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DECREE
of the
National Bank of Slovakia
of 31 July 2007

**on the own funds of financial conglomerates and methods for calculating capital adequacy at
the financial conglomerate level in accordance with the Securities Act**

In accordance with Articles 77(6) and (7), 143g(9) and 143o(1) of Act no. 566/2001 Coll. on securities and investment services and amendments to certain laws (the Securities Act) as amended (hereinafter referred to as 'the Act'), the National Bank of Slovakia stipulates as follows:

Article 1
Own funds at the financial conglomerate level

(1) The own funds of:

- a) an entity in the investment services sector, except for an asset management company, shall comprise items of own funds in an amount determined in accordance with the Act and with a separate regulation;¹⁾
- b) an asset management company shall comprise items of own funds in an amount determined in accordance with separate regulations;²⁾
- c) an entity in the insurance sector shall comprise own funds in an amount determined in accordance with separate regulations,³⁾
- d) an electronic money institution shall comprise items of own funds in an amount determined in accordance with separate regulations;⁴⁾
- e) an entity in the banking sector, except for an electronic money institution, shall comprise items of own funds in an amount determined in accordance with separate regulations,⁵⁾
- f) a mixed financial holding company shall comprise items of own funds in an amount determined in accordance with a separate regulation.⁶⁾

(2) Own funds at the financial conglomerate level shall be calculated by the methods used to calculate capital adequacy under Articles 4 to 6.

(3) Where the own funds of a controlled entity in a financial conglomerate:

¹⁾ Decree no. 4/2007 of the National Bank of Slovakia of 13 March 2007 on banks' own funds and banks' capital requirements and on securities dealers' own funds and securities dealers' capital requirements (notification no. 121/2007 Coll.).

²⁾ Act no. 594/2003 Coll. on collective investment and amendments to certain laws, as amended.

Decree no. 617/2004 Coll. of the Ministry of Finance of the Slovak Republic on the own funds of asset management companies and the calculation of such funds, as amended by Decree no. 166/2005 Coll.

³⁾ Act no. 95/2002 Coll. on insurance and amendments to certain laws, as amended.

Decree no. 441/2004 Coll. of the Ministry of Finance of the Slovak Republic on how to calculate and demonstrate the available solvency margin of insurance companies and branches of foreign insurance companies, on how to calculate the required solvency margin of insurance companies and branches of foreign insurance companies, and on risk capital, as amended by Decree no. 685/2006 Coll.

⁴⁾ Act no. 483/2001 Coll. on banks and amendments to certain laws, as amended.

Decree no. 8/2004 of the National Bank of Slovakia of 11 June 2004 on the own funds and investments of electronic money institutions (notification no. 370/2004 Coll.).

⁵⁾ Act no. 483/2001 Coll. as amended.

Decree no 4/2007 of the National Bank of Slovakia of 13 March 2007 (notification no. 121/2007 Coll.).

⁶⁾ For example, Decree no. 617/2003 Coll. of the Ministry of Finance of the Slovak Republic, as amended by Decree no. 166/2005 Coll.

- a) are lower than the minimum capital requirement laid down in Article 2, the own funds at the financial conglomerate level shall be reduced by the whole of that difference; if the controlling entity's liability for the liabilities of the controlled entity is precisely and clearly limited by the size of its interest in the share capital of the controlled entity, the shortfall in own funds shall be deducted in an amount corresponding proportionally to that interest;
- b) are higher than the minimum capital requirement laid down in Article 2, the own funds at the financial conglomerate level may be increased only by such difference that may be transferred to the own funds of another entity in the financial conglomerate; items of own funds may not be so transferred if they constitute subordinated debt or interests of minority shareholders arising in respect of consolidation.

Article 2

Minimum capital requirement for entities in a group that is a financial conglomerate

(1) 'Minimum capital requirement for entities in a group that is a financial conglomerate' means in the case of

- a) an entity in the investment services sector, except for an asset management company, the amount of own funds laid down in Article 74 of the Act;
- b) an asset management company, the amount of own funds laid down in a separate regulation;⁷⁾
- c) an entity in the insurance sector, the required solvency margin calculated in accordance with separate regulations;³⁾
- d) an electronic money institution, own funds in an amount laid down in a separate regulation;⁸⁾
- e) an entity in the banking sector, except for an electronic money institution, own funds in an amount laid down in a separate regulation;⁹⁾
- f) a mixed financial holding company, own funds in the amount laid down in Article 143e(13) of the Act.

(2) The minimum capital requirement for entities in a group that is a financial conglomerate shall be calculated by the methods used to calculate capital adequacy in accordance with Articles 4 to 6.

Article 3

Methods for calculating capital adequacy at the financial conglomerate level

The methods that may be used to calculate capital adequacy shall be:

- a) the consolidation method;
- b) the deduction and aggregation method;
- c) the book-value deduction or minimum capital requirement method.

Article 4

Consolidation method

(1) Using the consolidation method, capital adequacy at the financial conglomerate level shall be calculated by comparing own funds at the financial conglomerate level as calculated under paragraph (2) and minimum capital requirement for entities in the financial conglomerate as calculated under paragraph (3).

(2) Own funds at the financial conglomerate level shall comprise items of own funds of entities in a financial conglomerate mentioned in Article 1(1):

⁷⁾ Article 18 of Act no. 594/2003 Coll. as amended by Act no. 635/2004 Coll.

⁸⁾ Article 21b(4) to (6) of Act no. 510/2002 Coll. on the payment system and amendments to certain laws, as amended by Act no. 604/2003 Coll.

⁹⁾ Article 49e(13) of Act no. 483/2001 Coll. as amended.

- a) which for controlling entities referred to in Article 8(h) of the Act or for entities linked to each other in the meaning of Article 143b(d) point three of the Act, fully exclude items of own funds in relation to other members of the group;
- b) which for entities holding a participation in any entities under Article 8(1) of the Act that are not controlled by another entity, proportionally exclude items of own funds in relation to other members of the group.

(3) The minimum capital requirement for entities in a financial conglomerate shall be calculated as the sum of the minimum capital requirements for entities in the financial conglomerate as mentioned in Article 2(1).

Article 5

Deduction and aggregation method

(1) Using the deduction and aggregation method, capital adequacy at the financial conglomerate level shall be calculated by comparing own funds as calculated under paragraphs (2) and (3) and the minimum capital requirement for entities in the financial conglomerate as calculated under paragraphs (4) and (5).

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

- a) the sum of the items of own funds of entities in the financial conglomerate which are included in the capital adequacy calculation mentioned in Article 1(1), and
- b) the sum of the book values that entities in the financial conglomerate included in the capital adequacy calculation hold in other entities in the same financial conglomerate which are included in the capital adequacy calculation.

(3) The book value of the interests that each entity in a financial conglomerate has in other entities of that same conglomerate shall be determined by using the same valuation method as that used in the financial statements of entities reporting a direct interest in another entity.

(4) The minimum capital requirement in a financial conglomerate shall be calculated as the sum of the minimum capital requirements for entities in the financial conglomerate as mentioned in Article 2(1); for the purposes of calculating the minimum capital requirement, the mutual claims and liabilities and other relations between entities in the financial conglomerated shall not be offset.

(5) Where an interest in the share capital of an entity in a financial conglomerate is held by an entity not included in the capital adequacy calculation at the level of that same financial conglomerate, the minimum capital requirement for the entity included in the capital adequacy calculation shall be taken into account on a proportional basis. The proportional amount shall be based on the size of the interest in the entity included in the capital adequacy calculation which is held by the entity controlling other entities in the financial conglomerate and by other entities included in the capital adequacy calculation at the level of that same financial conglomerate.

Article 6

Book-value deduction or minimum capital requirement method

(1) Using the book-value deduction or minimum capital requirement method, capital adequacy at the financial conglomerate level shall be calculated by comparing the own funds of the entity controlling a financial conglomerate as mentioned in paragraph (2) and the minimum capital requirement of entities in the financial conglomerate as calculated under paragraphs (3) and (4).

(2) Own funds at the financial conglomerate level shall comprise the own funds of the entity controlling the financial conglomerate, but only insofar as these own funds include the items referred to in Article 1(1).

(3) The minimum capital requirement at the financial conglomerate level shall be calculated as the sum of:

a) the minimum capital requirement for the entity controlling the financial conglomerate, the amount of which is determined in accordance with Article 2(1), and

b) the higher of the following:

1. the sum of the minimum capital requirement for entities in the financial conglomerate included in the capital adequacy calculation; for the purposes of the capital adequacy calculation, the relations between entities in the financial conglomerate shall not be excluded; or

2. the sum of the book values of interests that the entity controlling the financial conglomerate holds in other entities in the financial conglomerate which are included in the capital adequacy calculation; the book value shall be determined by using the same valuation method as that used in the financial statements of entities reporting a direct interest in another entity.

(4) Where an interest in the share capital of an entity in a financial conglomerate is held by an entity not included in the capital adequacy calculation at the level of that same financial conglomerate, the minimum capital requirement for the entity included in the capital adequacy calculation shall be taken into account on a proportional basis. The proportional amount shall be based on the size of the interest in the entity included in the capital adequacy calculation which is held by:

a) the entity controlling other entities in the financial conglomerate; and

b) other entities included in the capital adequacy calculation at the level of the same financial conglomerate.

Article 7 Reporting

(1) The report referred to Article 143g(4) of the Act shall be submitted to the National Bank of Slovakia in accordance with the template in Annex 1.

(2) The report mentioned in paragraph (1) shall be prepared as at the end of the respective calendar half-year using interim data for the period from the beginning of that year to the end of the calendar half-year for which the report is prepared, and as at the end of the financial year using audited data for the whole financial year. If the financial year is not a calendar year, the report shall be prepared as at the end of the respective calendar half-year using interim data for the period from the beginning of that calendar year to the end of the calendar half-year for which the report is prepared, as at the end of the calendar year using preliminary data for the period from the beginning to the end of the calendar year, and as at the end of the financial year using audited data for the whole financial year.

(3) The report referred to in paragraph (1) shall be submitted both in physical form and electronically as follows:

a) the report based on interim data shall be submitted within three months after the end of the first half of the relevant calendar year; if the financial year is not a calendar year, reports based on preliminary data shall be submitted within six months after the end of that calendar year;

b) the report based on audited data shall be submitted within six months after the end of the financial year.

(4) The submission of a report electronically in accordance with paragraph (3) shall mean the submission of a report by means of the application software system STATUS DFT – the collection, processing and storing of statistical data on entities of the financial market in the Slovak Republic.

Article 8

Schedule of transposed legal acts of the European Communities and European Union

This Decree transposes the legal act of the European Communities and European Union mentioned in Annex 2.

Article 9

Transitional and final provisions

(1) The submission of reports in 2008 on the capital adequacy of financial conglomerates as at 31 December 2007 shall be conducted in accordance with previous regulations.

(2) Decree no. 12/2006 of the National Bank of Slovakia of 12 December 2006 on the reporting of the capital adequacy of financial conglomerates in accordance with the Securities Act (notification no. 659/2006 Coll.) is hereby repealed.

(3) This Decree shall come into force on 1 January 2008.

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