

**The full text of Act No 371/2014 Coll.**

**on resolution in the financial market and amending certain laws,  
as amended by Act No 39/2015 Coll., Act No 239/2015 Coll., and Act No 437/2015 Coll.**

The National Council of the Slovak Republic has adopted the Act as follows:

**SECTION I**

**PART ONE  
BASIC PROVISIONS**

**Article 1**

**Scope of the Act**

(1) The scope of the present Act covers:

- (a) the procedure to be followed by individual institutions and other entities as defined in paragraph 3(b) to (d) in connection with resolution in the financial market of the Slovak Republic;
- (b) the preparation and approval of resolution plans for financial market entities in the Slovak Republic by the Resolution Council (hereinafter 'the Council');
- (c) the establishment, powers, and activities of the Council, and the resolution tools applied in the financial market of the Slovak Republic;
- (d) the establishment and functioning of the national resolution fund (hereinafter 'the national fund') and the management and use of the moneys raised by the national fund.

(2) The Act has the following objectives:

- (a) to ensure the continuous performance of critical functions by individual institutions and other entities as referred to in paragraph 3(b) to (e);
- (b) to avoid any significant adverse effect on the financial stability of the Slovak Republic, in particular by preventing the spreading of contagion and financial instability across financial markets and by maintaining market discipline;
- (c) to protect public finances by minimising reliance on extraordinary public financial support;
- (d) to protect depositors whose deposits are subject to protection under a separate regulation<sup>1</sup>, and the clients of investment firms who are eligible to compensation for their inaccessible assets under a separate regulation<sup>2</sup>;
- (e) to protect the moneys and other assets of clients other than the clients referred to in point (d).

(3) This Act shall apply to:

- (a) individual institutions such as banks<sup>3</sup> and investment firms<sup>4</sup> having a share capital as defined in a separate regulation<sup>5</sup>;

- (b) financial institutions<sup>6</sup> established in the Slovak Republic as subsidiaries of an institution or entity referred to in point (c) or (d), subject to consolidated supervision under a separate regulation<sup>7</sup>;
- (c) financial holding companies<sup>8</sup>, mixed financial holding companies<sup>9</sup>, and mixed-activity holding companies<sup>10</sup> established in the Slovak Republic;
- (d) parent financial holding companies<sup>11</sup>; EU parent financial holding companies<sup>12</sup>, parent mixed financial holding companies<sup>13</sup>, and EU parent mixed financial holding companies<sup>14</sup>;
- (e) branches of institutions established in a third country.

(4) The provisions of Part Three to Part Thirteen of this Act shall also apply, where appropriate, to entities referred to in paragraph 3(b) to (d).

## Article 2

### **Definition of basic terms**

For the purposes of this Act, the following definitions shall apply:

- (a) ‘crisis situation’ means a situation where the conditions for the commencement of resolution proceedings set out in Article 34(1) have been met;
- (b) ‘resolution’ means the application of a resolution tool or an additional resolution tool in order to achieve the objectives of resolution proceedings conducted under this Act (hereinafter ‘resolution proceedings’);
- (c) ‘group resolution’ means either of the following:
  1. the coordination of the use of resolution tools and the exercise of resolution powers by group-level resolution authorities;
  2. the taking of resolution actions at the level of a parent institution or of an institution subject to supervision on a consolidated basis;
- (d) ‘cross-border group’ means a group consisting of a parent company and subsidiaries established in more than one EU Member State or in more than one other country belonging to the European Economic Area (hereinafter ‘Member State’);
- (e) ‘parent institution’ means a parent company as defined in a separate regulation<sup>15</sup>;
- (f) ‘EU parent institution’ means a selected parent institution in the European Union<sup>15a</sup>, a parent financial holding company in the European Union or parent mixed financial holding company in the European Union;
- (g) ‘third-country parent institution’ means a parent company, parent financial holding company, or parent mixed financial holding company established in a country outside the European Union (hereinafter ‘third country’);
- (h) ‘subsidiary’ means a company as defined in a separate regulation<sup>16</sup>;
- (i) ‘EU subsidiary’ means a subsidiary established in an EU Member State, which is a subsidiary of a selected institution or of a parent institution established in a third country;
- (j) ‘resolution authority of another Member State’ means another Member State’s authority taking actions, applying tools, and exercising powers in relation to institutions under resolution in accordance with the applicable law of the Member State concerned;

- (k) ‘group-level resolution authority’ means the resolution authority of the Member State in which the competent group-level supervisor is established;
- (l) ‘third-country resolution authority’ means a third country’s authority taking actions, applying tools, and exercising powers in relation to institutions under resolution, comparable to those of the Council;
- (m) ‘group-level supervisor’ means a consolidating supervisory authority as defined in a separate regulation<sup>16a</sup>;
- (n) ‘instruments of ownership’ means shares and other instruments of ownership, and interests in such instruments;
- (o) ‘financing arrangement’ means a system comprising the national fund, the financing arrangements of other Member States, the borrowing arrangement between the financing arrangements of Member States, and the mutualisation of national financing arrangements in the case of a group resolution;
- (p) ‘other instruments of ownership’ means:
  1. securities and other assets carrying a similar right of ownership as shares;
  2. financial instruments as defined in a separate regulation<sup>17</sup>, which carry the right to acquire shares, securities or other assets carrying a similar proprietary right as shares, even by way of exchange;
- (q) ‘European Union’s State aid framework’ means the framework established by an international agreement by which the Slovak Republic is bound<sup>18</sup>; regulations and other EU acts, including guidelines, communications and notices, made or adopted on the basis of the international agreement by which the Slovak Republic is bound<sup>18</sup>;
- (r) ‘country of establishment’ means the country in which the relevant institution’s authorisation was issued or the country in which its registered office is located if it has no authorisation;
- (s) ‘relevant capital instruments’ means Additional Tier 1 instruments and Tier 2 instruments as defined in a separate regulation<sup>19</sup>;
- (t) ‘sale of business’ means the transfer of shares or other instruments of ownership issued by an institution under resolution, or the assets, rights or liabilities of an institution under resolution, to a purchaser that is not a bridge institution as defined in Article 55;
- (u) ‘bridge institution tool’ means the mechanism for transferring shares or other instruments of ownership issued by an institution under resolution, or the assets, rights, or liabilities of an institution under resolution, to a bridge institution in accordance with Article 55;
- (v) ‘asset separation tool’ means the mechanism for effecting a transfer of assets of an institution under resolution to an asset management vehicle in accordance with Article 57;
- (w) ‘bail-in tool’ means the mechanism for effecting the exercise of the write-down and conversion power in relation to the liabilities of an institution under resolution;
- (x) ‘critical functions’ means activities, services or operations the discontinuance of which may lead, in at least one Member State, to the disruption of basic functions that are essential to the real economy or to the disruption of financial stability owing to the size, market share, external or internal interconnectedness, complexity or cross-border activities of institution or groups under resolution, with particular regard to the substitutability of those activities, services or operations;

- (y) ‘eligible liabilities’ means liabilities or capital instruments that do not qualify as Common Equity Tier 1 instruments<sup>19a</sup> or Additional Tier 1 instruments<sup>19b</sup> or Tier 2 instruments<sup>19c</sup> of a selected institution or entity referred to in Article 1(3)(b) to (d) that are not excluded from the scope of the bail-in tool;
- (z) ‘group’ means a parent institution and its subsidiaries;
- (aa) ‘recipient’ means the entity to which shares, other instruments of ownership, debt instruments, assets, rights or liabilities, or any combination of those items are transferred from an institution or entity under resolution as referred to in Article 1(3)(b) to (d);
- (ab) ‘branch of a third-country institution’ means a branch of a foreign bank<sup>19d</sup> or a branch of a foreign investment firm<sup>19e</sup> established in a third country with share capital pursuant to a separate regulation<sup>5</sup>, operating in the Slovak Republic;
- (ac) ‘group entity’ means a legal person that is part of a group;
- (ad) ‘extraordinary public financial support’ means State aid as defined in a separate regulation<sup>19f</sup> or any other public financial support at supra-national level, which, if provided at national level, would constitute State aid that is provided in order to preserve or restore the viability, liquidity or solvency of an institution referred to in Article 1(3)(a) or of an entity referred to in Article 1(3)(b) to (d) or of a group of which such an institution or entity forms part;
- (af) ‘main areas of business activity’ means the areas of business activity in which services are provided for an institution under resolution or a group it is part of and these services represent a substantial source of income, profit or other financial benefit;
- (ag) ‘secured liability’ means a liability secured by a pledge<sup>19g</sup>, lien, assignment of a right or claim<sup>19g</sup>, guarantee or other security interest having a similar effect.

## PART TWO

### THE COUNCIL

#### Article 3

#### **Establishment of the Council**

(1) The Council shall be established as a legal person authorised to act in the area of public administration as a resolution authority. The Council shall have a registered office in Bratislava but shall not be recorded in the Commercial Register.

(2) The performance of tasks needed to create professional and organisational conditions for the Council to exercise its functions and powers shall be ensured by Národná banka Slovenska<sup>20</sup>, while Národná banka Slovenska shall ensure<sup>21</sup> that a special organisational unit is set up for the performance of these tasks with the aim of avoiding conflicts of interest and ensuring the performance of these tasks independently of the other tasks of Národná banka Slovenska. The staff members of Národná banka Slovenska performing the tasks referred to in the previous sentence may not be involved in the exercise of supervision over institutions in matters that do not belong to the Council’s jurisdiction. The staff members of Národná banka Slovenska performing the tasks referred to in the first sentence may, however, exercise supervision under this Act or perform tasks in matters assigned to the Council under

this Act, provided they are designated by the Council or by a member of the Council under this Act (hereinafter ‘designated staff members’).

#### Article 4

### **Composition of the Council**

(1) The Council shall be composed of ten members. Four members shall be senior employees from Národná banka Slovenska, with at least one of them being a member of the Bank Board of Národná banka Slovenska and one being a manager in charge of the organisational unit referred to in Article 3(2). Four members shall be senior employees from the Ministry of Finance of the Slovak Republic (hereinafter ‘the Ministry’), with at least one of them being a state secretary authorised to act as deputy-minister. The Council members representing Národná banka Slovenska shall be nominated and recalled by the Governor of Národná banka Slovenska and those from the Ministry shall be nominated and recalled by the Minister of Finance of the Slovak Republic. Further members of the Council shall be the director of the Debt and Liquidity Management Agency and the director of the State Treasury.

(2) A person authorised to decide directly in matters concerning the supervisory procedures<sup>22</sup> of Národná banka Slovenska may not be a member of the Council.

(3) The Chairman of the Council shall be a state secretary of the Ministry.

(4) The performance of tasks by a Council member who is also a Board member of Národná banka Slovenska shall be without prejudice to the relevant provisions of a separate regulation<sup>22a</sup>.

(5) A person may be appointed as a member of the Council only if they meet the fit and proper person requirements and have proper qualifications. For the purposes of this Act, a fit and proper person means a person of good character, certified as eligible to have access to information classified at least as ‘Confidential’.<sup>22b</sup> A person shall be considered fit and proper if they have never been convicted of a property-related criminal offence or of a criminal offence committed in a managerial position<sup>22c</sup>, or of any intentional criminal offence; these facts are to be proved with a clean criminal record no older than three months. For the purposes of this Act, ‘professional qualifications’ means completed university education and at least three years’ experience in a senior position<sup>22c</sup> in banking or in another financial field.

(6) The Council members shall not be entitled to remuneration for their work in the Council, nor to compensation from the Council for their expenses.

(7) The Council members shall perform their tasks with due professional care and in accordance with this Act and other generally binding legal regulations, while using and taking into account any available information concerning the performance of their tasks and powers. When performing their tasks, the Council members may not give preference to their personal interests over the public interests and shall refrain from anything that may be in conflict with a Council member’s office.

(8) The office of a Council member shall end:

(a) on the day when the member’s recall from the Council becomes effective;

- (b) on the day when the office to which the member was appointed or to which the member's tasks are related is cancelled;
- (c) on the day when the member is found ineligible to have access to classified information under a separate regulation<sup>22b</sup> or on the day when a decision cancelling the member's certificate of eligibility for access to classified information becomes effective;
- (d) on the day when a court's decision pronouncing the member guilty of a property-related criminal offence or of a criminal offence committed in a managerial position<sup>22c</sup>, or of any intentional criminal offence, becomes effective;
- (e) on the day when the member dies or is declared dead.

## Article 5

### **Powers of the Council**

(1) The Council shall:

- (a) cooperate with the Ministry in preparing drafts of generally binding legal regulations pertaining to bank resolution;
- (b) issue methodological guidelines and recommendations;
- (c) conduct on-site inspections;
- (d) exercise off-site supervision;
- (e) act and decide in resolution proceedings in accordance with this Act and, if necessary for the achievement of the goals set out in Article 1(2), submit petitions for a bankruptcy order against certain institutions under a separate regulation<sup>23a</sup>;
- (f) cooperate and exchange information in the range and under the conditions stipulated by this Act with the competent resolution authorities, the participants in the European System of Financial Supervision<sup>23</sup>, the public authorities of the Slovak Republic, the public authorities of other countries, and other entities that have information about the institutions under resolution or whose activities are related to these institutions;
- (g) ensure the performance of tasks in the area of bank resolution, arising from the legally binding EU acts or from international agreements by which the Slovak Republic is bound;
- (h) approve the statutes and rules of procedure of the Council;
- (i) transpose, in cooperation with the Ministry and Národná banka Slovenska, the directives and recommendations of the European supervisory authority (European Banking Authority) under a separate regulation<sup>24</sup>, except when it does not observe and has no intention to observe the directives and recommendations in question, and inform the European supervisory authority (European Banking Authority) under a separate regulation<sup>24</sup>;
- (j) prepare and approve resolution plans, assess the resolvability of institutions, remove impediments to the application of resolution tools, and act and decide in resolution proceedings;
- (k) perform other tasks in connection with the exercise of powers in accordance with this Act and separate regulations<sup>25</sup>.

(2) The Council shall conduct its activities impartially and independently of the state authorities, municipal authorities, other public authorities, and other legal or natural persons; state authorities, municipal authorities, other public authorities, and other legal or natural persons may not influence the Council in its activities.

(3) The exercise of supervision by the Council, including the pursuit of activities in accordance with paragraph 1(c) to (d), shall be subject to a separate regulation<sup>26</sup>. In exercising supervision, the Council and the persons acting on its behalf shall have powers as defined in this Act and in a separate law<sup>26</sup>. Responsibility for supervision shall be borne by the Council. Persons exercising supervision on behalf of the Council shall not be liable to third persons for the consequences of such supervision; this is without prejudice to their liability under the provisions of criminal law.

(4) In making decisions, the Council shall take account of the possible consequences of its decisions in other Member States in which the institution or entity referred to in Article 1(3)(b) to (d) to which the decisions apply operates or in which other members of the group to which that institution or entity belongs operate, and shall minimise the negative impact of its decisions on financial stability and the negative economic and social consequences of its decisions in these Member States.

(5) The Council shall, in its statutes, specify further details concerning its tasks and powers.

(6) A decision taken by the resolution authority of another Member State in agreement with the Council shall also be binding for entities falling within the competence of the Council.

(7) Resolution proceedings shall be conducted in compliance with the European Union's State aid framework.

#### Article 6

##### **Chairman of the Council**

(1) The Chairman of the Council shall perform the functions and tasks of the Council's statutory body, including management of the Council's activities and the signing of decisions affirmed by the Council in plenary meetings, unless Article 6(3) provides otherwise.

(2) The Chairman of the Council or any other person exercising the Chairman's powers may not exercise the powers of the Council's executive member at the same time.

#### Article 6a

##### **Vice-Chairman of the Council**

(1) The Vice-Chairman of the Council shall be appointed by the Council on the basis of the Chairman's proposal.

(2) The Vice-Chairman may not be a member of the Bank Board of Národná banka Slovenska who is responsible for financial market supervision.

(3) In the Chairman's absence or after the Chairman's office has ended but a new Chairman has not yet been appointed, the Chairman's powers shall be exercised by the Vice-Chairman of the Council. In the Vice-Chairman absence or before a new Vice-Chairman is appointed, these powers shall be exercised by another member of the Council authorised by the Council.

#### Article 6b

#### **Executive Member of the Council**

(1) In order to ensure the performance of the tasks referred to in Article 5(1)(c), (d), (f), (j) and (k), the Council shall appoint one of its members as executive member.

(2) For the purpose of performing the tasks referred to in paragraph 1, the executive member of the Council shall have the power to decide in the following matters:

- (a) the adoption of substitute measures by institutions under resolution in accordance with Article 25(4);
- (b) the minimum requirements for own funds and eligible liabilities held by institutions under resolution in accordance with Article 31(4);
- (c) the obligation to calculate and observe the minimum requirements for own funds and eligible liabilities by entities referred to in Article 1(3)(b) to (d);
- (d) the exemption of subsidiaries from the obligation to observe the minimum requirements for own funds and eligible liabilities on an individual basis under Article 31(13);
- (e) the extent to which institutions may meet the minimum requirements at consolidated or individual level through contractual bail-in instruments under Article 31(14);
- (f) the imposition of remedial measures or fines in accordance with Article 98;
- (g) the mounting of an impartiality challenge against a designated staff member performing tasks in first-instance proceedings and against a person invited under a separate regulation<sup>27</sup>;
- (h) other matters assigned by the Council to the executive member of the Council.

(3) Apart from the powers listed in paragraph 2, the executive member of the Council shall have the power to:

- (a) authorise a designated staff member or an invited person<sup>27</sup> to exercise supervision under this Act;
- (b) authorise a designated staff member to perform further tasks assigned by the Council to the executive member of the Council.

(4) The executive member of the Council may not be a member of the Bank Board of Národná banka Slovenska who is responsible for financial market supervision.

(5) If the executive member of the Council is to decide in a matter in which they are excluded from the proceedings referred to in a separate regulation<sup>28</sup> or if the Council decides about an impartiality challenge mounted against the executive member, the executive member's powers shall be exercised in that proceedings by the Vice-Chairman of the Council. If the Vice-Chairman is excluded from the proceedings referred to in a separate regulation<sup>28</sup>

or if the Council decides about an impartiality challenge mounted against the Vice-Chairman, these powers shall be exercised by another member authorised by the Council.

(6) In the executive member's absence or after the executive member's office has ended but a new executive member has not yet been appointed, the provisions of paragraph 5, second sentence, shall apply, too.

#### Article 6c

#### **Discussions and decision-making of the plenary**

(1) In plenary meetings, the Council shall decide in matters that fall within its competence, except for matters that are within the competence of the Council's executive member in accordance with Article 6b, unless the provisions of Article 6e(6) or of a separate regulation<sup>28a</sup> provide otherwise.

(2) The Council shall decide in plenary meetings by voting. Plenary meetings shall be attended by all the members of the Council.

(3) The Council shall have a quorum in a plenary meeting if more than half of its members are present. The Council shall decide in a plenary meeting by a majority of the votes cast. In the case of an equality of votes, the Chairman's vote shall decide.

(4) If the Council decides in a matter in which any of its members has been excluded from the procedure under this Act or under a separate regulation<sup>28</sup> or if the Council decides under a separate regulation<sup>28</sup> about an impartiality challenge mounted against any of its members (hereinafter 'excluded member of the Council'), that member shall be excluded from the voting procedure and shall not be allowed to participate therein. The excluded member's vote shall not be taken into consideration when the relevant plenary meeting is assessed whether it has a quorum or when the Council takes decisions.

(5) The member of the Council who is, inter alia, responsible for financial market supervision as a member of the Bank Board of Národná banka Slovenska shall have no voting right in the Council's plenary meetings; this member of the Council shall be equally subject to the provisions of paragraph 4, second sentence. Nor shall have a voting right in the Council's plenary meetings under Article 6e(9) a person who has previously acted in the same matter as an executive member of the Council, except when the Council decided in a plenary meeting pursuant to Article 6e(6).

(6) The votes cast by the individual members of the Council shall be recorded in the notarised minutes of the meeting. A member who disagrees with the Council's decision, or with the justification thereof, shall be entitled to have their different standpoint attached to that decision.

(7) The Council members may also cast their votes in a plenary meeting through electronic means of communication.

(8) A Council member may not empower another member of the Council to act and vote on their behalf at a meeting of the Council.

(9) The details of plenary meetings and decision-making procedures shall set out in the Council's Rules of Procedure. The Rules of Procedure may specify the cases where a decision taken in a plenary meeting must be approved by all the members of the Council or by a qualifying number of affirmative votes.

(10) The plenary meetings of the Council shall not be public. Apart from the Council members, a meeting may be attended by the persons listed in the Council's Rules of Procedure and by other persons invited by the Council. The Council may decide to publish any material from its meetings and the results thereof; information from a meeting at which the Council approves such materials shall be disclosed as stipulated by this Act.

#### Article 6d

#### **Proceedings and decisions taken by the Council**

(1) Proceedings in matters assigned to the Council by this Act, in which the Council decides about the rights and obligations of institutions under resolution or other entities, shall be subject to a separate regulation<sup>26</sup>, unless the provisions of Parts Two to Eight and Parts Ten to Fourteen of this Act provide otherwise.

(2) In proceedings as referred to in paragraph 1, the Council shall have the same position, powers and obligations as Národná banka Slovenska has in proceedings concerning financial market supervision under a separate regulation<sup>28b</sup>; the presentation of proofs and other tasks related to such proceedings shall be carried out by the Council itself or by its executive member or by another Council member or employee designated by the Council.

(3) Proceedings and decisions taken by the Council shall not be public; this shall be without prejudice both to the release of lawful and executable decisions taken under Articles 39 and 41, and to the obligation to disclose other information under Article 98(7). The Council may decide to publish any material from its meetings and the results thereof.

(4) The Council's decisions shall contain the same elements as a decision taken by Národná banka Slovenska in proceedings in matters of financial market supervision under a separate regulation<sup>28b</sup>, unless the provisions of Article 6e(15), Articles 39 to 46, Articles 78a and 78b and Article 89 provide otherwise. Each decision shall contain an official circular stamp, including the state emblem, and the signature of a duly authorised person, along with the full name and position of the signatory. A statement of the reasons for a first-instance decision issued by the executive member of the Council shall contain that member's full name and position; a statement of the reasons for a second-instance decision shall state that it was issued by the Council in a plenary meeting.

(5) First-instance decisions taken under Article 6b(2) shall be signed by the executive member of the Council. Second-instance decisions and first-instance decision in matters not falling within the competence of the Council's executive member under Article 6b(2) shall be signed by the Chairman of the Council. Specific requirements for persons authorised to sign first-instance and second-instance decisions may be set out by the Council.

#### Article 6e

#### **Eligibility to take decisions**

(1) In matters that fall within the competence of the Council's executive member under Article 6b(1) to (3), the executive member shall be eligible to act and take decisions in first-instance proceedings, unless the provisions of paragraph 6 provide otherwise.

(2) In proceedings as referred to in paragraph 1, the executive member of the Council shall have the same position, powers and obligations as the financial market supervision unit<sup>28d</sup> and its manager in matters related to financial market supervision under a separate regulation<sup>28b</sup>, unless the provisions of Parts Two, Three, Eleven and Thirteen of this Act or of a separate regulation<sup>26</sup> provide otherwise.

(3) The presentation of proofs and other tasks related to the proceedings referred to in paragraph 1 shall be carried out by the executive member of the Council, either in person or via a staff member designated to act on their behalf.

(4) In matters that fall outside the competence of the Council's executive member under Article 6b(1) to (3), the Council shall be eligible to act and take decisions in plenary meetings; the Council shall be eligible to decide in the following matters:

- (a) an impartiality challenge mounted against a member of the Council or against a designated staff member performing procedural tasks as authorised by the Council under Article 6d(2);
- (b) the appointment or recall of a special administrator under Article 12;
- (c) the commencement of resolution proceedings under Article 12;
- (d) the assets, liabilities, rights and obligations of participants in resolution proceedings, and decisions to write down or convert capital instruments under Article 70(1)(b);
- (e) the write-down or conversion of capital instruments under Article 70(1)(a);
- (f) the appointment and recall of an independent appraiser under Article 51 or Article 77;
- (g) the financing of resolution solutions according to Part Twelve of this Act;
- (h) compensation payment on the basis of a valuation of differences in treatment;
- (i) other matters that fall within the competence of the Council.

(5) When acting and taking decisions in plenary meetings under paragraph 4, the Council shall have the same position, powers and obligations as the financial market supervision unit<sup>28d</sup> and its manager have in matters of financial market supervision under a separate regulation<sup>28b</sup>, unless the provisions of Part Two, Parts Four to Eight, and Parts Ten to Twelve of this Act provide otherwise.

(6) If the executive member of the Council fails to initiate or continue conducting proceedings in accordance with the relevant law or if any serious shortcomings occur during the proceedings and the situation cannot be remedied in another manner, the Council shall assess the matter and initiate or continue conducting proceedings and shall decide in the first instance or designate another member of the Council to do so; the Council member so designated shall have the same position, powers and obligations as the executive member of the Council.

(7) The participants in such proceedings shall have the right to lodge an appeal against any first-instance decision taken by the Council in matters assigned to its executive

member, except for a decision to exclude a designated staff member or an invited person from the proceedings or to reject an impartiality challenge mounted against a designated staff member and a person invited under a separate regulation<sup>27</sup>.

(8) An appeal against a first-instance decision is to be lodged to the Council within 15 calendar days of the delivery date of that decision. Such an appeal shall have no suspensory effect; this shall not apply to an appeal lodged against a first-instance decision imposing a fine under Article 98.

(9) Action and decision-making in the second-instance in respect of an appeal against a first-instance decision shall fall within the competence of the Council.

(10) When acting and taking decisions pursuant to paragraph 9, the Council shall have the same position, powers and obligations as the Bank Board of Národná banka Slovenska<sup>28e</sup> in matters of financial market supervision under a separate regulation<sup>28b</sup>, unless the provisions of Parts Two, Three, Eleven and Thirteen of this Act provide otherwise.

(11) There is no judicial remedy against a decision taken by the Council in respect of an appeal.

(12) There is no judicial remedy against a decision taken by the Council in a matter that falls outside the competence of the Council's executive member.

(13) A petition for judicial review of a decision taken by the Council in a matter that falls outside the competence of the Council's executive member may be filed to the competent administrative court under a separate regulation<sup>28f</sup>.

(14) A petition for judicial review of a decision taken by the Council in respect of an appeal may also be filed to the competent administrative court under a separate regulation<sup>28f</sup>.

(15) Instructions on how to file a petition for judicial review in administrative proceedings under a separate regulation<sup>28f</sup> shall be included in each decision taken by the Council in plenary meetings.

#### Article 6f

### **Protection of the rights of third persons**

In view of the need to protect the rights of third persons acquired in good faith and their legitimate interests, the competent court's decision cancelling or overruling a decision taken by the Council pursuant to Article 6e(13) shall be without prejudice to the validity and effect of a transfer of ownership where the third persons acquired ownership of the subject of transfer on the basis of, or in connection with, that decision. This shall not affect the right to compensation for damage caused by an unlawful decision or by an incorrect administrative procedure under a separate regulation<sup>28g</sup>.

#### Article 6g

### **Execution of the Council's decisions**

If a participant in proceedings fails to discharge, within the prescribed time limit, an obligation arising from an enforceable decision of the Council, the Council shall provide for

the execution of that decision, unless Article 92(2)(c) provides otherwise; for this purpose, the Council may submit a proposal for court execution under a separate regulation<sup>28h</sup>.

#### Article 6h

### **Protest by the prosecutor**

A protest lodged by the prosecutor against a decision of the Council shall be assessed by the Council in a plenary meeting.

#### Article 6i

### **Impartiality challenge**

Decision-making in respect of an impartiality challenge as defined in this Act shall not be subject to a time limit set under a separate regulation<sup>28j</sup>; an impartiality challenge shall be assessed under this Act as soon as it has been mounted.

#### Article 7

### **Cooperation with the Council**

(1) Národná banka Slovenska, state authorities, territorial self-governments and other public authorities, the Notarial Chamber of the Slovak Republic<sup>29</sup>, the Slovak Chamber of Auditors<sup>30</sup>, notaries<sup>29</sup>, auditors<sup>31</sup>, audit firms<sup>32</sup>, the Central Securities Depository<sup>33</sup>, members of the Central Securities Depository<sup>33</sup>, the stock exchange<sup>34</sup>, and other entities<sup>35</sup> whose services are used by institutions that are within the competence of the Council, shall, if requested, cooperate with the Council in the performance of tasks under this Act and separate regulations<sup>25</sup>. In so doing, they shall supply the Council free of charge with the requested statements, explanations, or with data and information they have obtained during their activities, including data from their records and registers. The authorities and entities in question may refuse to supply such data and information only if this would lead to a breach of confidentiality or to the provision of information in contrast with the applicable law or with an international agreement by which the Slovak Republic is bound and which is above the laws of the Slovak Republic. The Council may cooperate and exchange information, in a range needed for the performance of its activities under this Act and separate regulations<sup>36</sup>, with the public authorities of the Slovak Republic and of other countries, with the Deposit Protection Fund, the Investment Guarantee Fund, and with international organisations.

(2) Legal and natural persons to which paragraph 1 does not apply and which have documents or information relating to institutions that are within the competence of the Council or to the activities of these institutions, shall provide the requested documents or information to the Council in writing or in oral records. If the requested information is provided in the form of oral records, the due form of these records shall be specified in a separate regulation<sup>37</sup>.

(3) The Council, when exercising its powers, may make available or provide information to the European System of Financial Supervision,<sup>38</sup> other resolution authorities, foreign supervisory authorities, auditors, audit firms, the Deposit Protection Fund, foreign deposit guarantee schemes, the potential purchaser whom the Council addressed in connection with the transfer of shares or other instruments of ownership or the assets, rights and liabilities of an institution, and other public authorities and persons whose activities are related to the resolution of individual institutions or persons under Article 1(3)(b) to (d), and to draw their

attention to any shortcomings revealed, especially those to which the solution or expert assessment applies. If such access to or provision of information requires exemption from the duty of confidentiality under a separate law<sup>39</sup>, such exemption may also be given in the form of a written agreement, approved by the Council, on cooperation and information exchange between the Council and the relevant authority or person. Information made available or provided by the Council under this paragraph may only be used for the resolution of institutions, the supervision of entities that are subject to supervision, and for the performance of other statutory tasks<sup>40</sup> by authorities or persons whose activities are related to bank resolution. Authorities and persons to which the Council has provided information or access to information shall protect this information against unauthorised access, disclosure, misuse, modification, damage, loss or theft, and to keep it strictly confidential.<sup>41</sup> Such information may be exchanged between authorities and persons exclusively for the same purpose or proceedings for which they were made available or provided by the Council, otherwise they may be made available, provided or published only with the Council's prior written consent. If the information requested under a separate regulation<sup>41</sup> is related to the exercise of powers by the Council over institutions or to their activities, the obligor shall not provide the information requested, nor access to such information.<sup>42</sup> The information the Council obtains from other resolution authorities or foreign supervisory authorities may only be used for the Council's activities and for court proceedings in cases regarding the lawfulness of the Council's decisions or actions or for criminal proceedings. The Council may make available or provide such information to other authorities or persons or release such information only with the consent of the foreign supervisory body that has provided the information in question, or in aggregate form in a manner not enabling the identification of the institution or person, or with the consent of the person who has provided the information. The Council shall adopt and publish on the website the necessary rules, including rules governing the confidentiality obligation and the information exchange.

(4) The details of cooperation as referred to in paragraphs 1 to 3 may be adjusted in a written agreement on cooperation and information exchange between the Council and the relevant authority or person.

(5) The institution under resolution, the members of its bodies, its employees and other persons whose activities are linked to the institution concerned, shall enable the Council to exercise its powers, refrain from any action that could hinder the Council in performing its tasks, and provide any information, documents, cooperation, and assistance requested by the Council or by persons authorised by the Council.

(6) The institution under resolution shall, for the Council to exercise its powers, prepare and submit to the Council free of charge and in due time comprehensible and transparent statements, reports, and other information, data and documents on facts concerning the institution in question or its shareholders or other partners, especially its economic and financial situation, property relations, transactions or other activities, as well as its organisation, management, structure, and control, including equity stakes in the institution and their owners, at the Council's request. The data given in the statements and reports submitted, and the other information, data and documents presented must be complete, up-to-date, correct, authentic and verifiable. If the statements, reports, or other information and documents submitted do not contain the required data, do not comply with the prescribed methodology, or if justified doubt arises about their completeness, correctness, transparency or authenticity, the entities under supervision shall submit data at the Council's request and

provide explanation within the time limit set by the Council. Such provision of data shall not be deemed to be a breach of banking secrecy under a separate regulation<sup>43</sup>.

(7) In a decree issued by Národná banka Slovenska in agreement with the Ministry and promulgated in the Collection of Laws of the Slovak Republic, Národná banka Slovenska shall specify the structure of statements, reports, and other information that institutions under resolution are required to prepare and submit to the Council, including the scope, contents, structure, deadlines, form, manner, and place where such statements, reports, and other information, including the methodology applied, are to be submitted.

## Article 8

### **Confidentiality requirements**

(1) The members of the Council, the persons invited, and the relevant employees of Národná banka Slovenska shall, in accordance with Article 3(2), keep confidential any facts the disclosure of which may jeopardise:

- (a) the operation of the Council in a proper and efficient manner;
- (b) the interests of the Slovak Republic or another Member State in the area of financial, economic or monetary policy;
- (c) the guarding of trade and bank secrets;
- (d) the exercise of supervision by the Council and Národná banka Slovenska;
- (e) the conduct of resolution proceedings.

(2) The obligation referred to in paragraph 1 shall apply even after the membership or employment in the Council has been terminated. In public interest, the Council may exempt from these obligations any of its members, the persons invited, or the employees of Národná banka Slovenska in accordance with Article 3(2). Such exemption from the confidentiality requirement and the disclosure of information on matters related to the participation of Národná banka Slovenska in the European System of Central Banks shall be subject to separate regulations<sup>44</sup>. The exchange or disclosure of information, or the granting of access to information shall not be considered a breach of the confidentiality requirement laid down in Article 7(1) to (5).

(3) The confidentiality requirement referred to in paragraph 1 shall also apply to:

- (a) the employees of the Ministry;
- (b) the special administrator referred to in Article 12;
- (c) other persons informed about the exercise of powers by the Council;
- (d) auditors, accountants, legal and professional advisors, experts and other professionals who have got acquainted with the facts mentioned in paragraph 1 during the performance of their tasks, profession or employment for the Council, Ministry or a potential purchaser;
- (e) the employees of the Deposit Protection Fund and the Investment Guarantee Fund;
- (f) the employees of Národná banka Slovenska and other public authorities involved in the resolution process;

- (g) the employees of a bridge institution as referred to in Article 55 and the employees of an asset management company;
- (h) the potential purchasers who were addressed by the Council, irrespective of whether they were addressed when preparations were made for the application of the sale of business tool or whether or not such addressing has led to acquisition;
- (i) other persons who provide or provided services directly or indirectly, regularly or occasionally to persons mentioned in points (a) to (h);
- (j) the members of the statutory body and of the supervisory board, senior employees, and the employees of entities referred to in points (b), (c), (d), (h) and (i), even after their term of office has expired.

(4) The bodies, persons, and institutions referred to in paragraph 3(a), (e) to (g) shall ensure the guarding of professional secrets and to lay down the duty of confidentiality in their internal regulations, including rules for ensuring the exchange of information between persons who are directly involved in resolution.

(5) Before granting access to information, mainly data from resolution plans, group-level resolution plans, conclusions from the assessment of resolvability, the persons referred to in paragraphs 1 to 3 shall ensure that the information provided contains no facts that are subject to the confidentiality requirement.

(6) The confidentiality obligation shall not be deemed breached if the Council and the persons referred to in paragraphs 3 and 4 provide information

- (a) in an aggregate form where the institution or person concerned cannot be identified;
- (b) with the prior consent of the person who has provided the information in question.

(7) The Council shall assess the possible effects of information disclosure on public interest where financial, monetary or economic policy is concerned, or the trade interests of natural and legal persons, for the purpose of checking, examination or audit.

(8) The confidentiality obligation shall not be deemed breached where information is exchanged between the supervisory authority<sup>26</sup> and the Council in connection with the performance of their tasks. Nor shall the confidentiality obligation be deemed breached if the information is provided to the competent resolution authorities of third countries by the Council, Ministry or Národná banka Slovenska where Národná banka Slovenska assesses that:

- (a) the third-country resolution authority in question is subject to confidentiality requirements similar to those laid down in this Act;
- (b) the information provided is necessary for the relevant third-country resolution authority to exercise its powers and the information is to be used exclusively for this purpose.

(9) The information the Council obtains from the resolution authority of another Member State can be provided to the competent resolution authorities of third countries only with the consent of that Member State's resolution authority that has provided the information to the Council, for the purposes specified in its consent.

## Article 9

## **Resolution powers of the Council**

(1) In resolution proceedings, the Council may:

- (a) exercise decision-making powers, shareholder rights, the rights of other owners and those of the statutory body or of the supervisory board of the institution under resolution;
- (b) transfer shares or other instruments of ownership issued by the institution under resolution;
- (c) transfer the rights, assets or liabilities of the institution under resolution to a third party with the institution's consent;
- (d) reduce or remit the principal or balance payable of the eligible liabilities of the institution under resolution;
- (e) convert the eligible liabilities of the institution under resolution into shares or other instruments of ownership held by the institution, parent company or bridge institution referred to in Article 55, to which the assets, rights or other liabilities of the given institution are assigned;
- (f) cancel debt instruments issued by the institution under resolution, except for secured liabilities pursuant to Article 59(1)(b);
- (g) reduce the nominal value of shares or other instruments of ownership held by the institution under resolution or cancel<sup>45</sup> shares or other instruments of ownership;
- (h) place the institution under resolution or its parent institution under the obligation to issue new shares or other instruments of ownership or other capital instruments, including preference shares and contingent convertible instruments;
- (i) change or adjust the maturity of debt instruments and other eligible liabilities issued by the institution under resolution or change the amount of due interest on the basis of these instruments and other eligible liabilities or the date of interest yield payment, through the temporary suspension of payments, except for secured liabilities pursuant to Article 59(1);
- (j) take measures to ensure that no additional liabilities arise from derivative agreements for the institution under resolution and that such liabilities are compensated, and terminate financial agreements or derivative agreements for purposes specified in Article 63;
- (k) recall or appoint the members of the statutory body and of the supervisory board of the institution under resolution, and its senior employees;
- (l) request Národná banka Slovenska to assess the acquisition of a qualifying holding within a shorter period of time under a separate regulation<sup>46</sup>;
- (m) request any person to provide the Council with the information that the Council needs to select an appropriate resolution tool and to prepare for resolution, which also requires that the information provided in resolution plans be updated and supplemented. The information so requested shall be provided within the scope of on-site inspections.

(2) The Council, when exercising its powers in resolution proceedings, shall not be subject to the requirement to obtain permission or consent from the competent state authority under a separate regulation, public or private person, the institution's shareholders or creditors, except for permission from Národná banka Slovenska under Article 56(3). The Council shall not report, issue a notice or prospect<sup>47</sup>, or submit any document to another authority in advance, or register it under a separate regulation<sup>48</sup>. This shall be without

prejudice to the announcement requirement stipulated by the European Union's framework for government assistance. The Council shall not be bound by any restrictions concerning the transfer of financial instruments, assets, rights or liabilities, and shall not require permission for such transfer.

#### Article 10

### **Elimination of the effects of certain contractual terms in resolution proceedings**

(1) A crisis prevention measure or a crisis management measure taken in relation to an institution under resolution shall not, per se, under any contract entered into by that institution, be deemed to be a security interest enforcement event, profit and loss account settlement or insolvency proceedings, provided that the substantive contractual obligations, including payment and delivery obligations and the provision of collateral, continue to be discharged. This shall also apply to the contractual relations of:

- (a) subsidiaries where the discharge of obligations is ensured by the parent institution or by another person from the group;
- (b) other persons from the group where the contract contains a clause on the immediate maturity of the entire debt.

(2) 'Crisis prevention measure' means the exercise of powers with the aim of directly addressing a shortcoming or impediment encountered during the implementation of a recovery plan under a separate regulation<sup>49</sup>, the exercise of powers with the aim of resolving or removing an obstacle in the way of resolution pursuant to Article 25 or 29, the taking of any measure aimed at timely intervention under a separate regulation<sup>50</sup>, the appointment of an official receiver under a separate regulation<sup>51</sup>, or the exercise of powers to write down or convert debt in accordance with Article 70. 'Crisis management measure' means a resolution measure as defined in Part Seven of this Act or the appointment of a special administrator under Article 12.

(3) Resolution proceedings commenced in a third country and recognised by the Council as resolution proceedings shall be deemed to be a resolution measure.

(4) If the substantive contractual obligations, including payments and delivery obligations and the provision of collateral, are properly met through the adoption of crisis prevention measures or crisis management measures, none of the contracting parties shall acquire a separate right to:

- (a) terminate, suspend or modify the contract signed, or take a right into account, even in the case of contractual relations with a subsidiary or collateral provided by a person within the same group, and contractual relations with another person belonging to the same the group, which contains a clause on the immediate maturity of the entire debt;
- (b) acquire a holding or a right of ownership in the property of an institution under resolution or exercise the rights arising from the collateral provided by that institution or by another entity that is part of the group along with the institution under resolution, on the basis of a contract which contains a clause on the immediate maturity of the entire debt;
- (c) modify, in another manner, the contractual rights in relation to the institution under resolution or the other person within the same group if the contract contains a clause on the immediate maturity of the entire debt.

(5) The provisions of paragraphs 1, 3, 6 and 7 shall not constitute a legal impediment to the exercise of the rights referred to in paragraph 4, if these rights are exercised in connection with an event other than the adoption of a crisis prevention measure or of a crisis management measure or a fact directly related thereto.

(6) For the purposes of paragraphs 1 and 2, the restriction or suspension of the rights referred to in Articles 14 to 17 shall not be classified as non-compliance with the contractual obligations.

(7) The provisions of paragraphs 1 to 5 shall be subject to a separate regulation<sup>52</sup>.

#### Article 11

##### **Exercise of powers in resolution proceedings**

(1) The following rights and powers shall be suspended during resolution proceedings:

- (a) the powers of the statutory body and of the supervisory board of the institution under resolution, unless the Council decides otherwise;
- (b) the voting rights of shareholders and owners of other instruments of ownership.

(2) The powers referred to in paragraph 1(a) may be exercised by the Council directly or through a special administrator under Article 12.

#### Article 12

##### **Special administrator**

(1) The Council may, for the purpose of exercising its powers in resolution proceedings and outside resolution proceedings, mainly when exercising its powers under Article 5(1)(g) and (k) and Article 70(1), appoint a special administrator. The Council shall issue a certificate of appointment of a special administrator.

(2) In appointing a special administrator, the Council shall specify the following:

- (a) the range of powers that will be delegated to the special administrator after the statutory body and supervisory board of the institution under resolution are suspended from exercising their powers, and the range of rights held by the institution's shareholders or owners of other instruments of ownership;
- (b) the special administrator's tasks that are subject to prior approval by the Council.

(3) The Council shall conclude a contract with a newly appointed special administrator for the performance of the tasks of a special administrator, which shall specify in detail the special administrator's rights and duties. It shall also define the special administrator's liability for any damage caused in conjunction with the performance of these tasks.

(4) The special administrator shall perform all the tasks that are necessary for the Council to exercise its powers in resolution proceedings pursuant to paragraph 1 in accordance with paragraphs 2 and 3.

(5) The Council may recall the special administrator at any time for any reason.

(6) A certificate of appointment of a special administrator or persons implementing a foreign measure comparable with the tasks of a special administrator under this Act is an original document certifying the appointment of a special administrator or a certificate of appointment of a special administrator by the competent resolution authority of another Member State. The translation of such certificates into the official language of the Member State concerned shall not be required to be officially certified, nor shall a similar procedure be required.

(7) A special administrator may be a natural person or a legal person. Being a natural person, a special administrator must be professionally qualified in accordance with a separate regulation<sup>55</sup>. A special administrator may not be a person who:

- (a) is or was an employee of Národná banka Slovenska or a member of the Council at any time in the past two years before being appointed as a special administrator;
- (b) has been lawfully sentenced for a criminal offence committed in a managerial position or for any intentional criminal offence;
- (c) held, at any time in the past three years, office as a member of the supervisory board, statutory body, general proxy, or a managerial employee in an institution placed under receivership or special management, unless he or she voluntarily resigned from this office;
- (d) has a special relationship as defined in paragraph 4 with the institution in which he or she acts as a special administrator in accordance with a separate regulation<sup>56</sup>;
- (e) is a debtor or a creditor of the institution under resolution in which he or she acts as a special administrator in accordance with paragraph 4;
- (f) is an employee of the special administrator via which he or she conducts activities pursuant to paragraph 4 or a member of the statutory or supervisory body of the legal person which is a debtor or a creditor of the institution whose activities referred to in paragraph 4 are concerned;
- (g) is a member of the statutory or supervisory body of another institution under resolution, or the head or deputy head of another branch of a foreign institution under resolution;
- (h) provided auditor services to an institution placed under receivership or concerned by the activities performed in accordance with paragraph 4 at any time over the past year, without expressing reservations on the activities of that institution.

(8) A special administrator, where it is a legal person, may only be a legal person established for the joint conduct of counselling-at-law or as an audit company under a separate regulation<sup>57</sup>, provided that this legal person has insurance against liability for damage caused in connection with its activities<sup>57</sup> when performing special management tasks and acting in the capacity of a special administrator or has enough own funds and provided that the partners of this legal person, the statutory body, members of the statutory or supervisory body of this legal person, or employees of this legal person, include no natural person who may not be a special administrator under paragraph 7.

(9) The appointment, replacement, and recall of a special administrator shall be recorded in the Commercial Register. A proposal for entering a special administrator into the

Commercial Register shall be submitted by the Council; the submission of such proposal shall not be subject to a separate regulation<sup>58</sup>.

(10) The following information shall be recorded in the Commercial Register:

- (a) the first name, last name, permanent residence, and birth registration number of the special administrator where he or she is a natural person; or
- (b) the business name, registered office, and identification number of the special administrator where it is a legal person.

(11) The special administrator may propose that the conduct of activities pursuant to paragraph 4 be recorded in the Commercial Register or in a similar public register kept in another Member State within the territory of which the institution under resolution has a branch, which is concerned by the special administrator's activities referred to in paragraph 4 where such recording is allowed by the legal system of the relevant Member State.

(12) The introduction of a foreign measure comparable with the activity performed by a special administrator pursuant to paragraph 4 in an institution under resolution with a registered office in another Member State and a branch in the territory of the Slovak Republic, its termination and the related changes shall be entered into the Commercial Register. A proposal for entry into the Commercial Register shall be submitted by the competent resolution authority of the Member State concerned or the person implementing the foreign measure comparable with the activity performed by the special administrator in accordance with paragraph 4. The first name, last name, and residence address of the person implementing the foreign measure comparable with the activity performed by the special administrator under paragraph 4 shall also be entered into the Commercial Register.

(13) Special administrators shall prepare a report for the Council that has appointed them on the economic and financial position of the institution under resolution and a report on the performance of their duties. Special managers shall submit these reports at regular intervals set by the Council and at the beginning and end of their office.

(14) A special administrator shall be appointed for a period of one year. This period may be prolonged in exceptional cases if the Council issues a decision that the conditions for the appointment of a special administrator are deemed to be met.

(15) If the Council is planning to appoint a special administrator for a group of institutions under resolution, the Council shall consider whether it is more suitable to appoint the same special administrator for all the institutions in order to facilitate the resolution of the institutions concerned.

(16) The office of a special administrator shall end:

- (a) upon expiry of the period for which he or she has been appointed, or
- (b) when the special administrator is recalled from office.

(17) The costs incurred in connection with a special administrator's work, including remuneration, shall be covered by the institution under resolution concerned by the activity performed by the special administrator in accordance with paragraph 4.

(18) The general meeting of an institution under resolution may, with a two-thirds majority of votes, decide or propose that the Council stipulate in its statutes that an invitation to a general meeting of shareholders convened to approve a share capital increase should be issued within a shorter time period than stipulated by Article 184(3) of the Commercial Code if the general meeting does not take place earlier than ten calendar days of the date of invitation and if the conditions for the application of measures under a separate regulation or the conditions for the appointment of a temporary manager for the institution under resolution pursuant to a separate regulation are met and the capital increase is necessary to avoid resolution proceedings pursuant to Article 34(1).

### Article 13

#### **Additional powers of the Council in resolution proceedings**

- (1) Within the scope of its additional powers, the Council may:
- (a) transfer assets, rights and liabilities without any commitment or easement, except for protective measures as referred to in Article 81; claim for compensation under this Act shall not be deemed to be a commitment or an easement;
  - (b) cancel any pre-emptive right to acquire shares or other instruments of ownership;
  - (c) require that the admission of financial instruments to trading on the regulated market or the acceptance of such instruments under a separate regulation<sup>59</sup> be ended or suspended by Národná banka Slovenska or by the stock exchange;
  - (d) require that the acquirer have the same position in terms of their rights and obligations as the institution under resolution, including its rights and obligations concerning participation in the regulation market and in the accounting and settlement system, unless Articles 53 and 55 provide otherwise;
  - (e) require information and cooperation from both the institution under resolution and the acquirer;
  - (f) change or cancel any of the contractual conditions applying to the institution under resolution or to the acquirer.

(2) The Council shall exercise its powers under paragraph 1 only to the extent necessary to meet the objectives set out in Article 1(2).

(3) In order to maintain the continuity of its operations, the Council may entrust the acquirer with the task of managing the business activities of an institution under resolution, including:

- (a) management of the institution's rights and obligations with a view to preserving its contractual relationships;
- (b) action for and on behalf of the institution in the capacity of a legal successor in proceedings concerning its financial instruments, rights, assets and liabilities that were the subject of transfer.

(4) The powers referred to in paragraphs 1(d) and 3(b) shall not apply to:

- (a) the rights of the institution's employees after their employment ends;

- (b) the right of the contracting parties to exercise rights under the contract, including the right to terminate the contract in accordance with its terms, in view of the institution's action or failure, before the transfer or, on the acquirer's part, after the transfer, unless Articles 14 to 17 provide otherwise.

#### Article 14

##### **The Council's power to suspend certain obligations**

(1) The Council may decide to postpone the due date of a payment or other obligation of an institution under resolution, from the day when the suspension of that obligation is announced to the end of the working day (midnight) following the date of announcement.

(2) After the period of suspension defined in paragraph 1 expires, the maturity of the obligation shall be restored.

(3) While the maturity of the institution's obligation is postponed or suspended in accordance with paragraph 1, the maturity of that obligation shall also be suspended for the other party to the contract.

(4) The provisions of paragraph 1 shall not apply to:

- (a) protected deposits as defined in a separate regulation<sup>59a</sup>;
- (b) deposits as defined in a separate regulation<sup>1</sup>;
- (c) payments and other performance in relation to the operators of payment systems and of clearing and settlement systems for transactions in financial instruments under separate regulations<sup>60</sup>, and to central counterparties and central banks;
- (d) eligible claims arising from compensation for the inaccessible assets of clients under a separate regulation<sup>2</sup>.

(5) The Council, when exercising its powers, shall take fully into account the functioning of the financial market.

#### Article 15

##### **The Council's power to restrict the exercise of security rights**

(1) The Council may restrict the secured creditors of an institution under resolution in enforcing security interest in relation to the institution's assets from the date of notification on the restriction of secured creditors to the end of the working day (midnight) following the date of notification.

(2) The restriction referred to in paragraph 1 shall not apply to the operators of payment systems and of accounting & settlement systems for transactions in financial instruments under separate regulations<sup>60</sup>, nor to central counterparties and central banks in relation to any collateral provided by the institution under resolution.

(3) The Council shall ensure that such restriction is applied equally to all members of the group to which the restriction is applied.

#### Article 16

**The Council's powers in relation to assets, rights, obligations, shares  
and other instruments of ownership in third countries**

(1) Where assets located in a third country or rights, obligations, shares or other instruments of ownership subject to the law of a third country are traded, the Council may:

- (a) instruct the special administrator of the institution under resolution or the person controlling that institution or the acquirer to ensure that the transfer, write-down, conversion or any other act carried out within the scope of resolution proceedings enters into force;
- (b) instruct the special administrator of the institution under resolution or the person controlling that institution to take possession of assets, rights, shares or other instruments of ownership or to repay liabilities on behalf of the acquirer before the transfer, write-down, conversion or any other act enters into force.

(2) Justified expenses incurred by the acquirer in connection with acts carried out under paragraph 1 shall be paid in accordance with Article 52(6).

(3) The Council may refrain from the acts referred to in paragraph 1 if they are highly unlikely to become effective in relation to certain assets located in a third country, or certain rights, obligations, shares or other instruments of ownership that are subject to the law of a third country. The Council shall not execute such transfer, write-down, conversion or any other act within the scope of resolution proceedings. If the Council has already decided to carry out a transfer, write-down, conversion or any other act, such decision shall be considered invalid in relation to the relevant assets, shares, instruments of ownership, rights or obligations.

Article 17

**The Council's power to suspend the right to terminate a contract**

(1) The Council may restrict the rights of persons that are contracting parties of the institution under resolution if the exercise of such persons' rights is likely to lead to the cancellation of the contract or to the end of the contractual relationship in any other way.

(2) The Council shall have the same rights as under paragraph 1 for contractual relationships with a subsidiary of the institution under resolution,

- (a) if the obligations arising from such contractual relationships are secured by the institution under resolution;
- (b) if the right to terminate a contract is conditional exclusively upon the financial position or insolvency of the institution under resolution;
- (c) when exercising transfer powers under Article 9(1)(c) in relation to the institution under resolution
  - 1. in regard to its subsidiary's assets or liabilities that have been transferred or may be transferred to the acquirer;
  - 2. if the Council provides collateral or other appropriate protection for the discharge of liabilities.

(3) The restrictions referred to in paragraphs 1 and 2 shall apply from the moment of notification of suspension to the working day (midnight) following the date of publication in accordance with Article 41(4).

(4) The restrictions referred to in paragraphs 1 and 2 shall not apply to the operators of payment systems and of accounting & settlement systems for transactions in financial instruments under separate regulations<sup>60</sup>, nor to central counterparties and central banks.

(5) Contracts may be terminated before expiry of the period referred to in paragraph 3 if the Council confirms in writing that the rights and obligations arising therefrom are not subject to:

- (a) transfer to the acquirer;
- (b) write-down or conversion during capitalisation pursuant to Article 58(1)(a).

(6) If the Council suspends the exercise of the rights referred to in paragraphs 1 and 2 without following the procedure mentioned in paragraph 5, these rights may be exercised again under Article 10 upon expiry of the suspension period as follows:

- (a) where the rights and obligations have been transferred to another person, the other contracting party may terminate the contract only if a reason arises or persists for its termination under the original terms after the rights and obligations are transferred to the acquirer;
- (b) where neither rights nor obligations have been transferred and no bail-in has been applied by the Council under Article 58(1)(a), the other contracting party may terminate the contract under the original terms upon expiry of the period referred to in paragraph 3.

(7) The Council or Národná banka Slovenska may require an institution or a person referred to in Article 1(3)(b) to (d) to keep detailed records of their financial contracts. The Council or Národná banka Slovenska may request the archives of business data<sup>60a</sup> to cooperate by providing the necessary data and information from the archives for the discharge of obligations under a separate regulation<sup>61</sup>.

## Article 18

### **Cooperation in resolution proceedings**

(1) The Council may require an institution under resolution or a person in the group to which the institution belongs to cooperate by providing services and material equipment for the effective management of business activities that have been transferred to the acquirer. This shall also apply if the relevant institution or person within the group is in insolvency proceedings under a separate regulation<sup>62</sup>; the special administrator as defined in a separate regulation<sup>62</sup> shall have the same obligations as the institution under resolution mentioned in the previous sentence.

(2) A person residing in the Slovak Republic but belonging to the group comprising the institution under resolution shall cooperate under paragraph 1 in the same manner if the institution in question falls within the competence of the resolution authority of another Member State.

(3) Cooperation shall not include the provision of financial resources.

(4) Cooperation shall be governed by the conditions that applied before the institution was placed under resolution, which are otherwise common conditions.

#### Article 19

##### **The Council's power to require cooperation from the relevant authorities of other Member States**

(1) For the purpose of transferring shares or other instruments of ownership, assets, rights or liabilities located in another Member State or rights or obligations governed by the law of another Member State, the Council may require cooperation from the relevant authorities of that Member State.

(2) A legal act performed by a shareholder, creditor or another person in respect of shares, other instruments of ownership, assets, rights or obligations, which is likely to hinder or frustrate the exercise of powers by the Council or by the competent resolution authority shall be deemed invalid from the very beginning.

(3) If the Council exercises its write-down or conversion powers even in relation to capital instruments in accordance with Article 70, the eligible liabilities or capital instruments of the institution under resolution shall include:

- (a) instruments or liabilities governed by the law of another Member State;
- (b) liabilities towards creditors from another Member State.

(4) The Council shall cooperate with the competent resolution authority of another Member State in reducing or writing off the amount of principal for instruments or liabilities or in writing down or converting the instruments or liabilities of an institution under resolution with a registered office in the Slovak Republic.

(5) The creditors affected by the exercise of write-down or conversion powers under paragraph 3 shall tolerate the exercise of powers by the competent resolution authority of another Member State. When exercising its write-down or conversion powers, the Council may require any cooperation from the competent resolution authority of another Member State whose creditors are affected by the exercise of such powers.

#### Article 20

##### **International cooperation in resolution proceedings**

(1) The resolution authority of another Member State may operate in the territory of the Slovak Republic as a resolution authority in relation to a branch of a foreign institution or a subsidiary of a foreign institution, while the foreign institution in question shall be subject to supervision by the competent foreign supervisory authority. The resolution authority of a third country may exercise resolution powers in the territory of the Slovak Republic over an institution that is a branch of a foreign institution or a subsidiary of a foreign institution only on the basis of an agreement concluded between the Council and the resolution authority of the third country concerned; such agreement may only be concluded on a reciprocal basis. The Council shall inform the European supervisory authority (European Banking Authority) of the conclusion of any such agreement.

(2) Prior to the commencement of an on-site inspection in the territory of the Slovak Republic, the relevant resolution authority shall notify Národná banka Slovenska thereof. In conducting on-site inspections in the territory of the Slovak Republic, persons authorised by the competent resolution authority shall have the same rights, obligations and responsibilities as persons authorised to conduct on-site inspections by Národná banka Slovenska, except for the obligation to draw up an on-site inspection protocol and to set, and notify to the entity under supervision, time limits for the adoption and implementation of measures to eliminate any shortcomings revealed during an on-site inspection.

(3) The Council may exercise its resolution powers in the territory of the Slovak Republic in relation to a branch of a third-country institution if the Council concludes that some of the conditions set out in Article 85(7) are satisfied or in relation to the third-country institution whose branch is concerned if the resolution authority of the third country has not instigated resolution proceedings against that institution.

(4) The measures taken by the Council in relation to a branch of a third-country institution shall be in accordance with the objectives of this Act as defined in Article 1(2), the basic principles of resolution proceedings laid down in Article 33, and the provisions on valuation pursuant to Article 51.

(5) The Council may exercise its powers and take resolution actions in relation to a branch of a third-country institution where this is necessary in the public interest and where one of the following conditions is met:

- (a) the branch of the third-country institution under resolution no longer satisfies or is unlikely to continue satisfying the criteria for authorisation and the requirements for business activity under a separate regulation<sup>93</sup> and it is unlikely that compliance with these criteria and requirements may be restored by the imposition of any measure by the private sector, a foreign supervisory authority or another third-country authority, or that the failure of that branch may be avoided by any measure within a reasonable time;
- (b) the third-party institution no longer pays or is likely to stop paying its due liabilities in the near future or the liabilities it has incurred through its branch and the competent third-country authority has not initiated or is unlikely to initiate resolution proceedings or other similar proceedings against that third-country institution in the near future; or
- (c) the competent third-country authority has initiated or has notified the Council that it will soon initiate resolution proceedings or other similar proceedings against the third-country institution to which the relevant branch belongs.

(6) The Council shall be a participant in the Single Resolution Mechanism.<sup>63</sup> The Council may be a member of any international organisation specialising in bank resolution and may be involved in the performance of tasks arising from such membership. The Council shall ensure the performance of tasks arising for the Council from the legally binding acts of the European Union.

#### Article 20a

#### **Agreements with third countries**

(1) The Slovak Republic may enter into a bilateral agreement with a third country in matters of cooperation between the Council and the competent authorities of that country for resolution purposes where:

- (a) a parent institution established in a third country has a subsidiary or a significant branch in the Slovak Republic and in at least one other Member State;
- (b) a parent company established in the Slovak Republic, which has a subsidiary or a significant branch in at least one other Member State, has one or more subsidiaries in a third country; or
- (c) an institution established in the Slovak Republic, which has a parent institution, subsidiary or a significant branch in at least one other Member State, has one or more branches in a third country or in several third countries.

(2) An agreement as referred to paragraph 1 shall be concluded only where there is no valid agreement with the relevant third country on cooperation with the competent resolution authorities in accordance with paragraph 1 and with the international agreement by which the Slovak Republic is bound.<sup>63a</sup>

(3) The Council shall make every effort to conclude a non-binding cooperation agreement, in accordance with the general agreement on cooperation with the European supervisory authority (European Banking Authority), with the competent resolution authority of the third country in which

- (a) the parent institution or the person referred to in Article 1(3)(c) and (d), which has a subsidiary established in the Slovak Republic and in at least one other Member State, is registered;
- (b) the institution under resolution which has a branch established in the Slovak Republic and in at least one other Member State, is registered;
- (c) at least one of the subsidiaries of the parent institution or of the person referred to in Article 1(3)(c) and (d), which is registered in the Slovak Republic and has a subsidiary or a significant branch established in at least one other Member State, is established;
- (d) at least one of the branches of the institution under resolution which is registered in the Slovak Republic and has a subsidiary or a significant branch established in at least one other Member State, is established.

(4) An agreement as referred to in paragraph 3 shall be concluded only where there is no agreement in force under paragraph 2 or where an agreement made under paragraph 2 does not cover any of the following:

- (a) the exchange of information needed for the preparation of resolution plans, the application of resolution tools and the exercise of resolution powers and similar powers under the law of the third country concerned;
- (b) consultation and cooperation in the preparation of resolution plans, including principles for the exercise of powers under Article 20 and 85, and similar powers under the law of the third country concerned;
- (c) early warning or consultation on cooperation before any significant act is carried out within the scope of resolution proceedings, with a potential impact on the institution under resolution or the group concerned;
- (d) coordination of the publishing activities related to joint acts carried out within the scope of resolution proceedings;
- (e) exchange of information and cooperation under points (a) to (d) in any form, including through teams formed for resolution management, where necessary.

(5) The Council shall inform the European supervisory authority (European Banking Authority) of each agreement concluded under paragraph 3.

### PART THREE

## **RESOLUTION PLANS, OWN FUNDS REQUIREMENTS AND ELIGIBLE LIABILITIES**

### Article 21

#### **Resolution plans of institutions**

(1) After consultation with Národná banka Slovenska and the resolution authority of the Member State in which the institution under resolution has a significant branch<sup>64</sup>, the Council shall, insofar as is relevant to the significant branch, prepare a resolution plan for the institution placed under resolution, which is not part of any consolidated group over which supervision is exercised by the supervisory authority of the Member State or third country concerned.

(2) In a resolution plan, the Council shall outline the procedure to be followed during the resolution of an institution.

(3) A plan for the resolution of an institution shall comprise:

- (a) a summary of the key elements of the resolution plan drawn up for the institution under resolution;
- (b) a summary of all substantial changes the institution under resolution has undergone since the last reporting on matters related to resolution;
- (c) a description of the separation, in legal and economic terms, of the critical functions of the institution under resolution and of the main areas of its trading activities so that they are preserved if the institution fails;
- (d) an estimate of the period needed for the implementation of the individual parts of the resolution plan drawn up for the institution under resolution;
- (e) a detailed assessment of an institution's resolvability in accordance with paragraph 5 and Article 24;
- (f) a description of all measures designed to overcome or remove the obstacles hindering the resolution of institutions pursuant to Article 25 on the basis of an assessment made in accordance with Article 24;
- (g) procedures for valuing and selling an enterprise, part of an enterprise or the assets of an institution under resolution, these being associated with its critical functions or main areas of business activity in accordance with the Commercial Code;
- (h) the method of ensuring that the information required under this paragraph is up-to-date and available;
- (i) the method of financing the resolution of an institution where:
  - 1. no extraordinary public financial support is provided, except for funding under Part Twelve of this Act;

2. no emergency liquidity assistance<sup>65</sup> is provided by Národná banka Slovenska in the form of a short-term loan;
  3. no other financial support is provided by Národná banka Slovenska for the elimination of a temporary shortage of liquidity under non-standard collateralisation, tenor and interest rate terms;
- (j) a detailed description of various resolution strategies that can be used under various scenarios and in various time limits;
  - (k) a description of critical mutual connections;
  - (l) a description of the possibilities of ensuring access to payment systems, accounting and settlement services, and other infrastructures, and an assessment of the possibilities of transferring the positions of clients;
  - (m) an analysis of how the resolution plan may affect the employees of the institution under resolution, including an assessment of the costs incurred, and a description of the consultations planned to be held with the employees during the resolution process;
  - (n) a plan for communication with the media and the public;
  - (o) the minimum requirement for own funds and eligible liabilities in accordance with Article 31 and the time limit for the institution under resolution to meet this requirement;
  - (p) the minimum requirement for own funds and contractual capitalisation instruments as defined in Article 31 and the time limit for meeting this requirement;
  - (q) a description of the basic activities and systems needed for ensuring the continuous functioning of the institution's operating processes;
  - (r) the position of the institution concerned on the summary of key elements of its resolution plan if such position has been sent to the Council.

(4) The Council shall send each institution under resolution a summary of key elements of the resolution plan drawn up for the institution concerned.

(5) In preparing a resolution plan for an institution, the Council shall identify the impediments to resolution and shall propose a method for their removal in accordance with this Act.

(6) In preparing a resolution plan for an institution, the Council shall take into account all the relevant scenarios of a crisis situation, in particular the possibility of failure by the institution in question, the possibility of a crisis situation occurring at a time of broader financial instability, and the possibility of a crisis situation occurring as a result of failure in the financial system as a whole.

(7) The resolution plan of an institution shall not contain measures consisting in the provision of support in accordance with paragraph 3(i), points 1 and 3.

(8) The resolution plan of an institution shall contain an analysis of the procedure applied by the institution to gain access to the liquidity-providing operations of Národná banka Slovenska and to determine its assets that could, if necessary, be used as security for such operations.

(9) The Council shall, at least once a year, examine whether the resolution plan of an institution under resolution is up-to-date and shall update it, where necessary. The Council shall update the plan whenever a substantial change occurs in the institution's organisational structure, market position or financial situation.

(10) Národná banka Slovenska and the institution under resolution shall notify the Council of any substantial change occurring in the institution's organisational structure, market position or financial situation, and requiring an examination and/or updating of the institution's resolution plan.

(11) The Council may place an institution under the obligation to keep records of all financial contracts which the institution is a party to and to set a deadline for their submission to the Council.

(12) For the purposes of paragraph 11, 'financial contracts' includes the following contracts and agreements:

- (a) securities contracts, including:
  - 1. contracts for the purchase, sale or loan of a security, a group or index of securities;
  - 2. options on a security or group or index of securities;
  - 3. repurchase or reverse repurchase transactions in any such security, group or index;
- (b) commodities contracts, including:
  - 1. contracts for the purchase, sale or loan of a commodity or group or index of commodities for future delivery;
  - 2. options on a commodity or group or index of commodities;
  - 3. repurchase or reverse repurchase transactions in any such commodity, group or index;
- (c) futures and forwards contracts, including contracts (other than a commodities contract) for the purchase, sale or transfer of a commodity or property of any other description, service, right or interest for a specified price at a future date;
- (d) swap agreements, including:
  - 1. swaps and options relating to interest rates, spot or other foreign exchange agreements, currency, an equity index or equity, a debt index or debt, commodity indexes or commodities, weather, emissions or inflation;
  - 2. total return, credit spread or credit swaps;
  - 3. any agreements or transactions that are similar to an agreement referred to in point 1 or 2 which is the subject of recurrent dealing in the swaps or derivatives markets;
- (e) inter-institution borrowing agreements where the term of the borrowing is three months or less;
- (f) master agreements for any of the contracts or agreements referred to in points (a) to (e).

## Article 22

### **Information required for the resolution plans of institutions**

(1) Institutions under resolution shall cooperate with the Council by providing any information the Council requests for the preparation, updating, and implementation of resolution plans for such institutions.

(2) For the purposes of paragraph 1, the Council may request institutions to provide at least the following information:

- (a) a detailed description of the institution's organisational structure, including a list of all legal persons in the share capital of which the institution has an interest;
- (b) information on each legal person having an interest in the share capital, voting rights, and other rights of the institution under resolution, including the legal person's registered office, country of incorporation, authorisation, board of directors (members), and managerial employees;
- (c) mapping of the institution's critical operations and core business lines, including material asset holdings and liabilities relating to such operations and business lines, by reference to legal persons;
- (d) a detailed description of the components of the institution's and all its legal entities' liabilities, separating, at a minimum by types and amounts of short-term and long-term debt, including secured, unsecured or subordinated liabilities;
- (e) details of those liabilities of the institution that are eligible liabilities;
- (f) identification of the processes needed to determine to whom the institution has pledged collateral, the person that holds the collateral and the jurisdiction in which the collateral is located;
- (g) a description of the off-balance sheet exposures of the institution and its legal entities, including a mapping to its critical operations and core business lines;
- (h) information on the material hedges of the institution, including a mapping to legal persons;
- (i) identification of the major or most critical counterparties of the institution, as well as an analysis of the impact of failure by major counterparties on the institution's financial situation;
- (j) information on each system in which the institution conducts a material number or value amount of trades, including a mapping to the institution's legal persons, critical operations and core business lines;
- (k) information on each payment, clearing or settlement system of which the institution is directly or indirectly a member, including a mapping to the institution's legal persons, critical operations and core business lines;
- (l) a detailed inventory and description of the key management information systems, risk management systems, accounting systems, and those for financial and regulatory reporting used by the institution, including a mapping to the institution's legal persons, critical operations, and core business lines;
- (m) identification of the owners of the systems mentioned in point (l), service level agreements related thereto, and any software and systems or licences, including a mapping to their legal persons, critical operations, and core business lines;
- (n) identification and mapping of individual legal persons and their interconnections within a group, especially in the following areas:
  - 1. common or shared personnel;
  - 2. common or shared facilities and systems;
  - 3. capital, funding or liquidity arrangements;
  - 4. existing or contingent credit exposures;

5. cross-guarantee agreements, cross-collateral arrangements, cross-default provisions, and cross-affiliate netting arrangements;
  6. risk transfers and back-to-back trading arrangements, and service level agreements;
- (o) information on the competent supervisory authority and the competent resolution authority for each legal person;
  - (p) information on the member of the management body responsible for providing the information necessary to prepare the resolution plan of the institution, as well as those responsible, if different, for the different legal persons, critical operations, and core business lines;
  - (q) a description of the arrangements that the institution has in place to ensure that, in the event of resolution, the Council will have all the necessary information for deciding whether to apply resolution tools and exercise resolution powers;
  - (r) all the agreements entered into by the institutions and their legal entities in the same group with third parties the termination of which may be triggered by a decision of the authorities to apply resolution tools and whether the consequences of termination may affect the application of resolution tools;
  - (s) a description of possible liquidity sources for supporting resolution;
  - (t) information on asset encumbrance, liquid assets, off-balance sheet activities, hedging strategies and booking practices.

#### Article 23

##### **Submission of resolution plans**

(1) The Council shall submit the resolution plan of an institution and any changes thereto to Národná banka Slovenska as soon as the plan is drawn up.

(2) The Council as a group-level resolution authority shall submit a group-level resolution plan and any changes thereto to Národná banka Slovenska.

#### Article 24

##### **Assessment of resolvability for institutions**

(1) After consulting Národná banka Slovenska and the competent resolution authority of the jurisdiction in which a significant branch is located, the Council shall, insofar as is relevant to the significant branch, assess the extent to which an institution which is not part of a group is resolvable without the assumption of any of the following:

- (a) any extraordinary public financial support besides the use of the financing arrangements established in accordance with Part Twelve of this Act;
- (b) any emergency liquidity assistance<sup>65</sup> provided by Národná banka Slovenska in the form of a short-term loan;
- (c) any other liquidity assistance provided by Národná banka Slovenska under non-standard collateralisation, tenor and interest rate terms.

(2) An institution shall be deemed to be resolvable if it is feasible and credible for the Council to either liquidate it under normal insolvency proceedings or to resolve it by permitting restructuring or initiating resolution proceedings against the institution while

avoiding to the maximum extent possible any significant adverse effect on the financial system, including in circumstances of broader financial instability or system-wide events, of the Slovak Republic or of other Member States or the European Union as a whole, and with a view to ensuring the continuity of critical functions carried out by the institution.

(3) The resolvability assessment shall be made by the Council at the same time as and for the purposes of the drawing up and updating of the resolution plan in accordance with Article 21.

(4) If the Council finds that an institution is unresolvable, it shall notify the European supervisory authority (European Banking Authority) without delay.<sup>66</sup>

(5) In assessing the resolvability of an institution, the Council shall, as a minimum, take into account the facts referred to in Article 28(5).

## Article 25

### **Powers to address or remove impediments to resolvability**

(1) If the Council, after consulting Národná banka Slovenska, determines on the basis of a resolvability assessment carried out for an institution in accordance with Articles 24 and 28 that there are substantive impediments to the resolvability of that institution, the Council shall notify in writing that determination to the institution concerned, to Národná banka Slovenska, and to the resolution authorities of the jurisdictions in which the institution's significant branches are located.

(2) If the Council finds facts as referred to in paragraph 1, it shall suspend the preparation of a resolution plan for the institution until the substantive impediments to resolvability have been removed; the Council shall proceed in the same manner if it has received a notification from another resolution authority of the existence of substantive impediments. The time limit for the achievement of a joint decision in accordance with Article 27(5) shall be interrupted.

(3) Within four months of the date of receipt of a notification made in accordance with paragraph 1, the institution under resolution shall propose to the Council possible measures to address or remove the substantive impediments identified in the notification. The Council shall, after consulting Národná banka Slovenska, assess whether the measures proposed are appropriate for effectively addressing or removing the substantive impediments in question.

(4) Where the Council assesses that the measures proposed under paragraph 3 are inappropriate for effectively reducing or removing the impediments in question, it shall issue a decision requiring the institution to take alternative measures that may achieve that objective and to notify in writing those measures to the institution. In that decision, the Council shall demonstrate why the measures proposed by the institution would not be able to remove the impediments to resolvability and why the alternative measures proposed are more appropriate for reducing or removing them. In identifying alternative measures, the Council shall take into account the threat to financial stability of those impediments to resolvability and the effect of the measures on the business of the institution, its stability and its ability to contribute to the economy.

(5) Within one month of the date of delivery of the decision on alternative measures referred to in paragraph 4, the institution shall propose a procedure for their implementation.

(6) The Council shall have the power to take any of the following measures:

- (a) require the institution to revise any intra-group financing agreements or review the absence thereof, or draw up service agreements, whether intra-group or with third parties, to cover the provision of critical functions;
- (b) require the institution to limit its maximum individual and aggregate exposures;
- (c) impose specific or regular additional information requirements relevant for resolution purposes;
- (d) require the institution to divest specific assets;
- (e) require the institution to limit or cease specific existing or proposed activities;
- (f) restrict or prevent the development of new or existing business lines or the sale of new or existing products;
- (g) require changes to legal or operational structures of the institution or any group entity, either directly or indirectly under its control, so as to reduce complexity in order to ensure that critical functions may be legally and operationally separated from other functions through the application of resolution tools;
- (h) require the institution or its parent institution to set up a parent financial holding company in a Member State or an EU parent financial holding company;
- (i) require the institution to issue eligible liabilities to meet the requirements of Article 31;
- (j) require the institution to take other steps to meet the minimum requirement for own funds and eligible liabilities under Article 31, including in particular to attempt to renegotiate any eligible liability, additional Tier 1 instrument or Tier 2 instrument it has issued, with a view to ensuring that any decision of the resolution authority to write down or convert that liability or instrument would be effected under the law of the jurisdiction governing that liability or instrument; and
- (k) where an institution is the subsidiary of a mixed-activity holding company, it may require that the mixed-activity holding company set up a separate financial holding company to control the institution, if necessary in order to facilitate the resolution of the institution and to avoid the adverse effects the application of resolution tools and the exercise of resolution proceedings under this Act exert on the non-financial part of the group.

(7) Before deciding to take any alternative measure, the Council shall, after consulting Národná banka Slovenska, duly consider the potential impact of that measure on the particular institution, on the internal market for financial services, and on financial stability in other Member States and in the European Union as a whole.

(8) The Council may instruct an institution under resolution to reduce its bail-inable liabilities that were issued by another institution under resolution, except for liabilities between institutions that are part of the group.

## Article 26

### **Group resolution plans**

(1) Group resolution plans shall include a plan for the resolution of the group headed by an EU parent institution as a whole, either through resolution at the level of the EU parent institution or through break up and resolution of the subsidiaries.<sup>67</sup>

(2) The Council as a group-level resolution authority shall draw up a group resolution plan in cooperation with the resolution authority of the institution under resolution and its entities that are part of the group in accordance with paragraph 3, after consulting the resolution authorities of the institution's significant branches, insofar as is relevant to these branches. In drawing up a group resolution plan, the Council may cooperate with the resolution authority of a third country or the resolution authority of another Member State within the competence of which a subsidiary, financial holding company or significant branch falls, provided that the confidentiality requirements of Article 8 are met.

(3) A group resolution plan shall contain measures for the resolution of:

- (a) the EU parent institution established in the Slovak Republic;
- (b) the subsidiaries that are part of the group and that are located in the European Union;
- (c) the subsidiary of an entity referred to in point (a), registered outside the European Union, except for the procedure described in Article 20(2) to (5), Article 20a and Article 85(2) to (7).

(4) A group resolution plans shall:

- (a) set out the resolution actions to be taken in relation to group entities under every possible scenario, through:
  - 1. resolution actions in respect of the entities referred to in paragraph 3;
  - 2. coordinated resolution actions in respect of subsidiary institutions established in the European Union;
- (b) specify the extent to which the resolution tools and powers could be applied and exercised in a coordinated way to group entities established in a Member State, including measures to facilitate the purchase by a third party of the group as a whole, or separate business lines or activities that are delivered by a number of group entities, or particular group entities, and identify any potential impediments to a coordinated resolution;
- (c) where a group includes entities established in third countries, identify appropriate arrangements for cooperation and coordination with the competent authorities of those third countries and the implications for resolution within the European Union;
- (d) identify measures, including the legal and economic separation of particular functions or business lines, that are necessary to facilitate group resolution when conditions for resolution are met;
- (e) set out any additional actions, not referred to in this Act, which the group-level resolution authority intends to take in relation to the resolution of the group;
- (f) identify how the group resolution actions could be financed and, where financing through the national fund or the financing arrangements of other Member States would be required, set out principles for sharing responsibility for such financing between the sources of funding in different Member States; the principles shall be set out on the basis of equitable and balanced criteria and shall take into account the impact on financial stability in all Member States concerned.

(5) A group resolution plan shall not assume any of the following:

- (a) any extraordinary public financial support besides the use of the financing arrangements established in accordance with Part Twelve of this Act;
- (b) any emergency liquidity assistance<sup>65</sup> provided by Národná banka Slovenska in the form of a short-term loan;
- (c) any other liquidity assistance provided by Národná banka Slovenska under non-standard collateralisation, tenor and interest rate terms.

(6) The assessment of resolvability at group level by the Council in accordance with Article 28 shall take place at the same time as the drawing up and updating of the group resolution plan. A detailed description of the resolvability assessment shall be included in the group resolution plan.

(7) A group resolution plan shall not have a disproportionate impact on any Member State.

#### Article 27

#### **Requirements and procedures for group resolution plans**

(1) EU parent institutions established in the Slovak Republic shall submit to the Council any information required for the preparation and implementation of a group resolution plan, including information on each of the group entities.

(2) The Council shall transmit the information received under paragraph 1 to:

- (a) the European supervisory authority (European Banking Authority) in the range needed for the exercise of powers in connection with resolution at group level;
- (b) the competent resolution authority of the jurisdiction in which a subsidiary is located insofar as is relevant to that subsidiary;
- (c) the competent resolution authority of the jurisdiction in which a significant branch is located insofar as is relevant to that significant branch;
- (d) the members of the college of supervisory authorities insofar as is relevant to the subsidiaries and significant branches;
- (e) the competent resolution authorities of the jurisdictions in which the entities referred to in Article 1(3)(c) and (d) are located.

(3) If the information mentioned in paragraph 1 relates to third-country subsidiaries, the Council may transmit that information to the authorities referred to in paragraph 2 only with the consent of the competent resolution authority or supervision authority of that third country.

(4) The Council as a group-level resolution authority shall submit copies of the group resolution plan to the competent supervisory authorities exercising supervision over institutions that are part of the group. The Council shall review and, where appropriate, update the group resolution plans, at least annually, and after any substantial change in the organisational structure, market position, or financial position of the group, including any group entity, that could have a material effect on or require a change to the resolution plan.

(5) The Council shall, together with the resolution authorities of subsidiaries, make every effort to reach a joint decision in respect of the approval of a group resolution plan within four months of the date of transmission by the Council of the information mentioned in paragraph 1 to the authorities referred to in paragraph 2.

(6) If, within that four-month period, any of the authorities referred to in paragraph 5 requests assistance from the European supervisory authority (European Banking Authority) to reach a joint decision to approve the group resolution plan in question, the Council shall defer its decision and await any decision the European supervisory authority (European Banking Authority) may take in the matter. The Council shall decide in accordance with the decision of the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) fails to issue a decision within one month of the date of delivery of a request for assistance or if none of the authorities mentioned in paragraph 5 has referred the matter to the European supervisory authority (European Banking Authority) in accordance with paragraph 5 and if the Council fails to reach an decision in accordance with paragraph 5, the Council shall approve the group resolution plan on its own. The Council shall notify its decision to approve the group resolution plan to the authorities referred to in paragraph 5 and to the relevant EU parent institution established in the Slovak Republic.

(7) In the absence of a joint decision between the authorities referred to in paragraph 5, a group resolution plan shall be approved by the resolution authorities that agree to the decision proposed.

(8) Where the Council exercises its powers over a subsidiary, the provisions of paragraph 5 shall apply equally to the Council. If the Council does not agree to the decision proposed, it shall draw up and approve its own resolution plan for the subsidiary in question. If, within the four-month period set out in paragraph 5, any of the authorities referred to in paragraph 5 requests assistance from the European supervisory authority (European Banking Authority) to reach a decision in respect of a group resolution plan, the Council shall defer its decision and await any decision the European supervisory authority (European Banking Authority) may take in the matter. The Council shall decide in accordance with the decision of the European supervisory authority (European Banking Authority). This shall not apply if the Council notifies the European supervisory authority (European Banking Authority) that it disagrees with the proposed decision for it may impinge on the fiscal responsibilities of the Slovak Republic. If the European supervisory authority (European Banking Authority) fails to issue a decision within one months of the date of delivery of a request for assistance, the Council shall approve the resolution plan for the subsidiary in question.

(9) Where a joint decision is to be taken pursuant to paragraph 5 or 7 and where a resolution authority notifies the Council that the subject matter of a disagreement regarding a group resolution plan impinges on the fiscal responsibilities of the country of that resolution authority, the Council shall revise the decision proposed in respect of the group resolution plan or shall, together with the resolution authorities of subsidiaries, make every effort to revise the joint decision concerning the group resolution plan in question.

(10) Where the subject matter of a disagreement regarding a group resolution plan impinges on the fiscal responsibilities of the Slovak Republic, the Council shall notify this fact to the resolution authority responsible for the drawing up and approval of the group resolution plan in question.

## Article 28

### Assessment of resolvability for groups

(1) The Council as a group-level resolution authority, together with the resolution authorities of subsidiaries, after consulting Národná banka Slovenska, the competent supervisory authorities of such subsidiaries, and the resolution authorities of the jurisdictions in which significant branches are located insofar as is relevant to those branches, shall assess the extent to which the relevant group is resolvable without the assumption of any of the following:

- (a) any extraordinary public financial support besides the use of the financing arrangements established in accordance with Part Twelve of this Act;
- (b) any emergency liquidity assistance<sup>65</sup> provided by Národná banka Slovenska in the form of a short-term loan;
- (c) any other liquidity assistance provided by Národná banka Slovenska under non-standard collateralisation, tenor and interest rate terms.

(2) A group shall be deemed to be resolvable if it is feasible for the Council to either wind up group entities under normal insolvency proceedings or to initiate resolution proceedings against them under this Act while avoiding to the maximum extent possible any significant adverse effect on the stability of the financial system, including in circumstances of broader financial instability or system-wide events, of the Slovak Republic or of other Member States or the European Union as a whole, and with a view to ensuring the continuity of critical functions performed by the group entities, where they can be easily separated from the other functions in a timely manner.

(3) The assessment of group resolvability shall be made at the same time as, and for the purposes of, the drawing up and updating of the group resolution plan.

(4) If the Council assumes that a group is unresolvable, it shall notify the European supervisory authority (European Banking Authority) without undue delay.

(5) When assessing the resolvability of a group, the Council shall take into consideration at least the following matters:

- (a) the extent to which a group entity is able to map core business lines and critical operations to legal persons;
- (b) the extent to which legal and corporate structures are aligned with core business lines and critical operations;
- (c) the extent to which there are arrangements in place to provide for essential staff, infrastructure, funding, liquidity and capital to support and maintain the core business lines and critical operations;
- (d) the extent to which the service agreements that a group entity maintains are fully enforceable in the event of resolution of the group entity in question;
- (e) the extent to which the governance structure of a group entity is adequate for managing and ensuring compliance with the group entity's internal policies with respect to its services level agreements;

- (f) the extent to which a group entity has a process for transitioning the services provided under service level agreements to third parties in the event of the separation of critical functions or of core business lines;
- (g) the extent to which there are contingency plans and measures in place to ensure continuity in access to payment and settlement systems;
- (h) the adequacy of the management information systems in ensuring that the resolution authorities are able to gather accurate and complete information regarding the core business lines and critical operations so as to facilitate rapid decision-making;
- (i) the capacity of the management information systems to provide the information essential for the effective resolution of a group entity at all times even under rapidly changing conditions;
- (j) the extent to which a group entity has tested its management information systems under stress scenarios as defined by the resolution authority;
- (k) the extent to which a group entity can ensure the continuity of its management information systems, both for the group entity affected and the new group entity in cases when the critical operations and core business lines are separated from the rest of the operations and business lines;
- (l) the extent to which a group entity has established adequate processes to ensure that it supplies the resolution authorities with the information necessary to identify depositors and the amounts covered by the deposit guarantee schemes;
- (m) where the group uses intra-group guarantees, the extent to which those guarantees are provided under market conditions and the risk management systems applying to those guarantees are robust;
- (n) where the group engages in back-to-back transactions, the extent to which those transactions are performed under market conditions and the risk management systems applying to those transactions are robust;
- (o) the extent to which the use of intra-group guarantees as referred to in point (m) or of back-to-back booking transactions as referred to in point (n) increases contagion across the group;
- (p) the extent to which the legal structure of the group inhibits the application of the resolution tools as a result of the number of legal persons, the complexity of the group structure or the difficulty in aligning business lines to group entities;
- (q) the amount and type of eligible liabilities of a group entity;
- (r) where the assessment involves a mixed-activity holding company, the extent to which the resolution of group entities that are institutions or financial institutions could have a negative impact on the non-financial part of the group;
- (s) the existence and robustness of service level agreements;
- (t) whether third-country authorities have the resolution tools necessary to support the resolution actions of European Union resolution authorities, and the scope for coordinated action between European Union and third-country resolution authorities;
- (u) the feasibility of using resolution tools in such a way that meets the resolution objectives, given the tools available and the structure of the group entities;

- (v) the extent to which the group structure allows the resolution authority to resolve the whole group or one or more of its group entities without causing a significant direct or indirect adverse effect on the financial system, market confidence or the economy, and with a view to maximising the value of the group as a whole;
- (w) the arrangements and means through which resolution could be facilitated in the cases of groups that have subsidiaries established in different jurisdictions;
- (x) the credibility of using resolution tools in such a way that meets the resolution objectives, given the possible impacts on creditors, counterparties, customers and employees, and the possible actions that third-country authorities may take;
- (y) the extent to which the impact of a group entity's resolution on the financial system and on financial market confidence can be adequately evaluated;
- (z) the extent to which the resolution of group entities could have a significant direct or indirect adverse effect on the financial system, market confidence or the economy;
- (aa) the extent to which contagion to other institutions within the group or to other financial markets could be restricted through the application of resolution tools and the exercise of resolution powers;
- (ab) the extent to which the resolution of group entities could have a significant effect on the operation of payment and settlement systems.

(6) The resolvability of groups shall be assessed within the resolution collage in accordance with Article 84.

#### Article 29

##### **Powers to address or remove impediments to resolvability at group level**

(1) The Council as a group-level resolution authority shall, after consulting the resolution college and the competent resolution authority of the jurisdiction in which a significant branch is located insofar as is relevant to that branch, make an assessment as required by Article 28(5) within the resolution college and, together with the resolution authorities of subsidiaries, shall take all reasonable steps to reach a joint decision to place the group entities under resolution under the obligation to adopt alternative measures in accordance with Article 25(4).

(2) The Council as a group-level resolution authority, in cooperation with Národná banka Slovenska and the European supervisory authority (European Banking Authority) in accordance with a separate regulation<sup>68</sup>, shall prepare and submit to the EU parent institution established in the Slovak Republic, to the resolution authorities of subsidiaries, and to the resolution authorities of jurisdictions in which significant branches are located. The report shall be drawn up after consultation with the competent foreign supervisory authorities and shall contain an analysis of substantive impediments to the effective application of resolution tools and to the exercise of the resolution powers in relation to the group. The report shall assess the impact of such impediments on the group' business model and shall recommend proportionate and targeted measures that, in the Council's view, are necessary or appropriate to remove the impediments found.

(3) If the Council receives a report from a resolution authority in accordance with paragraph 2, the Council shall forthwith deliver that report to the group entity concerned.

(4) Within four months of the date of receipt of a report pursuant to paragraph 2, parent established in the Slovak Republic may make comments on that report and propose to the Council alternative measures to remove the impediments identified in the report.

(5) The Council shall communicate the alternative measures proposed by an EU parent institution established in the Slovak Republic under paragraph 4 to Národná banka Slovenska, the European supervisory authority (European Banking Authority), the resolution authorities of subsidiaries, and the resolution authorities of the jurisdictions in which significant branches are located insofar as is relevant to those branches.

(6) The Council shall, together with the resolution authorities of subsidiaries, after consulting the resolution authority of the jurisdiction in which a significant branch is located insofar as is relevant to that branch and the foreign supervisory authority of the jurisdiction in which a significant branch is located insofar as is relevant to that branch, make every effort within the resolution college to reach a joint decision regarding the identification of material impediments to group-level resolution, the removal of such impediments, and the assessment of the measures proposed by an EU parent institution established in the Slovak Republic and the measures proposed by the Council and the resolution authority of the subsidiary concerned, while taking into account the potential impact of those measures on financial stability in the Slovak Republic and in other member States where the group operates.

(7) The Council shall attempt to reach a decision in accordance with paragraph 6 within four months of the date of delivery by an EU parent institution established in the Slovak Republic of a comment in accordance with paragraph 4 or upon expiry of the four-month period set mentioned in paragraph 4, whichever is earlier. The Council shall deliver that decision to the relevant EU parent institution established in the Slovak Republic.

(8) If, within the time limit specified in paragraph 7, any of the resolution authorities requests assistance from the European supervisory authority (European Banking Authority) to reach a decision under paragraph 6 on measures as referred to in Article 25(6)(g), (h) or (k) in accordance with a separate regulation<sup>66</sup>, the Council shall defer its decision and await any decision that the European supervisory authority (European Banking Authority) may take. The Council shall decide in accordance with the decision of the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) fails to issue such decision within one month of the date of delivery of a request for assistance or if none of the resolution authorities has referred the matter to the European supervisory authority (European Banking Authority) and if the Council fails to reach a decision with the resolution authorities pursuant to paragraph 6, the Council shall make its own decision on the resolution tools to be applied to the group. The Council shall deliver its decision to the resolution authorities referred to in paragraph 6 and to the EU parent institution established in the Slovak Republic.

(9) Where the Council exercises its powers over a subsidiary, the provisions of paragraph 7 shall apply equally to the Council. If the Council exercises its powers over a subsidiary and disagrees with a joint decision proposed under paragraph 6 on measures referred to in Article 25(6)(g), (h) or (k), the Council may request assistance from the European supervisory authority (European Banking Authority) to reach a decision with the competent resolution authority or may take a decision against the subsidiary. If, within the time limit specified in paragraph 7, any of the resolution authorities requests assistance from

the European supervisory authority (European Banking Authority) to reach a decision under paragraph 6 in respect of the measures referred to in Article 25(6)(g), (h) or (k) in accordance with a separate regulation<sup>66</sup>, the Council shall defer its decision and await any decision the European supervisory authority (European Banking Authority) may take in this matter. The Council shall decide in accordance with the decision of the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) fails to issue such decision within one month of the date of delivery of a request for assistance, the Council shall issue a decision concerning the subsidiary. The decision shall also be delivered to the resolution authority of the parent institution established in a Member State.

#### Article 30

##### **Principle of proportionality in resolution proceedings**

(1) The Council may, on its own initiative after consulting Národná banka Slovenska, reduce proportionally the range of requirements set out in Articles 21, 22, 24, 26 and 28(5) and set a different time limit for the preparation of a resolution plan and a different frequency for updates, while taking into account the potential impact of failure by an institution or any other group entity on the financial system, including the impact such failure on other institutions and the conditions of their financing, and on the economy as a whole. In so doing, the Council shall take into account the nature and complexity of the institution's activities, its shareholding structure, legal form, risk profile, size and legal position, interconnectedness to other participants in the financial system, and its membership of an institutional protection scheme or any other similar system under a separate regulation<sup>70</sup>, as well as the investment services provided by these entities. In the case of any change in the circumstances, the Council may instruct the institution under resolution to draw up and submit a resolution plan as specified in Articles 21 and 26 and to keep it up to date in accordance with Article 21(9).

(2) The Council shall inform the European supervisory authority (European Banking Authority) of each case when the procedure set out in paragraph 1 is applied and of the details thereof.

#### Article 31

##### **Minimum requirement for own funds and eligible liabilities**

(1) Institutions shall meet, at all times, a minimum requirement for own funds and eligible liabilities (hereinafter 'minimum requirement'). The minimum requirement shall be calculated as the sum of own funds and eligible liabilities expressed as a percentage of the total liabilities and own funds of the institution concerned. Derivative liabilities shall be included in the total liabilities on the basis that full recognition is given to the netting rights of any counterparty having a legally effective and enforceable netting agreement with the institution under resolution. The minimum requirement shall be expressed in percentage terms.

(2) For the purposes of paragraph 1, eligible liabilities must satisfy the following conditions:

- (a) the instrument is issued and fully paid up;
- (b) the liability is not owed to, secured by or guaranteed by the institution itself (using security interest, surety, bank guarantee or other similar means of security);

- (c) the purchase of the instrument was not funded directly or indirectly by the institution;
- (d) the liability has a remaining maturity of at least one year; where a liability confers upon its owner a right to early reimbursement, the maturity of that liability shall be the first date where such a right arises;
- (e) the liability does not arise from a derivative;
- (f) the liability does not arise from a deposit which benefits from preference in the national insolvency hierarchy under a separate regulation<sup>59a</sup>.

(3) Where a liability is governed by the law of a third country, the institution shall, if requested by the Council, demonstrate that any decision of the Council to write down or convert that liability would be effective under the law of that third country, otherwise the liability shall not be included in the minimum requirement.

(4) The minimum requirement as defined in paragraph 1 shall be determined by the Council, after consulting Národná banka Slovenska, at least on the basis of the following criteria:

- (a) the need to ensure that the institution can be resolved by the application of appropriate resolution tools, including the bail-in tool, in a way that meets the resolution objectives;
- (b) the need to ensure that the institution has sufficient eligible liabilities to ensure that, if the bail-in tool were to be applied, losses could be absorbed and the Common Equity Tier 1 ratio of the institution could be restored to a level necessary to enable it to continue to comply with the conditions for authorisation under a separate regulation<sup>71</sup> and to sustain sufficient market confidence in other institutions or entities;
- (c) the need to ensure that, if the resolution plan anticipates that certain classes of eligible liabilities might be excluded from bail-in under Article 59(2) or that certain classes of eligible liabilities might be transferred to the acquirer in full under a partial transfer, that the institution has sufficient other eligible liabilities to ensure that losses could be absorbed and the Common Equity Tier 1 ratio of the institution could be restored to a level necessary to enable it to continue to comply with the conditions for authorisation under separate regulations<sup>71</sup>;
- (d) the size, the business model, the funding model, and the risk profile of the institution;
- (e) the extent to which the Deposit Guarantee Fund or the Investment Guarantee Fund could contribute to the financing of resolution in accordance with Article 96(2)(d);
- (f) the extent to which the failure of the institution would have adverse effects on financial stability, including, due to its interconnectedness with other institutions or with the rest of the financial system, through contagion to other institutions.

(5) Institutions shall comply with the minimum requirement laid down in this Article on an individual basis. The Council may, after consulting Národná banka Slovenska, decide to apply the minimum requirement to an entity referred to in points (b) to (d) of Article 1(3), too.

(6) EU parent institutions established in the Slovak Republic shall comply with the minimum requirement on a consolidated basis. The minimum requirement for EU parent institutions established in the Slovak Republic at the consolidated level shall be determined by the Council being a group-level resolution authority, after consulting the Národná banka Slovenska in accordance with paragraph 7, at least on the basis of the criteria laid down in

paragraph 4 and of whether the third-country subsidiaries of the group are to be resolved separately according to the resolution plan.

(7) The Council shall, together with the resolution authorities of other Member States responsible for the subsidiaries on an individual basis, do everything within their power to reach a joint decision on the level of the minimum requirement applied at the consolidated level within four months of the date when the Council notifies the proposed level of the consolidated minimum requirement to the resolution authorities of other Member States responsible for the subsidiaries in question.

(8) If, by the end of the four-month period, any of the resolution authorities referred to in paragraph 7 has requested assistance from the European supervisory authority (European Banking Authority) to reach a decision on the level of the minimum requirement under a separate regulation<sup>66</sup>, the Council shall defer its decision and await any decision that the European supervisory authority (European Banking Authority) may take in the matter. The Council shall determine the level of the consolidated minimum requirement in accordance with the decision of the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) fails to decide in the matter within one month of the date of delivery of a request for assistance or if none of the resolution authorities mentioned in paragraph 7 has referred the matter to the European supervisory authority (European Banking Authority) and if the Council has failed to reach a joint decision, the Council shall determine the consolidated minimum requirement on its own. The Council shall notify the consolidated minimum requirement to the authorities mentioned in paragraph 7 and to the relevant EU parent institution established in the Slovak Republic.

(9) In setting the minimum requirement for subsidiaries, the Council shall take into account the attributes listed in paragraph 4, in particular the size, the business model, and the risk profile of the subsidiary, including its own funds. The Council shall also take into account the consolidated minimum requirement for the group under paragraph 7. The Council shall notify the proposed level of the minimum requirement to the group-level resolution authority and, together with that authority and the resolution authorities responsible for subsidiaries on an individual basis, shall do everything within their power to reach a joint decision on the level of the minimum requirement to be applied to each respective subsidiary within four months of the date when the said notification is delivered to the group-level resolution authority.

(10) If the group-level resolution authority requests assistance from the European supervisory authority (European Banking Authority) to reach a decision regarding the setting of a minimum requirement for a subsidiary under a separate regulation<sup>66</sup>, the Council shall defer its decision and await any decision that the European supervisory authority (European Banking Authority) may take in the matter. The Council shall set the minimum requirement in accordance with the decision of the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) fails to issue a decision within one month of the date of delivery of a request for assistance or if the group-level resolution authority has not requested assistance from the European supervisory authority (European Banking Authority) to reach a decision, the Council shall set a minimum requirement for the subsidiary on its own. The Council shall notify the minimum requirement to the group-level resolution authority and to the subsidiary concerned.

(11) The Council as a group-level resolution authority, together with the resolution authorities exercising resolution powers over subsidiaries, shall do everything within their power to reach a joint decision on the level of the minimum requirement for those subsidiaries within four months of the date when the resolution authorities notified the proposed level of the minimum requirement to the Council.

(12) The Council may, within the time limit stipulated in paragraph 11, request assistance from the European supervisory authority (European Banking Authority) to reach a decision regarding the setting of a minimum requirement for a subsidiary in accordance with a separate regulation<sup>66</sup>. This shall not apply if the resolution authority exercising resolution powers over the subsidiary has proposed a minimum requirement that differs from the consolidated minimum requirement by less than one percentage point.

(13) The Council may fully waive the application of the minimum requirement to a subsidiary on an individual basis pursuant to paragraph 5 where:

- (a) both the subsidiary and its parent institution are subject to supervision by Národná banka Slovenska;
- (b) the subsidiary is included in the supervision on a consolidated basis of the parent institution which is an institution;
- (c) the highest-level group institution in the Member State of the subsidiary, if different to the EU parent institution, complies on a sub-consolidated basis with the minimum requirement set under paragraph 4;
- (d) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities to the subsidiary by its parent institution;
- (e) the parent institution satisfies Národná banka Slovenska regarding the prudent management of the subsidiary and has declared that it guarantees the commitments entered into by the subsidiary or the risks in the subsidiary are of negligible interest; Národná banka Slovenska shall inform the Council of these facts without delay;
- (f) the risk evaluation, measurement, and control procedures of the parent institution cover the subsidiary;
- (g) the parent institution holds more than 50% of the voting rights attached to shares in the capital of the subsidiary or has the right to appoint or remove a majority of the members of the statutory body or supervisory board of the subsidiary; and
- (h) Národná banka Slovenska has fully waived the application of individual capital requirements to the subsidiary under a separate regulation.

(14) The Council may require institutions to meet the minimum requirement for own funds and eligible liabilities fully or partially at consolidated or individual level through contractual bail-in instruments.

(15) Institutions under resolution shall demonstrate to the Council that their contractual bail-in instrument:

- (a) contains a contractual term providing that, where the Council decides to apply the bail-in tool to that institution, the instrument shall be written down or converted to the extent required before other eligible liabilities are written down or converted; and

- (b) is subject to a binding subordination agreement, undertaking or provision under which, in the event of normal insolvency proceedings, it ranks below other eligible liabilities and cannot be repaid until other eligible liabilities outstanding at that time have been settled.

(16) The Council shall, in cooperation with Národná banka Slovenska, require and verify that institutions meet the minimum requirement for own funds and eligible liabilities. For this purpose, institutions under resolution shall compile and submit to the Council and to Národná banka Slovenska a report whose structure, scope, contents, form, place and date of delivery, and the method of compilation shall be stipulated by Národná banka Slovenska, after consulting the Ministry, in a decree published in the Collection of Laws of the Slovak Republic.

(17) The Council shall, in cooperation with Národná banka Slovenska, notify the minimum requirement and the decision taken under paragraph 14 to the European supervisory authority (European Banking Authority).

(18) The Council as a group-level resolution authority may grant a parent institution full exemption from the obligation to meet the minimum requirement on an individual basis where:

- (a) the parent institution satisfies the minimum requirement on a consolidated basis in accordance with paragraph 6;
- (b) Národná banka Slovenska as a group-level supervisory authority has granted the parent institution full exemption under a separate regulation<sup>71a</sup>.

## PART FOUR

### RESOLUTION PROCEEDINGS

#### Article 32

(1) Resolution proceedings shall be instituted in the public interest, as appropriate.

(2) For the purposes of this Act, resolution proceedings shall be instituted in the public interest where necessary for the achievement of at least one of the goals set out in Article 1(2) and where the liquidation or placement into bankruptcy<sup>62</sup> of an institution that is failing, or is likely to fail in the near future, would not lead to the attainment of that goal.

(3) Compensation payment under Article 78b shall fall within the competence of the Council.

#### Article 33

### Basic rules of resolution proceedings

(1) Resolution proceedings shall be governed by the following rules:

- (a) the shareholders and owners of other instruments of ownership of the institution under resolution shall be the first to bear the adverse consequences of a crisis situation;

- (b) the creditors of the institution under resolution shall bear the adverse consequences after the shareholders and owners of other instruments of ownership in accordance with the order of priority of their claims under normal insolvency proceedings pursuant to a separate regulation<sup>62</sup>;
- (c) the statutory body, supervisory board and senior employees of the institution under resolution shall be replaced, except in cases where the retention of the statutory body, supervisory board and senior employees, in whole or in part, as appropriate to the circumstances, is considered necessary for the achievement of the resolution objectives;
- (d) the statutory body, supervisory board and senior employees of the institution under resolution shall provide the necessary assistance for the achievement of the resolution objectives;
- (e) creditors of the same category shall be treated in the same manner;
- (f) no creditor shall incur greater losses than would have been incurred if the institution had been wound up under normal insolvency proceedings pursuant to a separate regulation<sup>62</sup>, with regard to the safeguards provided for in Articles 76 to 83;
- (g) the protection of covered deposits under a separate regulation<sup>1</sup> and the client's property under a separate regulation<sup>2</sup> shall not be affected by the resolution proceedings;
- (h) resolution measures shall be taken in accordance with the safeguards provided for in Articles 76 to 83;
- (i) if the institution under resolution is a group entity, the resolution authority shall, without prejudice to Article 1(2), apply resolution tools and exercise resolution powers in a way that minimises the impact on other group entities and on the group as a whole and minimises the adverse effects on financial stability in the European Union and in its Member States, in particular in the countries where the group operates.

(2) Where the sale of business / partial sale of business tool, the bridge institution tool, or the asset separation tool is applied to an institution, that institution shall be considered to be the subject of bankruptcy proceedings or analogous insolvency proceedings under a separate regulation<sup>62</sup>.

(3) When applying resolution tools and exercising resolution powers, the Council shall inform and consult employee representatives where appropriate.

(4) The Council shall apply resolution tools and exercise resolution powers in accordance with the relevant provisions of the Commercial Code governing the representation of employees in management bodies.

#### Article 34

#### **Conditions for resolution**

(1) The Council shall assess whether the conditions for the commencement of resolution proceedings are met. In so doing, it shall assess whether:

- (a) the institution is failing or is likely to fail in the near future;
- (b) resolution is necessary in the public interest; and
- (c) there is no reasonable prospect that any alternative measures taken in respect of the institution would prevent its failure within a reasonable timeframe.

(2) An institution shall be deemed to be failing or likely to fail in the near future if at least one of the following conditions is met:

- (a) there are reasons to withdraw the institution's authorisation or there are circumstances on the basis of which its authorisation may be withdrawn in the near future;
- (b) the institution has fewer assets than liabilities or there are circumstances indicating that it will have fewer assets than liabilities in the near future;
- (c) the institution is, or there are circumstances indicating that it will, in the near future, be unable to pay its liabilities as they fall due;
- (d) extraordinary public financial support is required by the institution, except where, in order to avoid or remedy a serious disturbance in the economy and to preserve financial stability, the extraordinary public financial support takes any of the following forms:
  - 1. a State guarantee to back liquidity facilities provided by the central bank in the form of short-term loans under the central bank's terms;
  - 2. a State guarantee for newly issued liabilities; or
  - 3. an injection of own funds or capital instruments purchased at prices and under terms that do not confer an advantage upon the institution, where neither the circumstances referred to in points (a) to (c) of this paragraph nor the circumstances referred to in Article 70(3) are present at the time when extraordinary public financial support is granted; the form of such support shall be limited to injections necessary for capital replenishment up to the required level of capital adequacy determined on the basis of stress tests,<sup>71b</sup> asset quality reviews or equivalent reviews carried out by the European Central Bank, the European supervisory authority (European Banking Authority) or by the competent authorities of Member States, where applicable under the law of the Member State concerned, confirmed by the competent supervisory authority.

(3) In each of the cases mentioned in paragraph 2(d), the guarantee or equivalent measures referred to therein shall be confined to solvent institutions and shall be conditional on final approval under the European Union's State aid framework. Those measures shall be of a precautionary and temporary nature and shall not be used to offset losses that the institution has incurred.

(4) Národná banka Slovenska shall notify the Council as soon as it concludes that any of the conditions set out in paragraph 2 is met. The notification sent to the Council shall contain the facts on the basis of which Národná banka Slovenska has come to this conclusion. If the Council finds that any of the conditions set out in paragraph 2 is met, it shall inform Národná banka Slovenska of this fact without undue delay.

(5) The conditions specified in paragraph 2 indicating that an institution is failing or is likely to fail in the near future may be pronounced met either by Národná banka Slovenska after consultation with the Council or by the Council after consultation with Národná banka Slovenska. The Council shall monitor throughout the resolution proceedings whether the conditions set out in paragraph 1 are met. If the Council finds that these conditions are no longer met, it shall stop the resolution proceedings and proceed in accordance with this Act.

## Article 35

### **Participants in resolution proceedings**

(1) The key participant in resolution proceedings shall be the institution that is under resolution.

(2) The Council may, on its own initiative, invite another entity to participate in the resolution proceedings if that entity may be substantially affected by the resolution.

#### Article 36

##### **Representation**

(1) A participant in resolution proceedings may only be represented by a duly authorised lawyer.

(2) If there are more participants in resolution proceedings, they may be represented by their common lawyer.

#### Article 37

##### **Steps to be taken before the commencement of resolution proceedings**

(1) Where resolution proceedings are initiated by the Council itself, the Council shall, before deciding to commence resolution proceedings, request Národná banka Slovenska to state its opinion as to whether the conditions set out in Article 34(1)(a) and (c) are met; Národná banka Slovenska shall provide its opinion without undue delay.

(2) Before deciding to commence resolution proceedings, the Council shall also request an opinion from the institution concerned, where appropriate.

#### Article 38

##### **Commencement of resolution proceedings**

(1) Resolution proceedings may be commenced where the conditions set out in Article 34(1) are met, irrespective of whether or not the proceedings have been proposed.

(2) A proposal to commence resolution proceedings may be submitted by:

- (a) Národná banka Slovenska; or
- (b) the institution concerned via Národná banka Slovenska.

(3) Such proposal shall be submitted in writing and shall set out the reasons to commence resolution proceedings, the resolution objective in relation to the institution and other entities concerned, and the resolution tools proposed, including justification. In the case of a proposal referred to in paragraph 2(b), the proposal must also contain general information as required by a separate regulation<sup>26</sup>.

(4) Where resolution proceedings are proposed by Národná banka Slovenska, Národná banka Slovenska shall state in its proposal whether or not the conditions set out in Article 34(1)(a) and (c) are met.

(5) If the Council finds that the conditions set out in Article 34(1) are not met, it shall reject any proposal for the commencement of resolution proceedings. After rejecting

a proposal for the commencement of resolution proceedings, the Council may submit a petition for a bankruptcy order against the institution concerned under a separate regulation<sup>23a</sup>; this shall be without prejudice to the right to submit a petition for a bankruptcy order against the institution during or after the resolution proceedings, where appropriate for the achievement of the goals referred to in Article 1(2).

(6) An institution under resolution shall compile detailed financial statements in accordance with a separate regulation<sup>71c</sup> for the date when resolution proceedings are to be commenced.

#### Article 39

##### **Resolution decisions**

(1) Resolution proceedings shall commence with the issuance by the Council of a resolution decision.

(2) Resolution decisions shall be made in writing and shall contain a resolution order, a statement of the main reasons for the commencement of resolution proceedings, and information on the right of appeal and judicial review in accordance with paragraph 4.

(3) Resolution decisions shall be delivered to the addressee's own hands. Such decisions shall be published in the Commercial Journal under a separate law<sup>72</sup> and on the websites of the Council, Národná banka Slovenska and of the institution concerned, unless the Council decides otherwise.

(4) Resolution decisions shall become legally effective and enforceable upon delivery. There is no judicial remedy against such decisions.

#### Article 40

##### **Effects of commencement of resolution proceedings**

(1) The commencement of resolution proceedings shall suspend any judicial proceedings and other proceedings concerning the property of the institution under resolution, unless the Council provides otherwise in its decision to commence resolution proceedings. The relevant limitation periods defined in a separate law shall be interrupted.

(2) The commencement of resolution proceedings shall prevent the institution under resolution from being put under bankruptcy or restructuring. Such institutions may not be placed under receivership either.

(3) Proceedings suspended under paragraph 1 can be continued at the Council's suggestion. In resolution proceedings, the Council shall act on behalf and for the account of the institution under resolution.

(4) Legal acts that are linked to the commencement of resolution proceedings against an institution through separate arrangements shall be ineffective during the resolution proceedings, unless the Council decides otherwise. The Council may specify or change the range of effects of these acts or decide that their effects will be conditional on the fulfilment of certain requirements.

(5) The rights of an institution under resolution to handle property, enter into contracts or act otherwise shall be restricted to the extent to which these rights are transferred to the Council under this Act and separate regulations governing the institution's activities.

(6) The Council may adjust the right to resist the institution's acts to the same extent as it could be exercised by the manager declaring the institution bankrupt under separate regulations<sup>62</sup>.

(7) The Council may decide to change the maturity of claims and liabilities and the range thereof. The maturity of claims and liabilities arising from mortgage transactions<sup>73</sup> or similar transactions in real property, with a maturity of more than four years, shall not be affected by the commencement of resolution proceedings. If a claim from a mortgage transaction or a similar transaction falls due in line with the relevant contract or as a result of a unilateral act at a time less than six months before the issuance of a decision on the commencement of resolution proceedings or other proceedings under this Act, to which the provisions on resolution proceedings apply as appropriate, any of the contracting parties may notify in writing the other party or the Council of their claim for effects pursuant to the second sentence; the said effects will materialise on the basis of that notification and the maturity of claims or liabilities arising from mortgage transactions or similar transactions shall be deemed non-existing. The provisions of this paragraph shall also apply proportionately to the maturity of claims and liabilities that have a similar position as mortgage transactions in terms of nature, subject, and maturity.

(8) A contract for the consolidation, merger or split of an institution shall be subject to approval by the Council. The consolidation, merger or split of an institution may be entered into the Commercial Register only with the Council's consent.

(9) At the request of a shareholder or shareholders whose shares have a nominal value of at least 5% of the share capital or, if the statutes allow, of a shareholder or shareholders whose shares have a nominal value of less than 5% of the share capital, for the inclusion of a certain matter in the agenda of a general meeting convened to approve a share capital increase under the conditions set out in paragraph 1, delivered after the invitation to the general meeting or after the publication of a notification of a general meeting, the matter in question can be included in the agenda of the general meeting only in the presence and with the consent of all shareholders.

(10) Certain provisions shall not apply during resolution proceedings, specifically those pertaining to:

- (a) the obligation to value non-monetary deposits<sup>74</sup>;
- (b) the obligation to convene a general meeting<sup>75</sup>;
- (c) the majority needed to approve a decision on a share capital increase<sup>76</sup>;
- (d) the due form of a notification of, or an invitation to, a general meeting to approve a share capital increase<sup>77</sup>;
- (e) the right to preferential share subscription<sup>78</sup>;
- (f) the majority of votes and other conditions needed for the approval of a decision on a share capital reduction<sup>79</sup>;
- (g) the rules governing the withdrawal of shares from circulation<sup>80</sup>;

(h) the rules governing the protection of creditors in the case of a share capital reduction<sup>81</sup>.

(11) The Council may decide to exclude some of the effects referred to in paragraphs 1 to 10.

#### Article 41

##### **Decision to apply a resolution tool**

(1) The Council shall decide, in a decision to apply a resolution tool, to apply a resolution tool to an institution placed under resolution.

(2) In deciding pursuant to paragraph 1, the Council shall proceed on its own, impartially and independently, without being bound by the proposals of participants and other entities.

(3) A decision referred to in paragraph 1 shall be made in writing and shall contain a resolution order, a statement of the main reasons for the application of a resolution tool, and information about the right of appeal and judicial review in accordance with Articles 6e(12) and 99a(3).

(4) A decision to apply a resolution tool in accordance with paragraph 1 shall be delivered to the relevant representatives of the institution under resolution in person. Such decision shall be promulgated in the Commercial Journal<sup>82</sup> and published on the websites of the Council, Národná banka Slovenska and of the institution concerned, unless the Council decides otherwise.

(5) A decision referred to in paragraph 1 shall become enforceable upon delivery.

(6) When deciding, the Council shall assess the proofs both individually and in relation to one another, while carefully considering any facts that came to light during the resolution proceedings. The Council shall exercise due care to ensure that no unjustified differences occur when decisions are made in factually and legally corresponding cases. The decisions will depend on the factual and legal status of the cases at the time when the decisions are made.

#### Article 42

For the purpose of exercising its powers in resolution proceedings, including the power to execute decisions imposing resolution measures, the Council may appoint up to three special administrators.

#### Article 43

##### **Expiry of a participant's position in resolution proceedings**

(1) The position of a participant in resolution proceedings shall expire upon enforcement of the rights or discharge of the obligations specified in a decision imposing a measure relating directly to the participant, if the further steps or actions taken during the resolution proceedings do not directly affect the participant's other rights or obligations or if there is no proof of the existence of facts justifying that the participant should be continued to be treated as a participant in the resolution proceedings.

(2) A person or entity claiming to be a participant in resolution proceedings may initiate judicial review proceedings under a separate regulation<sup>83</sup> in respect of a Council decision rejecting a proposal submitted under Article 38(2).

#### Article 44

### **Interruption of resolution proceedings**

Resolution proceedings may be interrupted by the Council. Such proceedings shall be interrupted until a decision to continue the proceedings is issued or until a certain act is carried out in relation to a participant in the proceedings in question. In its decision to interrupt the resolution proceedings, the Council shall decide which of the effects of the proceedings will be preserved during the period for which the resolution proceedings are interrupted.

#### Article 45

### **Discontinuation of resolution proceedings**

(1) The Council shall, on request or on its own initiative, discontinue resolution proceedings if the reasons for which the proceedings have been commenced no longer exist. A request to discontinue resolution proceedings may only be submitted by Národná banka Slovenska.

(2) As a result of the Council's decision to discontinue the resolution proceedings, the proceedings shall be discontinued and the effects resulting from the commencement of resolution proceedings under Article 38 shall expire, unless the decision provides otherwise.

(3) Resolution proceedings may also be discontinued on the basis of a court ruling, cancelling the Council's decision to institute resolution proceedings.

#### Article 46

### **Completion of resolution proceedings**

(1) The Council shall decide to end the resolution proceedings after the purpose of the proceedings has been accomplished, by issuing a decision ending the resolution proceedings in question.

(2) In a decision to end the resolution proceedings, the Council may determine which effects resulting from such proceedings will expire. In such a decision, the Council may assign additional rights and obligations to a participant in the resolution proceedings or to another participating entity; these are to be adjusted to the ending of the resolution proceedings.

#### Article 47

### **Common provisions**

(1) The Council shall notify the issuance of a resolution decision to:

(a) the supervisory authority responsible for supervising the branches of the institution to be resolved;

- (b) Národná banka Slovenska;
- (c) the Deposit Protection Fund;
- (d) the Investment Guarantee Fund;
- (e) the competent group-level resolution authorities where necessary;
- (f) the Ministry;
- (g) the Security Council of the Slovak Republic;
- (h) the supervisory authority responsible for consolidated supervision;
- (i) the European supervisory authority (European Banking Authority);
- (j) the European Systemic Risk Board;
- (k) the European Commission;
- (l) the European Central Bank;
- (m) the European Securities and Markets Authority;
- (n) the European supervisory authority for insurance;
- (o) the operators of payment systems and transaction settlement systems of which the institution is a member;
- (p) the Agency for Debt and Liquidity Management and the State Treasury;
- (q) the owners of shares, other instruments of ownership and debt instruments issued by the institution under resolution and admitted to trading on a regulated market, through means used for the disclosure of regulated information in accordance with a separate regulation<sup>83a</sup>;
- (r) the owners of shares, other instruments of ownership and debt instruments issued by the institution under resolution but not admitted to trading on a regulated market, if they are known from the databases of the institution under resolution or from other sources that are available to the Council.

(2) The Minister of Finance of the Slovak Republic shall, without delay, inform the Government of the Slovak Republic (hereinafter ‘the Government’) of the issuance of a resolution decision.

## PART FIVE

### **SPECIAL PROVISIONS FOR THE RESOLUTION OF FINANCIAL INSTITUTIONS, HOLDING COMPANIES OR GROUPS**

#### Article 48

#### **Conditions for the resolution of financial institutions and holding companies**

(1) The Council shall take resolution action in relation to a financial institution pursuant to Article 1(3)(b) where, in respect of the financial institution and its parent institution subject to consolidated supervision, the conditions set out in Article 34(1) are met.

(2) The Council shall take resolution action in relation to an institution or an entity pursuant to Article 1(3)(b) to (d) where, in respect of one or more subsidiaries that are institutions, the conditions set out in Article 34(1) are met.

(3) The Council shall take resolution action where the resolution authority of a third country or the supervisory authority of a subsidiary established in a third country issues a statement confirming that the subsidiary in question has met the conditions for resolution in accordance with the law of that third country.

(4) Where the subsidiaries of a mixed-activity holding company are held directly or indirectly by an intermediating financial holding company, resolution action shall be taken at group level in relation to the intermediating financial holding company, but, in relation to the mixed-activity holding company, no resolution action shall be taken at group level.

(5) The provisions of paragraph 3 shall apply to institutions even if they do not meet the conditions set out in Article 34(1). In such cases, the competent resolution authorities may take resolution action in relation to an entity pursuant to Article 1(3) where one or more subsidiaries, which are institutions to be resolved, satisfy the conditions set out in Article 34(1) and (4) and have assets and liabilities which, in case of failure, represent a risk for the institution or the group as a whole, or the State's bankruptcy law requires that groups are treated as a whole.

(6) When compliance with the conditions set out in Article 34(1) is assessed in respect of one or more subsidiaries which are institutions to be resolved, a joint agreement may be made between the group entities in respect of capital or loss transfers within the group, including the exercise of debt write-down or conversion powers.

#### Article 48a

#### **General principles regarding decision-making involving more than one Member State**

(1) In exercising its powers under this Act, which may affect more than one Member State, the Council shall have regard to the following general principles:

- (a) the imperatives of efficacy of decision-making and of keeping resolution costs as low as possible when taking resolution action;
- (b) that decisions are made and action is taken in a timely manner and with due urgency when required;
- (c) that the competent resolution authorities, Národná banka Slovenska, the supervisory authorities of Member States and other authorities cooperate with each other to ensure that decisions are made and action is taken in a coordinated and efficient manner;
- (d) that due consideration is given to the interests of the Member States where the EU parent institutions are established, in particular the impact of any decision or action or inaction on the financial stability, fiscal resources, resolution fund, deposit guarantee scheme or client asset protection scheme of those Member States;
- (e) that due consideration is given to the interests of each individual Member State where a subsidiary is established, in particular the impact of any decision or action or inaction on the financial stability, fiscal resources, resolution fund, deposit guarantee scheme or client asset protection scheme of those Member States;

- (f) that due consideration is given to the interests of each Member State where significant branches are located, in particular the impact of any decision or action or inaction on the financial stability of those Member States;
- (g) that due consideration is given to the objectives of balancing the interests of the various Member States involved and of avoiding unfairly prejudicing or unfairly protecting the interests of particular Member States, including avoiding unfair burden allocation across Member States;
- (h) that resolution actions are taken in accordance with the resolution plans referred to in Article 21, except where the resolution objectives can be achieved more effectively by taking actions which are not provided for in the resolution plans;
- (i) that resolution proceedings are conducted in a transparent manner whenever a proposed decision or action is likely to have implications for the financial stability, fiscal resources, resolution fund, deposit guarantee scheme or client asset protection scheme of any of the Member States concerned;
- (j) that coordination and cooperation are ensured with a view to reducing the total cost of resolution.

(2) Where the competent authority is to be consulted before any decision or action is taken under this Act, the subject of such consultation shall be those elements of the proposed decision or action which have or are likely have:

- (a) an impact on the EU parent institution, subsidiary or branch of the relevant third-country institution under resolution;
- (b) an impact on the stability of the Member State where the EU parent institution, subsidiary or branch of the relevant third-country institution is established or located.

#### Article 49

#### **Resolution of subsidiaries at group level**

(1) The Council shall notify the group-level resolution authority, the group-level supervisory authority and the members of the resolution college as soon as an institution under resolution, which is a subsidiary, has met the criteria for the commencement of resolution proceedings. The Council shall also announce the resolution tools it proposes to apply to the institution mentioned in the previous sentence or its intention to submit a petition for a bankruptcy order. In this notification or at any time within 24 hours of its delivery to the group-level resolution authority, the Council may grant its consent to the group-level resolution authority to assess the possible effects of the resolution tools proposed or of the petition for a bankruptcy order within a period longer than 24 hours. If, within 24 hours of the delivery of such notification or within the period mentioned in the previous sentence, the group-level resolution authority notifies the Council that, owing to the resolution tools proposed or to the petition for a bankruptcy order, the criteria for the commencement of resolution proceedings are unlikely to be met in the case of a group entity established in another Member State, or if the time limit expires, the Council may take resolution action or submit a petition for a bankruptcy order in accordance with the notification mentioned in the previous sentence.

(2) If, within the period mentioned in paragraph 1, the group-level resolution authority notifies the Council that, owing to the resolution action proposed or to the petition for

a bankruptcy order, the criteria for the commencement of resolution proceedings are likely to be met also in relation to a group entity established in another Member State, and proposes a group resolution scheme, the Council shall, together with the resolution authorities that are covered by the resolution scheme, make every effort to reach a joint decision in respect of the group resolution scheme in question. Before reaching a joint decision, the Council or the resolution authorities that are covered by the group resolution scheme may request assistance from the European supervisory authority (European Banking Authority) in accordance with a separate regulation<sup>66</sup>.

(3) If the Council disagrees, in whole or in part, with a group resolution scheme proposed by a group-level resolution authority or is of the opinion that another resolution tool or measure not included in the group resolution scheme should be used for the resolution of an institution with regard to the need to maintain financial stability in the Slovak Republic, the Council shall report this fact, together with a statement of the reasons, to the competent group-level resolution authority and to all the other resolution authorities that are covered by the group resolution scheme. The report shall contain the measures the Council intends to take in relation to the institution under resolution which is a subsidiary. The statement of the reasons shall take into account the resolution plans referred to in Article 21 and the possible effects of the proposed measures on financial stability in the Member States concerned and on other group entities.

(4) If the Council proceeds in accordance with paragraph 2 and decides to apply a separate resolution tool or a measure not included in the group resolution scheme, it shall inform the members of the relevant resolution college on a regular basis. Furthermore, the Council shall cooperate with the other members of the resolution college with the aim of developing a well-coordinated resolution strategy for all the entities that are failing or are likely to fail within the relevant group.

(5) The Council as a group-level resolution authority shall, after being notified by the relevant resolution authority that a subsidiary institution has met the criteria for the commencement of resolution proceedings and after consulting the members of the relevant resolution college, assess the possible impact on the group and on group entities established in other Member States of the resolution measures proposed or of the petition for a bankruptcy order against that subsidiary institution. Within the scope of this assessment, the Council shall evaluate whether, in view of the resolution tools proposed or of the bankruptcy proposal, it is possible to assume that the conditions for the commencement of resolution proceedings will also be met in the case of a group entity established in another Member State.

(6) If the Council assesses pursuant to paragraph 5 that, in view of the resolution tools proposed or of the petition for a bankruptcy order, the criteria for the commencement of resolution proceedings are unlikely to be met in the case of a group entity established in another Member State, the Council shall report this fact to the competent resolution authority within 24 hours of the delivery of such report or within a period longer than 24 hours with the consent of the resolution authority that delivered the said report.

(7) If the Council assesses pursuant to paragraph 5 that, in view of the resolution tools proposed or of the petition for a bankruptcy order, the criteria for the commencement of resolution proceedings are also likely to be met in the case of a group entity established in another Member State, the Council shall report this fact to the competent resolution authority and shall, within the time limit specified in paragraph 6, propose and submit to the relevant

resolution college a group resolution scheme. The Council shall, together with the resolution authorities that are covered by the group resolution scheme, make every effort to reach a joint decision in respect of the group resolution scheme.

(8) If the Council fails to reach a joint decision in respect of a group resolution scheme with all the resolution authorities to which that scheme relates, the Council shall take a joint decision with the resolution authorities to which the said group resolution scheme applies and which agree to that scheme.

(9) A group resolution scheme shall:

- (a) take into account the resolution plans referred to in Article 21, unless the competent resolution authorities assess that the resolution objectives will be achieved more effectively by taking actions that are not provided for in the resolution plans;
- (b) contain measures for the resolution of the relevant EU parent institution established in the Slovak Republic or for the resolution of one or more subsidiaries in order that the resolution objectives are fulfilled;
- (c) include a method for coordinating the measures referred to in point (b);
- (d) contain a financing plan in accordance with the group resolution plan, taking into account the principles governing the division of responsibilities under Article 26(4)(f) and the general principles governing the joint utilisation of funds under Article 96.

#### Article 50

#### **Resolution at group level**

(1) Where the Council as a group-level resolution authority finds that an EU parent institution established in the Slovak Republic has met the criteria for the commencement of resolution proceedings, it shall promptly report this fact to Národná banka Slovenska and to the other members of the resolution college. The Council shall also report the resolution actions it intends to take or its intention to submit a petition for a bankruptcy order. The Council may state in this report that it will proceed in accordance with the resolution scheme drawn up for the group under Article 49(9) where:

- (a) resolution actions or other measures taken at parent level only make it likely that the criteria for the commencement of resolution proceedings against a group entity established in another Member State will be fulfilled;
- (b) resolution actions or other measures taken at parent level only are assumed to be inadequate or inappropriate for achieving the resolution objectives;
- (c) one or more subsidiaries meet the criteria for the commencement of resolution proceedings according to a notification received from the resolution authorities responsible for those subsidiaries; or
- (d) resolution actions or other measures taken at group level are assumed to be more beneficial to the subsidiaries of the group.

(2) The Council shall, together with the resolution authorities that are covered by the relevant group resolution scheme, make every effort to reach a joint decision in respect of that resolution scheme; the Council shall otherwise proceed in accordance with Article 49(2). Before reaching a joint decision, the Council or the resolution authorities that are covered by

the group resolution scheme may request assistance from the European supervisory authority (European Banking Authority) under a separate regulation<sup>66</sup>.

(3) After discussing its determination to not proceed according to the group resolution scheme with the members of the resolution college, the Council shall issue a decision taking into account the following facts:

- (a) the resolution plans as described in Article 21; this shall not apply where the resolution authorities assess according to the circumstances that the resolution objectives will be achieved more effectively through the adoption of measures that are not included in the resolution plans;
- (b) the requirement to preserve financial stability in the Member States concerned.

(4) If the group-level resolution authority notifies the Council that it will proceed according to the group resolution scheme, the Council shall, together with the resolution authorities that are covered by the group resolution scheme, make every effort to reach a joint decision in respect of the group resolution scheme.

(5) If the Council disagrees with or departs from the group resolution scheme proposed by the group-level resolution authority or considers that, in order to preserve financial stability in the Slovak Republic, it needs to take independent resolution actions or measures other than those proposed in the scheme, the Council shall report this fact, together with the reasons, to the group-level resolution authority and to other resolution authorities that are covered by the group resolution scheme. The report shall contain the actions the Council intends to take against the institution under resolution which is a subsidiary. When setting out the reasons, the Council shall take into consideration the resolution plans as referred to in Article 21, the potential impact on financial stability in the Member States concerned, as well as the potential effect of the actions or measures on other parts of the group.

(6) If the Council proceeds according to paragraph 5 and takes independent resolution actions or measures other than those proposed in the group resolution scheme, it shall inform the members of the resolution college of these actions or measures and of their performance on a continuous basis. In addition, the Council shall continue cooperating with the resolution college with the aim of developing a coordinated resolution strategy for group entities that are failing or are likely to fail in the near future.

## PART SIX

### VALUATION OF ASSETS, RIGHTS AND LIABILITIES

#### Article 51

##### **Valuation for resolution purposes**

(1) Before taking resolution actions or exercising its powers to write down or convert capital instruments, the Council shall ensure that a fair and realistic valuation of the assets and liabilities of any institution that meets the conditions for the commencement of resolution proceedings under Article 34(1) is carried out. Where all of the conditions laid down in this paragraph are met, the valuation shall be considered to be definitive.

(2) The valuation shall be carried out by a person independent from any public authority, including the Council and the institution whose assets and liabilities are to be valued. If the person referred to in paragraph 3 is aware of any fact that may raise doubts about their impartiality, they shall report this fact to the Council without delay. The reporting requirement shall also apply where such fact is revealed during the valuation process.

(3) The valuation shall be carried out by a person designated by the Council. The Council shall enter into an agreement with this person on the valuation of assets and liabilities, which shall specify in detail the designated person's rights and obligations, as well as their responsibility for any damage caused by an incorrect valuation.

(4) An institution that meets the conditions laid down in Article 34(1) shall, if requested, provide cooperation and reliable data without delay to the person referred to in paragraph 3 for valuation purposes.

(5) The purposes of the valuation shall be:

- (a) to inform the determination of whether the conditions for the write-down or conversion of capital instruments are met;
- (b) to inform the determination of whether the conditions for resolution are met and to ensure the necessary information for the Council to select an appropriate resolution action;
- (c) when the power to write down or convert capital instruments is applied, to inform the decision on the extent of the cancellation or dilution of shares or other instruments of ownership, and the extent of the write-down or conversion of capital instruments;
- (d) when the bail-in tool is applied, to inform the decision on the extent of the write-down or conversion of eligible liabilities;
- (e) when the bridge institution tool or asset separation tool is applied, to inform the decision on the assets, rights, liabilities, shares or other instruments of ownership to be transferred and the decision on the value of any consideration to be paid to the institution under resolution or, as the case may be, to the owners of shares or other instruments of ownership;
- (f) when the sale of business tool is applied, to inform the decision on the assets, rights, liabilities, shares or other instruments of ownership to be transferred;
- (g) in all cases, to ensure that any losses on the assets of the institution under resolution are fully recognised in the institution's books of accounts at the moment the resolution tools are applied or the power to write down or convert capital instruments is exercised.

(6) The Council shall ensure that the valuation defined in paragraph 1 is carried out in accordance with the European Union's State aid framework.

(7) When performing tasks related to the valuation, the Council and the person it has designated pursuant to paragraph 3 shall proceed with due care and prudence. If the Council finds that the designated person fails to comply with the obligations stipulated by this Act or is unable to carry out the valuation properly or that the facts mentioned in paragraph 2 are present, the Council may recall that person and appoint a new person in accordance with paragraph 3. The recalled person shall, if requested, cooperate with the newly appointed person in connection with the valuation described in paragraph 1.

(8) The valuation shall not assume any potential future provision of extraordinary public financial support or central bank emergency liquidity assistance in the form of a short-term loan or other financial assistance provided by Národná banka Slovenska under non-standard collateralisation, tenor and interest rate terms to the institution under resolution, from the point at which resolution action is taken or the power to write down or convert capital instruments is exercised.

(9) The valuation shall take account of the fact that, if any resolution tool is applied, the Council may:

- (a) recover any reasonable expenses properly incurred from the institution under resolution, in accordance with Article 52(6);
- (b) charge interest or fees in respect of any loan provided to the institution under resolution, to the benefit of the national fund.

(10) The institution under resolution shall submit the following information for valuation purposes:

- (a) its regular financial statements prepared under a separate regulation<sup>84</sup>, structured as required by a separate regulation<sup>85</sup>;
- (b) an analysis and an estimate of the accounting values of its assets;
- (c) the list of outstanding balance-sheet and off-balance-sheet liabilities shown in the institution's accounting books and records, with an indication of the respective credits and priority levels under the applicable insolvency law<sup>62</sup>.

(11) Where appropriate, the information referred to in paragraph 5(b) may be complemented with an analysis and an estimate of the market value of the assets and liabilities of the institution under resolution.

(12) The valuation shall indicate the subdivision of the creditors in classes according to their priority levels and an estimate of the treatment that each class of shareholders and creditors would have been expected to receive if the institution under resolution were wound up under normal insolvency proceedings<sup>62</sup>. The estimate of the treatment shall be without prejudice to the application of the principle referred to in Article 33(1)(f).

(13) Where it is not possible to ensure information in accordance with paragraphs 10 and 12 or the Council is unable to ensure an independent valuation under paragraph 2, the Council may carry out a provisional valuation.

(14) The provisional valuation shall determine the value of assets, rights and liabilities, and shall, so far as reasonably practicable in the circumstances, comply with the requirements of paragraphs 10 and 12. The provisional valuation shall include a buffer for additional losses, with appropriate justification.

(15) A valuation that does not comply with all the requirements set out in paragraphs 10 to 12, or a valuation that is not carried out by a person as referred to in paragraphs 2 and 3, shall be considered to be provisional until an independent person as referred to in paragraphs 2 and 3 has carried out a valuation that is fully compliant with all the requirements laid down in paragraphs 10 to 12. Such valuation shall be carried out without delay for the following purposes:

- (a) to ensure that any losses on the assets of the institution under resolution are fully recognised in the institution's books of accounts;
- (b) to inform a decision to write back creditors' claims or to increase the value of the consideration paid, in accordance with paragraph 16.

(16) In the event that the net asset value of an institution under resolution estimated on the basis of a final valuation is higher than the institution's net asset value estimated on the basis of a provisional valuation, the Council may:

- (a) exercise its power to increase the value of the claims of creditors or owners of the relevant capital instruments which have been written down under the bail-in tool;
- (b) instruct a bridge institution or asset management vehicle to make a further payment of consideration in respect of the assets, rights and liabilities of the institution under resolution, or as the case may be, in respect of the shares or other instruments of ownership to the owners of the shares or other instruments of ownership.

(17) A provisional valuation shall be a valid basis for the Council to take resolution actions, including taking control of a failing institution, or to exercise its write-down or conversion powers in relation to capital instruments.

## PART SEVEN

### RESOLUTION TOOLS

#### Article 52

#### **General principles of resolution tools**

(1) The resolution tools are the following:

- (a) the sale of business tool;
- (b) the bridge institution tool;
- (c) the asset separation tool;
- (d) the bail-in tool.

(2) The Council may apply the asset separation tool only together with another resolution tool.

(3) The Council may apply the resolution tools individually or in any combination, except in the case referred to in paragraph 2.

(4) Where only the resolution tools referred to in paragraph 1(a) or (b) are used, and they are used to transfer only part of the assets, rights or liabilities of the institution under resolution, the residual institution from which the assets, rights or liabilities have been transferred shall be wound up under normal insolvency proceedings within a reasonable timeframe.

(5) Such winding up shall be done with regard to any need for that institution under resolution to cooperate under Article 18 with the recipient of the assets, rights or liabilities

referred to in paragraph 4 in order to enable the recipient to perform the activities or services acquired by virtue of that transfer, and any other reason that the continuation of the institution is necessary to achieve the resolution objectives or comply with the principles laid down in this Act.

(6) The Council may recover any reasonable expenses properly incurred from the institution under resolution in connection with the application of resolution tools or powers or government financial stabilisation tools, including expenses incurred in connection with the institution's special management, the valuation of its assets, rights and liabilities, in one or more of the following ways:

- (a) as a deduction from any consideration paid by the acquirer to the institution under resolution or, as the case may be, to the owners of the shares or other instruments of ownership;
- (b) from the institution under resolution, as a preferred creditor; or
- (c) from any proceeds generated as a result of termination of the operation of the bridge institution or the asset management vehicle, as a preferred creditor.

(7) The Council's reasonable expenses referred to in paragraph 6, which fall due before the Council may recover them pursuant to paragraph 6(a) or (c), may be paid, at the Council's request submitted to the Ministry, from the state financial assets held on a separate extrabudgetary account in accordance with a separate regulation<sup>85</sup>. Expenses paid in this way shall be refunded by the Council to the account mentioned in the previous sentence as soon as they have been recovered according to paragraph 6(a) or (c).

### Article 53

#### **The sale of business tool**

(1) The Council may apply the sale of business tool by transferring to the acquirer that is not a bridge institution:

- (a) shares or other instruments of ownership issued by an institution under resolution; or
- (b) all or any of the assets, rights or liabilities of an institution under resolution.

(2) Transfers as referred to in paragraph 1 shall take place without the consent of the shareholders of the institution under resolution or other persons, unless paragraphs 8 and 9 provide otherwise. Transfers according to the previous sentence shall not require compliance with any procedural requirements under separate regulations<sup>86</sup>, unless Article 54 provides otherwise.

(3) The Council shall ensure that such transfers are made under standard commercial terms, in accordance with the valuation carried out under Article 51.

(4) Unless Article 52(6) provides otherwise, any consideration paid by the acquirer for assets, liabilities, shares or other instruments of ownership of an institution under resolution shall benefit:

- (a) the owners of shares or other instruments of ownership, where the sale of business has been effected by transferring shares or other instruments of ownership issued by the institution under resolution;

(b) the institution under resolution, where the sale of business has been effected by transferring some or all of the assets or liabilities of the institution under resolution to the acquirer.

(5) When applying the sale of business tool, the Council may exercise the transfer power more than once in order to make supplemental transfers of shares or other instruments of ownership issued by an institution under resolution or, as the case may be, the assets, rights or liabilities of the institution under resolution.

(6) The Council may, with the acquirer's consent, exercise the transfer power in respect of assets, rights, liabilities, or shares or other instruments of ownership transferred to the acquirer in order to transfer these assets, rights, liabilities, or shares or other instruments of ownership back to the institution under resolution or to the original owners. The institution under resolution or the original owners shall take back any such assets, rights, liabilities, or shares or other instruments of ownership.

(7) The acquirer shall have appropriate authorisation to perform activities under separate regulations<sup>87</sup> in respect of the assets, rights, liabilities, shares or other instruments of ownership it acquires when the transfer is made. If the acquirer does not have such authorisation, it shall submit to the competent supervisory authority an application for authorisation to perform activities under separate regulations<sup>87</sup>.

(8) Where a transfer of shares or other instruments of ownership is subject to prior approval for the acquisition of, or an increase in, a qualifying holding in an institution under resolution under a separate regulation<sup>88</sup>, Národná banka Slovenska shall decide in respect of the application for prior approval submitted under a separate regulation<sup>88</sup>, in a timely manner that does not delay the application of the sale of business tool.

(9) Where the sale of business tool is applied by the Council at a time when the assessment of the prior approval application mentioned in paragraph 8 has not yet been completed, the following provisions shall apply:

- (a) such a transfer of shares or other instruments of ownership to the acquirer shall have immediate legal effect;
- (b) during the assessment period and during any divestment period provided by paragraph 8, the acquirer's voting rights attached to such shares or other instruments of ownership shall be suspended and vested solely in the Council, which shall have no obligation to exercise any such voting rights and which shall have no liability whatsoever for exercising or refraining from exercising any such voting rights;
- (c) during the assessment period and during any divestment period provided by paragraph 8, the penalties and other measures for infringing the requirements for acquisitions or disposals of qualifying holdings shall not apply to such a transfer of shares or other instruments of ownership.

(10) With the delivery of a final decision granting prior approval for the acquisition of, or an increase in, a qualifying holding under separate regulations<sup>88</sup>, the acquirer shall in full range acquire voting rights attached to the shares or other instruments of ownership that are to be transferred.

(11) With the delivery of a final decision rejecting an application for prior approval for the acquisition of, or an increase in, a qualifying holding under a separate regulation<sup>88</sup>:

- (a) the voting rights attached to such shares or other instruments of ownership shall remain effective in accordance with paragraph 9(b);
- (b) the Council may require that the shares or other instruments of ownership are transferred back by the acquirer within a time limit set by the Council, while taking into account the prevailing market conditions; and
- (c) if the transfer referred to in point (b) does not take place for reasons on the acquirer's side within the time limit set by the Council, Národná banka Slovenska may, with the consent of the Council, impose sanctions or other measures for non-compliance with the requirement to acquire or transfer a qualifying holding.

(12) Transfers made where the sale of business tool is applied shall be subject to protective measures under Part Ten of this Act.

(13) The acquirer shall exercise the rights of the institution under resolution arising from its membership of payment systems, clearing and settlement systems, stock exchanges, client asset protection systems, and deposit guarantee schemes, as well as the right of access to these systems, provided that the acquirer meets the criteria for membership and participation in these systems. The acquirer shall also exercise the rights mentioned in the previous sentence where:

- (a) the acquirer has no rating from a rating agency or its rating does not correspond to the rating grade that is required to gain access to these systems;
- (b) the acquirer does not satisfy the criteria for membership or participation in these systems during the period set by the Council, which may not be longer than 24 months from the acquisition of property; this period may be prolonged by the Council, if requested by the acquirer.

(14) The shareholders or creditors of an institution under resolution and other persons whose assets, rights or liabilities are not subject to transfer as referred to in paragraph 1 shall lose all of their rights to the assets, rights or liabilities transferred. This shall be without prejudice to the provisions of Articles 76 to 83. Such transfer of assets, rights or liabilities cannot be challenged.

#### Article 54

(1) The Council shall offer for sale assets, rights or liabilities, or shares or other instruments of ownership of an institution under resolution, or accept an offer for purchase or sale of assets, rights or liabilities, or shares or other instruments of ownership of an institution under resolution, while these may be offered separately or as a whole.

(2) When making an offer under paragraph 1, the Council shall proceed in accordance with at least the following principles:

- (a) the information disclosed on the assets, rights, liabilities, shares or other instruments of ownership of the institution under resolution shall be as transparent as possible;
- (b) the specific circumstances and in particular the need to maintain financial stability shall be taken into account;
- (c) all potential purchasers shall be treated in a non-discriminatory manner and none of them shall be given any unfair advantage;

- (d) the process shall be free from any conflict of interest between the entities involved (the Council, the institution under resolution, the potential purchasers, the institution's clients, and third parties);
- (e) the sale of business tool shall be applied as effectively and quickly as possible;
- (f) the assets, rights, liabilities, shares or other instruments of ownership of the institution under resolution shall be sold at the highest possible price.

(3) The provisions of paragraph 2 shall not prevent the Council from soliciting particular potential purchasers in accordance with the rule laid down in paragraph 2(c).

(4) An institution under resolution may postpone the obligation to disclose information about its placement on the market in accordance with and under the conditions set out in a separate regulation<sup>89</sup>.

(5) The provisions of paragraph 1 shall not apply where the Council determines that compliance with those provisions would be likely to undermine one or more of the resolution objectives set out in Article 1(2) and in particular if the following conditions are met:

- (a) there is a material threat to financial stability arising from or aggravated by the failure or likely failure of the institution under resolution;
- (b) an offer for sale would be likely to undermine the effectiveness of the sale of business tool in addressing that threat or achieving the resolution objective.

#### Article 55

#### **The bridge institution tool**

(1) In order to maintain the critical functions of one or more institutions placed under resolution, the Council may decide to transfer to a bridge institution:

- (a) shares or other instruments of ownership issued by one or more institutions under resolution;
- (b) all or any of the assets, rights or liabilities of one or more institutions under resolution.

(2) The transfer referred to in paragraph 1 may take place without the consent of the shareholders of the institutions under resolution or any third party other than the bridge institution, and without compliance with any procedural requirements under separate regulations<sup>90</sup>.

(3) The total value of liabilities transferred to the bridge institution may not exceed the total value of the rights and assets transferred from the institution under resolution or provided from other sources.

(4) The application of the bail-in tool for the purpose specified in Article 58(1)(b) shall not interfere with the ability of the Council to control the bridge institution.

(5) Unless Article 52(6) provides otherwise, the bridge institution shall pay consideration for the assets, rights, liabilities, shares or other instruments of ownership of the institution under resolution to the benefit of:

- (a) the owners of the shares or other instruments of ownership, where the transfer to the bridge institution has been effected by transferring shares or instruments of ownership issued by the institution under resolution;
- (b) the institution under resolution, where the transfer to the bridge institution has been effected by transferring some or all of the assets or liabilities of the institution under resolution.

(6) When applying the bridge institution tool, the Council may exercise the transfer power more than once in order to make supplemental transfers of shares or other instruments of ownership issued by an institution under resolution or, as the case may be, assets, rights or liabilities of the institution under resolution.

(7) After applying the bridge institution tool, the Council may transfer rights, assets or liabilities, or shares or other instruments of ownership back from the bridge institution to:

- (a) the institution under resolution or the original owners where the conditions laid down in paragraphs 8 and 9 are met, and the institution under resolution or the original owners shall be obliged to take back any such rights, assets or liabilities, or shares or other instruments of ownership;
- (b) a third party.

(8) The Council may transfer shares or other instruments of ownership, or assets, rights or liabilities, back from the bridge institution to the original owners or to the institution under resolution in one of the following circumstances:

- (a) the possibility that specific shares or other instruments of ownership, or assets, rights or liabilities, may be transferred back is stated expressly in the Council's decision to apply the bridge institution tool; or
- (b) the specific shares or other instruments of ownership, or assets, rights or liabilities, do not in fact fall within the classes of, or do not meet the conditions for the transfer of, shares or other instruments of ownership or assets, rights or liabilities specified in the Council's decision to apply the bridge institution tool.

(9) Such a transfer back may be made within any period, and shall comply with any other conditions stated in the Council's decision to apply the bridge institution tool.

(10) The bridge institution may continue to exercise any right to provide services that was exercised by the institution under resolution in respect of the assets, rights or liabilities transferred.

(11) The Council may, in its decision to apply the bridge institution tool, require the bridge institution to perform other activities in respect of the assets, rights or liabilities transferred from the institution under resolution.

(12) The bridge institution may continue to exercise the rights of membership and access to payment, clearing and settlement systems, stock exchanges, investor compensation schemes and deposit guarantee schemes of the institution under resolution, provided that it meets the membership and participation criteria for participation in such systems.

(13) The bridge institution may also exercise rights referred to in paragraph 12 where:

- (a) the bridge institution does not possess a rating from a credit rating agency, or its rating is not commensurate to the rating levels required to be granted access to the systems referred to in the previous paragraph;
- (b) the bridge institution does not meet the membership or participation criteria for those systems for such a period of time as may be specified by the Council, not exceeding 24 months, renewable on application by the bridge institution to the Council.

## Article 56

### **Operation of a bridge institution**

(1) A bridge institution shall be a joint-stock company<sup>91</sup> that meets all of the following requirements:

- (a) it is controlled by the Council and the shares it has issued are wholly or partially owned or managed by the Council or another public authority;
- (b) it has been established for the purpose of accepting and holding some or all of the shares or other instruments of ownership issued by an institution under resolution or some of all of the assets, rights or liabilities of one or more institutions under resolution.

(2) A bridge institution's application for banking authorisation and for authorisation to provide investment services under separate regulations<sup>93</sup> shall contain the Council's consent to:

- (a) the bridge institution's foundation deed or founders' agreement and its articles of association;
- (b) the members of the bridge institution's statutory body and supervisory board and the range of their responsibilities;
- (c) the principles of remuneration for the members of the bridge institution's statutory body and supervisory board;
- (d) the strategy and risk profile of the bridge institution;
- (e) any change in the facts listed in points (a) to (d).

(3) Prior to the application of the bridge institution tool, the bridge institution shall be authorised under a separate regulation<sup>93</sup> to continue providing the services and performing the activities of the institution under resolution, acquired by virtue of transfer of its assets, rights, liabilities, shares or other instruments of ownership. When deciding whether to grant such authorisation under a separate regulation<sup>93</sup>, Národná banka Slovenska shall take into account the position of that institution, as well as the facts listed in paragraphs 1 and 2. If the bridge institution does not meet the conditions for authorisation at the time when a decision is taken as to whether to grant such authorisation under a separate regulation<sup>93</sup> and the fulfilment of these conditions could hinder the achievement of the goals referred to in Article 1(2), the Council shall request Národná banka Slovenska to issue an authorisation under a separate regulation<sup>93</sup> even if the bridge institution fails to meet the conditions for authorisation under a separate regulation<sup>93</sup>. At the Council's request, Národná banka Slovenska may authorise a bridge institution even if the conditions for authorisation are not met as required by a separate regulation<sup>93</sup>. In its decision on authorisation, Národná banka Slovenska shall set a time limit for the bridge institution to meet these conditions. The procedure to be followed after the expiry or revocation of an authorisation is described in a separate regulation<sup>93a</sup>.

(4) The Council shall ensure that the operation of the bridge institution is in accordance with the European Union's State aid framework. The bridge institution shall be subject to supervision by Národná banka Slovenska.

(5) The bridge institution's statutory body shall ensure the continuance of critical functions for the institution under resolution and, if the business conditions are appropriate, the sale of the bridge institution or its assets, rights or liabilities to one or more acquirers from the private sector. The use of the bridge institution tool shall be without prejudice to the relevant provisions of the regulation concerning the protection of economic competition<sup>93b</sup>.

(6) The Council shall take a decision that the bridge institution is no longer a bridge institution in any of the following cases, whichever occurs first:

- (a) the bridge institution ceases to meet the requirements of paragraph 1;
- (b) the bridge institution merges with another entity;
- (c) the sale of all or most of the bridge institution's assets, rights or liabilities to a third party;
- (d) the expiry of the period specified in paragraph 8 or 9;
- (e) the bridge institution's assets are completely wound down and its liabilities are fully discharged.

(7) The sale of a bridge institution or of its assets, rights or liabilities shall not unduly favour or discriminate between potential acquirers. Any such sale shall be made on standard commercial terms, with regard to the circumstances of each specific case.

(8) If none of the outcomes referred to in paragraphs 6(a) to (c) and (e) applies, the Council shall terminate the operation of a bridge institution within two years of the date on which the last transfer of assets, rights, liabilities, shares or other instruments of ownership from an institution under resolution was made on the basis of the Council's decision to apply the bridge institution tool.

(9) The Council may extend the period referred to in paragraph 8 for one or more additional one-year periods where such an extension:

- (a) supports compliance with the conditions set out in paragraph 6(a), (b), (c) or (e); or
- (b) is necessary to ensure the continuity of the services of the institution under resolution.

(10) Any decision of the Council to extend the period referred to in paragraph 9 shall be reasoned and shall contain a detailed assessment of the situation, including of the market conditions and outlook, which justifies the extension.

(11) Where the operation of a bridge institution is terminated in the circumstances referred to in paragraph 6(c) or (d), the bridge institution shall be wound up under normal insolvency proceedings.

(12) Where the Council does not levy justified charges under Article 52(6), any proceeds arising from the termination of a bridge institution's operation shall benefit the shareholders of that bridge institution.

(13) Where a bridge institution is used for the purpose of transferring assets and liabilities of more than one institution under resolution, the obligation referred to in paragraph 6(c) and (d) shall refer to the assets and liabilities transferred from each of the institutions under resolution and not to the bridge institution itself.

(14) The members a bridge institution's statutory body shall be liable to the creditors and shareholders of the institution under resolution for any damage that occurs during their activities, but only if the damage is due to careless conduct.

(15) When assets, rights or other property items are acquired from an institution under resolution, the legal obligations and liabilities related to such property values shall not pass to the bridge institution. The transfer of assets, rights or other property items cannot be challenged.

## Article 57

### **The asset separation tool**

(1) The Council may decide that a separation tool be applied for the assets, rights or liabilities of an institution under resolution or of a bridge institution to one or more asset management vehicles.

(2) The transfer referred to in paragraph 1 may take place without the consent of the shareholders of the institution under resolution or of any third party other than the bridge institution, and without compliance with any procedural requirement under a separate regulation<sup>86</sup>.

(3) An asset management vehicle shall be a legal person that meets all of the following requirements:

- (a) it is wholly or partially owned by the Council or another public authority and is controlled by the Council;
- (b) it has been created for the purpose of receiving and holding some or all of the assets, rights and liabilities of one or more institutions under resolution or a bridge institution with a view to achieving the resolution objectives set out in Article 1(2).

(4) An asset management vehicle shall manage the assets transferred to it with a view to maximising their value through eventual sale or orderly wind-down.

(5) After granting authorisation under a separate regulation<sup>93</sup>, the Council shall have the following powers in relation to an asset management vehicle:

- (a) to approve the foundation deed or founders' agreement of an asset management vehicle;
- (b) to approve the members of an asset management vehicle's statutory body and supervisory board and to specify their responsibilities;
- (c) to approve the principles of remuneration for an asset management vehicle's statutory body and supervisory board members;
- (d) to approve the strategy and risk profile of an asset management vehicle.

(6) The Council may transfer assets, rights or liabilities under paragraph 1 only if the following conditions are met:

- (a) the situation of the particular market for those assets is of such a nature that the realisation of those assets under normal insolvency proceedings may have an adverse effect on one or more financial markets;
- (b) such transfer is necessary to ensure the proper functioning of the institution under resolution or bridge institution; or
- (c) such a transfer is necessary to maximise the sale or liquidation proceeds.

(7) When applying the asset separation tool, the Council shall determine the value of consideration for which assets, rights or liabilities will be transferred to an asset management vehicle in accordance with Article 51. The consideration may have a positive or negative value.

(8) Unless Article 52(6) provides otherwise, any consideration paid by an asset management vehicle for the transfer of assets, rights or liabilities from an institution under resolution shall be paid to the benefit of that institution. The consideration may be paid in the form of debt securities issued by the asset management vehicle.

(9) Where the bridge institution tool has been applied, an asset management vehicle may acquire assets, rights or liabilities from the bridge institution.

(10) The Council may transfer assets, rights or liabilities from an institution under resolution or a bridge institution to one or more asset management vehicles on more than one occasion.

(11) The Council may transfer assets, rights or liabilities back from one or more asset management vehicles to the institution under resolution, provided that the conditions laid down in paragraph 12 are met. The institution under resolution shall be obliged to take back any such assets, rights or liabilities.

(12) The Council may transfer assets, rights or liabilities back from the asset management vehicle to the institution under resolution in one of the following circumstances:

- (a) the possibility that the specific assets, rights or liabilities might be transferred back is stated expressly in the Council's decision to apply the asset separation tool; or
- (b) the specific rights, assets or liabilities do not in fact fall within the classes of, or meet the conditions for transfer of, rights, assets or liabilities specified in the Council's decision to apply the asset separation tool.

(13) Such a transfer back may be made by the Council within any period, and shall comply with any other conditions stated in the Council's decision to apply the asset separation tool.

(14) The members of an asset management vehicle's statutory body shall be liable to the creditors and shareholders of the institution under resolution for any damage that occurs during their activities, but only if the damage is due to careless conduct.

(15) When assets, rights or other property items are acquired from an institution under resolution, the legal obligations and liabilities related to such property items shall not pass to the asset management vehicle. The transfer of assets, rights or other property items cannot be challenged.

## Article 58

### **The bail-in tool**

(1) The Council may apply the bail-in tool to meet the resolution objectives, for any of the following purposes:

- (a) to recapitalise an institution that meets the conditions for resolution to the extent sufficient to restore its ability to comply with the conditions for authorisation and to continue to perform the activities for which it is authorised under separate regulations<sup>94</sup>, and to sustain sufficient market confidence in the institution;
- (b) to convert the liabilities of the institution under resolution into equity or to reduce the principal amount of the institution's liabilities or debt instruments transferred to a bridge institution under Article 55 with the aim of providing capital to that bridge institution or when the sale of business tool is applied under Article 53 or the asset separation tool under Article 57.

(2) The procedure described in paragraph 1(a) may be employed only if there is a reasonable prospect that the application of the bail-in tool together with other relevant measures, including measures implemented in accordance with the business reorganisation plan required by Article 65 will restore the institution in question to financial soundness and long-term viability; otherwise the procedure outlined in paragraph 1(b) or any of the resolution tools referred to in Article 52(1)(a) to (c) shall be applied.

(3) When applying the bail-in tool, the Council shall respect the legal form of the institution under resolution, except in cases where a change of its legal form is necessary to achieve the resolution objectives set out in Article 1(2).

## Article 59

### **Scope of the bail-in tool**

(1) The bail-in tool may be applied to all types of liabilities, except for those listed in this paragraph and in paragraph 2. Irrespective of the applicable law, the write-down or conversion power shall not be exercised in relation to the following liabilities:

- (a) covered deposits as defined in a separate regulation<sup>1</sup>;
- (b) secured liabilities, including covered bonds<sup>95</sup> and liabilities in the form of financial instruments used for hedging purposes, which form an integral part of the cover pool and which are secured in a way similar to covered bonds, up to the value of collateral;
- (c) liabilities arising from the holding of client moneys or other client assets, including client moneys or client assets held by funds under a separate regulation<sup>95a</sup>, provided that such a client is protected under a separate regulation<sup>1</sup>;
- (d) liabilities arising from a fiduciary relationship between the institution under resolution (as fiduciary) and the client (as acquirer), provided that such an acquirer is protected under the applicable insolvency law or civil law;

- (e) liabilities to selected institutions, excluding selected institutions that are part of the same group, with an originally agreed maturity of less than seven days;
- (f) liabilities with a remaining maturity of less than seven days, owed to payment systems or operators of payment systems or their participants and arising from participation in such a system;
- (g) liabilities to any one of the following:
  1. an employee, in relation to accrued salary or other fixed remuneration, except for the variable component of remuneration that is not regulated by law, nor by a collective bargaining agreement, and except for the variable component of remuneration payable to the employee responsible for risk management;
  2. a commercial or trade creditor, arising from the provision to the institution of goods or services that are critical to the daily functioning of its operations, including IT services, utilities, and the rental, servicing and upkeep of premises;
  3. the tax and social security authorities, and health insurance corporations;
  4. the Deposit Protection Fund and the Investment Guarantee Fund.

(2) The Council may exclude certain liabilities from write-down or conversion where:

- (a) it is not possible to bail-in that liability within a reasonable time;
- (b) the exclusion is strictly necessary and proportionate to achieve the continuity of critical functions and core business lines in a manner that maintains the ability of the institution under resolution to continue its key operations, services and transactions;
- (c) the exclusion is strictly necessary and is proportionate to avoid giving rise to widespread contagion, in particular as regards eligible deposits as defined in a separate regulation<sup>62</sup>, which would severely disrupt the functioning of financial markets in a manner that could cause a serious disturbance to the economy of the Slovak Republic or of the European Union as a whole; or
- (d) the application of the bail-in tool to those liabilities would cause a decline in value such that the losses borne by other creditors would be higher than if those liabilities were excluded from bail-in.

(3) Where the Council decides to exclude any of the liabilities under paragraph 2, the level of write-down or conversion applied to other eligible liabilities may be increased in accordance with the principle laid down in Article 33(1)(f).

(4) Where the Council decides to exclude or partially exclude some of the eligible liabilities pursuant to paragraph 2 and the losses that would have been borne by those liabilities have not been passed on fully to other creditors, the Council may make a contribution to the institution under resolution from the national fund for one or both of the following purposes:

- (a) to cover any losses that have not been absorbed by eligible liabilities and to restore the net asset value of the institution under resolution to zero in accordance with Article 60(1)(a);
- (b) to purchase shares or other instruments of ownership or capital instruments in the institution under resolution, in order to recapitalise the institution in accordance with Article 60(1)(b).

(5) Such contribution from the national fund may be granted to an institution under resolution only where:

- (a) a contribution to loss absorption and recapitalisation in an amount not less than 8% of the total liabilities including the own funds of the institution under resolution, measured at the time of resolution action in accordance with the valuation provided for in Article 51, has been made by the shareholders and the holders of other instruments of ownership, the holders of relevant capital instruments and other eligible liabilities through write-down, conversion or otherwise; and
- (b) the contribution from the national fund does not exceed 5% of the total liabilities including the own funds of the institution under resolution, measured at the time of resolution action in accordance with the valuation provided for in Article 51.

(6) The contribution referred to in paragraph 4 may be financed by:

- (a) the amount that has been raised for resolution financing through contributions by institutions in accordance with Article 88(1)(a);
- (b) the amount that can be raised within three years through ex-post contributions as defined in Article 88(1)(b) in accordance with Article 89(8); and
- (c) where the amounts referred to in points (a) and (b) are insufficient, by amounts raised from alternative financing sources in accordance with Article 93(5).

(7) At a time when financial stability is at risk, the Council may seek further funding from alternative sources of financing under Article 93(3) after:

- (a) the 5% limit specified in paragraph 5(b) has been reached;
- (b) all unsecured, non-preferred liabilities, other than protected deposits, have been written down or converted in full under a separate regulation<sup>59a</sup>.

(8) At the time when financial stability is at risk and the conditions laid down in paragraph 7 are met, a contribution may be made from resources that have been raised through ex-ante contributions in accordance with Article 88(1)(a).

(9) By way of derogation from paragraph 5(a), a contribution as defined in paragraph 4 may also be made on the following conditions:

- (a) the contribution to loss absorption and recapitalisation as referred to in paragraph 5(a) is equal to an amount not less than 20% of the risk weighted assets;
- (b) the amount available in the national fund for resolution financing, raised by way of ex-ante contributions in accordance with Article 88(1)(a), is equal to at least 3% of the total amount of covered deposits;
- (c) the institution under resolution has assets not exceeding EUR 900 billion on a consolidated basis.

(10) When exercising the discretions under paragraph 2, the Council shall give due consideration to:

- (a) the principle that losses should be borne first by shareholders and next, in general, by creditors of the institution under resolution in order of preference;

- (b) the level of loss absorbing capacity that would remain in the institution under resolution if the liability or class of liabilities were excluded; and
- (c) the need to maintain adequate resources for in the national fund for resolution financing.

(11) Exclusions under paragraph 2 may be applied either to completely exclude a liability from write-down or to limit the extent of the write-down applied to that liability. Before exercising the discretion to exclude a liability under paragraph 2, the Council shall notify the European Commission.

## Article 60

### **Assessment of amount of bail-in**

(1) When applying the bail-in tool, the Council shall assess on the basis of a valuation that complies with Article 51 the aggregate of:

- (a) the amount by which eligible liabilities must be written down in order to ensure that the net asset value of the institution under resolution is equal to zero; and
- (b) the amount by which eligible liabilities must be converted into shares or other types of capital instruments in order to restore the Common Equity Tier 1 capital ratio of either the institution under resolution or of the bridge institution.

(2) The amount by which eligible liabilities need to be written down or converted shall be set on the basis of a need to restore the Common Equity Tier 1 capital ratio of the institution or the ratio of the bridge institution, taking into account any contribution of capital made under the resolution financing arrangement pursuant to Article 91(3)(d), in order to sustain sufficient market confidence in the institution under resolution or the bridge institution and enable it to continue to meet the conditions for authorisation under separate regulations<sup>87</sup> and to carry on, for more than one year, the activities for which it is authorised. Where the asset separation tool is planned to be used pursuant to Article 57, a prudent estimate of the capital needs of the asset management vehicle shall be considered.

(3) Where capital has been written down in accordance with Articles 70 and 71 and bail-in has been applied pursuant to Article 58(1), and the amount of capital written down on the basis of a preliminary valuation made according to Article 51(13) is found to exceed the required amount when assessed against the definitive valuation according to Article 51(15), a write-up mechanism may be applied to reimburse creditors and then shareholders to the extent necessary.

(4) For the purposes of paragraphs 1 to 3, the Council shall obtain comprehensive and up-to-date information about the assets and liabilities of the institution under resolution.

## Article 61

### **Treatment of shareholders in bail-in, write-down or conversion of capital instruments**

(1) In respect of shareholders and holders of other instruments of ownership, the Council may take one or both of the following actions:

- (a) cancel existing shares or other instruments of ownership or transfer them to bailed-in creditors;

(b) provided that, according to a valuation carried out under Article 51, the institution under resolution has a positive net value, dilute existing shareholders and holders of other instruments of ownership as a result of the conversion into shares or other instruments of ownership of relevant capital instruments issued by the institution pursuant to the power referred to in Article 70 or eligible liabilities issued by the institution pursuant to the power referred to in Article 9(1)(e); ‘dilution of shares or other instruments of ownership’ means a change in the holdings of individual shareholders or holders of other instruments of ownership in the share capital of the institution under resolution.

(2) The conversion referred to in paragraph 1(b) shall be carried out at a rate of conversion that severally dilutes the existing holdings of shares or other instruments of ownership.

(3) The actions referred to in paragraph 1 shall also be taken in respect of shareholders or holders of relevant instruments of ownership whose shares or other instruments of ownership were acquired through the conversion of debt instruments to shares or other instruments of ownership in accordance with the contractual terms of the original debt instruments or through the conversion of other capital instruments to Common Equity Tier 1 instruments pursuant to Article 71.

(4) When considering which action to take in accordance with paragraph 1, the Council shall have regard to:

- (a) the valuation carried out in accordance with Article 51;
- (b) the amount by which the Common Equity Tier 1 items are to be reduced and the relevant capital instruments to be written down or converted in accordance with Article 71(1).
- (c) the aggregate amount of bail-in assessed pursuant to Article 60.

(5) When applying the bail-in tool or exercising the conversion power in accordance with paragraphs 1 to 4, the Council may set a shorter time limit for deciding whether to grant prior approval for the acquisition of, or an increase in, a qualifying holding in an institution under resolution or for the acquisition of a qualifying holding in accordance with a separate regulation<sup>96</sup>.

(6) If the time limit set pursuant to paragraph 5 is not observed, the time limit referred to in Article 53(9) shall apply to any acquisition of or increase in a qualifying holding pursuant to Article 53(9).

## Article 62

### **Sequence of write-down and conversion**

(1) When applying the bail-in tool, the Council shall exercise the write-down and conversion powers, subject to any exclusion under Article 59(1) and (2), meeting the following requirements:

- (a) Common Equity Tier 1 items are reduced in accordance with Article 71(1)(a);
- (b) if the total reduction pursuant to point (a) is less than the sum of the amounts referred to in Article 61(4)(b) and (c), the principal amount of Additional Tier 1 instruments is reduced to the extent required and to the extent of their capacity;

- (c) if the total reduction pursuant to points (a) and (b) is less than the sum of the amounts referred to in Article 61(4)(b) and (c), the principal amount of Tier 2 instruments is reduced to the extent required and to the extent of their capacity;
- (d) if the total reduction in the value of shares or other instruments of ownership and in that of relevant capital instruments pursuant to points (a) to (c) is less than the sum of the amounts referred to in Article 61(4)(b) and (c), the principal amount of subordinated debt that is not Additional Tier 1 or Tier 2 capital is reduced to the extent required in accordance with the hierarchy of claims in normal insolvency proceedings, in conjunction with the write-down pursuant to points (a), (b) and (c);
- (e) if the total reduction in the value of shares or other instruments of ownership, relevant capital instruments and eligible liabilities pursuant to points (a) to (d) is less than the sum of the amounts referred to in Article 61(4)(b) and (c), the principal amount of, or the outstanding amount payable in respect of, the rest of eligible liabilities is reduced to the extent required in accordance with the hierarchy of claims in normal insolvency proceedings, including the ranking of deposits provided for in a separate regulation<sup>59a</sup>, in conjunction with the write-down pursuant to points (a) to (d).

(2) Where the write-down or conversion power is exercised, the losses in the total amount specified in Article 61(4)(b) and (c) shall be allocated equally between shares or other instruments of ownership and eligible liabilities of the same rank by reducing the principal amount of, or the outstanding amount payable in respect of, those shares or other instruments of ownership and eligible liabilities to the same extent pro rata to their value; except where a different allocation of losses amongst liabilities of the same rank is allowed in the circumstances specified in Article 59(2). This paragraph shall not prevent liabilities that have been excluded from debt write-down pursuant to Article 59(1) and (2) from receiving more favourable treatment than eligible liabilities that are of the same rank in normal insolvency proceedings.

(3) Prior to the exercise of the write-down or conversion power referred to in paragraph 1(e), the principal amount of the instruments referred to in paragraph 1(b) to (d) shall be converted or reduced, provided that these instruments have not yet been converted and they are subject to the following conditions in respect of the financial situation, solvency or own funds of the institution under resolution:

- (a) the principal amount of the instrument is to be reduced; or
- (b) the instruments are to be converted into shares or other instruments of ownership.

(4) Where the principal amount of an instrument has been reduced, but not to zero, in accordance with the terms of the kind referred to in paragraph 3(a) prior to the application of the bail-in tool pursuant to paragraph 1, the write-down or conversion power shall be applied to the residual amount of that principal in accordance with paragraph 1.

(5) When deciding whether liabilities of a certain class are to be written down or converted into equity, the resolution authority shall not convert one class of liabilities, while another class of liabilities that is subordinated to that class remains substantially unconverted into equity or not written down, unless otherwise provided under Article 59(1) and (2).

## Article 63 Derivatives

(1) The Council may exercise the write-down or conversion power in relation to liabilities arising from derivatives only upon or after closing out the derivatives. Upon entry into resolution, the Council shall be empowered to terminate and close out any derivative contract for that purpose. Where a derivative liability has been excluded from bail-in under Article 59(1), the derivative contract may not be terminated or closed out.

(2) Where derivative transactions are subject to a netting agreement, the Council or an independent valuer shall determine as part of the valuation under Article 51 the liability arising from those transactions on a net basis in accordance with the terms of the agreement.

(3) The Council shall determine the value of liabilities arising from derivatives in accordance with the following:

- (a) appropriate methodologies for determining the value of classes of derivatives, including transactions that are subject to netting agreements;
- (b) principles for establishing the relevant point in time at which the value of a derivative position should be established; and
- (c) appropriate methodologies for comparing the decline in value that would arise from the close-out and bail-in of derivatives with the amount of losses that would be borne by derivatives included in the scope of bail-in.

#### Article 64

##### **Rate of conversion of debt to equity**

(1) When exercising the powers specified in Article 9(1)(e) and Article 70(3), the Council may apply a different conversion rate to different classes of capital instruments in accordance with one or both of the following principles:

- (a) the conversion rate must represent appropriate compensation to the creditor concerned for any loss incurred by virtue of the exercise of the write-down or conversion power;
- (b) when different conversion rates are applied, the conversion rate applicable to liabilities that are considered to be senior must be higher than the conversion rate applicable to subordinated liabilities under a separate regulation<sup>62</sup>.

#### Article 65

##### **Recovery and reorganisation measures to accompany bail-in**

(1) When applying the bail-in tool to recapitalise an institution under Article 58(1)(a), the Council shall make arrangements to ensure that a business reorganisation plan for that institution is drawn up and implemented in accordance with Article 66.

(2) The Council may entrust a special administrator appointed under Article 12 with the task of drawing up and implementing a business reorganisation plan in accordance with Article 66.

#### Article 66

##### **Business reorganisation plan**

(1) The special administrator as defined in Article 12(1) or the statutory body of the institution under resolution shall draw up and submit to the resolution authority a business reorganisation plan within one month after the application of the bail-in tool in accordance with Article 58(1)(a). Where the European Union's State aid framework is applicable, the special administrator or the statutory body shall ensure that the reorganisation plan is compatible with the restructuring plan that the institution under resolution is required to submit to the European Commission under that framework.

(2) When the bail-in tool referred to in Article 58(1) is applied to two or more group entities, the business reorganisation plan shall be prepared by the relevant EU parent institution and shall cover all of the institutions in the group in accordance with a separate regulation<sup>97</sup>. The plan shall be submitted to the group-level resolution authority.

(3) In exceptional circumstances, the Council may extend the period in paragraph 1 up to a maximum of two months starting from the application of the bail-in tool. Where the business reorganisation plan is required to be reported within the European Union's State aid framework, the Council may extend the period in paragraph 1 up to a maximum of two months from the application of the bail-in tool or until the deadline laid down by the State aid framework, whichever occurs earlier.

(4) A business reorganisation plan shall set out measures aiming to restore the long-term viability of the institution under resolution or parts of its business within a reasonable timescale. Those measures shall be based on realistic assumptions about the economic and financial market conditions under which the institution in question will operate. The business reorganisation plan shall take account, *inter alia*, of the current state and future prospects of the financial markets, reflecting the best-case and worst-case assumptions, including a combination of events allowing the identification of the institution's main vulnerabilities. The assumptions shall be compared with appropriate sector-wide benchmarks.

(5) A business reorganisation plan shall include at least the following elements:

- (a) a detailed diagnosis of the factors and problems that caused the institution under resolution to fail or to be likely to fail, and the circumstances that led to its difficulties;
- (b) a description of the measures aiming to restore the long-term viability of the institution that are to be adopted;
- (c) a timetable for the implementation of those measures.

(6) Measures aiming to restore the long-term viability of an institution under resolution may include:

- (a) the reorganisation of the institution's activities;
- (b) changes to the institution's operational systems and infrastructure;
- (c) withdrawal from loss-making activities;
- (d) the restructuring of existing activities that can be made competitive;
- (e) the sale of assets or of business lines.

(7) Within one month of the date of submission of the business reorganisation plan, the Council shall assess the likelihood that the plan, if implemented, will restore the long-term viability of the institution under resolution. The assessment shall be completed after the plan

has been discussed with Národná banka Slovenska. If the business reorganisation plan is found appropriate for achieving that objective, the Council shall approve the plan and shall notify the institution's statutory body or special administrator of this fact in accordance with Article 12(1).

(8) If the Council is not satisfied that the business reorganisation plan would achieve the objective referred to in paragraph 7, the Council shall, after discussing the plan with Národná banka Slovenska, notify the institution's statutory body or special administrator as referred to in Article 12(1) of its concerns and shall require that the plan be amended in a way that addresses those concerns.

(9) Within two weeks from the date of receipt of the notification referred to in paragraph 8, the special administrator appointed in accordance with Article 12(1) or the statutory body of the institution under resolution shall submit an amended business reorganisation plan to the Council for approval. The Council shall assess the amended plan, and shall notify the institution's special administrator or statutory body within one week whether it is satisfied that the plan, as amended, addresses the concerns reported or whether further amendment is required.

(10) The special administrator appointed in accordance with Article 12(1) or the statutory body of the institution under resolution shall implement the business reorganisation plan approved for the institution and shall submit a report to the Council at least every six months on progress in the implementation of the plan.

(11) If, after consulting Národná banka Slovenska, the Council is of the opinion that the business reorganisation plan approved for the institution under resolution needs to be revised for the institution's long-term viability to be restored, the special administrator appointed under Article 12(1) or the statutory body of the institution under resolution shall revise that plan and submit it to the Council for approval.

#### Article 67

#### **Effects of bail-in**

(1) The Council's decisions made in accordance with Article 9(1)(d) to (h) and Article 70(1) shall also be binding on the creditors and shareholders of the institution under resolution.

(2) The Council shall have the power to complete or require the completion of all the administrative and procedural tasks necessary to give effect to the exercise of powers referred to in Article 9(1)(d) to (h) and Article 70(1), including the submission of a proposal for:

- (a) the entry or change of data in the Commercial Register or in other relevant registers under a separate regulation<sup>20</sup>;
- (b) the delisting or removal from trading of shares or other instruments of ownership or debt instruments;
- (c) the listing or admission to trading of new shares or other instruments of ownership;
- (d) the relisting or readmission of debt instruments that have been written down, without the requirement to issue a new prospectus.

(3) Where the principal amount of, or the outstanding amount payable in respect of, a liability is reduced to zero on the basis a decision made under Article 9(1)(d), that liability and any claims arising in relation to it shall be treated as discharged for all purposes, and shall not be provable in any subsequent proceedings brought under a separate regulation<sup>62</sup> in relation to the institution under resolution or any successor entity in any subsequent winding-up proceedings under a separate regulation<sup>62</sup>.

(4) Where the principal amount of, or the outstanding amount payable in respect of, a liability is reduced only partially on the basis of a decision made under Article 9(1)(d), that liability shall be treated as discharged to the extent of the amount reduced, and the original liability shall continue to apply in relation to the residual principal amount of the liability, subject to any modification in the amount of interest payable to reflect the reduction in the principal amount and any further modification in the terms that the resolution authority might make using the power referred to in Article 9(1)(i).

#### Article 68

##### **Removal of procedural impediments to bail-in**

(1) Without prejudice to Article 9(1)(h), the Council may require institutions to maintain at all times a sufficient amount of authorised share capital or of other Common Equity Tier 1 instruments, so that, in the event that the Council exercises the powers referred to in Article 9(1)(d) and (e) in relation to an institution under resolution, the institution is not prevented from issuing sufficient new shares or other instruments of ownership to ensure that the conversion of the institution's liabilities into shares or other instruments of ownership could be carried out effectively.

(2) The Council shall assess whether it is appropriate to impose the requirement laid down in paragraph 1 in the case of a particular institution in the context of the resolution plan drawn up for that institution, having regard to the resolution actions contemplated in that plan. If the resolution plan provides for the possible application of the bail-in tool, the Council shall verify that the approved share capital or other Common Equity Tier 1 instrument is sufficient to cover the sum of the amounts referred to in Article 61(4)(b) and (c).

(3) The conversion of the institution's liabilities into shares or other instruments of ownership shall be carried out without regard to the pre-emption rights of shareholders, the conditions laid down in the institution's foundation deed, articles of association or other contract documents, and shall not require the consent of the management bodies.

(4) The provisions of paragraphs 1 to 3 are without prejudice to other obligations laid down in separate regulations<sup>86</sup>.

#### Article 69

##### **Contractual recognition of bail-in**

(1) An institution under resolution shall include a contractual term in any agreement creating a liability, by which the creditor or party to the agreement recognises that the liability may be subject to write-down or conversion and agrees to be bound by any reduction in the principal or outstanding amount due, conversion or cancellation that is effected by the exercise of the write-down or conversion power by the resolution authority, provided that such liability is:

- (a) not excluded under Article 59(1);
- (b) not a deposit as defined in a separate regulation<sup>59a</sup>;
- (c) governed by the law of a third country; and
- (d) entered into or changed after the date on which this Act became effective; this shall not apply to changes, including an automatic change, which has no impact on the basic rights and obligations of the contracting parties.

(2) The Council may decide not to apply the procedure outlined in paragraph 1 where it is evident that the liability may be subject to write-down or conversion under the law of a third country or a binding international agreement concluded with that country. The Council may require the institution under resolution to provide a legal opinion relating to the legal enforceability and effectiveness of the procedure referred to in the previous sentence.

(3) If an institution under resolution fails to meet the obligation imposed by paragraph 1, that failure shall not prevent the Council from exercising the write-down and conversion powers in relation to that liability.

## PART EIGHT

### WRITE-DOWN OF CAPITAL INSTRUMENTS

#### Article 70

#### **Conditions for the write-down or conversion of capital instruments**

(1) The Council shall have the power to write down capital instruments or to convert them into shares or other instruments of ownership under Article 71 either:

- (a) independently of the resolution proceedings or actions taken within the scope of such proceedings pursuant to paragraph 3; or
- (b) in combination with other resolution actions taken within the scope of resolution proceedings under Part Four of this Act.

(2) Before writing down or converting capital instruments, the Council shall determine the value of assets and liabilities of the institution under resolution in accordance with Article 51. The results of this valuation shall be used as a basis for write-down and conversion with a view to reducing the losses and for bail-in purposes.

(3) The Council shall, without delay, exercise the write-down or conversion power in relation to the capital instruments of an institution under resolution, where one or more of the following circumstances apply:

- (a) the conditions for resolution laid down in Articles 34 and 48 have been met, before any resolution action or decision is taken;
- (b) Národná banka Slovenska has notified the Council that, unless the write-off or conversion power is exercised in relation to the relevant capital instruments, the institution under resolution will no longer be viable, or the Council has arrived at this conclusion on the basis of its own activities;

(c) extraordinary public financial support is required by the institution under resolution, except when such support is provided under point (3) of Article 34(2)(d).

(4) For the purposes of paragraph 3, an institution shall be deemed to be no longer viable only if both of the following conditions are met:

- (a) the institution is failing or is likely to fail; and
- (b) there is no reasonable prospect that any action, decision or measure taken by Národná banka Slovenska as the supervisory authority, including early intervention measures, would prevent the failure of the institution or the group concerned within a reasonable timeframe.

(5) An institution shall be deemed to be failing or likely to fail where one or more of the circumstances set out in Article 34(2) occur.

(6) For the purposes of paragraph 4(a), a group shall be deemed to be failing or likely to fail where the group violates or is likely to violate in the near future the consolidated prudential requirements laid down in separate regulations<sup>95</sup> in a way that would justify action by the competent supervisory authority, because the group has incurred or is likely to incur losses that will deplete all or a significant amount of its own funds.

(7) If the Council takes a decision in accordance with paragraph 3(b), it shall notify Národná banka Slovenska without undue delay.

#### Article 70a

#### **Conditions for writing down or converting capital instruments at group level**

(1) The Council shall, together with the competent resolution authorities of other Member States, make every effort to reach a joint decision on the write-down or conversion of capital instruments where:

- (a) the institution under resolution is a subsidiary and the relevant capital instruments it has issued are recorded as instruments intended for meeting the own funds requirements of that subsidiary on an individual basis and of the group on a consolidated basis;
- (b) the application of the write-down or conversion tool is vital for the maintenance of stability within the group to which the institution under resolution belongs.

(2) If the Council fails to reach a joint decision in accordance with paragraph 1, the Council shall take its own decision pursuant to Article 50(3).

(3) The Council as a group-level resolution authority shall decide to write down or convert the relevant capital instruments of an institution under resolution where:

- (a) the institution under resolution is a parent institution and the relevant capital instruments it has issued are recorded as instruments intended for meeting the own funds requirements of that parent institution on an individual basis or of the group on a consolidated basis;
- (b) the application of the write-down or conversion tool is vital for the maintenance of stability within the group to which the institution under resolution belongs.

(4) A relevant capital instrument issued by a subsidiary may not be written down under paragraph 1 to a greater extent or converted on worse terms than equally ranked capital instruments at the level of the parent institution.

#### Article 70b

##### **Reporting obligations towards the authorities of other Member States**

(1) If the Council comes to the conclusion that any of the conditions laid down in Article 70(3)(b) and (c) and Article 70a(1)(b) is met in relation to a subsidiary institution under resolution and that the relevant capital instruments it has issued are recorded as instruments intended for meeting the own funds requirements of that institution on an individual basis or of the group on a consolidated basis, the Council shall promptly notify this fact to:

- (a) the authority of the Member State concerned exercising supervision on a consolidated basis over the group to which the institution under resolution belongs;
- (b) the resolution authority of the Member State referred to in point (a) which is responsible under the law of that Member State for verifying compliance with the conditions stipulated for the write-down or conversion of capital instruments.

(2) If the Council as a group-level resolution authority comes to the conclusion that the condition laid down in Article 70a(1)(b) is met in relation to a foreign subsidiary institution and that the relevant capital instruments it has issued are recorded as instruments intended for meeting the own funds requirements of that foreign subsidiary on an individual basis or of the group on a consolidated basis, the Council shall promptly notify this fact to:

- (a) the authority of the Member State concerned exercising supervision on a consolidated basis over that foreign institution under resolution;
- (b) the resolution authority of the Member State referred to in point (a) which is responsible under the law of that Member State for verifying compliance with the conditions for the write-down or conversion of capital instruments.

(3) A notification as referred to in paragraphs 1 and 2 shall contain the reasons on the basis of which the Council has come to the conclusion that any of the conditions for the write-down or conversion of the relevant capital instrument is met. The Council shall also request the authorities it has notified to take a position on this matter.

(4) Before deciding to write down or convert the relevant capital instruments of an institution under resolution in accordance with Article 70(3)(b) and (c), Article 70a(1)(b) and (3)(b), the Council shall take into consideration the possible effects of such write-down or conversion on all the Member States where that institution operates.

#### Article 71

##### **Provisions governing the write-down or conversion of capital instruments**

(1) The Council shall exercise the write-down or conversion power in accordance with the priority of claims determined under a separate regulation<sup>62</sup>, in a way that produces the following results:

- (a) Common Equity Tier 1 items are reduced first in proportion to the losses and to the extent of their capacity, and the Council takes one or both the actions specified in Article 61(1) in respect of the holders of Common Equity Tier 1 instruments;
- (b) the principal amount of Additional Tier 1 instruments is written down or converted into Common Equity Tier 1 instruments or both, to the extent required to achieve the resolution objectives set out in Article 1(2) or to the extent of the capacity of the relevant capital instrument, whichever is lower;
- (c) the principal amount of Additional Tier 2 instruments is written down or converted into Common Equity Tier 1 instruments or both, to the extent required to achieve the resolution objectives set out in Article 1(2) or to the extent of the capacity of the relevant capital instrument, whichever is lower.

(2) Where the principal amount of a relevant capital instrument is written down, the reduction of that principal amount shall be permanent, subject to any write-up in accordance with Article 60(3), and no liability to the holder of the relevant capital instrument shall remain under or in connection with the amount of the instrument that has been written down, except for any liability already accrued, and any liability for damages that may arise as a result of an action or decision challenging the legality of the exercise of the write-down power. Compensation for written-down capital instruments shall be paid exclusively in accordance with paragraph 4.

(3) The termination of liabilities in accordance with paragraph 2 shall not prevent the procedure under paragraph 4.

(4) In order to effect a conversion of capital instruments under paragraph 1(b), the Council may require an institution under resolution to issue Common Equity Tier 1 instruments to the holders of the capital instruments to be converted. Capital instruments may only be converted where the following conditions are met:

- (a) those Common Equity Tier 1 instruments are issued by the institution under resolution or by its parent institution with the agreement of the competent resolution authority;
- (b) those Common Equity Tier 1 instruments are issued prior to any issuance of shares or other instruments of ownership by that institution for the purposes of provision of own funds by the State or a government entity;
- (c) those Common Equity Tier 1 instruments are transferred without delay following the exercise of the conversion power;
- (d) the conversion rate that determines the number of Common Equity Tier 1 instruments that are issued in respect of each relevant capital instrument complies with the principles set out in Article 64.

## PART NINE

### GOVERNMENT STABILISATION TOOLS

#### Article 72

(1) In the event of a systemic crisis, the Council may, in agreement with Národná banka Slovenska, submit an application to the Ministry for the use of government financial stabilisation tools.

(2) For the purposes of this Act, ‘systemic crisis’ means any disruption of the financial system which may have serious adverse effects on the financial market and financial stability of the Slovak Republic.

(3) The government financial stabilisation tools are the following:

- (a) the public equity support tool as referred to in Article 74; and
- (b) the temporary public ownership tool as referred to in Article 75.

(4) After receiving an application for the use of government stabilisation tools, the Ministry shall proceed in accordance with a separate regulation<sup>19f</sup>.

### Article 73

#### **Government financial stabilisation tools**

(1) Government financial stabilisation tools may be applied in the public interest only when a systemic crisis occurs, provided that the conditions laid down in Article 34(1) are met and where:

- (a) resolution tools cannot be applied in accordance with Article 52 or their application would not suffice to resolve the institution under resolution;
- (b) the shareholders and holders of other instruments of ownership, the holders of relevant capital instruments and other eligible liabilities participate in bearing the losses of the institution under resolution and in replenishing its own funds, through write-down or conversion under this Act or otherwise, in an amount not less than 8% of the total liabilities, including the own funds of the institution under resolution, measured at the time of resolution action in accordance with the valuation provided for in Article 51;
- (c) the resolution tools referred to in Article 52 would not suffice to:
  - 1. avoid a significant adverse effect on financial stability;
  - 2. protect the public interest, where the institution under resolution has already received extraordinary liquidity assistance<sup>65</sup> from Národná banka Slovenska; or
  - 3. protect the public interest, where the institution under resolution has already received public equity support in accordance with Article 74 for the use of the temporary public ownership tool;
- (d) approval has been granted under a separate regulation<sup>19f</sup> in accordance with the European Union’s State aid framework.

(2) An application for the use of government financial stabilisation tools must contain data confirming that the conditions set out in paragraph 1 are met.

### Article 74

#### **Public equity support tool**

(1) The Government may decide to apply the public equity support tool where the conditions set out in Article 73 are met.

(2) If the Government decides to apply the public equity support tool, the Slovak Republic will acquire the following capital instruments:

- (a) capital instruments that qualify as Common Equity Tier 1 instruments;
- (b) capital instrument that qualify as Additional Tier 1 instruments;
- (c) capital instruments that qualify as Tier 2 instruments.

(3) The Slovak Republic shall acquire capital instruments as referred to in paragraph 2 at a price corresponding to their nominal value.

(4) Capital instruments shall be managed by the Ministry or by a person designated by the Ministry.

(5) If the circumstances that have led to the provision of public equity support are no longer present, the Government shall, at the Council's suggestion, decide to transfer the capital instruments listed in paragraph 2 back to the institution under resolution.

(6) The application of the public equity support tool shall be, as appropriate, subject to the provisions of a separate regulation concerning an increase in share capital<sup>19f</sup>.

#### Article 75

#### **Temporary public ownership tool**

(1) The Government may decide to use the temporary public ownership tool where the conditions set out in Article 73 are met.

(2) An equity stake, a business stake or any other ownership interest in an institution under resolution may be transferred temporarily to the Slovak Republic or to an entity owned by the Slovak Republic.

(3) The Council may transfer shares or other instruments of ownership to:

- (a) a person representing the Slovak Republic;
- (b) a legal person wholly owned by the Slovak Republic.

(4) The Slovak Republic, being the temporary owner, shall hold full ownership rights and shall be responsible for their proper exercise.

(5) The Council shall, without delay, transfer these ownership rights back to the institution under resolution if the reasons for transferring its ownership to the Slovak Republic under paragraph 1 no longer exist.

(6) The application of the temporary public ownership tool shall also be subject to the provisions of a separate regulation concerning the transfer of ownership<sup>19f</sup>.

### PART TEN

### **SAFEGUARDS**

## Article 76

### **Treatment of shareholders and creditors in the event of a partial transfer or bail-in**

(1) Where the Council transfers only parts of the rights, assets and liabilities of an institution under resolution, the shareholders and those creditors whose claims have not been transferred shall receive in satisfaction of their claims at least as much as what they would have received if the institution under resolution had been wound up under normal insolvency proceedings<sup>62</sup> at the time when the resolution decision referred to in Article 38 was taken.

(2) Where the Council applies the bail-in tool, the shareholders and creditors whose claims have been written down or converted into equity shall not incur greater losses than they would have incurred if the institution under resolution had been wound up under normal insolvency proceedings<sup>62</sup> immediately at the time when the resolution decision referred to in Article 38 was taken.

## Article 77

### **Valuation of difference in treatment**

(1) For the purpose of assessing whether shareholders and creditors would have received better treatment if the institution under resolution had entered into normal insolvency proceedings under a separate regulation<sup>62</sup>, the Council shall ensure that a valuation is carried out by an independent person as soon as possible after the relevant decision to end the resolution proceedings has entered into force. That valuation shall be distinct from the valuation carried out under Article 51.

(2) The valuation of difference in treatment shall determine:

- (a) the treatment that shareholders and creditors, or the Deposit Protection Fund, would have received if the institution under resolution with respect to which the resolution action or actions have been effected had entered normal insolvency proceedings at the time when the resolution decision referred to in Article 38 was taken;
- (b) the actual treatment that shareholders and creditors, including the relevant deposit guarantee scheme, received during the resolution of the institution under resolution as at the date when the decision to end the resolution proceedings entered into force;
- (c) the valuation of differences between the treatments referred to in points (a) and (b).

(3) The valuation carried out under paragraph 2(a) shall:

- (a) assume that the institution under resolution with respect to which the resolution action or actions have been effected had entered normal insolvency proceedings at the time when the decision referred to in Article 38 was taken;
- (b) assume that no resolution action or actions had been effected;
- (c) disregard any provision of extraordinary public financial support to the institution under resolution.

## Article 78

### **Safeguards for shareholders and creditors**

Shareholders and creditors who have incurred losses as a result of a decision to write down or convert capital instruments, or to take resolution actions, greater than they would have incurred in a winding-up under normal insolvency proceedings shall be entitled to compensation for the difference determined pursuant to Article 77. The Deposit Protection Fund<sup>1</sup> shall also be entitled to such compensation under Article 93(1)(d).

#### Article 78a

##### **Invitation to apply for compensation payment for different treatment**

(1) If the Council's decision to write down or convert capital instruments or to take actions interferes with the rights of the owners of capital instruments or with the rights of the creditors of the institution under resolution, such decision shall contain an invitation to the owners of capital instruments and the institution's creditors to submit an application for compensation payment under Articles 76 and 78 on the basis of a valuation of difference in treatment under Article 77 (hereinafter 'application for compensation payment').

(2) The time limit for the submission of an application for compensation payment shall expire on the last day of the sixth month following the effective date of the Council's decision.

(3) With the expiration of the time limit referred to in paragraph 2, the right of the owners of instruments of ownership and of the institution's creditors to compensation payment under Articles 76 and 78 for different treatment as defined in Article 77 shall expire, too. A template for application for such compensation, including its prescribed contents, shall be published on the Council's website.

#### Article 78b

##### **Decision-making in respect of compensation payment for different treatment**

(1) Decision-making in respect of compensation payment for different treatment to the owners of instruments of ownership and to the creditors of the institution under resolution under Article 78 shall fall within the competence of the Council.

(2) A decision as referred to in paragraph 1 shall be made on the basis of a valuation of difference in treatment carried out under Article 77.

(3) The operative part of such decision shall contain the amount of compensation payable for the difference in treatment, the person eligible to receive such compensation, and the person responsible for compensation payment.

#### Article 79

##### **Safeguards for counterparties in partial transfers**

(1) Where the Council decides to transfer part of the assets, rights and liabilities of an institution under resolution to another entity or part of its assets from a bridge institution or asset management vehicle to another person, or to exercise the powers referred to in Article 13(1)(f), the protections specified in Articles 16 and 17 shall be without prejudice to the rights referred to in paragraph 2 in accordance with Articles 80 to 82.

(2) The Council's decision shall be without prejudice to the rights arising from the following arrangements:

- (a) security arrangements under which a person has by way of security an actual or contingent interest in the assets or rights that are subject to transfer, irrespective of whether that interest is secured by specific assets or rights or by way of a floating charge or a similar arrangement;
- (b) title transfer financial collateral arrangements under which collateral to secure or cover the performance of specified obligations is provided by a transfer of full ownership of assets from the collateral provider to the collateral taker, on terms providing for the collateral taker to transfer assets if those specified obligations are performed;
- (c) set-off arrangements under which two or more claims or obligations owed between the institution under resolution and a counterparty can be set off against each other;
- (d) netting arrangements;
- (e) covered bonds<sup>99</sup>;
- (f) structured finance arrangements, including securitisations and instruments used for hedging purposes which form an integral part of the cover pool and which, according to national law, are secured in a way similar to the covered bonds, which involve the granting and holding of security by a party to the arrangement or a trustee, agent or nominee.

(3) The provisions of paragraphs 1 and 2 shall apply irrespective of the number of parties involved in the arrangements, of their legal basis, and of the law by which they are governed.

#### Article 80

##### **Protection for financial collateral, set-off and netting agreements**

(1) The Council shall ensure appropriate protection for the rights and obligations arising from title transfer financial collateral arrangements, set-off arrangements, and netting arrangements so as to prevent the transfer of some, but not all, of the rights and liabilities that are protected under a title transfer financial arrangement, a set-off arrangement or a netting arrangement between the institution under resolution and another person and the modification or termination of the rights and liabilities that are protected under such arrangements, through the use of ancillary powers pursuant to Article 13. Rights and liabilities are to be treated as protected under such arrangements if the parties thereto are entitled to set-off or net those rights and liabilities. In resolution proceedings, a separate regulation<sup>100</sup> shall apply to the protection of rights and liabilities where appropriate.

(2) Where necessary in order to ensure the availability of covered deposits, the Council may:

- (a) transfer covered deposits<sup>1</sup> and protected client assets<sup>2</sup> that are part of any of the arrangements mentioned in paragraph 1 without transferring other assets, rights or liabilities that are part of the same arrangement; and
- (b) transfer, modify or terminate any of the arrangements relating to assets, rights or liabilities without transferring covered deposits<sup>1</sup> and protected client assets.<sup>2</sup>

## Article 81

### **Protection for security arrangements**

(1) Liabilities secured under a security arrangement shall be protected in an appropriate manner and the operations listed below shall be prohibited even where the ancillary powers referred to in Article 13 are applied:

- (a) the transfer of assets against which the liability is secured unless that liability and the benefit of the security are also transferred;
- (b) the transfer of a secured liability unless the benefit of the security is also transferred;
- (c) the transfer of the benefit of the security unless the secured liability is also transferred; or
- (d) the modification or termination of a security arrangement if the effect of that modification or termination is that the liability ceases to be secured.

(2) Where necessary in order to ensure the availability of covered deposits<sup>1</sup>, the Council may:

- (a) transfer covered deposits<sup>1</sup> that are part of any of the arrangements mentioned in paragraph 1 without transferring other assets, rights or liabilities that are part of the same arrangement; and
- (b) transfer, modify or terminate any of the arrangements relating to assets, rights or liabilities without transferring the covered deposits.<sup>1</sup>

## Article 82

### **Protection for structured finance arrangements and covered bonds**

(1) Where the institution under resolution is a party to a structured finance arrangement or any of the arrangements referred to in Article 79(2)(d) to (f), the Council shall ensure appropriate protection for that arrangement so as to prevent either of the following:

- (a) the transfer of some, but not all, of the assets, rights and liabilities that constitute or form part of the said arrangement, through the use of ancillary powers under Article 13;
- (b) the termination or modification through the use of ancillary powers under Article 13 of the assets, rights and liabilities that constitute or form part of the arrangement referred to above.

(2) Where the institution under resolution is a party to a structured finance arrangement and if necessary in order to ensure the availability of covered deposits,<sup>1</sup> the Council may:

- (a) transfer covered deposits<sup>1</sup> without transferring other assets, rights or liabilities under structured finance arrangements; and
- (b) transfer, modify or terminate arrangements related to assets, rights or liabilities without transferring the covered deposits.<sup>1</sup>

## Article 83

### **Protection of trading, clearing and settlement systems**

Where the Council decides to transfer some but not all of the assets, rights or liabilities of an institution under resolution to another entity or to exercise additional powers under Article 13 to cancel or amend the terms of a contract to which the institution under resolution is a party, this decision shall be without prejudice to the rights, obligations or liabilities related to clearing and settlement in payment systems and the settlement of transactions in securities,<sup>101</sup> consisting in the execution of transfer orders, the settlement of liabilities, and the enforcement of security rights.

## PART ELEVEN

### COLLEGES

#### Article 84

#### **Resolution colleges**

(1) The Council as a group-level resolution authority shall establish a resolution college to carry out the tasks specified in Articles 26 to 29, 48, 49 and 58, and to ensure cooperation and coordination with the resolution authorities of third countries.

(2) The resolution college referred to in paragraph 1 shall be established to perform the following tasks:

- (a) exchanging information needed to for the preparation of group resolution plans;
- (b) exercising preparatory and preventive powers in relation to groups of institutions under resolution;
- (c) drawing up group resolution plans pursuant to Articles 26 and 27 and assessing the resolvability of groups pursuant to Article 28;
- (d) exercising powers to address or remove impediments to the resolvability of groups pursuant to Article 29;
- (e) deciding and agreeing on the need to introduce a group resolution scheme as referred to in Articles 48 and 49;
- (f) coordinating public communication of group resolution strategies and schemes, and coordinating the use of financing arrangements established under Part Twelve of this Act;
- (g) discussing other matters concerning cross-border resolution at group level.

(3) A resolution college as referred to in paragraph 1 shall comprise the representatives of cooperating resolution authorities who may participate in the college meetings whenever matters subject to joint decision-making or relating to a group entity falling within their competence are on the agenda. The following authorities shall be represented in a resolution college:

- (a) the Council;
- (b) the resolution authority of each Member State in which a subsidiary covered by consolidated supervision is established;
- (c) the resolution authority of a Member State in which a parent institution of one or more institutions of the group, which is an institution under resolution, is established;

- (d) the resolution authorities of Member States in which significant branches are located;
- (e) the consolidating supervisor and the competent supervisory authorities of the Member States where the Council is a member of the resolution college;
- (f) the competent ministries, where the resolution authorities which are members of the resolution college are not the competent ministries;
- (g) the authority that is responsible for the deposit guarantee scheme and client asset protection scheme of a Member State, if the resolution authority of that Member State is a member of a resolution college;
- (h) the resolution authorities of third countries where a parent institution or an institution established in the European Union has subsidiaries or branches that would be considered significant were they located in the Union may, at their request, be invited to participate in the resolution college as observers, provided that they are subject to equivalent confidentiality requirements;
- (i) the European supervisory authority (European Banking Authority) shall also be invited to attend the meetings of the resolution college but shall not have any voting rights.

(4) The Council shall not be obliged to establish a resolution college under paragraph 1 where other groups or colleges perform the same functions, carry out the same tasks, and comply with all the conditions and procedures, including those covering membership and participation in resolution colleges pursuant to paragraph 1.

(5) A resolution college established under paragraph 1 shall be chaired by the Council. In that capacity, the Council shall:

- (a) establish written arrangements and procedures for the functioning of the resolution college, after consulting the other members of the resolution college referred to in paragraph 1;
- (b) coordinate all activities of the resolution college referred to in paragraph 1;
- (c) convene and chair all its meetings;
- (d) notify all members of the resolution college referred to in paragraph 1 in advance of the organisation of meetings, of the main issues to be discussed, and subsequently of the decisions taken;
- (e) decide which members and observers are to be invited to attend particular meetings of the resolution college, taking into account the potential impact on financial stability in the Member States concerned.

(6) If the Council is a member of a resolution college established by the resolution authority of another Member State, it shall cooperate closely with that resolution authority, as well as with the other members of the college and with the European supervisory authority (European Banking Authority).

## Article 85

### **European resolution colleges**

(1) Where a third-country institution or a third-country parent institution has subsidiaries established in the Slovak Republic and in one or more Member States, or two or more branches that are regarded as significant in the Slovak Republic and in one or more

Member States, the Council shall, in agreement with the resolution authorities of the Member States where those subsidiaries are established or where those significant branches are located, establish a European resolution college (hereinafter referred to as ‘European college’) to perform the functions and tasks specified in Article 20.

(2) The Council as a member of the European college shall make every effort to reach a joint decision with the resolution authorities that are members of the European college in respect of the recognition of a third country’s decision to take resolution actions in relation to an institution or a parent institution established in that country and having:

- (a) subsidiaries established in two or more Member States or branches that are regarded as significant in two or more Member States;
- (b) assets, right or liabilities located in two or more Member States or governed by the law of those Member States.

(3) The procedure outlined in paragraph 2 shall be applied only where there is no agreement in force pursuant to Article 20a(2) or where such agreement does not cover the recognition of decisions taken by third countries in respect of resolution actions and their performance. After reaching a joint decision under paragraph 2, the Council shall ensure that a recognised decision is duly executed. The recognition and execution of decisions taken by third countries in respect of resolution actions shall be without prejudice to actions carried out under a separate regulation<sup>62</sup>.

(4) Within the scope of resolution proceedings, the Council may, for the purposes of this paragraph, take any of the following actions:

- (a) apply an appropriate resolution tool in relation to:
  - 1. the assets of an institution or of a parent institution established in a third country, which are located in the territory of the Slovak Republic or are governed by the law of the Slovak Republic;
  - 2. the rights or liabilities of a third-country institution, which are recorded in the books of a branch of that institution located in the Slovak Republic or are governed by the law of the Slovak Republic, or which are subject to claims that are enforceable in the territory of the Slovak Republic;
- (b) discontinue the transfer of shares or other instruments of ownership held by a Union subsidiary established in the Slovak Republic or require that such transfer is discontinued;
- (c) exercise the powers referred to in Articles 14, 15 and 17 in connection with the rights of any of the parties participating in the joint decision mentioned in paragraph 2 where necessary for the execution of a third party’s decision concerning resolution;
- (d) ensure that none of the contractual rights is unenforceable, terminate, cancel or fulfil contracts before maturity or affect the contractual rights of the persons referred to in paragraph 2 and of other persons within the group, where such rights have arisen from resolution proceedings in relation to an institution or a parent institution established in a third country, or of other persons within the group, the resolution authority of a third country, or otherwise in accordance with the law of that country, provided that the basic contractual obligations, including payment and delivery obligations, and the provision of collateral, continue to be met.

(5) The Council may exercise its resolution powers and decide to take resolution actions in relation to a parent institution where necessary in the public interest, if the competent resolution authority of a third country finds that an institution governed by the law of that country meets the conditions for resolution under the law of that country; for this purpose, the Council may exercise the full range of its resolution powers in relation to that parent institution.

(6) If the Council fails to reach a joint decision as referred to in paragraph 2 with the resolution authorities participating in the European college or if there is no such college established, the Council shall take its own decision as to whether to recognise a third country's decision concerning the resolution of an institution or a parent institution established in a third country. In taking such a decision, the Council shall take into account the interests of each Member State in which the institution or parent institution mentioned in paragraph 2 operates, in particular the possible impact of recognition and execution of resolution decisions taken in third countries on financial stability in the Member States concerned and on other persons within the group.

(7) The Council may, after consulting the other resolution authorities participating in the European resolution college, refuse to recognise or execute a third country's resolution decision where:

- (a) that decision would have an adverse impact on financial stability in the Slovak Republic or the Council assumes that it would have an adverse impact on financial stability in another Member State;
- (b) an individual resolution tool is to be applied in relation to a branch of a third-country institution under resolution in order to achieve one or more resolution objectives;
- (c) the Council assumes that creditors and depositors located or receiving remuneration in the Slovak Republic would not receive the same treatment as third-country creditors and depositors with similar rights;
- (d) the recognition or execution of that decision would have serious fiscal consequences for the Slovak Republic or the effects of such recognition or execution would be in conflict with the law of the Slovak Republic.

(8) For the purposes of consolidated supervision, the European college shall be chaired by the resolution authority of the Member State in which the consolidated supervisor is located, in cases involving the subsidiaries of a financial holding company established in the European Union or its significant branches. Where this is not feasible, the chairman of the European college shall be nominated and approved by the Council, working closely with the other members of the European college.

(9) On the basis of a mutual agreement between the Council and the third-country resolution authorities concerned, the requirement to establish a European college may be waived if other colleges perform the same functions, carry out the same tasks, and observe all the conditions and procedures, including those covering membership and participation in other resolution colleges; the provisions pertaining to European colleges shall apply to these colleges or groups, as appropriate.

## Article 86

### **Information exchange**

(1) The Council, other competent resolution authorities, Národná banka Slovenska, and the supervisory authorities of Member States shall provide one another on request with all the information<sup>102</sup> relevant for the performance of tasks under this Act, while maintaining confidentiality in accordance with Article 8.

(2) Upon a request for information which has been provided by a third-country resolution authority, the Council shall seek the consent of the third-party resolution authority for the onward transmission of that information, save where the third-country resolution authority has already consented to the onward transmission of that information.

(3) The relevant resolution authorities shall share information with the Ministry when it relates to a decision on a matter which requires notification, consultation or consent of the Ministry or which may have implications for public funds.

(4) The Council and other relevant resolution authorities, the competent supervisory authorities, the Ministry and other relevant ministries shall exchange confidential information, including recovery plans, with the relevant authorities of third countries in compliance with the confidentiality requirements only where the following conditions are met:

- (a) the third-country authorities comply with the requirements and standards regarding professional secrecy;
- (b) the information exchanged is necessary for the relevant third-country authorities to exercise their resolution powers under the law of the third country.

(5) Where confidential information comes from another Member State, the Council and other relevant resolution authorities, Národná banka Slovenska, the competent supervisory authorities, the Ministry and other relevant ministries may provide that information to the resolution authority of a third country if the resolution authority of the Member State from which that information comes agrees to the information exchange in the range and for the purpose specified in its written consent.

## PART TWELVE

### RESOLUTION FINANCING ARRANGEMENTS

#### Article 87

##### **The national fund**

(1) All institutions under resolution shall participate in their resolution by making financial contributions (hereinafter ‘contributions’) to the financing of the effective use of resolution tools and the exercise of resolution powers under this Act.

(2) For the collection of contributions from institutions under paragraph 1 and for their use for resolution purposes under this Act and separate regulations<sup>25</sup>, a national fund shall be set up for the Council.

(3) The national fund shall not have legal personality and its resources shall not constitute part of the state budget, nor part of any other public sector budget.

(4) The national fund shall have separate books of accounts and separate financial statements, including on- and off-balance sheets and notes to the financial statements. The compilation and management of these accounting documents shall be ensured by the Deposit Protection Fund at its own expenses. The Deposit Protection Fund may delegate all or part of these tasks to a third person, who shall be selected and authorised in agreement with the Council.

## Article 88

### **Types of contributions**

(1) Institutions under resolution shall pay the following contributions to the national fund:

- (a) annual contributions; and
- (b) extraordinary contributions.

(2) ‘Annual contribution’ means the amount that each institution is required to pay under paragraph 1 on an annual basis

- (a) in euro;
- (b) in irrevocable payment commitments as referred to in Article 89(3).

(3) ‘Extraordinary contribution’ means the amount to be paid in euro by an institution under paragraph 1 to replenish the resources of the national fund for financing the effective use of resolution tools and the exercise of resolution powers by the Council.

## Article 89

### **Amount of contributions**

(1) The amount of the annual contribution for a given year shall be determined by the Council, after consultation with the Ministry and the Deposit Protection Fund, for each of the institutions concerned.

(2) The annual contribution of an institution under resolution shall be calculated as the ratio of its liabilities (excluding own funds), less covered deposits under a separate regulation<sup>1</sup>, to the aggregate liabilities (excluding own funds) of all institutions operating in the Slovak Republic, less covered deposits under a separate regulation<sup>1</sup> of all institution operating in the Slovak Republic. The annual contribution shall be calculated in consideration of the phase of the business cycle and the possible procyclical effect on the financial position of the contributing institution and the risk profile of that institution.

(3) The Council may stipulate that annual contributions may be paid in part in irrevocable payment commitments which are fully backed by collateral of highly liquid but low-risk assets unencumbered by any third party rights and which may be used for the purposes specified in Article 92(5). The share of irrevocable payment commitments shall not exceed 30% of the total amount of contributions paid by an institution to the national fund for a given year.

(4) The amount of annual contributions shall be set by the Council pursuant to paragraph 1 so as to ensure that, over a transitional period ending 31 December 2024, the

available resources of the national fund reach at least 1% of the amount of covered deposits (hereinafter 'target level') of all the institutions operating in the territory of the Slovak Republic. The Council may prolong this transitional period by up to four years if the national fund makes cumulative disbursements during that period in excess of 0.5% of the covered deposits under a separate regulation<sup>1</sup>. The Council shall set the amount of annual contributions for the individual years so that the contributions are spread out in time as evenly as possible until the target level is reached.

(5) If, after the transitional period, the available resources of the national fund diminish below the target level, the regular annual contributions shall resume until the target level is reached.

(6) If, after the target level has been reached, the available resources of the national fund diminish by more than one third of the target level, the Council shall, after consulting the Ministry and the Deposit Protection Fund, set the amount of annual contributions at a level allowing for reaching the target level within six years of the date of decrease in the national fund's resources by more than one-third.

(7) In exceptional circumstances, mainly when the national fund does not have enough resources to cover the expenses incurred in connection with the financing of the effective use of resolution tools and the exercise of resolution powers, the Council may, after consulting the Ministry and the Deposit Protection Fund, require institutions to pay extraordinary contributions in accordance with paragraph 2, unless a separate regulation<sup>63</sup> provides otherwise.

(8) If the amount of extraordinary contributions is set prior to the setting of the amount of annual contributions, the amount of extraordinary contributions may not be greater than three times the amount of annual contributions set for the previous year.

(9) The Council may grant an institution full or partial exemption from the obligation to pay extraordinary contributions in order to avoid a possible threat to its liquidity and solvency. Such exemption may be granted for a maximum of six months, but it may be granted repeatedly if the institution so requests.

(10) On expiry of the exemption period referred to in paragraph 9, the relevant institution shall pay an extraordinary contribution to the national fund in the amount that it would have to pay without being exempted from the obligation to pay such contributions.

(11) The Council's decisions setting contributions to the national fund and the related decision-making process (hereinafter 'contribution-setting decisions') are not subject to a separate regulation on proceedings in financial market matters<sup>26</sup>, nor to a general regulation on administrative proceedings<sup>69</sup>; in its contribution-setting decisions, the Council shall proceed at its own discretion and within the limits laid down in this Act.

(12) The Council's contribution-setting decisions shall state the amount of the contribution, the time limit for payment of the contribution, and the provisions of this Act and a separate regulation<sup>102a</sup> under which the amount of the contribution was set and under which the contribution is due to be paid to the national fund within the period laid down in this Act or stipulated by the Council pursuant to this Act. The written version of a decision shall further state who issued the decision, the date of issue, the business name of the institution

required to pay the contribution and the address of its registered office and its identification number, and the fact that the decision is final and not subject to appeal. Contribution-setting decisions must bear an official circular stamp including the state emblem, and they must bear the signature of the Chair of the Council or of a person acting on the Chair's behalf, along with the printed first name, last name and position of the signatory; decisions shall expressly state that they were issued by the Council in a plenary meeting.

(13) The Council's contribution-setting decisions enter into force on the date when the decision is delivered to the institution addressed by the decision; such decisions are not subject to appeal and there is no judicial remedy against them.<sup>102b</sup>

(14) After being delivered, a Council's contribution-setting decision becomes enforceable when the time limit stipulated for the payment of the contribution expires.

(15) A final and enforceable contribution-setting decision of the Council constitutes an execution title and grounds for judicial execution.

(16) The Council shall issue corrigenda of typing and counting errors, and any other apparent errors, identified in the written version of its contribution-setting decisions, and shall promptly inform the institutions addressed by the decisions of these corrigenda.

#### Article 90

##### **Date of contribution payment**

(1) Institutions shall pay their annual contribution to the national fund by 30 April of each calendar year, unless the Council sets another deadline for the payment of the annual contribution or part thereof.

(2) The deadline for extraordinary contribution payment shall be set by the Council.

(3) An institution that fails to pay its contribution to the national fund properly and in due time shall pay interest on the due amount for late payment.<sup>103</sup>

(4) The provisions of paragraph 3 shall be without prejudice to the responsibility of institutions under a separate regulation<sup>104</sup>.

#### Article 91

##### **The national fund's resources**

(1) The resources of the national fund shall comprise:

(a) funds for the resolution of institutions, transferred to the national fund from the Single Resolution Fund set up under a separate regulation<sup>105</sup>;

(b) contributions paid under Article 88(2)(a) and (3) (hereinafter referred to as 'financial contributions');

(c) contributions paid under Article 88(2)(b);

(d) interest charged for late payment under Article 90(3);

(e) interest income from the use of funds under Article 92(4)(g);

- (f) loans provided to the national fund by institutions under resolution, financial institutions or third persons, where the conditions set out in paragraph 4 are met;
- (g) loans provided to the national fund by the financing arrangements of other Member States, where the conditions set out in paragraph 5 are met.

(2) The national fund's resources as referred to in paragraph 1 shall be deposited in separate accounts with Národná banka Slovenska. A separate account shall be kept for each of the types of income listed in paragraphs 1 and 3 and for funds from each loan received, except for income specified in paragraph 1(d) and (e). Such income shall be deposited in loan accounts.

(3) Where the conditions set out in Article 97(1) are met, as well as those stipulated by a separate regulation<sup>105</sup>, an additional source of funding for the national fund may be funds provided from the Deposit Protection Fund under a separate regulation<sup>105a</sup>.

(4) The Council may enter into loan agreements to obtain funding for the national fund pursuant to paragraph 1(f) if the funds obtained under paragraph 1(a) to (e) are insufficient or the national fund has no unavailable funds to cover the losses, costs or other expenses incurred in connection with the effective resolution of institutions.

(5) The Council may also apply for a loan for the national fund to the financing arrangements of other Member States where the national fund's resources raised under Article 88(1) are insufficient or unavailable for the coverage of the losses, costs or other expenses incurred in connection with the effective resolution of institutions, and where a loan as referred to in paragraph 1(f) cannot be obtained under reasonable terms.

(6) The interest rate, maturity, and other terms agreed-upon in loan agreements made with the financing arrangements of other Member States shall be agreed between the Council and the relevant financial arrangements of other Member States. Loan agreements made with financing arrangements shall contain the same interest rate, maturity and other terms, except in cases where the financing arrangements involved agree otherwise. The amount of a loan received from the financial arrangement of another Member State shall correspond to the proportion of covered deposits in the Member State of that financing arrangement to the total amount of covered deposits in the Member States that provide loans to the national fund, unless they agree otherwise.

(7) An outstanding loan provided to a financing arrangement of another Member State may be included in the target level of the national fund.

(8) If the funds provided under paragraph 3 are higher than the sum of losses that would be incurred by the Deposit Protection Fund if the institution under resolution were wound up in bankruptcy proceedings under a separate regulation<sup>62</sup>, the Deposit Protection Fund shall be entitled to compensation for the difference from the national fund's resources, while the value of that difference shall be determined pursuant to Article 77.

(9) Loans provided to the national fund shall be eligible for a State guarantee under a separate regulation<sup>105b</sup>.

## Article 92

### **Management and use of the national fund's resources**

(1) The national fund's resources shall be managed and used as decided by the Council.

(2) The management of the national fund's resources shall be ensured for the Council by the Deposit Protection Fund at its own expenses under a separate law<sup>105c</sup>, though the Deposit Protection Fund may delegate this task, in whole or in part, to a third person who shall be selected and authorised in agreement with the Council. In managing the national fund's resources, the Deposit Protection Fund shall be eligible and authorised to act on behalf of the Council and the national fund<sup>105d</sup>, as well as to perform the following tasks:

- (a) arranging for the payment of financial contributions to the national fund and collecting such contributions, including interest and fees;
- (b) compiling statements of contributions due from institutions under resolution;
- (c) ensuring the execution of decisions concerning the national fund's resources or the interest and fees related to them; for these purposes or for those mentioned in point (a), the Deposit Protection Fund may, on the Council's behalf, file submissions and motions to courts, other public authorities, and to court executors,<sup>105d</sup> as well as to grant authorisation for representation and to enter into contracts for the provision of legal services<sup>106</sup> related to the management of the national fund's resources;
- (d) handling the national fund's resources and transferring funds from these resources to the Single Resolution Fund.

(3) The Council shall provide for the keeping of records for the national fund, the valuation of claims and collaterals provided as security for claims, and the replenishment of collaterals to their original level where collaterals expire before maturity or their value falls or where the income from collateral realisation would probably be insufficient for the coverage of the claims secured; the keeping of such records and the valuation/replenishment of such collaterals shall be ensured by the Deposit Protection Fund at its own expenses. The Deposit Protection Fund may delegate these tasks, in whole or in part, to a third person who shall be selected and authorised after consultation with the Council.

(4) The national fund's resources may only be used in a range needed for financing the effective resolution of institutions under this Act for the following purposes:

- (a) hedging the liabilities of the clients of an institution under resolution towards that institution or the liabilities of an institution under resolution, its subsidiaries, bridge institution or asset management vehicle;
- (b) providing loans to an institution under resolution, its subsidiaries, bridge institution or asset management vehicle;
- (c) providing funds to a bridge institution or an asset management vehicle free of charge and on a no return basis;
- (d) paying compensation to shareholders or creditors in accordance with Part Ten of this Act;
- (e) providing funds to an institution under resolution instead of writing off its debt or converting the liabilities of certain creditors, if the bail-in tool is applied and the Council decides to deprive certain creditors of their right to apply the bail-in tool in accordance with Article 59(2);

- (f) lending funds voluntarily to the financing arrangements of other Member States, while the amount of funds provided to national funds shall be determined according to the proportion of covered deposits as defined in a separate regulation<sup>1</sup> to the sum of covered deposits and protected client assets in the financing arrangements of other Member States, unless the Council, the Deposit Protection Fund, and the financing arrangements of other Member States agree otherwise; the interest rate, maturity period and other contractual terms under which the funds will be provided to the financing arrangements of other Member States, shall be agreed between the Council and the relevant financing arrangements of other Member States;
- (g) repaying loans, interest on loans, and other costs related to loans provided to the national fund;
- (h) using the national fund's resources in any of the combinations specified in points (a) to (g).

(5) The national fund's resources may also be used to provide a loan to the acquirer where the property transfer tool is applied in relation to an institution under resolution.

(6) The Council may also enter into a loan agreement if requested by the financing arrangement of another Member State.

(7) The national fund's resources may also be used in the cases referred to in Article 95 and Article 91(8).

(8) The national fund's resources may not be used directly to absorb the losses of an institution or other entity under resolution, nor to replenish its own funds pursuant to Article 58(1)(a). Where the losses of an institution under resolution are partially transferred to the national fund as an indirect consequence of the use of the national fund's resources for the purpose specified in paragraph 5, the procedure described in Article 59 shall be applied.

#### Article 93

Financial transfers from the national fund to the Single Resolution Fund for resolution purposes shall be governed by Article 92 of this Act, the relevant provisions of a separate regulation<sup>105</sup>, and by an international agreement by which the Slovak Republic is bound and which was published in the manner stipulated by law.

#### Article 94

##### **Rights and duties of the Council in respect of the national fund**

The Council may request any relevant information and data from an institution under resolution for the performance of its functions as a resolution authority. The institution shall promptly deliver the requested information and data to the Council in printed or electronic form, mainly data for the calculation of contributions pursuant to Article 89(1). If the Council finds inconsistencies in the information so provided, it shall report the inconsistencies revealed to the institution concerned, which shall eliminate those inconsistencies without delay and send the corrected information back to the Council. The Council shall verify whether the inconsistencies have been eliminated and shall take the necessary steps to ensure the correct performance of its activities. The Council shall have the power to carry out a check in any institution in which inconsistencies have been found repeatedly for the correct performance of its tasks in accordance with this Act and the related activities.

## Article 95

### **Use of the national fund's resources for resolution financing at group level**

(1) If the group-level resolution authority responsible for exercising resolution powers over the group to which the institution under resolution belongs decides to take resolution actions at group level, the Council shall use the national fund's resources in accordance with this Act.

(2) The Council shall, if requested by the relevant group-level resolution authority, cooperate in the preparation of a financing plan in accordance with Article 96.

## Article 96

### **Financing plan**

(1) For the purposes of this Act, 'financing plan' means a plan prepared by a group-level resolution authority in accordance with the decision-making procedures referred to in Articles 84 and 85.

(2) The financing plan shall include:

- (a) a valuation prepared in accordance with Article 51;
- (b) the losses recognised by each group entity under resolution at the moment the resolution tools are applied;
- (c) for each group entity under resolution, the losses that would be suffered by each class of shareholders and creditors;
- (d) any contribution that the Deposit Protection Fund would be required to make in accordance with a separate regulation<sup>1</sup> or that required from the Investment Guarantee Fund under a separate regulation<sup>2</sup>;
- (e) the total contribution made by all resolution financing arrangements and the purpose and form of that contribution;
- (f) the basis for calculating the amount that each of the national financial arrangements of the Member States where the group entities under resolution are located is required to contribute to the financing of the group's resolution in order to build up the total contribution referred to in point (e);
- (g) the amount that each of the national financing arrangements of the Member States where the relevant group entities are located is required to contribute to the financing of the group's resolution and the form of those contributions;
- (h) the amount of borrowing that the financing arrangements of the Member States where the relevant group entities are located will contract in accordance with Article 93;
- (i) a timeframe for the use of the financing arrangements of the Member States where the relevant group entities are located, which should be capable of being extended where appropriate.

(3) Unless agreed otherwise in the financing plan, the basis for apportioning the total contribution of the group financing arrangement among the individual national financing arrangements shall in particular have regard to:

- (a) the proportion of the group's risk-weighted assets held at individual institutions or entities within the group;
- (b) the proportion of the group's assets held at individual institutions or entities within the group;
- (c) the proportion of the losses incurred by individual institutions or entities within the group, giving rise to the need for group resolution;
- (d) the proportion of the group financing arrangement's resources which are expected to be used for the resolution of the group;
- (e) compliance with the principles set out in the group resolution plan in accordance with Article 26(4)(f), unless otherwise agreed in the financing plan.

(4) Unless agreed otherwise in the financing plan, the basis for apportioning any income or yield from the use of group financing arrangements among the individual national financing arrangements shall be the amount of contributions to resolution financing.

#### Article 97

#### **Principles for the use of the Deposit Protection Fund's resources**

(1) The Council shall use the funds received from the Deposit Protection Fund as stipulated by a separate regulation<sup>1</sup>, to enable depositors to have access to their deposits on a permanent basis, where:

- (a) covered deposits are reduced through the use of the bail-in tool to the same extent as other liabilities with the same priority ranking under a separate regulation<sup>62</sup>, up to an amount specified in Article 60(1)(a);
- (b) the owners of covered deposits incur losses as a result of the use of resolution tools other than the bail-in tool in the same range as other creditors with the same priority ranking under a separate regulation<sup>62</sup>.

(2) Where the bail-in tool is applied, funds from the Deposit Protection Funds shall not be required to be used for the coverage of costs incurred in connection with the replenishment of an institution's resources pursuant to Article 58(1)(a) or the application of the bridge institution tool under Article 55.

(3) The Deposit Protection Fund shall be entitled to compensation for the difference from the national fund in accordance with Article 78 where a valuation carried out under Article 77 reveals that the contribution of the Deposit Protection Fund to resolution is higher than the sum of compensations that the Fund would pay to owners of inaccessible deposits if a banking institution were prohibited from handling deposits on the basis of a court ruling made in bankruptcy proceedings under a separate law<sup>62</sup>.

(4) The Council shall ensure that the amount of funds as referred to in Article 96(2)(d) will be determined in compliance with the conditions set out in Article 51.

## PART THIRTEEN

### SANCTIONS

#### Article 98

(1) If the Council finds shortcomings in the activities of an institution, including infringement of the conditions stipulated in a decision taken by the Council in respect of the institution concerned or infringement or avoidance of the provisions of this Act or the legally binding acts of the European Union pertaining to bank resolution, the Council may, according to the seriousness, range, duration, consequences, and nature of the shortcomings revealed, impose the following penalties or other measures on the institution under resolution:

- (a) an order requiring the institution to submit certain statements and reports;
- (b) an order requiring the institution to stop conducting any unauthorised activity;
- (c) an order requiring the institution to release a public statement indicating the natural person, institution, financial institution, EU parent institution or other legal person responsible, and the nature of the infringement;
- (d) a temporary ban against any member of the statutory body or supervisory board of the institution under resolution or against a senior employee of that institution or against any other natural person who is held responsible, to exercise managerial functions in the institution under resolution;
- (e) an administrative fine of EUR 3,300 to EUR 332,000 or, in the case of a repeated or serious deficiency, a fine of up to 10% of the total annual net turnover for the preceding business year, where the legal person is a subsidiary of the parent institution; the relevant turnover shall be the main parent institution's turnover according to its consolidated financial statements for the preceding business year;
- (f) an administrative fine of up to twice the amount of the benefit derived from the infringement where that benefit can be determined;
- (g) an order requiring the institution to correct its accounting books or other records as required by the Council or the auditor;
- (h) an order requiring the institution to release a correction of any incomplete, inaccurate, or untrue information it has published in accordance with the disclosure requirement stipulated by law;
- (i) an order requiring the institution to settle any losses from business operations using share capital, subsequent to the use of retained earnings from previous years, funds created from profits, and capital funds to cover those losses;
- (j) an order requiring the institution under resolution to adopt a measure to improve risk management;
- (k) an order requiring the institution under resolution to reduce any major risk it faces when carrying on its activities;
- (l) an order requiring the institution under resolution to maintain assets in the prescribed range and amount;
- (m) an order requiring the institution under resolution to restrict or suspend the performance of certain activities or services or the conduct of certain types of transactions.

(2) If the Council finds shortcomings in the activities of an institution under resolution pursuant to paragraph 1, the Council may propose that Národná banka Slovenska should revoke the institution's authorisation to operate.

(3) The Council may impose a fine upon a member of an institution's statutory body or supervisory board, the chief executive officer of a foreign institution's branch or their deputy, general proxy, a managerial employee of an institution or the branch of a foreign institution, for any violation of the provisions of this Act or other generally binding legal regulations pertaining to resolution or for any breach of the conditions or obligations imposed by a decision issued by the Council, which fine may, depending on the gravity, nature, and duration of the infringement, go up to EUR 5,000,000.

(4) Fines and corrective measures as referred to in paragraphs 1 and 3 may be imposed concurrently and repeatedly. Fines imposed under this Act shall represent income for the state budget of the Slovak Republic.

(5) Fines or corrective measures as referred to in paragraphs 1 and 2 may be imposed within two years from the detection of shortcomings, but no later than within ten years of their occurrence. A fine as specified in paragraph 3 may be imposed within one year from the detection of shortcomings, but no later than within three years of their occurrence. The limitation periods mentioned in the first and second sentences shall be interrupted when an event causing such interruption under a separate law<sup>107</sup> occurs, and a new limitation period will begin to lapse from the date of interruption. Shortcomings in the operation of an institution over which the Council exercises its powers under this Act, specified in an on-site inspection protocol, shall be considered detected from the date of on-site inspection carried out under a separate law<sup>108</sup>.

(6) Apart from corrective measures or penalties approved in resolution proceedings, the Council shall be entitled to impose upon an institution under resolution the obligation to submit special statements or reports and to discuss any deficiencies in the institution's activities with its statutory body members, supervisory board members, managerial employees, and with the heads of its internal control and internal audit units who are obliged to provide cooperation if requested.

(7) Information on corrective measures and fines as referred to in paragraphs 1 to 3, against which there is no appeal, and information on how an appeal against other sanctions is to be lodged and the results of such appeals shall be published on the Council's website for at least five years, as soon as the institution under resolution is notified of the imposition of a corrective measure or fine. The Council shall publish mainly information on the type of the corrective measure or fine imposed, the nature of the infringement, the business name, registered office, and identification number of the bank or foreign bank branch concerned, or the full name, residence address, or business name, registered office, and identification number of the person on which a corrective measure or fine has been imposed. Such information shall be published anonymously up to the time when anonymous publishing is no longer justified, where:

- (a) a natural person is involved and personal data disclosure is inappropriate;
- (b) there is a justified risk to financial market stability or an examination is underway pursuant to a separate regulation<sup>109</sup>;

(c) there is a justified risk that the bank or natural person may suffer a serious loss or damage.

(8) The Council shall notify the European supervisory authority (European Banking Authority) of the sanctions imposed in order to enable an exchange of information between the relevant supervisory authorities through the central database kept by the European supervisory authority (European Banking Authority). The Council shall provide the European supervisory authority (European Banking Authority) with any information that is needed to keep the central database up to date.

(9) The Council shall preserve the anonymity of an institution's employee, managerial employee, statutory body member or supervisory board member who has provided any information to the Council about shortcomings in the institution's activities.

(10) Fines imposed with finality shall be enforced by the Government Audit Office.<sup>109a</sup> To this end, the Council shall send the Government Audit Office copies of the legally valid decisions under which the fines were imposed.

## **PART FOURTEEN**

### **COMMON, TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 99**

##### **Common provisions**

(1) The actions taken by the Council under this Act and under a separate regulation<sup>26</sup> shall not be subject to the general regulation on administrative proceedings<sup>110</sup>.

(2) Responsibility for any damage caused by the Council while exercising its powers in matters falling within the competence of the Council under this Act and separate regulations shall be subject to a separate law<sup>28g</sup>.

#### **Article 99a**

##### **Transitional provisions**

##### **for amendments in force as of 1 January 2016**

(1) Proceedings under this Act, commenced before 1 January 2016, shall be completed in accordance with this Act. The legal effects of acts that occurred in the proceedings before 1 January 2016 shall be preserved.

(2) The provisions of Articles 4 to 8 concerning the members of the Council, effective as of 1 January 2016, shall also apply to persons who were appointed as members of the Council before 1 January 2016 (with effect from 1 January 2016); the persons appointed as Council members before 1 January 2016 shall meet the conditions laid down in Article 4(5) by 1 January 2017 at the latest.

(3) An appeal<sup>111</sup> against a decision of the Council in a matter that falls outside the competence of the Council's executive member, except for the decision in which the Council has specified the amount of contributions under Article 89, may be lodged to the Supreme

Court of the Slovak Republic<sup>112</sup> within 15 days of the delivery date of the Council's decision, but no later than 30 June 2016.

(4) Until 30 June 2016, first-instance decisions taken by the Council in matters that fall outside the competence of the Council's executive member shall not be subject to any separate regulation<sup>113</sup>.

(5) Until 30 June 2016, the legality of the Council's final decisions issued under this Act, with the exception of decisions specifying the amount of contributions payable under Article 89, may be reviewed under a separate regulation<sup>114</sup>; the decisions or procedures of the Council may be reviewed exclusively by the Supreme Court of the Slovak Republic.

(6) With effect from 1 July 2016, the legality of the Council's decisions may be reviewed in accordance with the Administrative Court Procedure Code.

#### Article 100

This Act transposes the legally binding acts of the European Union listed in the Annex hereto.

#### Section VII

This Act shall enter into force on 1 January 2015.

Act No 39/2015 Coll., Section VI, entered into force on 1 April 2015.

Act No 239/2015 Coll., Section III, entered into force on 15 October 2015.

Act No 437/2015 Coll. entered into force on 1 January 2016, with the exception of Section I, Article 6e(13) to (15), point 21, and Section I point 90, which enter into force on 1 July 2016.

**SCHEDULE OF TRANSPOSED LEGALLY BINDING ACTS  
OF THE EUROPEAN UNION**

Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms, and amending Council Directive 82/891/EEC and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014).

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## Endnotes

- <sup>1)</sup> Act No 118/1996 Coll. on the protection of bank deposits (and amending certain laws), as amended.
- <sup>2)</sup> Articles 80 to 98 of Act No 566/2001 Coll. on securities and investment services (and amending certain laws) (the Securities Act), as amended.
- <sup>3)</sup> Article 2(1) of Act No 483/2001 Coll. on banks (and amending certain laws), as amended by Act No 213/2014 Coll.
- <sup>4)</sup> Article 54(1) of Act No 566/2001 Coll., as amended.
- <sup>5)</sup> Article 54(11) of Act No 566/2001 Coll., as amended by Act No 659/2007 Coll.
- <sup>6)</sup> Article 5(ab) of Act No 483/2001 Coll., as amended by Act No 213/2014 Coll.
- <sup>7)</sup> Articles 6 to 17 of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms, amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013).
- <sup>8)</sup> Article 33a(k) of Act No 483/2001 Coll., as amended by Act No 213/2014 Coll.
- <sup>9)</sup> Article 33a(s) of Act No 483/2001 Coll., as amended by Act No 213/2014 Coll.
- <sup>10)</sup> Article 33a(l) of Act No 483/2001 Coll., as amended by Act No 213/2014 Coll.
- <sup>11)</sup> Article 33a(n) of Act No 483/2001 Coll., as amended by Act No 213/2014 Coll.
- <sup>12)</sup> Article 33a(p) of Act No 483/2001 Coll., as amended by Act No 213/2014 Coll.
- <sup>13)</sup> Article 33a(t) of Act No 483/2001 Coll., as amended by Act No 213/2014 Coll.
- <sup>14)</sup> Article 33a(u) of Act No 483/2001 Coll., as amended by Act No 213/2014 Coll.
- <sup>15)</sup> Article 22(3) of Act No 431/2002 Coll. on accounting, as amended.  
Article 4(1) point 15 of Regulation (EU) No 575/2013, as amended.
- <sup>15a)</sup> Article 4(1) point 29 of Regulation (EU) No 575/2013, as amended.
- <sup>16)</sup> Article 22(4) of Act No 431/2002 Coll., as amended by Act No 561/2004 Coll.  
Article 4(1) point 16 of Regulation (EU) No 575/2013, as amended.
- <sup>16a)</sup> Article 4(1) point 41 of Regulation (EU) No 575/2013, as amended.
- <sup>17)</sup> Article 5 of Act No 566/2001 Coll., as amended.  
Article 4(1) point 50 of Regulation (EU) No 575/2013, as amended.
- <sup>18)</sup> Articles 107 to 109 of the Treaty on the Functioning of the European Union (OJ C 326, 26.10.2012).
- <sup>19)</sup> Article 52(1) and Article 63 of Regulation (EU) No 575/2013, as amended.
- <sup>19a)</sup> Article 28(1) to (4), Article 29(1) to (5), Article 31(1) of Regulation (EU) No 575/2013, as amended.
- <sup>19b)</sup> Article 52(1) of Regulation (EU) No 575/2013, as amended.
- <sup>19c)</sup> Article 63 of Regulation (EU) No 575/2013, as amended.
- <sup>19d)</sup> Article 2(7) of Act No 483/2001 Coll., as amended by Act No 213/2014 Coll.
- <sup>19e)</sup> Article 54(4) of Act No 566/2001 Coll.
- <sup>19f)</sup> Articles 107 to 109 of the Treaty on the Functioning of the European Union (OJ EU C 326, 26.10.2012).  
Article 2 of Act No 276/2009 Coll. on measures to mitigate the effects of the global financial crisis on the banking sector (and amending certain laws), as amended by Act No 437/2015 Coll.  
Act No 358/2015 Coll. on adjustments to certain relations concerning State aid and de minimis aid (and amending certain laws) ('the State Aid Act').
- <sup>19g)</sup> Part Three of Act No 566/2001 Coll., as amended.
- <sup>20)</sup> Act No 566/1992 Coll. on Národná banka Slovenska, as amended.
- <sup>21)</sup> Article 6(2)(c) of Act No 566/1992 Coll., as amended.

- 22) Article 5(2), part of the first sentence after the semicolon, of Act No 747/2004 Coll. on financial market supervision (and amending certain laws), as amended.
- 22a) Articles 6 and 7 of Act No 566/1992 Coll., as amended.
- 22b) Article 26(1) of Act No 215/2004 Coll.
- 22c) Article 9(3) of the Labour Code, as amended by Act No 257/2001 Coll.
- 23) For example: Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board (OJ L 331, 15.12.2010); Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European supervisory authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010); Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European supervisory authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010); Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European supervisory authority (European Securities Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010); and Council Regulation (EU) No 1096/2010 of 17 November 2010 conferring specific tasks upon the European Central Bank concerning the functioning of the European Systemic Risk Board (OJ L 331, 15.12.2010).
- 23a) Article 176(1) of Act No 7/2005 Coll. on bankruptcy and restructuring (and amending certain laws), as amended.
- 24) Article 16 of Regulation (EU) No 1093/2010, as amended.
- 25) For example: Act No 483/2001 Coll., as amended; Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010, as amended; Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.7.2014).
- 26) Act No 747/2004 Coll., as amended.
- 27) Article 11 of Act No 747/2004 Coll., as amended.
- 28) Article 14 of Act No 747/2004 Coll., as amended.
- 28a) For example, Articles 70(2) and 71(2) of Regulation (EU) No 806/2014.
- 28b) Articles 12 to 34 of Act No 747/2004 Coll., as amended.
- 28c) Article 27 of Act No 747/2004 Coll., as amended.
- 28d) Article 5 of Act No 747/2004 Coll., as amended.
- 28e) Article 6 of Act No 566/1992 Coll., as amended.
- 28f) Articles 177 to 193 of the Administrative Court Procedure Code.
- 28g) Act No 514/2003 Coll. on liability for damage caused by the exercise of public authority (and amending certain laws), as amended.
- 28h) Articles 38 to 40 of Act No 233/1995 Coll. on court executors and execution activities (and amending certain laws) (the Execution Code), as amended.
- 28i) Articles 22 to 24 and 27 of Act No 153/2001 Coll. on the public prosecution service, as amended by Act No 102/2010 Coll.
- 28j) Article 14(6) of Act No 747/2004 Coll., as amended.
- 29) Articles 2, 3, 29, 39(1), and 73a to 73k of Act No 323/1992 Coll. on notaries and notarial activities (the Notarial Code), as amended.

- 30) Article 34 of Act No 540/2007 Coll. on auditors, audit and audit oversight (and amending Act No 431/2002 Coll. on accounting), as amended.
- 31) Article 2(2) of Act No 540/2007 Coll.
- 32) Article 2(3) of Act No 540/2007 Coll.
- 33) Articles 99 to 111 of Act No 566/2001 Coll., as amended.
- 34) Article 2 of Act No 429/2002 Coll. on stock exchanges, as amended.
- 35) For example: Act No 233/1995 Coll. on court executors and execution activities (and amending certain laws) (the Execution Code), as amended; Act No 382/2004 Coll. on experts, interpreters and translators (and amending certain laws), as amended; Act No 7/2005 Coll. on bankruptcy and restructuring (and amending certain laws), as amended.
- 36) For example, Act No 483/2001 Coll., as amended.
- 37) Article 17(3) and (4) of Act No 747/2004 Coll.
- 38) For example, Regulation (EU) No 1092/2010 and Regulation (EU) No 1093/2010, as amended.
- 39) Article 41 of Act No 566/1992 Coll., as amended.
- 40) For example, Act No 540/2007 Coll., as amended.
- 41) Act No 211/2000 Coll. on free access to information (and amending certain laws) (the Freedom of Information Act), as amended.
- 42) For example, Article 11(1)(g) and (h) of Act No 211/2000 Coll., as amended.
- 43) Articles 91 of Act No 483/2001 Coll., as amended.
- 44) Article 41 of Act No 566/1992 Coll., as amended.  
Article 37.1 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank (OJ C 326, 26.10.2012).
- 45) Article 14(1)(d) of Act No 566/2001 Coll.
- 46) Articles 28 of Act No 483/2001 Coll., as amended.  
Article 70 of Act No 566/2001 Coll., as amended.
- 47) Article 120 of Act No 566/2001 Coll., as amended.
- 48) For example, Act No 530/2003 Coll. on the Commercial Register (and amending certain laws), as amended.
- 49) Article 33p(7) of Act No 483/2001 Coll., as amended by Act No 371/2014 Coll.
- 50) Article 65a(1)(a) to (h) of Act No 483/2001 Coll., as amended by Act No 437/2015 Coll.
- 51) Article 54 of Act No 483/2001 Coll., as amended.
- 52) Article 9 of Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) (OJ L 177, 4.7.2008).
- 55) Article 7(14) of Act No 483/2001 Coll., as amended.
- 56) Article 35(4) of Act No 483/2001 Coll., as amended.
- 57) Articles 14, 15 and 27 of Act No 586/2003 Coll. on the legal profession (and amending Act No 455/1991 Coll. on small business activity (the Trade Licensing Act), as amended.
- 58) Article 5b of Act No 530/2003 Coll., as amended by Act No 136/2010 Coll.
- 59) Act No 429/2002 Coll., as amended.
- 59a) Article 180a of Act No 7/2005 Coll., as amended by Act No 371/2014 Coll.
- 60) Article 132p of Act No 566/2001 Coll., as amended by Act No 132/2013 Coll.  
Article 2(3) of Act No 492/2009 Coll. on payment services (and amending certain laws), as amended by Act No 394/2011 Coll.

- 60a) Article 2(2) of Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012), as amended.
- 61) Article 81 of Regulation (EU) No 648/2012, as amended.
- 62) Act No 7/2005 Coll., as amended.
- 63a) Article 281 of the Treaty on the Functioning of the European Union.
- 64) Article 6 of Act No 483/2001 Coll., as amended.
- 65) Article 24 of Act No 566/1992 Coll., as amended.
- 66) Regulation (EU) No 1093/2010, as amended.
- 67) Article 7(17) of Act No 483/2001 Coll., as amended by Act No 213/2014 Coll.
- 68) Article 25(1) of Regulation (EU) No 1093/2010, as amended.
- 70) Article 113(6) of Regulation (EU) No 575/2013, as amended.
- 71) Act No 483/2001 Coll., as amended.
- 71a) Article 7(3) of Regulation (EU) No 575/2013.
- 71b) Article 32 of Regulation (EU) No 1093/2010, as amended.
- 71c) Article 18(1) of Act No 431/2002 Coll., as amended by Act No 198/2007 Coll.
- 72) Act No 200/2011 Coll. on the Commercial Journal and amending certain laws.
- 73) Article 67 of Act No 483/2001 Coll., as amended by Act No 659/2007 Coll.
- 74) Article 59b of the Commercial Code, as amended by Act No 657/2007 Coll.
- 75) Article 193(2) of the Commercial Code, as amended by Act No 500/2001 Coll.
- 76) Article 202(1) of the Commercial Code, as amended.
- 77) Article 202(3) of the Commercial Code, as amended.
- 78) Article 204a of the Commercial Code, as amended.
- 79) Article 211(1) of the Commercial Code, as amended.
- 80) Article 213(4) of the Commercial Code, as amended by Act No 500/2001 Coll.
- 81) Article 215(3) of the Commercial Code, as amended by Act No 500/2001 Coll.
- 82) Articles 3 to 8 of Act No 200/2011 Coll.
- 83) Article 179 of the Administrative Court Procedure Code.
- 83a) Article 47 of Act No 429/2002 Coll. on stock exchanges.
- 84) Article 6(5) of Act No 431/2002 Coll.
- 85) Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (OJ, Special Issue, Chap. 13/29; L 243, 11.9.2002), as amended.  
Commission Regulation (EC) No 1126/2008 of 3 November 2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council (OJ L 320, 29.11.2008), as amended.
- 85a) Article 4(3) of Act No 384/2011 Coll. on a special levy on selected financial institutions (and amending certain laws), as amended.
- 86) The Commercial Code, as amended.  
Act No 483/2001 Coll., as amended.  
Act No 566/2001 Coll., as amended.
- 87) Act No 483/2001 Coll., as amended.  
Act No 566/2001 Coll., as amended.
- 88) Article 28(1), (5) and (6) of Act No 483/2001 Coll., as amended.  
Article 70 of Act No 566/2001 Coll., as amended.
- 89) Article 17(1), (5) and (6) of Regulation (EU) No 596/2014 of the European Parliament and of the Council on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014).

- 90) For example: Articles 154 to 220a of the Commercial Code, as amended; Act No 566/2001 Coll., as amended.
- 91) Article 154 of the Commercial Code, as amended.
- 92) Article 162 of the Commercial Code, as amended.
- 93) Articles 7 and 28 of Act No 483/2001 Coll., as amended.  
Articles 54 and 70 of Act No 566/2001 Coll., as amended.
- 93a) Article 50 of Act No 483/2001 Coll., as amended.  
Articles 144 to 146a of Act No 566/2001 Coll., as amended.
- 93b) Article 136/2001 Coll. on the protection of competition (and amending Act No 347/1990 Coll. on the organisation of ministries and other central state administration authorities of the Slovak Republic), as amended.
- 94) Act No 483/2001 Coll., as amended.  
Act No 566/2001 Coll., as amended.  
Regulation (EU) No 575/2013, as amended.
- 95) For example: Articles 14 and 20(1)(a) of Act No 530/1990 Coll. on bonds, as amended; Regulation (EU) No 575/2013, as amended.
- 95a) Article 4 of Act No 203/2011 Coll., as amended.
- 96) Article 28 of Act No 483/2001 Coll., as amended.
- 97) Articles 23(1), 33o and 33p of Act No 483/2001 Coll., as amended.
- 98) Act No 231/1999 Coll. on State aid, as amended.
- 99) Article 89 of Act No 203/2011 Coll. on collective investment.
- 100) Article 180 of Act No 7/2005 Coll.
- 101) Article 107a of Act No 566/2001 Coll., as amended.  
Article 51 of Act No 492/2009 Coll., as amended by Act No 130/2011 Coll.
- 102) Act No 211/2000 Coll., as amended.  
Article 89 of Act No 483/2001 Coll., as amended.  
Act No 215/2004 Coll. on the protection of confidential information (and amending certain laws), as amended.  
Act No 122/2013 Coll. on the protection of personal data (and amending certain laws), as amended by Act No 84/2014 Coll.
- 102a) For example, Commission Delegated Regulation (EU) 2015/63 of 21 October 2014 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to ex ante contributions to resolution financing arrangements (OJ L 11, 17.1.2015).
- 102b) For example, Article 248(d) of Act No 99/1963 Coll. – the Civil Procedure Code, as amended, and Article 7(h) of Act No 162/2015 Coll. – the Administrative Court Procedure Code.
- 103) Article 13(4) of Commission Delegated Regulation (EU) No 2015/63 of 21 October 2014 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to ex ante contributions to resolution financing arrangements (OJ L 11, 17.1.2015).
- 104) For example, Articles 50 to 65 of Act No 483/2001 Coll., as amended.
- 105) Article 67 of Regulation (EU) No 806/2014.
- 105a) Article 13(4)(g) of Act No 118/1996 Coll., as amended.
- 105b) Act No 386/2002 Coll. on state debt and state guarantees, amending Act No 291/2002 Coll. on the State Treasury (and amending certain laws), as amended.
- 105c) Article 2(1), second sentence, of Act No 118/1996 Coll., as amended by Act No 371/2014 Coll.
- 105d) For example: Article 21(2), the first sentence of Article 24, and Articles 26(5), 251(1) and 251(4) of the Civil Procedure Code, as amended; Articles 22 to 24 and 31 to 33b of

- the Civil Code, as amended by Act No 509/1991 Coll.; and Articles 36 to 192 of Act No 233/1995 Coll., as amended.
- <sup>106)</sup> Article 21(2), the first sentence of Article 24, and Article 26(5) of the Civil Procedure Code, as amended.  
Articles 22 to 24 and 31 to 33b of the Civil Code, as amended by Act No 509/1991 Coll.  
Article 1(2) and (3) and Articles 12 and 30 of Act No 586/2003 Coll., as amended.
- <sup>107)</sup> Article 19(4) of Act No 747/2004 Coll., as amended.
- <sup>108)</sup> Article 10(5) of Act No 747/2004 Coll.
- <sup>109)</sup> For example, the Criminal Procedure Code, as amended.
- <sup>109a)</sup> Article 4 of Act No 357/2015 Coll. on financial controls and audits (and amending certain laws).  
Article 3(1) and (2) of Act No 374/2014 Coll. on state claims (and amending certain laws).
- <sup>110)</sup> Act No 71/1967 Coll. on administrative proceedings (the Administrative Procedure Code), as amended.
- <sup>111)</sup> Articles 250l to 250s of the Civil Procedure Code, as amended.
- <sup>112)</sup> Articles 244 to 246d of the Civil Procedure Code, as amended.
- <sup>113)</sup> Article 28(2) of Act No 747/2004 Coll.
- <sup>114)</sup> Article 244, Article 246(2)(b) and Articles 247 to 250k of the Civil Procedure Code, as amended.

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