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DECREE
of Národná banka Slovenska
of 13 December 2016
laying down detailed provisions on the assessment of
borrowers' ability to repay housing loans

Národná banka Slovenska, in consultation with the Ministry of Finance of the Slovak Republic and acting in accordance with Section 8(16)(a) to (c) and (f) of Act No 90/2016 on housing loans (and amending certain laws), as amended by Act No 299/2016 (Act No 90/2016 hereinafter being referred to as the 'Act'), has adopted this Decree:

Section 1
Subject matter

This Decree applies to creditors as defined in Section 2(1)(a) of the Act (hereinafter referred to collectively as 'creditors' and individually as a 'creditor') and specifies details about:

- (a) the method for calculating the indicator of a borrower's ability to repay a housing loan;
- (b) taking into account a potential increase in the interest rate on a housing loan (hereinafter 'borrowing rate');
- (c) what is meant by significantly increasing the total amount of a housing loan and by significantly exceeding the sum of existing housing loans' outstanding amounts;
- (d) requirements for submitting evidence of a borrower's income and for the verification of information on a borrower's income;
- (e) the maximum term of a housing loan;
- (f) the maximum limit on the loan-to-value ratio for a housing loan;
- (g) conditions for the valuation of residential immovable property collateral.

Section 2
The method for calculating the indicator of a borrower's ability to repay a housing loan

(1) The indicator of a borrower's ability to repay a housing loan (hereinafter 'debt service-to-income (DSTI) ratio') shall be calculated as the ratio of the borrower's total financial obligations under paragraph 3 to the borrower's total income under paragraph 4 less the borrower's total expenditure on basic necessities under paragraph 5. All items of the calculation of the DSTI ratio are calculated for a period of one month.

(2) The maximum limit on the DSTI ratio calculated in accordance with paragraph 1 is 1.

(3) For the purposes of paragraph 1, a borrower's total financial obligations shall be determined as the sum of:

- (a) the amount of the housing loan instalment under Section 8(4)(c) of the Act, subject to the provisions of paragraph 6 and Section 4 of this Decree; and
- (b) the borrower's income-reducing financial obligations under Section 8(4)(d) of the Act, subject to the provisions of paragraphs 7 to 12 of this Decree.

(4) A borrower's total income under Section 8(4)(a) of the Act means the arithmetic average of the borrower's regular net real income for a specific period of time, normally the six calendar months immediately preceding the assessment of the borrower's ability to repay the housing loan.

(5) For the purposes of paragraph 1, the borrower's total expenditure on basic necessities under Section 8(4)(b) of the Act shall not be set lower than the sum of the borrower's minimum subsistence

amount, the total minimum subsistence amounts of all persons living with the borrower in a common household to whom the borrower has a maintenance obligation,¹ the total minimum subsistence amounts of all other persons towards whom the borrower has a court-ordered maintenance obligation, and 20% of the difference between, on the one hand, the borrower's total income and, on the other hand, the sum of the borrower's minimum subsistence amount,² the total minimum subsistence amounts of all persons living with the borrower in a common household to whom the borrower has a maintenance obligation,¹ and all other persons to whom the borrower has a court-ordered maintenance obligation.

(6) For the purposes of Section 8(4)(c) of the Act, in respect of housing loans which are subject to a fixed borrowing rate mentioned in Section 2(1)(j) of the Act and to repayment in varied instalment amounts, the DSTI ratio shall be calculated using whichever instalment amount is the highest. In the calculation mentioned in the previous sentence, the first housing loan instalment shall not be taken into account.

(7) For the purposes of Section 8(4)(d) of the Act, in respect of housing loans which are not subject to a fixed borrowing rate as defined in Section 2(1)(j) of the Act and which at the same time have a residual term of more than eight years and will not be repaid by the provision of the housing loan applied for, the amount of the income-reducing financial obligation included in the calculation of the borrower's DSTI ratio indicator shall be the higher of the following two amounts:

- (a) the current instalment amount;
- (b) what the instalment would be if the borrowing rate were at least two percentage points higher than the borrowing rate currently stipulated in the loan agreement and if the loan had a maximum term in accordance with Section 6(1), first sentence, (4) and (5); or, alternatively, if the instalment were higher by a percentage whose numerical value is equal to the loan's residual term expressed in calendar years.

(8) For housing loans under other legislation,³ the borrowing rate used in the calculation of the DSTI ratio under paragraph 7 shall not include any reduction by the amount of the state interest subsidy under other legislation⁴ and by the amount by which the creditor reduces the borrowing rate under other legislation⁵ in respect of mortgage loans for young people under other legislation;⁴ or, alternatively, it shall assume that the instalment amount is higher by a percentage whose numerical value is equal to three times the numeric value of the loan's residual term expressed in calendar years.

(9) For housing loans which over the term of the loan are not subject to a fixed borrowing rate as defined in Section 2(1)(j) of the Act and at the same time are subject to a borrowing rate fixed for more than ten years, the calculation under paragraphs 7 and 8 shall assume a stressed borrowing rate that is at least one percentage point higher than the current borrowing rate; or, alternatively, it shall assume that the instalment amount is higher by a percentage whose numerical value is equal to half of the loan's residual term expressed in calendar years.

(10) If a housing loan agreement stipulates that the maximum cumulative increase in the borrowing rate over the term of the loan shall be lower than two percentage points, the calculation under paragraphs 7 and 8 shall assume a stressed borrowing rate at that maximum level.

(11) For housing loans secured by immovable property under Section 6(2) and (3), the stressed borrowing rate under paragraphs 7 to 10 shall not exceed 6%.

¹ Sections 62 to 65 and Section 71 of Act No 36/2005 on family (and amending certain laws), as amended.

² Act 601/2003 on the minimum subsistence amount (and amending certain laws), as amended.

³ Section 85a of Act No 483/2001 on banks (and amending certain laws), as amended.

⁴ Section 85a(2) of Act No 483/2001 on banks (and amending certain laws), as amended.

⁵ Section 85a(3)(b) of Act No 483/2001 on banks (and amending certain laws), as amended.

(12) For the purposes of Section 8(4)(d) of the Act, the amount included in the calculation under paragraph 3(b) shall be at least equal to 3% of the total amount of the borrower's authorised overdraft and credit card facilities.

Section 3

Requirements for submitting evidence of a borrower's income and for the verification of information on a borrower's income

(1) For the purposes of submitting documents certifying a borrower's income, internal sources of information on a borrower's income refers to information from any payment accounts⁶ that the borrower holds with the creditor, where the creditor is a bank, foreign bank or foreign bank branch.

(2) For the purposes of submitting documents certifying a borrower's income, external sources of information on a borrower's income are deemed to include, but are not limited to, the following:

- (a) a document confirming the borrower's income which is issued by the borrower's employer and is not older than three months;
- (b) a statement of any payment account⁶ which the borrower does not hold with the creditor and to which income of the borrower is credited on a regular basis;
- (c) the borrower's employment agreement including all its addenda;
- (d) the borrower's most recent income tax return and a document proving the borrower's income for the period between the filing date of that tax return and the assessment of the borrower's ability to repay the housing loan; and
- (e) a document, not older than three months, confirming the amount of benefits that the borrower receives under other legislation.⁷

(3) A borrower's declaration of honour on his or her income is not proof of income.

(4) The information on a borrower's income mentioned in paragraph 2(a) to (c) shall be verified with the borrower's employer or on the basis of other sources independent of the borrower.

Section 4

Taking into account the potential impact of an increase in the borrowing rate on a borrower's ability to repay a housing loan

(1) For housing loans which over the term of the loan are not subject to a fixed borrowing rate as defined in Section 2(1)(j) of the Act, the calculation of the DSTI ratio shall assume the possibility of an increase in the borrowing rate mentioned in paragraphs 2 to 7.

(2) For housing loans which over the term of the loan are not subject to a fixed borrowing rate as defined in Section 2(1)(j) of the Act, the calculation of the borrower's DSTI ratio shall include the higher of the following two amounts:

- (a) the instalment amount stipulated in the housing loan agreement;
- (b) what the instalment would be if the borrowing rate were at least two percentage points higher than the current borrowing rate currently stipulated in the loan agreement and if the loan had a maximum term in accordance with Section 6(1), first sentence, (4) and (5).

⁶ Section 2(9) of Act No 492/2009 on payment services (and amending certain laws).

⁷ Act No 328/2002 on social security for police officers and soldiers (and amending certain laws), as amended. Act No 461/2003 on social insurance, as amended.

(3) For housing loans under other legislation,³ the borrowing rate used in the calculation of the DSTI ratio under paragraph 2 shall not include any reduction by the amount of the state interest subsidy under other legislation⁴ and by the amount by which the creditor reduces the borrowing rate under other legislation⁵ in respect of mortgage loans for young people under other legislation.⁴

(4) For housing loans which over the term of the loan are not subject to a fixed borrowing rate as defined in Section 2(1)(j) of the Act and which, at the same time, are subject to a borrowing rate fixed for a period of more than ten years, the calculation mentioned in paragraphs 2 and 3 shall assume a stressed borrowing rate that is at least one percentage point higher than the current borrowing rate of the loan.

(5) If a housing loan agreement stipulates that the maximum cumulative increase in the borrowing rate over the term of the loan shall be lower than two percentage points, the calculation under paragraphs 2 to 4 shall assume a stressed borrowing rate at that maximum level.

(6) For housing loans secured by immovable property in accordance with Section 6(2) and (3), the stressed borrowing rate under paragraphs 2 to 5 shall not exceed 6%.

(7) If in the assessment of a borrower's ability to repay a housing loan, it is assumed that the borrower will become entitled to receive an old-age pension⁸ at some point during the term of the loan, this fact shall be taken into account either for the assumption of the maximum term mentioned in paragraph 2(b) or for the assumption of a reduction in the borrower's income.

Section 5

Significantly increasing the total amount of a housing loan and significantly exceeding the sum of existing housing loans' outstanding amounts

(1) For the purposes of Section 8(1), (8) and (17) of the Act, significantly increasing the total amount of a housing loan means increasing that amount by more than the lower of the following two amounts:

- (a) €2,000;
- (b) 5% of the outstanding amount of the housing loan.

(2) For the purposes of Section 8(1), (8) and (14) of the Act, significantly exceeding the sum of the outstanding amounts of existing housing loans and consumer loans means exceeding that sum by more than the lower of the following two amounts:

- (a) €2,000;
- (b) 5% of the sum of the outstanding amounts of the housing loans that are to be refinanced or topped up.

(3) If a creditor refinances or increases the total amount of a housing loan mentioned in paragraphs 1 or 2 after refinancing or topping up the same loan within the previous twelve months, the criteria for significantly increasing the total amount of the loan, or for significantly exceeding the sum of existing housing loans' outstanding amounts, shall be assessed on a cumulative annual basis.

Section 6

Maximum terms of housing loans

⁸ Sections 65, 66 and 109 of Act No 461/2003, as amended.

(1) The term of a housing loan that is secured in accordance with paragraphs 2 and 3 shall not exceed 30 years. This does not apply if housing loans secured in accordance with paragraphs 2 and (3) and having a term of more than 30 years do not constitute more than 10% of the volume of new housing loans which are secured in accordance with paragraphs 2 and 3 and are provided under loan agreements concluded in the same calendar quarter.

(2) For the purposes of this Decree, residential immovable property pledged as collateral or otherwise encumbered in accordance with paragraph 3 means immovable property which is recorded in the Land Register,⁹ or in an equivalent register in accordance with the law of another country, and which meets the following conditions:

- (a) the immovable property is
 - 1. a flat, or a property that is by its nature residential, or a block of flats as defined in other legislation;¹⁰
 - 2. an unfinished block of flats recorded in the Land Register,⁹ a flat in an unfinished block of flats, or a non-residential immovable property that is in the process of being converted into a flat or house;
 - 3. building land¹¹ which under a municipality's town planning is reserved for the development of residential immovable properties or which is subject to planning permission for the development of residential immovable properties;
 - 4. built-up areas and other land and structures which together with a property mentioned in points 1 and 2 constitute a whole; this is without prejudice to the provisions of other legislation;¹²
- (b) when the application for the housing loan is assessed, the immovable property is valued in accordance with Sections 7 and 8;
- (c) the immovable property can be sold in its entirety;
- (d) the immovable property will over the term of the loan serve as collateral for the whole, or part, of the creditor's claim on the borrower which must be secured by immovable property.

(3) Housing loans under paragraph 1 are secured by a pledge of, or other security interest in, residential immovable property meeting the conditions set out in paragraph 2 if such right in favour of the creditor is established by a contract to that effect and is recorded in the Land Register⁹ or in an equivalent register in accordance with the law of another country, and either has seniority over all other claims on the immovable property or is subordinate to a right of pledge which:

- (a) is in favour of the same creditor;
- (b) is securing a claim arising from a transfer of ownership of a flat or non-residential premises under other legislation;¹³
- (c) is in favour of the State Housing Development Fund;¹⁴ or
- (d) is in favour of another creditor whose claim will be repaid by the housing loan being applied for.

(4) For housing loans under other legislation¹⁵ which are not secured in accordance with paragraphs 2 and 3, the following conditions apply:

- (a) the term of the loan shall not exceed 30 years;

⁹ Act No 162/1995 on the Land Register and on the registration of ownership and other rights in immovable property (the Land Register Act), as amended.

¹⁰ Section 43b of Act No 50/1976 on land planning and building regulations (the Building Act), as amended by Act No 237/2000.

¹¹ Section 43h of Act No 50/1976, as amended by Act No 237/2000.

¹² Article 125 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 and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013), as amended.

¹³ Sections 15 to 18b of Act No 182/1993 on the ownership of flats and non-residential premises, as amended.

¹⁴ Act No 150/2013 on the State Housing Development Fund, as amended by Act No 276/2015.

¹⁵ Section 7(6) of Act No 310/1992 on home savings, as amended.

- (b) the volume of such loans whose term is more than 20 years shall not constitute more than 20% of the volume of new housing loans under other legislation¹⁵ which are provided under loan agreements concluded in the same calendar quarter; and
- (c) the volume of such loans whose term is more than 25 years shall not constitute more than 10% of the volume of new housing loans under other legislation¹⁵ which are provided under loan agreements concluded in the same calendar quarter.

(5) For housing loans not secured in accordance with paragraphs 2 and 3 and not meeting the conditions mentioned in paragraph 4, the maximum term of the loan shall not exceed eight years.

Section 7

Loan-to-value ratio limits for housing loans

(1) The loan-to-value (LTV) ratio for a housing loan means the ratio of the borrower's housing-loan-related debt under paragraphs 5 to 7 to the value of the loan collateral under paragraphs 8 to 13; the LTV ratio for a housing loan shall not exceed 1.

(2) The volume of housing loans which are secured by immovable property in accordance with Section 6(2) and (3) and for which the LTV ratio exceeds 0.9, excluding housing loans under paragraph 4, shall not constitute more than 10% of the volume of new housing loans which are secured by immovable property in accordance with Section 6(2) and (3) and are provided under loan agreements concluded in same calendar quarter, excluding housing loans under paragraph 4.

(3) The volume of housing loans which are secured by immovable property in accordance with Section 6(2) and (3) and for which the LTV ratio exceeds 0.8, excluding housing loans under paragraph 4, shall not constitute more than 40% of the volume of new housing loans which are secured by immovable property in accordance with Section 6(2) and (3) and are provided under loan agreements concluded in the same calendar quarter, excluding housing loans under paragraph 4.

(4) The LTV ratio limits under paragraphs 1 to 3 do not apply to housing loans that are to be used to refinance one or more existing housing loans, or to existing housing loans that are to be topped up by amending the loan agreement, provided that the amount of the housing loan applied for does not exceed by the lower of the following amounts the sum of the outstanding amounts of the loans to be refinanced or topped up:

- (a) €2,000;
- (b) 5% of the sum of the outstanding amounts of the loans to be refinanced or topped up.

(5) The amount of a borrower's housing-loan-related debt means the sum of the amount of the housing loan applied for and the outstanding principals of any other housing loans provided to the borrower, regardless of date of the first drawdown, which are secured by a pledge of the same residential immovable property that will be used to secure the loan applied for.

(6) The amount of a borrower's total housing-loan-related debt also includes the sum of all encumbrances on the immovable property as stated in the ownership certificate recorded in the Land Register,⁹ or in an equivalent register in accordance with law of another country, which constitute senior claims and which were established in favour of:

- (a) the same creditor, if the encumbrances will not be repaid by the loan applied for; and
- (b) the State Housing Development Fund.

(7) The amount of a borrower's total housing-loan-related debt may be reduced by the amount of any deposit¹⁶ that will be used partly or fully to secure the housing loan applied for, in accordance with other legislation,¹⁷ for:

- (a) the duration of the loan; or
- (b) for five years if the relevant amount of the deposit is not more than 10% of the amount of the housing loan.

(8) Where a housing loan is secured by residential immovable property that is the subject matter of a purchase agreement, the valuation of the collateral shall be the lowest of the following amounts: the purchase price of the immovable property; the valuation of the immovable property made by an external appraiser; the valuation of the immovable property made in accordance with the creditor's internal valuation process under Section 8(2). If information on the purchase price of the residential immovable property collateral is not available or if the purchase price of the collateral does not correspond to the market value, for example because the agreement was made between related parties, the purchase price shall not be taken into account for the purposes of this paragraph.

(9) Where a housing loan is secured by residential immovable property that is under construction, the valuation of the collateral shall be the lower of the following amounts: the projected general valuation of the completed immovable property made in accordance with the creditor's internal valuation process under Section 8(2); the price of the immovable property as stated in the contract on the financing of its construction, if such information is available.

(10) Where a housing loan is secured by residential immovable property other than that mentioned in paragraphs 8 and 9, either the valuation of the collateral shall be made in accordance with the creditor's internal valuation process under Section 8(2), or the valuation shall be made by an external appraiser and be not older than three years.

(11) The valuation of collateral that is being valued shall comply with the provisions of Section 6(2) and (3). The value of residential immovable property collateral may not be reduced by the sum of all encumbrances on the immovable property which are stated in the ownership certificate recorded in the Land Register⁹ and which constitute senior claims in accordance with Section 6(3).

(12) If a housing loan is secured by more than one immovable property, the valuation of the collateral shall be the sum of the valuations of these properties made in accordance with paragraphs 8 to 11.

(13) The valuation of collateral shall not take into account any adjustments that the creditor makes as part of its risk management procedures. Such adjustments may include, but are not limited to, insurance against foreclosure losses on housing loans with elevated LTV ratios.

Section 8

Conditions for the internal valuation of residential immovable property pledged as collateral

(1) For the purpose of monitoring LTV ratios for existing housing loans, residential immovable property pledged as collateral shall be revalued by the creditor's internal appraiser:

- (a) at least once every three years;
- (b) if market conditions change significantly or if it is assumed that the value of the residential immovable property could decline markedly in comparison with general market prices; the

¹⁶ Section 5(a) of Act No 483/2001 Coll., as amended.

¹⁷ Article 197 and 198 of Regulation (EU) No 575/2013, as amended.

revaluation shall be made within one year from when the market conditions change or the value of the property declines as assumed;

- (c) after the residential immovable property becomes certified for occupancy if the immovable property differs in significant respects from the original project for its construction.

(2) Internal valuations for the purposes of Section 7(8) to (10) and the internal revaluations under paragraph 1 shall be made:

- (a) by the creditor's internal appraiser and shall be an expert estimate of the price for which the residential immovable property could be sold under normal market conditions; or
- (b) by a procedure that includes monitoring the value of the residential immovable property, identifying whether the immovable property needs to be revalued, and revaluing the immovable property.

(3) For the purposes of this Decree, 'internal appraiser' means a person who is:

- (a) independent of the decision on providing the housing loan;
- (b) professionally qualified to make an internal valuation by virtue of being a natural person who is a graduate in civil engineering and has at least two years of professional experience in that field;
- (c) authorised to make valuations of residential immovable property.

(4) The procedure mentioned in paragraph 2(b) shall include a statistical technique; any substantial difference between the estimated price of the residential immovable property and the normal market price for such property shall be reviewed by an internal appraiser.

(5) A statistical technique shall be used to monitor and identify whether residential immovable property pledged as collateral needs to be revalued, and the statistical dataset used shall meet conditions that include, but are not limited to, the following:

- (a) it includes information about the residential immovable property specified in the loan documentation;
- (b) the information it includes about the residential immovable property is stated only once;
- (c) it takes into account the value of the residential immovable property, including three different attributes deemed relevant to its valuation;
- (d) it includes a sufficient quantity and variety of survey information; and
- (e) it contains a sufficient time series of survey information.

(6) The accuracy of the expert estimate of the residential immovable property's value mentioned in paragraph 2(a) shall be verified by comparing the estimate with price for which the immovable property could be sold under normal conditions.

(7) When cooperating with external appraisers, creditors shall take a prudent approach towards those appraisers who in the past have provided valuations that differed significantly from the sale price of the immovable property or from valuation made by an internal appraiser.

(8) The provisions of paragraphs 1 to 7 are without prejudice to the provisions of other legislation.¹²

Section 9

Transitional provisions

(1) From 1 March 2017 to 30 June 2017, the provision of Section 2(5) applies as follows: for the purposes of Section 2(1), the borrower's total expenditure on basic necessities shall not be set lower than the sum of the borrower's minimum subsistence amount, the total minimum subsistence amounts of all persons living with the borrower in a common household to whom the borrower has a

maintenance obligation,¹ the total minimum subsistence amounts of all other persons towards whom the borrower has a court-ordered maintenance obligation, and 5% of the difference between, on the one hand, the borrower's total income and, on the other hand, the sum of the borrower's minimum subsistence amount,² the total minimum subsistence amounts of all persons living with the borrower in a common household to whom the borrower has a maintenance obligation,¹ and all other persons to whom the borrower has a court-ordered maintenance obligation.

(2) From 1 July 2017 to 31 December 2017, the provision of Section 2(5) applies as follows: for the purposes of Section 2(1), the borrower's total expenditure on basic necessities shall not be set lower than the sum of the borrower's minimum subsistence amount, the total minimum subsistence amounts of all persons living with the borrower in a common household to whom the borrower has a maintenance obligation,¹ the total minimum subsistence amounts of all other persons towards whom the borrower has a court-ordered maintenance obligation, and 10% of the difference between, on the one hand, the borrower's total income and, on the other hand, the sum of the borrower's minimum subsistence amount,² the total minimum subsistence amounts of all persons living with the borrower in a common household to whom the borrower has a maintenance obligation,¹ and all other persons to whom the borrower has a court-ordered maintenance obligation.

(3) From 1 January 2018 to 30 June 2018, the provision of Section 2(5) applies as follows: for the purposes of Section 2(1), the borrower's total expenditure on basic necessities shall not be set lower than the sum of the borrower's minimum subsistence amount, the total minimum subsistence amounts of all persons living with the borrower in a common household to whom the borrower has a maintenance obligation,¹ the total minimum subsistence amounts of all other persons towards whom the borrower has a court-ordered maintenance obligation, and 15% of the difference between, on the one hand, the borrower's total income and, on the other hand, the sum of the borrower's minimum subsistence amount,² the total minimum subsistence amounts of all persons living with the borrower in a common household to whom the borrower has a maintenance obligation,¹ and all other persons to whom the borrower has a court-ordered maintenance obligation.

(4) From 1 January 2017 to 30 June 2017, the limit mentioned in Section 7(3) applies as follows: the volume of housing loans which are secured by immovable property in accordance with Section 6(2) and (3) and for which the LTV ratio exceeds 0.8, excluding housing loans under Section 7(4), shall not constitute more than 50% of the volume of new housing loans which are secured by immovable property in accordance with Section 6(2) and (3) and which are provided under loan agreements concluded in the same calendar quarter, excluding housing loans under Section 7(4).

Section 10 Commencement

This Decree takes effect on 1 January 2017, with the exception of Sections 2(4) to (12), 3(2)(d) and 5(3), which take effect on 1 March 2017.

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