

DECREE

of Národná banka Slovenska of 10 January 2023

laying down national discretions for institutions under other legislation

Národná banka Slovenska, in accordance with Section 114b(3) of Act No 483/2001 on banks (and amending certain laws), as amended, and with Section 160a(3) of Act No 566/2001 on securities and investment services (and amending certain laws) (the Securities Act), as amended, has adopted this Decree:

Section 1

For the purposes of the national discretion exercised in accordance with Article 4(1)(145)(b) of other legislation,¹ a threshold of EUR 3.5 billion applies.

Section 2

For the purposes of the national discretion exercised in accordance with Article 89(1)(b) of other legislation,¹ an 'undertaking that is not a financial sector entity' means either a payment system operator² that is not a payment service provider or a foundation.³

Section 3

For the purposes of the national discretion exercised in accordance with Article 89(3) of other legislation,¹ a risk weight of 1,250% applies to the greater of the following:

- a) the amount of qualifying holdings in undertakings referred to in Article 89(1) of other legislation¹ in excess of 15% of the undertaking's eligible capital;
- b) the total amount of qualifying holdings in undertakings referred to in Article 89(2) of other legislation¹ that exceed 60% of the undertaking's eligible capital.

Section 4

(1) For the purposes of the national discretion exercised in accordance with Article 178(2)(d) of other legislation,¹ the threshold of materiality of past due credit obligations for retail exposures comprises the following components:

- a) an absolute component⁴ that is EUR 100; and
- b) a relative component⁴ that is 1%.

(2) For the purposes of the national discretion exercised in accordance with Article 178(2)(d) of other legislation,¹ the threshold of materiality of past due credit obligations for exposures other than retail exposures comprises the following components:

- a) an absolute component⁵ that is EUR 500; and
- b) a relative component⁵ that is 1%.

¹ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013), as amended.

² Sections 45(3)(b) a (c) and 57 of Act No 492/2009 on payment services (and amending certain laws), as amended.

³ Act No 34/2002 on foundations (and amending the Civil Code, as amended), as amended.

⁴ Article 1 of Commission Delegated Regulation (EU) 2018/171 of 19 October 2017 on supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for the materiality threshold for credit obligations past due (OJ L 32, 6.2.2018).

⁵ Article 2 of Commission Delegated Regulation (EU) 2018/171.

Section 5

For the purposes of the national discretion exercised in accordance with the third subparagraph of Article 395(1) of other legislation,¹ the limit is set at EUR 50 million.

Section 6

(1) For the purposes of the national discretion exercised in accordance with Article 400(2) of other legislation,¹ paragraphs 2 to 6 apply.

(2) Exposures referred to in Article 400(2)(a) of other legislation¹ are exempted from the application of Article 395(1) of that legislation to the extent of 80% of the nominal value of the covered bonds, provided that the conditions laid down in Article 400(3) of that legislation are met.

(3) Exposures referred to in Article 400(2)(b) of other legislation¹ are exempted from the application of Article 395(1) of that legislation to the extent of 80% of the value of the exposures, provided that the conditions laid down in Article 400(3) of that legislation are met.

(4) Exposures referred to in Article 400(2)(c) of other legislation¹ to undertakings mentioned in Article 400(2)(c) of that legislation are fully exempted from the application of Article 395(1) of that legislation, provided that the conditions laid down in Article 400(3) of that legislation and the conditions laid down in other legislation⁶ are met and that these undertakings are subject to supervision on a consolidated basis pursuant to other legislation⁷ or to legislation in force in a third country.

(5) Exposures referred to in Article 400(2)(d) of other legislation¹ are fully exempted from the application of Article 395(1) of that legislation, provided that the conditions laid down in Article 400(3) of that legislation and the conditions laid down in other legislation⁸ are met.

(6) Where the conditions laid down in Article 400(3) of other legislation¹ are met, the exposures referred to in:

- a) Article 400(2)(e) to (h) and (j) to (l) of that legislation are fully exempted from the application of Article 395(1) of that legislation;
- b) Article 400(2)(i) of that legislation are exempted from the application of Article 395(1) of that legislation to the maximum extent permitted under Article 400(2)(i).

(7) For the purposes of exercising the national discretion, an assessment shall be made as to whether the conditions laid down in Article 400(3) of other legislation¹ and in other legislation⁹ relating to a particular exposure are met.

Section 7

For the purposes of the national discretion exercised in accordance with Article 428p(10) of other legislation,¹ off-balance-sheet exposures not referred to in Articles 428p to 428ah of that legislation are subject to required stable funding factors that are consistent with liquidity outflows for products and services under Article 23 of other legislation¹⁰ for the purposes of the liquidity coverage requirement.

⁶ Annex I to Regulation (EU) 2016/445 of the European Central Bank of 14 March 2016 on the exercise of options and discretions available in Union law (ECB/2016/4) (OJ L 78, 24.3.2016), as amended.

⁷ Regulation (EU) No 575/2013, as amended.

Act No 483/2001 on banks (and amending certain laws), as amended.

⁸ Annex II to Regulation (EU) 2016/445, as amended.

⁹ Annexes I and II to Regulation (EU) 2016/445, as amended.

¹⁰ Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for Credit Institutions (OJ L 11, 17.1.2015), as amended.

Section 8

For the purposes of the national discretion exercised in accordance with Article 428q(2) of other legislation,¹ assets that have been segregated in accordance with Article 11(3) of other legislation¹¹ and cannot be freely disposed of are considered to be encumbered for a term that is consistent with the term of the liabilities to the customers to whom that segregation requirement relates.

Section 9

For the purposes of the national discretion exercised in accordance with Article 428aq(10) of other legislation,¹ Section 7 applies.

Section 10

For the purposes of the national discretion exercised in accordance with Article 428ar(2) of other legislation,¹ Section 8 applies.

Section 11

For the purposes of the national discretion exercised in accordance with Article 478(3) of other legislation,¹ the applicable percentage for the purpose of Article 478(2) of other legislation¹ is 100%.

Section 12

For the purposes of the national discretion exercised in accordance with Article 12(1)(c)(i) of other legislation,¹⁰ level 2B assets may include shares that form part of:

- a) a major stock index specified in Annex I of other legislation;¹²
- b) a major index not referred to in point (a) in a Member State of the European Union or the European Economic Area or in a third country, as identified as such for the purposes of this point by the competent authority of a Member State of the European Union or the European Economic Area or the relevant authority in a third country; or
- c) a major index which is not referred to in point (a) or point (b) and which is composed of leading companies in the relevant jurisdiction.

Section 13

For the purposes of the national discretion exercised in accordance with Article 12(3) of other legislation,¹⁰ where, for reasons of religious observance, statutes of incorporation prohibit the holding of interest-bearing assets, corporate securities may be included in level 2B assets in accordance with the conditions laid down in Article 12(1)(b) of that regulation.¹⁰

Section 14

This Decree repeals Decree No 9/2017 of Národná banka Slovenska of 14 November 2017 laying down national discretions for institutions under other legislation (Notification No 305/2017), as amended by Decree No 1/2019 of Národná banka Slovenska of 8 January 2019 (Notification No 19/2019).

¹¹ Regulation (EU) No 648/2012 of the European Parliament and of the Council 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012), as amended.

¹² Commission Implementing Regulation (EU) 2016/1646 of 13 September 2016 laying down implementing technical standards with regard to main indices and recognised exchanges in accordance with Regulation (EU) No 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms (OJ L 245, 14.9.2016).

Section 15

This Decree takes effect on 1 February 2023

Peter Kažimír
Governor

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Proceedings and Methodology Section