

**35**  
**DECREE**  
**of Národná banka Slovenska**  
**of 15 December 2015**

**concerning the method by which insurance undertakings subject to a special regime  
are to demonstrate compliance with conditions for the granting of an authorisation to  
conduct insurance business**

Národná banka Slovenska, in accordance with Article 168(9) of Act No 39/2015 Coll. on insurance and on amendments to certain laws (hereinafter 'the Act'), has adopted this Decree:

**Article 1**

**Method of demonstrating compliance with the conditions for the granting of an  
authorisation to conduct insurance business in accordance with Article 168(2) of the Act**

(1) Compliance with the condition under Article 168(3)(a) is to be demonstrated with a document proving shared capital is paid up, whose form is a written statement of the person managing the contribution on a paid up contribution or a part thereof by individual shareholders.<sup>1</sup>

(2) Compliance with the condition under Article 168(3)(b) is to be demonstrated with written information on the origin, volume and composition of funds deposited in the shared capital by founders of the future insurance undertaking which will be subject to a special regime (hereinafter 'the future insurance undertaking') including information on the amount of own funds, with a document proving the transparent and trustworthy origin of cash deposited in the share capital by founders of the future insurance undertaking and proof of the origin of additional funds of the future insurance undertaking, if the founder is

- a) a natural person,
  - 1. with an account statement from a bank, branch of a foreign bank or foreign bank as of the date of submission of application **for the granting of an authorisation** to conduct insurance business under Article 168(2) and with a statement from this account as at 31 December for the preceding three calendar years,
  - 2. with an extract from the real estate register no older than three months, in the case of a property outside the territory of the Slovak Republic with other equivalent proof,
  - 3. with proof of the income of the natural person for at least three preceding years in the form of a tax return for personal income tax<sup>2</sup>, proof of the annual settlement of tax advances on income from employment of a natural person or other equivalent document,
  - 4. with a written statement of the natural person that their funds deposited in the share capital of the future insurance undertaking and additional funds of the future insurance undertaking do not stem from any criminal activity,<sup>3</sup>
- b) a natural person - entrepreneur,

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<sup>1</sup> Article 60 of the Commercial Code, as amended.

<sup>2</sup> Article 3(1) of Act No 595/2003 Coll. on income tax, as amended by Act No 333/2014 Coll.

<sup>3</sup> Act No 297/2008 Coll. on the prevention of money laundering and terrorist financing (and amending certain laws), as amended.

1. with an account statement from a bank, branch of a foreign bank or foreign bank as of the date of submission of application **for the granting of an authorisation** to conduct insurance business under Article 168(2) and with a statement from this account as at 31 December for the preceding three calendar years,
  2. with an extract from the real estate register no older than three months; in the case of a property outside the territory of the Slovak Republic, with other equivalent proof,
  3. with financial statements examined by an auditor, if they are subject to such examination, together with the auditor's report for three preceding accounting periods, whereas if
    - 3a. the natural person - entrepreneur started their business activity less than three years before submission of the application **for the granting of an authorisation** to conduct insurance business under Article 168(2), only financial statements for the period from the start of performing business activity are to be submitted,
    - 3b. the financial statements which are subject to examination have not been examined as at the date of submission of application **for the granting of an authorisation** to conduct insurance business under Article 7(2) of the Act, unexamined financial statements shall also be submitted,
  4. with tax returns for personal income tax<sup>2</sup> for at least three preceding years, including documents proving compliance with tax obligations, whereas if
    - 4a. the natural person - entrepreneur started their business activity less than three years before submission of the application **for the granting of an authorisation** to conduct insurance business under Article 168(2), only tax returns on income tax for the period since the start of their business activity are to be submitted,
    - 4b. the natural person - entrepreneur is a foreigner<sup>4</sup>, equivalent proof of their income for at least three preceding years shall be submitted,
  5. with a written statement of the natural person - entrepreneur that their funds deposited in the share capital of the future insurance undertaking and additional funds of the future insurance undertaking do not stem from any criminal activity,<sup>3</sup>
- c) a legal person,
1. with financial statements examined by an auditor, if they are subject to such examination, together with the auditor's report and reports on the result of operations or other equivalent reports, if such reports are drawn up in compliance with legal regulations of the relevant state, for three preceding accounting periods and approved by the General Assembly or other competent authority of the applicant, whereas if
    - 1a. the applicant is a part of a consolidated group, consolidated financial statements examined by an auditor together with the auditor's report for three preceding accounting period must be also attached,
    - 1b. the legal person was established less than three years before submission of the application **for the granting of an authorisation** to conduct insurance business under Article 168(2), the stated documents are to be submitted only for the period since its establishment,
    - 1c. the financial statements which are subject to examination have not been examined by an auditor as of the date of submission of the application **for the granting of an authorisation** to conduct insurance business under Article 168(2) of the Act, unexamined financial statements shall also be submitted,
  2. with a written statement of the legal person's statutory body that their funds

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<sup>4</sup> Article 2(2) of Act No 404/2011 Coll. on the stay of foreigners and on amendments to certain laws.

deposited in the share capital of the future insurance undertaking and additional funds of the future insurance undertaking do not stem from any criminal activity,<sup>3</sup>

(3) Compliance with the condition under Article 168(3)(c) of the Act is to be demonstrated

- a) with the documents specified under paragraph (2),
- b) with a list of natural persons with a qualifying holding in the future insurance undertaking indicating the percentage of their holding in the share capital of the future insurance undertaking and the corresponding voting rights therein,
- c) with a list of legal persons with a qualifying holding in the future insurance undertaking indicating the business name, legal form, identification number, registered office, amount of share capital and the percentage of their holding in the share capital of the future insurance undertaking and the corresponding voting rights therein,
- d) if the acquirer of the qualifying holding in the future insurance undertaking is a natural person
  1. with the person's professional CV,
  2. with an extract from the Criminal Records Register no older than three months; if the natural person is a foreigner<sup>4</sup>, with an equivalent certificate issued by a competent authority in the country of the person's habitual residence,
  3. with a list of the persons having close links to them<sup>5</sup> who are, at the time of submission of the application **for the granting of an authorisation** to conduct insurance business under Article 168(2) of the Act, in employment or an equivalent work relationship with the insurance undertaking, insurance undertaking from another Member State, foreign insurance undertaking, branch of a foreign insurance undertaking, reinsurance undertaking, reinsurance undertaking from another Member State, foreign reinsurance undertaking, branch of a foreign reinsurance undertaking or financial institution under Article 5(a) of the Act, indicating their business name, legal form, registered seat and identification number, if assigned,
  4. with an extract from the Commercial Register or extract from the Trade Register of the natural person - entrepreneur or with other document proving entitlement to perform business activity, this extract should be no older than three months; in the case of a foreigner<sup>4</sup>, with an equivalent certificate issued by a competent authority,
  5. with an extract from the account of the owner of book-entry securities,
- e) if the acquirer of the qualifying holding in the future insurance undertaking is a legal person
  1. with the professional CVs of the members of the statutory body,
  2. with extracts from the Criminal Records Register for the statutory body, which are no older than three months; if the legal person is a foreigner<sup>4</sup>, with an equivalent certificate issued by a competent authority in the country of the person's habitual residence,
  3. with an extract from the Commercial Register or with an equivalent document no older than three months documenting the establishment of the legal person; if the legal person has its registered seat abroad, with an extract from the register or other record in which the person is registered,
  4. with an extract from the account of the owner of the book-entry securities,
  5. with a list of the persons having close links to them<sup>5</sup>, members of the statutory body of the legal person with a qualifying holding in the future insurance undertaking, which are at the time of submission of application for **the granting of an**

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<sup>5</sup> Article 116 of the Commercial Code.

**authorisation** to conduct insurance business under Article 168(2) of the Act in employment or an equivalent work relationship with the insurance undertaking, insurance undertaking from another Member State, foreign insurance undertaking, branch of a foreign insurance undertaking, reinsurance undertaking, reinsurance undertaking from another Member State, foreign reinsurance undertaking, branch of a foreign reinsurance undertaking or financial institution under Article 5(a) of the Act, indicating their business name, legal form, registered seat and identification number, if assigned,

6. with a list of legal persons and natural persons having a qualifying holding in the share capital or in the voting rights of the person with a qualifying holding in the future insurance undertaking; the list shall identify in particular the persons exercising control over the person with a qualifying holding in the future insurance undertaking, or of whom the person with a qualifying holding in the future insurance undertaking is a subsidiary undertaking, including information on control procedures,
  7. with the rating of the person having a qualifying holding in the future insurance undertaking, if assigned, for the period of three preceding years,
- f) with a written declaration of the person with a qualifying holding in the future insurance undertaking that their property has not been subject to bankruptcy, restructuring, debt restructuring proceedings nor has it been placed under supervisory administration nor has forced settlement been approved in respect of it,
  - g) with written information on sanctions imposed on a person with a qualifying holding in the future insurance undertaking in the last three years before the submission of the application **for the granting of an authorisation** to conduct insurance business under Article 168(2), where sanctions have been imposed by a final and enforceable decision in an administrative or other equivalent proceeding,
  - h) with written information on whether the person with a qualifying holding in the future insurance undertaking was refused authorisation or other authorisation to perform business activity in the last three years before submission of the application **for the granting of an authorisation** to conduct insurance business under Article 168(2) by a definitive decision or whether their authorisation or other authorisation was withdrawn or revoked.
  - i) with a list of legal persons, including their business name, legal form, registered office and identification number, if assigned, amount of share capital and the percentage of their holding in the share capital of legal persons and the corresponding voting rights therein, in which the person with a qualifying holding in the future insurance undertaking holds a qualifying holding or is a member of their statutory or control bodies or is represented in their statutory or control bodies, or is liable by a significant part of their property for their liabilities, the extent of liability for which the applicant is liable and documents proving these facts,
  - j) if the future insurance undertaking will become part of a financial conglomerate which also includes a mixed financial holding company, the trustworthiness and professional qualification of the natural persons who are members of the statutory body or shareholders controlling the mixed financial holding company and also the suitability of the shareholders controlling mixed financial holding company must be proved by the following documents:
    1. professional CV, proofs of completed education and professional experience of members of the statutory body of mixed financial holding company,
    2. extract from the Criminal Records Register of members of the statutory body of the mixed financial holding company no older than three months; if they are

foreigners<sup>4</sup>, an equivalent certificate issued by a competent authority in the country of the person's habitual residence must be provided,

3. a written declaration of each member of the statutory body of mixed financial holding company on compliance with the conditions under Article 181(3)(d) to (f) of the Act if this member will perform the duties of a member of the board of directors or a managerial employee directly reporting to the board of directors following acquisition or increase of a qualified holding in the insurance undertaking,
  4. documents proving the suitability of the shareholders controlling the mixed financial holding company in the scope of (2) and (a) to (i) and (k),
- k) with a strategic plan containing a description of the financial and business objectives for the following three years and information on the willingness and financial capability of the person with a qualified holding in the future insurance undertaking to provide additional funds to the insurance undertaking in the event of financial problems, or funds for development of the insurance undertaking.

(4) Compliance with the conditions under Article 168(3)(d), (e) and (g) of the Act is to be demonstrated with a chart showing the structure of the qualifying holding of the person with a qualifying holding in the future insurance undertaking and a chart showing the structure of the group with close links to which that person belongs, highlighting any foreign-supervised entities within the group with close links and identification of the competent supervisory authorities; if the person is a foreigner, with their declaration of compliance with the conditions under Article 168(3)(e) and (g) of the Act.

(5) Compliance with the condition under Article 168(3)(f) is to be demonstrated in the case of persons nominated as members of the board of directors and managerial employees reporting directly to the board of directors with the following:

- a) professional CV and proofs of completed education and professional experience,
- b) extract from the Criminal Records Register no older than three months; if the person is a foreigner<sup>4</sup>, with an equivalent certificate issued by a competent authority in the country of the person's habitual residence,
- c) written confirmation from a competent local court or any authority with equivalent competence from another state under Article 181(3)(b) and (c) of the Act,
- d) written declaration of compliance with the conditions under Article 181(3)(d) to (f) of the Act,
- e) written information on previously performed assessments of the person's professional qualifications and trustworthiness or notifications made by competent supervisory authority within Member States including the name of the supervisory authority, designation of the Member State and the date of the assessment or notification,
- f) written information on previous jobs of a person who is one of the persons nominated to be members of the board of directors or managerial employees reporting directly to the board of directors, including name and registration number of the employer, a description of the nature and scope of tasks, the address of the employer and the person's position,
- g) written information on potential conflict of interest including:
  1. data on the amount of a qualifying holding or other form of significant influence in the future insurance undertaking,
  2. a list giving the business name, legal form, registered seat and identification number, if assigned, amount of share capital and percentage of holding in the share capital and the corresponding voting rights of legal persons in which the persons

- nominated as members of the board of directors or managerial employees directly reporting to the board of directors hold a qualifying holding or are members of the statutory or control bodies or are represented in their statutory or control bodies, or are liable by a significant part of their property for their liabilities, the extent of such liability for which these persons are liable and documents proving these facts,
3. list of persons having close links<sup>5</sup> to the person who is one of the persons nominated as members of the board of directors or managerial employees directly reporting to the board of directors, which are at the time of submission of the application **for the granting of an authorisation** to conduct insurance business under Article 168(2) of the Act in employment or an equivalent work relationship with the insurance undertaking or in a company with a holding in the future insurance undertaking,
  4. information on other financial links of persons having close links<sup>5</sup> to the insurance undertaking or to a company with a holding in the insurance undertaking,
  5. other obligations which may potentially lead to conflict of interest and a declaration on how potential conflicts of interest will be addressed,
- h) written information on other facts relevant to the assessment of credibility, including
1. a statutory declaration that the person who is nominated as a member of the board of directors or a managerial employee directly reporting to the board of directors, is not subject to prosecution,
  2. dismissal of a member of the board of directors or a managerial employee,
  3. membership in arbitration court,
  4. information on sanctions imposed to the person who is nominated as a member of the board of directors or a managerial employee directly reporting to the board of directors in the last three years before submission of the application **for the granting of an authorisation** to conduct insurance business under Article 168(2), and where sanctions have been imposed by a final and enforceable decision in administrative or other equivalent proceedings,
  5. information on whether the person who is nominated as a member of the board of directors or a managerial employee directly reporting to the board of directors was refused authorisation or other authorisation to perform business activity in the last three years before submission of the application **for the granting of an authorisation** to conduct insurance business under Article 168(2) by a final decision or whether their authorisation or other authorisation was withdrawn or revoked,
- i) any additional information relevant to the supervisory authority's assessment.

(6) Compliance with the condition under Article 168(3)(h) is to be demonstrated with documentation proving that the registered office and headquarters of the future insurance undertaking will be in the territory of the Slovak Republic, including

- a) the foundation deed or memorandum, an extract from the Commercial Register or another equivalent document,
- b) a document proving ownership of the property or other right to use the property in which the insurance undertaking will operate.

(7) Compliance with the condition under Article 168(3)(i) is to be demonstrated by submission of a business and financial plan containing

- a) the nature of risks or liabilities arising from the expected activity,
- b) the basic principles relating to reinsurance and retrocession,
- c) the items of own funds constituting the absolute floor of the minimum capital requirement,

- d) the estimate of formation expenses and funds to cover them,
- e) the way in which assistance services will be provided when conducting insurance business falling under Annex No 1 Part A point 18 of the Act,
- f) the assumed balance sheet and profit and loss statement for the first three years of operating,
- g) the estimate of future solvency capital requirement as referred to under Article 179(3) of the Act for the first three years of operating based on the assumed balance sheet under (f), and the method of calculation,
- h) the estimate of minimum capital requirement as referred to under Article 179(12) of the Act for the first three years of operating based on the assumed balance sheet under (f), and the method of calculation,
- i) the estimate of financial resources intended to cover technical provisions, minimum capital requirement and solvency capital requirement for the first three years of operating,
- j) the estimate of operating costs for the first three years of operating, excluding formation expenses, for an insurance business in non-life insurance,
- k) the estimate of premium income and claims for the first three years of operating for an insurance business in non-life insurance,
- l) the estimate of income and costs relating to the conduct of insurance for the first three years of operating for an insurance business in life insurance.

(8) Compliance with the condition under Article 168(3)(j) and (k) of the Act is to be demonstrated by submitting an estimate for

- a) the items of eligible own funds broken down in accordance with Article 179(4) to (7) and (9) of the Act for the first three years of operating,
- b) the future minimum capital requirement as referred to under Article 179(12) of the Act for the first three years of operating,
- c) the future capital requirement as referred to under Article 179(3) of the Act for the first three years of operating,

(9) Compliance with the condition under Article 168(3)(l) and (m) of the Act is to be demonstrated by documents outlining

- a) a transparent organisational structure with clear and appropriate division of responsibilities,
- b) the articles of association;
- c) written conceptual documents, covering at least the following areas
  1. risk management,
  2. internal control system,
  3. internal audit,
  4. reporting for the purposes of supervision,
  5. public disclosure,
  6. complaints management,
  7. outsourcing of activities, where the future insurance undertaking wishes to outsource activities under Article 185 of the Act,
  8. protection against money laundering and terrorist financing,
- d) appropriate measures to ensure the continuous and regular performance of activities, including contingency plans,
- e) procedures designed to identify a deteriorating financial situation in the future insurance undertaking,
- f) outsourcing contracts, where the future insurance undertaking wishes to outsource

- activities under Article 185 of the Act,
- g) measures to prevent conflict of interest,
  - h) technical equipment of the future insurance undertaking, including the information system, for the conduct of activities which the applicant wishes to perform,
  - i) other internal regulations governing activities of the future insurance undertaking.

## **Article 2**

(1) Documents as referred to under Article 1 are to be submitted together with a written declaration that all data provided and documents submitted are complete, accurate, truthful, authentic and up-to-date.

(2) Documents as referred to under Article 1 are to be submitted in their originals and where that is not possible, their certified copies shall be submitted. If the application **for the granting of an authorisation** and the documents annexed to this application are in a foreign language, they should also be submitted in a certified translation into the state language. Those documents which are annexed to the application **for the granting of an authorisation** under Article 1 can also be submitted in a language other than state language, if a separate regulation so permits<sup>6</sup>.

(3) Documents under Article 1 submitted to Národná banka Slovenska before submission of the application **for the granting of an authorisation** can be replaced by a written declaration stating that these documents are complete, accurate, truthful, authentic and up-to-date, the declaration shall also include the officially certified signatures of the persons authorised to act on behalf of the future insurance undertaking or insurance undertaking, a list of the previously submitted documents and the date of their submission to Národná banka Slovenska.

## **Article 3**

This Decree enters into force on 1 January 2016.

**Jozef Makúch**  
**Governor**

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<sup>6</sup> For example Article 16(5) of Act No 747/2004 Coll. on financial market supervision (and amending certain laws), as amended by Act No 373/2014 Coll.