The Slovak version of this Decision is the legally binding version;
the English version is for informational purposes only.

Bratislava, 1 June 2023
File No: NBS1-000-079-406
Document No: 100-000-524-310

DECISION

The Bank Board of Národná banka Slovenska, in its capacity as the competent body of second instance pursuant to Section 32(1) of Act No 747/2004 on financial market supervision (and amending certain laws) as amended (hereinafter 'the Financial Market Supervision Act' or 'the Supervision Act' or 'Act No 747/2004') has, in accordance with Division Three of the Financial Market Supervision Act (Sections 12 to 34a), conducted second-instance proceedings on an appeal dated 16 November 2022 which was lodged with Národná banka Slovenska (NBS) on 16 November 2022 by the insurance undertaking NOVIS Insurance Company, NOVIS Versicherungsgesellschaft, NOVIS Compagnia di Assicurazioni, NOVIS Poisťovňa, a.s. (hereinafter 'NOVIS'), *whose company registration number (IČO) is 47 251 301 and which has its registered office at Námestie Ľudovíta Štúra 2, 811 02 Bratislava and is registered in the Commercial Register maintained by Bratislava III City Court (Section: Sa; File number: 5851/B)* – being legally represented by the law firm AK GG, s.r.o., *whose company registration number (IČO) is 50 954 709 and which has its registered office at Agátová 2513/15, 924 01 Galanta and is registered in the Commercial Register maintained by Trnava District Court (Section: Sro; File number: 40169/T)* – against a first-instance decision of Národná banka Slovenska (Financial Market Supervision Unit) of 31 October 2022, recorded under file number NBS1-000-073-774 and document number 100-000-413-341 (hereinafter 'the first-instance decision'), by which, in accordance with Section 139(11) of Act No 39/2015 on insurance (and amending certain laws) as amended (hereinafter 'Act No 39/2015'), Národná banka Slovenska (Financial Market Supervision Unit / Supervision and Financial Consumer Protection Division) took the following concurrent decisions in respect of NOVIS: (in point I of the operative part of the first-instance decision and pursuant to Section 139(1)(h) in conjunction with Section 158(2)(a), (c) and (g) of Act No 39/2015) to withdraw in its entirety NOVIS's authorisation to conduct insurance business granted by Decision No ODT-13166/2012-16 of 3 October 2013, as amended by Certificate No ODT-14020/2015 of 10 December 2015 issued under Section 192(4) of Act No 39/2015, and (in point II of the operative part of the first-instance decision and pursuant to Section 139(1)(g) and (8) in conjunction with Section 145(3) of Act No 39/2015) to restrict the free disposal of NOVIS's assets until either a liquidator is registered in the Commercial Register pursuant to Section 161(3) of Act No 39/2015, or until a court issues a final bankruptcy order against NOVIS pursuant to Act No 7/2005 on bankruptcy and restructuring (and amending certain laws) as amended (hereinafter 'Act No 7/2005') and on the basis of a petition lodged in accordance with Section 176(1) of Act No 7/2005, whichever occurs earlier; the Bank Board of Národná banka Slovenska

h a s d e c i d e d a s f o l l o w s :

The Bank Board of Národná banka Slovenska, in accordance with Section 32(2) of Act No 747/2004, as amended, hereby **a m e n d s** the first-instance decision of Národná banka Slovenska (Financial Market Supervision Unit) of 31 October 2022, recorded under file number NBS1-000-073-774 and document number 100-000-413-341 as follows:

"Národná banka Slovenska, as the competent supervisory authority under Sections 79(1) and (2), 16(5) and 17(7) of Act No 39/2015 on insurance (and amending certain laws), as amended (hereinafter 'Act No 39/2015') – with its Financial Market Supervision Unit / Supervision and Financial Consumer Protection Division being the competent body for conducting proceedings and taking decisions of the first instance pursuant to Section 1(2) and (3)(a) in conjunction with Sections 5(1) and (2), 16(1) and (2) and 29(1) of Act No 747/2004 on financial market supervision (and amending certain laws), as amended (hereinafter 'Act No 747/2004') – (hereinafter 'the supervisory authority')

h a s d e c i d e d

in proceedings brought against NOVIS Insurance Company, NOVIS Versicherungsgesellschaft, NOVIS Compagnia di Assicurazioni, NOVIS Poisťovňa, a.s. – whose company registration number (IČO) is 47 251 301 and which has its registered office at Námestie Ľudovíta Štúra 2, 811 02 Bratislava and is registered in the Commercial Register maintained by Bratislava III City Court (Section: Sa; File number: 5851/B) (hereinafter 'the party'), being represented by the law firm AK GG, s.r.o. – whose company registration number (IČO) is 50 954 709 and which has its registered office at Agátová 2513/15, 924 01 Galanta – initiated by the notification of 15 July 2022 of the commencement of sanction proceedings (hereinafter 'the Proceedings Notification'), recorded under document number 100-000-360-704 and file number NBS1-000-073-774, for shortcomings in the party's activities which the supervisory authority has demonstrated on the basis of facts established through its activity and on the basis of evidence established during these sanction proceedings, recorded under file number NBS1-000-073-774, in concreto that:

a) in the period from 20 October 2021 to 15 July 2022, the party conducted insurance business in an imprudent manner that posed a threat to the interests of its customers and had an adverse effect on its own financial situation, by changes and amendments to the provisions concerning its investment process contained in the following general insurance terms and conditions (GTC) documents:

1. for the Italian market:

- ***the GTC with the designation GTC-60200510 for the product called 'NOVIS Infinity Life';***
- ***the GTC with the designation GTC-60191108 for the product called 'NOVIS Infinity Life';***
- ***the GTC with the designation GTC-60200511 for the product called 'NOVIS Infinity Life Gold';***
- ***the GTC with the designation GTC-60200912 for the product called 'NOVIS PIR Insurance';***

- ***the GTC with the designation GTC-60190907 for the product called 'NOVIS PIR Insurance';***
- ***the GTC with the designation GTC-60180905 for the product called 'NOVIS Universal Life';***
- ***the GTC with the designation GTC-60170401 for the product called 'NOVIS Wealth Insuring';***
- ***the GTC with the designation GTC-60171102 for the product called 'NOVIS Wealth Insuring';***
- ***the GTC with the designation GTC-60180203 for the product called 'NOVIS Wealth Insuring';***
- ***the GTC with the designation GTC-60180704 for the product called 'NOVIS Wealth Insuring';***

2. ***for the Hungarian market:***
   - ***the GTC with the designation VPP – HU 1505 for the product called 'EVEREST';***
   - ***the GTC with the designation VPP – HU 1555 for the product called 'EVEREST PLUSZ';***
   - ***the GTC with the designation GTC-20170620 for the product called 'EVEREST PRO';***
   - ***the GTC with the designation GTC-20170317 for the product called 'EVEREST PRO';***
   - ***the GTC with the designation GTC-20180324 for the product called 'EVEREST PRO';***
   - ***the GTC with the designation GTC-20170318 for the product called 'EVEREST PRO PLUSZ';***
   - ***the GTC with the designation GTC-20170619 for the product called 'EVEREST PRO PLUSZ 2017';***
   - ***the GTC with the designation GTC-20151106 for the product called 'NIVO';***
   - ***the GTC with the designation GTC-20170112 for the product called 'NIVO II';***
   - ***the GTC with the designation GTC-20160911 for the product called 'NOVUM';***
   - ***the GTC with the designation VPP – HUP 1014 for the product called 'NOVUM';***
   - ***the GTC with the designation VPP – HUP 1114 for the product called 'NOVUM';***
   - ***the GTC with the designation VPP – HUP 1503 for the product called 'NOVUM';***
   - ***the GTC with the designation GTC-20170113 for the product called 'NOVUM PRO';***
   - ***the GTC with the designation GTC-20170821 for the product called 'NOVUM PRO';***
   - ***the GTC with the designation GTC-20171022 for the product called 'NOVIS Wealth Insuring';***
   - ***the GTC with the designation GTC-20170216 for the product called 'NOVIS Wealth Insuring';***
   - ***the GTC with the designation GTC-20180323 for the product called 'NOVIS Wealth Insuring';***
   - ***the GTC with the designation GTC-20180924 for the product called 'SENSUM';***

- ***the GTC with the designation GTC-20181125 for the product called 'SENSUM';***

3. for the Icelandic market:

- ***the GTC with the designation GTC-17191006 for the product called 'NOVIS "Life Savings Plan"';***
- ***the GTC with the designation GTC-17191207 for the product called 'NOVIS "Life Savings Plan"';***
- ***the GTC with the designation GTC-17200508 for the product called 'NOVIS "Flexible Savings Plan"';***
- ***the GTC with the designation GTC-17180201 for the product called 'NOVIS Wealth Insuring';***
- ***the GTC with the designation GTC-17180202 for the product called 'NOVIS Wealth Insuring';***
- ***the GTC with the designation GTC-17180903 for the product called 'NOVIS Wealth Insuring';***
- ***the GTC with the designation GTC-17190404 for the product called 'NOVIS Wealth Insuring';***

whereby the party:

- ***put forward provisions according to which, for the purpose of the respective GTC, the terms 'investment', 'to invest', 'invests' and 'deemed to be invested' are to be treated as synonyms representing only the manner in which the investment return related to the insurance accounts is determined, i.e. the way in which the performance of the party's internal insurance funds determines the monthly investment return credited to an insurance position (credited to an outstanding balance of an insurance account), and***
- ***put forward provisions according to which the outstanding balance of an insurance account is to be used only to determine the basis for calculating the investment return related to the insurance account (by monthly multiplication of the outstanding balance of the insurance account by a weighted average of the performance of the party's customer-selected internal insurance funds)***

(hereinafter these GTC documents are collectively referred to as the 'amended GTC documents');

and:

- ***under the amended GTC documents, the party places the term 'investment' at the level of the hypothetical term 'deemed to be invested', which leads to the result that the investment is not customer money (premiums received) which would actually be invested in the party's customer-selected internal insurance funds with corresponding assets;***
- ***under the amended GTC documents, the party changes the nature of the investment process to a simulated process that is intended to allow the party to only formally record and report to customers the outstanding balance of their insurance accounts as the basis for calculating the investment return on the insurance account, without the outstanding balance of the insurance account being covered by assets actually invested by the party, i.e. without the party having actually acquired these assets;***

- ***under the amended GTC documents, the party did not reduce its current or future liabilities to customers, but on the basis of those documents it reduced the coverage of these liabilities by virtue of not investing the premiums received to the extent necessary to cover these liabilities;***
- ***under the amended GTC documents, the party does not invest in its customer-selected internal insurance funds assets amounting to the aggregate insurance account balances agreed with customers under the original GTC which exceed the amount corresponding to the legislative requirements for technical provisions, nor does the party cover its unchanged liabilities to customers in any other manner;***
- ***under the amended GTC documents in which it has provided for an investment process simulation, the party imprudently allows a shortfall between the outstanding balance of its customers' insurance accounts and the assets actually invested in the party's internal insurance funds, and at the same time it makes other use of the paid premiums thereby uninvested;***

and the party does so in a situation where its business, economic and financial situation is unfavourable and
where it has almost no other relevant assets, besides those invested for customers, that are eligible to cover its liabilities;

b) as at 31 March 2022, the party did not have sufficient:

i. eligible own funds to cover the solvency capital requirement as defined in Section 48(1) of Act No 39/2015 (hereinafter 'the SCR'),-and

ii. eligible basic own funds to cover the minimum capital requirement as defined in Section 63(1) of Act No 39/2015 (hereinafter 'the MCR');

whereas the party's eligible own funds and eligible basic own funds were in fact less than what the party had reported to the supervisory authority as at 31 March 2022, because:

1. the party did not take into account in the balance sheet of assets and liabilities valued in accordance with Section 36 of Act No 39/2015 and Articles 8 to 61 of Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing 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) (hereinafter 'the Solvency II balance sheet') at as 31 March 2022 the following: part of its liability to Securis Investment Partners LLP, specifically to that company's special purpose vehicle SECURIS BERMUDA SPV LTD (hereinafter collectively referred to as 'Securis company'), in the amount of €XXXXXXXXX (i.e. the difference between the party's total liability to Securis company as at 31 March 2022, amounting to € XXXXXXX, and the part of that liability, amounting to € XXXXXXX, which until June 2021 was included in the party's cash flows); this should, however, have been taken into account, as is evident from the SE.02.01.17 statement submitted on 5 May 2022 via the Statistics Collection Portal information system (hereinafter 'the SE.02.01.17 v1 statement') as well as from version 2 of the SE.02.01.17 statement (incorporating amendments made by the party) submitted on 15 August 2022 (hereinafter 'the SE.02.01.17 v2 statement') via the NBS FUJITSU XBRL Raportado information system (hereinafter 'ESAS'), while if it had been

correctly taken into account, the total amount of this liability in the Solvency II balance sheet would have reduced:

- ***the eligible own funds reported by the party in version 1 of the S.23.01.01.01 Own Funds statement as at 31 March 2022, submitted on 5 May 2022 (hereinafter 'the Own Funds Q1 v1 statement'), from the reported value of €XXXXXXXXX to €XXXXXXXXX, and the eligible basic own funds reported in the Own Funds Q1 v1 statement from the reported value of €XXXXXXXXX to €XXXXXXXXX;***
- ***the eligible own funds reported by the party in version 2 (incorporating amendments made by the party) of the S.23.01.01.01 Own Funds statement as at 31 March 2022, submitted on 15 August 2022 (hereinafter 'the Own Funds Q1 v2 statement') from the reported value of €XXXXXXXXX to €XXXXXXXXX, and the eligible basic own funds reported in the Own Funds Q1 v2 statement from the reported value of €XXXXXXXXX to €XXXXXXXXX.***

which per se, i.e. notwithstanding the conduct referred to in point 2 below, means that the party:

- ***did not have sufficient own funds eligible to fully (100%) cover the SCR, contrary to the obligation laid down in Section 48(1) of Act No 39/2015; and***
- ***did not have sufficient basic own funds eligible to fully (100%) cover the MCR, contrary to the obligation laid down in Section 63(1) of Act No 39/2015;***

and

2. ***did not take into account in the Solvency II balance sheet as at 31 March 2022 the correct amount of the Solvency II deferred tax liability pursuant to Article 15 of Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing 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) (hereinafter 'the Solvency II deferred tax liability'), as is evident from the SE.02.01.17 v1 statement in which the amount of this liability is reported as €XXXXXXX as well as from a letter entitled 'Submission of explanations of the deferred tax calculation' of 15 July 2022 (hereinafter 'the Submission of 15 July 2022'), supplemented by the submission of documents filed under document number 100-000-366-620 of 2 August 2022 and by the SE.02.01.17 v2 statement, in which the amount of this liability is reported as €XXXXXXXXX; if this liability had been correctly taken into account, its total amount in the Solvency II balance sheet would have reduced:***

   - ***the eligible own funds (for SCR coverage) and the eligible basic own funds (for MCR coverage) reported by the party in the Own Funds Q1 v1 statement and in the Own Funds Q1 v2 statement;***

which:

- ***per se, i.e. notwithstanding the conduct referred to in point 1 above, means that the party did not have sufficient own funds eligible to fully (100%) cover the SCR, contrary to the obligation laid down in Section 48(1) of Act No 39/2015; and***
- ***per se, i.e. notwithstanding the conduct referred to in point 1 above, implies a significant reduction in the basic own funds eligible to cover the MCR; in conjunction with the conduct referred to in point 1 above, this means that the***

party did not have sufficient basic own funds eligible to fully (100%) cover the MCR, contrary to the obligation laid down in Section 63(1) of Act No 39/2015;

c) as at 31 March 2022, the party had not determined its SCR in accordance with the principles laid down in Section 48(5)(b) of Act No 39/2015 and in Articles 140(b) and 142(1)(a) and (b) of Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing 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) (hereinafter 'Delegated Regulation 2015/35'),

by virtue of the fact that,

- ***contrary to Article 140(b) of Delegated Regulation 2015/35, the party did not determine the capital requirement for life-expense risk as equal to the insurance undertaking's loss in basic own funds that would result from the combination of the stipulated instantaneous permanent changes,***

  since, in the SCR calculation, the party did not apply a change in the assumption for the increase in expenses, specifically an increase of 1 percentage point in the expense inflation rate (expressed as a percentage) used for the calculation of technical provisions; and

- ***contrary to Article 142(1)(a) and (b) in conjunction with paragraphs (2) and (3) of Delegated Regulation 2015/35, the party did not determine the capital requirement for lapse risk in the correct amount,***

  since, in respect of insurance contracts concluded in Italy and Iceland, the party did not apply shock scenarios in regard to a change in the assumptions for the risk of a permanent increase in lapse rates and the risk of a permanent decrease in lapse rates in the correct amount;

nor in accordance with the principles laid down in Section 48(5)(c) of Act No 39/2015 and to Article 157(b) of Delegated Regulation 2015/35,

by virtue of the fact that,

- ***contrary to Article 157(b) of Delegated Regulation 2015/35 the party did not determine the capital requirement for health expense risk as equal to the loss in the insurance undertaking's basic own funds that would result from a combination of stipulated instantaneous permanent changes,***

  since the party did not apply a change in the assumption for an increase in expenses, specifically an increase of 1 percentage point in the expense inflation rate (expressed as a percentage) used for the calculation of technical provisions;

d) in the period from 31 December 2021 to 15 July 2022, the party did not carry out as part of its risk management system an own-risk and solvency assessment (ORSA), which would at minimum have included:

- ***a determination of the necessary capital, taking into account the insurance undertaking's own risk profile, approved risk tolerance limits, and business strategy and***

- ***ongoing compliance with capital requirements pursuant to Sections 48 to 63 of Act No 39/2015 and with the requirements governing technical provisions pursuant to Sections 37 to 44 of Act No 39/2015,***

by virtue of the fact that

- ***the projections and scenarios that the party used in the ORSA were based on outdated data for 2020, hence the party did not determine overall solvency needs on the basis of the 2021 period relevant for taking into account the risks the undertaking faces in the long term;***
- ***the stress scenarios that the party used in the ORSA are inadequate and do not reflect the risks to which the party was exposed,***
- ***the party's ORSA did not include stress testing of expected profits included in future premiums (EPIFP), even though the ratio of EPIFP to the party's own funds is up to 435% and the party is therefore exposed to a material liquidity risk, which its ORSA did not assess in either qualitative or quantitative terms;***
- ***the party's ORSA did not take into account the risks arising from final decisions of state authorities and public authorities;***
- ***the party did not determine risk tolerances at the level of individual material risks;***

m e a n i n g t h a t :

re (a), the party committed continuing administrative offence of a breach of Section 23(3)(b) and (c) of Act No 39/2015 as in effect when the offence was committed;

re (b), the party committed the following offences in heterogeneous ideal concurrence:

i. the administrative offence of a breach of the first sentence of Section 48(1) of Act No 39/2015 as in effect when the offence was committed, and

ii. the administrative offence of a breach of Section 63(1) of Act No 39/2015 as in effect when the offence was committed;

re (c), the party committed the administrative offence of a breach of the second sentence of Section 48(1) of Act No 39/2015 as in effect when the offence was committed;

re (d), the party committed on an ongoing basis the administrative offence of a breach of Section 26(1)(a) of Act No 39/2015 in conjunction with Article 262(1)(a) and (2)(a) and (c) of Delegated Regulation 2015/35 and Section 26(1)(b) of Act No 39/2015 as in effect when the offence was committed;

w h e r e a s

the supervisory authority, pursuant to the provision applicable to the most serious administrative offence referred to in point (b)(ii) of the operative part of this Decision, i.e. the breach of Section 63(1) of Act No 39/2015 as in effect when the offence was committed, and taking into account the other administrative offences referred to in points (a), (b)(i), (c) and (d) of the operative part of this Decision which the party committed in heterogeneous multiple concurrence, and pursuant to Section 139(11) of Act 39/2015

c o n c u r r e n t l y :

I. in accordance with Section 139(1)(h) in conjunction with Section 158(2)(a), (c) and (g) of Act No 39/2015 – i.e. owing to the occurrence of serious deficiencies in the party's activities, to the party's failure to comply with the condition for granting authorisation referred to in Section 7(2)(j) of Act No 39/2015, and to the fact that sanctions previously imposed on the party under Act No 39/2015 have not resulted in the correction of the deficiencies in question, withdraws the authorisation to conduct insurance business granted by Decision No ODT-13166/2012-16 of 3 October 2013, in effect as of 7 October 2013, as amended by Certificate No ODT-14020/2015 of the supervisory authority of 10 December 2015 issued under Section 192(4) of Act No 39/2015, in its entirety, i.e. in respect of the following classes of life insurance specified in Part B of Annex 1 of Act No 39/2015:

1. the following insurance activities:

a) life assurance on survival to a stipulated age only, life assurance on death only, life assurance on survival to a stipulated age or on earlier death, life assurance with return of premiums, life insurance linked to capitalisation contracts;

b) annuities;

c) supplementary insurance underwritten in addition to life insurance, in particular, insurance against personal injury including incapacity for employment, insurance against death resulting from an accident and insurance against disability resulting from an accident or sickness;

3. the insurance referred to in points 1(a) and 1(b) and in point 2 related to investment funds,

a n d

II. in accordance with Section 139(1)(g) and (8) of Act No 39/2015 in conjunction with Section 145(3) of Act No 39/2015, restricts the free disposal of the party's assets until either a liquidator is registered in the Commercial Register on the basis of a court's decision on the supervisory authority's proposal for the appointment of the party's liquidator made pursuant to Section 161(3) of Act No 39/2015, or until a court issues a final bankruptcy order against the party pursuant to Act No 7/2005 on bankruptcy and restructuring (and amending certain laws) as amended (hereinafter 'Act No 7/2005') on the basis of a petition lodged in accordance with Section 176(1) of Act No 7/2005, whichever is earlier, specifically prohibits:

in relation to all of the party's assets, as well as to all acts performed by the party, including those related to its insurance business

conducted under authorisation number ODT-13166/2012-16, in effect as of 7 October 2013, hence also within the scope of its insurance business conducted in accordance with

- *Section 15 of Act No 39/2015 through the establishment of a branch in the territory of another Member State, specifically in the territory of the Czech Republic, the Republic of Austria and the Federal Republic of Germany, and in accordance with*
- *Section 17 of Act No 39/2015 in the territory of another Member State under the freedom to provide services directly, without establishing a branch, specifically in the territory of Hungary, the Republic of Poland, the Kingdom of Sweden, the Republic of Italy, the Republic of Finland, Iceland, and the Republic of Lithuania,*

regardless of whether the assets or acts in question are located or performed in Slovakia or abroad,

on disposing of assets other than as required in the ordinary course of its business, in particular on:

1. ***performing any acts whose purpose, whether in return for payment or free of charge, is to transfer the right of ownership in, or establish a security interest in, a thing, right or other asset;***
2. ***paying out any claims to persons in a specific relationship to the party, in particular to persons whose relationship to the party is that of its shareholder, a member of its statutory body, a member of its supervisory board, any other of its managers or key function holders, or a person closely linked with one of these, or that of a legal person whose statutory body, supervisory board or other members of management include anyone whose relationship to the party is that of a member of its statutory body, a member of its supervisory board, any other of its managers or key function holders, or a person closely linked with one of these, or in which any one of these persons has a participating interest, or that of a legal person that has controlling interest in the party;***
3. ***increasing liabilities in excess of the amount required for the performance of ordinary business activities;***
4. ***performing any acts not referred to in points 1 to 3 which lead to a decrease in the value of the party's assets.***