued at least once per 12 months by two independent experts in accordance with a separate law.^{64a)} One expert shall be appointed by the management company that manages the real-estate special fund and the other expert by the depositary. The expert opinion shall not be older than three months as at the date when the contract for the purchase or sale of the real estate is concluded.

(2) The real estate mentioned in paragraph (1) shall be valued by either the comparative method or yield method,^{64b)} while having regard to:

- a) permanently and long-term sustainable properties of the real estate;
- b) the income attainable by a third party through proper management of the real estate;
- c) drawbacks of the real estate;
- d) rights attached to the real estate;
- e) local conditions in the real estate market and its expected development.

(3) The expert opinion shall be drawn up by each expert separately. The price of the real estate shall subsequently be set as the arithmetic average of the values given in the expert opinions.

(4) The National Bank of Slovakia may require that the management company managing the real-estate special fund shall, at its own expense, arrange a new valuation of the real estate. The National Bank of Slovakia may appoint an expert for this purpose.

(5) The annual report shall state information about the current value of real estate in the assets of the real-estate special fund.

(6) A depositary shall appoint an expert under paragraph (1) at the request of the management company and within a time limit agreed with the management company.

(7) The same real estate in the assets of a real-estate special fund may not be valued by the same expert for more than three consecutive years.

(8) The person who is an expert shall:

- a) be registered on the list of experts,
- b) have passed a professional examination;
- c) not previously have been sanctioned in regard to the valuation of real estate;
- d) be insured against liability for damage caused by the performance of work, in a minimum amount of SKK 5 million.

ARTICLE 73h

(1) An expert shall be liable to the management company and the depositary for damage caused by the breach of an obligation laid down by this Act or a separate law.^{64a)} This is without prejudice to the management company's liability for damage under Article 22, or the depositary's liability for damage under Article 87.

(2) For a management company and expert to conclude a contract that states the remuneration for the expert's work, the contract must state the following:

- a) the duration of the contract, or the number of valuations of the real estate which the expert is to carry out in accordance with the contract;
- b) the designation of the real estate which is to be valued;
- c) the expert's fixed remuneration for an agreed period or an agreed number of valuations of the real estate.

ARTICLE 73i

(1) For the purposes of monitoring the value of any real estate in the assets of a real-estate special fund, or in the assets of a real estate company, the experts shall take as a basis the acquisition price or the most recent expert opinion.

(2) A depositary may recommend that the management company arrange a new valuation of the real estate with another expert.

(3) The National Bank of Slovakia may require that a management company managing the real-estate special fund arrange a new valuation of the real estate with another expert.

ARTICLE 73j **Loans and credits**

(1) A management company may provide a loan out of the assets in a real-estate special fund only to a real estate company in which it has a participating interest. Any loan provided out of the assets of a real-estate special fund shall be secured, and it shall be stated that in the event of the sale of the participating interest in the real estate company, the loan shall mature within six months from the date when the participating interest was terminated.

(2) The aggregate amount of all loans provided out of the assets of a real-estate special fund to a single real estate company may not exceed 50% of the value of the assets of the real estate company.

(3) The aggregate amount of all loans provided out of the assets of a real-estate special fund to real estate companies shall not exceed 50% of the asset value of the real-estate special fund. .

(4) To the credit of the assets in a real-estate special fund, a management company may receive a credit or loan with a maturity of up to one year and in an amount of up to 20% of the asset value of the real-estate special fund, unless provided otherwise by this Act.

(5) In order to acquire real estate for the assets of a real-estate special fund, or to maintain or improve the balance thereof, the management company may receive mortgage bonds or credits of a similar type to the credit of the assets in the real-estate special fund. Where mortgage bonds or credits of a similar type are received to the credit of the assets in a real-estate special fund, or by a real estate company in which the real-estate special fund has a participating interest, they shall not exceed 70% of the value of the real estate.

(6) The aggregate amount of all credits and loans received into the assets of a real-estate special fund by the management company managing the real-estate special fund shall not exceed 50% of the value of the assets in the real-estate special fund.

(7) A real estate company may provide a loan out of its own assets only to a management company managing a real-estate special fund and to the credit of the assets in a real-estate special fund which has a participating interest in the real estate company. The provision of loans out of the assets of a real estate company, and the receipt of loans or credits by a real estate company, shall be subject to paragraphs (2) to (6).

ARTICLE 74 **Prior approval**

- (1) The prior approval of the National Bank of Slovakia is a condition for:
- a) the transfer of the management of a special fund;
 - b) a change in the depositary of a special fund;
 - c) an amendment to the fund deed;
 - d) the return of a licence for the establishment of a special fund;
 - e) the acquisition of securities for a special fund's assets from the shareholders of the management company that manages the special fund, or the sale of securities from a special fund's assets to the shareholders of the management company that manages the special fund;
 - f) the conversion of a special fund into an open-end fund;
 - g) an extension of the period for which the special fund was established.

(2) Article 68 shall apply, as appropriate, to an issue of prior approval under paragraph (1), an application for prior approval, the decision-making on an application made under paragraph (1)(a) to (e) and to the conversion of a special fund into an open-end fund.

(3) The application for prior approval mentioned in paragraph (1)(f) shall be submitted by the management company that manages the special fund. For prior approval to be issued under paragraph (1)(f), it shall be shown that the special fund fulfils the conditions laid down in Article 70(2), that the composition of the assets and principles of risk spreading and limitation are in accordance with this Act, and that the fund shareholders were informed about the management company's intention to extend the establishment period at least six months prior to the submission of the application for prior approval made under paragraph (1)(f).

(4) In the decision on granting approval under paragraph (1)(a), (b), (c), (e) and (f), the National Bank of Slovakia shall also stipulate the validity period of the prior approval in the event that the operation for which it was granted is not carried out. This period may not be shorter than three months, nor longer than one year, from when the approval was granted, unless the National Bank of Slovakia has stipulated another period in the interest of fund shareholder protection.

SIXTH PART

FOREIGN COLLECTIVE INVESTMENT UNDERTAKINGS AND FOREIGN MANAGEMENT COMPANIES

ARTICLE 75

(1) Securities issued by a foreign investment company may be publicly offered by this company in the territory of the Slovak Republic, whether through its branch or without establishing a branch. This activity shall be performed under a licence from the National Bank of Slovakia. Securities issued by a foreign collective investment undertaking may be publicly offered in the territory of the Slovak Republic by the foreign management company which manages the undertaking, whether through its branch or without establishing a branch. This activity shall be performed under a licence from the National Bank of Slovakia; in order to make a public offering of its securities, each foreign collective investment undertaking that is managed by the management company shall be required to have such a licence.

(2) The licence mentioned in paragraph (1) shall not be granted unless the following conditions are proved to have been met:

- a) the foreign collective investment undertaking has a valid licence for collective investment in transferable securities and money market instruments on the principle of risk spreading and limitation, issued under the law of the country in which its registered office is situated and by the competent authority of this country; in the case of a foreign collective investment undertaking managed by a foreign management company, a licence shall also be required for the management of collective investment undertakings, issued by the competent authority of the country in which the foreign management company has its registered office;
- b) the competent authority mentioned in paragraph (a) has approved the operation of the foreign collective investment undertaking in the territory of the Slovak Republic;
- c) the legal regulations of the country in which the foreign collective investment undertaking and the foreign management company have their registered office and headquarters provide a level of protection for collective investment participants that is not lower than the protection provided by this Act;
- d) a group with close links that includes the foreign collective investment undertaking or the foreign management company is transparent;
- e) in regard to the establishment of a branch in the Slovak Republic, the material and organizational provisions for the activities of the branch have been met and the persons in charge of the branch are professionally qualified and trustworthy;
- f) if the foreign investment company or foreign management company does not perform the activities through a branch situated in the Slovak Republic, a contract under Article 78(5) has been concluded;
- g) in the country where the foreign collective investment undertaking or foreign management company has its registered office, the public offering of securities is not prohibited or precluded on grounds of investor protection;
- h) the registered office and the headquarters of the foreign collective investment undertaking or the foreign management company are situated in the territory of the same country;
- i) annual reports and half-yearly reports on the management of the foreign collective investment undertaking are published;

- j) the assets of the foreign mutual fund are recorded separately from the assets of the foreign management company.

(3) A foreign investment company or a foreign management company shall submit the application for the licence mentioned in paragraph (1) where securities of any collective investment undertaking which it manages are to be offered to the public in the territory of the Slovak Republic. This application shall state:

- a) the business name and registered office of the foreign collective investment undertaking, and, in the case where a foreign collective investment undertaking is managed by a foreign management company, also the business name and registered office of the foreign management company;
- b) the business name and registered office of the depositary of the foreign collective investment undertaking;
- c) the name, permanent residence and birth registration number of a member of the statutory body, a member of the supervisory board, a chief clerk and a management employee of the foreign investment company responsible for professional activities; in the case of a foreign collective investment undertaking, this information shall also be given for the foreign management company;
- d) the name, permanent residence and birth registration number of the head of the branch of the foreign investment company, or the branch of a foreign investment company, and his deputy, information on their professional qualification and trustworthiness, and the place of their permanent residence;
- e) information on the methods by which it is planned to make a public offering in the territory of the Slovak Republic and measures for securing the rights of the owners of the securities in the Slovak Republic;
- f) in the case of the establishment of a branch in the Slovak Republic, information on the material and organizational provisions for the activities of the branch.

(4) The following shall be attached to the application mentioned in paragraph (1):

- a) a certificate issued by the competent supervisory authority of the country in which the foreign collective investment undertaking has its registered office, proving that it meets the requirements of collective investment in this country, and a confirmation of this competent authority's approval for the operation of the foreign collective investment undertaking in the territory of the Slovak Republic; in the case of a foreign collective investment undertaking managed by a foreign management company, it shall also be required to provide a confirmation that the foreign management company meets the requirements of collective investment in the country in which its registered office is situated;
- b) the fund deed, contractual terms and conditions, and articles of association of the foreign collective investment undertaking or another document fulfilling the same or a similar function;
- c) the prospectus of the foreign collective investment undertaking and, if prepared, the simplified prospectus;
- d) the most recently prepared annual and half-yearly reports on the management of the foreign collective investment undertaking;
- e) the decision of the foreign collective investment undertaking on the establishment of a branch in the territory of the Slovak Republic, if such a branch is planned, and the plan of its activities; in the case of a foreign collective investment undertaking managed by a

- foreign management company, the decision on the establishment of a branch of the foreign management company and the plan of its activities;
- f) the contract mentioned in paragraph (2)(f), if the activities under Article 78(3) are not ensured independently by the foreign investment company or foreign management company through a branch;
 - g) a brief professional resumé, and document on attained education and professional experience of the persons referred to in paragraph (3)(d), a document affirming their clean criminal record (Article 6(11)) that is not older than three months and a statutory declaration that they meet the requirements laid down by this Act;
 - h) an extract not older than three months taken from a commercial register or similar register abroad in which the foreign investment company or foreign management company is registered, and the number of its registration in this separate register or record.

(5) The information and documents mentioned in paragraphs (3) and (4) shall be submitted in the state language, ⁶⁴⁾ or in an officially certified translation into the state language.

(6) The decision on the application mentioned in paragraph (1) shall be taken by the National Bank of Slovakia within the time limit laid down by a separate law. ²²⁾

(7) The National Bank of Slovakia shall refuse the application mentioned in paragraph (1) where the applicant does not fulfil, or does not evidence fulfilment of, a condition laid down in paragraph (2).

(8) The conditions mentioned in paragraph (2) shall be fulfilled without interruption for the duration of the licence under paragraph (1).

(9) Evidencing of the material and organization provisions for the activities of the branch of a foreign investment company, or the branch of a foreign management company, shall be subject, as appropriate, to Article 6.

(10) The material provisions for the activities of the branch of a foreign investment company or the branch of a foreign management company shall be understood to mean material-technical provision for the performance of the management company's activities. The organizational provisions for the activities of the branch of a foreign investment company or the branch of a foreign management company shall be understood to mean the rules for the branch's organization, the performance of internal control, and the keeping of fund shareholder records (Article 78(6)).

(11) A person nominated to be the head of the branch of a foreign collective investment undertaking and foreign management company, and his deputy, shall be deemed professionally qualified if such natural person fulfils the conditions laid down in Article 6(9).

(12) A foreign collective investment undertaking and foreign management company shall forthwith inform the National Bank of Slovakia in writing, in the state language, of any change in the conditions which served as a basis for the granting of the licence under paragraph (1), or if it has ceased to meet the conditions for the performance of activities in the country in which its registered office is situated, or to changes in any of the facts mentioned in Article 75(3)(a), (b) and (d). A foreign collective investment undertaking and

foreign management company shall forthwith inform the National Bank of Slovakia in writing, in the state language, of changes in the facts mentioned in Article 75(3)(f) where such changes could affect their ability to perform activities within the licensed scope.

(13) In an application for a licence to make a public offering, for each additional foreign collective investment undertaking under its management, a foreign management company shall submit only the information and documents mentioned in paragraphs (3) and (4), concerning the respective foreign collective investment undertaking, and information and documents on changes relating to the foreign management company since its most recent proceedings before the National Bank of Slovakia.

(14) The licence granted to a foreign management company may also state activities performed under Article 3(3), provided that the foreign management company evidences its authorization for such activities in the country in which its registered office is situated, that it evidences fulfilment of the same conditions for the performance of the activities as those which a separate law ⁷⁾ stipulates for branches of foreign stockbrokers, and that the conditions laid down in Article 3(6), in the second sentence, are met. A foreign management company performing activities under Article 3(3) in the territory of the Slovakia Republic shall participate in the protection of customers to which it provides investment services, and, for this purpose, it shall contribute to the Investment Guarantee Fund in accordance with a separate law. ³¹⁾ A foreign management company may perform activities under Article 3(3) only through a branch.

ARTICLE 76

The licence mentioned in Article 75 shall expire:

- a) as of the date of expiry or revocation of the licence issued in the country in which the foreign collective investment undertaking or foreign management company has its registered office;
- b) if within six months after the effective date of the licence, the foreign collective investment undertaking or the foreign management company has not commenced the activities for which licence was granted;
- c) as of the date when the licence is returned; the return of a licence shall be made in writing and with the prior approval of the National Bank of Slovakia in accordance with Article 79.

ARTICLE 77

(1) A foreign collective investment undertaking and foreign management company may perform activities in the territory of the Slovak Republic under the same business name which they use in the country where their registered office is situated. In the event of potential confusion over the business name, the foreign collective investment undertaking and foreign management company shall supplement their name in such a way as to distinguish it.

(2) In dealings with local investors, a foreign collective investment undertaking and foreign management company shall apply the principle of equality of treatment towards all

the investors and shall take whatever measures are necessary to secure all the rights of domestic investors.

(3) A foreign collective investment undertaking and foreign management company shall provide the National Bank of Slovakia and the Ministry with the information and documents required from management companies and mutual funds under the provisions of this Act and in the scope and within the time limits stipulated herein. This information and the documents on their activities shall be submitted to the National Bank of Slovakia in the state language.

(4) In performing activities under this Act, a foreign collective investment undertaking and foreign management company shall be subject to supervision by the National Bank of Slovakia.

ARTICLE 78

(1) In performing activities under Article 75(1), a foreign collective investment undertaking and foreign management company shall comply with the following conditions:

- a) investors shall have the opportunity to acquaint themselves with the prospectus or with the simplified prospectus prior to acquiring securities, which shall be in the state language or in a language they understand;
- b) the promoting of securities issued by the foreign collective investment undertaking and the distribution of advertising materials shall be conducted in accordance with Article 88;
- c) information on the foreign collective investment undertaking shall be provided to the owners of the securities in the state language or in a language they understand.

(2) A foreign collective investment undertaking and foreign management company shall publish the following in state language:

- a) annual and half-yearly management reports, a prospectus, and other information and documents, with the same contents and in the same way as they are required to publish them in the country where their registered office is situated, and at least in the way required of management companies and mutual funds under this Act;
- b) information and documents under this Act other than those mentioned in paragraph (a).

(3) A foreign collective investment undertaking and foreign management company shall adopt whatever measures are necessary to ensure the following for the owners of the securities in the territory of the Slovak Republic:

- a) distribution of income from the securities;
- b) redemption of securities issued by the foreign collective investment undertaking which is an open-end collective investment undertaking;
- c) payment of shares in the liquidation balance in the event of the liquidation or winding up of the foreign collective investment undertaking.

(4) In performing the activities mentioned in paragraph (3), a foreign collective investment undertaking or foreign management company shall act through:

- a) its own branch situated in the territory of the Slovak Republic;
- b) a stockbroker authorized to provide an investment service involving the subscription and placement of investment instruments;⁶⁵⁾

- c) the branch of a foreign stockbroker authorized to provide an investment service involving the subscription and placement of investment instruments;
- d) a management company; or
- e) a foreign management company in accordance with Article 28 or Article 29.

(5) Where a foreign collective investment undertaking performs the activities mentioned in paragraph (3) in the territory of the Slovak Republic other than through its own branch, it shall conclude a contract with at least one of the entities referred to in paragraph (4)(b) to (e), the provisions of which shall impose upon this entity an obligation to ensure the activities under paragraph (3) for investors in the Slovak Republic and shall lay down procedures concerning investor protection that the foreign collective investment undertaking or foreign management company is to follow in the event of the repudiation of the contract and if:

- a) the National Bank of Slovakia suspends the stockbroker or foreign stockbroker from performing a licensed activity;
- b) the National Bank of Slovakia revokes the licence of the stockbroker or foreign stockbroker to provide investment services;
- c) the National Bank of Slovakia suspends the management company or foreign management company from performing a licensed activity;
- d) the National Bank of Slovakia revokes the licence of the management company for its establishment and activities or revokes the licence of the foreign management company which was issued under Article 75;
- e) the foreign management company's authorization to operate in the Slovak Republic in accordance with Article 28 or Article 29 has expired.

(6) In providing for activities mentioned in paragraph (3), the stockbroker, foreign stockbroker, management company or foreign management company shall ensure that records of local fund shareholders are kept and state in particular:

- a) the name or business name of the fund shareholder;
- b) the permanent residence or registered office of the fund shareholder;
- c) the birth registration number or identification number of the fund shareholder;
- d) the name of the mutual fund;
- e) the number of shares in the mutual fund or the number of securities held by the fund shareholder.

(7) If the National Bank of Slovakia revokes the licence of a stockbroker or foreign stockbroker to provide investment services, or the licence of a management company for its establishment and activities, or where a foreign management company's authorization to operate in the Slovak Republic in accordance with Article 28 or Article 29 has expired, or where the contract under paragraph (5) has been repudiated, the National Bank of Slovakia may, in the interests of investor protection, appoint a replacement stockbroker, branch of a foreign stockbroker, management company or branch of a foreign management company which is required to ensure for fund shareholders the activities mentioned in paragraph (3).

(8) An entity whose licence or authorization has terminated in accordance with paragraph (7) shall forthwith deliver the fund shareholder records mentioned in paragraph (6) to the stockbroker, branch of a foreign stockbroker, management company or branch of a foreign management company appointed by the National Bank of Slovakia.

ARTICLE 79

Prior approval

(1) The prior approval of the National Bank of Slovakia shall be required for:

- a) the return of a licence issued under Article 75;
- b) concluding a contract with another entity in accordance with Article 78(5) for the performance of activities under Article 78(3).

(2) For prior approval to be issued:

- a) under paragraph 1(a), it shall be shown that the activities mentioned in Article 78(3) will be ensured for domestic fund shareholders in the territory of the Slovak Republic, or that the foreign investment company or foreign management company does not have fund shareholders in the territory of the Slovak Republic;
- b) under paragraph (1)(b), the conditions laid down in Article 78(5) shall apply.

(3) An application for the prior approval mentioned in paragraph (1) shall be submitted by a foreign investment company or a foreign management company.

(4) In the decision on granting approval under paragraph (1)(b), the National Bank of Slovakia shall also stipulate the validity period of the prior approval in the event that the operation for which it was granted is not carried out. This period may not be shorter than three months, nor longer than one year, from when the approval was granted, unless the National Bank of Slovakia has stipulated another period in the interest of fund shareholder protection.

ARTICLE 80

(1) The provisions of Articles 75 to 79 shall apply, as appropriate, to the legal form of a foreign collective investment undertaking. Where a foreign collective investment undertaking is not a legal person, the responsibility for the fulfilment of its obligations under Articles 75 to 79 shall attach to the foreign management company by which it is managed; in that case, the fulfilment of the conditions under Article 75(2)(d), (e), (f) and (h) shall only be shown for the foreign management company.

(2) This part of the Act shall not apply to European funds. This part of the Act except for Article 78(6) to (8) shall not apply to foreign management companies performing activities mentioned in Articles 28 and 29.

SEVENTH PART

THE DEPOSITARY

ARTICLE 81

(1) A mutual fund shall have a depositary in accordance with this Act.

(2) The depositary of a mutual fund shall be a bank, or a branch of a foreign bank,¹¹⁾ whose licence issued under a separate law⁶⁶⁾ covers the provision of a non-core investment service involving the safe-keeping or management of investment instruments. The depositary of an open-end fund whose fund shares are offered to the public in the territory of the Slovak Republic in accordance with Article 60 shall be a bank which has its registered office in the territory of the Slovak Republic or a foreign bank which has established a branch in the territory of the Slovak Republic.

(3) The depositary of a mutual fund may not be the management company that manages this mutual fund.

(4) Mutual funds managed by a single management company shall have the same depositary, unless provided otherwise by this Act.

ARTICLE 82

(1) A depositary shall perform its activities on the basis of a depositary contract. The depositary contract shall be concluded in writing, for either a definite period or the period for which the mutual fund has been established.

(2) In the depositary contract there shall be agreed the activities of the depositary, at least in the scope stipulated by this Act, and the amount of the remuneration for the performance of the depositary's activities.

(3) The depositary's remuneration referred to paragraph (2) shall not include fees for:

- a) procuring and settling transactions in securities;
- b) the safe-keeping and management of foreign securities which the depositary pays to foreign entities;
- c) the maintaining of current accounts and fund transfers;
- d) the remuneration of experts for the valuation of real estate.

(4) The contracting parties to a depositary contract may withdraw from it. The notice period shall be three months unless a shorter notice period is agreed in the contract.

(5) In the event of the revocation or termination of a depositary's banking licence or its licence to provide investment services in respect of the part required for a depositary's activities, or there the depositary comes under compulsory administration, then as of the effective date of the respective decision, the depositary's authorization to perform depositary activities under this Act shall expire and depositary contracts concluded with this depositary shall cease to be valid.

(6) The repudiation of a depositary contract or the occurrence of a situation mentioned in paragraph (5) shall forthwith be notified by the depositary to the National Bank of Slovakia and any management companies with which it has concluded a depositary contract.

(7) After a depositary contract has ceased to be valid, the management company shall forthwith suspend the use of the mutual fund's assets, except for the payment of liabilities incurred before the depositary contract became invalid and operations essential for securing the mutual fund's assets against damage, and suspend the issuing and redemption of fund shares under Article 43, until a contract is concluded with a new depositary.

(8) The management company shall take measures to ensure that not later than the last day of the notice period, or within one month after the depositary contract became invalid in a way mentioned in paragraph (5), it has prepared a draft depositary contract with another depositary and has requested the National Bank of Slovakia to grant prior approval for the change of depositary.

(9) If a management company does not request the National Bank of Slovakia to grant prior approval for a change of depositary within the period mentioned in paragraph (8), the National Bank of Slovakia shall appoint a depositary within one month after the completion of this period. The management company shall conclude a depositary contract with the depositary so appointed, and shall forthwith submit the concluded contract to the National Bank of Slovakia. The appointed depositary is required to conclude the depositary contract and to perform depositary activities for the respective mutual fund.

(10) The depositary which has ceased to perform depositary activities for a mutual fund shall forthwith hand over the mutual fund's assets and all related documentation and information to the new depositary. Until the handover of the assets and related documentation, the depositary must not use or allow the use of the mutual fund's assets, except for operations required to secure the mutual fund's assets against damage or to pay liabilities in accordance with paragraph (7).

(11) A depositary shall continue to fulfil the obligations arising under the depositary contract in the event that the management company is declared bankrupt or goes into liquidation, and shall do so until the management of the mutual fund's assets comes to an end in accordance with Article 59 or until a depositary contract is concluded with the management company to which the management of the mutual funds has been transferred.

ARTICLE 83 **Activities of a depositary**

- (1) A depositary shall:
- a) verify whether the issuing and redemption of fund shares and their termination is carried out in accordance with this Act and with the fund deed;
 - b) be responsible for correctly calculating the value of a share (Article 41) in accordance with this Act and with the fund deed;

- c) carry out the instructions of the management which are in accordance with this Act and with the fund deed;
- d) ensure that the countervalue in transactions involving a mutual fund's assets is transferred to the credit of the mutual fund's assets on the principle of payment versus delivery, where this is not precluded by the nature of the transaction, and within the time limits usual for the regulated market in which the transaction is made, or, where the transaction is made outside a regulated market, within the contractually agreed time limits that are usual for the respective type of transaction;
- e) verify that the use of income on a mutual fund conforms with this Act and with the fund deed;
- f) verify compliance with the principles of risk spreading and limitation;
- g) verify the calculation and payment of the management company's remuneration for the management of the mutual fund;
- h) verify whether the value of assets acquired for the mutual fund's assets or sold from the mutual fund's assets is determined in accordance with this Act and the fund deed;
- i) maintain, under separate records, an issuer's register for the fund shares of a management company, if so agreed with the management company, a register of liens on fund shares, and a register of pledged fund shares;
- j) verify compliance with the provisions of this Act concerning a participating interest in a real estate company as part of the assets of a real-estate special fund.

(2) Where paper securities are included in a mutual fund's assets, they shall be deposited with the depository; this also applies to another class of assets whose nature so allows. The condition mentioned in the first sentence shall be deemed fulfilled when the depository designates the entity in whose safekeeping the physical securities or assets referred to in the first sentence are to be placed. For securities and assets so deposited, the depository shall be responsible as if they were deposited with it.

(3) Where the depository does not maintain an owner's account for mutual funds, it may, at its own expense, request that the entity which maintains the owner's account ⁵⁸⁾ provide statements on the asset accounts maintained for the mutual fund, and this entity shall forthwith meet such a request by the depository.

(4) Where foreign book-entry securities are included in a mutual fund's assets, the depository shall ensure that the management company receives statements from the owner's accounts or accounts fulfilling a similar function, or copies thereof, which are equivalent to the statements mentioned in paragraph (3), unless the management company receives them directly.

(5) A depository shall maintain a current account ⁶⁷⁾ for the management company. For each mutual fund managed by the management company, the depository shall maintain a single current account under one name.

(6) All the payments, redemptions and transfers of funds that constitute a mutual fund's assets shall be carried out through the current account mentioned in paragraph (5).

(7) Funds deposited in deposit accounts in other banks or the branches of foreign banks shall also be carried out through the current account mentioned in paragraph (5). The depository shall carry out payments or transfers from the current account mentioned in

paragraph (5) only at the order of the management company. For the management company to open current accounts other than under paragraph (5), the approval of the depositary shall be required. The depositary shall not grant approval for the opening of a mutual fund's current account in another bank or a foreign bank, as mentioned in Article 44(1)(f) unless this is required to ensure the settlement of transactions in securities, money market instruments and derivatives in accordance with Article 44.

ARTICLE 84

(1) A management company shall open a current account with the depositary with which it has concluded a depositary contract. For each mutual fund under its management, a management company shall open a separate current account with the depositary.

(2) In order to open a deposit account ⁶⁸⁾ for a mutual fund with another bank or in the branch of a foreign bank, the management company shall require the approval of the depositary. In executing a transfer of funds from the deposit account to another deposit account in the same bank or in the branch of a foreign bank, the bank or branch of a foreign bank shall act on the instruction of the management company following the submission of the depositary's approval. The only payments which a management company may receive in a deposit account held with another bank or branch of a foreign bank shall be income payments on the said deposit account; the management company shall regularly inform the depositary about payments received in this deposit account. Such transfers and payments shall not be subject to the provision of Article 83(6).

(3) In order to use its own assets that are in the form of book-entry securities recorded in the issuers' register ⁶⁹⁾ in the central depositary, a management company shall establish and use only one owner's account.

(4) In order to use a mutual fund's assets in the form of book entry securities recorded in the issuers' register in the central depositary, a management company shall, separately for each mutual fund under its management, establish and use a separate owner's account. In order to record and use a mutual fund's assets, the management shall not establish and use more than one owner's account for each mutual fund under its management, nor use the owner's account mentioned in paragraph (3).

(5) Where a management company's depositary is a member of the central depositary, ⁴⁹⁾ the management shall establish the owner's accounts mentioned in paragraphs (3) and (4) with its own depositary. Where a management company's depositary is not a member of the central depositary, the management company shall establish the owner's accounts mentioned in paragraphs (3) and (4) with another member of the central depositary; these accounts shall be established with the same member of the central depositary.

(6) In order to conclude a credit agreement or loan agreement to the credit of a mutual fund's assets, the management company shall require the prior approval of the depositary.

ARTICLE 85

(1) Before carrying out the instruction of a management company, the depositary may require it to evidence fulfilment of the conditions laid down by law and the fund deed. If the management company does not evidence fulfilment of these conditions at the depositary's request, the depositary shall not carry out the instruction.

(2) If the management company's instruction is inconsistent with this Act or the fund deed, the depositary shall not carry it out and shall warn the management company of this fact; if despite such warning the management company insists that the instruction be carried out, the depositary shall not carry it out and shall inform the National Bank of Slovakia about this situation.

(3) If in performing its activities, a depositary finds that a management company has violated this Act or the fund deed of a mutual fund under its management, the depositary shall forthwith notify this fact to the National Bank of Slovakia and the management company. Where the limits mentioned in Articles 44 to 50 are exceeded in accordance with this Act, or where a situation arises which could significantly influence the current price of fund shares, the depositary shall forthwith notify the National Bank of Slovakia thereof. The National Bank of Slovakia shall, by approval of the fund deed, stipulate what is to be deemed as significant influencing of the current price, having regard to the risk profile of the mutual fund.

(4) A depositary may, in performing its activities, require a management company to furnish apart from information and documents on mutual funds under its management, information and documents on its activities. The management company shall forthwith submit such information and documents to the depositary.

ARTICLE 86

(1) A depositary shall keep a record of a management company's instructions, approvals granted to the management company, decisions to not grant approval to the management company, warnings about and information on violations of this Act by the management company, and a collection of the documents.

(2) The records mentioned in paragraph (1) shall state:

- a) the number of the record,
- b) the date when it was carried out,
- c) the definition of the operation,
- d) the content of the operation.

(3) The collection of documents shall comprise written copies of each of the management company's instructions, approvals granted to the management company, decisions to not grant approval to the management company, and warnings about and information on established violations of this Act by the management company.

(4) The records mentioned in paragraph (1) and the collection of documents shall kept by the depositary in paper form or on a durable medium and shall be provided to the National Bank of Slovakia at its request.

ARTICLE 87

(1) A depositary shall act independently, with professional care, and exclusively in the interests of fund shareholders in the mutual fund.

(2) A depositary which, in performing its activities, breaches an obligation arising under this Act, the fund deed or the depositary contract, shall be liable to the management company and fund shareholders for any damage caused as a result; the depositary's liability shall not cease with the termination of its activities. This is without prejudice to the management company's responsibility under Article 22.

(3) The depositary's liability for damage caused by the non-fulfilment of obligations arising under this Act or the depositary's agreement shall not be affected by the fact that the depositary has delegated the fulfilment of these obligations to a third party.

(4) A fund shareholder in a mutual fund may claim compensation for damage caused by the depositary, either directly or by authorizing the management company to do so.

(5) A management company shall represent the interests of fund shareholders when claiming compensation for damage which the depositary caused them by its breach or inadequate fulfilment of obligations in the performance of its activities, including the situation where the depositary's licence to provide investment services has expired or has been revoked.

EIGHTH PART

PROTECTION OF INVESTORS

ARTICLE 88

(1) A management company shall not, in promoting its mutual funds, use false or misleading information or conceal facts important to the decision-making of investors, and in particular shall not offer benefits of unprovable reliability or which are not in accordance with this Act, nor give inaccurate information about the personnel, technical and organizational provisions for the management company's activities. This is without prejudice to the provisions of a separate regulation on unfair competition.⁷⁰⁾

(2) Any promotion of a mutual fund, a foreign collective investment undertaking, or a management company, and any promotion concerning investment in mutual funds, shall include a conspicuous warning that the value of investments may also decrease and a return on the original investment is not guaranteed, or that an investment in the mutual fund also carries a risk.

(3) Apart from the warning mentioned in paragraph (2), any promotion of a closed-end fund shall include a warning that the fund shareholder may not require the management company to return or redeem a fund share prior to the completion of the period for which the closed-end fund was established.

(4) Any promotion including an invitation to purchase shares in a mutual fund shall state the fact that there is a prospectus and a simplified prospectus, with information about where an interested party may obtain them, and the fact that an investor has the opportunity to acquaint himself with fund deed of the mutual fund. A promotion including an invitation to purchase fund shares which have been admitted to a listed securities market shall state in addition to the information mentioned in the first sentence, that there is a listing prospectus,⁷¹⁾ with information about where an interest party may obtain it.

(5) Where advertising materials fail to meet the conditions laid down in paragraphs (1) to (4) or contain information which is inconsistent with the law, the fund deed, or the contents of the prospectus or simplified prospectus, or contain information or a set of data from the prospectus or simplified prospectus which could be misleading in the absence of other information, the National Bank of Slovakia may prohibit the publication of such materials or suspend them until the elimination of the shortcomings.

(6) A management company or an entity conducting the advertising of a mutual fund shall, upon request, deliver the advertising materials to the National Bank of Slovakia.

Disclosure obligation

ARTICLE 89

A management company shall draw up and publish the following for each fund share:

- a) a prospectus;
- b) a simplified prospectus;
- c) a report on the management of a mutual fund's assets for a calendar year (hereinafter an "annual report");
- d) a report on the management of a mutual fund's assets for the first six months of a calendar year (hereinafter a "half-yearly report").

ARTICLE 90

Prospectus and simplified prospectus

(1) A prospectus and a simplified prospectus shall contain the information which is necessary to enable investors to make an informed assessment of the opportunities offered by the investment and the risks attached to such an investment, and it shall contain at least the information stated in annexes (2) and (3). A prospectus shall also contain a clear and, for the ordinary investor, comprehensible explanation of the mutual fund's risk profile.

(2) A simplified prospectus shall be drawn up and set out in such a way as to be easily understandable for the average investor.

(3) A prospectus shall include the fund deed; this does not apply where the fund deed stipulates that it will be sent to a fund shareholder upon request, or the fund deed states where the fund shareholder may become acquainted with it, both in the territory of the Slovak Republic and in each Member State in which the shares in the mutual fund are offered to the public, and where fund shareholders are informed about this information. Where the information mentioned in Annex No. 2 is also given in the fund deed that is part of the prospectus, it shall suffice in the prospectus to give a reference to the respective provision of the fund deed.

(4) A prospectus shall contain information about the categories of assets in which it is permitted to invest the mutual fund's assets; where it is permitted to transact in derivatives with the mutual fund's assets, this information shall be pointed out separately, and there shall be a declaration on whether the purpose of such transactions is to secure the fund share fund's assets in accordance with Article 49 or to invest the fund share fund's assets, and on the potential impact of such derivative transactions on the risk profile of the mutual fund.

(5) Where the investment strategy of a mutual fund is to invest predominantly in assets other than transferable securities and money market instruments or to invest by a method which tracks financial indices in accordance with Article 46, the prospectus and advertising materials shall contain a conspicuous notice about the respective investment strategy.

(6) Where substantial fluctuation in the net asset value of a mutual fund may be expected owing to the composition of the mutual fund's assets or as a result of the investment management procedures followed by the management company, the prospectus and advertising materials shall contain a conspicuous notice about these facts.

(7) Where the fund deed of a mutual fund states the orientation and objective of the investment strategy to be investment in securities mentioned in Article 44(1)(e) or Article

65(2)(a) and (b), the fund deed, prospectus and simplified prospectus of this mutual fund shall contain easily understandable information about the maximum amount of the management fees that may be charged to this mutual fund and by the mutual fund or foreign collective investment undertaking in which it is planned to invest. The amount of the fees mentioned in the first sentence for the respective calendar year shall also be stated in the annual report.

(8) A prospectus and a simplified prospectus may be in paper form, or in the form of a record on a durable medium provided that access to the data therein is equivalent to that for the paper form and that the National Bank of Slovakia has approved it.

(9) A prospectus and simplified prospectus shall be published not later than when the issuing of the fund shares commences (Article 38).

(10) Publication under paragraph (9) shall be understood to mean:

- a) publication in a daily newspaper with nationwide circulation or sufficient dissemination in the territory of the Slovak Republic; or
- b) free-of-charge access, in paper form or on a durable medium, at the registered office of the management company and the depositary, and notification of this fact in a daily newspaper with nationwide circulation or sufficient dissemination in the territory of the Slovak Republic.

ARTICLE 91

(1) Liability for the accuracy and completeness of information given in a prospectus and a simplified prospectus shall attach to the management company.

(2) If a management company gives false or incomplete information in a prospectus or a simplified prospectus, the management company shall, upon the request of a fund shareholder, pay the fund shareholder the sale price of the fund share as at the time of its issue provided that the sale price is higher than the purchase price on the date when the request is submitted, and otherwise it shall pay the purchase price; this shall not apply where the fund shareholder knew when signing the contract with the management company that the information in the prospectus or the simplified prospectus was false or incomplete. The difference between the sale price and purchase price mentioned in the first sentence shall be met by the management company out of its own assets. This is without prejudice to the provisions of Article 22 and 106, or to the liability of third parties for damage caused to the fund shareholders.

(3) The right to payment of the amount mentioned in paragraph (2) may be exercised within six months after the fund shareholder in the open-end fund, or the entity which redeemed the fund shares under Article 42, became aware of the incorrectness or incompleteness of the information mentioned in paragraph (2), but not later than three years after the acquisition of the fund shares.

ARTICLE 92

(1) The information in a prospectus and a simplified prospectus shall be kept updated by the management company.

(2) The rules for adopting changes to a prospectus and a simplified prospectus shall be stipulated in the fund deed.

ARTICLE 93

Annual report and half-yearly report

(1) An annual report shall contain the information necessary to enable investors to make an informed assessment about how the management of a mutual fund's assets is progressing and about its results; it shall contain at least the information stated in Annex No. 4, the financial statements of the mutual funds audited by an auditor, the name and permanent residence or business name and registered office of the auditors who audited the mutual fund's financial statements, the registration number of their certificate or licence, the auditor's statement on the audit of the financial statements, the report on the audit of the financial statements, and information on whether an auditor has audited any other part of the annual report.

(2) If the financial statements of a mutual fund are not audited by an auditor within the time limit mentioned in paragraph (5), the management company shall mention this fact in the annual report; after receiving the auditor's report, the management company shall forthwith submit it to the National Bank of Slovakia and publish it as an addendum to the annual report and in the same way as the annual report. If the mutual fund's financial statements have not been approved, the management company shall, within 30 days, publish this fact along with the reasons for the non-approval of the mutual fund's financial statements, and in the same way as the annual report.

(3) A half-yearly report shall contain the information necessary to enable investors to make an informed assessment about the how the management of a mutual fund's assets is progressing and about its results; it shall contain at least the information given in Annex No. 4, in points 1 to 7, and the financial statements of the mutual fund for the preceding half-year. Where the management company has paid or proposes to pay deposits on income from the management of the mutual fund's assets, the half-yearly report shall state the profit or loss less tax liabilities and the amount of the deposits paid.

(4) Information given in an annual report and a half-yearly report shall be complete, true, and materially correct.

(5) A management company shall publish an annual report not later than four months after the end of the calendar year, and it shall publish a half-yearly report not later than two months after the end of the first six months of a calendar year. The annual report and half-yearly report shall be published in the way mentioned in Article 90(10). The annual report and half-yearly report shall also be published in the countries in which the management company is offering the mutual fund's fund share's to the public and in the Commercial Bulletin.

(6) An annual report and a half-yearly report shall be available to public viewing at the registered office of the management company, the depositary and at other places or on durable media mentioned in the prospectus and the simplified prospectus.

(7) The provisions of a separate law on the disclosure obligation ⁷²⁾ of the issuers of securities issued on the basis of a public offering shall not apply to a mutual fund.

(8) The National Bank of Slovakia may request that a management company provide, at least once every six months and for statistical purposes, information on the composition of a mutual fund's assets beyond the scope laid down in Annex No. 4. A management company shall meet such a request from National Bank of Slovakia within the stipulated period.

ARTICLE 94

(1) Before a management company enters into contractual relations with an investor, it shall provide him with a simplified prospectus free-of-charge, and, at his request, shall provide a prospectus, annual report and half-yearly report also free-of-charge.

(2) A management company shall provide a fund shareholder, upon request and free of charge, with a prospectus and simplified prospectus after any amendment thereto, an annual report and a half-yearly report.

(3) A management company shall provide an investor, upon request, with additional information on the quantitative limits which apply to risks arising from the management of a mutual fund's assets, the method of managing such risks, the most recent developments in the principal category of assets in which the mutual fund's assets are invested, and the development of income from these assets.

ARTICLE 95

(1) A management company shall calculate and publish the following in a periodical newspaper which has nationwide circulation and provides stock-market news:

- a) at least once per week, the current price of a share, the sale price of a share, the purchase price of a share, and the net value of assets in an open-end fund and a diversified special fund;
- b) at least once per month, information on the current price of a share, the net asset value of a closed-end fund, and the monetary amount for the issued shares since this information was previously published alongside the issuing of shares in the closed-end fund;
- c) at least once per three months, the current price of a share and the net value of assets in a higher-risk special fund and in a real-estate special fund..

(2) The value of a mutual fund's assets shall be determined with professional care by the management company in cooperation with the depositary, and especially on the basis of rates and prices of securities, money market instruments and derivatives admitted to regulated markets.

(3) The information mentioned in paragraph (1) and data on the valuations of assets in a fund shall forthwith be sent to the National Bank of Slovakia following the end of the respective calendar month.

ARTICLE 96

(1) A management company shall forthwith submit to the National Bank of Slovakia and the depositary:

- a) the updated text of the prospectus and simplified prospectus following amendments thereto;
- b) the annual report and half-yearly report and a document about their publication.

(2) Not later than four months after the end of a calendar year, a management company shall submit to the Ministry and to the National Bank of Slovakia an annual report on the management of own assets, and, not later than two months after the end of the first six months of a calendar year, it shall submit to the Ministry and to the National Bank of Slovakia a half-yearly report on the management of its own assets. The information in the reports mentioned in the first sentence shall be complete, true and materially correct.

(3) An annual report on the management of the own assets of a management company shall include financial statements, audited by an auditor, and the information mentioned in Annex No. 5.

(4) If financial statements are not audited by an auditor within the time limit laid down in paragraph (2), the management company shall mention this fact in the annual report under paragraph (2); after the management company has received the auditor's report, it shall forthwith submit it to the Ministry and to the National Bank of Slovakia.

(5) A half-yearly report on the management of the own assets of a management company shall include the financial statements for the completed half-year and an auditor's statement, if the annual accounts have been audited by an auditor, and information in accordance with Annex No. 5.

(6) No later than 22 days after the end of each calendar quarter, a management company shall submit to the National Bank of Slovakia interim financial statements for that previous quarter, without explanatory notes,^{72a)} and interim financial statements for the mutual funds under its management, without explanatory notes.^{72a)} The management company shall only draw up explanatory notes^{72a)} to interim financial statements if there have been any significant events or accounting entries that affected or could affect items shown in the statements and shall do so to such extent that describes the events in question.

(7) Not later than 22 days after the end of the respective calendar quarter, a management company shall submit to the National Bank of Slovakia information on the amount of the initial capital and its structure, information on the amount of own funds and their structure in accordance with a separate regulation,⁷³⁾ information on the amounts mentioned in Article 18(2)(a) and (b), and information on whether the capital adequacy requirements are met in accordance with Article 18; this is without prejudice to the management company's obligation to monitor its capital adequacy on a continuous and daily

basis, or its obligation to notify the National Bank of Slovakia forthwith in the event that it ceases to meet the capital adequacy requirements. A management company performing activities under Article 3(3) shall submit in addition to the statement and reports mentioned in the first sentence, statements and reports on capital adequacy in accordance with a separate regulation.⁷³⁾

(8) Where a management company exceeds the limits laid down in the provisions on risk spreading and limitation, it shall forthwith notify the National Bank of Slovakia thereof.

ARTICLE 97

Reports and announcements which a management company submits to a depositary in accordance with this Act may be in writing or electronic form. A management company shall forthwith send to the National Bank of Slovakia all the information it has published in electronic form, unless otherwise provided in this Act.

ARTICLE 98

Confidentiality obligation and data protection

(1) A member of the statutory body, a member of the supervisory body, an employee, chief clerk, liquidator, receiver in bankruptcy, or compulsory administrator of a management company or a depositary, or another person involved in its activities, shall keep confidential any facts which come to his knowledge by virtue of his position or in the fulfilment of his employment duties and which are relevant to developments in the financial market or concern the interests of any of its participants.

(2) The confidentiality obligation mentioned in paragraph (1) shall remain in effect after the termination of the employment relationship or other legal relationship under paragraph (1).

(3) The confidentiality obligation mentioned in paragraph (1) shall not be deemed to be breached if the information is provided to:

- a) entities entrusted with exercising supervision and for the purposes of the supervision;⁷⁴⁾
- b) a court for the purposes of civil court proceedings;⁷⁵⁾
- c) a criminal law enforcement authority for the purposes of criminal proceedings;⁷⁶⁾
- d) the National Bank of Slovakia for the purposes of exercising supervision;⁷⁷⁾
- e) the Criminal Police, Judicial Police, and Financial Police of the Police Force for the purposes of meeting tasks laid down in a separate law;⁷⁹⁾
- f) a tax authority for the purposes of tax proceedings⁸⁰⁾ or a customs authority in matters of customs proceedings;
- g) a state administration authority for the purposes of decision-making in accordance with a separate regulation.⁸¹⁾

(4) The provisions of paragraphs (1) to (3) are without prejudice to the obligation imposed by a separate law to thwart or report the committing of a crime.

(5) A management company shall keep confidential, and protect against revelation, misuse, damage, destruction, loss or theft, information on matters concerning fund shareholders and customers of the management company which is not accessible to the public, in particular, information on the numbers of fund shares owned by particular fund shareholders and on transactions made by customers of the management company. A management company may provide the information and documents mentioned in the first sentence to third parties only with the prior written consent of the fund shareholder or customer concerned or on the written instruction thereof, unless otherwise provided by this Act. A shareholder or customer may, on payment of the relevant costs, access information on him which is kept in the database of the management company and obtain an extract therefrom. It shall not be deemed a breach of the obligation mentioned in the first sentence where information is provided in aggregate form, for statistical purposes, and the name of neither the management company or customer is apparent therefrom.

(6) A management company shall fulfil the obligation mentioned in paragraph (5) also towards entities with which it conducted negotiations on a transaction, though the transactions was not carried out, and towards entities which have ceased to be fund shareholders or customers of the management company.

(7) A management company shall provide information documents on matters subject to Article 5 at the written request of the entities or authorities mentioned in paragraph (3) and only for the purposes stated therein. Such a written request shall include facts with which the management company can identify the respective matter, in particular, the accurate designation of the entity on which the information is requested and the remit of the requested information; this identification information need not be stated in a written request under paragraph (3)(c) and (g). The entities and bodies mentioned in paragraph (3) may furnish information to each other only for the purposes or proceedings for which the information or reports were provided; they may otherwise furnish them only with the approval of the management company and in accordance with the conditions laid down in paragraph (3).

(8) It shall not be deemed to constitute a breach of any obligation laid down in paragraph (5):

- a) where necessary information is provided for the clearing and settlement of transactions in fund shares and for the crediting of fund shares, upon their issue, to owner's accounts;
- b) where the management company fulfils its obligation to report unusual business transactions in accordance with a separate regulation;⁵⁷⁾
- c) where a management company notifies a criminal law enforcement authority of its suspicion that a crime is being prepared, is being committed or has been committed;
- d) where information and documents on the failure to meet liabilities is provided to a professionally qualified person in order to make a financial valuation of the liability,⁸²⁾ or to a counsel or commercial lawyer to whom the management company has granted power of attorney for the purpose of enforcing the fulfilment of these liabilities, or to a court executor designated in a writ of execution against a fund shareholder or customer, issued where the fund shareholder or customer has not met their liabilities towards the management company in a due and timely manner, despite having been requested in writing to do so;
- e) where information required for the identification of a fund shareholder and information on a transaction is provided to an entity which proves that, as a consequence of an error in the clearing and settlement of transactions in fund shares, or an error in the crediting of

fund shares to an asset account, it has suffered a material loss involving the transfer or crediting of fund shares which it either owns or manages to the account of this fund shareholder, and for claiming back the unwarranted gains that occurred as a result;

- f) where information is provided to another management company in connection with the transfer of, or preparation to transfer, the management of a mutual fund to this other management company; the management companies shall conclude a written agreement that regulates the duty to keep the acquired information confidential and the liability for its misuse which attaches to the management company to which the management is transferred and to the management company which transfers the management.

(9) The provisions of paragraphs (5) to (8) shall also apply to a foreign management company and a foreign investment company in the performance of their activities in the territory of the Slovak Republic.

(10) A depositary may not provide a third party with information and documents acquired in the performance of its depositary activities, nor may it use them for purposes other than the performance of its depositary activities. A depositary shall, however, provide such information and documents to the entities or bodies mentioned in paragraph (3) upon their written request. The procedure for providing such information and documents and the further use of them shall be subject to paragraph (7).

NINTH PART

SUPERVISION

ARTICLE 99

Scope and objective of supervision

(1) Activities performed by the following shall be subject to supervision in accordance with this Act:

- a) a management company;
- b) a foreign collective investment undertaking or a foreign management company to the extent of its activities in the territory of the Slovak Republic, unless provided otherwise by this Act;
- c) an investment company and an investment fund established in accordance with existing regulations;
- d) the founders of a management company in regard to their activities under this Act;
- e) members of the board of directors, members of the supervisory board, and the chief clerk of a management company;
- f) the shareholder of a management company which has qualified participation in the management company;
- g) an entity procuring the issue and redemption of shares in mutual funds and securities of foreign collective investment undertakings, unless provided otherwise by this Act;
- h) a depositary in regard to its activities under this Act;
- i) a compulsory administrator in regard to his activity under this Act;
- j) a liquidator in regard to his activity under this Act;
- k) an entity to which a management company delegates the performance of a part of its activities in accordance with Article 25;
- l) the head of a branch of a foreign investment company or a foreign management company, and his deputy.

(2) The supervision mentioned in paragraph (1) shall concern:

- a) compliance with the provisions of this Act and other generally binding legal regulations¹⁾ that apply to entities subject to supervision in accordance with this Act;
- b) compliance with the fund deed of a mutual fund and with the articles of association of a management company;
- c) compliance with the conditions under which a licence was granted under this Act, and compliance with other decisions of the National Bank of Slovakia;
- d) the fulfilment of sanction measures imposed by a decision of the National Bank of Slovakia.

(3) The scope of supervision shall not include contractual dispute resolutions of management companies, foreign management companies, foreign collective investment undertakings, foreign management companies, and their fund shareholders and customers; these shall be heard and decided by competent courts or other authorities in accordance with separate regulations.⁸³⁾

(4) The supervision mentioned in paragraph (1) shall be exercised by the National Bank of Slovakia.

(5) Where a management company has activities mentioned in Article 3(3) stated in the licence for its establishment and activities, it shall be additionally subject to consolidated supervision in accordance with a separate law,⁸⁴⁾ and to the same extent as stockbroker.

(6) A management company, a foreign collective investment undertaking granted a licence under Article 75, and a foreign management company granted a licence under Article 75 shall allow persons authorized to exercise supervision to attend its general meetings and meetings of its supervisory board, board of directors, and the management of the branch of the foreign collective investment undertaking and the branch of the foreign management company.

ARTICLE 99a

(1) Where a management company controls a consolidated group or^{84a)} sub-consolidated group,^{84a)} or it is part of a consolidated group or sub-consolidated group, which is subject to consolidated supervision under a separate law,³⁶⁾ supervision on a consolidated basis shall be exercised over the management company and the consolidated group in accordance with the provisions of a separate law³⁶⁾ to the same extent as exercised over a stockbroker.

(2) A management company which is part of a financial conglomerate^{84b)} under a separate law shall be subject to the supplementary supervision of financial conglomerates^{84c)} in accordance with the provisions of a separate law and to the same extent as a stockbroker.

(3) A management company which is part of a financial conglomerate^{84b)} under a separate law shall, for the purposes of supplementary supervision of financial conglomerates,^{84c)} be categorized in the investment services sector.^{84d)}

ARTICLE 100

(1) Based on an agreement concluded between the National Bank of Slovakia and the supervisory authority of another country, the supervisory authority of the other country may exercise supervision in the territory of the Slovak Republic over the activities of the branch of a foreign management company, the branch of a foreign investment company, the subsidiary of a foreign investment company which is a management company, or the subsidiary of a foreign management company which is a management company. The National Bank of Slovakia may conclude such an agreement only on a reciprocal basis. This is without prejudice to the authorization of the supervisory authority of the home Member State to exercise supervision in the territory of the Slovak Republic over the activities of a foreign management company or a European fund performed under Articles 28, 29 or 61 in the territory of the Slovak Republic, whether directly or through authorized entities.

(2) National Bank of Slovakia may exercise supervision over the branch of a management company operating in the territory of another country, and over the subsidiary of a management company which is a management company operating in another country, provided that this is allowed by the law of the country concerned and that an agreement is concluded

between the National Bank of Slovakia and the supervisory authority of that country. This is without prejudice to the authorization of the National Bank of Slovakia, in accordance with European Union's legal provision on collective investment, to exercise supervision in the territory of the host Member State over a management company which is performing activities under Article 26, 27 or 60 in the territory of the host Member State.

ARTICLE 101

(1) Where supervision is exercised through an on-site inspection, relations between the National Bank of Slovakia and the entities subject to this supervision shall be governed by the provisions of a separate law.⁷⁴⁾

(2) The National Bank of Slovakia may, in exercising supervision, require the entities subject to supervision to provide data, documents and information required for the proper exercise of the supervision, to the extent necessary for the exercise of supervision, and these entities shall submit the said data, documents and information to the National Bank of Slovakia within the time limit stipulated by the National Bank of Slovakia.

(3) The National Bank of Slovakia shall, in exercising supervision, have regard to the protection of fund shareholders' interests and shall proceed so as not to infringe the rights and legally-protected interests of the entities subject to this supervision.

(4) The National Bank of Slovakia may, in exercising supervision, cooperate with foreign supervisory authorities.

(5) Neither the Slovak Republic, nor the National Bank of Slovakia shall be liable for the result of the management of a mutual fund's assets, nor shall they guarantee the liabilities of a management company.

Cooperation in the exercise of supervision over activities performed under the right of freedom to provide services

ARTICLE 102

(1) The National Bank of Slovakia shall cooperate with Member States' supervisory authorities in the exercise of their obligations under the European Union's legal provision on collective investment, including the exchange of information required for this purpose.

(2) The National Bank of Slovakia shall cooperate with the competent authority of a home Member State, mainly in the exercise of supervision over a European fund operating in the territory of the Slovak Republic under Article 61, and over a foreign management company operating in the territory of the Slovak Republic under Articles 28 and 29; the National Bank of Slovakia shall provide such authority, at its request, with information on the foreign management company or the European fund.

(3) The National Bank of Slovakia shall cooperate with the competent authority of a host Member State, mainly in the exercise of supervision over a management company

operating in the territory of the host Member State under Articles 26, 27 or 60; the National Bank of Slovakia shall provide such authority, at its request, with information on the management company or the mutual fund.

(4) The competent authority of a home Member State may, in order to verify the information notified under paragraph (2) and after giving prior notice to the National Bank of Slovakia, carry out an on-site inspection in the branch of a foreign management company operating in the territory of the Slovak Republic pursuant to Article 28; such inspection may be carried out directly or through authorized entities.

(5) Where the competent authority of a home Member State requests the National Bank of Slovakia to exercise supervision under paragraph (4), the National Bank of Slovakia shall comply with this request.

(6) The National Bank of Slovakia may, in order to verify information notified by the supervisory authority of a host Member State and after giving prior notice to the competent authority of the host Member State, carry out an on-site inspection in the branch of a management company operating in the territory of the host Member State under Article 26; such inspection may be carried out directly or through authorized entities, or the National Bank of Slovakia may request the host Member State's competent supervisory authority to carry out such inspection.

(7) Information which the National Bank of Slovakia obtains from the competent supervisory authority of a Member State may only be used for the purposes of supervision.

ARTICLE 103

(1) The activities of a foreign management company performed in the territory of the Slovak Republic under Articles 28 and 29 shall be subject to supervision by the National Bank of Slovakia only to the extent of their compliance with the generally binding legal regulations of the Slovak Republic mentioned in the notification given under Article 28(2) or Article 29(2), and with the conditions mentioned in the notification given under Article 28(2) or Article 29(2), and, where the foreign management company provides services in the territory of the Slovak Republic under Article 3(3), also to the extent of their compliance with the rules for customer-related activities.

(2) A management company shall be subject to supervision by the National Bank of Slovakia also for its activities performed in the territory of a host Member State under Articles 26, 27 or 60. The competent authority of the host Member State shall carry out supervision for the compliance of these activities with the generally binding legal regulations of the host Member State mentioned in the notification given under Article 26(4), in accordance with Article 27(4) or Article 60(3), and for compliance with the conditions mentioned in the notification given under Article 26(4), in accordance with Article 27(4) or Article 60(3); where the management company provides services in the territory of the host Member State under Article 3(3), the competent authority shall also exercise supervision for compliance with the rules for customer-related activities.

(3) In regard to complying with the rules for making a public offering of securities in the territory of the Slovak Republic under Article 61 and for making information available to investors in the Slovak Republic, a European fund shall be subject to supervision by the National Bank of Slovakia.

(4) In exercising supervision under paragraphs (1) to (3), the National Bank of Slovakia and the competent supervisory authority of a home Member State or a host Member State may agree a different division of competences.

ARTICLE 104

(1) If the supervisory authority of a host Member State informs the National Bank of Slovakia that the branch of a management company operating in the territory of this Member State is violating the law or conditions notified under Article 26 or Article 27, the National Bank of Slovakia shall take the measures necessary to end this unlawful situation. The National Bank of Slovakia shall forthwith notify the host Member State's supervisory authority of the measures adopted.

(2) If the National Bank of Slovakia finds that a foreign management company operating in the territory of the Slovak Republic under Article 28 or Article 29 has violated the law applicable to its activities in the Slovak Republic, it shall forthwith request the foreign management company to make rectification within a stipulated time limit.

(3) If the foreign management company mentioned in paragraph (2) does not make rectification within the stipulated period, the National Bank of Slovakia shall inform the home Member State's competent supervisory authority thereof and request that it take immediate measures to end the unlawful situation and that it provide information on the measures taken.

(4) If despite the measures under paragraphs (2) and (3), a foreign management company continues to violate the law, the National Bank of Slovakia may, after first informing the Member State's competent supervisory authority, adopt measure needed to end the unlawful situation, including measures to restrict or discontinue the activities of the foreign management company in the territory of the Slovak Republic; such measures, having the character of sanctions, shall be taken in the form of a decision, which may be appealed against. The foreign management company is required to carry out the measures.

(5) If the matter cannot be postponed, the National Bank of Slovakia may, even before following the procedure laid down in paragraphs (2) to (4), adopt an interim measure in order to protect the fund shareholders and customers of the foreign management company mentioned in paragraph (1). The National Bank of Slovakia shall forthwith notify the Commission and the home Member State's competent supervisory authority that any such interim measures have been adopted. The National Bank of Slovakia shall change or cancel an adopted interim measure if the European Commission so decides.

(6) If the competent supervisory authority of the home Member State revokes the licence of the foreign management company mentioned in paragraph (1), the National Bank of Slovakia shall, forthwith after learning of this fact, adopt measures to prevent this entity

performing activities in the territory of the Slovak Republic and measures to protect domestic fund shareholders and customers.

(7) If the National Bank of Slovakia revokes the licence of a management company for its establishment and activities, it shall forthwith notify the host Member State's competent supervisory authority thereof.

ARTICLE 105

(1) Sanctions for the breach of a European fund's obligations under Article 61 may only be imposed by the supervisory authority of the home Member State, unless provided otherwise by this Act.

(2) Depending on the gravity and extent of the breach committed by a European fund, the National Bank of Slovakia may impose sanctions on, prohibit, or suspend the public offering of its securities in the territory of the Slovakia Republic where:

- a) the offer is being made without the notification mentioned in Article 61(1);
- b) the provisions of Article 61(3) or other generally binding legal regulations have been breached;
- c) the European fund has had its licence revoked in the country in which its registered office is situated.

(3) Following the adoption of measures under paragraph (2), the National Bank of Slovakia shall forthwith notify the competent supervisory authority of the Member State in which the European fund has its registered office.

(4) Sanctions for the breach of the obligations by a management company performing activities under Articles 26, 27 or 60 shall be imposed by the National Bank of Slovakia, including sanctions for the violation of the law of the host Member State, unless provided otherwise by the provisions of this Act.

(5) If a management company's activities in a host Member State breach obligations under Article 61(3), the competent supervisory authority of the host Member State may suspend or prohibit the management company from making a public offering of securities in that territory, or impose other measures; this is without prejudice to the authorization of the National Bank of Slovakia to impose sanctions for such breach in accordance with Article 106.

(6) If the National Bank of Slovakia revokes a management company's licence for its establishment and activities or licence for the establishment of a mutual fund, or it imposes a sanction on the management company in accordance with Article 106(1)(c), (g) and (p), or where the redemption of fund shares has been suspended, it shall notify the host Member State's competent authority of such fact.

ARTICLE 106 **Sanctions**

(1) If the National Bank of Slovakia finds that an entity mentioned in Article 99(1) has violated or is violating this Act, a fund deed, the articles of association of a management company, the conditions stated in a licence granted under this Act, or that it has violated a separate legal regulation^{84e)} which applies to its activities, or that it has not fulfilled a measure imposed by a decision of the National Bank of Slovakia, the National Bank of Slovakia shall:

- a) impose measures to eliminate and rectify the detected shortcomings, a time limit for their fulfilment, and an obligation to inform the National Bank of Slovakia within a stipulated time limit about their fulfilment;
- b) order a change of the depositary and the conditions of the change, recall and nominate the compulsory administrator of a mutual fund's assets, or order a change of the liquidator and the conditions of the change, or it shall order the replacement of persons on the bodies of the management company, the replacement of management employees reporting directly to the board of directors who are responsible for professional activities under this Act, and the replacement of the employee responsible for internal control;
- c) suspend for a defined period and to a defined extent the use of a mutual fund's assets and the issuing of fund shares;
- d) prohibit or suspend for a defined period, but not longer than one year, the public offering of securities of a foreign collective investment undertaking in the territory of the Slovak Republic;
- e) impose a fine of up to SKK 20 million, though not in the case of persons mentioned in paragraph (2);
- f) order an audit of the management of a mutual fund's assets, at the cost of the management company;
- g) order the conclusion of the management of a mutual fund's assets;
- h) require the management company to take measures for its recovery;
- i) require the management company, foreign management company, or foreign collective investment undertaking to submit separate statements, reports and disclosures;
- j) order the termination of an unlicensed activity;
- k) restrict or suspend the management company, foreign management company, or foreign collective investment undertaking from performing one or more licensed activities;
- l) require the correction of accounting records or other records in accordance with the findings of the National Bank of Slovakia or an auditor;
- m) require publication of the correction of incomplete, incorrect or false information which the management company, foreign management company, or foreign collective investment undertaking has published;
- n) impose on the management company the settlement of business losses using registered capital, after the settlement of retained losses from previous years, funds raised from profit and capital funds;
- o) introduce compulsory administration of a mutual fund's assets;
- p) revoke a licence granted in accordance with this Act under the conditions laid down in Article 111.

(2) For breaching obligations arising to them under this Act or other generally binding legal regulations related to the performance of a management company's activities, under a management company's articles of association, or under a fund deed, or for breaching the conditions and obligations imposed by a decision issued by the National Bank of Slovakia, the National Bank of Slovakia shall, according to the gravity and nature of the breach, impose on a member of the board of directors or a member of the supervisory board of a management

company, the chief clerk of a management company, or the manager of a branch of a foreign management company or a foreign collective investment undertaking, a fine of up to twelve times the monthly average of his total income from the management company, foreign collective investment undertaking, or foreign management company, or from a consolidated group⁸⁵ which includes the management company, foreign management company, or foreign collective investment undertaking. A management employee reporting directly to the board of directors who is responsible for professional activities under this Act, an employee responsible for internal control, or the deputy to the head of the branch of a foreign management company or foreign collective investment undertaking may, according to the gravity and nature of the breach and on the grounds mentioned in the first sentence, be fined up to 50% of the amount stated in the first sentence. Where a person has ceased to be trustworthy in the meaning of Article 6(10) as a result of being validly fined, a management company, foreign collective investment undertaking, or foreign management company shall forthwith recall such person from their position.

(3) The National Bank of Slovakia may impose the sanctions mentioned in paragraph (1)(a), (e) and (j) also for any breach under Articles 3(9), 10, 35(4), 57, 62(3), 68, 69(6), 74 and 79, or on any entities that perform without authorization any of the activities which, in accordance with this Act, only a management company or depositary is authorized to perform.

(4) If the National Bank of Slovakia, in exercising supervision, finds a violation of the law by an entity mentioned in Article 99(1), it shall impose sanctions notwithstanding the fact that this entity is in liquidation.

(5) If within two years of the date when the decision to impose a fine entered into force, there is a recurrence of the breach for which the fine was imposed, the National Bank of Slovakia may impose a fine of up to two times the original fine, though not higher than SKK 20 million.

(6) Sanctions mentioned in paragraph (1) may be imposed within two years after the detection of the breach of the legal regulations, internal regulations or decisions referred to in paragraph (1). Sanctions under paragraph (1) may not be imposed later than ten years after the breach of the legal regulations, internal regulations or decisions referred to in paragraph (1). Sanctions mentioned in paragraph (2) may be imposed within one year after the detection of the breach of obligation under paragraph (2). Sanctions mentioned in paragraph (2) may not be imposed later than three years after the breach of obligation under paragraph (2). A breach of legal regulations, internal regulations or decisions under paragraph (1) shall be considered as detected from the date of the completion of supervision in accordance with a separate law.⁷⁴

(7) In imposing sanctions, the National Bank of Slovakia shall proceed on the basis of the gravity of the breach, the degree of culpability, the nature of the detected breach, and the manner, duration and consequences of the breach of obligation, while taking into account that the entity mentioned in Article 99(1) has itself detected the breach and restored the lawful situation by the time the decision on the sanction is issued.

(8) Sanctions under this Act may be imposed concurrently and repeatedly, unless by their nature this is not possible. A fine imposed under this Act shall be payable within 30 days

from the valid decision to impose the fine. Income from fines shall constitute a state budget revenue.

(9) The imposition of sanctions under this Act is without prejudice to liability in accordance with other generally binding legal regulations.⁸⁶⁾

(10) If the reasons have ceased for the restriction or suspension of any of the licensed activities of a management company, foreign management company, or foreign collective investment undertaking, the National Bank of Slovakia shall notify this fact in writing to the management company, foreign management company, or foreign collective investment undertaking. The decision of the National Bank of Slovakia under which the licensed activity was restricted or suspended shall be cancelled as of the date when this notification is delivered.

(11) The National Bank of Slovakia may, whether under or outside sanction proceedings, discuss shortcomings in the activities of a management company, foreign management company, or foreign collective investment undertaking with members of the board of directors of the management company, chief clerks, the head of the branch of the foreign management company or foreign collective investment undertaking, members of the supervisory board of the management company, and the management employee or employees responsible for the performance of internal control; these persons shall provide the cooperation requested by the National Bank of Slovakia.

(12) Where a sanction is imposed on a foreign management company or a foreign collective investment undertaking in accordance with paragraphs (1) and (2), the National Bank of Slovakia shall forthwith notify the competent supervisory authority of the country in which the foreign management company or foreign collective investment undertaking has its registered office thereof.

(13) Where the National Bank of Slovakia imposes a sanction on a management company in accordance with paragraph (1)(b) or (c), the management company shall suspend the use of the mutual fund's assets for the period stipulated by the National Bank of Slovakia and may not perform activities during this period except for the purpose of ensuring the fund shareholders' interests.

ARTICLE 107

Recovery measures

- (1) Recovery measures shall be understood to include:
- a) the submission of a recovery programme that must include:
 - 1. a plan for capital strengthening in regard to capital adequacy or another proposal for improving capital adequacy;
 - 2. a plan projecting the present and anticipated development of the management company's economic situation, at least in the scope of balance sheets, income statements, the budget, a strategic business plan, and a profitability analysis of achieving the objectives of the programme;
 - 3. other information the National Bank of Slovakia deems necessary;

- b) limiting or suspending the payment of dividends,⁸⁷⁾ bonuses,⁸⁸⁾ and other shares in profit, the remuneration and non-monetary compensation of shareholders, members of the board of directors, members of the supervisory board, chief clerks and employees;
- c) limiting or suspending remuneration increases for members of the board of directors, members of the supervisory board, chief clerks and all employees of the management company;
- d) the introduction of daily monitoring of the financial situation of the management company;
- e) limiting or restricting the expansion of new transactions made by the management company; to perform such transactions, the management company shall require the prior approval of the National Bank of Slovakia.

(2) If a management company ceases to meet capital adequacy requirements, the National Bank of Slovakia shall call on it to adopt recovery measures. If a management company is authorized to perform activities under Article 3(3), the National Bank of Slovakia shall call on it to take such measures also in the event that its capital adequacy under a separate law³⁸⁾ falls below 8%.

(3) Within 30 days after the delivery of the request of the National Bank of Slovakia referred to in paragraph (2), the board of directors of the management company shall submit a recovery programme to the National Bank of Slovakia. The recovery programme shall be approved by the board of directors and supervisory board of the management company. Within 30 days after the submission of the binding recovery programme, the National Bank of Slovakia shall issue its decision on the acceptance or rejection of the programme. If the National Bank of Slovakia does not reject the submitted recovery programme within this time limit, the recovery programme shall be deemed to be approved.

ARTICLE 108

Suspending the exercise of shareholder rights

(1) Where a natural person or a legal person has performed an act which resulted in a breach of Article 10(1)(a), has obtained prior approval under Article 10(1)(a) on the basis of untrue information, or where the National Bank of Slovakia has reason to suspect that such person has breached Article 10(1)(a), the National Bank of Slovakia may suspend this person's right to attend and vote at a general meeting of the management company and right to request the convening of a general meeting of the management company. The National Bank of Slovakia may also suspend from exercising such rights any person whose actions in regard to the management company are detrimental to the proper and prudent conduct of its business.

(2) Not later than five working days before its general meeting is held, a management company shall, in accordance with a separate regulation,⁸⁹⁾ issue an order to register the suspension of an owner's right to use book-entry securities (hereinafter the "suspension of the right of use") in regard to all the book-entry securities which the management company has issued; this shall not apply if, up to five working days before the date of the general meeting, the management company has a single shareholder and the management company is unaware of any fact that would indicate a potential change of the shares in the registered capital occurring within 30 days after the date when the general meeting was held. The management

company shall issue an order for the cancellation of the suspension of the right of use on the working day following the day when the general meeting was held.

(3) A management company shall submit to the National Bank of Slovakia an extract from its issuer's register and from its list of shareholders made on the date of the execution of the management company's order to register the suspension of the right of use in all the book-entry shares issued by the management company; where the management company has a single shareholder, the extract from its issuer's register and its list of shareholders shall not be older than five working days. The extract may not be made prior to the execution of the registration, and the management company shall deliver the extract to the National Bank of Slovakia on its execution date. The National Bank of Slovakia shall forthwith name in writing on the extract the person whose rights referred to in paragraph (1) are subject to the suspension and shall deliver the extract to the management company not later than the day preceding the date of the general meeting.

(4) By naming on the extract pursuant to paragraph (3) a person for whom it has again found a reason to suspend the rights referred to in paragraph (1), the National Bank of Slovakia shall commence proceedings for the suspension of rights as stipulated in paragraph (1).

(5) A preliminary injunction⁹⁰⁾ in the matter of suspending the exercise of rights referred to in paragraph (1) shall be delivered by the National Bank of Slovakia to the person for whom it has found a reason to suspend the exercise of rights mentioned in paragraph (1), and to the management company, not later than the commencement of the general meeting. The preliminary injunction shall be binding upon the management company. The preliminary injunction shall be deemed delivered to the person concerned when handed over to a proxy authorized to represent this person at the general meeting.

(6) A management company shall not allow the attendance at its general meeting of a person named by the National Bank of Slovakia under paragraph (3) or (4), nor persons authorized to act on their behalf in proceedings.

(7) Shares to which pertain the suspension of rights mentioned in paragraph (1) shall not, for so long as the suspension is in force, be deemed shares with voting rights. These shares shall not be taken into account when determining whether a general meeting has a quorum or for decisions of a general meeting. The resulting increase in the share of the voting rights of the other persons stated on the extract submitted by the management company under paragraph (3) shall not require the prior approval of the National Bank of Slovakia in accordance with Article 10(1)(a).

(8) When the reasons cease for the suspension of the exercise of rights mentioned in paragraph (1), the National Bank of Slovakia shall forthwith lift the suspension and publish the decision to do so.

(9) The National Bank of Slovakia may petition a court to annul a decision made by a general meeting of a management company on the grounds of a violation of the law or articles of association. This right shall, however, expire if the National Bank of Slovakia has not exercised it within three months after the general meeting adopted the decision or, if the general meeting was not duly convened, from the day when it could have learned of the decision.

ARTICLE 109
Compulsory administration of a mutual fund's assets

(1) Compulsory administration shall mean the management of a mutual fund's assets on the basis of a decision of the National Bank of Slovakia on the introduction of compulsory administration. This decision shall also include the appointment of a compulsory administrator.

(2) The National Bank of Slovakia shall decide to introduce compulsory administration where:

- a) a management company has gone into liquidation and the management of its mutual funds has not, despite the provisions of this Act, been transferred to another management company;
- b) the situation in the management of a mutual fund's assets requires the performance of necessary operations leading to the winding up of the mutual fund;
- c) a management company has been declared bankrupt.

(3) The National Bank of Slovakia may also decide to introduce compulsory administration where:

- a) the management company's management of a mutual fund's assets has terminated after more than three consecutive accounting periods in which a loss was made, and the National Bank of Slovakia finds that these losses were caused by the non-fulfilment or insufficient fulfilment of obligations in regard to the management of the mutual fund's asset;
- b) the actual balance of a mutual fund's assets cannot be determined in accordance with other provisions of this Act;
- c) it is necessary in order to prevent the occurrence of, or increase in, damage to these assets and to end the depreciation of the assets.

(4) The compulsory administrator of a mutual fund shall be a depositary or a management company other than the management company managing the mutual fund in which the compulsory administration is to be introduced. If it is not possible to appoint as the compulsory administrator the depositary of the mutual fund in which the compulsory administration is to be introduced, the National Bank of Slovakia shall appoint as the compulsory administrator another depositary or a management company that meets the condition mentioned in the first sentence. The legal person which is to be the compulsory administrator shall be a party to the proceedings. The depositary or management company appointed as the compulsory administrator by the National Bank of Slovakia shall, based on the decision of the National Bank of Slovakia on the introduction of compulsory administration, fulfil the obligations of the compulsory administrator.

(5) Where the National Bank of Slovakia appoints a compulsory administrator for a mutual fund's assets, the management company shall hand over the management of the mutual fund's assets to the compulsory administrator not later than 30 days after the delivery of the decision on the introduction of the compulsory administration. As of the date when the decision is delivered, the compulsory administration shall be introduced and it shall have effect on all parties concerned. An appeal against the decision of the National Bank of Slovakia under which compulsory administration has been introduced shall not have a

suspensive effect. Upon the introduction of compulsory administration, the management company's remit in regard to the mutual fund shall pass to the compulsory administrator. The compulsory administrator shall be registered in the Commercial Register at the proposal of the National Bank of Slovakia. The management company and compulsory administrator shall forthwith submit the report on the introduction of compulsory administration to the National Bank of Slovakia.

(6) A compulsory administrator shall be bound by the restriction stipulated in the decision on the introduction of compulsory administration. In regard to the mutual fund under compulsory administration, the compulsory administrator shall fulfil the obligations laid down by this Act as if it were the management company managing the mutual fund. During the course of the compulsory administration, the compulsory administrator may propose that the National Bank of Slovakia adopt measures under Article 106, transfer the management of the mutual fund or wind up the mutual fund. Proposals made by a compulsory administrator shall not be binding on the National Bank of Slovakia. Mutual funds under compulsory administration shall not be subject to the condition laid down in Article 81(3).

(7) A compulsory administrator shall act in its own name and for the account of fund shareholders; it shall:

- a) manage the entrusted assets with professional care;
- b) have regard to the protection of fund shareholders' interests;
- c) keep accounts separately for each mutual fund under its management.

(8) For exercising compulsory administration, a compulsory administrator shall be entitled to remuneration proportional to the period of administration and provided under the same conditions as agreed for the remuneration of the management company in respect of the management of the mutual fund's assets.

(9) If a management company does not hand over the management of assets to the compulsory administrator within the period stipulated in paragraph (5), the National Bank of Slovakia may revoke the licence it was granted under this Act.

(10) Compulsory administration shall cease as of the date given in the decision on the introduction of compulsory administration or upon a decision of the National Bank of Slovakia on the termination of compulsory administration.

(11) The National Bank of Slovakia shall forthwith appoint a new compulsory administrator where:

- a) the compulsory administrator is subject to winding up;
- b) the compulsory administrator relinquishes its position by a written notification delivered to the National Bank of Slovakia;
- c) the compulsory administrator breaches its obligations;
- d) the compulsory administrator has lost its licence for the performance of activities.

(12) An appeal against the decision referred to in paragraph (11) shall not have a suspensive effect.

(13) Where the compulsory administrator is changed for the reason mentioned in paragraph 11(b) or (c), the compulsory administrator shall exercise the compulsory administration until the decision of the National Bank of Slovakia on appointing a new compulsory administrator becomes enforceable.

ARTICLE 110

In the case of a management company which has activities mentioned in Article 3(3) included in the licence for its establishment and activities, the National Bank of Slovakia may introduce compulsory administration in accordance with the provisions of a separate law.⁹¹⁾

ARTICLE 111

Licence revocation

(1) The National Bank of Slovakia shall revoke a licence for the establishment and activities of a management company where:

- a) the initial capital of the management company has fallen below EUR 125 000;
- b) the own funds of the management have fallen below 25% of the value required in accordance with Article 18(2);
- c) the management company has not handed over the compulsory administration of a mutual fund's assets to the compulsory administrator in accordance with Article 109(5);
- d) twelve months after the licence entered into force, the management company, foreign management company, or foreign collective investment has still not begun performing the activities stated in the licence, or, for a period of longer than six months without interruption, it has not been performing these activities.

(2) The National Bank of Slovakia shall revoke a licence for the establishment of a mutual fund where:

- a) the composition of the mutual fund's assets have not been brought into line with the provisions of Articles 44 to 50 within the time limit stipulated by the National Bank of Slovakia;
- b) the mutual fund has not had a depositary for longer than six months;
- c) within 12 months after the suspension mentioned in Article 43, the redemption of fund shares has not been restored;
- d) the management company managing this mutual fund has had the licence for its establishment and activities revoked, and meanwhile neither a compulsory administrator has been appointed under Article 109, nor has it been decided to transfer the management of the mutual fund to another management company.

(3) The National Bank of Slovakia may revoke a licence for the establishment and activities of a management company where:

- a) the licence was issued on the basis of false or incomplete information;
- b) important changes have arisen in facts relevant to the granting of the licence, especially where conditions under Article 6(2) have ceased to be met;

- c) the initial capital or own funds of the management company has or have fallen below the level required under Article 18 and the management company's recovery measures have not made rectification;
- d) the management company has seriously, multiply, or repeatedly violated the law, while another measure under Article 106 has not led to rectification;
- e) conditions have not been met for the commencement of activities within the time limit stipulated in the licence for the establishment and activities of the management company;
- f) the management company is thwarting the exercise of supervision.

(4) The National Bank of Slovakia shall revoke a licence for the establishment of a mutual fund where:

- a) the licence was issued on the basis of false or incomplete information;
- b) important changes have arisen in facts relevant to the granting of the licence, especially where conditions under which the licence was granted have ceased to be met;
- c) the respective limit or restriction under Articles 44 to 50 has been exceeded for more than 12 months without interruption;
- d) the management company has seriously, multiply, or repeatedly violated the law, while another measure under Article 106 has not led to rectification;
- e) the current price of an open-fund share has declined in the meaning of Article 56(1) for longer than three consecutive months and this development cannot be accounted for by the situation in the financial market.

(5) The National Bank of Slovakia may revoke a licence granted under Article 75 to a foreign collective investment undertaking or a foreign management company where:

- a) the licence was issued on the basis of false or incomplete information;
- b) important changes have arisen in facts relevant to the granting of the licence, including those facts occurring outside the territory of the Slovak Republic, and especially where conditions under Article 75(2) have ceased to be met;
- c) the foreign management company or foreign collective investment undertaking has seriously, multiply, or repeatedly violated the law, while another measure under Article 106 has not led to rectification;
- d) the foreign management company or foreign collective investment undertaking is thwarting the exercise of supervision.

(6) Where a licence is revoked under this Act, the licence shall expire as of the effective date of the decision of the National Bank of Slovakia on the revocation of the licence.

ARTICLE 112

(1) In the case of a management company which has activities mentioned in Article 3(3) included in the licence for its establishment and activities, the National Bank of Slovakia shall amend the licence so as to delete such activities where:

- a) the capital adequacy of the management company in accordance with a separate law ³⁸⁾ falls below 2%;
- b) twelve months after the licence entered into force, the management company, has still not begun performing the activities stated in the licence, or, for a period of longer than twelve months, it has not been performing these activities;

- c) the management company has not paid its contribution to the Investment Guarantee Fund, even by the extended deadline given in accordance with a separate law.⁹²⁾

(2) In the case of a management company which has activities mentioned in Article 3(3) included in the licence for its establishment and activities, the National Bank of Slovakia may amend the licence so as to delete such activities where:

- a) the management company is not complying with the rules for customer-related activities in accordance with a separate law,²¹⁾
- b) the management company is not participating in customer protection in accordance with a separate law.³¹⁾

ARTICLE 113

(1) From the date when a management company has the licence for its establishment and activities revoked by the National Bank of Slovakia, the management company may not raise funds from the public or perform another activity under this Act, with the exception of activities needed to settle its claims and liabilities; it shall forthwith, or within a time limit stipulated by the National Bank of Slovakia, deliver the mutual fund's assets and the related documentation to the entity stipulated in a decision of the National Bank of Slovakia in accordance with paragraph (3). An appeal against the decision of the National Bank of Slovakia shall have no suspensive effect.

(2) A legal person which has had its licence for the establishment and activities of a management company revoked shall perform activities under paragraph (1) as a management company until such time that it has settled its claims and liabilities.

(3) Where the National Bank of Slovakia revokes a licence for the establishment and activities of a management company, it shall at the same time decide on:

- a) the transfer of the management of mutual funds to another management company, where this management company has given its prior written consent thereto;
- b) the appointment of a compulsory administrator in accordance with Article 109, or
- c) the winding up of mutual funds under the management company's management, in accordance with Article 59.

(4) A decision on the revocation of a licence for the establishment and activities of a management company shall be sent by the legal person whose licence was revoked to the Commercial Bulletin for publication and not later than 30 days after its entry into force.

(5) Where a management company that has a branch abroad has the licence for its establishment and activities revoked, the National Bank of Slovakia shall forthwith notify this fact to the supervisory authority of the country in which the branch is established.

(6) The revocation of a licence for the establishment and activities of a management company shall be registered in the Commercial Register. Within 15 days after the decision on the licence becomes valid, the National Bank of Slovakia shall send the decision and a proposal for the registration of the revocation to the court which maintains the Commercial Register; the submission of this proposal shall not be subject to the provisions of a separate regulation.⁹³⁾

(7) After the entry into force of a decision to revoke the licence for the establishment and activities of a management company which has activities under Article 3(3) included in its licence, the National Bank of Slovakia shall forthwith submit to the competent court a petition for the winding up and liquidation of the legal person from which the licence was revoked and for the appointment of a liquidator. Prior to the decision on the winding up, the court may not follow the procedure laid down in a general regulation.⁹³⁾ This liquidation shall be subject to the provisions of a separate law.⁹⁴⁾

(8) A foreign collective investment undertaking or foreign management company which has had its licence revoked by the National Bank of Slovakia in accordance with Article 75 shall forthwith cease activities in the territory of the Slovak Republic and shall settle liabilities towards investors with which it entered into contractual relations prior to the revocation of the licence under Article 75; this shall not apply where the foreign collective investment undertaking or foreign management company had its licence revoked in the country in which its registered office is situated.

TENTH PART

COMMON, TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 114

(1) The National Bank of Slovakia shall, upon request, furnish the Commission or a Member State with information about:

- a) authority which exercises supervision in accordance with this Act;
- b) entities or authorities with which the National Bank of Slovakia is entitled to exchange information in the exercise of supervision;
- c) entities or authorities which are entitled to receive information from the National Bank of Slovakia for the purpose of monitoring compliance with, and enforcement of, the provisions of the Commercial Code.

(2) The National Bank of Slovakia shall furnish the Commission with a list of the groups of domestic issuers and the types of domestic bonds in accordance with Article 45(11) and information on the method of covering the liabilities attached to such bonds.

(3) After the generally binding legal regulation referred to in Article 116(2)(b) has entered into force, the National Bank of Slovakia shall forthwith communicate it to the Commission. The obligation mentioned in the first sentence shall also apply to any amendment to the generally binding regulation referred to in Article 116(2)(b).

(4) The National Bank of Slovakia shall inform the Commission about any impediments faced by management companies in carrying out public offerings of shares in open-end funds, or in their establishment, or in the conduct of business in non-Member States.

(5) The National Bank of Slovakia shall notify the Commission that:

- a) it has granted a licence for the establishment and activities of a management company that is a subsidiary of a parent company whose registered office is situated in a non-Member State;
- b) a management company has become a subsidiary of a parent company whose registered office is situated in a non-Member State.

(6) The notification mentioned in paragraph (6) shall state the way in which the management company is linked to the parent company which has its registered office in a non-Member State and whether the interest is direct or indirect.⁹⁵⁾

(7) The National Bank of Slovakia shall, upon request, also furnish the Commission with information about:

- a) an application for a licence for the establishment and activities of a management company that is a subsidiary of a parent company whose registered office is situated in a non-Member State;

- b) an attempt by a corporate entity which has its registered office in a non-Member State to acquire such an interest in a management company that would make the management company its subsidiary.

ARTICLE 115

Any operation which requires prior approval in accordance with Articles 10, 57, 68, 74, 73b, 73d and 79 shall be invalid without such approval.

ARTICLE 116 **Enabling provisions**

(1) A decree to be issued by the National Bank of Slovakia and promulgated in its full text in the Collection of Laws shall stipulate:

- a) the method for proving the fulfilment of conditions laid down in Article 6(2);
- b) the particulars of an application for the prior approval of the National Bank of Slovakia referred to in Articles 10(1), 57(1), 68(1), 74(1) and 79(1);
- c) details on the calculation of the own funds of a management company and on what constitutes the own funds of a management company;
- d) the method used to determine the value of the securities, money market instruments and derivatives within a mutual fund's assets.

(2) The National Bank of Slovakia may, in a decree to be promulgated in its full text in the Collection of Laws, stipulate:

- a) details of the rules for activities in regard to the management of under trusts, as mentioned in Article 20(1) and (2), and details on what is to be understood by the exercise of professional care;
- b) the types, and methods of use, of the techniques and instruments mentioned in Article 49(3), including any restrictions and limits on their use; details on what is to be understood by positions in financial derivatives, asset exposure under Article 49(5), overall risks related to the investment of an open-end fund's assets as referred to in Article 49(1) and the methods for their calculation, and asset exposure towards a counterparty transferable securities under Article 5(e), money market instruments under Article 5(o), liquid financial assets under Article 44, transferable securities and money market instruments embedding derivatives (Article 49 (7)), and index mutual funds (Article 46); details on the procedure, method and organization of the continuous monitoring of the degree of position risk in accordance with Article 49(1); details on how the disclosure obligation under Article 49(2) is to be fulfilled, and on the requirements to be met by own models for monitoring the degree of position risk referred to in Article 49(1), for the calculation of asset exposure under Article 49(5) and for the calculation of asset exposure towards a counterparty, as well as details on how the National Bank of Slovakia is to grant approval for the use, methods and test periods of such own models;
- c) the method and extent of the publication of information relevant to the examination of a management company's activities; details on the particulars of the annual report, half-yearly report, prospectus and simplified prospectus as stated in Annexes 2 to 5, and particulars concerning the form and structure of reports submitted in electronic form;

- d) what is to be understood by the conspicuous warning mentioned in Article 88(2), and details on the conduct of promotional activities in accordance with this Act.

ARTICLE 117

This Act transposes the legal acts of the European Communities and the European Union which are listed in Annex No. 1.

ARTICLE 118

(1) Where a licence for the establishment and activities of a management company was issued under previous regulations and is valid as at the date when this Act enters into force, it shall be deemed to be a licence for the establishment and activities of a management company issued in accordance with this Act.

(2) Where a licence for the establishment of a mutual fund was issued under previous regulations and is valid as at the date when this Act enters into force, it shall be deemed to be a licence for the establishment of a mutual fund issued in accordance with this Act.

(3) Where the licence of a foreign collective investment undertaking or foreign management company was issued under Articles 14 or 15 of the previous law and is valid as at the date when this Act enters into force, it shall be deemed to be a licence issued in accordance with Article 75 of this Act.

(4) Where a licence was issued under Article 15 of the previous law to a stockbroker or foreign stockbroker for the sale of securities issued by a foreign management company, this foreign management company shall, within 12 months after the effective date of this Act, submit a licence application in accordance with Article 75 or cease this activity in the territory of the Slovak Republic; this is without prejudice to the obligation to settle liabilities towards investors or to ensure for domestic investors the activities mentioned in Article 78 (3). This shall not apply where a European fund or foreign management company whose registered office is in a Member State follows the procedure laid down in Articles 28, 29 or 61. Until the licence is issued, the sale of the securities issued by the foreign management company or foreign investment company shall be subject to the previous regulations. If the licence application under Article 75 is refused, the foreign management company or foreign investment company shall forthwith cease operations in the territory of the Slovak Republic; this is without prejudice to the obligation to settle liabilities towards investors or to ensure for domestic investors the activities mentioned in Article 78 (3).

(5) A management company, collective investment undertaking and foreign management company referred to in paragraphs (1) to (3) shall have until 31 December 2004 to bring its operation into line with this Act, unless provided otherwise by this Act. Before this deadline has passed, the management company mentioned in paragraph (1) may not commence operation in the territory of another Member State under Article 26, 27 and 60, unless it meets the conditions laid down in Article 6(2).

(6) A management company under paragraph (1) shall have until 31 December 2004 to submit for approval to the National Bank a proposal for the amendment and supplementation of the trusts deeds of the mutual funds under its management so as to bring them into line with the provisions of this Act. If the management company does not submit the proposal for the amendment and supplementation of the mutual funds to the National Bank of Slovakia before this deadline, the National Bank of Slovakia shall order the management company to make this submission by an extended deadline, which may not be longer than 60 days; this is without prejudice to the authorization of the National Bank of Slovakia to impose an appropriate sanction in accordance with Article 106. If the management company does not make the submission by the extended deadline, the National Bank of Slovakia shall revoke the licence for the establishment and activities of the management company.

(7) Until the effective date of the decision of the National Bank of Slovakia on the amendment and supplementation of the fund deeds referred to in paragraph (6), risk spreading and limitation in regard to investments of a mutual fund's assets shall be subject to the previous regulations. Article 32 of the previous law shall apply to the investment and composition of a mutual fund's assets until the effective date of the decision of the National Bank of Slovakia on the amendment and supplementation of the fund deeds under paragraph (6), but at least until 1 May 2004.

(8) If as at the effective date of the decision of the National Bank of Slovakia on the amendment and supplementation of the fund deeds under paragraph (6), the assets of a mutual fund are not subject to any limits or restrictions in accordance with this Act, and if no such limits or restrictions are laid down in the previous regulations, the management company shall bring the composition of the mutual fund's assets into line with the limits and restrictions laid down by this Act and shall do so within six months from the effective date of the decision of the National Bank of Slovakia. Otherwise it shall proceed in accordance with Article 51.

(9) Within 30 days after the effective date of the decision of the National Bank of Slovakia on the amendment and supplementation of the fund deeds under paragraph (6), the management company shall make the relevant changes to the prospectus, prepare a simplified prospectus, publish the changes in the prospectus and simplified prospectus, and forthwith inform the National Bank of Slovakia in writing that these obligations have been fulfilled.

(10) A management company referred to paragraph (1) shall bring its articles of association into line with the provisions of this Act and shall submit them to the National Bank of Slovakia not later than 31 January 2005. If a management company fails to bring its articles of association into line with this Act within this deadline, the provisions of the articles of association which are in conflict with law shall cease to be valid upon the passing of this deadline.

(11) A depositary which has been performing depositary activities up to the effective date of this Act shall conform to the provisions of this Act within 90 days after the effective date of the decision of the National Bank of Slovakia on the amendment and supplementation of the fund deeds under paragraph (6); until this date, the depositary's activities in regard to the mutual funds shall be governed by the previous regulations.

(12) Legal acts for which the previous regulations did not require the approval of the National Bank of Slovakia and which are performed prior to the effective date of this Act shall be deemed valid even if the performance of such acts requires prior approval under this Act.

(13) Closed-end funds established prior to 1 January 2000 shall be deemed mutual funds in accordance with this Act until not later than 31 December 2009, even if they do not meet the minimum asset condition laid down in Article 38.

(14) A natural person who as of the effective date of this Act was a member of the board of directors, a member of the supervisory board, or a chief clerk of a management company, or who performed activities in such a company which require proof of professional qualification, shall be deemed to be professionally qualified in accordance with this Act. These persons shall be required to prove their professional qualification for activities they perform or positions they hold beginning after the effective date of this Act; if such a person has passed a professional examination in accordance with the regulations applicable until 1 January 2004, he shall be deemed professionally qualified to hold positions on the bodies of the management company or to serve as its chief clerk or employee responsible for internal control, and such person shall not be required to provide further proof of professional qualification for a period of ten years following the effective date of this Act.

(15) A European fund established prior to 13 February 2004 may publicly offer its securities in the territory of the Slovak Republic under the procedure laid down in Article 61, and even where the law of its home Member State stipulates a transitional period for harmonization with the European Union's legal provision on collective investment. If the transition period mentioned in the first sentence applies also to the preparation of a simplified prospectus, the obligation under Article 61(1)(c) and Article 61(3)(c) in regard to a simplified prospectus shall apply to the European funds for the duration of this transition period.

ARTICLE 119

The provisions of this Act shall also regulate legal relations established prior to its effective date; the establishment of such legal relations, and the rights arising under them prior to the effective date of this Act shall be judged in accordance with previous regulations, unless provided otherwise by this Act.

ARTICLE 120

(1) Sanction proceedings commenced prior to the effective date of this Act shall come to their conclusion in accordance with previous regulations. Sanctions imposed after the effective date of this Act may only be such that are provided for by this Act.

(2) From the effective date of this Act, violations of legal regulations, internal regulations or decisions of the National Bank detected in the activities of persons subject to supervision, which occurred under the previous regulations but did not lead to proceedings

under the previous legislations, shall be examined and processed in accordance with this Act provided that such violations are also deemed violations under this Act.

(3) Legal consequences of acts which occurred in proceedings held prior to the effective date of this Act shall remain unaffected.

(4) Proceedings commenced prior to the effective date of this Act shall, with the exception of sanction proceedings, come to their conclusion in accordance with this Act.

(5) Periods under previous regulations which have not been completed as of the effective date of this Act shall be subject to the provisions of the previous regulations.

ARTICLE 121

A stockbroker may apply for a licence for the establishment and activities of a management company if upon the effective date of this Act, it was authorized to provide investment services involving: the management of a portfolio³ comprising one or more investment instruments in accordance with the customer's authorization, and which is managed separately from the portfolios of other customers; safe-keeping or management of one investment instrument or several investment instruments; and advisory services in matters related to investment in investment instruments. The stockbroker's licence to provide investment services, granted under a separate law,⁶ shall expire upon the granting of this licence.

ARTICLE 122

(1) Proceedings held in accordance with this Act shall be subject to a separate regulation,⁷⁴ unless provided otherwise by this Act.

(2) Where this Act requires specification of an identification number or birth registration number, such number shall not be stated for persons to whom it has not been assigned.

(3) Where this Act requires specification of the permanent residence of a natural person and this person does not have permanent residence in the Slovak Republic, there shall be stated his address of temporary residence or address of residence abroad.

ARTICLE 123

(1) Where investment funds established prior to 1 January 2000 have not fulfilled the obligation to decide either to transform into an open-end fund or to be wound up and liquidated, they shall be required to fulfil this obligation by 1 January 2005.

(2) A company may not include in its business name the designations "investičná spoločnosť" (investment company) or "investičný fond" (investment fund) or the abbreviations "i.s." or "i.f.", nor any designation confusable with them in either the Slovak

language or a foreign language; this shall not apply to foreign management companies or foreign collective investment undertakings.

ARTICLE 124

(1) Commercial companies established prior to the effective date of this Act which, without a licence issued under previous regulations, are raising funds from the public in order to invest them in assets stipulated by this Act, or raised such funds in the past and are investing them in assets stipulated by this Act, shall either cease such activities by not later than 30 June 2004 or shall bring them into line with this Act.

(2) If a company does not fulfil the obligation mentioned in paragraph (1), a court shall wind up this company, with or without a petition, and order its liquidation.

ARTICLE 125

(1) The National Bank of Slovakia shall publish in the Bulletin of the National Bank of Slovakia the list of regulated markets referred to in Article 44(1)(a).

(2) The National Bank of Slovakia shall publish in the Bulletin of the National Bank of Slovakia amendments to the list mentioned in paragraph (1).

ARTICLE 125a

Transitional provisions for regulations effective from 1 January 2006

(1) Licences, authorizations and prior approvals issued by the Financial Market Authority prior to 1 January 2006 and applicable as at 1 January 2006 shall be deemed licences, authorizations and prior approvals issued under this Act. The provisions of this Act shall apply to the restrictions or suspension of activities carried out under such licence, and to the alteration, revocation, or expiry of this licence; the same applies to the termination or expiry of authorizations and prior approvals issued by the Financial Market Authority up to 1 January 2006.

(2) The issuing of generally binding legal provisions which prior to 1 January 2006 were issued for the implementation of enabling provisions in this Act, shall from 1 January 2006 fall within the remit of the National Bank of Slovakia to the extent laid down by this Act.

ARTICLE 125b

Transitional provisions for regulations effective from 1 May 2006

(1) Legal persons and natural persons shall have until 30 November to bring their operations in line with this Act.

(2) Where proceedings on the granting of a licence for the establishment and activities of a management company commenced prior to 1 May 2006, they shall come to their conclusion in accordance with regulations effective until 30 April 2006.

ARTICLE 125c
Transitional provisions effective as of 1 January 2008

(1) Each asset management company 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 collective investment activities, in particular

- a) rules and procedures applied in redenomination, conversion and rounding of value and net value of mutual fund's assets, initial value of a share in mutual fund, and current price of mutual fund unit, and data concerning development in the value of assets and yields from the management of the mutual fund's assets,
- b) measures applied in the management of the mutual fund's assets in relation to the changeover from the Slovak currency to the euro,
- c) method and rules of providing information to the mutual fund shareholders and clients in regard to significant circumstances related with the changeover from the Slovak currency to the euro, in particular method and rules of disclosing and making available, to the individual mutual fund shareholders and individual clients, information on value of their investment and on any amendment or updating of the statute, prospectus or simplified prospectus of the mutual fund ensuing from the changeover from the Slovak currency to the euro.

(2) Asset management company 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) Asset management company shall prepare information in the scope according to paragraph (1). Asset management company shall, within the period of last three months before the euro introduction date in the Slovak Republic, provide such information, free of any charge, to every investor who in that period has filed an application for issuance of the fund unit, as well as to every fund shareholder and client with whom the asset management company enters into a contract or makes a new transaction concerning issuance of fund units or portfolio management in that period; the other fund shareholders and clients shall be provided with such information, free of any charge, upon their request.

(4) Monetary data on amounts related with collective investment, including monetary data on development in the value of assets and yields from the mutual fund's asset management, which are included in the mutual fund's documents or in other information designed for investors, fund shareholders or clients, shall, for the purpose of preparation for the changeover and changeover from the Slovak currency to the euro, be converted according to the conversion rate and other rules governing the changeover from the Slovak currency to the euro. Monetary data on amounts related with collective investment, including monetary

data on development in the value of assets and yields from the mutual fund's asset management, which are included in information designed for investors, fund shareholders or clients, shall be subject to the dual display in the scope stipulated in separate legal provisions,⁹⁶⁾ if respective information is issued or published during the mandatory period of the dual display pursuant to separate legal provisions on introduction of the euro in the Slovak Republic.⁹⁶⁾

(5) Asset management company shall, within one quarter of a year following the date of introduction of the euro in the Slovak Republic at the latest, be required to inform its clients and its mutual fund shareholders, in writing and free of any charge, about the value of their investment, which information shall under this Act include also the conversion and rounding of the value of the investment from the Slovak currency to the euros, performed in accordance with the conversion rate and other rules governing the changeover from the Slovak currency to the euro.⁹⁶⁾

(6) The provisions of paragraphs (1) through (5) shall apply likewise to foreign asset management companies and foreign collective investment undertakings which conduct collective investment activities in the territory of the Slovak Republic, including securities of foreign collective investment undertakings.

(7) The scope and content of information to be published under paragraph (2) shall be set forth by a Provision which the National Bank of Slovakia is entitled to adopt and which shall then be published in the Collection of Laws of the Slovak Republic.

ARTICLE 126

Repealing provision

The following are hereby repealed:

1. Act No. 385/1999 Coll. on collective investment as amended by Article VI of Act No. 329/2000 Coll., Article V of Act No. 566/2001 Coll., Article IV of Act No. 96/2002 Coll. and Act No. 432/2002 Coll.;

2. Decree of the Ministry of Finance of the Slovak Republic No. 25/2000 Coll. on the method for determining the value of securities in the assets of a mutual fund, as amended by Decree No. 286/2001 Coll.;

3. Decree of the Ministry of Finance of the Slovak Republic No. 26/2000 Coll. on the content and holding of a professional examination for proving professional qualification in the field of collective investment and on the amount of the examination fee, as amended by Decree No. 107/2001 Coll.;

4. Decree of the Ministry of Finance of the Slovak Republic No. 518/2002 Coll. stipulating the method for proving fulfilment of the conditions for a licence for the establishment and activities of a management company;

5. Decree of the Ministry of Finance of the Slovak Republic No. 581/2002 Coll., stipulating the particulars of an application for prior approval in accordance with Article 9(1) of Act No. 385/1999 Coll. on collective investment, as amended by Act No. 432/2002 Coll.

SECTION II

Effectivity

This Act shall enter into force on 1 January 2004, except for the provisions of Article I Articles 26 to 31, 44, 60, 61, 81(2) in the second sentence, 114 and 117(5) in the second sentence, which shall enter into force as of the effective date of the treaty on the accession of the Slovak Republic to the European Union. .

Act No. 635/2004 Coll. entered into force as of 1 January 2005.

Act No. 747/2004 Coll. entered into force as of 1 January 2006.

Act No. 213/2006 Coll. entered into force as of 1 May 2006.

Act No. 209/2007 Coll. entered 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 entered into force on 1 May 2007.

SCHEDULE OF TRANSPOSED LEGAL ACTS OF THE EUROPEAN COMMUNITIES AND EUROPEAN UNION

1. Council Directive 85/611/EEC of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (Official Journal of the European Communities L 375 of 31.12.1985), as amended by Council Directive 88/220/EEC of 22 March 1988 (Official Journal of the European Communities L 100 of 19.04.1988), Directive 95/26/EC of the European Parliament and of the Council of 29 June 1995 (Official Journal of the European Communities L 168 of 18.07.1995), Directive 2000/64/EC of the European Parliament and of the Council of 7 November 2000 (Official Journal of the European Communities L 290 of 17.11.2000), Directive 2001/107/EC of the European Parliament and of the Council of 21 January 2002 (Official Journal of the European Communities L 041 of 13.02.2002), Directive 2001/108/EC of the European Parliament and of the Council of 21 January 2002 (Official Journal of the European Communities L 041 of 13.02.2002).
2. Directive 2002/87/EC of 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 (Official Journal of the European Union L 035 of 11.02.2003).
3. Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390 of 31 December 2004).
4. Commission Directive 2006/73/EC of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive (OJ L 241 of 2 September 2006).

PROSPECTUS OF A MUTUAL FUND

1. Information about the mutual fund.

1.1. Name of the mutual fund, specifying whether it is an open-end, closed-end or special fund.

1.2. Date of the establishment of the mutual fund. Information about its duration, if limited.

1.3. Indication of the place where the fund deed, if not attached, may be obtained and where the annual report and half-yearly report may be obtained.

1.4. Brief information about the tax regulations applicable to the mutual fund, including information on whether income paid to fund shareholders is subject to withholding tax.

1.5. Date of the preparation of the financial statements and frequency of income payments.

1.6. Auditor's name and permanent residence, or business name and registered office.

1.7. Information on fund shares and the procedure for winding up the mutual fund, in particular:

- rights attached to a fund share,
- form of a fund share,
- how to record fund shares,
- type of a fund share,
- the circumstance in which it could be decided to wind up the mutual fund and the rights of fund shareholders in the event that the mutual fund is wound up.

1.8. Where the mutual fund is admitted to trading on a stock exchange market or on another regulated market, the designation of this stock market or other regulated market.

1.9. Method and conditions for issuing fund shares.

1.10. Method and conditions for redeeming fund shares, and the circumstance in which the right to the redemption of fund shares may be suspended.

1.11 Description of the rules for the calculation and use of income.

1.12. Description of the investment objectives for the fund share fund's assets, including financial objectives (for example, growth in assets or yields), the investment strategy (for example, specialization in certain territorial areas or economic sectors) and any restrictions on the investment strategy, as well as information on the techniques, instruments and credits which may be used in the management of the mutual fund.

1.13 Valuation rules for the mutual fund's assets.

1.14 Information on the calculation of the current price, sale price and purchase price, in particular:

- rules for the calculation of prices and the frequency of their calculation.
- fees related to the issuing and return of fund shares,
- the method of publishing these prices, and the place and frequency of publication.

1.15. Information on the types, amount and calculation of remuneration paid out of the mutual fund's assets for the management company, depositary, or a third party, and information on expenses of the management company, depositary or a third party which are incurred in relation to the management of the mutual fund and are paid out of the mutual fund's assets.

2. Information on the management company

2.1. Business name, legal form, identification number, registered office of the management company and the location of its headquarters if not in the same location as the registered office.

2.2. Date of incorporation of the company (year of establishment), and information on its duration, if limited.

2.3. Names of the mutual funds managed by the management company.

2.4. Name and positions of members of the board of directors, members of the supervisory board and chief clerks, and information on the main activities performed by these persons outside the management company.

2.5. Information on the amount of share capital and information on the payment thereof.

3. Information about the depositary

3.1. Business name, legal form, registered office of the company and the location of its branch, if not in the same location as its headquarters.

3.2. Main activities.

4. Information about the entities which advise the management company on the investment of the mutual fund's assets

4.1. The advisor's business name, legal form, identification number and registered office.

4.2. Material information the provisions of contracts relevant to fund shareholders.

4.3. Description of the activities performed by these entities.

5. Information on the payment of income and the redemption of fund shares, and on access to the information

5.1. Method and procedures for ensuring the payment of income and the redemption of fund shares.

5.2. Method of providing access to information on the mutual fund to fund shareholders in the Slovak Republic and in Member States where shares in the mutual fund are offered to the public.

6. Other investment information

6.1. Historical performance of the mutual fund's assets and income since the establishment of the mutual fund, and a warning that this information should not be used to predict the future development of these indicators; this information and the warning may be given in an annex.

6.2. A profile of the typical investor at whom the mutual fund is aimed.

7. Economic information

7.1. Additional fees, remuneration and expenses other than those specified in points 1.15. and 1.16., and information about whether they are to be paid by the fund shareholder, out of the mutual fund's assets, or out of the management company's assets.

8. Declaration by the board of directors of the management company that it is responsible for whether the facts given in the prospectus are complete and true.

SIMPLIFIED PROSPECTUS OF A MUTUAL FUND

1. Brief presentation of the mutual fund

1.1. Name of the mutual fund, the date of its establishment, and the designation of the country in which the mutual fund was established.

1.2. Business name, registered office, and headquarters of the management company which manages the mutual fund.

1.3. Period for which the mutual fund was established.

1.4. Business name and registered office of the depositary.

1.5. The auditor's name and permanent residence, or business name and registered office.

1.6. Designation of the consolidated financial group whose member is the management company managing the fund share trust.

2. Investment information

2.1. Brief description of the purpose for which the mutual fund was established.

2.2. Description of the investment aims for the mutual fund's assets, the investment strategy, the mutual fund's risk profile, and, if relevant to the respective mutual fund, the information and facts according to Article 90(4) to (6).

2.3. Historical performance of the mutual fund's assets and income for the previous ten years or for the period since the mutual fund's establishment, and a warning that this information should not be used to predict the future development of these indicators; this information and the warning may be given in an annex.

2.4. Profile of the typical investor at whom the mutual fund is aimed.

3. Economic information

3.1. Brief information on the tax regulations applicable to the mutual fund.

3.2. Entry and exit commissions to be paid by the fund shareholder.

3.3. Expenses and fees, other than those mentioned in point 3.2., related to the management of the mutual fund, their amount, and a statement on whether a fee is to be paid by the fund shareholder, out of the mutual fund's assets or out of the management company's assets.

4. Information on the fund shares and on the payment of income

4.1. How to acquire the fund shares.

4.2. How to return the fund shares.

4.3. When and how income on the fund shares is paid.

4.4. Frequency and how/where prices of fund shares are published.

5. Additional information

5.1. A statement that, on request, the full prospectus, the annual and half-yearly reports may be obtained free of charge before the conclusion of the contract and afterwards.

5.2. Supervisory authority.

5.3. Indication of a contact place or person where additional explanations may be obtained if needed.

5.4. Publishing date of the prospectus.

6. Declaration by the board of directors of the management company that it is responsible for the whether the facts given in the simplified prospectus are up-to-date and true.

REPORT OF THE MANAGEMENT COMPANY ON THE MANAGEMENT OF THE MUTUAL FUND'S ASSETS

1. Balance of assets.
 - a) Transferable securities
 - aa) shares
 - ab) bonds
 - ac) other securities
 - b) Money market instruments
 - c) Bank accounts
 - ca) current account
 - cb) deposit accounts,
 - d) Other assets
 - e) Total asset value
 - f) Liabilities
 - g) Net asset value.
2. Number of shares in the mutual fund in circulation.
3. Net value per fund share.
4. Balance of securities and money market instruments within the assets (composition of the portfolio), which is to be broken down according to the individual regulated markets as follows:
 - a) transferable securities and money market instruments tradable on a listed securities market of a stock exchange,
 - b) transferable securities and money market instruments tradable on another regulated market,
 - c) transferable securities from a new issue as referred to in Article 44(1)(d),
 - d) money market instruments according to Article 44(1)(h),
 - e) other transferable securities and money market instruments according to Article 44(1)(i),
 - f) derivatives admitted to trading on a regulated market,
 - g) derivatives not admitted to trading on a regulated market,
 - h) shares in other mutual funds or securities issued by foreign collective investment undertakings,
 - i) assets not mentioned in letters (a) to (h). The portfolio should be further broken down according to:
 - a) the management company's investment strategy for the mutual fund's assets, for example, into economic, territorial or currency divisions,
 - b) the percentage share in the assets, itemized by business name of the issuer, class of assets, ISIN number, showing the share in the total assets of the mutual fund.
5. Information on changes in the balance of the portfolio during the period covered by the report.

6. Information on the development of the assets during the period covered by the report, including:

- a) income from shares
- b) income from bonds
- c) income from other securities
- d) income from money market instruments
- e) income from deposit and current accounts
- f) capital income
- g) other income
- h) management expenses
- i) depositary expenses
- j) other expenses and fees
- k) net income
- l) profit sharing payments
- m) reinvested income
- n) increase or decrease of the mutual fund's assets, and a list of the companies which caused the decrease in the mutual fund's assets owing to fluctuations in securities prices or the liquidation of the company
- o) increase or decrease in the value of investments,
- p) other changes relating the mutual fund's assets or liabilities.

7. Comparison of the previous three comparable financial periods in the structure of the balance sheet and income statement; this information is to be stated separately according to the comparable financial period-end balance in the form of a comparative table:

- a) total net asset value
- b) net value per fund share
- c) number of fund shares in circulation
- d) number of fund shares issued and the amount for which they were issued,
- e) number of redeemed fund shares and the amount for which they were redeemed.

8. Information on the techniques and instruments used in accordance with Article 49(3), in particular, information on the value of the liabilities that have arisen from their use and information on the total value of liabilities arising from the management company's activities in respect of the mutual fund's assets.

9. Report on the exercise of voting rights attached to securities in the mutual fund's assets.

10. In the case of a real-estate special fund, the following information shall also be provided:

- a) identification of each piece of real estate in the assets of the real-estate special fund and its value according to an expert opinion,
- b) information on the profit or loss for the accounting period in regard to the sale of real estate;
- c) information on real estate agencies whose services are used by the management company in managing the assets of the real-estate special fund.

REPORT OF THE MANAGEMENT COMPANY ON THE MANAGEMENT OF ITS OWN ASSETS

1. Balance of assets
 - a) Securities
 - aa) shares
 - ab) bonds
 - ac) other securities
 - b) Bank accounts
 - ba) current account
 - bb) deposit accounts,
 - c) Other assets,
 - d) Liabilities
 - e) Net asset value.
2. Comparison of the previous three comparable financial periods in the structure of the balance sheet and income statement according to the comparable financial period-end balance.
3. Information on the value of the management company's liabilities from its own activities.
4. Information on members of the board of directors, members of the supervisory board and employees of the management company in regard to their membership in the statutory bodies of other companies or involvement in the business of other companies.
5. List of entities with a qualified participation in the management company.

Footnotes relating to references:

- 1) For example, Act No. 483/2001 Coll. on banks and with consequential amendments, as amended; Act No. 566/2001 Coll. on securities and investment services and with consequential amendments (the Securities Act), as amended; Act No. 95/2002 Coll. on the insurance industry and with consequential amendments, as amended.
- 2) The Commercial Code.
- 3) Article 6(2)(d) of Act No. 566/2001 Coll.
- 4) Article 5 of Act No. 566/2001 Coll.
- 5) Article 6(3)(e) of Act No. 566/2001 Coll.
- 6) Article 54(2) of Act No. 566/2001 Coll., as amended.
- 7) For example, Act No. 566/2001 Coll.
- 8) Article 155 of the Commercial Code.
- 9) Article 21 and Article 28(3) of the Commercial Code.
- 10) Article 54 of Act No. 566/2001 Coll.
- 11) Article 2 of Act No. 483/2001 Coll.
- 12) Article 4 of Act No. 95/2002 Coll.
- 13) Article 11 of Act No. 95/2002 Coll.
- 14) Article 99 of Act No. 566/2001 Coll.
- 15) Article 2 of Act No. 429/ 2002 Coll. on the stock exchange.
- 16) Article 8(d) of Act No. 566/2001 Coll.
- 17) Article 8(f) of Act No. 566/2001 Coll.
- 18) Article 9(3) of the Labour Code.
- 19) Article 8(e) of Act No. 566/2001 Coll.
- 20) Act No. 328/1991 Coll. on bankruptcy and settlement, as amended.
- 20a) Articles 54 and 55 of Act No. 566/2001 Coll., as amended.

- 21) Article 73 to 73v and 75 of Act No. 566/2001 Coll. as amended.
- 22) Article 29(2) of Act No. 747/2004 Coll. on financial market supervision and with consequential amendments.
- 23) Article 144(7) of Act No. 566/2001 Coll.
Article 50(2) of Act No. 483/2001 Coll.
Article 49(6) of Act No. 95/2002 Coll.
Article 60(3) of Act No. 429/2002 Coll.
- 24) Article 8(i) of Act No. 566/2001 Coll.
- 25) Article 8(j) of Act No. 566/2001 Coll.
- 26) Article 35 of Act No. 96/2002 Coll.
- 27) Article 476 to 488 of the Commercial Code.
- 28) Article 66b of the Commercial Code.
- 29) Act No. 136/2001 Coll. on protection of economic competition, amending Act of the Slovak National Council No. 347/1990 Coll. on the organization of ministries and other central state administration authorities of the Slovak Republic, as amended, and as amended by Act No. 465/2002 Coll.
- 30) Articles 27 to 34 of the Commercial Code.
- 31) Articles 80 to 98 of Act No. 566/2001 Coll., as amended.
- 31a) Article 71 to 71o of Act No. 566/2001 Coll., as amended.
- 32) Article 66 of the Commercial Code.
- 33) Act No. 431/2002 Coll. on accountancy.
- 34) Article 75 of Act No. 566/2001 Coll.
- 34a) Article 7(10) of Act No. 566/2001 Coll.
- 35) Article 116 of the Civil Code.
- 36) Articles 138 to 143 of Act No. 566/2001 Coll.
Article 44 of Act No. 483/2001 Coll.
Article 43 of Act No. 95/2002 Coll.
- 37) For example, Article 133 of Act No. 566/2001 Coll., as amended by Act No. 510/2002 Coll.; Article 25 of Act No. 483/2001 Coll., as amended by Act No. 510/2002 Coll.

- 38) Article 74(1) of Act No. 566/2001 Coll.
- 39) Article 3(4) of Act No. 429/2002 Coll.
- 40) Act No. 215/2002 Coll. on electronic signature and with consequential amendments.
- 41) Article 3 of Act No. 428/2002 Coll. on protection of personal data.
- 42) For example, Act No. 530/2003 Coll. on the Commercial Register and with consequential amendments; Articles 3a and 27 to 33 of the Commercial Code; Articles 2(2), 10 and 11 of Act No. 34/2002 Coll. on foundations, amending the Civil Code, as amended; Article 9(1) and (2) and Article 10 of Act No. 147/1997 Coll. on non-investment funds, amending Act of the National Council of the Slovak Republic No. 207/1996 Coll.; Article 9(1) and (2) and Article 11 of Act No. 213/1997 Coll. on non-profit organizations providing generally beneficial 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; Articles 6(1) and 7 of Act of the National Council of the Slovak Republic No. 182/1993 Coll. on ownership of apartments and non-residential premises, as amended; and Article 5(1) and (2) of Act of the National Council of the Slovak Republic No. 222/1996 Coll. on organization of local state administration and with consequential amendments.
- 43) For example, Act No. 367/2000 Coll. on protection against the legalization of income from illegal activities and with consequential amendments; Act No. 431/2002; Act No. 395/2002 Coll. on archives and registrars and with consequential amendments.
- 44) Article 4(5) and Article 7(3) of Act No. 428/2002 Coll.
- 45) Article 4(1)(a), (b) and (c), Article 7(3), the second sentence of (5), the second sentence of (6), Article 8(2) and Article 10(6) of Act No. 428/2002 Coll.
- 46) Article 7(6) of Act No. 428/2002 Coll.
- 47) For example, Article 12 of Act of the National Council of the Slovak Republic No. 118/1996 Coll. on deposit protection and with consequential amendments, as amended.
- 48) Articles 23 and 55 of Act No. 428/2002 Coll.
- 49) Article 104 of Act No. 566/2001 Coll.
- 50) Articles 77 to 79 of Act No. 566/2001 Coll.
- 51) Article 158 of Act No. 566/2001 Coll.
- 52) Articles 136 to 142 of the Civil Code.
- 53) Article 7 of Act No. 483/2001 Coll., as amended.
Article 55 and 56 of Act No. 566/2001 Coll., as amended by Act No. 510/2002 Coll.

- 54) Article 11 of Act No. 566/2001 Coll.
- 55) Article 10(4)(a) and (c) of Act No. 566/2001 Coll.
- 56) Act No.566/2001 Coll., as amended.
- 56a) Article 28 of Act No. 566/2001 Coll., as amended.
- 56b) Articles 41 and 43 of Act No. 566/2001 Coll., as amended by Act No. 594/2003 Coll.
- 56c) For example, Act No.. 566/2001 Coll., as amended; the Commercial Code.
- 56d) Article 16 of Act No. 566/2001 Coll.
- 56e) For example, Article 2(2) to (4) of Act No. 659/2007 Coll. on the introduction of the euro currency in the Slovak Republic (including amendments to certain acts); Council Regulation (EC) No. 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro (OJ Special Edition Chapter 10 Volume 01), as amended; Council Regulation (EC) No. 2866/98 of 31 December 1998 on exchange rates of the euro and currencies of the member states introducing the euro (OJ L 359 of 31 December 1998), as amended; Council Regulation (EC) No. 974/98 of 3 May 1998 on the introduction of the euro (OJ Special Edition Chapter 10 Volume 01), as amended.
- 57) Act No. 367/2000 Coll.
- 58) Article 105 of Act No. 566/2001 Coll.
- 59) Act No. 483/2001 Coll.
- 60) Articles 14 to 17 of Act No. 530/1990 Coll. on bonds, as amended.
- 61) Article 20(1)(a) of Act No. 530/1990 Coll., as amended.
- 62) Article 113 of Act No. 566/2001 Coll.
- 62a) Article 6(2)(e) and (f) of Act No. 566/2001 Coll.
- 63) Article 100(2) of Act No. 566/2001 Coll.
- 64) Act of the National Council of the Slovak Republic No. 270/1995 Coll. on the state language of the Slovak Republic, as amended.
- 64a) Act No. 382/2004 Coll. on experts, interpreters and translators and with consequential amendments.
- 64b) Decree of the Ministry of Justice of the Slovak Republic No. 492/2004 Coll. on determining the general value of property.

- 65) Article 6(2)(e) and (f) of Act No. 566/2001 Coll.
- 66) Article 54 of Act No. 566/2001 Coll.
Article 2 of Act No. 483/2001 Coll.
- 67) Articles 708 to 715 of the Commercial Code.
- 68) Articles 716 to 719 of the Commercial Code.
- 69) Article 107 of Act No. 566/2001 Coll.
- 70) Articles 44 to 52 of the Commercial Code.
- 71) Articles 41 to 57 of Act No. 429/2002 Coll.
- 72) Article 130 of Act No. 566/2001 Coll.
- 72a) Article 17 (3)(c) of Act No. 431/2002 Coll.
- 73) Article 77 of Act No. 566/2001 Coll., as amended.
- 74) Act No. 747/2004 Coll.
- 75) The Civil Court Order, as amended.
- 76) The Penal Code, as amended..
- 77) Act of the National Council of the Slovak Republic No. 566/1992 Coll. on the National Bank of Slovakia, as amended.
Act No. 747/2004 Coll.; Act No. 483/2001 Coll., as amended.
Act No. 510/2002 Coll. on the payment system and with consequential amendments, as amended.
Act of the National Council of the Slovak Republic No. 202/1995 Coll.
The Foreign Exchange Act and an Act amending Act of the Slovak National Council No. 372/1990 Coll. on misdemeanours, as amended, and as amended.
- 79) Article 2(1)(d) and Article 4 of Act of the National Council of the Slovak Republic No. 171/1993 Coll. on the Police Force, as amended.
- 80) Act of the Slovak National Council No. 511/1992 Coll. on the administration of taxes and fees and on changes in the system of territorial financial authorities, as amended.
- 81) For example, Articles 71 to 80 of Act No. 71/1967 Coll. on administrative proceedings (Administrative Procedure Code), as amended by Act No. 215/2002 Coll.
- 82) For example, Act No. 36/1967 Coll. on experts and interpreters, as amended by Act No. 238/2000 Coll.; Act of the Slovak National Council No. 73/1992 Coll. on auditors and the Slovak Chamber of Auditors, as amended.

- 83) The Civil Court Order, as amended.
Act No. 244/2002 Coll. on arbitrations proceedings.
- 84) Articles 138 to 143 and Article 145 of Act No. 566/2001 Coll.
- 84a) Article 138 of Act No. 566/2001 Coll., as amended by Act No. 635/2004 Coll.
- 84b) Article 143b of Act No. 566/2001 Coll., as amended by Act No. 635/2004 Coll.
- 84c) Articles 143a to 143o and Article 145 of Act No. 566/2001 Coll., as amended by Act No. 635/2004 Coll.
- 84d) Article 143b(b) of Act No. 566/2001 Coll., as amended by Act No. 635/2004 Coll.
- 84e) For example, Act No. 566/2001 Coll. as amended; Act No. 367/2000 Coll. as amended; Act No. 659/2007 Coll.”. [*note: Act on the introduction of the euro currency in the Slovak Republic*]
- 85) For example, Article 138 of Act No. 566/2001 Coll.
- 86) For example, the Penal Code, as amended, the Labour Code, as amended.
- 87) Article 178(1) and (2) and Article 187(1)(e) of the Commercial Code.
- 88) Article 178(3) and Article 187(1)(e) of the Commercial Code.
- 89) Article 28 of Act No. 566/2001 Coll.
- 90) Article 34 of Act No. 96/2002 Coll.
- 91) Articles 147 to 155 of Act No. 566/2001 Coll.
- 92) Article 85(7) of Act No. 566/2001 Coll.
- 93) Article 68(7) of the Commercial Code.
- 94) Article 157(6) and Article 158 of Act No. 566/2001 Coll.
- 95) Article 8(g) of Act No. 566/2001 Coll.
- 96) Article 1(2)(i), Article 2 and Article 18 of Act No. 659/2007 Coll. [*note: Act on the introduction of the euro currency in the Slovak Republic*]