17
DECREE
of Národná banka Slovenska
of 1 December 2015

on the own funds of financial conglomerates and on the exposures of financial conglomerates pursuant to the Banking Act

Národná banka Slovenska, in accordance with Article 42(2), Article 49g(9), Article 49h(5) and Article 49o(1) of Act No 483/2001 Coll. on banks, as amended (hereinafter 'the Act'), has adopted this Decree:

Article 1
Subject matter

This Decree lays down:

(a) details of own funds at the financial conglomerate level and the method for calculating them, including the own funds of mixed financial holding companies;
(b) the minimum capital requirement for entities in a financial conglomerate and the method for calculating that requirement;
(c) capital requirement calculation methods for financial conglomerates;
(d) details of the exposures of financial conglomerates and the method for calculating these exposures;
(e) details of the exposures of mixed financial holding companies and the method for calculating these exposures;
(f) details of risk concentration in financial conglomerates and the method for calculating it;
(g) the structure, scope, content and form of statements reported, the reporting deadlines, and how, in what way and where the statements are to be reported, including their production methodology.

Article 2
Own funds at the financial conglomerate level

(1) The own funds:

(a) of electronic money institutions comprise own funds items in the amount determined under a separate regulation[1];
(b) of banking sector participants other than electronic money institutions comprise own funds items in the amount determined under Article 29 of the Act;
(c) of insurance sector participants comprise the items stipulated by separate regulations[2];
(d) of asset management companies comprise own funds items in an amount determined under separate regulations[3];

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1) Article 85b of Act No 492/2009 Coll. on payment services (and amending certain laws), as amended.
Decree No 14/2011 of Národná banka Slovenska of 15 November 2011 laying down certain details concerning the authorisation of payment institutions and electronic money institutions (Notification No 443/2011 Coll.).

2) Article 45 of Act No 39/2015 Coll. on insurance (and amending certain laws).
Commission Delegated Regulation (EU) No 2015/35 of 10 October 2014 amending Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of insurance and reinsurance (Solvency II) (OJ L 12, 17.1.2015).

3) Article 47 of Act No 203/2011 Coll. on collective investment, as amended by Act No 206/2013 Coll.
Decree No 7/2011 of Národná banka Slovenska of 26 July 2011 on the own funds of management companies (Notification No 266/2011 Coll.).

(e) of participants in the investment services sector other than asset management companies comprise own funds items in the amount determined under a separate regulation[4];
(f) of mixed financial holding companies comprise own funds items in an amount determined under Article 49e(13) of the Act.

(2) Own funds at the financial conglomerate level must be calculated using the capital requirement calculation methods specified in Articles 4 and 5.

(3) Where the own funds of an entity in a financial conglomerate are less than the minimum capital requirement under Article 3, the total capital shortfall must be taken into account in calculating the own funds at the financial conglomerate level. If that entity is a subsidiary in a financial conglomerate headed by a parent undertaking under Article 49c of the Act and if that parent undertaking's liability for the liabilities of the subsidiary is limited strictly and unambiguously to its share of the subsidiary's capital, the capital shortfall must be taken into account in proportion to that share. Where there are no capital ties between a subsidiary in a financial conglomerate and the parent undertaking, the proportional share of the capital shortfall that is to be taken into account in calculating the own funds at the financial conglomerate level must be determined in accordance with the procedure laid down in Article 49k(2) and (4) of the Act.

(4) Where the own funds of a subsidiary in a financial conglomerate exceed the minimum capital requirement under Article 3, the own funds at the financial conglomerate level may be increased only by the difference that is transferable to the own funds of another entity in the financial conglomerate; the own funds items not transferable to the own funds of another entity in the financial conglomerate comprise subordinated debt and the participations of minority shareholders created within the consolidation process.

Article 3
Minimum capital requirement at the financial conglomerate level

(1) The minimum capital requirement for entities in a financial conglomerate means, in the case of:
(a) electronic money institutions, the capital requirement under a separate regulation[1];
(b) banking sector participants other than electronic money institutions, the sum of the capital requirements under article 29 of the Act;
(c) insurance undertakings, the solvency capital requirement calculated in accordance with separate regulations[2];
(d) asset management companies, the capital adequacy requirement under a separate regulation[3];
(e) participants in the investment services sector other than asset management companies, the capital requirement under a separate regulation[4];
(f) mixed financial holding companies, the capital requirement under Article 49e(13) of the Act.

(2) The minimum capital requirement for entities in a financial conglomerate must be calculated using the capital requirement calculation methods specified in Articles 4 and 5.

Article 4
Accounting consolidation method

(1) Where the capital requirement at the financial conglomerate level is calculated using the accounting consolidation method, the capital requirement must be calculated as the difference

[4)] Article 74 of Act No 566/2001 Coll. on securities and investment services (and amending certain laws) (the Securities Act), as amended.

between the own funds at the financial conglomerate level calculated in accordance with paragraph 2 and the minimum capital requirement for entities in the financial conglomerate calculated in accordance with paragraph 3.

(2) Own funds at the financial conglomerate level comprise the own funds items of entities in the financial conglomerate as specified in Article 2(1), consolidated by the method of:

(a) full consolidation[5], where the control exercised by the parent undertaking over the subsidiaries is in accordance with Article 7(19) of the Act, or where the ties between the parent undertaking and subsidiaries are as defined in the third point of Article 49b(d) of the Act;
(b) proportional consolidation[5], where the participating interest of an entity in other entities is in accordance with Article 44(13)(a) of the Act.

(3) The minimum capital requirement for entities in a financial conglomerate must be calculated as the sum of the minimum capital requirements for these entities in accordance with Article 3(1).

Article 5
Deduction and aggregation method

(1) Where the capital requirement at the financial conglomerate level is calculated using the deduction and aggregation method, the capital requirement must be calculated as the difference between the own funds calculated in accordance with paragraphs 2 and 3 and the minimum capital requirement for entities in the financial conglomerate calculated in accordance with paragraphs 4 and 5.

(2) Own funds at the financial conglomerate level comprise the difference between the sum of:

(a) the own funds items of entities in the financial conglomerate included in the capital requirement calculation under Article 2(1)(a); and
(b) the book values of the participations which entities in the financial conglomerate included in the capital requirement calculation have in other entities in the financial conglomerate included in the capital requirement calculation.

(3) The book value of participations that entities in the financial conglomerate have in other entities in the conglomerate must be determined using the same valuation method as that used in the financial statements of entities reporting a direct participation in another entity.

(4) The minimum capital requirement for entities in a financial conglomerate must be calculated as the sum of the minimum capital requirements for entities in the conglomerate as specified in Article 3(1); for the purposes of the minimum capital requirement calculation, the claims, liabilities and other relationships between entities in the financial conglomerate may not be set off against each other.

(5) Where a participation in an entity in a financial conglomerate is held by an entity not included in the capital requirement calculation for that conglomerate, the minimum capital requirement for the entity included in the capital requirement calculation must be taken into account on a proportional basis. The proportional amount is derived from the participation in the entity included in the capital requirement calculation held by the parent undertaking and other entities included in the capital requirement calculation at the level of that financial conglomerate.

[5)] Article 22(1) of Act No 431/2002 Coll. on accounting, as amended.

Article 6
Exposures of financial conglomerates

(1) The exposures of a financial conglomerate means the exposures of entities in a financial conglomerate, other than exposures between these entities, consolidated by the method of:

(a) full consolidation[5], where the control exercised by the parent undertaking over the subsidiaries is in accordance with Article 7(19) of the Act, or where the ties between the parent undertaking and subsidiaries are as defined the third point of Article 49b(d) of the Act;
(b) proportional consolidation[5], where the participating interest of an entity in other entities is in accordance with Article 44(13)(a) of the Act.

(2) The exposures of entities in a financial conglomerate that includes a mixed financial holding company must be calculated in accordance with a separate regulation[6].

Article 7
Risk concentration in financial conglomerates

(1) Risk concentration in a financial conglomerate may arise in respect of:

(a) exposures under Article 6;
(b) the centralised settlement of transactions under paragraph 2;
(c) the centralised management of assets under paragraph 3;
(d) the centralised management of risks under paragraph 4.

(2) The settlement of transactions of a financial conglomerate may be deemed centralised where one entity, regardless of whether or not it is an entity in the conglomerate, settles transactions of more than 40% of the entities in the conglomerate, or more than 40% of the total amount of transactions undertaken by entities in the conglomerate.

(3) The management of assets of a financial conglomerate may be deemed centralised where one entity, regardless of whether or not it is an entity in the conglomerate, manages assets of more than 40% of the entities in the conglomerate, or more than 40% of the sum of the total assets of entities in the conglomerate.

(4) The management of risks in a financial conglomerate may be deemed centralised where one entity, regardless of whether or not it is an entity in the conglomerate, manages risks in more than 40% of the entities in the conglomerate, or in entities in the conglomerate whose combined total assets constitute more than 40% of the conglomerate's total assets.

Article 8
Reports

(1) The following reports for financial conglomerates must be submitted to Národná banka Slovenska:

Report identifier	Report name
(a) Bd (ZZK) 41-02	Report on capital requirements at the financial conglomerate level;
(b) Bd (ZZK) 42-01	Report on risk concentration at the financial conglomerate level;

[6] Articles 387 to 403 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.

(c) Bd (ZZK) 43-01 Report on significant intra-group transactions at the financial conglomerate level;

(2) The report mentioned in paragraph 1(a) must be produced for the first half of each calendar year as at 30 June, using interim data, and for each twelve-month accounting period as at the end of the period, using audited data. Where the accounting period is a non-calendar year, the report must also be produced as at 31 December for the calendar year in which the accounting period began, using interim data.

(3) The reports mentioned in paragraph 1(b) and (c) must be produced for each twelve-month accounting period as at the last day of the accounting period, using audited data. Where the accounting period is a non-calendar year, the report must also be produced as at 31 December for the calendar year in which the accounting period began, using interim data.

(4) The reports mentioned in paragraph 1 must be submitted electronically via the Statistics Collection Portal information system, by the following deadlines:

(a) interim reports must be submitted within three months after the end of the half-year period; where the accounting period is a non-calendar year, interim reports must be submitted within six months after the end of the calendar year;
(b) reports based on audited data must be submitted within six months after the end of the accounting period.

(5) Templates of the reports mentioned in paragraph 1 are set out in Annexes 2 to 4. The Annexes also include the methodology used to produce the reports.

Transitional and final provisions
Article 9

Reports for 2015 which are submitted in 2016 are produced and submitted under the legal regulations in force until 31 December 2015.

Article 10

This Decree enacts in Slovak law the legally binding act of the European Union listed in Annex 1.

Article 11

This Decree repeals Decree No 15/2004 of Národná banka Slovenska of 26 November 2004 on the own funds of financial conglomerates and on the exposures of financial conglomerates (Notification No 675/2004 Coll.), as amended by Decree No 13/2006 (Notification No 660/2006 Coll.), Decree No 5/2007 (Notification No 352/2007 Coll.) and Decree No 24/2008 (Notification No 513/2008 Coll.).

Article 12

This Decree enters into force on 1 January 2016.

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Governor

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