

**DECREE**

**of the Ministry of Finance of the Slovak Republic**

**of 9 December 2003**

**on own funds of a management company and their calculation**

Change: 166/2005 Coll.

The Ministry of Finance of the Slovak Republic, pursuant to Article 116(1)(c) of the Act No. 594/2003 Coll. on collective investment and amendments to certain laws, stipulates the following:

**Article 1**

**Structure of own funds  
of a management company**

Own funds of a management company comprise:

- a) the capital of a management company, which means the sum of its original own funds (Article 2(1)) and additional own funds (Article 3(1)) less the value of deductible items (Article 4),
- b) supplementary own funds of a management company (Article 5).

**Capital of a management company**

**Article 2**

**Original own funds of a management company**

(1) Original own funds of a management company are comprised of the sum of items increasing their value less the sum of items decreasing their value.

(2) Items increasing the value of original own funds of a management company are:

- a) paid-up share capital,
- b) share premium,
- c) reserve fund 1) and other funds created out of profit after tax except funds that have the nature of liabilities,
- d) other capital funds except the difference from the recalculation of securities and deposits in foreign currency,
- e) retained profit from past years.

(3) Items decreasing the value of original own funds of a management company are:

- a) book value of a management company's own shares acquired by the management company,
- b) intangible fixed assets, esp. organization costs of a management company and net book value of its program equipment (software),
- c) loss for the current accounting period and unpaid loss from past years,
- d) book value of a deposit into the capital of a management company's shareholder whose share of its capital equals or exceeds 10 % but no more than the amount of the issue rate 2) of a management company's shares that are in his/her possession, less the proportional part of the item to this deposit, representing risks, losses and depreciations,
- e) funds expended for the establishment of an accounting unit,
- f) goodwill if its balance is positive.

**Article 3**

**Additional own funds of a management company**

(1) Additional own funds of a management company comprise

- a) subordinated debts with a residual maturity period of more than one year where
  1. the subordinate debt contract has been concluded for a definite period,
  2. funds in the total agreed volume were provided to the management company for at least five years without the option of premature repayment and with an agreed commencement of repayments after the lapse of at least five years upon the provision of those funds to a management company,
  3. in a subordinated debt contract, the legal system of the Slovak Republic regulates the provisions of
    - 3a. obligation of subordination,
    - 3b. possibility to amend the provision on the obligation of subordination or to withdraw from this obligation,
    - 3c. possibility to withdraw from a subordinated debt contract,
    - 3d. possibility to include subordinated debt with the receivables of a management company,

- 3e. possibility to safeguard subordinated debt,
  - 3f. possibility to access or to assume subordinated debt,
  - 3g. cessation of a subordinated debt contract,
  - 3h. possibility to change the validity period of a subordinated debt contract,
  - 4. it was contractually agreed that a management company shall not be obliged to repay either the principal of a subordinated debt or interest on it within the agreed terms, should the payment of such instalments effect a decrease in the adequacy of a management company's own funds,
- b) reserve for the coverage of risks from own activities and other reserves for the coverage of risks from investment services, 3)
- c) other funds where
- 1. they are freely available to a management company to cover risks from own activities of a management company,
  - 2. their existence is disclosed in a management company's accounting record,
  - 3. their value was determined with professional care by the senior management of a management company and where this determination was verified by an auditor.
- (2) Subordinated debt is a credit or loan accepted by a management company if that management company agreed on the obligation of subordination with the creditor.
- (3) Subordinated debts pursuant to paragraph (1)(a) comprise part of a management company's additional own funds up to no more than a half the value of its original own funds.
- (4) Additional own funds of a management company comprise part of own funds up to no more than the value of its original own funds.

#### **Article 4**

- (1) The sum of original own funds of a management company and additional own funds of a management company shall be decreased by
- a) net book value
- 1. deposit of a management company into the capital of another management company or financial institution that exceeds 10 % of capital of the other management company or financial institution, and
  - 2. such subordinated claims of a management company against a management company or a financial institution pursuant to the first clause, which comprise part of the own funds of such other management company or such financial institution,
- b) sum of net book values
- 1. deposits of a management company into the capital of other management companies or financial institutions that do not exceed 10 % of capital of these other management companies or financial institutions, and
  - 2. such subordinated claims of a management company against management companies or financial institutions other than those specified in subparagraph (a), which comprise part of the own funds of these management companies or financial institutions, if this sum exceeds 10 % of the sum of original own funds of a management company and additional own funds of a management company.
- c) sum of net book values
- 1. of equity participations pursuant to Article 8(1) of the Act in insurance companies 3a), reinsurance companies 3b) and insurance holding companies 3c)
  - 2. subordinated claims of a management company against insurance companies, reinsurance companies and insurance holding companies (3(c)) that form part of those companies' own funds, provided that the management company has an equity participation in them.
- (2) Subordinated claim is a claim of a management company which, in the event of a debtor's bankruptcy or liquidation, will be satisfied only after the claims of all other creditors have been satisfied and whose satisfaction is not guaranteed in any way.

#### **Article 5**

##### **Supplementary own funds of a management company**

- (1) If a management company provides investment services, 4) then its supplementary own funds comprise
- a) subordinated debts that are not part of supplementary own funds,
- b) other subordinated debts where
- 1. a subordinate debt contract has been concluded for a definite period,
  - 2. the creditor, on the basis of a subordinated debt contract, provided to a management company funds for a period of less than five years but not less than two years, in the entire agreed volume and with the agreed commencement of repayment of a subordinated debt after the lapse of at least two years upon their provision to a management company, without the option of premature repayment,
  - 3. it is contractually agreed that a management company shall not be obliged to repay either the principal of a subordinated debt or interest on it within agreed terms, should the payment of such instalments effect a decrease in the adequacy of a management company's own funds,
  - 4. law applicable to the facts mentioned in Article 3(1)(a), third point, shall be the law of the Slovak Republic.
- (2) Supplementary own funds of a management company represent own funds only for the coverage of market risks.

#### **Article 6**

##### **Common provisions**

Items of own funds of a management company pursuant to Articles 2 to 5 shall be included in the calculation of a management company's own funds only after the deduction of possible tax obligations and only if they may be used immediately and without limit to cover risks and losses from business activities of a management company.

## **Article 7**

This Decree shall come into force on 1 January 2004. Decree No. 166/2005 Coll. shall come into force on 1 June 2005.

**Ivan Mikloš, m.p.**

- 1) Article 67 of the Commercial Code
- 2) Article 7(6) of the Act No. 566/2001 Coll. on securities and investment services and on amendments to certain acts, as amended (Securities Act).
- 3) Decree of the Ministry of Finance of the Slovak Republic of 13 November 2002 No. 20 359/2002-92 specifying the details on accounting procedures and the general accounting chart for banks, branches of foreign banks, the National Bank of Slovakia, Deposit Protection Fund, securities dealers, branches of foreign securities dealers, Investment Guarantee Fund, management companies, branches of foreign management companies and open-ended funds (Notification No. 644/2002 Coll.) as amended by the Decree No. 13 593/2003-92 of 17 June 2003 (Notification No. 224/2003 Coll.).
  - 3a) Article 4(1) of the Act No. 95/2002 Coll. on insurance and amendments to certain laws, as amended.
  - 3b) Article 11(1) of the Act No. 95/2002 Coll.
  - 3c) Article 43(5)(i) of the Act No. 95/2002 Coll. as amended.
- 4) Article 3(3) of the Act No. 594/2003 Coll. on collective investment and amendments to certain laws.