Act No 371/2014

on resolution in the financial market and amending certain laws, as amended by Act No 39/2015, Act No 239/2015, Act No 437/2015, Act No 291/2016, Act No 279/2017, Act No 177/2018, Act No 373/2018, Act No 281/2019, Act No 390/2019, Act No 343/2020, and Act 209/2021

The National Council of the Slovak Republic has adopted this Act:

ARTICLE I

DIVISION ONE
BASIC PROVISIONS

Section 1
Scope of the Act

(1) The scope of the present Act covers:

(a) the procedure to be followed by selected institutions and other entities as defined in paragraph 3(b) to (d) in connection with resolution in the financial market of the Slovak Republic;
(b) the preparation and approval of resolution plans for financial market entities in the Slovak Republic by the Resolution Council (hereinafter 'the Council');
(c) the establishment, powers, and activities of the Council, and the resolution tools applied in the financial market of the Slovak Republic;
(d) the establishment and functioning of the national resolution fund (hereinafter 'the national fund') and the management and use of the moneys raised by the national fund.

(2) The Act has the following objectives:

(a) to ensure the continuous performance of critical functions by selected institutions and other entities as referred to in paragraph 3(b) to (e);
(b) to avoid any significant adverse effect on the financial stability of the Slovak Republic, in particular by preventing the spreading of contagion and financial instability across financial markets and by maintaining market discipline;
(c) to protect public finances by minimising reliance on extraordinary public financial support;
(d) to protect depositors whose deposits are subject to protection under other legislation,[1] and the clients of investment firms who are eligible to compensation for their inaccessible assets under other legislation;[2]
(e) to protect the moneys and other assets of clients other than the clients referred to in subparagraph (d).

(3) This Act applies to:

(a) selected institutions, which are banks[3] and the investment firms[4] with the initial capital as defined in other legislation;[5]

(b) financial institutions[6] established in the Slovak Republic as subsidiaries of a selected institution or entity referred to in subparagraph (c) or (d), subject to consolidated supervision under other legislation;[7]
(c) financial holding companies,[8] mixed financial holding companies,[9] and mixed-activity holding companies[10] established in the Slovak Republic;
(d) parent financial holding companies;[11] EU parent financial holding companies,[12] parent mixed financial holding companies,[13] and EU parent mixed financial holding companies;[14]
(e) branches of selected institutions established in a third country.

(4) The provisions of Divisions Three to Thirteen of this Act apply mutatis mutandis to entities referred to in paragraph 3(b) to (d).

Section 2

Definition of basic terms

For the purposes of this Act, the following definitions apply:
(a) 'crisis situation' means a situation where the conditions for the commencement of resolution proceedings set out in Section 34(1) or Section 48 have been met;
(b) 'resolution' means the application of a resolution tool or an additional resolution tool in order to achieve the objectives of resolution proceedings conducted under this Act (hereinafter 'resolution proceedings');
(c) 'group resolution' means either of the following:
   1. the coordination of the use of resolution tools and the exercise of resolution powers by group-level resolution authorities;
   2. the taking of resolution actions at the level of a parent institution or of a selected institution subject to supervision on a consolidated basis;
(d) 'cross-border group' means a group consisting of a parent company and subsidiaries established in more than one Member State of the European Union or in more than one other country belonging to the European Economic Area (hereinafter 'Member State');
(e) 'parent institution' means a parent company as defined in other legislation;[15]
(f) 'EU parent institution' means a selected parent institution established in the European Union,[15a] a parent financial holding company established in the European Union or a parent mixed financial holding company established in the European Union;
(g) 'third-country parent institution' means a parent company, parent financial holding company, or parent mixed financial holding company established in a country outside the European Union (hereinafter 'third country');
(h) 'subsidiary' means a company as defined in other legislation;[16]
(i) 'material subsidiary' means a material subsidiary as defined in other legislation;[16aa]
(j) 'EU subsidiary' means a subsidiary established in a Member State of the European Union, which is a subsidiary of a selected institution or of a parent institution established in a third country;
(k) 'resolution authority of another Member State' means another Member State's authority taking actions, applying tools, and exercising powers in relation to institutions under resolution in accordance with the applicable law of the Member State concerned;
(l) 'group-level resolution authority' means the resolution authority of the Member State in which the competent group-level supervisor is established;
(m) 'third-country resolution authority' means a third country's authority taking actions, applying tools, and exercising powers in relation to institutions under resolution, comparable to those of the Council;

(n) ‘group-level supervisor’ means a consolidating supervisory authority as defined in other legislation;[16a]
(o) ‘instruments of ownership’ means shares and other instruments of ownership, and interests in such instruments;
(p) ‘financing arrangement’ means a system comprising the national fund, the financing arrangements of other Member States, the borrowing arrangement between the financing arrangements of Member States, and the mutualisation of national financing arrangements in the case of a group resolution;
(q) ‘other instruments of ownership’ means:
1. securities and other assets carrying a similar right of ownership as shares;
2. financial instruments as defined in other legislation,[17] which carry the right to acquire shares, securities or other assets carrying a similar proprietary right as shares, even by way of exchange;
(r) ‘European Union’s State aid framework’ means the framework established by an international agreement by which the Slovak Republic is bound;[18] regulations and other EU acts, including guidelines, communications and notices, made or adopted on the basis of the international agreement by which the Slovak Republic is bound;[18]
(s) ‘country of establishment’ means the country in which the selected institution’s authorisation was issued or the country in which its registered office is located if it has no authorisation;
(t) ‘relevant capital instruments’ means Additional Tier 1 instruments or Tier 2 instruments as defined in other legislation;[19]
(u) ‘Common Equity Tier 1 capital’ means Common Equity Tier 1 capital as calculated in accordance with other legislation;[19aa]
(v) ‘sale of business’ means the transfer of shares or other instruments of ownership issued by a selected institution, or the assets, rights or liabilities of a selected institution under resolution, to a purchaser that is not a bridge institution as defined in Section 55;
(w) ‘bridge institution tool’ means a mechanism for transferring shares or other instruments of ownership issued by a selected institution, or the assets, rights or liabilities of a selected institution being resolved by means of the bridge institution tool in accordance with Section 55;
(x) ‘asset separation tool’ means a mechanism for effecting a transfer of assets of a selected institution under resolution to an asset management vehicle in accordance with Section 57;
(y) ‘bail-in tool’ means a mechanism for effecting the exercise of the write-down and conversion power in relation to the liabilities of a selected institution under resolution;
(z) ‘critical functions’ means activities, services or operations the discontinuance of which may lead, in at least one Member State, to the disruption of basic functions that are essential to the real economy or to the disruption of financial stability owing to the size, market share, external or internal interconnectedness, complexity or cross-border activities of a selected institution or group under resolution, with particular regard to the substitutability of those activities, services or operations;
(aa) ‘bail-inable liabilities’ means liabilities or capital instruments that do not qualify as Common Equity Tier 1 instruments[19a] or Additional Tier 1 instruments[19b] or Tier 2 instruments[19c] of a selected institution or entity referred to in Section 1(3)(b) to (d) that are not excluded from the scope of the bail-in tool;
(ab) ‘eligible liabilities’ means bail-inable liabilities that fulfil, as applicable, the conditions set out in Section 31a or Section 31e(5)(a) and Tier 2 capital instruments that meet the conditions set out in other legislation;[19ca]
(ac) ‘subordinated eligible instruments’ means instruments that satisfy all of the conditions set out in other legislation;[19cb]

(ad) ‘group’ means a parent institution and its subsidiaries;
(ae) ‘acquirer’ means an entity to which shares, other instruments of ownership, debt instruments, assets, rights or liabilities, or any combination of these items are transferred from a selected institution or entity referred to in Section 1(3)(b) to (d);
(af) ‘branch of a third-country selected institution’ means a branch of a foreign bank[19d] or a branch of a foreign investment firm[19e] established in a third country with share capital pursuant to other legislation,[5] operating in the Slovak Republic;
(ag) ‘group entity’ means a legal person that is part of a group;
(ah) ‘third-country selected institution’ means a foreign bank or a foreign investment firm[19e] with share capital as defined other legislation,[5] established in a third country;
(ai) ‘extraordinary public financial support’ means State aid as defined in other legislation[19f] or any other public financial support at supra-national level, which, if provided at the national level, would constitute State aid that is provided in order to preserve or restore the viability, liquidity or solvency of a selected institution referred to in Section 1(3)(a) or of an entity referred to in Section 1(3)(b) to (d) or of a group of which such selected institution or entity forms part;
(aj) ‘main areas of business activity’ means the areas of business activity in which services are provided for a selected institution under resolution or a group it is part of, and these services represent a substantial source of income, profit or other financial benefit;
(ak) ‘secured liability’ means a liability secured by a pledge,[19g] lien, assignment of a right or claim,[19g] guarantee or other security interest having a similar effect;
(al) ‘expected loss of the Deposit Protection Fund’ means the difference between the expected sum of compensations for inaccessible deposits the payment of which is guaranteed by the Deposit Protection Fund under other legislation[1] and the expected yields of the Deposit Protection Fund from insolvency proceedings.
(am)‘debt instruments’ means bonds[19h] and other forms of transferable debt, and instruments creating or acknowledging a debt;
(an) ‘micro, small and medium-sized enterprises’ means micro, small and medium-sized enterprises as defined with regard to the annual turnover criterion under other legislation.[19i]
(ao) ‘resolution entity' means:
1. a legal person established in the European Union, which, in accordance with Section 26(1) and (2), is identified by the competent resolution authority as an entity in respect of which the resolution plan provides for resolution action; or
2. an institution that is not part of a group that is subject to consolidated supervision pursuant to other legislation,[19j] in respect of which the resolution plan drawn up pursuant to Section 21 provides for resolution action;

(ap) ‘resolution group’ means a resolution entity and its subsidiaries that are not:
1. resolution entities themselves;
2. subsidiaries or other resolution entities; or
3. entities established in a third country that are not included in the resolution group in accordance with the resolution plan, nor their subsidiaries;

(aq) ‘combined buffer requirement’ (hereinafter ‘combined buffer’) means combined buffer requirement as defined in other legislation;[19k]
(ar) ‘global systemically important institution’ or ‘G-SII’ means a G-SII as defined in other legislation.[19l]

DIVISION TWO

THE COUNCIL

Section 3

Establishment of the Council

(1) The Council is established as a legal person authorised to act in the area of public administration as a resolution authority for selected institutions. The Council has a registered office in Bratislava but is not recorded in the Commercial Register.

(2) The performance of tasks needed to create professional and organisational conditions for the Council to exercise its functions and powers is ensured by Národná banka Slovenska,[20] while Národná banka Slovenska ensures[21] that a special organisational unit is set up for the performance of these tasks with the aim of avoiding conflicts of interest and ensuring the performance of these tasks independently of the other tasks of Národná banka Slovenska. The staff members of Národná banka Slovenska performing the tasks referred to in the previous sentence may not be involved in the exercise of supervision over selected institutions in matters that do not belong to the Council's jurisdiction. The staff members of Národná banka Slovenska performing the tasks referred to in the first sentence may, however, exercise supervision under this Act or perform tasks in matters assigned to the Council under this Act, provided they are designated by the Council or by a member of the Council under this Act (hereinafter 'designated staff members').

Section 4

Composition of the Council

(1) The Council is composed of ten members. Four members are managers from Národná banka Slovenska, with at least one of them being be a member of the Bank Board of Národná banka Slovenska and one being a manager in charge of the organisational unit referred to in Section 3(2). Four members are managers from the Ministry of Finance of the Slovak Republic (hereinafter 'the Ministry'), with at least one them being a state secretary authorised to act as deputy-minister. The Council members representing Národná banka Slovenska are nominated and recalled by the Governor of Národná banka Slovenska and those from the Ministry are nominated and recalled by the Minister of Finance of the Slovak Republic. Further members of the Council are the director of the Debt and Liquidity Management Agency and the director of the State Treasury.

(2) A person authorised to decide directly in matters concerning the supervisory procedures[22] applied by Národná banka Slovenska may not be a member of the Council.

(3) The Chairman of the Council is a state secretary of the Ministry.

(4) The performance of tasks by a Council member who is also a Board member of Národná banka Slovenska are without prejudice to the relevant provisions of other legislation.[22a]

(5) Only a trustworthy person of professional competence may be appointed a member of the Council. For the purposes of this Act, a trustworthy person means a person of good repute, certified as eligible to have access to information classified at least as 'Confidential'.[22b] A person is considered to be of good repute if they have never been convicted of a property-related criminal offence or of a criminal offence committed in a managerial position,[22c] or of any intentional criminal offence; these facts are to be proved with a clean criminal record check certificate. To prove their good repute and to allow its verification, a natural person shall provide, prior to their appointment, data necessary to apply for this person's criminal record check certificate,[22ba] along with a copy of their identity document and a copy of their birth certificate, to be used to verify their identity and the accuracy of the provided data; the provision and verification of these data, the verification of identity, and the application, issuance and sending of a criminal record check certificate are subject to other legislation;[22bb] the application for a criminal record check certificate may be submitted[22bb] by the Ministry, in the case of persons appointed by the Minister of Finance of the Slovak Republic, and by Národná banka Slovenska, in the case of persons appointed by the Governor of Národná banka Slovenska. For the purposes of this Act, 'professional competence' means completed university education and at least three years' experience in a senior position[22c] in banking or in another financial field.

(6) The Council members are not entitled to remuneration for their work in the Council, nor to compensation from the Council for their expenses.

(7) The Council members perform their tasks with due professional care and in accordance with this Act and other legislation of general application, while using and taking into account any available information concerning the performance of their tasks and powers. When performing their tasks, the Council members may not give preference to their personal interests over the public interests and restrain from anything that may be in conflict with a Council member's office.

(8) The term of office of a Council member ends:

(a) on the day when the member's recall from the Council takes effect;
(b) on the day when the office to which the member was appointed or to which the member's tasks are related is cancelled;
(c) on the day when:
    1. a decision on the member's ineligibility to be granted access to classified information under other legislation[22d] takes effect;
    2. a decision on cancelling the member's certificate of eligibility for access to classified information under other legislation[22e] takes effect; or
    3. six calendar months have elapsed since the expiry of the certificate of eligibility for access to classified information under other legislation,[22f] unless a new certificate of eligibility for access to classified information has been issued within this period;
(d) on the day when a court's decision pronouncing the member guilty of a property-related criminal offence or of a criminal offence committed in a managerial position,[22c] or of any intentional criminal offence, takes effect;
(e) on the day when the member dies or is declared dead.

Section 5

Powers of the Council

(1) The Council has the power to:

(a) cooperate with the Ministry in preparing drafts of legislation of general application pertaining to bank resolution;
(b) issue methodological guidelines and recommendations;
(c) conduct on-site inspections;
(d) exercise off-site supervision;
(e) act and decide in resolution proceedings in accordance with this Act and, if necessary, for the achievement of the goals set out in Section 1(2), submit petitions for a bankruptcy order against selected institutions under other legislation;[23a]
(f) cooperate and exchange information in the range and under the conditions stipulated by this Act with the competent resolution authorities, the participants in the European System of Financial Supervision,[23] the public authorities of the Slovak Republic, the public authorities of other countries, and other entities that have information about the selected institutions or whose activities are related to these institutions;
(g) ensure the performance of tasks in the area of bank resolution, arising from the legally binding EU acts or from international agreements by which the Slovak Republic is bound;
(h) approve the statutes and rules of procedure of the Council;
(i) transpose, in cooperation with the Ministry and Národná banka Slovenska, the directives and recommendations of the European supervisory authority (European Banking Authority) under other legislation,[24] except when it does not observe and has no intention to observe the directives and recommendations in question, and to inform the European supervisory authority (European Banking Authority) under other legislation;[24]
(j) draw up and approve resolution plans, assesses the resolvability of institutions and to remove any identified impediments to resolvability;
(k) perform other tasks in connection with the exercise of powers in accordance with this Act and other legislation.[25]

(2) The Council conducts its activities impartially and independently of the state authorities, municipal authorities, other public authorities, and other legal or natural persons; state authorities, municipal authorities, other public authorities, and other legal or natural persons may not influence the Council in its activities.

(3) The exercise of supervision by the Council, including the pursuit of activities in accordance with paragraph 1(c) to (d), is subject to other legislation.[26] In exercising supervision, the Council and the persons acting on its behalf have powers as defined in this Act and in another act.[26] Responsibility for supervision is borne by the Council. Persons exercising supervision on behalf of the Council are not liable to third persons for the consequences of such supervision; this is without prejudice to their liability under the provisions of criminal law.

(4) In making decisions, the Council takes account of the possible consequences of its decisions in other Member States in which the selected institution or the entity referred to in Section 1(3)(b) to (d) to which the decisions apply operates or in which other members of the group to which that institution or entity belongs operate, and minimises the negative impact of its decisions on financial stability and the negative economic and social consequences of its decisions in these Member States.

(5) The Council shall, in its statutes, specify further details concerning its tasks and powers.

(6) The Council is authorised to appoint or remove a member of the Joint Resolution Board[102ab] who represents the Council in cases specified by other legislation;[26a] if the Council

decides that the Council will be represented in the Joint Resolution Board by an executive member, the provisions of Section 6(2) shall not apply.

(7) Resolution proceedings are conducted in compliance with the European Union's State aid framework.

Section 6

Chairman of the Council

(1) The Chairman of the Council performs the functions and tasks of the Council's statutory body, including management of the Council's activities and the signing of decisions affirmed by the Council in plenary meetings, unless Section 6(3) provides otherwise.

(2) The Chairman of the Council or any other person exercising the Chairman's powers may not exercise the powers of the Council's executive member at the same time.

Section 6a

Vice-Chairman of the Council

(1) The Vice-Chairman of the Council is appointed by the Council on the basis of the Chairman's proposal.

(2) The Vice-Chairman may not be a member of the Bank Board of Národná banka Slovenska who is responsible for financial market supervision.

(3) In the Chairman's absence or after the Chairman's office has ended but a new Chairman has not yet been appointed, the Chairman's powers are exercised by the Vice-Chairman of the Council. In the Vice-Chairman absence or before a new Vice-Chairman is appointed, these powers are exercised by another member of the Council authorised by the Council.

Section 6b

Executive Member of the Council

(1) In order to ensure the performance of the tasks referred to in Section 5(1)(c), (d), (f), (j) and (k), the Council appoints one of its members as executive member.

(2) For the purpose of performing the tasks referred to in paragraph 1, the executive member of the Council has the power to decide in the following matters:

(a) the adoption of substitute measures by selected institutions in accordance with Section 25(4);
(b) the minimum requirement for own funds and eligible liabilities (hereinafter a 'minimum requirement') held by selected institutions in accordance with Sections 31b, 31c, 31d and 31e;
(c) the obligation to calculate and observe the minimum requirement in accordance with Section 31(1);

(d) the exemption of subsidiaries from the obligation to observe the minimum requirement on an individual basis in accordance with Section 31e(6) and (7);
(e) the extent to which selected institutions may meet the minimum requirement in the manner specified in Section 31e(8);
(f) the imposition of remedial measures or fines in accordance with Section 98;
(g) the mounting of an impartiality challenge against a designated staff member performing tasks in first-instance proceedings and against a person invited under other legislation;[27]
(h) other matters assigned by the Council to the executive member of the Council.

(3) Apart from the powers listed in paragraph 2, the executive member of the Council has the power to:
(a) authorise a designated staff member or an invited person[27] to exercise supervision under this Act;
(b) authorise a designated staff member to perform further tasks assigned by the Council to the executive member of the Council.

(4) The executive member of the Council may not be a member of the Bank Board of Národná banka Slovenska who is responsible for financial market supervision.

(5) If the executive member of the Council is to decide in a matter in which they are excluded from the proceedings referred to in other legislation[28] or if the Council decides about an impartiality challenge mounted against the executive member, the executive member's powers are exercised in that proceedings by the Vice-Chairman of the Council. If the Vice-Chairman is excluded from the proceedings referred to in other legislation[28] or if the Council decides about an impartiality challenge mounted against the Vice-Chairman, these powers are exercised by another member authorised by the Council.

(6) In the executive member's absence or after the executive member's office has ended but a new executive member has not yet been appointed, the provisions of paragraph 5, second sentence, apply, too.

Section 6c

Discussions and decision-making in plenary meetings

(1) In plenary meetings, the Council shall decide in matters that fall within its competence, except for matters that are within the competence of an executive member of the Council in accordance with Section 6b, unless the provisions of Section 6e(6) or of other legislation[28a] provide otherwise.

(2) The Council shall decide in plenary meetings by voting. Plenary meetings shall be attended by all the members of the Council.

(3) The Council has a quorum in a plenary meeting if more than half of its members are present. The Council decides in a plenary meeting by a majority of the votes cast. In the case of an equality of votes, the Chairman's vote decides.

(4) If the Council decides in a matter in which any of its members has been excluded from the procedure under this Act or under other legislation[28] or if the Council decides under other legislation[28] about an impartiality challenge mounted against any of its members

(hereinafter ‘excluded member of the Council’), that member is excluded from the voting procedure and is not allowed to participate therein. The excluded member’s vote is not taken into consideration when the relevant plenary meeting is assessed whether it has a quorum or when the Council takes decisions.

(5) The member of the Council who is, inter alia, responsible for financial market supervision as a member of the Bank Board of Národná banka Slovenska has no voting right in the Council’s plenary meetings; this member of the Council is equally subject to the provisions of paragraph 4, second sentence. Nor shall have a voting right in the Council’s plenary meetings under Section 6e(9) a person who has previously acted in the same matter as an executive member of the Council, except when the Council decided in a plenary meeting pursuant to Section 6e(6).

(6) The votes cast by the individual members of the Council are recorded in the notarised minutes of the meeting. A member who disagrees with the Council’s decision, or with the justification thereof, is entitled to have their different standpoint attached to that decision.

(7) The Council members may also cast their votes in a plenary meeting through electronic means of communication.

(8) A Council member may not empower another member of the Council to act and vote on their behalf at a meeting of the Council.

(9) The details of plenary meetings and decision-making procedures are set out in the Council’s Rules of Procedure. The Rules of Procedure may specify the cases where a decision taken in a plenary meeting must be approved by all the members of the Council or by a qualifying number of affirmative votes.

(10) The Council’s plenary meetings shall not be public. Apart from the Council members, a meeting may be attended by the persons listed in the Council’s Rules of Procedure and by other persons invited by the Council. The Council may decide to publish any material from its meetings and the results thereof; information from a meeting at which the Council approves such materials are disclosed as stipulated by this Act.

Section 6d

Proceedings and decisions taken by the Council

(1) Proceedings in matters assigned to the Council by this Act, in which the Council decides about the rights and obligations of selected institutions or other entities, are subject to other legislation,[26] unless the provisions of Parts Two to Eight and Parts Ten to Fourteen of this Act provide otherwise.

(2) In proceedings as referred to in paragraph 1, the Council has the same position, powers and obligations as Národná banka Slovenska has in proceedings concerning financial market supervision under other legislation;[28b] the presentation of proofs and other tasks related to such proceedings are carried out by the Council itself or by its executive member or by another Council member or employee designated by the Council.

(3) Proceedings and decisions taken by the Council are not public; this is be without prejudice both to the release of lawful and executable decisions taken under Sections 39 and 41, and to the obligation to disclose other information under Section 98(7). The Council may decide to publish any material from its meetings and the results thereof.

(4) The Council's decisions contain the same elements as a decision taken by Národná banka Slovenska in proceedings in matters of financial market supervision under other legislation,[28b] unless the provisions of Section 6e(15), Sections 39 to 46, Sections 78a and 78b and Section 89 provide otherwise. Each decision contains an official circular stamp, including the state emblem, and the signature of a duly authorised person, along with the full name and position of the signatory. A statement of the reasons for a first-instance decision issued by the executive member of the Council contains that member's full name and position; a statement of the reasons for a second-instance decision states that it was issued by the Council in a plenary meeting.

(5) First-instance decisions taken under Section 6b(2) are signed by the executive member of the Council. Second-instance decisions and first-instance decision in matters not falling within the competence of the Council's executive member under Section 6b(2) are signed by the Chairman of the Council. Specific requirements for persons authorised to sign first-instance and second-instance decisions may be set out by the Council.

Section 6e

Eligibility to take decisions

(1) In matters that fall within the competence of the Council's executive member under Section 6b(1) to (3), the executive member is eligible to act and take decisions in first-instance proceedings, unless the provisions of paragraph 6 provide otherwise.

(2) In proceedings as referred to in paragraph 1, the executive member of the Council has the same position, powers and obligations as the financial market supervision unit[28d] and its manager in matters related to financial market supervision under other legislation,[28b] unless the provisions of Parts Two, Three, Eleven and Thirteen of this Act or of other legislation[26] provide otherwise.

(3) The presentation of proofs and other tasks related to the proceedings referred to in paragraph 1 is carried out by the executive member of the Council, either in person or via a staff member designated to act on their behalf.

(4) In matters that fall outside the competence of the Council's executive member under Section 6b(1) to (3), the Council is eligible to act and take decisions in plenary meetings; the Council is eligible to decide in the following matters:

(a) an impartiality challenge mounted against a member of the Council or against a designated staff member performing procedural tasks as authorised by the Council under Section 6d(2);
(b) the appointment or recall of a special administrator under Section 12;
(c) the commencement of resolution proceedings under Section 12;
(d) the assets, liabilities, rights and obligations of participants in resolution proceedings, and decisions to write down or convert capital instruments under Section 70(1)(b);
(e) the write-down or conversion of capital instruments under Section 70(1)(a);

(f) the appointment and recall of an independent appraiser under Section 51 or Section 77;
(g) the financing of resolution solutions according to Division Twelve of this Act;
(h) compensation payment on the basis of a valuation of differences in treatment;
(i) other matters that fall within the competence of the Council.

(5) When acting and taking decisions in plenary meetings under paragraph 4, the Council has the same position, powers and obligations as the financial market supervision unit[28d] and its manager have in matters of financial market supervision under other legislation,[28b] unless the provisions of Division Two, Divisions Four to Eight, and Divisions Ten to Twelve of this Act provide otherwise.

(6) If the executive member of the Council fails to initiate or continue conducting proceedings in accordance with the relevant law or if any serious shortcomings occur during the proceedings and the situation cannot be remedied in another manner, the Council assesses the matter and initiate or continue conducting proceedings and decides in the first instance or designate another member of the Council to do so; the Council member so designated has the same position, powers and obligations as the executive member of the Council.

(7) The participants in such proceedings have the right to lodge an appeal against any first-instance decision taken by the Council in matters assigned to its executive member, except for a decision to exclude a designated staff member or an invited person from the proceedings or to reject an impartiality challenge mounted against a designated staff member and a person invited under other legislation.[27]

(8) An appeal against a first-instance decision is to be lodged to the Council within 15 calendar days of the delivery date of that decision. Such an appeal has no suspensory effect; this does not apply to an appeal lodged against a first-instance decision imposing a fine under Section 98.

(9) Action and decision-making in the second-instance in respect of an appeal against a first-instance decision falls within the competence of the Council.

(10) When acting and taking decisions pursuant to paragraph 9, the Council has the same position, powers and obligations as the Bank Board of Národná banka Slovenska[28e] in matters of financial market supervision under other legislation,[28b] unless the provisions of Parts Two, Three, Eleven and Thirteen of this Act provide otherwise.

(11) There is no judicial remedy against a decision taken by the Council in respect of an appeal.

(12) There is no judicial remedy against a decision taken by the Council in a matter that falls outside the competence of the Council's executive member.

(13) A petition for judicial review of a decision taken by the Council in a matter that falls outside the competence of the Council's executive member may be filed to the competent administrative court under other legislation.[28f]

(14) A petition for judicial review of a decision taken by the Council in respect of an appeal may also be filed to the competent administrative court under other legislation.[28f]

(15) Instructions on how to file a petition for judicial review in administrative proceedings under other legislation[28f] are included in each decision taken by the Council in plenary meetings.

Section 6f

Protection of the rights of third persons

In view of the need to protect the rights of third persons acquired in good faith and their legitimate interests, the competent court's decision cancelling or overruling a decision taken by the Council pursuant to Section 6e(13) is without prejudice to the validity and effect of a transfer of ownership where the third persons acquired ownership of the subject of transfer on the basis of, or in connection with, that decision. This does not affect the right to compensation for damage caused by an unlawful decision or by an incorrect administrative procedure under other legislation.[28g]

Section 6g

Execution of the Council's decisions

If a participant in proceedings fails to discharge, within the prescribed time limit, an obligation arising from an enforceable decision of the Council, the Council provides for the execution of that decision, unless Section 92(2)(c) provides otherwise; for this purpose, the Council may submit a proposal for court execution under other legislation.[28h]

Section 6h

Protest by the prosecutor

A protest lodged by the prosecutor against a decision of the Council is assessed by the Council in a plenary meeting.

Section 6i

Impartiality challenge

Decision-making in respect of an impartiality challenge as defined in this Act is not subject to a time limit set under other legislation;[28j] an impartiality challenge is assessed under this Act as soon as it has been mounted.

Section 7

Cooperation with the Council

(1) Národná banka Slovenska, state authorities, territorial self-governments and other public authorities, the Notarial Chamber of the Slovak Republic,[29] the Slovak Chamber of Auditors,[30] notaries,[29] auditors,[31] audit firms,[32] the Central Securities Depository,[33] members of the Central Securities Depository,[33] the stock exchange,[34] and other entities[35] whose services relate to selected institutions that are within the competence of the Council, if requested, cooperates with the Council in the performance of tasks under this Act and other legislation.[25] In so doing, they supply the Council free of charge with the requested statements, explanations,

or with data and information they have obtained during their activities, including data from their records and registers. The authorities and entities in question may refuse to supply such data and information only if this would lead to a breach of confidentiality or to the provision of information in contrast with the applicable law or with an international agreement by which the Slovak Republic is bound and which is above the laws of the Slovak Republic. The Council may cooperate and exchange information, in a range needed for the performance of its activities under this Act and other legislation,[36] with the public authorities of the Slovak Republic and of other countries, with the Deposit Protection Fund, the Investment Guarantee Fund, and with international organisations.

(2) Legal and natural persons to which paragraph 1 does not apply and which have documents or information relating to selected institutions that are within the competence of the Council or to the activities of these institutions, provide the requested documents or information to the Council in writing or in oral records. If the requested information is provided in the form of oral records, the due form of these records is specified in other legislation.[37]

(3) The Council, when exercising its powers, may make available or provide information to the European System of Financial Supervision,[38] other resolution authorities, foreign supervisory authorities, auditors, audit firms, the Deposit Protection Fund, foreign deposit guarantee schemes, the potential purchaser whom the Council addressed in connection with the transfer of shares or other instruments of ownership or the assets, rights and liabilities of a selected institution, and other public authorities and persons whose activities are related to the resolution of selected institutions or persons under Section 1(3)(b) to (d), and to draw their attention to any shortcomings revealed, especially those to which the solution or expert assessment applies. If such access to or provision of information requires exemption from the duty of confidentiality under another act,[39] such exemption may also be given in the form of a written agreement, approved by the Council, on cooperation and information exchange between the Council and the relevant authority or person. Information made available or provided by the Council under this paragraph may only be used for the resolution of selected institutions, the supervision of entities that are subject to supervision, and for the performance of other statutory tasks[40] by authorities or persons whose activities are related to bank resolution. Authorities and persons to which the Council has provided information or access to information protect this information against unauthorised access, disclosure, misuse, modification, damage, loss or theft, and to keep it strictly confidential.[41] Such information may be exchanged between authorities and persons exclusively for the same purpose or proceedings for which they were made available or provided by the Council, otherwise they may be made available, provided or published only with the Council's prior written consent. If the information requested under other legislation[41] is related to the exercise of powers by the Council over selected institutions or to their activities, the obligor shall not provide the information requested, nor access to such information.[42] The information the Council obtains from other resolution authorities or foreign supervisory authorities may only be used for the Council's activities and for court proceedings in cases regarding the lawfulness of the Council's decisions or actions or for criminal proceedings. The Council may make available or provide such information to other authorities or persons or release such information only with the consent of the foreign supervisory body that has provided the information in question, or in aggregate form in a manner not enabling the identification of the institution or person, or with the consent of the person who has provided the information. The Council shall adopt and publish on the website the necessary rules, including rules governing the confidentiality obligation and the information exchange.

(4) The details of cooperation as referred to in paragraphs 1 to 3 may be adjusted in a written agreement on cooperation and information exchange between the Council and the relevant authority or person.

(5) The selected institution, the members of its bodies, its employees and other persons whose activities are linked to the selected institution, shall enable the Council to exercise its powers, refrain from any action that could hinder the Council in performing its tasks, and provide any information, documents, cooperation, and assistance requested by the Council or by persons authorised by the Council.

(6) The selected institution under resolution shall, for the Council to exercise its powers, prepare and submit to the Council free of charge and in due time comprehensible and transparent statements, reports, and other information, data and documents on facts concerning the selected institution or its shareholders or other partners, especially its economic and financial situation, property relations, transactions or other activities, as well as its organisation, management, structure, and control, including equity stakes in the selected institution and their owners, at the Council's request. The data given in the statements and reports submitted, and the other information, data and documents presented must be complete, up-to-date, correct, authentic and verifiable. If the statements, reports, or other information and documents submitted do not contain the required data, do not comply with the prescribed methodology, or if justified doubt arises about their completeness, correctness, transparency or authenticity, the entities under supervision submit data at the Council's request and provide explanation within the time limit set by the Council. Such provision of data is not deemed to be a breach of banking secrecy under other legislation.[43]

(7) In a decree issued by Národná banka Slovenska in agreement with the Ministry and promulgated in the Collection of Laws of the Slovak Republic, Národná banka Slovenska specifies the structure of statements, reports, and other information that selected institutions are required to prepare and submit to the Council, including the scope, contents, structure, deadlines, form, manner, and place where such statements, reports, and other information, including the methodology applied, are to be submitted.

Section 8

Confidentiality requirements

(1) The members of the Council, the persons invited, and the relevant employees of Národná banka Slovenska, in accordance with Section 3(2), keeps confidential any facts the disclosure of which may jeopardise:

(a) the operation of the Council in a proper and efficient manner;
(b) the interests of the Slovak Republic or another Member State in the area of financial, economic or monetary policy;
(c) the guarding of trade and bank secrets;
(d) the exercise of supervision by the Council and Národná banka Slovenska;
(e) the conduct of resolution proceedings.

(2) The obligation referred to in paragraph 1 applies even after the membership or employment in the Council has been terminated. In public interest, the Council may exempt from these obligations any of its members, the persons invited, or the employees of Národná banka Slovenska in accordance with Section 3(2). Such exemption from the confidentiality

requirement and the disclosure of information on matters related to the participation of Národná banka Slovenska in the European System of Central Banks is subject to other legislation.[44] The exchange or disclosure of information, or the granting of access to information is not considered a breach of the confidentiality requirement laid down in Section 7(1) to (5).

(3) The confidentiality requirement referred to in paragraph 1 also applies to:
(a) the employees of the Ministry;
(b) the special administrator as referred to in Section 12;
(c) other persons informed about the exercise of powers by the Council;
(d) auditors, accountants, legal and professional advisors, experts and other professionals who have got acquainted with the facts mentioned in paragraph 1 during the performance of their tasks, profession or employment for the Council, Ministry or a potential purchaser;
(e) the employees of the Deposit Protection Fund and the Investment Guarantee Fund;
(f) the employees of Národná banka Slovenska and other public authorities involved in the resolution process;
(g) the employees of a bridge institution as referred to in Section 55 and the employees of an asset management company;
(h) the potential purchasers who were addressed by the Council, irrespective of whether they were addressed when preparations were made for the application of the sale of business tool or whether or not such addressing has led to acquisition;
(i) other persons who provide or provided services directly or indirectly, regularly or occasionally to persons mentioned in subparagraphs (a) to (h);
(j) the members of the statutory body and of the supervisory board, managers, and the employees of entities referred to in subparagraphs (b), (c), (d), (h) and (i), even after their term of office has expired.

(4) The bodies, persons, and institutions referred to in paragraph 3(a), (e) to (g) ensure the guarding of professional secrets and to lay down the duty of confidentiality in their internal regulations, including rules for ensuring the exchange of information between persons who are directly involved in resolution.

(5) Before granting access to information, mainly data from resolution plans, group-level resolution plans, conclusions from the assessment of resolvability, the persons referred to in paragraphs 1 to 3 ensure that the information provided contains no facts that are subject to the confidentiality requirement.

(6) The confidentiality obligation is not deemed breached if the Council and the persons referred to in paragraphs 3 and 4 provide information
(a) in an aggregate form where the institution or person concerned cannot be identified;
(b) with the prior consent of the person who has provided the information in question.

(7) The Council assesses the possible effects of information disclosure on public interest where financial, monetary or economic policy is concerned, or the trade interests of natural and legal persons, for the purpose of checking, examination or audit.

(8) The confidentiality obligation is not deemed breached where information is exchanged between the supervisory authority[26] and the Council in connection with the performance of their tasks. Nor is the confidentiality obligation deemed breached if the information is provided to the competent resolution authorities of third countries by the Council, Ministry or Národná banka Slovenska where Národná banka Slovenska assesses that:

(a) the third-country resolution authority in question is subject to confidentiality requirements similar to those laid down in this Act;
(b) the information provided is necessary for the relevant third-country resolution authority to exercise its powers and the information is to be used exclusively for this purpose.

(9) The information the Council obtains from the resolution authority of another Member State can be provided to the competent resolution authorities of third countries only with the consent of that Member State's resolution authority that has provided the information to the Council, for the purposes specified in its consent.

Power to suspend certain obligations

Section 8a

(1) The Council may, after consulting Národná banka Slovenska, suspend any payment or delivery obligation covered by a contract to which a selected institution or entity as referred to in Section 1(3)(b) to (d) is a party, provided that:
(a) the competent supervisory authority, the Council or the Single Resolution Board has assessed that the selected institution or entity referred to in Section 1(3)(b) to (d) is failing, or is likely to fail, according to other legislation;[44a]
(b) there is no alternative private sector measure as referred to in Section 34(1)(c) that would prevent the selected institution or entity referred to in Section 1(3)(b) to (d) from failing within a reasonable time frame;
(c) the suspension of a payment or delivery obligation is expected to prevent the financial situation of the selected institution or entity referred to in Section 1(3)(b) to (d) from deteriorating still further;
(d) the suspension of a payment or delivery obligation is necessary for:
1. the assessment of the condition laid down in Section 34(1)(b);
2. the issuance of a decision to impose a resolution measure in accordance with Section 41; or
3. the exercise by the Council of its relevant powers in resolution proceedings before it decides to impose a resolution measure in accordance with Section 41.

(2) The suspension of an obligation referred to in paragraph 1 shall not apply to a contractual payment or delivery obligation of a selected institution or entity referred to in Section 1(3)(b) to (d) towards:
(a) payment systems and accounting and settlement systems for transactions in financial instruments under other legislation;[44b]
(b) central counterparties authorised in the European Union under other legislation[44c] and central counterparties from third countries recognised under other legislation;[44d]
(c) central banks.

(3) If the discharge of an obligation as referred to in paragraph 1 is suspended in relation to covered deposits,[44e] the Council shall also decide in respect of the average daily amount that is to be provided to an entity duly authorised to handle covered deposit. The Council is authorised to prolong the suspension of the obligation referred to in paragraph 1 in relation to covered deposits.

(4) Apart from being authorised to suspend the discharge of an obligation referred to in

paragraph 1 for a period specified in a decision made pursuant to Section 8b(3), the Council may:

(a) restrict the secured creditors of the selected institution or entity referred to in Section 1(3)(b) to (d) in enforcing security interest in relation to the assets of that institution or entity; this is without prejudice to the provisions of Section 15(2) and (3);
(b) suspend the right of any of the contracting parties to terminate a contract signed with the selected institution or entity referred to in Section 1(3)(b) to (d); this is without prejudice to the provisions of Section 17(3) to (7).

Section 8b

(1) The Council shall suspend the discharge of an obligation as referred to Section 8a with due professional care, for a reasonable period set with regard to the circumstances of each specific case.

(2) When suspending the discharge of an obligation as referred to in Section 8a, the Council shall take into account the following:

(a) the consequences of activities ensuring the proper functioning of financial markets;
(b) the rights of creditors laid down in other legislation;[62]
(c) the consequences for the selected institution or entity referred to in Section 1(3)(b) to (d) of actions taken under other legislation[62] after the Council decides to reject a resolution action pursuant to Section 38(5) on account that the condition laid down in Section 34(1)(b) is not satisfied and after a petition is submitted to declare the relevant institution bankrupt under other legislation[23a] or after a proposal is submitted to wind up that institution under other legislation.[26]

(3) The Council may suspend the discharge of an obligation as referred to in Section 8a only by way of a decision. Such decision is to be made in writing; it must contain a statement suspending the relevant obligation, including the Council's other authorisations set out in Section 8a in relation to the selected institution or entity concerned, as referred to in Section 1(3)(b) to (d), and the period necessary for the purposes specified in Section 8a(1)(c) to (d), which must not exceed the period from the issue date of the decision by which the Council suspends the obligation referred to in Section 8a(1) to the end of the working day (midnight) following the issue date of that decision. The decision must also contain a justification, including the decisive facts justifying the suspension of the obligation referred to in Section 8a and information about the resolution tools proposed. The decision shall become legally effective and enforceable upon delivery. There is no appeal against such decision. Upon the expiry of the necessary period stated in the decision, the suspension of the relevant obligation shall become ineffective.

(4) Actions taken to suspend the discharge of obligations as referred to in Section 8a are not subject to any other legislation.[26]

(5) The Council shall, without undue delay but no later than before it decides to impose a resolution measure pursuant to Section 41, issue and deliver a decision suspending the discharge of an obligation referred in paragraph 3 to the selected institution or entity concerned as referred to in Section 1(3)(b) to (d) and shall, without undue delay, notify the entities referred to in Section 47(1) of the issue of that decision.

(6) The decision referred to in paragraph 3 shall be published on the website of the

selected institution or entity referred to in Section 1(3)(b) to (d), the website of the Council, the website of Národná banka Slovenska and, if the decision concerns covered deposits as defined in other legislation,[1] on the website of the Deposit Protection Fund, too.

(7) If, prior to the issuance of a decision to impose a resolution measure pursuant to Section 41, the Council decided to suspend the discharge of an obligation referred to in Section 8a, it shall not decide to exercise its powers specified in Sections 14(1) and 15(1) or in Section 17(1).

Section 9

Resolution powers of the Council

(1) In resolution proceedings, the Council may:

(a) exercise decision-making powers, shareholder rights, the rights of other owners and those of the statutory body or of the supervisory board of the selected institution;
(b) transfer shares or other instruments of ownership issued by the selected institution;
(c) transfer the rights, assets or liabilities of the selected institution to a third party with the institution's consent:
(d) reduce or remit the principal or balance payable of the eligible liabilities of the selected institution;
(e) convert the selected institution's bail-inable liabilities into shares or other instruments of ownership held by the selected institution, parent company or bridge institution referred to in Section 55, to which the assets, rights or other liabilities of the given selected institution are assigned;
(f) cancel debt instruments issued by the selected institution, and instruments giving rights to acquire debt instruments, except for secured liabilities pursuant to Section 59(1)(b);
(g) reduce to zero the nominal value of the selected institution's shares, other instruments of ownership or bail-inable liabilities, and cancel[45] its shares or other instruments of ownership;
(h) place the selected institution or its parent institution under the obligation to issue new shares or other instruments of ownership or other capital instruments, including preference shares and contingent convertible instruments;
(i) change or adjust the maturity of debt instruments and bail-inable liabilities issued by the selected institution or change the amount of due interest on the basis of these instruments and other bail-inable liabilities or the date of yield payment, even though a temporary suspension of payments, except for secured liabilities as defined in Section 59(1);
(j) take measures to ensure that no additional liabilities arise from derivative agreements for the selected institution and that such liabilities are compensated, and terminate financial agreements or derivative agreements for purposes specified in Section 63;
(k) recall or appoint the members of the statutory body and of the supervisory board of the selected institution, and its managers;
(l) request Národná banka Slovenska to assess the acquisition of a qualifying holding within a shorter period of time under other legislation;[46]
(m) request any person to provide the Council with the information that the Council needs to select an appropriate resolution tool and to prepare for resolution, which also requires that the information provided in resolution plans be updated and supplemented. The information so requested is provided within the scope of on-site inspections.

(2) The Council, when exercising its powers in resolution proceedings, is not subject to the requirement to obtain permission or consent from the competent state authority under other legislation, public or private person, the selected institution's shareholders or creditors, except

for permission from Národná banka Slovenska under Section 56(3). The Council shall not report, issue a notice or prospect,[47] or submit any document to another authority in advance, or register it under other legislation.[48] This is without prejudice to the announcement requirement stipulated by the European Union's State aid framework. The Council shall not be bound by any restrictions concerning the transfer of financial instruments, assets, rights or liabilities, and shall not require permission for such transfer.

(3) When exercising the power to write down or convert capital instruments in accordance with Division Eight of this Act, the Council has the right to exercise the powers as referred to in paragraph 1(a) to (j), (l) and (m) mutatis mutandis.

Section 10

Elimination of the effects of certain contractual terms in resolution proceedings

(1) A crisis prevention measure or a crisis management measure taken in relation to a selected institution shall not, per se, under any contract concluded by that institution, be deemed to be a security interest enforcement event, profit and loss account settlement or insolvency proceedings, provided that the substantive contractual obligations, including payment and delivery obligations and the provision of collateral, continue to be discharged. This also applies to the contractual relations of:

(a) subsidiaries where the discharge of obligations is ensured by the parent institution or by another person from the group;
(b) other persons from the group where the contract contains a clause on the immediate maturity of the entire debt.

(2) 'Crisis prevention measure' means the exercise of powers with the aim of directly addressing a shortcoming or impediment encountered during the implementation of a recovery plan under other legislation,[49] the exercise of powers with the aim of resolving or removing an obstacle in the way of resolution pursuant to Section 25 or Section 29, the taking of any measure aimed at timely intervention under other legislation,[50] the appointment of an official receiver under other legislation,[51] or the exercise of powers to write down or convert debt in accordance with Section 70. 'Crisis management measure' means a resolution measure as defined in Division Seven of this Act or the appointment of a special administrator under Section 12.

(3) Resolution proceedings commenced in a third country and recognised by the Council as resolution proceedings are deemed to be a resolution measure.

(4) If the contractual obligations, including obligations regarding payments and deliveries, the duration of collateral security provided are properly met, exclusively through the adoption of crisis prevention measures or crisis management measures and through the suspension of obligations referred to in Section 8a, none of the contracting parties will acquire a separate right to:

(a) terminate or suspend the discharge of obligations, modify the contract signed, or take such rights into account, even in the case of contractual relations with subsidiaries or collateral security provided by an entity within the same group;
(b) acquire a holding or a right of ownership in the collateral security provided by a selected institution; or
(c) modify, in another manner, the contractual rights in relation to the selected institution.

(5) The provisions of paragraphs 1, 3, 6 and 7 do not constitute a legal impediment to the exercise of the rights referred to in paragraph 4, if these rights are exercised in connection with an event other that the adoption of a crisis prevention measure or of a crisis management measure or a fact directly related thereto.

(6) For the purposes of paragraphs 1 and 4 and Section 70(4), the restriction or suspension of the rights referred to in Division Four shall not be classified as non-compliance with the contractual obligations.

(7) The provisions of paragraphs 1 to 5 are subject to other legislation.[52]

Section 11

Exercise of powers in resolution proceedings

(1) The following rights and powers are suspended during resolution proceedings:
(a) the powers of the statutory body and of the supervisory board of the selected institution, unless the Council decides otherwise;
(b) the voting rights of shareholders and owners of other instruments of ownership.

(2) The powers referred to in paragraph 1(a) may be exercised by the Council directly or through a special administrator under Section 12.

Section 12

Special administrator

(1) The Council may, for the purpose of exercising its powers in resolution proceedings and outside resolution proceedings, mainly when exercising its powers under Section 5(1)(g) and (k) and Section 70(1), appoint a special administrator. The Council issues a certificate of appointment of a special administrator.

(2) In appointing a special administrator, the Council specifies the following:
(a) the range of powers that will be delegated to the special administrator after the statutory body and supervisory board of the selected institution are suspended from exercising their powers, and the range of rights held by the selected institution's shareholders or owners of other instruments of ownership;
(b) the special administrator's tasks that are subject to prior approval by the Council.

(3) The Council concludes a contract with a newly appointed special administrator for the performance of special administrator tasks, which specifies in detail the special administrator's rights and duties. It also defines the special administrator's liability for any damage caused in conjunction with the performance of these tasks.

(4) The special administrator performs all the tasks that are necessary for the Council to exercise its powers in resolution proceedings pursuant to paragraph 1 in accordance with paragraphs 2 and 3.

(5) The Council may recall the special administrator at any time for any reason.

(6) A certificate of appointment of a special administrator or persons implementing a foreign measure comparable with the tasks of a special administrator under this Act is an original document certifying the appointment of a special administrator or a certificate of appointment of a special administrator by the competent resolution authority of another Member State. The translation of such certificates into the official language of the Member State concerned shall not be required to be officially certified, nor shall a similar procedure be required.

(7) A special administrator may be a natural or legal person. Being a natural person, a special administrator must be professionally competent in accordance with other legislation.[55] A special administrator may not be a person who:

(a) is or was an employee of Národná banka Slovenska or a member of the Council at any time in the past two years before being appointed as a special administrator;
(b) has been lawfully sentenced for a criminal offence committed in a managerial position or for any intentional criminal offence;
(c) held, at any time in the past three years, office as a member of the supervisory board, statutory body, general proxy, or a manager in a selected institution placed in receivership or special management, unless he or she voluntarily resigned from this office;
(d) has a special relationship as defined in paragraph 4 with the selected institution in which he or she acts as a special administrator in accordance with other legislation;[56]
(e) is a debtor or a creditor of the selected institution in which he or she acts as a special administrator in accordance with paragraph 4;
(f) is an employee of the special administrator via which he or she conducts activities pursuant to paragraph 4 or a member of the statutory or supervisory body of the legal person which is a debtor or a creditor of the selected institution whose activities referred to in paragraph 4 are concerned;
(g) is a member of the statutory or supervisory body of another selected institution, or the head or deputy head of another branch of a foreign selected institution;
(h) provided auditor services to a selected institution placed in receivership or concerned by the activities performed in accordance with paragraph 4 at any time over the past year, without expressing reservations on the activities of that institution.

(8) A special administrator, where it is a legal person, may only be a legal person established for the joint conduct of counselling-at-law or as an audit company under other legislation,[57] provided that this legal person has insurance against liability for damage caused in connection with its activities[57] when performing special management tasks and acting in the capacity of a special administrator or has enough own funds and provided that the partners of this legal person, the statutory body, members of the statutory or supervisory body of this legal person, or employees of this legal person, include no natural person who may not be a special administrator under paragraph 7.

(9) The appointment, replacement, and recall of a special administrator are recorded in the Commercial Register. A proposal for entering a special administrator into the Commercial Register is submitted by the Council; the submission of such proposal is not subject to other legislation.[58]

(10) The following information is recorded in the Commercial Register:

(a) the full name, permanent residence, and personal identification number of the special administrator where he or she is a natural person; or

(b) the business name, registered office, and identification number of the special administrator where it is a legal person.

(11) The special administrator may propose that the conduct of activities pursuant to paragraph 4 be recorded in the Commercial Register or in a similar public register kept in another Member State within the territory of which the institution under resolution has a branch, which is concerned by the special administrator's activities referred to in paragraph 4 where such recording is allowed by the legal system of the relevant Member State.

(12) Special administrators prepare a report for the Council that has appointed them on the economic and financial position of the selected institution and a report on the performance of their duties. Special managers submit these reports at regular intervals set by the Council and at the beginning and end of their office.

(13) A special administrator is appointed for a period of one year. This period may be prolonged in exceptional cases if the Council issues a decision that the conditions for the appointment of a special administrator are deemed to be met.

(14) If the Council is planning to appoint a special administrator for a selected institution at group level, the Council considers whether it is more suitable to appoint the same special administrator for all the selected institutions in order to facilitate the resolution of those institutions.

(15) The office of a special administrator ends:

(a) upon expiry of the period for which he or she has been appointed; or

(b) when the special administrator is recalled from office.

(16) The costs incurred in connection with a special administrator's work, including remuneration, are covered by the selected institution concerned by the activity performed by the special administrator in accordance with paragraph 4.

(17) The general meeting of a selected institution may, with a two-thirds majority of votes, decide or propose that the Council stipulate in its statutes that an invitation to a general meeting of shareholders convened to approve a share capital increase should be issued within a shorter time period than stipulated by Section 184(3) of the Commercial Code if the general meeting does not take place earlier than ten calendar days of the date of invitation and if the conditions for the application of measures under other legislation or the conditions for the appointment of a temporary manager for the selected institution pursuant to other legislation are met and the capital increase is necessary to avoid resolution proceedings pursuant to Section 34(1).

Section 13

Additional powers of the Council

(1) Within the scope of its additional powers, the Council may:

(a) transfer assets, rights and liabilities without any commitment or easement, except for protective measures as referred to in Section 81; claim for compensation under this Act is not deemed to be a commitment or an easement;

(b) cancel any right to acquire other shares or other instruments of ownership;
(c) require that trading in financial instruments on the regulated market be suspended or that a financial instrument be excluded from trading by Národná banka Slovenska or by the stock exchange under other legislation; [59]
(d) require that the acquirer have the same position in terms of their rights and obligations as the selected institution, including its rights and obligations concerning participation in the regulation market and in the accounting and settlement system, unless Sections 53 and 55 provide otherwise;
(e) require information and cooperation from both the selected institution and the acquirer;
(f) change or cancel any of the contractual conditions applying to the selected institution or to the acquirer;
(g) give instructions to the central securities depository and to the stock exchange[34] about the implementation of resolution measures and the exercise of powers in accordance with Section 70(1).

(2) The Council exercises its powers under paragraph 1 only to the extent necessary to meet the objectives set out in Section 1(2).

(3) In order to maintain the continuity of its operations, the Council may entrust the acquirer with the task of managing the business activities of a selected institution, including:
(a) management of the selected institution's rights and obligations with a view to preserving its contractual relationships;
(b) action for and on behalf of the selected institution in the capacity of a legal successor in proceedings concerning its financial instruments, rights, assets and liabilities that were the subject of transfer.

(4) The powers referred to in paragraphs 1(d) and 3(b) do not apply to:
(a) the rights of the selected institution's employees after their employment ends;
(b) the right of the contracting parties to exercise rights under the contract, including the right to terminate the contract in accordance with its terms, in view of the selected institution's action or failure, before the transfer or, on the acquirer's part, after the transfer, unless Sections 14 to 17 provide otherwise.

Section 14

The Council's power to suspend certain obligations

(1) The Council may decide to suspend the discharge of a selected institution's obligation for the period from the day when the suspension is announced to the end of the working day (midnight) following the date of announcement.

(2) After the period of suspension defined in paragraph 1 expires, the discharge of the obligation will be restored.

(3) During the period for which the selected institution's obligation is suspended in accordance with paragraph 1, the discharge of that obligation will also be suspended for the other party to the contract.

(4) The provisions of paragraph 1 do not apply to payment and delivery obligations towards:

(a) payment systems and accounting and settlement systems for transactions in financial instruments as defined in other legislation;44b
(b) central counterparties authorised in the European Union under other legislation[44c] and central counterparties from third countries recognised under other legislation;[44d]
(c) central banks.

(5) When exercising its powers, the Council shall take into account the proper functioning of the financial market, while the scope of the suspension shall be determined with regard to the circumstances of each individual case.

Section 15

The Council's power to restrict the exercise of security rights

(1) The Council may restrict the secured creditors of a selected institution in enforcing security interest in relation to the institution's assets from the date of notification on the restriction of secured creditors to the end of the working day (midnight) following the date of notification.

(2) The restriction referred to in paragraph 1 shall not apply to any of the following:

(a) security interest of payment systems and of accounting and settlement systems for transactions in financial instruments under other legislation;[44b]
(b) central counterparties authorised in the European Union under other legislation[44c] and central counterparties from third countries recognised under other legislation;[44d] and
(c) central banks, in the case of assets pledged or provided by way of margin or collateral by the institution under resolution.

(3) The Council ensures that such restriction is applied equally to all members of the group to which the restriction is applied.

Section 16

The Council's powers in relation to assets, rights, obligations, shares and other instruments of ownership in third countries

(1) Where assets located in a third country or rights, obligations, shares or other instruments of ownership subject to the law of a third country are traded, the Council may:

(a) instruct the special administrator of the selected institution or the person controlling that institution or the acquirer to ensure that the transfer, write-down, conversion or any other act carried out within the scope of resolution proceedings takes effect;
(b) instruct the special administrator of the selected institution or the person controlling that institution to take possession of assets, rights, shares or other instruments of ownership or to repay liabilities on behalf of the acquirer before the transfer, write-down, conversion or any other act takes effect.

(2) Justified expenses incurred by the acquirer in connection with acts carried out under paragraph 1 are paid in accordance with Section 52(6).

(3) The Council may refrain from the acts referred to in paragraph 1 if they are highly unlikely to take effect in relation to certain assets located in a third country, or certain rights, obligations, shares or other instruments of ownership that are subject to the law of a third country. The Council does not execute such transfer, write-down, conversion or any other act within the scope of resolution proceedings. If the Council has already decided to carry out a transfer, write-down, conversion or any other act, such decision is considered invalid in relation to the relevant assets, shares, instruments of ownership, rights or obligations.

Section 17

The Council's power to suspend the right to terminate a contract

(1) The Council may restrict the rights of persons that are contracting parties of the selected institution if the exercise of such persons' rights is likely to lead to the cancellation of the contract or to the end of the contractual relationship in any other way.

(2) The Council has the same rights as under paragraph 1 for contractual relationships with a subsidiary of the selected institution:
(a) if the obligations arising from such contractual relationships are secured by the selected institution;
(b) if the right to terminate a contract is conditional exclusively upon the financial position or insolvency of the selected institution;
(c) when exercising transfer powers under Section 9(1)(c) in relation to the selected institution
    1. in regard to its subsidiary's assets or liabilities that have been transferred or may be transferred to the acquirer;
    2. if the Council provides collateral or other appropriate protection for the discharge of liabilities.

(3) The restrictions referred to in paragraphs 1 and 2 apply from the moment of notification of suspension to the working day (midnight) following the date of publication in accordance with Section 41(4).

(4) The provisions of paragraphs 1 and 2 shall not apply to payment and delivery obligations towards:
(a) payment systems and accounting and settlement systems for transactions in financial instruments under other legislation;[44b]
(b) central counterparties authorised in the European Union under other legislation[44c] and central counterparties from third countries recognised under other legislation;[44d] and
(c) central banks.

(5) Contracts may be terminated before expiry of the period referred to in paragraph 3 if the Council confirms in writing that the rights and obligations arising therefrom are not subject to:
(a) transfer to the acquirer;
(b) write-down or conversion during capitalisation pursuant to Section 58(1)(a).

(6) If the Council suspends the exercise of the rights referred to in paragraphs 1 and 2 without following the procedure mentioned in paragraph 5, these rights may be exercised again under Section 10 upon expiry of the suspension period as follows:

(a) where the rights and obligations have been transferred to another person, the other contracting party may terminate the contract only if a reason arises or persists for its termination under the original terms after the rights and obligations are transferred to the acquirer;
(b) where neither rights nor obligations have been transferred and no bail-in has been applied by the Council under Section 58(1)(a), the other contracting party may terminate the contract under the original terms upon expiry of the period referred to in paragraph 3.

(7) The Council or Národná banka Slovenska may require a selected institution or a person referred to in Section 1(3)(b) to (d) to keep detailed records of their financial contracts. The Council or Národná banka Slovenska may request the archives of business data[60a] to cooperate by providing the necessary data and information from the archives for the discharge of obligations under other legislation.[61]

Section 17a

The Council's power to prohibit certain distributions

(1) Where an entity referred to in Section 1(3) is in a situation where it meets the combined buffer requirement when considered in addition to each of the requirements stipulated by other legislation,[61a] but it fails to meet the combined buffer requirement when considered in addition to the requirements set out in Sections 31b and 31c, when calculated according to Section 31(2)(a), the Council shall have the power, in accordance with paragraphs 2 to 7, to prohibit the entity referred to in Section 1(3) from distributing more than the maximum distributable amount related to the minimum requirement for own funds and eligible liabilities (hereinafter 'maximum distributable amount'), calculated according to paragraph 7, through any of the following actions:
(a) make a distribution in connection with Common Equity Tier 1 capital;
(b) create an obligation to pay variable remuneration or discretionary pension benefits, or to pay variable remuneration if the obligation to pay was created at a time when the entity referred to in Section 1(3) failed to meet the combined buffer requirement; or
(c) make payments in connection with Additional Tier 1 capital instruments.

(2) The management board of an entity referred to in Section 1(3) shall be obliged to monitor, with due professional care, whether the conditions set out in paragraph 1 are met and, as soon as it learns and assesses, with due professional care, that the entity referred to in Section 1(3) is in a situation described in paragraph 1, to report this fact to the Council.

(3) If an entity referred to in Section 1(3) is in a situation described in paragraph 1, the Council shall, after consulting Národná banka Slovenska, assess without undue delay whether to exercise the power referred to in paragraph 1, taking into account all of the following elements:
(a) the reason, duration and magnitude of the failure referred to in paragraph 1 and its impact on resolvability;
(b) the development of the financial situation of the entity referred to in Section 1(3) and the likelihood of it fulfilling, in the foreseeable future, the condition for the commencement of resolution proceedings pursuant to Section 34(1)(a);
(c) the prospect that the entity referred to in Section 1(3) will be able to ensure compliance with the requirements referred to in paragraph 1 within a reasonable timeframe;

(d) where the entity referred to in Section 1(3) is unable to replace liabilities that no longer meet the eligibility or maturity criteria laid down in other legislation[61b] or in Section 31a or Section 31e(6)(a), if that inability is idiosyncratic or is due to market-wide disturbance;
(e) whether the exercise of the power referred to in paragraph 1 is the most adequate and proportionate means for addressing the situation described in paragraph 1, taking into account its potential impact on both the financing conditions and resolvability of the entity concerned.

(4) The Council shall repeat its assessment of whether to exercise the power referred to in paragraph 1 at least every month for as long as the entity referred to in Section 1(3) continues to be in the situation described in paragraph 1.

(5) If the Council finds that an entity referred to in Section 1(3) is still in the situation referred to in paragraph 1 nine months after such situation has been notified by that entity, the Council shall, after consulting Národná banka Slovenska, exercise the power referred to in paragraph 1, except where the Council finds, following an assessment, that at least two of the following conditions are fulfilled:
(a) the situation described in paragraph 1 is due to a serious disturbance to the functioning of financial markets which leads to broad-based financial market stress across several segments of those financial markets;
(b) the disturbance referred to in subparagraph (a) not only results in the increased price volatility of own funds instruments and eligible liabilities instruments held by the entity referred to in Section 1(3) or increased costs for that entity, but also leads to a full or partial closure of markets which prevents the entity from issuing own funds instruments and eligible liabilities instruments on those markets;
(c) the market closure referred to in subparagraph (b) is observed not only for the entity concerned, but also for several other entities referred to in Section 1(3);
(d) the disturbance referred to in subparagraph (a) prevents the relevant entity referred to in Section 1(3) from issuing own funds instruments and eligible liabilities instruments sufficient to remedy the situation referred to in paragraph 1; or
(e) the prohibition referred to in paragraph 1 leads to negative spill-over effects for part of the banking sector, thereby potentially undermining its financial stability.

(6) Where the exception referred to in paragraph 5 applies, the Council shall notify Národná banka Slovenska of this fact and shall explain its assessment in writing. Every month, the Council shall repeat its assessment of whether the exception referred to in paragraph 5 applies.

(7) The maximum distributable amount shall be calculated by multiplying the sum calculated in accordance with paragraph 8 by the factor determined in accordance with paragraph 9. The maximum distributable amount shall be reduced by any amount resulting from any of the actions referred to in paragraph 1.

(8) The sum to be multiplied in accordance with paragraph 7 shall consist of any interim profits not included in Common Equity Tier 1 capital pursuant to other legislation,[61c] net of any distribution of profits or any payment resulting from the actions referred to in paragraph 1, plus any year-end profits not included in Common Equity Tier 1 capital pursuant to other legislation,[61c] net of any distribution of profits or any payment resulting from the actions referred to in paragraph 1, minus amounts which would be payable by tax if the interim profits and year-end profits were to be retained.

(9) The factor referred to in paragraph 7 shall be determined as follows:

(a) where the Common Equity Tier 1 capital maintained by an entity referred to in Section 1(3) which is not used to meet any of the requirements set out in other legislation[61d] and in Sections 31b and 31c, expressed as a percentage of the total risk exposure amount calculated in accordance with other legislation,[61e] is within the first (that is, the lowest) quartile of the combined buffer requirement, the factor shall be 0;

(b) where the Common Equity Tier 1 capital maintained by an entity referred to in Section 1(3) which is not used to meet any of the requirements set out in other legislation[61d] and in Sections 31b and 31c, expressed as a percentage of the total risk exposure amount calculated in accordance with other legislation,[61e] is within the second quartile of the combined buffer requirement, the factor shall be 0,2;

(c) where the Common Equity Tier 1 capital maintained by an entity referred to in Section 1(3) which is not used to meet the requirements set out in other legislation[61d] and in Sections 31b and 31c, expressed as a percentage of the total risk exposure amount calculated in accordance with other legislation,[61e] is within the third quartile of the combined buffer requirement, the factor shall be 0,4;

(d) where the Common Equity Tier 1 capital maintained by an entity referred to in Section 1(3) which is not used to meet the requirements set out in other legislation[61d] and in Sections 31b and 31c, expressed as a percentage of the total risk exposure amount calculated in accordance with other legislation,[61e] is within the fourth (i.e. the highest) quartile of the combined buffer requirement, the factor shall be 0,6.

(10) The lower bound of the quartile of the combined buffer requirement shall be calculated as follows:

$$\text{Lower bound of quartile} = \frac{\text{combined buffer requirement}}{4} \times (Qn-1);$$

where ‘Qn‘ is the ordinal number of the quartile concerned.

(11) The upper bound of the quartile of the combined buffer requirement shall be calculated as follows:

$$\text{Upper bound of quartile} = \frac{\text{combined buffer requirement}}{4} \times (Qn);$$

where ‘Qn‘ is the ordinal number of the quartile concerned.

Section 17b

Contractual recognition of the power to suspend the resolution process

(1) Entities as referred to in Section 1(3)(b) to (d) shall include, in any financial contract referred to in Section 21(12) which they enter into and which is governed by third-country law, terms by which the parties recognise that the financial contract concerned may be subject to the exercise of powers by the resolution authority to suspend or restrict rights and obligations pursuant to Sections 8a, 10, 14 and 15 and recognise that they are bound by the requirements set out in Section 10.

(2) Parent undertakings established in the Slovak Republic shall ensure, in accordance with Section 21(12), that their third-country subsidiaries include, in the financial contracts referred to in paragraph 1, terms to exclude that the exercise by the resolution authority of its power to suspend or restrict the rights and obligations of the parent undertaking concerned, in accordance with paragraph 1, constitutes a valid ground for the early termination, suspension, modification, netting, exercise of set-off rights or for the enforcement of security interests on those contracts.

(3) The terms referred to in paragraph 1 may apply in respect of third-country subsidiaries which are:
(a) credit institutions;
(b) investment firms;
(c) other financial institutions.

(4) Paragraph 1 shall apply to any financial contract referred to in Section 21(12) which:
(a) creates a new obligation, or materially amends an existing obligation;
(b) provides for the exercise of one or more termination rights or rights to enforce security interests to which Sections 8a, 10, 14 and 15 would apply if the financial contract referred to in Section 21(12) were governed by the laws of another Member State.

(5) Where a certain institution or entity referred to in Section 1(3)(b) to (d) does not include the contractual term required in accordance with paragraph 1, which shall not prevent the Council from applying the powers referred to in Sections 8a, 10, 14 and 15 in relation to the financial contract referred to in Section 21(12).

Section 18

Cooperation in resolution proceedings

(1) The Council may require a selected institution or a person in the group to which the selected institution belongs to cooperate by providing services and material equipment for the effective management of business activities that have been transferred to the acquirer. This also applies if the selected institution or person within the group is in insolvency proceedings under other legislation;[62] the special administrator as defined in other legislation[62] has the same obligations as the selected institution mentioned in the previous sentence.

(2) A person residing in the Slovak Republic but belonging to the group comprising the selected institution shall cooperate under paragraph 1 in the same manner if the selected institution falls within the competence of the resolution authority of another Member State.

(3) Cooperation does not include the provision of financial resources.

(4) Cooperation is governed by the conditions that applied before the selected institution was placed under resolution, which are otherwise common conditions.

Section 19

The Council's power to require cooperation from the relevant authorities of other Member States

(1) For the purpose of transferring shares or other instruments of ownership, assets, rights or liabilities located in another Member State or rights or obligations governed by the law of another Member State, the Council may require cooperation from the relevant authorities of that Member State.

(2) A legal act performed by a shareholder, creditor or another person in respect of shares, other instruments of ownership, assets, rights or obligations, which is likely to hinder or frustrate the exercise of powers by the Council or by the competent resolution authority is deemed invalid from the very beginning.

(3) If the Council exercises its debt write-down or conversion powers in accordance with Section 70 even in relation to capital instruments, the bail-inable liabilities or capital instruments of the institution concerned must also include:
(a) instruments or liabilities governed by the law of another Member State;
(b) liabilities towards creditors from another Member State.

(4) The Council shall cooperate with the competent resolution authority of another Member State in reducing or writing off the amount of principal for instruments or liabilities or in writing down or converting the instruments or liabilities of a selected institution with a registered office in the Slovak Republic.

(5) The creditors affected by the exercise of write-down or conversion powers under paragraph 3 shall tolerate the exercise of powers by the competent resolution authority of another Member State. When exercising its write-down or conversion powers, the Council may require any cooperation from the competent resolution authority of another Member State whose creditors are affected by the exercise of such powers.

Section 20

International cooperation in resolution proceedings

(1) The resolution authority of another Member State may operate in the territory of the Slovak Republic as a resolution authority in relation to a branch of a foreign selected institution or a subsidiary of a foreign selected institution, while the foreign selected institution is subject to supervision by the competent foreign supervisory authority. The resolution authority of a third country may exercise resolution powers in the territory of the Slovak Republic over a selected institution that is a branch of a foreign selected institution or a subsidiary of a foreign selected institution only on the basis of an agreement concluded between the Council and the resolution authority of the third country concerned; such agreement may only be concluded on a reciprocal basis. The Council informs the European supervisory authority (European Banking Authority) of the conclusion of any such agreement.

(2) Prior to the commencement of an on-site inspection in the territory of the Slovak Republic, the relevant resolution authority shall notify Národná banka Slovenska thereof. In conducting on-site inspections in the territory of the Slovak Republic, persons authorised by the competent resolution authority have the same rights, obligations and responsibilities as persons authorised to conduct on-site inspections by Národná banka Slovenska, except for the obligation to draw up an on-site inspection protocol and to set, and notify to the entity under

supervision, time limits for the adoption and implementation of measures to eliminate any shortcomings revealed during an on-site inspection.

(3) The Council may exercise its resolution powers in the territory of the Slovak Republic in relation to a branch of a third-country selected institution if the Council concludes that some of the conditions set out in Section 85(7) are satisfied or in relation to the third-country selected institution whose branch is concerned if the resolution authority of the third country has not instigated resolution proceedings against that institution.

(4) The measures taken by the Council in relation to a branch of a third-country selected institution shall be in accordance with the objectives of this Act as defined in Section 1(2), the basic principles of resolution proceedings laid down in Section 33, and the general principles of resolution tools pursuant to Section 52.

(5) The Council may exercise its powers and take resolution actions in relation to a branch of a third-country selected institution where this is necessary in the public interest and where one of the following conditions is met:

(a) the branch of the third-country selected institution no longer satisfies or is unlikely to continue satisfying the criteria for authorisation and the requirements for business activity under other legislation[93] and it is unlikely that compliance with these criteria and requirements may be restored by the imposition of any measure by the private sector, a foreign supervisory authority or another third-country authority, or that the failure of that branch may be avoided by any measure within a reasonable time;
(b) the third-party selected institution no longer pays or is likely to stop paying its due liabilities in the near future or the liabilities it has incurred though its branch and the competent third-country authority has not initiated or is unlikely to initiate resolution proceedings or other similar proceedings against that third-country selected institution in the near future; or
(c) the competent third-country authority has initiated or has notified the Council that it will soon initiate resolution proceedings or other similar proceedings against the third-country selected institution to which the relevant branch belongs.

(6) The Council is a participant in the Single Resolution Mechanism.[63] The Council may be a member of any international organisation specialising in bank resolution and may be involved in the performance of tasks arising from such membership. The Council ensures the performance of tasks arising for the Council from the legally binding acts of the European Union.

Section 20a

Agreements with third countries

(1) The Slovak Republic may conclude a bilateral agreement with a third country in matters of cooperation between the Council and the competent authorities of that country for resolution purposes where:

(a) a parent institution established in a third country has a subsidiary or a significant branch in the Slovak Republic and in at least one other Member State;
(b) a parent company established in the Slovak Republic, which has a subsidiary or a significant branch in at least one other Member State, has one or more subsidiaries in a third country; or

(c) a selected institution established in the Slovak Republic, which has a parent institution, subsidiary or a significant branch in at least one other Member State, has one or more branches in a third country or in several third countries.

(2) An agreement as referred to paragraph 1 is concluded only where there is no valid agreement with the relevant third country on cooperation with the competent resolution authorities in accordance with paragraph 1 and with the international agreement by which the Slovak Republic is bound.[63a]

(3) The Council shall make every effort to conclude a non-binding cooperation agreement, in accordance with the general agreement on cooperation with the European supervisory authority (European Banking Authority), with the competent resolution authority of the third country in which

(a) the parent institution or the person referred to in Section 1(3)(c) and (d), which has a subsidiary established in the Slovak Republic and in at least one other Member State, is registered;
(b) the selected institution which has a branch established in the Slovak Republic and in at least one other Member State, is registered;
(c) at least one of the subsidiaries of the parent institution or of the person referred to in Section 1(3)(c) and (d), which is registered in the Slovak Republic and has a subsidiary or significant branch established in at least one other Member State, is established;
(d) at least one of the branches of the selected institution which is registered in the Slovak Republic and has a subsidiary or significant branch established in at least one other Member State, is established.

(4) An agreement as referred to in paragraph 3 is concluded only where there is no agreement in force under paragraph 2 or where an agreement made under paragraph 2 does not cover any of the following:

(a) the exchange of information needed for the preparation of resolution plans, the application of resolution tools and the exercise of resolution powers and similar powers under the law of the third country concerned;
(b) consultation and cooperation in the preparation of resolution plans, including principles for the exercise of powers under Sections 20 and 85, and similar powers under the law of the third country concerned;
(c) early warning or consultation on cooperation before any significant act is carried out within the scope of resolution proceedings, with a potential impact on the selected institution or the group concerned;
(d) coordination of the publishing activities related to joint acts carried out within the scope of resolution proceedings;
(e) exchange of information and cooperation under subparagraphs (a) to (d) in any form, including through teams formed for resolution management, where necessary.

(5) The Council informs the European supervisory authority (European Banking Authority) of each agreement concluded under paragraph 3.

DIVISION THREE

RESOLUTION PLANS, OWN FUNDS REQUIREMENTS AND ELIGIBLE LIABILITIES

Section 21

Resolution plans of selected institutions

(1) After consultation with Národná banka Slovenska and the resolution authority of the Member State in which the selected institution has a significant branch,[64] the Council, insofar as is relevant to the significant branch, prepares a resolution plan for the selected institution, which is not part of any consolidated group over which supervision is exercised by the supervisory authority of the Member State or third country concerned.

(2) In the resolution plan, the Council outlines the procedure to be followed during the resolution of the selected institution.

(3) A plan for the resolution of a selected institution comprises mainly:

(a) a summary of the key elements of the resolution plan drawn up for the selected institution;
(b) a summary of all substantial changes the selected institution has undergone since the last reporting on matters related to resolution;
(c) a description of the separation, in legal and economic terms, of the critical functions of the selected institution and of the main areas of its trading activities so that they are preserved if the institution fails;
(d) an estimate of the period needed for the implementation of the individual parts of the resolution plan drawn up for the selected institution;
(e) a detailed assessment of a selected institution's resolvability in accordance with paragraph 5 and Section 24;
(f) a description of all measures designed to overcome or remove the obstacles hindering the resolution of selected institutions pursuant to Section 25 on the basis of an assessment made in accordance with Section 24;
(g) procedures for valuing and selling an enterprise, part of an enterprise or the assets of a selected institution, these being associated with its critical functions or main areas of business activity in accordance with the Commercial Code;
(h) the method of ensuring that the information required under this paragraph is up-to-date and available;
(i) the method of financing the resolution of a selected institution where:
    1. no extraordinary public financial support is provided, except for funding under Division Twelve of this Act;
    2. no emergency liquidity assistance[65] is provided by Národná banka Slovenska in the form of a short-term loan;
    3. no other financial support is provided by Národná banka Slovenska for the elimination of a temporary shortage of liquidity under non-standard collateralisation, tenor and interest rate terms;
(j) a detailed description of various resolution strategies of the selected institution that can be used under various scenarios and in various time limits;
(k) a description of critical mutual connections;
(l) a description of the possibilities of ensuring access to payment systems, accounting and settlement services, and other infrastructures, and an assessment of the possibilities of transferring the positions of clients;

(m) an analysis of how the resolution plan of the selected institution may affect its employees, including an assessment of the costs incurred, and a description of the consultations planned to be held with the employees during the resolution process;
(n) a plan for communication with the media and the public;
(o) the requirements set out in Sections 31d and 31e and the time limit for the selected institution to meet the minimum requirement defined in Section 99b;
(p) the time limit for reaching an agreement with the resolution entity pursuant to Section 99b where the Council proceeds in accordance with Section 31a(4) and (5) or (7);
(q) a description of the basic activities and systems needed for ensuring the continuous functioning of the selected institution's operating processes;
(r) the position of the selected institution concerned on the summary of key elements of its resolution plan if such position has been sent to the Council.

(4) The Council sends each selected institution a summary of key elements of the resolution plan drawn up for the institution concerned.

(5) In preparing a resolution plan for a selected institution, the Council identifies the impediments to resolution and proposes a method for their removal in accordance with this Act.

(6) In preparing a resolution plan for a selected institution, the Council takes into account all the relevant scenarios of a crisis situation, in particular the possibility of failure by the selected institution, the possibility of a crisis situation occurring at a time of broader financial instability, and the possibility of a crisis situation occurring as a result of failure in the financial system as a whole.

(7) The resolution plan of a selected institution does not contain measures consisting in the provision of support in accordance with paragraph 3(i), points 1 and 3.

(8) The resolution plan of a selected institution contains an analysis of the procedure applied by the selected institution to gain access to the liquidity-providing operations of Národná banka Slovenska and to determine the institution's assets that could, if necessary, be used as security for such operations.

(9) The Council shall examine, at least once a year, whether the resolution plan of an institution subject to resolution is up-to-date and shall update it, if necessary. The Council shall update the resolution plan whenever a substantial change occurs in the institution's organisational structure, market position or financial situation; the resolution plan must also be updated after the implementation of resolution measures and after the write-down and conversion of capital instruments and eligible liabilities pursuant to Section 70(1)(a).

(10) Národná banka Slovenska and the selected institution shall notify the Council of any substantial change occurring in the institution's organisational structure, market position or financial situation, and requiring an examination and/or updating of the institution's resolution plan.

(11) The Council may place a selected institution under the obligation to keep records of all financial contracts which the institution is a party to and to set a deadline for their submission to the Council.

(12) For the purposes of paragraph 11, ‘financial contracts’ includes the following contracts and agreements:

(a) securities contracts, including:
    1. contracts for the purchase, sale or loan of a security, a group or index of securities;
    2. options on a security or group or index of securities;
    3. repurchase or reverse repurchase transactions in any such security, group or index;
(b) commodities contracts, including:
    1. contracts for the purchase, sale or loan of a commodity or group or index of commodities for future delivery;
    2. options on a commodity or group or index of commodities;
    3. repurchase or reverse repurchase transactions in any such commodity, group or index;
(c) futures and forwards contracts, including contracts (other than a commodities contract) for the purchase, sale or transfer of a commodity or property of any other description, service, right or interest for a specified price at a future date, except contracts under subparagraph (b);
(d) swap agreements, including:
    1. swaps and options relating to interest rates, spot or other foreign exchange agreements, currency, an equity index or equity, a debt index or debt, commodity indexes or commodities, weather, emissions or inflation;
    2. total return, credit spread or credit swaps;
    3. any agreements or transactions that are similar to an agreement referred to in point 1 or 2 which is the subject of recurrent dealing in the swaps or derivatives markets;
(e) borrowing agreements between selected institution where the term of the borrowing is three months or less;
(f) master agreements for any of the contracts or agreements referred to in subparagraphs (a) to (e).

(13) When setting time limits in accordance with Section 21(3)(o) and (p), the Council shall, under the circumstances specified in the last sentence of Section 21(9), take into account the time limits set for meeting requirements under other legislation.[65a]

Section 22

Information required for the resolution plans of institutions

(1) Selected institutions under resolution shall cooperate with the Council by providing any information the Council requests for the preparation, updating, and implementation of resolution plans for such institutions.

(2) For the purposes of paragraph 1, the Council may request institutions to provide at least the following information:

(a) a detailed description of the selected institution’s organisational structure, including a list of all legal persons in the share capital of which the institution has an interest;
(b) information on each legal person having an interest in the share capital, voting rights, and other rights of the selected institution, including the legal person’s registered office, country of incorporation, authorisation, management board members, and managers;
(c) mapping of the selected institution’s critical operations and core business lines, including material asset holdings and liabilities relating to such operations and business lines, by reference to legal persons;

(d) a detailed description of the components of the selected institution's and all its legal persons' liabilities, broken down, at a minimum, by types and amounts of short-term and long-term debt, including secured, unsecured or subordinated liabilities;
(e) details of those liabilities of the selected institution that are bail-inable liabilities;
(f) identification of the processes needed to determine to whom the selected institution has pledged collateral, the person that holds the collateral and the jurisdiction in which the collateral is located;
(g) a description of the off-balance sheet exposures of the selected institution and its legal persons, including a mapping to its critical operations and core business lines;
(h) information on the material hedges of the selected institution, including a mapping to legal persons;
(i) identification of the major or most critical counterparties of the selected institution, as well as an analysis of the impact of failure by major counterparties on the institution's financial situation;
(j) information on each system in which the institution conducts a material number or value amount of trades, including a mapping to the institution's legal persons, critical operations and core business lines;
(k) information on each payment, clearing or settlement system of which the selected institution is directly or indirectly a member, including a mapping to the institution's legal persons, critical operations and core business lines;
(l) a detailed inventory and description of the key management information systems, risk management systems, accounting systems, and those for financial and regulatory reporting used by the selected institution, including a mapping to the institution's legal persons, critical operations, and core business lines;
(m) identification of the owners of the systems mentioned in subparagraph (l), service level agreements related thereto, and any software and systems or licences, including a mapping to their legal persons, critical operations, and core business lines;
(n) identification and mapping of individual legal persons and their interconnections within a group, especially in the following areas:
    1. common or shared personnel;
    2. common or shared facilities and systems;
    3. capital, funding or liquidity arrangements;
    4. existing or contingent credit exposures;
    5. cross-guarantee agreements, cross-collateral arrangements, cross-default provisions, and cross-affiliate netting arrangements;
    6. risk transfers and back-to-back trading arrangements, and service level agreements;
(o) information on the competent supervisory authority and the competent resolution authority for each legal person;
(p) information on the member of the management body responsible for providing the information necessary to prepare the resolution plan of the selected institution, as well as those responsible, if different, for the different legal persons, critical operations, and core business lines;
(q) a description of the arrangements that the selected institution has in place to ensure that, in the event of resolution, the Council will have all the necessary information for deciding whether to apply resolution tools and exercise resolution powers;
(r) all the agreements entered into by the selected institutions and their legal persons in the same group with third parties the termination of which may be triggered by a decision of the authorities to apply resolution tools and whether the consequences of termination may affect the application of resolution tools;
(s) a description of possible liquidity sources for supporting resolution;

(t) information on asset encumbrance, liquid assets, off-balance sheet activities, hedging strategies and booking practices.

Section 23

Submission of resolution plans

(1) The Council submits the resolution plan of a selected institution and any changes thereto to Národná banka Slovenska as soon as the plan is drawn up.

(2) The Council as a group-level resolution authority submits a group-level resolution plan and any changes thereto to Národná banka Slovenska.

Section 24

Assessment of resolvability for institutions

(1) After consulting Národná banka Slovenska and the competent resolution authority of the jurisdiction in which a significant branch is located, the Council, insofar as a selected institution's resolution plan is relevant to the significant branch, assesses the extent to which the selected institution which is not part of a group is resolvable without the assumption of any of the following:

(a) any extraordinary public financial support besides the use of the financing arrangements established in accordance with Division Twelve of this Act;
(b) any emergency liquidity assistance[65] provided by Národná banka Slovenska in the form of a short-term loan;
(c) any other liquidity assistance provided by Národná banka Slovenska under non-standard collateralisation, tenor and interest rate terms.

(2) A selected institution is deemed to be resolvable if it is feasible and credible for the Council to either liquidate it under normal insolvency proceedings or initiating resolution proceedings against the selected institution while avoiding to the maximum extent possible any significant adverse effect on the financial system, including in circumstances of broader financial instability or system-wide events, of the Slovak Republic or of other Member States or the European Union as a whole, and with a view to ensuring the continuity of critical functions carried out by the selected institution.

(3) A resolvability assessment is to be made by the Council as part of the institution's resolution plan drawn up and updated in accordance with Section 21.

(4) If the Council finds that an institution is unresolvable, it shall notify the European supervisory authority (European Banking Authority) without undue delay.[66]

(5) In assessing the resolvability of an institution, the Council shall take into account mutatis mutandis the facts referred to in Section 28(6).

Section 25

Powers to address or remove impediments to resolvability

(1) If the Council, after consulting Národná banka Slovenska, determines on the basis of a resolvability assessment carried out for an entity referred to in Section 1(3) in accordance with Sections 24 and 28 that there are substantive impediments to the resolvability of that entity, the Council shall notify in writing that determination to the entity concerned, to Národná banka Slovenska, and to the resolution authorities of the jurisdictions in which that entity's significant branches are located.

(2) If the Council finds facts as referred to in paragraph 1, it suspends the preparation of a resolution plan for the selected institution until the adoption of a decision in accordance with paragraph 3 or paragraph 4; the Council proceeds in the same manner if it has received a notification from another resolution authority of the existence of substantive impediments. The time limit for the achievement of a joint decision in accordance with Section 27(5) is interrupted.

(3) Within four months of the date of receipt of a notification made pursuant to paragraph 1, the entity referred to in Section 1(3) shall propose to the Council possible measures to address or remove the substantive impediments to its resolvability identified in the notification. Within two weeks of the date of receipt of that notification sent according to paragraph 1, the entity concerned shall also propose to the Council a time schedule for the implementation of the measures proposed in order to restore compliance with the requirements set out in Section 31d or Section 31e and with the combined buffer requirement if the substantive impediment to resolution is caused by any of the following situations:

(a) the entity referred to in Section 1(3) meets the combined buffer requirement that is assessed in addition to each requirement imposed by other legislation,[61a] but fails to meet the combined buffer requirement that is assessed in addition to the requirements laid down in Sections 31b and 31c, provided that these requirements are calculated according to Section 31(2)(a); or
(b) the entity referred to in Section 1(3) fails to meet the requirements imposed by other legislation[66a] or the requirements laid down in Sections 31b and 31c.

(4) The time schedule for the implementation of the measures proposed in accordance with paragraph 3 shall be drawn up with regard to the causes of the substantive impediments to resolvability. The Council shall, after consulting Národná banka Slovenska, assess whether the measures proposed in accordance with paragraph 3 are appropriate for effectively addressing or removing the substantive impediments in question.

(5) Where the Council assesses that the measures proposed pursuant to paragraph 3 are inappropriate for effectively addressing or removing impediments to the resolvability of an entity referred to in Section 1(3), it shall issue a decision requiring that entity to take alternative measures that may achieve that objective and to notify in writing these measures to the entity concerned that shall propose a procedure for their implementation within one month of the date of delivery of that decision. The Council shall explain in its decision under the first sentence why the measures proposed by the entity referred to in Section 1(3) would not be able to remove the impediments to resolvability and why the alternative measures proposed are more appropriate for addressing or removing them. In identifying alternative measures, the Council shall take into account the threat those impediments to resolvability pose to financial stability

and the effect of the alternative measures on the business activity of the entity referred to in Section 1(3), its stability and ability to contribute to the economy.

(6) The Council may, by way of a decision taken in accordance with paragraph 5, impose the following alternative measures:

(a) to require any of the entities referred to in Section 1(3) to revise any intra-group financing agreements or to review the absence thereof, and to draw up service agreements, either intra-group or with third parties, to cover the provision of critical functions;
(b) to require any of the entities referred to in Section 1(3) to limit its largest individual and aggregate exposures;
(c) to impose an obligation on any of the entities referred to in Section 1(3) to provide to the Council additional information for resolution purposes on a one-off or regular basis;
(d) to require any of the entities referred to in Section 1(3) to divest specific assets;
(e) to require any of the entities referred to in Section 1(3) to limit or terminate specific existing or proposed activities;
(f) to restrict or prevent the development of new or existing business lines or the sale of new or existing products by any of the entities referred to in Section 1(3);
(g) to require changes to be made in the legal or operational structure of an entity referred to in Section 1(3) or any group entity, either directly or indirectly under its control, so as to reduce complexity in order to ensure that critical functions may be legally and operationally separated from other functions through the application of resolution tools;
(h) to require an entity referred to in Section 1(3) or its parent undertaking to set up a parent financial holding company[11] or an EU parent financial holding company;[12]
(i) to require an institution or entity referred to in Section 1(3) to submit a plan for ensuring continued compliance with the requirements set out in Section 31d or Section 31e, expressed as a percentage of the total value of risk exposure calculated according to other legislation,[61e] or with the combined buffer requirement laid down in Section 31d or Section 31e, expressed as a percentage of the value of total exposure calculated according to other legislation.[66b]
(j) to require an institution or entity referred to in Section 1(3) to issue eligible liabilities to meet the requirements set out in Section 31d or Section 31e;
(k) to require an institution or entity referred to in Section 1(3) to take other steps to meet the minimum requirement laid down in Section 31d or Section 31e, including in particular an attempt to renegotiate any eligible liability, Additional Tier 1 instrument or Tier 2 instrument it has issued, with a view to ensuring that any decision of the resolution authority to write down or convert that liability or instrument would be affected under the law of the jurisdiction governing that liability or instrument; and
(l) to require an institution or entity referred to in Section 1(3), for the purpose of ensuring permanent compliance with the requirements set out in Section 31d or Section 31e, to change the maturity profile of:
    1. its own funds instruments after gaining the consent of Národná banka Slovenska; and
    2. its eligible liabilities in accordance with Section 31a or Section 31e(5)(a).
(m) where an entity referred to in Section 1(3) is a subsidiary of a mixed-activity holding company, it may require that the mixed-activity holding company set up a separate financial holding company to control the entity referred to in Section 1(3), if necessary in order to facilitate the resolution of the entity referred to in Section 1(3) and to avoid the adverse effects the application of resolution tools and the exercise of resolution proceedings under this Act may exert on the non-financial part of the group.

(7) The Council may impose an alternative measure on an institution pursuant to paragraph 6(b) for the purpose of reducing the measure of exposure to bail-inable liabilities, issued by an entity referred to in Section 1(3), except for liabilities between entities referred to in Section 1(3) that are part of the same group.

(8) Before deciding to impose an alternative measure, the Council shall, after consulting Národná banka Slovenska, duly consider the potential impact of that measure upon the entity referred to in Section 1(3), upon the internal market for financial services, and upon financial stability in other Member States and in the European Union as a whole.

(9) The Council may instruct an institution to reduce its exposure to bail-inable liabilities, issued by another institution or entity referred to in Section 1(3)(b) to (d), except for liabilities between institutions or entities referred to in Section 1(3)(b) to (d) that are part of the same group. This is without prejudice to the provisions of other legislation.[66c]

Section 26

Group resolution plans

(1) A group resolution plan must include all the entities and groups that are subject to resolution.

(2) The Council as a group-level resolution authority shall draw up a group resolution plan in cooperation with the resolution authority of the entities under paragraph 3 that are part of the relevant group in accordance with paragraph 3, after consulting the resolution authorities of the selected institution's significant branches, insofar as is relevant to these branches. In drawing up a group resolution plan, the Council may cooperate with the resolution authority of a third country or with that of another Member State within the competence of which a subsidiary, financial holding company or significant branch falls, provided that the confidentiality requirements set out in Section 8 are fulfilled.

(3) A group resolution plan must contain appropriate measures and procedures for the resolution of:
(a) EU parent undertakings established in the Slovak Republic;
(b) subsidiaries established in the European Union;
(c) entities referred to in Section 1(3)(c) and (d);
(d) subsidiaries of an EU parent undertaking, with a registered office outside the European Union, except for the procedures set out in Section 20(2) to (5), Section 20a and Section 85(2) to (5).

(4) A group resolution plan:
(a) stipulates the resolution actions to be taken in relation to entities subject to resolution in situations specified in Section 21(3)(i), and predicts the consequences of these actions on the resolution of other group entities and on the group as a whole;
(b) sets out the resolution measures planned for each resolution group's entities subject to resolution and the consequences of these measures, if the resolution plan covers more than one resolution group, for:
    1. other group entities belonging to the same resolution group; and
    2. other resolution groups;

(c) specifies the extent to which the resolution tools and the powers of resolution entities established in the European Union could be applied and exercised, including measures to facilitate the purchase by a third party of the resolution group, or separate business lines or activities that are delivered by certain group entities, or particular group entities or resolution entities, and to identify any potential impediments to the completion of resolution in a coordinated way;
(d) where a group includes entities established in third countries, identifies appropriate arrangements for cooperation and coordination with the competent authorities of those third countries and the implications for resolution within the European Union;
(e) identifies measures, including the legal and economic separation of particular functions or business lines, that are necessary to facilitate group resolution when conditions for resolution are met;
(f) sets out any additional actions, not referred to in this Act, which the group-level resolution authority intends to take in relation to the resolution of the group;
(g) identifies how the group resolution actions could be financed and, where financing through the national fund or the financing arrangements of other Member States would be required, sets out principles for sharing responsibility for such financing between the sources of funding in different Member States; the principles are set out on the basis of equitable and balanced criteria and take into account the impact on financial stability in all Member States concerned.

(5) A group resolution plan shall not assume any of the following:

(a) any extraordinary public financial support besides the use of the financing arrangements established in accordance with Division Twelve of this Act;

(b) any emergency liquidity assistance[65] provided by Národná banka Slovenska in the form of a short-term loan;

(c) any other liquidity assistance provided by Národná banka Slovenska under non-standard collateralisation, tenor and interest rate terms.

(6) The assessment of resolvability at group level by the Council in accordance with Section 28 takes place at the same time as the drawing up and updating of the group resolution plan. A detailed description of the resolvability assessment is included in the group resolution plan.

(7) A group resolution plan shall not have a disproportionate impact on any Member State.

Section 27

Requirements and procedures for group resolution plans

(1) EU parent institutions established in the Slovak Republic shall submit to the Council any information required for the preparation and implementation of a group resolution plan, including information on each of the group entities.

(2) The Council shall transmit the information received under paragraph 1 to:
(a) the European supervisory authority (European Banking Authority) in the range needed for the exercise of powers in connection with resolution at group level;

(b) the competent resolution authority of the jurisdiction in which a subsidiary is located insofar as is relevant to that subsidiary;
(c) the competent resolution authority of the jurisdiction in which a significant branch is located insofar as is relevant to that significant branch;
(d) the members of the college of supervisory authorities insofar as is relevant to the subsidiaries and significant branches;
(e) the competent resolution authorities of the jurisdictions in which the entities referred to in Section 1(3)(c) and (d) are located.

(3) If the information mentioned in paragraph 1 relates to third-country subsidiaries, the Council may transmit that information to the authorities referred to in paragraph 2 only with the consent of the competent resolution authority or supervision authority of that third country.

(4) The Council as a group-level resolution authority shall submit copies of the group resolution plan to the competent supervisory authorities exercising supervision over selected institutions that are part of the group. The Council shall review and, where appropriate, update the group resolution plans, at least annually, with regard to all the substantial changes made in the organisational structure, market position or financial position of the group that may have a material effect on, or require a change to, the resolution plan.

(5) The Council, together with the resolution authorities of subsidiaries, shall make every effort to reach a joint decision in respect of the approval of a group resolution plan within four months of the date of transmission by the Council of information as referred to in paragraph 1 to the authorities referred to in paragraph 2. If the group consists of more than one resolution group, the resolution measures planned in accordance with Section 26(4)(b) shall be included in the joint decision regarding the approval of the group resolution plan in question.

(6) If, within that four-month period, any of the authorities referred to in paragraph 5 requests assistance from the European supervisory authority (European Banking Authority) to reach a joint decision to approve the group resolution plan in question, the Council shall defer its decision and awaits any decision the European supervisory authority (European Banking Authority) may take in the matter. The Council shall decide in accordance with the decision of the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) fails to issue a decision within one month of the date of delivery of a request for assistance or if none of the authorities mentioned in paragraph 5 has referred the matter to the European supervisory authority (European Banking Authority) in accordance with paragraph 5 and if the Council fails to reach a decision in accordance with paragraph 5, the Council shall approve the group resolution plan on its own. The Council shall notify its decision to approve the group resolution plan to the authorities referred to in paragraph 5 and to the relevant EU parent institution established in the Slovak Republic.

(7) In the absence of a joint decision between the authorities referred to in paragraph 5, a group resolution plan is to be approved by the resolution authorities that agree to the decision proposed.

(8) Where the Council exercises its powers over a subsidiary, the provisions of paragraph 5 shall apply mutatis mutandis to the Council. If the Council disagrees with the decision proposed, it shall draw up and approve its own resolution plan for the subsidiary in question or if the Council identifies a resolution entity that is under its jurisdiction, it shall draw up and approve a group-level resolution plan for that resolution entity, too. In a group-level

resolution plan approved by the Council for subsidiaries or for resolution entities that are under its jurisdiction, the Council shall state its reasons for disagreement with the joint decision proposed in respect of that group-level resolution plan, as well as the views and reservations of other bodies and of the relevant resolution authorities. If, within the four-month period mentioned in paragraph 5, any of the authorities referred to in paragraph 5 requests assistance from the European supervisory authority (European Banking Authority) to reach a decision in respect of a group resolution plan, the Council shall defer its decision and await any decision the European supervisory authority (European Banking Authority) may take in the matter. The Council shall decide in accordance with the decision of the European supervisory authority (European Banking Authority). This shall not apply if the Council notifies the European supervisory authority (European Banking Authority) that it disagrees with the proposed decision for it may impinge on the budgetary responsibilities of the Slovak Republic. If the European supervisory authority (European Banking Authority) fails to issue a decision within one months of the date of delivery of a request for assistance, the Council shall approve the resolution plan for the subsidiary in question.

(9) Where a joint decision is to be taken pursuant to paragraph 5 or 7 and where a resolution authority notifies the Council that the subject matter of a disagreement regarding a group resolution plan impinges on the fiscal responsibilities of the country of that resolution authority, the Council revises the decision proposed in respect of the group resolution plan or, together with the resolution authorities of subsidiaries, makes every effort to revise the joint decision concerning the group resolution plan in question.

(10) Where the subject matter of a disagreement regarding a group resolution plan impinges on the fiscal responsibilities of the Slovak Republic, the Council notifies this fact to the resolution authority responsible for the drawing up and approval of the group resolution plan in question.

Section 28

Assessment of resolvability for groups

(1) The Council as a group-level resolution authority, working closely with the resolution authorities of subsidiaries and having consulted Národná banka Slovenska, the competent supervisory authorities of such subsidiaries and the resolution authorities of the jurisdictions in which significant branches are located insofar as is relevant to those branches, shall assess the extent to which the relevant group is resolvable without the assumption of any of the following:

(a) any extraordinary public financial support besides the use of the financing arrangements established in accordance with Division Twelve of this Act;
(b) any emergency liquidity assistance[65] provided by Národná banka Slovenska in the form of a short-term loan;
(c) any other emergency liquidity assistance provided by Národná banka Slovenska under non-standard collateralisation, tenor and interest rate terms.

(2) A group in a crisis situation is deemed to be resolvable if it is feasible for the Council to either wind up the group entities in bankruptcy proceedings in accordance with Section 68(4)(c) of the Commercial Code or in resolution proceedings under this Act while avoiding to the maximum extent possible any significant adverse effect on the stability of the financial system, including in circumstances of broader financial instability or system-wide events, of

the Slovak Republic or of other Member States or the European Union as a whole, with a view to ensuring the continuity of critical functions performed by the group entities, where they can be easily separated from the other functions in a timely manner.

(3) A group in a crisis situation, consisting of more than one resolution group, is considered resolvable even if the winding-up of group entities through liquidation or bankruptcy proceedings under Section 68(4)(c) of the Commercial Code or resolution proceedings under this Act exerts no adverse effects as defined in paragraph 2 and the critical functions of entities that are part of the resolution group, which are simply and in due time separable from the other functions, remain unchanged even in the case of a crisis situation at a time of broader financial instability or as a result of the financial system's overall failure.

(4) The assessment of group resolvability is made at the same time as, and for the purposes of, the drawing up and updating of the group resolution plan.

(5) If the Council assumes that a group is unresolvable, it shall notify the European supervisory authority (European Banking Authority) without undue delay.

(6) When assessing the resolvability of a group, the Council takes into consideration at least the following matters:

(a) the extent to which a group entity is able to map core business lines and critical operations to legal persons;
(b) the extent to which legal and corporate structures are aligned with core business lines and critical operations;
(c) the extent to which there are arrangements in place to provide for essential staff, infrastructure, funding, liquidity and capital to support and maintain the core business lines and critical operations;
(d) the extent to which the service agreements that a group entity maintains are fully enforceable in the event of resolution of the group entity in question;
(e) the extent to which the governance structure of a group entity is adequate for managing and ensuring compliance with the group entity's internal policies with respect to its services level agreements;
(f) the extent to which a group entity has a process for transitioning the services provided under service level agreements to third parties in the event of the separation of critical functions or of core business lines;
(g) the extent to which there are contingency plans and measures in place to ensure continuity in access to payment and settlement systems;
(h) the adequacy of the management information systems in ensuring that the resolution authorities are able to gather accurate and complete information regarding the core business lines and critical operations so as to facilitate rapid decision-making;
(i) the capacity of the management information systems to provide the information essential for the effective resolution of a group entity at all times even under rapidly changing conditions;
(j) the extent to which a group entity has tested its management information systems under stress scenarios as defined by the resolution authority;
(k) the extent to which a group entity can ensure the continuity of its management information systems, both for the group entity affected and the new group entity in cases when the critical operations and core business lines are separated from the rest of the operations and business lines;

(l) the extent to which a group entity has established adequate processes to ensure that it supplies the resolution authorities with the information necessary to identify depositors and the amounts covered by the deposit guarantee schemes;
(m) where the group uses intra-group guarantees, the extent to which those guarantees are provided under market conditions and the risk management systems applying to those guarantees are robust;
(n) where the group engages in back-to-back transactions, the extent to which those transactions are performed under market conditions and the risk management systems applying to those transactions are robust;
(o) the extent to which the use of intra-group guarantees as referred to in subparagraph (m) or of back-to-back booking transactions as referred to in subparagraph (n) increases contagion across the group;
(p) the extent to which the legal structure of the group inhibits the application of the resolution tools as a result of the number of legal persons, the complexity of the group structure or the difficulty in aligning business lines to group entities;
(q) the amount and type of bail-inable liabilities held by a group entity;
(r) where the assessment involves a mixed-activity holding company, the extent to which the resolution of group entities that are selected institutions or other financial institutions could have a negative impact on the non-financial part of the group;
(s) the existence and robustness of service level agreements;
(t) whether third-country authorities have the resolution tools necessary to support the resolution actions of European Union resolution authorities, and the scope for coordinated action between European Union and third-country resolution authorities;
(u) the feasibility of using resolution tools in such a way that meets the resolution objectives, given the tools available and the structure of the group entities;
(v) the extent to which the group structure allows the resolution authority to resolve the whole group or one or more of its group entities without causing a significant direct or indirect adverse effect on the financial system, market confidence or the economy, and with a view to maximising the value of the group as a whole;
(w) the arrangements and means through which resolution could be facilitated in the cases of groups that have subsidiaries established in different jurisdictions;
(x) the credibility of using resolution tools in such a way that meets the resolution objectives, given the possible impacts on creditors, counterparties, customers and employees, and the possible actions that third-country authorities may take;
(y) the extent to which the impact of a group entity's resolution on the financial system and on financial market confidence can be adequately evaluated;
(z) the extent to which the resolution of group entities could have a significant direct or indirect adverse effect on the financial system, market confidence or the economy;
(aa) the extent to which contagion to other selected institutions within the group or to other financial markets could be restricted through the application of resolution tools and the exercise of resolution powers;
(ab) the extent to which the resolution of group entities could have a significant effect on the operation of payment and settlement systems.

(7) The resolvability of groups is assessed within the resolution college in accordance with Section 84.

Section 29

Powers to address or remove impediments to resolvability at group level

(1) After consulting the supervisory college and the competent resolution authority of the jurisdiction in which a significant branch is located insofar as is relevant to the significant branch, the Council as a group-level resolution authority shall, in collaboration with the competent resolution authorities of the subsidiaries concerned, carry out an assessment as required by Section 28 within the resolution college and shall take all reasonable steps to reach a joint decision in respect of the imposition of an obligation upon entities forming a resolution group or upon an entity that is part of that group to adopt alternative measures in accordance with Section 25(4).

(2) The Council as a group-level resolution authority shall, in cooperation with Národná banka Slovenska and the European supervisory authority (European Banking Authority) under other legislation,[68] prepare and submit, after consulting the competent foreign supervisory authorities, a report to the parent undertaking established in a Member State, to the resolution authorities of subsidiaries, and to the resolution authorities of jurisdictions in which a significant branch is located. The report must contain an analysis of substantive impediments to the effective application of resolution tools and to the exercise of resolution powers in relation to groups, including groups consisting of more than one group subject to resolution. The report assesses the impact of such impediments on the group's business model and recommends proportionate and targeted measures that, in the Council's view, are necessary or appropriate to remove the impediments found.

(3) If any impediment to a group's resolvability is caused by the situation of an entity referred to in Section 1(3) which is part of a group defined in Section 25(3), the Council as a group-level resolution authority shall, after consulting the competent resolution authorities for entities and subsidiaries in a crisis situation, notify the parent undertaking concerned with a registered office in the Slovak Republic of the assessment of that impediment.

(4) If the Council receives a report from a resolution authority pursuant to paragraph 2, the Council shall forthwith deliver that report to the group entity concerned or to the relevant entity belonging to a resolution group if that group consists of more than one group.

(5) Within four months of the date of receipt of a report as referred to in paragraph 2, the parent undertaking of the entity concerned with a head office in the Slovak Republic may make comments on that report and propose to the Council alternative measures to remove the impediments identified in the report.

(6) If the impediments reported in accordance with paragraph 2 are caused by the situation outlined in Section 25(3) of an entity referred to in Section 1(3), the EU parent undertaking established in the Slovak Republic shall, within two weeks of the date of delivery of a notification under paragraph 3, propose to the competent group-level resolution authority, a draft measure and a time schedule for its implementation in order to ensure that the group entity referred to in Section 1(3) meets the requirements set out in Sections 31d and 31e, expressed as a percentage of the total value of risk exposure calculated according to other legislation,[61e] along with the combined buffer requirement, if applied, and the requirements set out in Section 31d or Section 31e, expressed as a percentage of the amount of total exposure specified in other legislation.[66c]

(7) The Council as a group-level resolution authority shall, after consulting the competent authority, assess whether the measure proposed for the removal of impediments referred to in Section 25(1) and the time schedule for its implementation pursuant to paragraph 6 are suitable for effectively addressing and removing such impediments in accordance with Section 25(1).

(8) The Council communicates the alternative measures proposed by an EU parent institution established in the Slovak Republic under paragraph 4 or 5 to Národná banka Slovenska, the European supervisory authority (European Banking Authority), the resolution authorities of subsidiaries, and the resolution authorities of the jurisdictions in which significant branches are located insofar as is relevant to those branches.

(9) The Council, together with the resolution authorities of subsidiaries, shall, after consulting the competent resolution authority and the supervisory authority of the jurisdiction in which a significant branch[64] is located insofar as is relevant to that branch and the foreign supervisory authority of the jurisdiction in which a significant branch is located insofar as is relevant to that branch, make every effort within the resolution college to reach a joint decision regarding the identification of material impediments to group-level resolution, the removal of such impediments, and the assessment of the measures proposed by a parent undertaking established in the Slovak Republic and the measures proposed by the Council and the resolution authority of the subsidiary concerned, while taking into account the potential impact of those measures on financial stability in the Slovak Republic and in other Member States where the group operates.

(10) The Council shall attempt to reach a decision in accordance with paragraph 9 within four months of the date of delivery by an EU parent company established in the Slovak Republic of a comment pursuant to paragraph 5 or, if no comment is delivered by the EU parent undertaking, an agreement is to be made pursuant to paragraph 9 within one month of the expiry of the four-month period set according to paragraph 5, whichever is earlier.

(11) If the decision referred to in paragraph 9 takes into account the impediments to the resolvability of crisis situations caused by a situation outlined in Section 25(3), the Council shall attempt to reach such decision within two weeks of the date of delivery of comments pursuant to paragraph 5.

(12) The decision referred to in paragraph 9 shall be delivered by the Council to the EU parent undertaking concerned with a registered office in the Slovak Republic; such decision must be fully reasoned.

(13) If, within one month as stated in paragraph 10 or 11, any of the resolution authorities requests assistance from the European supervisory authority (European Banking Authority) in attempting to reach an agreement pursuant to paragraph 9 on measures in accordance with other legislation,[68a] the Council as a group-level resolution authority shall make its decision with respect to the decision of the European supervisory authority (European Banking Authority) and in accordance with that agreement. If the European supervisory authority (European Banking Authority) fails to reach such agreement within one month of the date of delivery of a request for assistance or if none of the resolution authorities has requested assistance to reach an agreement, and the Council fails to reach a decision with the resolution authorities pursuant to paragraph 9 within the time limit specified in paragraph 10 or 11, the Council as a group-level resolution authority shall decide on its own in respect of the imposition

of alternative measures pursuant to Section 25(5). The decision must be fully reasoned and delivered to the EU parent undertaking established in the Slovak Republic.

(14) If, within the time limit specified in paragraph 10 or 11, any of the resolution authorities requests assistance from the European supervisory authority (European Banking Authority) in attempting to reach a decision pursuant to paragraph 9, in accordance with other legislation,[61e] the Council shall take its decision with respect to, and in accordance with, the decision of the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) fails to adopt such decision within one month of the date of delivery of a request for assistance, the Council as a group-level resolution authority shall take its own decision with respect to, and in accordance with, the decision of the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) fails to issue such decision within one month of the date of delivery of a request for assistance or if none of the resolution authorities requests assistance in attempting to reach an agreement and the Council fails to reach such agreement pursuant to paragraph 9 within the time limit specified in paragraph 10 or 11, the Council shall issue a decision on alternative measures that are to be adopted in accordance with Section 25(5) at group level; the decision must be fully reasoned and delivered to the resolution entity concerned, established in the Slovak Republic.

(15) If, within the time limit specified in paragraph 10 or 11, any of the resolution authorities requests assistance from the European supervisory authority (European Banking Authority) in attempting to reach an agreement pursuant to paragraph 9 under other legislation,[61e] the Council as an authority exercising control over a subsidiary established in the Slovak Republic, which is not a resolution entity, shall issue a decision on the basis of, and in accordance with, the relevant decision of the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) fails to issue such decision within one month of the date of delivery of a request for assistance or if none of the resolution authorities requests assistance to reach a decision and the Council fails to reach a decision pursuant to paragraph 9 within the time limit specified in paragraph 10 or 11, the Council shall issue of a decision on alternative measures to be adopted by the subsidiary concerned in accordance with Section 25(5); such decision must be fully reasoned and delivered to that subsidiary established in the Slovak Republic, which is not a resolution entity, and to the resolution entity that is part of the subsidiary's group established in the Slovak Republic, which is not a resolution entity. The Council shall also send that decision to the resolution authority of the group comprising the relevant subsidiary established in the Slovak Republic, which is not a resolution entity and to the group-level resolution authority, if different.

Section 30

Principle of proportionality in resolution proceedings

(1) The Council may, on its own initiative after consulting Národná banka Slovenska, reduce proportionally the range of requirements set out in Sections 21, 22, 24, 26 and 28(6) and set a different time limit for the preparation of a resolution plan and a different frequency for updates, while taking into account the potential impact of failure by a selected institution or any other group entity on the financial system, including the impact such failure on other selected institutions and the conditions of their financing, and on the economy as a whole. In so doing, the Council takes into account the nature and complexity of the selected institution's activities, its shareholding structure, legal form, risk profile, size and legal position, interconnectedness

to other participants in the financial system, and its membership of an institutional protection scheme or any other similar system under other legislation,[70] as well as the investment services provided by these entities. In the case of any change in the circumstances, the Council may instruct the selected institution to draw up and submit a resolution plan as specified in Sections 21 and 26 and to keep it up to date in accordance with Section 21(9).

(2) The Council informs the European supervisory authority (European Banking Authority) of each case when the procedure set out in paragraph 1 is applied and of the details thereof.

Section 31

Minimum requirement for own funds and eligible liabilities

(1) Institutions and entities referred to in Section 1(3)(b) to (d) shall calculate and comply with, at all times, the minimum requirement in accordance with paragraph 2 and Sections 31a to 31g.

(2) The minimum requirement referred to in paragraph 1 shall be calculated in accordance with Section 31b(5) to (16) or Section 31b(20) to (29) as the sum of own funds and eligible liabilities expressed as a percentage of:

(a) the total risk exposure of the selected institution or entity referred to in Section 1(3)(b) to (d), calculated in accordance with other legislation[61e)] and

(b) the total exposure of the selected institution or entity referred to in Section 1(3)(b) to (d), calculated in accordance with other legislation.[66b]

Section 31a

Eligible liabilities of resolution entities

(1) Liabilities shall be included in the amount of own funds and eligible liabilities of resolution entities only where they satisfy the conditions stipulated by other legislation.[70a] Where this Act refers to the requirements set out in other legislation,[70b] eligible liabilities shall consist of eligible liabilities as defined in other legislation[70c] and determined in accordance with other legislation.[70d]

(2) Liabilities that arise from debt instruments with embedded derivatives, such as structured notes, that satisfy the conditions stipulated by other legislation,[70a] except for the condition that eligible liabilities must be excluded under other legislation,[70e] shall be included in the amount of own funds and eligible liabilities only where one of the following conditions is met:

(a) the principal amount of the liability arising from a debt instrument is known at the time of issue, is fixed or increasing, and is not affected by an embedded derivative feature, and the total amount of the liability arising from that debt instrument, including the embedded derivative, can be valued on a daily basis by reference to an active and liquid two-way market for an equivalent instrument without credit risk, in accordance with other legislation;[70f] or

(b) the debt instrument includes a contractual term that specifies that the value of the claim in cases of the issuer's insolvency, bankruptcy or resolution is fixed or increasing, and does not exceed the initially paid-up amount of the liability in question.

(3) Debt instruments referred to in paragraph 2, including their embedded derivatives,

shall not be subject to any netting agreement and the valuation of such instruments shall not be subject to Section 63(2). The liabilities referred to in paragraph 2 shall be included in the amount of own funds and eligible liabilities only up to the amount of that part of the liabilities that corresponds to the principal amount referred to in paragraph 2(a) or to the fixed or increasing amount referred to in paragraph 2(b).

(4) Where liabilities are issued by a subsidiary established in the European Union to an existing shareholder that is not part of the same resolution group, and that subsidiary is part of the same resolution group as the resolution entity, those liabilities shall be included in the amount of own funds and eligible liabilities of that resolution entity, provided that all of the following conditions are met:

(a) the liabilities are issued in accordance with Section 31e(5)(a);
(b) the exercise of the write-down or conversion power in relation to those liabilities in accordance with Section 70 or Section 70a does not affect the exercise of control over that subsidiary by the resolution entity;
(c) the liabilities in question do not exceed an amount determined by subtracting the sum of the liabilities issued to and bought by the resolution entity either directly or indirectly through other entities in the same resolution group and the amount of own funds issued in accordance with Section 31e(5)(b) from the amount required in accordance with Section 31e(1).

(5) Without prejudice to the minimum requirement referred to in Section 31b(15) and (16) or Section 31c(1)(a), a part of the requirement referred to in Section 31d equalling 8% of the total liabilities, including own funds, shall be met by resolution entities that are G-SIIs or resolution entities as referred to Section 31b(15) and (16) or Section 31b(17) to (19) using own funds, subordinated eligible instruments under Section 2(ac), or liabilities as referred to in paragraph 4.

(6) The Council may permit that only a part of the requirement laid down in Section 31d lower than 8% of the total liabilities, including own funds, but greater than the amount resulting from the application of the formula (1 - (X1/X2)) × 8% of the total liabilities, including own funds, is to be met by resolution entities that are G-SIIs or resolution entities as referred to in Section 31b(15) and (16) or (17) to (19) using own funds, subordinated eligible instruments, or liabilities as referred in paragraph 4, provided that all the conditions stipulated by other legislation[70g] are met, where, in light of the reduction that is possible under other legislation:[70g]

X1 = 3.5% of the total risk exposure amount calculated in accordance with other legislation[61e] and

X2 = the sum of 18% of the total risk exposure amount calculated according to other legislation[61e] and the amount of the combined buffer requirement.

(7) For resolution entities referred to in Section 31b(15) and (16), where the application of the paragraphs 5 and 6 leads to a requirement greater than 27% of the total risk exposure amount, for the resolution entity concerned, the resolution authority shall limit the part of the requirement referred to in Section 31d which is to be met using own funds, subordinated eligible instruments, or liabilities as referred to in paragraph 4, to an amount equal to 27% of the total risk exposure amount, if the resolution authority has assessed that:

(a) access to the resolution financing arrangement is not considered to be an option for resolving that resolution entity in the resolution plan;
(b) where point (a) does not apply, the requirement referred to in Section 31d allows that

resolution entity to meet the requirements referred to in Section 59(5)(9) as applicable.

(8) The provisions of paragraph 7 do not apply to resolution entities referred to in Section 31b(17) to (19). In carrying out the assessment referred to in the second subparagraph, the Council shall also take into account the risk of disproportionate impact on the business model of the resolution entity concerned.

(9) For resolution entities that are neither G-SIIs nor resolution entities referred to in Section 31b(15) and (16) or (17) to (19), the Council may decide that a part of the requirement referred to in Section 31d up to 8% of the total liabilities, including own funds, of the entity concerned or up to the value resulting from the formula referred to in paragraph 12, shall be met using own funds, subordinated eligible instruments, or liabilities as referred to in paragraph 4, provided that the following conditions are met:

(a) non-subordinated liabilities referred to in paragraphs 1 to 3 have the same priority ranking in the insolvency hierarchy as certain liabilities that are excluded from the application of write-down and conversion powers in accordance with Section 59(1) or (2);
(b) there is a risk that, as a result of a planned application of the write-down and conversion powers to non-subordinated liabilities that are not excluded from the application of the write-down and conversion powers in accordance with Section 59(1) or (2), creditors whose claims arise from those liabilities incur greater losses than they would incur in normal insolvency proceedings under other legislation;[62]
(c) the amount of own funds and other subordinated liabilities does not exceed the amount necessary to ensure that the creditors referred to in subparagraph (b) do not incur losses above the level of losses that they would otherwise incur in normal insolvency proceedings under other legislation.[62]

(10) Where the Council determines that, within a class of liabilities that includes eligible liabilities, the amount of the liabilities that are excluded or reasonably likely to be excluded from the application of the write-down and conversion powers in accordance with Section 59(1) or (2) totals more than 10% of that class, the resolution authority shall assess the risk referred to in paragraph 9(b).

(11) For the purposes of paragraphs 6 to 10 and 12, derivative liabilities shall be included in total liabilities on the basis that full recognition is given to the counterparty's netting rights. The own funds of a resolution entity that are used to comply with the combined buffer requirement shall be eligible to comply with the requirements referred to in paragraphs 6 to 10 and 12.

(12) By derogation from paragraph 6, the Council may decide that the requirement referred to in Section 31d shall be met by resolution entities that are G-SIIs or resolution entities as referred to in Section 31b(15) and (16) or (17) to (19) using own funds, subordinated eligible instruments, or liabilities as referred to in paragraph 4, to the extent that, owing to the obligation of resolution entities to comply with the combined buffer requirement and the requirements set out in other legislation,[61d] and requirements under Section 31b(15) and (16) and Section 31d, the sum of those own funds, instruments and liabilities does not exceed the higher of the following values:

(a) 8% of the total liabilities, including own funds, of the entity concerned; or
(b) the final value calculated according to the formula: Ax2 + Bx2 + C, where:
A is the amount resulting from the requirement stipulated by other legislation;[70h]
B is the amount resulting from the requirement stipulated by other legislation;[70i]

C is the amount resulting from the combined buffer requirement.

(13) Resolution authorities may exercise the power referred to in paragraph 12 in relation to resolution entities which are G-SIIs or resolution entities referred to in Section 31b(15) and (16) or (17) to (19), and which meet one of the following conditions:

(a) substantive impediments to resolvability have been identified by the Council in the preceding resolvability assessment and either:
    1. no remedial action has been taken following the application of the measures referred to in Section 25(6) in the timeline required by the Council; or
    2. the identified substantive impediments cannot be addressed using any of the measures referred to in Section 25(6), and the exercise of the power referred to in paragraph 12 would partially or fully compensate for the negative impact of the substantive impediments to resolvability;
(b) the Council considers that the feasibility and credibility of the resolution entity's preferred resolution strategy is limited, taking into account the size of that entity, its interconnectedness, the nature, scope, risk and complexity of its activities, its legal status and its shareholding structure; or
(c) the requirement referred to in other legislation[65a] reflects the fact that the resolution entity, which is a G-SII or an entity subject to Section 31b(15) and (16) or (17) to (19), is, in terms of riskiness, among the top 20% of the institutions for which the Council has established the requirement set out in Section 31(1).

(14) The Council may exercise the power referred to in paragraph 12 in relation to up to 30% of the total number of resolution entities that are G-SIIs or entities referred to in Section 31b(15) and (16) or (17) to (19) for which the Council has established the requirement set out in Section 31d.

(15) For the purposes of the percentages referred to in paragraphs 13 and 14, the resolution authority shall round the number resulting from the calculation up to the closest whole number.

(16) The Council shall, after consulting Národná banka Slovenska, take a decision pursuant to paragraphs 9 and 12 and carry out an assessment pursuant to paragraph 10; in so doing the Council shall take into account the following facts:

(a) the depth of the market for the resolution entity's own funds instruments and subordinated eligible instruments, the pricing of such instruments, where they exist, and the time needed to carry out any transactions needed to ensure compliance with the aforementioned decision;
(b) the amount of eligible liabilities instruments that satisfy all of the conditions stipulated by other legislation[70j] that have a residual maturity below one year as at the date of the decision, with a view to making quantitative adjustments to the requirements referred to in paragraphs 9, 10 and 12;
(c) the availability and the amount of instruments that satisfy all of the conditions stipulated by other legislation;[70k]
(d) whether the amount of liabilities that are excluded from the application of write-down and conversion powers in accordance with Section 59(1) and (2) and that, in normal insolvency proceedings, rank equally with or below the highest ranking eligible liabilities is significant in comparison to the own funds and eligible liabilities of the resolution entity concerned; where the amount of excluded liabilities does not exceed 5% of the amount of own funds and eligible liabilities held by the resolution entity, the excluded amount shall be considered

as not being significant; above that threshold, the significance of excluded liabilities shall be assessed by the Council;

(e) the resolution entity's business model, funding model and risk profile, as well as its stability and ability to contribute to the economy; and

(f) the impact of possible restructuring costs on the resolution entity's recapitalisation up to a level ensuring compliance with the conditions for authorisation and with other conditions for activities in accordance with other legislation[87] over an adequate period not exceeding one year (hereinafter 'recapitalisation').

(17) The requirements set out in paragraphs 4 and 7 shall not be applied over a period of three years from the date when the resolution entity or the group to which that entity belongs was identified as a G-SII or when the resolution entity got into a situation outlined in Section 31b(15) and (16) or (17) to (19).

Section 31b

Determination of the minimum requirement

(1) The Council shall, after consulting Národná banka Slovenska, determine the minimum requirement referred to in Section 31(1) on the basis of the following criteria:

(a) the need to ensure that the resolution group can be resolved by applying resolution tools to the relevant resolution entity, including, where appropriate, the bail-in tool, in a way that meets the resolution objectives;

(b) the need to ensure, where appropriate, that the resolution entity and its subsidiaries that are institutions or entities as referred to in Section 1(3)(b) to (d) but are not resolution entities have sufficient own funds and eligible liabilities to ensure that, if the bail-in tool or the write-down and conversion powers, respectively, were to be applied to them, the losses could be absorbed and that it is possible to restore the total capital ratio and, as applicable, the leverage ratio, of the relevant entities to a level necessary to enable them to continue to comply with the conditions for authorisation and to carry on the activities for which they are authorised under other legislation;[87]

(c) the need to ensure, if the resolution plan anticipates the possibility for certain classes of eligible liabilities to be excluded from bail-in pursuant to Section 59(2) or to be transferred in full to a recipient within the scope of a partial transfer, that the resolution entity has sufficient own funds and other eligible liabilities to absorb losses and to restore its total capital ratio and, as applicable, its leverage ratio, to the level necessary to enable it to continue to comply with the conditions for authorisation and to carry on the activities for which it is authorised under other legislation;[87]

(d) the size, the business model, the funding model and the risk profile of the entity referred to in Section 1(3);

(e) the extent to which the failure of the entity referred to in Section 1(3) would have an adverse effect on financial stability, including through contagion to other entities referred to in Section 1(3), due to the interconnectedness of the entity concerned with other entities or with the rest of the financial system.

(2) Where the resolution plan provides that resolution action is to be taken or that the power to write down and convert relevant capital instruments and eligible liabilities in accordance with Section 70 is to be exercised in accordance with the resolution plan drawn up pursuant to Section 21(6), the requirement referred to in Section 31(1) shall equal an amount sufficient to ensure that:

(a) the losses that are expected to be incurred by an entity referred to in Section 1(3) are fully absorbed;
(b) the resolution entity and its subsidiaries that are selected institutions or entities referred to in Section 1(3)(b) to (d) but are not resolution entities are recapitalised.

(3) Where the resolution plan provides that an entity referred to in Section 1(3) is to be wound up in normal insolvency proceedings under other legislation[62] or in liquidation proceedings under other legislation,[70l] the Council shall assess whether it is justified to limit the requirement referred to in Section 31(1) for that entity, so that it does not exceed an amount that is sufficient to absorb losses in accordance with paragraph 2(a).

(4) The Council shall, in its assessment, evaluate the limit referred to in paragraph 3 as regards any possible impact on financial stability and on the risk of contagion to the financial system.

(5) For resolution entities, the amount referred to in paragraph 2 shall be determined, for the purpose of calculating the minimum requirement referred to in Section 31(1), in accordance with Section 31(2)(a), as the sum of the following amounts:
(a) the amount of the losses to be absorbed in resolution, corresponding to the requirements applied under other legislation[70m] to the resolution entity at the consolidated resolution group level;
(b) a recapitalisation amount that enables the resolution group to restore, after its resolution using the preferred resolution strategy, compliance with the own funds requirement applied to the resolution entity under other legislation[70m] at the consolidated resolution group level.

(6) For the purposes of Section 31(2)(a), the minimum requirement referred to in Section 31(1) shall be expressed in percentage terms as the amount calculated in accordance with paragraph 5, divided by the total risk exposure amount.

(7) For resolution entities, the amount referred to in paragraph 2 shall be determined, for the purpose of calculating the minimum requirement referred to in Section 31(1), in accordance with Section 31(2)(b), as the sum of the following amounts:
(a) the amount of losses to be absorbed in resolution which corresponds to the requirement concerning the financial leverage ratio of the resolution entity concerned[70n] at the consolidated resolution group level; and
(b) a recapitalisation amount that enables the resolution group to restore, after its resolution using the preferred resolution strategy, compliance with the requirement concerning the financial leverage ratio of the resolution entity concerned[70n] at the consolidated resolution group level.

(8) For the purposes of Section 31(2)(b), the minimum requirement referred to in Section 31(1) shall be expressed in percentage terms as the amount calculated in accordance with paragraph 7, divided by the total risk exposure amount.

(9) When determining the recapitalisation amount referred to in paragraphs 5 and 7, the Council shall:
(a) use the most recently reported values for the total risk exposure amount or total exposure measure, adjusted for any changes resulting from resolution actions proposed in the resolution plan; and
(b) after consulting Národná banka Slovenska, adjust the amount corresponding to the current

requirement laid down in other legislation,[65a] downwards or upwards, to determine the requirement that is to apply to the resolution entity after its resolution using the preferred resolution strategy.

(10) The Council may increase the volume of recapitalisation pursuant to paragraph 5(b) by an appropriate amount needed to ensure that, after resolution, the entity referred to in Section 1(3) is able to sustain sufficient market confidence for an appropriate period of time, not exceeding one year.

(11) Where paragraph 10 applies, the amount referred to in that paragraph shall be equal to the combined buffer requirement that is to be applied after the application of the resolution tools, less the amount referred to in other legislation.[70o]

(12) The amount referred to in paragraph 10 may be adjusted downwards if, after consulting Národná banka Slovenska, the Council assumes that it would be feasible and credible for a lower amount to be sufficient to sustain market confidence and to ensure both the continued performance of critical economic functions by the institution or entity referred to in Section 1(3)(b) to (d) and its access to funding without recourse to extraordinary public financial support other than contributions from resolution financing arrangements, in accordance with Section 59(5) and (9) and Section 92(8).

(13) That amount referred to in paragraph 10 may be adjusted upwards if, after consulting Národná banka Slovenska, the Council determines that a higher amount is necessary to sustain sufficient market confidence and to ensure both the continued performance of critical economic functions by the institution or entity referred to in Section 1(3)(b) to (d) and its access to funding without recourse to extraordinary public financial support other than contributions from resolution financing arrangements, in accordance with Section 59(5) and (9) and Section 92(8), for an appropriate period not exceeding one year.

(14) For resolution entities that are not subject to other legislation[61d] and that are part of a resolution group the total assets of which exceed EUR 100,000,000,000, the level of the minimum requirement referred to in paragraphs 5 and 7 shall be at least equal to:
(a) 13.5% when calculated in accordance with Section 31(2)(a); or
(b) 5% when calculated in accordance with Section 31(2)(b).

(15) By way of derogation from Section 31a, resolution entities as referred to in paragraph 14 shall meet the minimum requirement using their own funds, subordinated eligible instruments, or liabilities as referred to in Section 31a(3).

(16) The Council may, after consulting Národná banka Slovenska, decide to apply the requirements laid down in paragraph 14 to a resolution entity which is not subject to other legislation[61d] and which is part of a resolution group the total assets of which are lower than EUR 100,000,000,000 and which the resolution authority has assessed as reasonably likely to pose a systemic risk in the event of its failure.

(17) When taking a decision as referred to in paragraph 16 in relation to a resolution entity, the Council shall take into account:
(a) the prevalence of deposits and the absence of debt instruments in the funding model;
(b) the extent to which access to capital markets in eligible liabilities is restricted;
(c) the extent to which the resolution entity relies on Common Equity Tier 1 capital to meet

the requirement referred to in Section 31d.

(18) The absence of a decision pursuant to paragraph 16 is without prejudice to any decision taken pursuant to Section 31a(9).

(19) For entities referred to in Section 1(3) which are not themselves resolution entities, the amount referred to in paragraph 2 is to be calculated, for the purpose of calculating the minimum requirement set out in Section 31(1), in accordance with Section 31(2)(a), as the sum of the following amounts:

(a) the amount of the losses to be absorbed that corresponds to the requirements set out in other legislation[70m] for the entity referred to in Section 1(3); and
(b) a recapitalisation amount that allows the entity referred to in Section 1(3) to restore compliance with the requirement set out in other legislation[70m] after the exercise of the power to write down or convert the relevant capital instruments and eligible liabilities in accordance with Section 70 or after the resolution of the resolution group concerned.

(20) For the purposes of Section 31(2)(a), the maximum requirement referred to in Section 31(1) is to be expressed in percentage terms as the amount calculated in accordance with paragraph 19, divided by the total risk exposure amount.

(21) For entities referred to in Section 1(3) that are not themselves resolution entities, the amount referred to in paragraph 2 is to be determined, for the purpose of calculating the minimum requirement referred to in Section 31(1), in accordance with Section 31(2)(b), as the sum of the following amounts:

(a) the amount of the losses to be absorbed that corresponds to requirement concerning the leverage ratio;[70n] and
(b) a recapitalisation amount that enables the entity concerned to restore compliance with the requirements set out in other legislation[70n] after the exercise of the power to write down or convert the relevant capital instruments and eligible liabilities in accordance with Section 70.

(22) For the purposes of Section 31(2)(b), the minimum requirement referred to in Section 31(1) is to be expressed in percentage terms as the amount calculated in accordance with paragraph 21, divided by the total risk exposure amount.

(23) When setting the recapitalisation amount referred to in paragraphs 20 to 22, the Council shall:

(a) use the most recently reported values for the total risk exposure amount or total exposure measure, adjusted for any changes resulting from resolution actions proposed in the resolution plan; and
(b) after consulting Národná banka Slovenska, adjust the amount corresponding to the requirement stipulated by other legislation[65a] downwards or upwards to determine the requirement that is to apply to the entity referred to in Section 1(3) after the exercise of the power to write down or convert the relevant capital instruments and eligible liabilities in accordance with Section 70 or after the resolution of the resolution group concerned.

(24) The Council may increase the recapitalisation amount referred to in paragraph 19 or subparagraph 21(b) by an appropriate amount necessary to ensure that, after the exercise of the power to write down or convert the relevant capital instruments and eligible liabilities in accordance with Section 70, the entity referred to in Section 1(3) is able to sustain sufficient

market confidence for an appropriate period not exceeding one year.

(25) Where paragraph 24 applies, the amount referred to in that paragraph shall be equal to the combined buffer requirement that is to apply after the exercise of the power referred to in Section 70 or after the resolution of the resolution group concerned, less the amount specified in other legislation.[70o]

(26) The amount referred to in paragraph 24 may be adjusted downwards if, after consulting Národná banka Slovenska, the Council determines that it would be feasible and credible for a lower amount to be sufficient to ensure market confidence and to ensure both the continued performance of critical economic functions by the institution or entity referred to in Section 1(3)(b) to (d) and its access to funding without recourse to extraordinary public financial support other than contributions from resolution financing arrangements, in accordance with Section 59(5) and (9) and Section 92(8), after the exercise of the power referred to in Section 70 or after the resolution of the resolution group concerned.

(27) The amount referred to in paragraph 24 may be adjusted upwards if, after consulting Národná banka Slovenska, the Council determines that a higher amount is necessary to sustain sufficient market confidence and to ensure both the continued performance of critical economic functions by the institution or entity referred to in Section 1(3)(b) to (d) and its access to funding without recourse to extraordinary public financial support other than contributions from resolution financing arrangements, in accordance with Section 59(5) and (9) and Section 92(8) for an appropriate period not exceeding one year.

(28) Where the Council expects that certain classes of eligible liabilities are reasonably likely to be fully or partially excluded from bail-in pursuant to Section 59(2) or might be transferred in full to a recipient within the scope of a partial transfer, the minimum requirement referred to in Section 31(1) shall be met using own funds or other eligible liabilities that are sufficient to:
(a) cover the amount of excluded liabilities identified in accordance with Section 59(2);
(b) ensure that the conditions referred to in paragraph 2 are fulfilled.

(29) Any decision by the Council to impose a minimum requirement for own funds and eligible liabilities pursuant to paragraphs 1 to 28 and paragraphs 30 and 31 shall contain the reasons for that decision, including a full assessment of the elements referred to in paragraphs 2 to 28.

(30) The Council shall revise its decisions without undue delay to reflect any changes in the level of the requirement laid down in other legislation.[65a]

(31) For the purposes of paragraphs 5 to 13 and paragraphs 19 to 27, the own funds requirements shall be determined in accordance with other legislation.[70p]

(32) The minimum levels of the requirements referred to in paragraphs 15 and 16 or paragraphs 17 to 19 shall not apply within the two year period following the date:
(a) on which the Council applied the bail-in tool;
(b) on which the resolution entity put in place an alternative private sector measure as referred to in Section 34(1)(c) by which capital instruments and other liabilities have been written down or converted into Common Equity Tier 1 capital instruments; or
(c) on which the Council exercised its power to write down or convert capital instruments

and eligible liabilities in accordance with Section 70, in relation to the resolution entity concerned, in order to recapitalise that resolution entity without the application of resolution tools.

(33) The requirements referred to in paragraphs 15 to 19, as applicable, shall not apply within the three-year period following the date on which the relevant resolution entity or the group of which that resolution entity is part was identified as a G-SII, or the resolution entity started to be in a situation as described in paragraphs 15 and 16 or paragraphs 17 to 19.

Section 31c

Determination of the minimum requirement for resolution entities of G-SIIs and for significant EU subsidiaries of non-EU G-SIIs

(1) The minimum requirement referred to in Section 31(1) for a resolution entity that is a G-SII or part of a G-SII shall consist of the following:
(a) the requirements set out other legislation;[61a] and
(b) any additional requirement for own funds and eligible liabilities that has been determined by the Council in relation to that resolution entity in accordance with paragraph 3.

(2) The minimum requirement referred to in Section 31(1) for a material EU subsidiary of a non-EU G-SII shall consist of the following:
(a) the requirements set out in other legislation;[70q] and
(b) any additional requirement for own funds and eligible liabilities that has been determined by the Council in relation to that material subsidiary in accordance with paragraph 3, which is to be met using own funds and liabilities that satisfy the conditions laid down in Sections 31e and 85.

(3) The Council shall impose an additional requirement for own funds and eligible liabilities pursuant to paragraphs 1(b) and 2(b) only in the following cases:
(a) where the requirement referred to in paragraphs 1(a) and 2(a) is not sufficient to fulfil the conditions set out in Section 31(b); and
(b) to an extent that ensures that the conditions set out in Section 31b are fulfilled.

(4) For the purposes of Section 31f(4), where more than one G-SII entity belonging to the same G-SII group are resolution entities, the Council shall calculate the requirement referred to in paragraph 3:
(a) for each resolution entity established in the Slovak Republic;
(b) for the EU parent undertaking as if it was the only resolution entity of the G-SII group concerned.

(5) The Council shall issue a decision determining the minimum requirement referred to in paragraph 1(b) or 2(b). The Council's decision issued according to the first sentence must contain the reasons for that decision, including an overall assessment of the elements referred to in paragraph 3.

(6) The Council shall, without undue delay, reconsider its decision issued in accordance with paragraph 5 in view of all the changes made in the requirement pursuant to other legislation,[65a] which is applicable to the resolution group concerned or to a material EU subsidiary of a non-EU G-SII.

Section 31d

Application of the minimum requirement to resolution entities

(1) Resolution entities shall comply with the requirements laid down in Sections 31a to 31c on a consolidated basis at the level of the resolution group.

(2) The Council shall determine the minimum requirement referred to in Section 31(1) for a resolution entity at the consolidated resolution group level in accordance with paragraph 1 and Section 31f, on the basis of the requirements laid down in Sections 31a to 31c and on the basis of whether the third-country subsidiaries of the group are to be resolved separately under the resolution plan.

(3) For resolution groups, the Council shall decide, depending on the features of the solidarity mechanism and of the preferred resolution strategy, which entities of a resolution group as referred to in Section 1(3) are to be required to comply with the provisions of Section 31b(5) to (15) and Section 31c(1), in order to ensure that the resolution group as a whole complies with paragraphs 1 and 2, and how such entities are to do so in conformity with the resolution plan.

Section 31e

Application of the minimum requirement to entities under Section 1(3) that are not resolution entities

(1) Institutions that are subsidiaries of a resolution entity or of a third-country entity referred to in Section 1(3), but are not resolution entities, shall comply with the requirements laid down in Section 31b on an individual basis.

(2) The Council may, after consulting Národná banka Slovenska, decide to apply the requirement laid down in paragraph 5 to an entity referred to in Section 1(3)(b) to (d) that is a subsidiary of a resolution entity but is not itself a resolution entity.

(3) By way of derogation from paragraph 1, EU parent undertakings established in the Slovak Republic that are not resolution entities, but are subsidiaries of third-country entities referred to in Section 1(3), shall comply with the requirements laid down in Sections 31b and 31c on a consolidated basis.

(4) The minimum requirement referred to in Section 31(1) for entities referred to in paragraphs 1 to 3 shall be determined in accordance with Sections 31f and 85, where applicable, and on the basis of the requirements laid down in Section 31b.

(5) The minimum requirement laid down in Section 31(1) applicable to entities referred to in paragraphs 1 to 3 shall be met using one or more of the following instruments:

(a) liabilities:

1. that are issued to and bought by a resolution entity, either directly or indirectly, through other entities as referred to in Section 1(3) belonging to the same resolution group that bought the liabilities from an entity referred to in Section 1(3) to which paragraphs 1 to 3 apply, or are issued to and bought by an existing shareholder that is not part of the same resolution group as long as the exercise of write down or conversion powers in accordance with Section 70 does not affect the control of the subsidiary by the resolution

entity concerned;

2. that fulfil the eligibility criteria laid down in other legislation;[70r]
3. that rank, in normal insolvency proceedings, below liabilities that do not satisfy the condition laid down in point 1 and that are not eligible for own funds requirements;
4. that are subject to the write down or conversion power in accordance with Section 70 in a manner that is consistent with the resolution strategy of the resolution group, in particular by not affecting the control of the subsidiary by the resolution entity;
5. the acquisition of ownership of which is not funded directly or indirectly by the entity referred to in Section 1(3) to which paragraphs 1 to 4, this paragraph and paragraphs 6 to 9 apply;
6. that are governed by contracts which do not indicate explicitly or implicitly that the liabilities would be called, redeemed, repaid or repurchased early, as applicable, by the entity referred to in Section 1(3) to which this paragraph applies, other than in the case of insolvency[62] or liquidation under other legislation[70l] of the entity concerned to which paragraphs 1 to 4, this paragraph and paragraphs 6 to 9 apply, and that entity does not otherwise provide such an indication;
7. that are governed by contracts which do not give the holder the right to accelerate the scheduled payment of interest or principal, other than in the case of the insolvency[62] or liquidation under other legislation[70l] of the entity referred to in Section 1(3) to which this paragraph applies;
8. the level of interest or dividend payments, as applicable, due thereon is not amended on the basis of the credit standing of the entity referred to in Section 1(3) or its parent undertaking to which paragraphs 1 to 4, this paragraph and paragraphs 6 to 9 apply;

(b) own funds, as follows:

1. Common Equity Tier 1 capital, and
2. other own funds that are issued to and bought by entities referred to in Section 1(3) that are included in the same resolution group, or are issued to and bought by entities referred to in Section 1(3) that are not included in the same resolution group as long as the exercise of write down or conversion powers in accordance with Section 70 does not affect the control of the subsidiary by the resolution entity concerned.

(6) The Council may waive the application of paragraphs 1 to 5, this paragraph and paragraphs 7 to 9 to a subsidiary that is not a resolution entity where:

(a) both the subsidiary and the resolution entity are established in the Slovak Republic and are part of the same resolution group;
(b) the resolution entity complies with the requirement laid down in Section 31d;
(c) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or to the repayment of liabilities by resolution entities to their subsidiaries in respect of which a decision has been taken by the Council in accordance with Section 70(3), in particular where a resolution action has been taken in respect of the resolution entity concerned;
(d) the resolution entity satisfies Národná banka Slovenska regarding the prudent management of the subsidiary concerned and declares, with the consent of Národná banka Slovenska, that it guarantees the commitments taken on by the subsidiary, or the risks posed by the subsidiary are of no significance;
(e) the risk evaluation, measurement and control procedures applied by the resolution entity cover the subsidiary, too;
(f) the resolution entity holds more than 50% of the voting rights attached to shares in the subsidiary's capital or has the right to appoint or remove a majority of the members of that subsidiary's management body.

(7) The Council may also waive the application of paragraphs 1 to 6, this paragraph and paragraphs 8 and 9 to subsidiaries that are not resolution entities where:

(a) both the subsidiary and its parent undertaking are established in the Slovak Republic and are part of the same resolution group;
(b) the parent undertaking complies on a consolidated basis with the requirement referred to in Section 31(1) in the Slovak Republic;
(c) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or to the repayment of liabilities by the parent undertaking to the subsidiary in respect of which a determination has been made by the Council in accordance with Section 70(6), in particular where resolution actions are taken or the powers referred to in Section 70 are exercised in relation to the parent undertaking concerned;
(d) the parent undertaking satisfies Národná banka Slovenska regarding the prudent management of its subsidiary and has declared, with the consent of Národná banka Slovenska, that it guarantees the commitments entered into by the subsidiary, or the risks posed by that subsidiary are of no significance;
(e) the risk evaluation, measurement and control procedures used by the parent undertaking cover the subsidiary, too;
(f) the parent undertaking holds more than 50% of the voting rights attached to shares in the subsidiary's capital or has the right to appoint or remove a majority of the members of the subsidiary's management body.

(8) Where the conditions laid down in paragraph 6(a) and (b) are satisfied, the Council may permit that subsidiary to meet the minimum requirement referred to in Section 31(1) in full or in part with a guarantee provided by the resolution entity that fulfils the following conditions:

(a) the guarantee is provided for at least an amount that is equivalent to the amount of the requirement for which it substitutes;
(b) the guarantee is triggered when the subsidiary is unable to pay its debts or other liabilities as they fall due, or a determination has been made by the Council in accordance with Section 70(6) in respect of the subsidiary, whichever is the earliest;
(c) the guarantee is collateralised through a financial collateral arrangement as defined in other legislation[70s] for at least 50% of its amount;
(d) the collateral backing the guarantee satisfies the requirements set out in other legislation,[70t] which, following appropriately conservative haircuts, is sufficient to cover the amount collateralised as referred to in subparagraph (c);
(e) the collateral backing the guarantee is unencumbered and, in particular, is not used as collateral to back any other guarantee;
(f) the collateral has an effective maturity that fulfils the same maturity condition as that referred to in other legislation;[70t]
(g) there are no legal, regulatory or operational barriers to the transfer of the collateral from the resolution entity to the relevant subsidiary, including where resolution action is taken in respect of the resolution entity concerned.

(9) For the purposes of paragraph 8(g), the resolution entity shall, at the request of the Council, provide an independent written and reasoned legal opinion or shall satisfactorily demonstrate that there are no legal, regulatory or operational barriers to the transfer of collateral from the resolution entity to the relevant subsidiary.

Section 31f

Procedure for determining the minimum requirement

(1) The Council, together with the resolution authority of the resolution entity, the group-level resolution authority, if different from the former, and the resolution authorities in charge of the subsidiaries of a resolution group that are subject to the requirement referred to in Section 31e on an individual basis, shall do everything within their power to reach a joint decision on:

(a) the amount of the requirement applied at the consolidated resolution group level to each resolution entity; and
(b) the amount of the requirement applied on an individual basis to each entity referred to in Section 1(3) which is not a resolution entity but is part of a resolution group.

(2) The Council as a resolution authority in charge of resolution groups or subsidiaries to which the requirement laid down in Section 31e applies on an individual basis, shall deliver the joint decision referred to in paragraph 1, including an adequate justification pursuant to Section 31d or Section 31e, to the following entities:

(a) the resolution entity concerned;
(b) the entity referred to in Section 1(3) that is not itself a resolution entity but is part of a resolution group;
(c) the EU parent undertaking from the resolution group, where the resolution entity falls within the competence of the Council and the EU parent undertaking is not itself a resolution entity from the same group.

(3) The joint decision taken in accordance with paragraph 1 may provide that, where consistent with the resolution strategy and sufficient instruments complying with Section 31e(5) have not been bought directly or indirectly by the resolution entity, the requirements set out in Section 31b(21) to (27) are partially met by the subsidiary in accordance with Section 31e(5) with instruments issued to and bought by entities referred to in Section 1(3) which are not part of the same resolution group.

(4) Where more than one G-SII entity belonging to the same G-SII group are resolution entities, the resolution authorities referred to in paragraphs 1 and 2 shall discuss and, where appropriate and consistent with the G-SII's resolution strategy, agree on the application of the relevant provisions of other legislation[70u] and on any adjustment to minimise or eliminate the difference between the sum of the amount referred to in Section 31c(4)(a) and the amount specified in other legislation[70v] for individual resolution entities and the sum of the amount referred to in Section 31c(4)(b) and the amount specified in other legislation.[70v]

(5) The adjustment referred to in paragraph 4 may be applied by adjusting the level of the requirement concerning the differences in the calculation of the total risk exposure amounts between various Member States; the adjustment shall not be applied to eliminate differences resulting from exposures between resolution groups.

(6) The sum of the amount referred to in Section 31c(4)(a) and the amount specified in other legislation[70v] for individual resolution entities shall not be lower than the sum of the amount referred to in Section 31c(4)(b) and the amount specified in other legislation.[70v]

(7) In the absence of a joint decision between the Council and the competent resolution authorities referred to in paragraph 1, within four months of the date of announcement of the

proposed level of the requirement referred to in paragraph 1, the Council shall make its own decision in respect of the minimum requirement in accordance with paragraphs 8 to 13.

(8) Where a joint decision is not taken within the time limit specified in paragraph 7 because of a disagreement between the relevant resolution authorities concerning a consolidated resolution group requirement referred to in Section 31d, the Council shall decide in respect of that requirement for the resolution entity falling within its competence after having duly taken into account:

(a) the assessment of the entities referred to in Section 1(3) which are not resolution entities but are part of the resolution group, carried out by the relevant resolution authorities;
(b) the opinion of the group-level resolution authority, if different from the resolution authority of the resolution entity concerned.

(9) If, within the time limit specified in paragraph 7, any of the resolution authorities referred to in paragraph 1 requests, under other legislation,[68a] assistance from the European supervisory authority (European Banking Authority) in attempting to reach a decision in respect of the minimum requirement at the consolidated resolution group level, the Council shall defer its decision and await any decision the European Banking Authority may take in the matter; the Council shall then decide according to the decision of EBA. If the European supervisory authority (European Banking Authority) fails to issue a decision within one month of the date of receipt of a request for assistance, the Council shall proceed in accordance with paragraph 8. After the time limit specified in paragraph 7 lapses or after a joint decision is reached, the resolution authorities referred to in paragraph 1 cannot request assistance from the European supervisory authority (European Banking Authority) to reach a decision concerning the minimum requirement at the consolidated basis resolution group level.

(10) Where an entity referred to in Section 1(3), falling within the competence of the Council, is not a resolution entity and a joint decision cannot be reached within the time limit specified in paragraph 7 because the relevant resolution authorities disagree upon the minimum requirement for that entity on an individual basis in accordance with Section 31e, the Council shall take a decision concerning the minimum requirement for that entity, provided that the following conditions are fulfilled:

(a) the views and reservations expressed in writing by the resolution authority of the resolution entity concerned have been duly taken into account; and
(b) where the group-level resolution authority is different from the resolution authority under subparagraph (a), the views and reservations expressed in writing by the group-level resolution authority have been duly taken into account.

(11) If, within the time limit set in paragraph 7, the resolution authority within the competence of which the relevant resolution entity falls or the group-level resolution authority requests assistance, under other legislation,[68a] from the European supervisory authority (European Banking Authority) to reach a decision in respect of the minimum requirement applicable, on an individual basis, to a subsidiary that is not a resolution entity, the Council shall defer its decisions and await any decision the European Banking Authority may take in the matter; the Council shall then decide according to the decision of EBA. If the European supervisory authority (European Banking Authority) fails to issue a decision within one month of the date of receipt of a request for assistance, the Council shall proceed in accordance with paragraph 10. After the time limit specified in paragraph 7 lapses or after a joint decision is reached, the relevant resolution authorities cannot request assistance from the European supervisory authority (European Banking Authority) to reach a decision in respect of the

minimum requirement on an individual basis for a subsidiary that is not a resolution entity.

(12) The resolution authority within the competence of which the relevant resolution entity falls or the group-level resolution authority cannot request assistance from the European supervisory authority (European Banking Authority) to reach a decision in respect of the minimum requirement on an individual basis for a subsidiary that is not a resolution entity, where the value of that requirement set by the Council is:

(a) within 2% of the total risk exposure amount calculated in accordance with other legislation[61e] and in compliance with the requirement laid down in Section 31d; and
(b) in accordance with Section 31b(20) to (29).

(13) If, within the time limit specified in paragraph 7, no joint decision is reached between the resolution authorities concerned because they disagree over the requirement concerning own funds and eligible liabilities applicable to the relevant resolution group on a consolidated basis and over the requirement concerning own funds and eligible liabilities applicable to entities referred to in Section 1(3) on an individual basis, which are part of the resolution group, the Council shall take its own decision concerning:

(a) the requirement for own funds and eligible liabilities applicable to the resolution group's subsidiaries on an individual basis, in accordance with paragraphs 10 to 12;
(b) the requirement for own funds and eligible liabilities applicable to the resolution group on a consolidated basis in accordance with paragraphs 8 and 9.

(14) A joint decision as referred to in paragraph 1, as well as any other decision taken by the resolution authorities referred to in paragraphs 8 to 13, shall be binding for the resolution authorities concerned, including the Council.

(15) A joint decision as referred to in paragraph 1, as well as any other decision taken in accordance with paragraphs 8 to 13 in the absence of a joint decision, shall be revised on a regular basis and updated, if necessary.

(16) The Council shall, in collaboration with Národná banka Slovenska, require that the minimum requirement laid down in Section 31(1) be fulfilled and verified, and shall take decisions in accordance with paragraphs 1 to 15, while preparing a resolution plan.

Section 31g

Supervisory reporting and public disclosure of the minimum requirement

(1) Entities referred to in Section 1(3) that are subject to the minimum requirement laid down in Section 31(1) shall report to the Council and to Národná banka Slovenska on the following:

(a) the amount of own funds that, where such entities are subject to the requirements set out in Section 31e, satisfies the conditions laid down in Section 31e(5)(b) and the amount of eligible liabilities, which are expressed in accordance with Section 31(2) after any applicable deductions made under other legislation;[70w]
(b) the amount of other bail-inable liabilities;
(c) additional information on the amounts referred in subparagraphs (a) and (b), specifically:
    1. their composition, including their maturity profile;
    2. their ranking in normal insolvency proceedings; and
    3. information as to whether they are governed by the laws of a third country and, if so,

which third country and whether they contain the contractual terms set out in Section 69(1) and in other legislation.[70x]

(2) The obligation to report on the amount of other bail-inable liabilities pursuant to paragraph 1(b) shall not apply to entities referred to in Section 1(3) that, at the date of reporting, hold own funds and eligible liabilities in the total amount of at least 150% of the minimum requirement laid down in Section 31(1) as calculated in accordance with paragraph 1(a).

(3) The entities referred to in Section 1(3) that are subject to the provisions of paragraph 1 shall report:
(a) on at least a semi-annual basis the information referred to in paragraph 1(a);
(b) on at least an annual basis the information referred to in paragraph 1(b) and (c).

(4) The entities referred to in Section 1(3) shall, at the request of the Council or Národná banka Slovenska, report the information referred to in paragraph 1 on a more frequent basis than specified in paragraph 3.

(6) The requirements referred to in paragraphs 1 to 5 shall not apply to entities referred to in Section 1(3) whose resolution plan provides that these entities are to be wound up in insolvency proceedings[62] or liquidation proceedings.[70l]

(7) Where, in accordance with Section 70, a resolution action has been implemented or the power to write down or convert capital instruments and eligible liabilities has been exercised in relation to an entity referred to in Section 1(3), public disclosure requirements as referred to in paragraph 5 shall apply from the date of expiration of the time limit set for restoring compliance with the requirements set out in Section 31d or 31e in accordance with Section 99b.

Section 31h

Reporting to the European supervisory authority (European Banking Authority)

The Council shall inform the European supervisory authority (European Banking Authority) of the minimum requirement for own funds and eligible liabilities that has been has set, in accordance with Section 31d or Section 31e, for each entity under its jurisdiction, referred to in Section 1(3).

Section 31i

Breach of the minimum requirement

(1) In the event of a breach of any of the requirements referred to in Section 31d or Section 31e, the Council or Národná banka Slovenska shall, on the basis of a mutual agreement, take one or both of the following actions:
(a) exercise its powers to address or remove all impediments to resolvability in accordance with Sections 25 and 29;
(b) exercise its powers referred to in Section 17a;
(c) impose a measure pursuant to other legislation;[70y]
(d) impose an early intervention measure under other legislation;[70z]
(e) impose sanctions in accordance with Section 98 and other legislation.[70aa]

(2) Apart from these actions, the Council or Národná banka Slovenska may, on the basis of a mutual agreement, carry out an assessment of whether the institution or entity referred to in Section 1(3) is failing or is likely to fail in the near future pursuant to Sections 34 and 48.

Section 31j

Sale of subordinated eligible liabilities to retail clients

(1) Eligible liabilities that satisfy the conditions set out in other legislation[70ab] may be sold to a retail client[70ac] only where all of the following conditions are fulfilled:
(a) the eligible liabilities have been tested by the seller for suitability for sale to a retail client in accordance with other legislation;[70ad]
(b) the seller is satisfied, on the basis of the test referred to in subparagraph (a), that such eligible liabilities are suitable for sale to that retail client;
(c) the seller documents the suitability of the eligible liabilities concerned in accordance with other legislation.[70ad]

(2) Where the conditions set out in paragraph 1 are fulfilled and the financial instruments portfolio of that retail client does not, at the time of the purchase, exceed EUR 500,000, the seller shall ensure, on the basis of the information provided by the retail client in accordance with paragraph 4, that both of the following conditions are met at the time of the purchase:
(a) the retail client does not invest an aggregate amount exceeding 10% of that client's financial instruments portfolio in liabilities referred to in paragraph 1;
(b) that initial investment amount invested in one or more liabilities instruments referred to in paragraph 1 is at least EUR 10,000.

(3) The retail client shall provide the seller with accurate information on the retail client's financial instruments portfolio, including any investments in liabilities referred to in paragraph 1.

(4) For the purposes of paragraphs 2 and 3, the retail client's financial instruments portfolio shall include cash deposits and financial instruments, but shall exclude any financial instruments that have been given as collateral.

(5) The provisions of paragraphs 1 to 4 shall apply only to eligible liabilities as defined in other legislation[70ab] which were issued after 28 December 2020.

DIVISION FOUR

RESOLUTION PROCEEDINGS

Section 32

(1) Resolution proceedings are instituted in the public interest.

(2) For the purposes of this Act, resolution proceedings shall be instituted in the public interest where necessary for the achievement of at least one of the goals set out in Section 1(2)

and where the placement into bankruptcy or liquidation of an institution that is failing, or is likely to fail in the near future, would not lead to the attainment of that goal, to at least a comparable extent.

(3) Compensation payments pursuant to Section 78b fall within the competence of the Council.

Section 33

Basic rules of resolution proceedings

(1) Resolution proceedings are governed by the following rules:

(a) the shareholders and owners of other instruments of ownership of the selected institution are the first to bear the adverse consequences of a crisis situation;
(b) the creditors of the selected institution bear the adverse consequences after the shareholders and owners of other instruments of ownership in accordance with the order of priority of their claims under normal insolvency proceedings pursuant to other legislation;[62]
(c) the statutory body, supervisory board and managers of the institution under resolution are replaced, except in cases where the retention of the statutory body, supervisory board and managers, in whole or in part, as appropriate to the circumstances, is considered necessary for the achievement of the resolution objectives;
(d) the statutory body, supervisory board and managers of the selected institution provide the necessary assistance for the achievement of the resolution objectives;
(e) creditors of the same category are treated in the same manner;
(f) no creditor should incur greater losses than would have been incurred if the institution had been wound up under normal insolvency proceedings pursuant to other legislation,[62] with regard to the safeguards provided for in Sections 76 to 83;
(g) the protection of covered deposits under other legislation[1] and the client's property under other legislation[2] is not affected by the resolution proceedings;
(h) resolution measures are taken in accordance with the safeguards provided for in Sections 76 to 83;
(i) if the selected institution under resolution is a group entity, the resolution authority, without prejudice to Section 1(2), applies resolution tools and exercise resolution powers in a way that minimises the impact on other group entities and on the group as a whole and minimises the adverse effects on financial stability in the European Union and in its Member States, in particular in the countries where the group operates.

(2) Where the sale of business / partial sale of business tool, the bridge institution tool, or the asset separation tool is applied to an institution, that institution is considered to be the subject of bankruptcy proceedings or analogous insolvency proceedings under other legislation.[62]

(3) When applying resolution tools and exercising resolution powers, the Council informs and consults employee representatives where appropriate.

(4) The Council applies resolution tools and exercises resolution powers in accordance with the Commercial Code governing the representation of employees in management bodies.

Section 34

Conditions for resolution

(1) The Council assesses whether the conditions for the commencement of resolution proceedings are met. In so doing, it assesses whether:

(a) the selected institution is failing or is likely to fail in the near future;
(b) a resolution action is necessary in the public interest; and
(c) having regard to all relevant circumstances, there is no reasonable prospect that any alternative private sector measures or supervisory action,[71aa] including early intervention measures under other legislation,[50] or the write down or conversion of capital instruments in accordance with Division Eight of this Act taken in respect of the selected institution, would prevent its failure within a reasonable timeframe.

(2) A selected institution is deemed to be failing or likely to fail in the near future if at least one of the following conditions is met:

(a) there are reasons to withdraw the selected institution's authorisation or there are circumstances on the basis of which its authorisation may be withdrawn in the near future;
(b) the selected institution has fewer assets than liabilities or there are circumstances indicating that it will have fewer assets than liabilities in the near future;
(c) the selected institution is, or there are circumstances indicating that it will, in the near future, be unable to pay its liabilities as they fall due;
(d) extraordinary public financial support is required by the selected institution, except where, in order to avoid or remedy a serious disturbance in the economy and to preserve financial stability, the extraordinary public financial support takes any of the following forms:
    1. a State guarantee to back liquidity facilities provided by the central bank in the form of short-term loans under the central bank's terms;
    2. a State guarantee for newly issued liabilities; or
    3. an injection of own funds or capital instruments purchased at prices and under terms that do not confer an advantage upon the selected institution, where neither the circumstances referred to in subparagraphs (a) to (c) of this paragraph nor the circumstances referred to in Section 70(3) are present at the time when extraordinary public financial support is granted; the form of such support is limited to injections necessary for capital replenishment up to the required level of capital adequacy determined on the basis of stress tests,[71b] asset quality reviews or equivalent reviews carried out by the European Central Bank, the European supervisory authority (European Banking Authority) or by the competent authorities of Member States, where applicable under the law of the Member State concerned, confirmed by the competent supervisory authority.

(3) In each of the cases mentioned in paragraph 2(d), the measures referred to therein are confined to solvent selected institutions and are conditional on final approval under the European Union's State aid framework. Those measures are of a precautionary and temporary nature and are proportionate to remedy the consequences of the serious disturbance of the economy. Those measures are not to be used to offset losses that the selected institution has incurred or is likely to incur in the near future.

(4) Národná banka Slovenska shall notify the Council as soon as it concludes that any of the conditions set out in paragraph 2 is met. The notification sent to the Council contains the facts on the basis of which Národná banka Slovenska has come to this conclusion. If the Council

finds that any of the conditions set out in paragraph 2 is met, it shall inform Národná banka Slovenska of this fact without undue delay.

(5) The conditions specified in paragraph 2 indicating that a selected institution is failing or is likely to fail in the near future may be pronounced met either by Národná banka Slovenska after consultation with the Council or by the Council after consultation with Národná banka Slovenska. The Council monitors throughout the resolution proceedings whether the conditions set out in paragraph 1 are met. If the Council finds that these conditions are no longer met, it stops the resolution proceedings and proceeds in accordance with this Act.

(6) As soon as the selected institution's management board finds and, using due professional diligence, determines that any of the conditions referred to in paragraph 2 is met, it shall notify Národná banka Slovenska of the fact.

Section 35

Participants in resolution proceedings

(1) The key participant in resolution proceedings is the selected institution that is under resolution.

(2) The Council may, on its own initiative, invite another entity to participate in the resolution proceedings if that entity may be substantially affected by the resolution.

Section 36

Representation

(1) A participant in resolution proceedings may only be represented by a duly authorised lawyer.

(2) If there are more participants in resolution proceedings, they may be represented by their common lawyer.

Section 37

Steps to be taken before the commencement of resolution proceedings

(1) Where resolution proceedings are initiated by the Council itself, the Council may, before deciding to commence resolution proceedings, ask Národná banka Slovenska to state its opinion as to whether the conditions set out in Section 34(1)(a) and (c) are met; Národná banka Slovenska shall provide its opinion without undue delay.

(2) Before deciding to commence resolution proceedings, the Council also requests an opinion from the selected institution, where appropriate.

Section 38

Commencement of resolution proceedings

(1) Resolution proceedings may be commenced where the conditions set out in Section 34(1) or Section 48 are met, irrespective of whether or not the proceedings have been proposed.

(2) A proposal to commence resolution proceedings may be submitted by:
(a) Národná banka Slovenska; or
(b) the selected institution via Národná banka Slovenska.

(3) Such proposal is submitted in writing and sets out the reasons to commence resolution proceedings, the resolution objective in relation to the selected institution and other entities concerned, and the resolution tools proposed, including justification. In the case of a proposal referred to in paragraph 2(b), the proposal must also contain general information as required by other legislation.[26]

(4) Where resolution proceedings are proposed by Národná banka Slovenska, Národná banka Slovenska states in its proposal whether or not the conditions set out in Section 34(1)(a) and (c) or in Section 48 are met.

(5) If the Council finds that the conditions set out in Section 34(1) or in Section 48 are not met, it rejects any proposal for the commencement of resolution proceedings. If the Council finds that the conditions set out in Section 34(1)(a) and (c) are met while the condition set out in Section 34(1)(b) is not met, the Council may submit a petition for a winding-up of the company under other legislation[26a] or a petition for a bankruptcy order against the selected institution under other legislation;[23a] this is without prejudice to the right to submit a petition for a bankruptcy order against the selected institution during or after the resolution proceedings, where appropriate for the achievement of the goals referred to in Section 1(2).

(6) The Council shall forthwith inform Národná banka Slovenska about any petition referred to in the second sentence of paragraph 5 or about any court ruling on such petition.

(7) A selected institution under resolution compiles detailed financial statements in accordance with other legislation[71c] for the date when resolution proceedings are to be commenced.

Section 39

Resolution decisions

(1) Resolution proceedings commences with the issuance by the Council of a resolution decision.

(2) Resolution decisions is made in writing and contains a resolution order, a statement of the main reasons for the commencement of resolution proceedings, and information on the right of appeal and judicial review in accordance with paragraph 4.

(3) Resolution decisions shall be delivered to the addressee’s own hands. Such decisions are published in the Commercial Journal under another act[72] and on the websites of

the Council, Národná banka Slovenska and of the selected institution concerned, unless the Council decides otherwise.

(4) Resolution decisions take legal effect and become enforceable upon delivery. There is no judicial remedy against such decisions.

Section 40

Effects of commencement of resolution proceedings

(1) The commencement of resolution proceedings suspends any judicial proceedings and other proceedings concerning the property of the selected institution, unless the Council provides otherwise in its decision to commence resolution proceedings. The relevant limitation periods defined in another act is interrupted.

(2) The commencement of resolution proceedings prevents the selected institution from being subject to insolvency proceedings or placed in receivership.

(3) Proceedings suspended under paragraph 1 can be continued at the Council's suggestion. In resolution proceedings, the Council acts on behalf and for the account of the selected institution.

(4) Legal acts that are linked to the commencement of resolution proceedings against a selected institution through separate arrangements are ineffective during the resolution proceedings, unless the Council decides otherwise. The Council may specify or change the range of effects of these acts or decide that their effects will be conditional on the fulfilment of certain requirements.

(5) The rights of a selected institution to handle property, conclude contracts or act otherwise is restricted to the extent to which these rights are transferred to the Council under this Act and other legislation governing the selected institution's activities.

(6) The Council may adjust the right to resist the selected institution's acts to the same extent as it could be exercised by the manager declaring the selected institution bankrupt under other legislation.[62]

(7) The Council may decide to change the maturity of claims and liabilities and the range thereof. The maturity of claims and liabilities arising from mortgage transactions[73] or similar transactions in real property, with a maturity of more than four years, is not affected by the commencement of resolution proceedings. If a claim from a mortgage transaction or a similar transaction falls due in line with the relevant contract or as a result of a unilateral act at a time less than six months before the issuance of a decision on the commencement of resolution proceedings or other proceedings under this Act, to which the provisions on resolution proceedings apply mutatis mutandis, any of the contracting parties may notify in writing the other party or the Council of their claim for effects pursuant to the second sentence; the said effects will materialise on the basis of that notification and the maturity of claims or liabilities arising from mortgage transactions or similar transactions is deemed non-existing. The provisions of this paragraph also apply mutatis mutandis to the maturity of claims and liabilities that have a similar position as mortgage transactions in terms of nature, subject, and maturity.

(8) A contract for the merger, acquisition or division of a selected institution is subject to approval by the Council. The merger, acquisition or division of a selected institution may be entered into the Commercial Register only with the Council's consent.

(9) Certain provisions do not apply during resolution proceedings, specifically those pertaining to:
(a) the obligation to value non-monetary deposits;[74]
(b) the obligation to convene a general meeting;[75]
(c) the majority needed to adopt a decision on an increase of share capital and to other related rules;[76]
(d) the time limit and due form of a notification of, or an invitation to, a general meeting to approve an increase or reduction of share capital;[77]
(e) the right to preferential share subscription;[78]
(f) the majority of votes and other conditions needed for the approval of a decision on a share capital reduction;[79]
(g) the rules governing the withdrawal of shares from circulation;[80]
(h) the rules governing the protection of creditors in the case of a share capital reduction;[81]
(i) the condition for the validity and effect of amendments to the articles of association;[81a]
(j) the impossibility to assign a claim without an agreement with the borrower;[81b]
(k) written notification and arrears periods which must be complied with to enable the selected institution to assign its claims to an assignee without the client's consent.[81c]

(10) The Council may decide to exclude some of the effects referred to in paragraphs 1 to 9.

(11) The provision of paragraph 9 applies mutatis mutandis to the exercise of powers to write down or convert capital instruments and eligible liabilities as defined in Section 70 in accordance with Division Eight of this Act.

Section 41

Decision to apply a resolution tool

(1) The Council decides, in a decision to apply a resolution tool, to apply a resolution tool to a selected institution.

(2) In deciding pursuant to paragraph 1, the Council proceeds on its own, impartially and independently, without being bound by the proposals of participants and other entities.

(3) A decision referred to in paragraph 1 is made in writing and contains a resolution order, a statement of the main reasons for the application of a resolution tool, and information about the right of appeal and judicial review in accordance with Sections 6e(12) and 99a(3).

(4) A decision to apply a resolution tool in accordance with paragraph 1 is delivered to the relevant representatives of the selected institution in person. Such decision is promulgated in the Commercial Journal[82] and published on the websites of the Council, Národná banka Slovenska and of the selected institution, unless the Council decides otherwise.

(5) A decision referred to in paragraph 1 becomes lawful and enforceable upon delivery.

(6) When deciding, the Council assesses the proofs both individually and in relation to one another, while carefully considering any facts that came to light during the resolution proceedings. The Council exercises due care to ensure that no unjustified differences occur when decisions are made in factually and legally corresponding cases. The decisions will depend on the factual and legal status of the cases at the time when the decisions are made.

Section 42

For the purpose of exercising its powers in resolution proceedings, including the power to execute decisions imposing resolution measures, the Council may appoint up to three special administrators.

Section 43

Expiry of a participant's position in resolution proceedings

(1) The position of a participant in resolution proceedings expires upon enforcement of the rights or discharge of the obligations specified in a decision imposing a measure relating directly to the participant, if the further steps or actions taken during the resolution proceedings do not directly affect the participant's other rights or obligations or if there is no proof of the existence of facts justifying that the participant should be continued to be treated as a participant in the resolution proceedings.

(2) A person or entity claiming to be a participant in resolution proceedings may initiate judicial review proceedings under other legislation[83] in respect of a Council decision rejecting a proposal submitted under Section 38(2).

Section 44

Interruption of resolution proceedings

Resolution proceedings may be interrupted by the Council. Such proceedings are interrupted until a decision to continue the proceedings is issued or until a certain act is carried out in relation to a participant in the proceedings in question. In its decision to interrupt the resolution proceedings, the Council decides which of the effects of the proceedings will be preserved during the period for which the resolution proceedings are interrupted.

Section 45

Discontinuation of resolution proceedings

(1) The Council, on request or on its own initiative, discontinues resolution proceedings if the reasons for which the proceedings have been commenced no longer exist. A request to discontinue resolution proceedings may only be submitted by Národná banka Slovenska.

(2) As a result of the Council's decision to discontinue the resolution proceedings, the proceedings are discontinued and the effects resulting from the commencement of resolution proceedings under Section 38 expire, unless the decision provides otherwise.

(3) Resolution proceedings may also be discontinued on the basis of a court ruling, cancelling the Council's decision to institute resolution proceedings.

Section 46

Completion of resolution proceedings

(1) The Council decides to end the resolution proceedings after the purpose of the proceedings has been accomplished, by issuing a decision ending the resolution proceedings in question.

(2) In a decision to end the resolution proceedings, the Council may determine which effects resulting from such proceedings will expire. In such a decision, the Council may assign additional rights and obligations to a participant in the resolution proceedings or to another participating entity; these are to be adjusted to the ending of the resolution proceedings.

Section 47

Common provisions

(1) The Council notifies the issuance of a resolution decision to the following entities:
(a) the supervisory authority responsible for supervising the branches of the selected institution;
(b) Národná banka Slovenska;
(c) the Deposit Protection Fund;
(d) the Investment Guarantee Fund;
(e) the competent group-level resolution authorities where necessary;
(f) the Ministry;
(g) the Security Council of the Slovak Republic;
(h) the supervisory authorise responsible for consolidated supervision;
(i) the European supervisory authority (European Banking Authority);
(j) the European Systemic Risk Board;
(k) the European Commission;
(l) the European Central Bank;
(m) the European Securities and Markets Authority;
(n) the European supervisory authority for insurance;
(o) the operators of payment systems and transaction settlement systems of which the selected institution is a member;
(p) the Agency for Debt and Liquidity Management and the State Treasury;
(q) the owners of shares, other instruments of ownership and debt instruments issued by the selected institution and admitted to trading on a regulated market, through means used for the disclosure of regulated information in accordance with other legislation;[83]
(r) the owners of shares, other instruments or ownership and debt instruments issued by the selected institution but not admitted to trading on a regulated market, if they are known from the databases of the selected institution or from other sources that are available to the Council.

(2) The Minister of Finance of the Slovak Republic informs without delay the Government of the Slovak Republic (hereinafter 'the Government') of the issuance of a resolution decision.

(3) If a notification referred to in paragraph 1 is delivered to entities referred to in paragraph 1(a) to (p), it must contain a copy of the resolution decision and information about its entry into force and implementation.

(4) If a notification referred to in paragraph 1 is delivered to entities referred to in paragraph 1(q) and (r), it must contain the aggregate effects of the resolution action proposed.

DIVISION FIVE

SPECIAL PROVISIONS FOR THE RESOLUTION OF FINANCIAL INSTITUTIONS, HOLDING COMPANIES OR GROUPS

Section 48

Conditions for the resolution of financial institutions and holding companies

(1) The Council takes a resolution action in relation to a financial institution referred to in Section 1(3)(b) where, in respect of the financial institution and its parent institution subject to consolidated supervision, the conditions stipulated in Section 34(1) are met.

(2) The Council shall take a resolution action in relation to an entity referred to in Section 1(3)(c) and (d) where, in respect of that entity, the conditions for its resolution laid down in Section 34(1) are fulfilled.

(3) If selected institutions that are subsidiaries of a mixed-activity holding company, are held directly or indirectly by an intermediating financial holding company, it must be stated in the resolution plan whether the intermediating financial holding company is a resolution entity and whether group-level resolution actions are taken in relation to the intermediating financial holding company and no resolution action is taken at group level in relation to a mixed-activity holding company.

(4) The Council may, after taking into account the facts mentioned in paragraph 3, take resolution actions in relation to entities listed in Section 1(3)(c) or (d) even if they fail to meet the conditions stipulated in Section 34(1) and if

(a) the entity referred to in Section 1(3)(c) or (d) is a resolution entity;
(b) one or more subsidiaries of the entity referred to in Section 1(3)(c) or (d), which are selected institutions, meet the conditions set out in Section 34(1);
(c) the assets and liabilities of subsidiaries referred to in subparagraph (b) may, in the case of failure, lead to the failure of the resolution group that comprises the entity referred to in Section 1(3)(c) or (d), thus it is necessary to take resolution actions in relation to the subsidiaries referred to in subparagraph (b) or the resolution group to which the entity referred to in Section 1(3)(c) or (d) belongs, as a whole.

(5) Where compliance with the conditions of Section 34(1) is assessed in respect of one or more subsidiaries which are selected institutions, there, based on a joint agreement between the competent resolution authority of the selected institution and the competent resolution authority of an entity under Section 1(3)(c) or (d), the capital or loss transfers between entities

within the group are not taken into account, including the exercise of debt write-down or conversion powers.

Section 48a

General principles regarding decision-making involving more than one Member State

(1) In exercising its powers under this Act, which may affect more than one Member State, the Council has regard to the following general principles:

(a) the imperatives of efficacy of decision-making and of keeping resolution costs as low as possible when taking resolution action;
(b) that decisions are made and action is taken in a timely manner and with due urgency when required;
(c) that the competent resolution authorities, Národná banka Slovenska, the supervisory authorities of Member States and other authorities cooperate with each other to ensure that decisions are made and action is taken in a coordinated and efficient manner;
(d) that due consideration is given to the interests of the Member States where the EU parent institutions are established, in particular the impact of any decision or action or inaction on the financial stability, fiscal resources, resolution fund, deposit guarantee scheme or client asset protection scheme of those Member States;
(e) that due consideration is given to the interests of each individual Member State where a subsidiary is established, in particular the impact of any decision or action or inaction on the financial stability, fiscal resources, resolution fund, deposit guarantee scheme or client asset protection scheme of those Member States;
(f) that due consideration is given to the interests of each Member State where significant branches are located, in particular the impact of any decision or action or inaction on the financial stability of those Member States;
(g) that due consideration is given to the objectives of balancing the interests of the various Member States involved and of avoiding unfairly prejudicing or unfairly protecting the interests of particular Member States, including avoiding unfair burden allocation across Member States;
(h) that resolution actions are taken in accordance with the resolution plans referred to in Section 21, except where the resolution objectives can be achieved more effectively by taking actions which are not provided for in the resolution plans;
(i) that resolution proceedings are conducted in a transparent manner whenever a proposed decision or action is likely to have implications for the financial stability, fiscal resources, resolution fund, deposit guarantee scheme or client asset protection scheme of any of the Member States concerned;
(j) that coordination and cooperation are ensured with a view to reducing the total cost of resolution.

(2) Where the competent authority is to be consulted before any decision or action is taken under this Act, the subject of such consultation are those elements of the proposed decision or action which have or are likely have:

(a) an impact on the EU parent institution, subsidiary or branch of the relevant third-country selected institution;
(b) an impact on the stability of the Member State where the EU parent institution, subsidiary or branch of the relevant third-country selected institution is established or located.

Section 49

Resolution of subsidiaries at a group level

(1) The Council notifies the group-level resolution authority, the group-level supervisory authority and the members of the resolution college as soon as a selected institution, which is a subsidiary, has met the criteria for the commencement of resolution proceedings. The Council also announces the resolution tools it proposes to apply to the institution mentioned in the previous sentence or its intention to submit a petition for a bankruptcy order. In this notification or at any time within 24 hours of its delivery to the group-level resolution authority, the Council may grant its consent to the group-level resolution authority to assess the possible effects of the resolution tools proposed or of the petition for a bankruptcy order within a period longer than 24 hours. If, within 24 hours of the delivery of such notification or within the period mentioned in the previous sentence, the group-level resolution authority notifies the Council that, owing to the resolution tools proposed or to the petition for a bankruptcy order, the criteria for the commencement of resolution proceedings are unlikely to be met in the case of a group entity established in another Member State, or if the time limit expires, the Council may take resolution action or submit a petition for a bankruptcy order in accordance with the notification mentioned in the previous sentence.

(2) If, within the period mentioned in paragraph 1, the group-level resolution authority notifies the Council that, owing to the resolution action proposed or to the petition for a bankruptcy order, the criteria for the commencement of resolution proceedings are likely to be met also in relation to a group entity established in another Member State, and proposes a group resolution scheme, the Council, together with the resolution authorities that are covered by the resolution scheme, makes every effort to reach a joint decision in respect of the group resolution scheme in question. Before reaching a joint decision, the Council or the resolution authorities that are covered by the group resolution scheme may request assistance from the European supervisory authority (European Banking Authority) in accordance with other legislation.[66]

(3) If the Council disagrees, in whole or in part, with a group resolution scheme proposed by a group-level resolution authority or is of the opinion that another resolution tool or measure not included in the group resolution scheme should be used for the resolution of a selected institution with regard to the need to maintain financial stability in the Slovak Republic, the Council reports this fact, together with a statement of the reasons, to the competent group-level resolution authority and to all the other resolution authorities that are covered by the group resolution scheme. The report contains the measures the Council intends to take in relation to the selected institution which is a subsidiary. The statement of the reasons takes into account the resolution plans referred to in Section 26 and the possible effects of the proposed measures on financial stability in the Member States concerned and on other group entities.

(4) If the Council proceeds in accordance with paragraph 2 and decides to apply a separate resolution tool or a measure not included in the group resolution scheme, it informs the members of the relevant resolution college on a regular basis. Furthermore, the Council cooperates with the other members of the resolution college with the aim of developing a well-coordinated resolution strategy for all the entities that are failing or are likely to fail within the relevant group.

(5) The Council as a group-level resolution authority, after being notified by the relevant resolution authority that a subsidiary selected institution has met the criteria for the

commencement of resolution proceedings and after consulting the members of the relevant resolution college, assesses the possible impact on the group and on group entities established in other Member States of the resolution measures proposed or of the petition for a bankruptcy order against that subsidiary institution. Within the scope of this assessment, the Council evaluates whether, in view of the resolution tools proposed or of the bankruptcy proposal, it is possible to assume that the conditions for the commencement of resolution proceedings will also be met in the case of a group entity established in another Member State.

(6) If the Council assesses pursuant to paragraph 5 that, in view of the resolution tools proposed or of the petition for a bankruptcy order, the criteria for the commencement of resolution proceedings are unlikely to be met in the case of a group entity established in another Member State, the Council reports this fact to the competent resolution authority within 24 hours of the delivery of such report or within a period longer than 24 hours with the consent of the resolution authority that delivered the said report.

(7) If the Council assesses pursuant to paragraph 5 that, in view of the resolution tools proposed or of the petition for a bankruptcy order, the criteria for the commencement of resolution proceedings are also likely to be met in the case of a group entity established in another Member State, the Council reports this fact to the competent resolution authority and, within the time limit specified in paragraph 6, proposes and submits to the relevant resolution college a group resolution scheme. The Council, together with the resolution authorities that are covered by the group resolution scheme, makes every effort to reach a joint decision in respect of the group resolution scheme.

(8) If the Council fails to reach a joint decision in respect of a group resolution scheme with all the resolution authorities to which that scheme relates, the Council takes a joint decision with the resolution authorities to which the said group resolution scheme applies and which agree to that scheme.

(9) A group resolution scheme shall:

(a) take into account the resolution plans referred to in Section 26, unless the competent resolution authorities assess that the resolution objectives will be achieved more effectively by taking actions that are not provided for in the resolution plans;
(b) contain measures for the resolution of the relevant EU parent institution established in the Slovak Republic or for the resolution of one or more subsidiaries in order that the resolution objectives are fulfilled;
(c) include a method for coordinating the measures referred to in subparagraph (b);
(d) contain a financing plan in accordance with the group resolution plan, taking into account the principles governing the division of responsibilities under Section 26(4)(g) and the general principles governing the joint utilisation of funds under Section 96.

Section 50

Resolution at group level

(1) Where the Council as a group-level resolution authority finds that an EU parent institution established in the Slovak Republic has met the criteria for the commencement of resolution proceedings, it shall promptly report this fact to Národná banka Slovenska and to the other members of the resolution college. The Council shall also report the resolution actions it intends to take or its intention to submit a petition for a bankruptcy order. The Council may

state in this report that it will proceed in accordance with the resolution scheme drawn up for the group under Section 49(9) where:

(a) resolution actions or other measures taken at parent level only make it likely that the criteria for the commencement of resolution proceedings against a group entity established in another Member State will be fulfilled;
(b) resolution actions or other measures taken at parent level only are assumed to be inadequate or inappropriate for achieving the resolution objectives;
(c) one or more subsidiaries meet the criteria for the commencement of resolution proceedings according to a notification received from the resolution authorities responsible for those subsidiaries; or
(d) resolution actions or other measures taken at group level are assumed to be more beneficial to the subsidiaries of the group.

(2) The Council, together with the resolution authorities that are covered by the relevant group resolution scheme, makes every effort to reach a joint decision in respect of that resolution scheme; the Council otherwise proceeds in accordance with Section 49(2). Before reaching a joint decision, the Council or the resolution authorities that are covered by the group resolution scheme may request assistance from the European supervisory authority (European Banking Authority) under other legislation.[66]

(3) After discussing its determination to not proceed according to the group resolution scheme with the members of the resolution college, the Council issues a decision taking into account the following facts:

(a) the resolution plans as described in Section 26; this does not apply where the resolution authorities assess according to the circumstances that the resolution objectives will be achieved more effectively through the adoption of measures that are not included in the resolution plans;
(b) the requirement to preserve financial stability in the Member States concerned.

(4) If the group-level resolution authority notifies the Council that it will proceed according to the group resolution scheme, the Council, together with the resolution authorities that are covered by the group resolution scheme, makes every effort to reach a joint decision in respect of the group resolution scheme.

(5) If the Council disagrees with or departs from the group resolution scheme proposed by the group-level resolution authority or considers that, in order to preserve financial stability in the Slovak Republic, it needs to take independent resolution actions or measures other than those proposed in the scheme, the Council reports this fact, together with the reasons, to the group-level resolution authority and to other resolution authorities that are covered by the group resolution scheme. The report contains the actions the Council intends to take against the selected institution which is a subsidiary. When setting out the reasons, the Council takes into consideration the resolution plans as referred to in Section 26, the potential impact on financial stability in the Member States concerned, as well as the potential effect of the actions or measures on other parts of the group.

(6) If the Council proceeds according to paragraph 5 and takes independent resolution actions or measures other than those proposed in the group resolution scheme, it informs the members of the resolution college of these actions or measures and of their performance on a continuous basis. In addition, the Council continues cooperating with the resolution college

with the aim of developing a coordinated resolution strategy for group entities that are failing or are likely to fail in the near future.

DIVISION SIX

VALUATION OF ASSETS, RIGHTS AND LIABILITIES

Section 51

Valuation for resolution purposes

(1) Before taking resolution actions or exercising its powers to write down or convert capital instruments and eligible liabilities in accordance with Section 70, the Council shall ensure that a fair and realistic valuation be carried out of assets and liabilities of a selected institution, or of an entity referred to Section 1(3)(b) to (d), which meets conditions for the commencement of resolution proceedings under Section 34(1) or Section 48. Where all of the conditions laid down in this paragraph are met, the valuation is considered to be definitive.

(2) The valuation is to be carried out by a person independent from any public authority and from the Council, as well as from selected institutions or entities referred to in Section 1(3)(b) to (d) whose assets and liabilities are to be valued. If the person referred to in paragraph 3 is aware of any fact that may raise doubts about their impartiality, they shall report this fact to the Council without undue delay. The reporting requirement shall also apply where such fact is revealed during the valuation process.

(3) The valuation is carried out by a person designated by the Council. The Council enters into an agreement with this person on the valuation of assets and liabilities, which specifies in detail the designated person's rights and obligations, as well as their responsibility for any damage caused by an incorrect valuation.

(4) A selected institution, or an entity under Section 1(3)(b) to (d), which meets conditions laid down in Section 34(1) or Section 48, shall provide cooperation and reliable data without delay to the person referred to in paragraph 3 for valuation purposes.

(5) The valuation is to be carried out for the following purposes:

(a) to find out whether the conditions for the write-down or conversion of capital instruments and eligible liabilities in accordance with Section 70 are satisfied;
(b) to find out whether the conditions for resolution are met and to ensure the necessary information for the Council to choose an appropriate resolution action;
(c) when the power to write down or convert capital instruments is applied, to justify the decision on the extent of the cancellation or dilution of shares or other instruments of ownership, and on the extent of the write-down or conversion of capital instruments and eligible liabilities in accordance with Section 70;
(d) when the bail-in tool is applied, to justify the decision on the extent of the write-down or conversion of bail-inable liabilities;
(e) when the bridge institution tool or asset separation tool is applied, to inform the decision on the assets, rights, liabilities, shares or other instruments of ownership to be transferred and the decision on the value of any consideration to be paid to the selected institution or the entity under Section 1(3)(b) to (d) under resolution or, as the case may be, to the owners of shares or other instruments of ownership;

(f) when the sale of business tool is applied, to inform the decision on the assets, rights, liabilities, shares or other instruments of ownership to be transferred;
(g) in all cases, to ensure that any losses on the assets of the selected institution or the entity referred to in Section 1(3)(b) to (d) under resolution be fully recognised in the books of accounts of the selected institution or of the entity referred to in Section 1(3)(b) to (d) at the moment the resolution tools are applied or the power to write down or convert capital instruments and eligible liabilities is exercised in accordance with Section 70.

(6) The Council ensures that the valuation defined in paragraph 1 is carried out in accordance with the European Union's State aid framework.

(7) When performing tasks related to the valuation, the Council and the person it has designated pursuant to paragraph 3 proceeds with due care and prudence. If the Council finds that the designated person fails to comply with the obligations stipulated by this Act or is unable to carry out the valuation properly or that the facts mentioned in paragraph 2 are present, the Council may recall that person and appoint a new person in accordance with paragraph 3. The recalled person shall, if requested, cooperate with the newly appointed person in connection with the valuation described in paragraph 1.

(8) The valuation does not assume any potential future provision of extraordinary public financial support or central bank emergency liquidity assistance in the form of a short-term loan or other financial assistance provided by Národná banka Slovenska under non-standard collateralisation, tenor and interest rate terms to a selected institution or an entity under Section 1(3)(b) to (d), from the point at which resolution action is taken or the power to write down or convert capital instruments and eligible liabilities is exercised in accordance with Section 70.

(9) When performing the valuation, account is taken of the fact that, if any resolution tool is applied, the Council may:
(a) recover any reasonable expenses properly incurred from a selected institution or an entity under Section 1(3)(b) to (d) in accordance with Section 52(6);
(b) charge interest or fees in respect of any loan provided to a selected institution or an entity under Section 1(3)(b) to (d) to the benefit of the national fund.

(10) A selected institution or an entity under Section 1(3)(b) to (d) submits the following information for valuation purposes:
(a) its regular financial statements prepared under other legislation,[84] which reflects the valuation and is structured as required by other legislation;[85]
(b) an analysis and an estimate of the accounting values of its assets;
(c) the list of outstanding balance-sheet and off-balance-sheet liabilities shown in the institution's accounting books and records, with an indication of the respective credits and priority levels under the applicable insolvency law.[62]

(11) Where appropriate, the information referred to in paragraph 5(b) may be complemented with an analysis and an estimate of the market value of the assets and liabilities of the institution under resolution.

(12) The valuation includes the subdivision of creditors in classes according to their priority levels and an estimate of treatment that each class of shareholders and creditors would have been expected to receive if the selected institution or the entity under Section 1(3)(b) to

(d) was wound up under normal insolvency proceedings.[62] The estimate of treatment is without prejudice to the application of the principle referred to in Section 33(1)(f).

(13) Where it is not possible to ensure information in accordance with paragraphs 10 and 12 or the Council is unable to ensure an independent valuation under paragraph 2, the Council may carry out a provisional valuation.

(14) The provisional valuation determines the value of assets, rights and liabilities, and, so far as reasonably practicable in the circumstances, complies with the requirements of paragraphs 10 and 12. The provisional valuation shall include a buffer for additional losses, with appropriate justification.

(15) A valuation that does not comply with all the requirements set out in paragraphs 10 to 12, or a valuation that is not carried out by a person as referred to in paragraphs 2 and 3, shall be considered to be provisional until an independent person as referred to in paragraphs 2 and 3 has carried out a valuation that is fully compliant with all the requirements laid down in paragraphs 10 to 12. Such valuation shall be carried out without delay for the following purposes:

(a) to ensure that any losses on the assets of a selected institution or an entity under Section 1(3)(b) to (d) are fully recognised in the books of accounts of the institution or entity referred to in Section 1(3)(b) to (d);
(b) to inform a decision to write back creditors' claims or to increase the value of the consideration paid, in accordance with paragraph 16.

(16) In the event that the net asset value of a selected institution or an entity under Section 1(3)(b) to (d) estimated on the basis of a final valuation is higher than the net asset value of the selected institution or the entity under Section 1(3)(b) to (d) estimated on the basis of a provisional valuation, the Council may:

(a) exercise its power to increase the value of the claims of creditors or owners of the relevant capital instruments which have been written down under the bail-in tool;
(b) instruct a bridge institution or asset management vehicle to make a further payment of consideration in respect of the assets, rights and liabilities of the selected institution or the entity under Section 1(3)(b) to (d), or as the case may be, in respect of the shares or other instruments of ownership to the owners of the shares or other instruments of ownership.

(17) The valuation is the basis for the Council's decision

(a) to take resolution actions, including taking control of a failing selected institution or entity under Section 1(3)(b) to (d);
(b) to exercise its write-down or conversion powers in relation to capital instruments and eligible liabilities in accordance with Section 70.

DIVISION SEVEN

RESOLUTION TOOLS

Section 52

General principles of resolution tools

(1) The resolution tools are the following:
(a) the sale of business tool;
(b) the bridge institution tool;
(c) the asset separation tool;
(d) the bail-in tool.

(2) The Council may apply the asset separation tool only together with another resolution tool.

(3) The Council may apply the resolution tools individually or in any combination, except in the case referred to in paragraph 2.

(4) Where only the resolution tools referred to in paragraph 1(a) or (b) are used to transfer only part of the assets, rights or liabilities of a selected institution or an entity under Section 1(3)(b) to (d) under resolution, the selected institution or the entity under Section 1(3)(b) to (d) is wound up by liquidation within a reasonable timeframe.

(5) The winding up of a selected institution or an entity under Section 1(3)(b) to (d) is done with regard to the obligation of that institution or entity under Section 1(3)(b) to (d) to cooperate under Section 18 with the recipient of the assets, rights or liabilities referred to in paragraph 4 in order to enable the recipient to perform the activities or services acquired by virtue of that transfer, and with regard to any other reason that the continuation of activities of the selected institution or the entity under Section 1(3)(b) to (d) is necessary for achieving the resolution objectives or complying with the principles laid down in this Act.

(6) The Council may recover from a selected institution or an entity under Section 1(3)(b) to (d) under resolution any reasonable expenses properly incurred in connection with the application of resolution tools, its resolution powers, including costs of special management of the selected institution or the entity under Section 1(3)(b) to (d), the valuation of its assets, rights and liabilities, or costs of government financial stabilisation tools, in one or more of the following ways:
(a) as a deduction from any consideration paid by the acquirer to the selected institution or the entity under Section 1(3)(b) to (d) under resolution or, as the case may be, to the owners of the shares or other instruments of ownership;
(b) from the selected institution or the entity under Section 1(3)(b) to (d), as a preferred creditor; or
(c) from any proceeds generated as a result of termination of the operation of a bridge institution or an asset management vehicle, as a preferred creditor.

(7) The Council's reasonable expenses referred to in paragraph 6, which fall due before the Council may recover them pursuant to paragraph 6(a) or (c), may be paid, at the Council's request submitted to the Ministry, from the state financial assets held on a separate extrabudgetary account in accordance with other legislation.[85] Expenses paid in this way are refunded by the Council to the account mentioned in the previous sentence as soon as they have been recovered according to paragraph 6(a) or (c).

(8) Where the Council decides to apply a resolution tool to the selected institution or entity referred to in Section 1(3)(b) to (d), and that resolution action would result in losses being borne by creditors or their claims being converted, the Council shall exercise the power to write down and convert capital instruments and eligible liabilities under Section 70 in accordance

with Division Eight of this Act immediately before or together with the application of the resolution tool.

Section 53

The sale of business tool

(1) The Council may decide on the application of the sale of business tool by transferring, to the acquirer that is not a bridge institution:
(a) shares or other instruments of ownership issued by a selected institution under resolution; or
(b) all or any of the assets, rights or liabilities of a selected institution under resolution.

(2) Transfers as referred to in paragraph 1 take place without the consent of the shareholders of the selected institution or other persons, whose rights may be affected by the transfer or retransfer, unless paragraphs 8 and 9 provide otherwise. Transfers according to the previous sentence do not require compliance with any procedural requirements under other legislation,[86] unless Section 54 provides otherwise. The decision on the application of the sale of business tool as referred to in paragraph 1 is without prejudice to the provisions of other legislation.[93b]

(3) The Council ensures that such transfers are made under standard commercial terms, in accordance with the valuation carried out under Section 51.

(4) Unless Section 52(6) provides otherwise, any consideration paid by the acquirer for assets, liabilities, shares or other instruments of ownership of a selected institution or an entity under Section 1(3)(b) to (d) benefits:
(a) the owners of shares or other instruments of ownership, where the sale of business has been effected by transferring shares or other instruments of ownership issued by the selected institution or the entity under Section 1(3)(b) to (d);
(b) the selected institution or the entity under Section 1(3)(b) to (d), where the sale of business has been effected by transferring some or all of the assets or liabilities of the selected institution or the entity under Section 1(3)(b) to (d) to the acquirer.

(5) When applying the sale of business tool, the Council may exercise, even repeatedly, the transfer of shares and other instruments of ownership issued by a selected institution or the transfer of assets, rights and liabilities of the institution.

(6) The Council may, with the acquirer's consent, decide on the retransfer of assets. The selected institution or the original owners shall take back any such assets, rights, liabilities, shares, or other instruments of ownership.

(7) The acquirer shall have appropriate authorisation to perform activities under other legislation[87] in respect of the assets, rights, liabilities, shares or other instruments of ownership it acquires when the transfer is made. If the acquirer does not have such authorisation, it submits to the competent supervisory authority an application for authorisation to perform activities under other legislation.[87]

(8) Where a transfer of shares or other instruments of ownership is subject to prior approval for the acquisition of, or an increase in, a qualifying holding in a selected institution

under other legislation,[88] Národná banka Slovenska decides in respect of the application for prior approval submitted under other legislation,[88] in a timely manner that does not delay the application of the sale of business tool.

(9) Where the sale of business tool is applied by the Council at a time when the assessment of the prior approval application mentioned in paragraph 8 has not yet been completed, the following provisions apply:

(a) such a transfer of shares or other instruments of ownership to the acquirer has immediate legal effect;
(b) during the assessment period and during any divestment period provided by paragraph 8, the acquirer's voting rights attached to such shares or other instruments of ownership is suspended and vested solely in the Council, which has no obligation to exercise any such voting rights and which has no liability whatsoever for exercising or refraining from exercising any such voting rights;
(c) during the assessment period and during any divestment period provided by paragraph 8, the penalties and other measures for infringing the requirements for acquisitions or disposals of qualifying holdings in a selected institution do not apply to such a transfer of shares or other instruments of ownership.

(10) With the delivery of a final decision granting prior approval for the acquisition of, or an increase in, a qualifying holding under other legislation,[88] the acquirer acquires in full range voting rights attached to the shares or other instruments of ownership that are to be transferred.

(11) With the delivery of a final decision rejecting an application for prior approval for the acquisition of, or an increase in, a qualifying holding under other legislation:[88]

(a) the voting rights attached to such shares or other instruments of ownership remain in effect in accordance with paragraph 9(b);
(b) the Council may require that the shares or other instruments of ownership are retransferred by the acquirer within a time limit set by the Council, while taking into account the prevailing market conditions; and
(c) if the transfer referred to in subparagraph (b) does not take place for reasons on the acquirer's side within the time limit set by the Council, Národná banka Slovenska may, with the consent of the Council, impose sanctions or other measures for non-compliance with the requirement to acquire or transfer a qualifying holding.

(12) Transfers made where the sale of business tool is applied are subject to protective measures under Division Ten of this Act.

(13) The acquirer exercises the rights of the selected institution arising from its membership of payment systems, clearing and settlement systems, stock exchanges, client asset protection systems, and deposit guarantee schemes, as well as the right of access to these systems, provided that the acquirer meets the criteria for membership and participation in these systems. The acquirer also exercises the rights mentioned in the previous sentence where:

(a) the acquirer has no rating from a rating agency or its rating does not correspond to the rating grade that is required to gain access to these systems;
(b) the acquirer does not satisfy the criteria for membership or participation in these systems during the period set by the Council, which may not be longer than 24 months from the acquisition of property; this period may be prolonged by the Council, if requested by the acquirer.

(14) The shareholders or creditors of a selected institution and other persons whose assets, rights or liabilities are not subject to transfer as referred to in paragraph 1 lose all of their rights to the assets, rights or liabilities transferred. This is without prejudice to the provisions of Sections 76 to 83. Such transfer of assets, rights or liabilities cannot be challenged.

Section 54

(1) The Council offers for sale assets, rights or liabilities, or shares or other instruments of ownership of a selected institution, or accept an offer for purchase or sale of assets, rights or liabilities, or shares or other instruments of ownership of a selected institution, while these may be offered separately or as a whole.

(2) When making an offer under paragraph 1, the Council proceeds in accordance with at least the following principles:
(a) the information disclosed on the assets, rights, liabilities, shares or other instruments of ownership of the selected institution is as transparent as possible;
(b) the specific circumstances and in particular the need to maintain financial stability are taken into account;
(c) all potential purchasers are treated in a non-discriminatory manner and none of them is given any unfair advantage;
(d) the process is free from any conflict of interest between the entities involved (the Council, the selected institution, the potential purchasers, the selected institution's clients, and third parties);
(e) the sale of business tool is applied as effectively and quickly as possible;
(f) the assets, rights, liabilities, shares or other instruments of ownership of the selected institution are sold at the highest possible price.

(3) The provisions of paragraph 2 do not prevent the Council from soliciting particular potential purchasers in accordance with the rule laid down in paragraph 2(c).

(4) A selected institution under resolution may postpone the obligation to disclose information about its placement on the market in accordance with and under the conditions set out in other legislation.[89]

(5) The provisions of paragraph 1 do not apply where the Council determines that compliance with those provisions would be likely to undermine one or more of the resolution objectives set out in Section 1(2) and in particular if the following conditions are met:
(a) there is a material threat to financial stability arising from or aggravated by the failure or likely failure of the selected institution;
(b) an offer for sale would be likely to undermine the effect of the sale of business tool in addressing that threat or achieving the resolution objective.

Section 55

The bridge institution tool

(1) In order to maintain critical functions of one or more selected institutions, the Council may decide to transfer to a bridge institution:
(a) shares or other instruments of ownership issued by one or more selected institutions;
(b) all or any of the assets, rights or liabilities of one or more selected institutions.

(2) The transfer referred to in paragraph 1 may take place without the consent of the shareholders of the selected institution or any third party other than the bridge institution, and without compliance with any procedural requirements under other legislation.[90]

(3) The total value of liabilities transferred to the bridge institution may not exceed the total value of the rights and assets transferred from the selected institution or provided from other sources.

(4) The application of the bail-in tool for the purpose specified in Section 58(1)(b) does not interfere with the ability of the Council to control the bridge institution.

(5) Unless Section 52(6) provides otherwise, the bridge institution pays consideration for the assets, rights, liabilities, shares or other instruments of ownership of the selected institution or the entity under Section 1(3)(b) to (d) under resolution to the benefit of:

(a) the owners of the shares or other instruments of ownership, where the transfer to the bridge institution has been effected by transferring shares or instruments of ownership issued by the selected institution or the entity under Section 1(3)(b) to (d);
(b) the selected institution or the entity under Section 1(3)(b) to (d), where the transfer to the bridge institution has been effected by transferring some or all of the assets or liabilities of the selected institution or the entity under Section 1(3)(b) to (d).

(6) When applying the bridge institution tool, the Council may exercise, even repeatedly, the transfer of shares and other instruments of ownership issued by a selected institution or of assets, rights and liabilities of the selected institution.

(7) After applying the bridge institution tool, the Council may retransfer rights, assets or liabilities, or shares or other instruments of ownership from the bridge institution to:

(a) the selected institution or the original owners where the conditions laid down in paragraphs 8 and 9 are met, while the selected institution or the original owners shall take back any such rights, assets or liabilities, or shares or other instruments of ownership;
(b) a third party.

(8) The Council may retransfer shares or other instruments of ownership, or assets, rights or liabilities, from the bridge institution to the original owners or to the selected institution in one of the following circumstances:

(a) the possibility that specific shares or other instruments of ownership, or assets, rights or liabilities, may be retransferred is stated expressly in the Council's decision to apply the bridge institution tool; or
(b) the specific shares or other instruments of ownership, or assets, rights or liabilities, do not in fact fall within the classes of, or do not meet the conditions for the transfer of, shares or other instruments of ownership or assets, rights or liabilities specified in the Council's decision to apply the bridge institution tool.

(9) Such a retransfer may be made within any period and shall comply with any other conditions stated in the Council's decision to apply the bridge institution tool.

(10) The bridge institution may continue to exercise any right to provide services that was exercised by the selected institution in respect of the assets, rights or liabilities transferred.

(11) The Council may, in its decision to apply the bridge institution tool, require the bridge institution to perform other activities in respect of the assets, rights or liabilities transferred from the selected institution.

(12) The bridge institution may continue to exercise the rights of membership and access to payment, clearing and settlement systems, stock exchanges, investor compensation schemes and deposit guarantee schemes of the selected institution, provided that it meets the membership and participation criteria for participation in such systems.

(13) The bridge institution may also exercise rights referred to in paragraph 12 where:
(a) the bridge institution does not possess a rating from a credit rating agency, or its rating is not commensurate to the rating levels required to be granted access to the systems referred to in the previous paragraph;
(b) the bridge institution does not meet the membership or participation criteria for those systems for such a period of time as may be specified by the Council, not exceeding 24 months, renewable on application by the bridge institution to the Council.

Section 56

Operation of a bridge institution

(1) A bridge institution is a joint-stock company[91] that meets all of the following requirements:
(a) it is controlled by the Council and the shares it has issued are wholly or partially owned or managed by the Council or another public authority;
(b) it has been established for the purpose of accepting and holding some or all of the shares or other instruments of ownership issued by an institution under resolution or some of all of the assets, rights or liabilities of one or more selected institutions.

(2) A bridge institution's application for banking authorisation and for authorisation to provide investment services under other legislation[93] contains the Council's consent to:
(a) the bridge institution's foundation deed or founders' agreement[92] and its articles of association;
(b) the members of the bridge institution's statutory body and supervisory board and the range of their responsibilities;
(c) the principles of remuneration for the members of the bridge institution's statutory body and supervisory board;
(d) the strategy and risk profile of the bridge institution;
(e) any change in the facts listed in subparagraphs (a) to (d).

(3) Prior to the application of the bridge institution tool, the bridge institution is authorised under other legislation[93] to continue providing the services and performing the activities of the selected institution, acquired by virtue of transfer of its assets, rights, liabilities, shares or other instruments of ownership. When deciding whether to grant such authorisation under other legislation,[93] Národná banka Slovenska takes into account the position of that institution, as well as the facts listed in paragraphs 1 and 2. If the bridge institution does not meet the conditions for authorisation at the time when a decision is taken as to whether to grant such authorisation under other legislation[93] and the fulfilment of these conditions could hinder the achievement of the goals referred to in Section 1(2), the Council requests Národná banka Slovenska to issue an authorisation under other legislation[93] even if the bridge institution fails

to meet the conditions for authorisation under other legislation.[93] At the Council's request, Národná banka Slovenska may authorise a bridge institution even if the conditions for authorisation are not met as required by other legislation.[93] In its decision on authorisation, Národná banka Slovenska sets a time limit for the bridge institution to meet these conditions. The procedure to be followed after the expiry or revocation of an authorisation is described in other legislation.[93a]

(4) The Council ensures that the operation of the bridge institution is in accordance with the European Union's State aid framework. The bridge institution is subject to supervision by Národná banka Slovenska.

(5) The bridge institution's statutory body ensures the continuance of critical functions for the selected institution and, if the business conditions are appropriate, the sale of the bridge institution or its assets, rights or liabilities to one or more acquirers from the private sector. The use of the bridge institution tool is without prejudice to the relevant provisions of the regulation concerning the protection of economic competition.[93b]

(6) The Council takes a decision that the bridge institution is no longer a bridge institution in any of the following cases, whichever occurs first:
(a) the bridge institution ceases to meet the requirements of paragraph 1;
(b) the bridge institution is merged with, or acquired by, another entity;
(c) the sale of all or most of the bridge institution's assets, rights or liabilities to a third party;
(d) the expiry of the period specified in paragraph 8 or 9;
(e) the bridge institution's assets are completely wound down and its liabilities are fully discharged.

(7) The sale of a bridge institution or of its assets, rights or liabilities does not unduly favour or discriminate between potential acquirers. Any such sale is made on standard commercial terms, with regard to the circumstances of each specific case.

(8) If none of the outcomes referred to in paragraph 6(a) to (c) and (e) applies, the Council terminates the operation of a bridge institution within two years of the date on which the last transfer of assets, rights, liabilities, shares or other instruments of ownership from a selected institution was made on the basis of the Council's decision to apply the bridge institution tool.

(9) The Council may extend the period referred to in paragraph 8 for one or more additional one-year periods where such an extension:
(a) supports compliance with the conditions set out in paragraph 6(a), (b), (c) or (e); or
(b) is necessary to ensure the continuity of the services of the selected institution.

(10) Any decision of the Council to extend the period referred to in paragraph 9 is reasoned and contains a detailed assessment of the situation, including of the market conditions and outlook, which justifies the extension.

(11) Where the operation of a bridge institution is terminated in the circumstances referred to in paragraph 6(c) or (d), the bridge institution is wound up under normal insolvency proceedings.

(12) Where the Council does not levy justified charges under Section 52(6), any proceeds arising from the termination of a bridge institution's operation benefits the shareholders of that bridge institution.

(13) Where a bridge institution is used for the purpose of transferring assets and liabilities of more than one selected institution, the obligation referred to in paragraph 6(c) and (d) refers to the assets and liabilities transferred from each of the selected institutions and not to the bridge institution itself.

(14) The members a bridge institution's statutory body are liable to the creditors and shareholders of the selected institution for any damage that occurs during their activities, but only if the damage is due to careless conduct.

(15) When assets, rights or other property items are acquired from a selected institution under resolution, the legal obligations and liabilities related to such property values do not pass to the bridge institution. The transfer of assets, rights or other property items cannot be challenged.

Section 57

The asset separation tool

(1) The Council may decide that a separation tool be applied for the assets, rights or liabilities of a selected institution or of a bridge institution to one or more asset management vehicles.

(2) The transfer referred to in paragraph 1 may take place without the consent of the shareholders of the selected institution or of any third party other than the bridge institution, and without compliance with any procedural requirement under other legislation.[86]

(3) An asset management vehicle is a legal person that meets all of the following requirements:
(a) it is wholly or partially owned by the Council or another public authority and is controlled by the Council;
(b) it has been created for the purpose of receiving and holding some or all of the assets, rights and liabilities of one or more selected institutions or a bridge institution with a view to achieving the resolution objectives set out in Section 1(2).

(4) An asset management vehicle manages the assets transferred to it with a view to maximising their value through eventual sale or orderly wind-down.

(5) The Council has the following powers in relation to an asset management vehicle:
(a) to approve the foundation deed or founders' agreement of an asset management vehicle;
(b) to approve the members of an asset management vehicle's statutory body and supervisory board and to specify their responsibilities;
(c) to approve the principles of remuneration for an asset management vehicle's statutory body and supervisory board members;
(d) to approve the strategy and risk profile of an asset management vehicle.

(6) The Council may transfer assets, rights or liabilities under paragraph 1 only if the following conditions are met:

(a) the situation of the particular market for those assets is of such a nature that the realisation of those assets under normal insolvency proceedings may have an adverse effect on one or more financial markets;
(b) such transfer is necessary to ensure the proper functioning of the selected institution or bridge institution; or
(c) such a transfer is necessary to maximise the sale or liquidation proceeds.

(7) When applying the asset separation tool, the Council determines the value of consideration for which assets, rights or liabilities will be transferred to an asset management vehicle in accordance with Section 51. The consideration may have a positive or negative value.

(8) Unless Section 52(6) provides otherwise, any consideration paid by an asset management vehicle for the transfer of assets, rights or liabilities from a selected institution or an entity under Section 1(3)(b) to (d) is paid to the benefit of that institution or entity under Section 1(3)(b) to (d). The consideration may be paid in the form of debt securities issued by the asset management vehicle.

(9) Where the bridge institution tool has been applied, an asset management vehicle may acquire assets, rights or liabilities from the bridge institution.

(10) The Council may transfer assets, rights or liabilities from a selected institution or a bridge institution to one or more asset management vehicles on more than one occasion.

(11) The Council may retransfer assets, rights or liabilities from one or more asset management vehicles to the selected institution, provided that the conditions laid down in paragraph 12 are met. The selected institution shall be obliged to take back any such assets, rights or liabilities.

(12) The Council may retransfer assets, rights or liabilities from the asset management vehicle to the selected institution in one of the following circumstances:

(a) the possibility that the specific assets, rights or liabilities might be retransferred is stated expressly in the Council's decision to apply the asset separation tool; or
(b) the specific rights, assets or liabilities do not in fact fall within the classes of, or meet the conditions for transfer of, rights, assets or liabilities specified in the Council's decision to apply the asset separation tool.

(13) Such a retransfer may be made by the Council within any period and shall comply with any other conditions stated in the Council's decision to apply the asset separation tool.

(14) The members of an asset management vehicle's statutory body are liable to the creditors and shareholders of a selected institution under resolution for any damage that occurs during their activities, but only if the damage is due to careless conduct.

(15) When assets, rights or other property items are acquired from a selected institution under resolution, the legal obligations and liabilities related to such property items do not pass to the asset management vehicle. The transfer of assets, rights or other property items cannot be challenged.

Section 58

The bail-in tool

(1) The Council may apply the bail-in tool to meet the resolution objectives, for any of the following purposes:

(a) to recapitalise a selected institution that meets the conditions for resolution to the extent sufficient to restore its ability to comply with the conditions for authorisation and to continue to perform the activities for which it is authorised under other legislation,[94] and to sustain sufficient market confidence in the institution;

(b) to convert the liabilities of the selected institution into equity or to reduce the principal amount of the selected institution's liabilities or debt instruments transferred to a bridge institution under Section 55 with the aim of providing capital to that bridge institution or when the sale of business tool is applied under Section 53 or the asset separation tool under Section 57.

(2) The procedure described in paragraph 1(a) may be employed only if there is a reasonable prospect that the application of the bail-in tool together with other relevant measures, including measures implemented in accordance with the business reorganisation plan required by Section 65 will restore the selected institution in question to financial soundness and long-term viability; otherwise the procedure outlined in paragraph 1(b) or any of the resolution tools referred to in Section 52(1)(a) to (c) is applied.

(3) When applying the bail-in tool, the Council respects the legal form of the selected institution, except in cases where a change of its legal form is necessary to achieve the resolution objectives set out in Section 1(2).

Section 59

Scope of the bail-in tool

(1) The bail-in tool may be applied to all types of liabilities, except for those listed in this paragraph and in paragraph 2. Irrespective of the applicable law, the write-down or conversion power is not exercised in relation to the following liabilities:

(a) covered deposits as defined in other legislation;[1]

(b) secured liabilities, including covered bonds[95] and liabilities from derivative instruments used for hedging purposes, which form an integral part of the cover pool and which are secured in a way similar to covered bonds, up to the value of collateral;

(c) liabilities arising from the holding of a client's moneys or other assets, including moneys or assets held by funds under other legislation,[95a] provided that the selected institution or the entity under Section 1(3)(b) to (d) is a depository of such funds under other legislation[95b] and the client is protected under other legislation;[2]

(d) liabilities arising from a fiduciary relationship between the selected institution (as fiduciary) and the client (as acquirer), provided that such an acquirer is protected under the applicable insolvency law or civil law;

(e) liabilities to selected institutions, excluding selected institutions that are part of the same group, with an originally agreed maturity of less than seven days;

(f) liabilities with a remaining maturity of less than seven days, owed to payment systems under other legislation[95ba] or to securities settlement systems under other legislation[95bb] or to the operators of such systems or to their participants, and arising from participation in such systems, or to central counterparties authorised to operate in the European Union

under other legislation[44c)] and to central counterparties from third countries recognised by the European authority for securities and markets under other legislation;[44d]

(g) liabilities to any one of the following:
   1. an employee, in relation to accrued salary or any other employment entitlement against the employer, except for the variable component of remuneration that is not regulated by a collective bargaining agreement; this does not apply to the variable component of remuneration of those employees whose work activity has a significant impact on the institution's risk profile,[95c] nor to the adjustment of the variable component of remuneration through collective bargaining;
   2. a commercial or trade creditor, arising from the provision to the selected institution of goods or services that are critical to the daily functioning of its operations, including IT services, utilities, and the rental, servicing and upkeep of premises;
   3. the tax and social security authorities, and health insurance corporations;
   4. the Deposit Protection Fund and the Investment Guarantee Fund.

(h) liabilities towards an institution or entity referred to in Section 1(3)(b) to (d) which is part of a resolution group but is not itself a resolution entity, irrespective of their due date; this does not apply where the order of priority of claims in bankruptcy proceedings indicate that these liabilities are to be settled in such proceedings only after other unsecured liabilities,[95d] while the Council shall assess whether the instruments referred to in Section 31e(5) will suffice to cover the implementation of the preferred resolution strategy.

(2) The Council may exclude certain eligible liabilities from write-down or conversion where:

(a) it is not possible to bail-in that liability within a reasonable time;

(b) the exclusion is strictly necessary and proportionate to achieve the continuity of critical functions and core business lines in a manner that maintains the ability of the institution under resolution to continue its key operations, services and transactions;

(c) the exclusion is strictly necessary and is proportionate to avoid giving rise to widespread contagion, in particular as regards eligible deposits as defined in other legislation,[62] which would severely disrupt the functioning of financial markets in a manner that could cause a serious disturbance to the economy of the Slovak Republic or of the European Union as a whole; or

(d) the application of the bail-in tool to those liabilities would cause a decline in value such that the losses borne by other creditors would be higher than if those liabilities were excluded from bail-in.

(3) The Council shall assess whether liabilities towards a selected institution or entity referred to in Section 1(3)(b) to(d) that is part of a resolution group but is not itself a resolution entity, which are not excluded from bail-in pursuant to paragraph 1(h), should be excluded or partially excluded pursuant to paragraph 2 in order to ensure that the resolution strategy is effectively applied.

(4) Where the Council decides to exclude any of the bail-inable liabilities or where the class of bail-inable liabilities is excluded or partially excluded in accordance with paragraph 2, the level of write-down or conversion applied to other bail-inable liabilities may be increased in accordance with the principle laid down in Section 33(1)(f).

(5) Where the Council decides to exclude or partially exclude any of the bail-inable liabilities or where the class of bail-inable liabilities is excluded or partially excluded in accordance with paragraph 2 and the losses that would have been borne by those liabilities have

not been passed on fully to other creditors, the Council may make a contribution to the selected institution from the national fund for one or both of the following purposes:

(a) to cover any losses that have not been absorbed by bail-inable liabilities and to restore the net asset value of the institution under resolution to zero in accordance with Section 60(1)(a);
(b) to purchase shares or other instruments of ownership or capital instruments in the institution under resolution, in order to recapitalise the institution in accordance with Section 60(1)(b).

(6) Such contribution from the national fund may be granted to a selected institution only where:

(a) a contribution to loss absorption and recapitalisation in an amount not less than 8% of the total liabilities including the own funds of the institution under resolution, measured at the time of resolution action in accordance with the valuation provided for in Section 51, has been made by the shareholders and the holders of other instruments of ownership, the holders of relevant capital instruments and other liabilities that are eligible for bail-in through write-down, conversion or otherwise; and
(b) the contribution from the national fund does not exceed 5% of the total liabilities including the own funds of the institution under resolution, measured at the time of resolution action in accordance with the valuation provided for in Section 51.

(7) The contribution referred to in paragraph 4 may be financed by:

(a) the amount that has been raised for resolution financing through contributions by selected institutions in accordance with Section 88(1)(a);
(b) the amount that can be raised within three years through ex-post contributions as defined in Section 88(1)(b) in accordance with Section 89(8); and
(c) where the amounts referred to in subparagraphs (a) and (b) are insufficient, by amounts raised from alternative financing sources in accordance with Section 91(5).

(8) At a time when financial stability is at risk, the Council may seek further funding from alternative sources of financing under Section 91(3) after:

(a) the 5% limit specified in paragraph 6(b) has been reached;
(b) all unsecured, non-preferred liabilities, other than protected deposits, have been written down or converted in full under other legislation.[1]

(9) At the time when financial stability is at risk and the conditions laid down in paragraph 7 are met, a contribution may be made from resources that have been raised through ex-ante annual contributions by selected institutions in accordance with Section 88(1)(a).

(10) By way of derogation from paragraph 6(a), a contribution as defined in paragraph 4 may also be made on the following conditions:

(a) the contribution to loss absorption and recapitalisation as referred to in paragraph 6(a) is equal to an amount not less than 20% of the risk weighted assets;
(b) the amount available in the national fund for resolution financing, raised by way of ex-ante contributions in accordance with Section 88(1)(a), is equal to at least 3% of the total amount of covered deposits;
(c) the selected institution has assets not exceeding EUR 900 billion on a consolidated basis.

(11) When exercising the discretions under paragraph 2, the Council gives due consideration to:

(a) the principle that losses should be borne first by shareholders and next, in general, by creditors of the institution under resolution in order of preference;
(b) the level of loss absorbing capacity that would remain in the institution under resolution if the liability or class of liabilities were excluded; and
(c) the need to maintain adequate resources for in the national fund for resolution financing.

(12) Exclusions under paragraph 2 may be applied either to completely exclude a liability from write-down or to limit the extent of the write-down applied to that liability. Before exercising the discretion to exclude a liability under paragraph 2, the Council notifies the European Commission.

Section 60

Assessment of amount of bail-in

(1) When applying the bail-in tool, the Council shall assess on the basis of a valuation that complies with Section 51 the aggregate of:
(a) the amount by which bail-inable liabilities must be written down in order to ensure that the net asset value of the institution under resolution is equal to zero; and
(b) the amount by which bail-inable liabilities must be converted into shares or other types of capital instruments in order to restore the Common Equity Tier 1 capital ratio of either the selected institution under resolution or of the bridge institution.

(2) The amount by which bail-inable liabilities need to be written down or converted is determined on the basis of the need to restore the Common Equity Tier 1 capital ratio of the selected institution or the ratio of the bridge institution, taking into account any contribution of capital made under the resolution financing arrangement pursuant to Section 91(3), in order to sustain sufficient market confidence in the institution under resolution or in the bridge institution and enable it to continue to meet, for at least one year, the conditions for authorisation pursuant to other legislation[87] and to carry on the activities for which it is authorised. Where the asset separation tool is planned to be used pursuant to Section 57, a prudent estimate of the capital needs of the asset management vehicle shall be considered.

(3) Where capital has been written down in accordance with Sections 70 and 71 and bail-in has been applied pursuant to Section 58(1), and the amount of capital written down on the basis of a preliminary valuation made according to Section 51(13) is found to exceed the required amount when assessed against the definitive valuation according to Section 51(15), a write-up mechanism may be applied to reimburse creditors and then shareholders to the extent necessary.

(4) For the purposes of paragraphs 1 to 3, the Council shall obtain comprehensive and up-to-date information about the assets and liabilities of the selected institution under resolution.

Section 61

Treatment of shareholders in bail-in, write-down or conversion of capital instruments

(1) In respect of shareholders and holders of other instruments of ownership, the Council shall take one or both of the following actions:

(a) cancel the existing shares or other instruments of ownership or transfer them to bailed-in creditors;

(b) provided that, according to a valuation carried out under Section 51, the selected institution under resolution has a positive net value, dilute existing shareholders and holders of other instruments of ownership as a result of the conversion into shares or other instruments of ownership of relevant capital instruments issued by the institution pursuant to the power referred to in Section 70 or bail-inable liabilities issued by the institution pursuant to the power referred to in Section 9(1)(e); 'dilution of shares or other instruments of ownership' means a change in the holdings of individual shareholders or holders of other instruments of ownership in the share capital of the selected institution.

(2) The conversion referred to in paragraph 1(b) is carried out at a rate of conversion that severally dilutes the existing holdings of shares or other instruments of ownership.

(3) The actions referred to in paragraph 1 are also taken in respect of the shareholders or holders of relevant instruments of ownership whose shares were acquired through the conversion of debt instruments in accordance with the contractual terms of the original debt instruments or whose shares or other instruments of ownership were acquired through the conversion of relevant capital instruments to Common Equity Tier 1 instruments pursuant to Section 71.

(4) When considering which action to take in accordance with paragraph 1, the Council shall take into account:

(a) the valuation carried out in accordance with Section 51;

(b) the amount by which the Common Equity Tier 1 items are to be reduced and the relevant capital instruments to be written down or converted in accordance with Section 71(1).

(c) the aggregate amount of bail-in assessed pursuant to Section 60.

(5) When applying the bail-in tool or exercising the conversion power in accordance with paragraphs 1 to 4, the Council may set a shorter time limit for deciding whether to grant prior approval for the acquisition of, or an increase in, a qualifying holding in an institution under resolution or for the acquisition of a qualifying holding in accordance with other legislation.[96]

(6) If the time limit set pursuant to paragraph 5 is not observed, the provisions of Section 53(9) shall apply to any acquisition of or increase in a qualifying holding.

Section 62

Sequence of write-down and conversion

(1) When applying the bail-in tool, the Council exercises the write-down and conversion powers, subject to any exclusion under Section 59(1) and (2), meeting the following requirements:

(a) Common Equity Tier 1 items are reduced in accordance with Section 71(1)(a);

(b) if the total reduction pursuant to subparagraph (a) is less than the sum of the amounts referred to in Section 61(4)(b) and (c), the principal amount of Additional Tier 1

instruments is reduced to the extent required or to the extent of their capacity, whichever is lower;

(c) if the total reduction pursuant to subparagraphs (a) and (b) is less than the sum of the amounts referred to in Section 61(4)(b) and (c), the principal amount of Tier 2 instruments is reduced to the extent required or to the extent of their capacity, whichever is lower;

(d) if the total reduction in the value of shares or other instruments of ownership and in that of relevant capital instruments pursuant to subparagraphs (a) to (c) is less than the sum of the amounts referred to in Section 61(4)(b) and (c), the principal amount of subordinated debt that is not Additional Tier 1 or Tier 2 capital is reduced to the extent required in accordance with the hierarchy of claims in normal insolvency proceedings, in conjunction with the write-down pursuant to subparagraphs (a), (b) and (c);

(e) if the total reduction in the value of shares or other instruments of ownership, relevant capital instruments and bail-inable liabilities pursuant to subparagraphs (a) to (d) is less than the sum of the amounts referred to in Section 61(4)(b) and (c), the principal amount of, or the outstanding amount payable in respect of, the rest of eligible liabilities is reduced to the extent required in accordance with the hierarchy of claims in normal insolvency proceedings, including the ranking of deposits provided for in other legislation,[59a] in conjunction with the write-down pursuant to subparagraphs (a) to (d).

(2) Where the write-down or conversion power is exercised, the losses in the total amount specified in Section 61(4)(b) and (c) are allocated equally between shares or other instruments of ownership and bail-inable liabilities of the same rank by reducing the principal amount of, or the outstanding amount payable in respect of, those shares or other instruments of ownership and bail-inable liabilities to the same extent pro rata to their value according to the valuation carried out pursuant to Section 51; except where a different allocation of losses amongst liabilities of the same rank is allowed in the circumstances specified in Section 59(2). This paragraph does not prevent liabilities that have been excluded from debt write-down pursuant to Section 59(1) and (2) from receiving more favourable treatment than bail-inable liabilities that are of the same rank in normal insolvency proceedings.

(3) Prior to the exercise of the write-down or conversion power referred to in 1(e), the principal amount of the instruments referred to in paragraph 1(b) to (d) are converted or reduced, provided that these instruments have not yet been converted and they are subject to the following conditions in respect of the financial situation, solvency or own funds of the selected institution:

(a) the principal amount of the instrument is to be reduced; or

(b) the instruments are to be converted into shares or other instruments of ownership.

(4) Where the principal amount of an instrument has been reduced, but not to zero, in accordance with the terms of the kind referred to in paragraph 3(a) prior to the application of the bail-in tool pursuant to paragraph 1, the write-down or conversion power is applied to the residual amount of that principal in accordance with paragraph 1.

(5) When assessing whether liabilities of a certain class are to be written down or converted into equity, the rule is followed that liabilities of one class is not converted if another class of liabilities that is subordinated to the former class remains fully unconverted into equity or unwritten down, unless otherwise provided under Section 59(1) and (2).

(6) For the purposes of this Act, 'subordinated debt' means liabilities related to the obligation of subordination in accordance with Section 408a of the Commercial Code, and liabilities which are in an insolvency proceeding satisfied similarly to subordinated claims.[96a]

Section 63

Derivatives

(1) The Council may exercise the write-down or conversion power in relation to liabilities arising from derivatives only upon or after closing out the derivatives. Upon entry into resolution, the Council is empowered to terminate and close out any derivative contract for that purpose. Where a derivative liability has been excluded from bail-in under Section 59(2), the derivative contract may not be terminated or closed out.

(2) Where derivative transactions are subject to a netting agreement, the Council or an independent valuer determines as part of the valuation under Section 51 the liability arising from those transactions on a net basis in accordance with the terms of the agreement.

(3) The Council determines the value of liabilities arising from derivatives in accordance with the following:

(a) appropriate methodologies for determining the value of classes of derivatives, including transactions that are subject to netting agreements;
(b) principles for establishing the relevant point in time at which the value of a derivative position should be established; and
(c) appropriate methodologies for comparing the decline in value that would arise from the close-out and bail-in of derivatives with the amount of losses that would be borne by derivatives included in the scope of bail-in.

Section 64

Rate of conversion of debt to equity

(1) When exercising the powers specified in Section 9(1)(e) and Section 70(3), the Council may apply a different conversion rate to different classes of capital instruments in accordance with one or both of the following principles:

(a) the conversion rate must represent appropriate compensation to the creditor concerned for any loss incurred by virtue of the exercise of the write-down or conversion power;
(b) when different conversion rates are applied, the conversion rate applicable to liabilities that are considered to be senior must be higher than the conversion rate applicable to subordinated liabilities under other legislation.[62]

Section 65

Recovery and reorganisation measures to accompany bail-in

(1) When applying the bail-in tool to recapitalise an institution under Section 58(1)(a), the Council makes arrangements to ensure that a business reorganisation plan for that institution is drawn up and implemented in accordance with Section 66.

(2) The Council may entrust a special administrator appointed under Section 12 with the task of drawing up and implementing a business reorganisation plan in accordance with Section 66.

Section 66

Business reorganisation plan

(1) The special administrator as defined in Section 12(1) or the statutory body of the selected institution draws up and submits to the resolution authority a business reorganisation plan within one month after the application of the bail-in tool in accordance with Section 58(1)(a). Where the European Union's State aid framework is applicable, the special administrator or the statutory body ensures that the reorganisation plan is compatible with the restructuring plan that the institution under resolution is required to submit to the European Commission under that framework.

(2) When the bail-in tool referred to in Section 58(1) is applied to two or more group entities, the business reorganisation plan is prepared by the relevant EU parent undertaking and covers all of the selected institutions in the group in accordance with other legislation.[97] The plan is submitted to the group-level resolution authority and to the European supervisory authority (European Banking Authority) .

(3) In exceptional circumstances, the Council may extend the period in paragraph 1 up to a maximum of two months starting from the application of the bail-in tool. Where the business reorganisation plan is required to be reported within the European Union's State aid framework, the Council may extend the period in paragraph 1 up to a maximum of two months from the application of the bail-in tool or until the deadline laid down by the State aid framework, whichever occurs earlier.

(4) A business reorganisation plan sets out measures aiming to restore the long-term viability of the selected institution or parts of its business within a reasonable timescale. Those measures are based on realistic assumptions about the economic and financial market conditions under which the institution in question will operate. The business reorganisation plan takes account, inter alia, of the current state and future prospects of the financial markets, reflecting the best-case and worst-case assumptions, including a combination of events allowing the identification of the selected institution's main vulnerabilities. The assumptions are compared with appropriate sector-wide benchmarks.

(5) A business reorganisation plan includes at least the following elements:

(a) a detailed diagnosis of the factors and problems that caused the selected institution to fail or to be likely to fail, and the circumstances that led to its difficulties;
(b) a description of the measures aiming to restore the long-term viability of the selected institution that are to be adopted;
(c) a timetable for the implementation of those measures.

(6) Measures aiming to restore the long-term viability of a selected institution may include:

(a) the reorganisation of the institution's activities;
(b) changes to the institution's operational systems and infrastructure;
(c) withdrawal from loss-making activities;

(d) the restructuring of existing activities that can be made competitive;
(e) the sale of assets or of business lines.

(7) Within one month of the date of submission of the business reorganisation plan, the Council assesses the likelihood that the plan, if implemented, will restore the long-term viability of the selected institution. The assessment is completed with the consent of Národná banka Slovenska. If the business reorganisation plan is found appropriate for achieving that objective, the Council approves the plan and notifies the selected institution's statutory body or special administrator of this fact in accordance with Section 12(1).

(8) If the Council is not satisfied that the business reorganisation plan would achieve the objective referred to in paragraph 7, the Council, with the consent of Národná banka Slovenska, notifies the selected institution's statutory body or special administrator as referred to in Section 12(1) of its concerns and requires that the plan be amended in a way that addresses those concerns.

(9) Within two weeks from the date of receipt of the notification referred to in paragraph 8, the special administrator appointed in accordance with Section 12(1) or the statutory body of the selected institution submits an amended business reorganisation plan to the Council for approval. The Council assesses the amended plan and notifies the institution's special administrator or statutory body within one week whether it is satisfied that the plan, as amended, addresses the concerns reported or whether further amendment is required.

(10) The special administrator appointed in accordance with Section 12(1) or the statutory body of the selected institution implements the business reorganisation plan approved for the institution and submits a report to the Council at least every six months on progress in the implementation of the plan.

(11) If, after consulting Národná banka Slovenska, the Council is of the opinion that the business reorganisation plan approved for the selected institution needs to be revised for the institution's long-term viability to be restored, the special administrator appointed under Section 12(1) or the statutory body of the selected institution revises that plan and submits it to the Council for approval.

Section 67

Effects of bail-in

(1) The Council's decisions made in accordance with Section 9(1)(d) to (h) and Section 70(1) is also binding on the creditors and shareholders of the selected institution under resolution.

(2) The Council has the power to complete or require the completion of all the administrative and procedural tasks necessary to give effect to the exercise of powers referred to in Section 9(1)(d) to (h) and Section 70(1), including the submission of a proposal for:
(a) the entry or change of data in the Commercial Register or in other relevant registers under other legislation;[20]
(b) the delisting or removal from trading of shares or other instruments of ownership or debt instruments;
(c) the listing or admission to trading of new shares or other instruments of ownership;

(d) the relisting or readmission of debt instruments that have been written down, without the requirement to issue a new prospectus.

(3) Where the principal amount of, or the outstanding amount payable in respect of, a liability is reduced to zero on the basis a decision made under Section 9(1)(d), that liability and any claims arising in relation to it is treated as discharged for all purposes, and is not provable in any subsequent proceedings brought under other legislation[62] in relation to the selected institution under resolution or any successor entity in any subsequent winding-up proceedings under other legislation.[62]

(4) Where the principal amount of, or the outstanding amount payable in respect of, a liability is reduced only partially on the basis of a decision made under Section 9(1)(d), that liability is treated as discharged to the extent of the amount reduced, and the original liability continues to apply in relation to the residual principal amount of the liability, subject to any modification in the amount of interest payable to reflect the reduction in the principal amount and any further modification in the terms that the resolution authority might make using the power referred to in Section 9(1)(i).

Section 68

Removal of procedural impediments to bail-in

(1) The Council may order the selected institution or the entity under Section 1(3)(b) to (d) to maintain a sufficient amount of authorised share capital or of other Common Equity Tier 1 instruments, so that, when exercising the procedure under Section 9(1)(d) and (e), a sufficient amount of new shares or other instruments of ownership could be issued in order to convert liabilities of the selected institution or the entity under Section 1(3)(b) to (d) or of its subsidiary into shares or other instruments of ownership; this is without prejudice to Section 9(1)(h).

(2) The Council assesses whether it is appropriate to impose the requirement laid down in paragraph 1 in the context of the resolution plan, having regard to the resolution actions contemplated in that plan. If the resolution plan provides for the possible application of the bail-in tool, the Council verifies that the approved share capital or other Common Equity Tier 1 instrument is sufficient to cover the sum of the amounts referred to in Section 61(4)(b) and (c).

(3) The conversion of the liabilities of the selected institution or the entity under Section 1(3)(b) to (d) into shares or other instruments of ownership is carried out without regard to the pre-emption rights of shareholders, the conditions laid down in the institution's foundation deed, articles of association or other contract documents, and does not require the consent of the management bodies.

(4) The provisions of paragraphs 1 to 3 are without prejudice to other obligations laid down in other legislation.[86]

Section 69

Contractual recognition of bail-in

(1) Institutions and entities referred to in Section 1(3)(b) to (d) shall include a contractual term in any agreement creating a liability, by which the creditor recognises that that liability

may be subject to the write-down and conversion powers subject to the competent resolution authority's decision, and agrees to be bound by any reduction in the principal or outstanding amount due, their conversion or cancellation subject to the competent resolution authority's decision, provided that the liability complies with the following conditions:

(a) the liability is not excluded under Section 59(1);
(b) the liability is not a deposit as defined in other legislation;[1]
(c) the liability is governed by the law of a third country; and
(d) the liability is entered into or changed after the date on which this Act takes effect; this does not apply to changes, including an automatic change, which has no impact on the basic rights and obligations of the contracting parties.

(2) The Council may decide not to apply the procedure outlined in paragraph 1 where it is evident that the liability may be subject to write-down or conversion under the law of a third country or a binding international agreement concluded with that country. The Council may require the selected institution to provide a legal opinion relating to the legal enforceability and effect of the procedure referred to in the previous sentence.

(3) The Council may decide that the obligation referred to in paragraph 1 shall not apply to institutions or entities in respect of which the minimum requirement laid down in Section 31(1) equals the loss-absorption amount as defined in Section 31b(2)(a), provided that liabilities that meet the conditions referred to in paragraph 1 and which do not include the contractual term referred to in paragraph 1 are not counted towards that requirement.

(4) Where a selected institution or an entity referred to in Section 1(3)(b) to (d) reaches the determination that it is legally or otherwise impracticable to include in the contractual provisions governing a relevant liability a term required in accordance with paragraph 1, such institution or entity shall notify the Council of its determination, including the designation of the class of the liability and the justification of that determination. The institution or entity referred to in Section 1(3)(b) to (d) shall provide the Council with all the information that the Council requests, within a reasonable time frame following the receipt of the notification, in order for the Council to assess the effect of that notification on the resolvability of that institution or entity.

(5) In the case of a notification pursuant to paragraph 4, the obligation to include in the contractual provisions a condition required in accordance with paragraph 1 shall be suspended by the Council from the moment of receipt of that notification.

(6) In the event that the Council concludes that it is legally or otherwise impracticable to include in the contractual provisions a condition required in accordance with paragraph 1, taking into account the need to ensure the resolvability of the institution or entity referred to in Section 1(3)(b) to (d), it shall require, within a reasonable time frame after the notification pursuant to paragraph 4, the inclusion of such contractual condition. The Council may, in addition, require the institution or entity referred to in Section 1(3)(b) to (d) to amend its practices concerning the application of the exemption from the contractual recognition of bail-in pursuant to paragraph 2.

(7) The liabilities referred to in paragraph 1 shall not include Additional Tier 1 capital instruments, Tier 2 capital instruments and debt instruments as referred to in Section 2(am), where these instruments are unsecured liabilities. The liabilities referred to in paragraph 1 shall be senior liabilities as defined in other legislation.[98]

(8) Where the Council, in assessing the resolvability of an institution or entity referred to in Section 1(3)(b) to (d) in accordance with Sections 24 and 28 or at any other time, determines that, within a class of liabilities which includes eligible liabilities, the amount of liabilities that, in accordance with paragraph 1, do not include the contractual condition referred to in paragraph 1, together with the liabilities which are excluded from the application of the bail-in tool in accordance with Section 59(1) or which are likely to be excluded in accordance with Article 59(2) amounts to more than 10% of that class, the Council shall immediately assess the impact of that particular fact on the resolvability of that institution or entity, including the impact on its resolvability resulting from the risk of breaching the creditor safeguards provided pursuant to Section 76 when applying write-down and conversion powers to eligible liabilities.

(9) Where the Council concludes, on the basis of the assessment referred to in paragraph 8, that the liabilities which, in accordance with paragraph 1, do not include the contractual term referred to in paragraph 1, create a substantive impediment to resolvability, the Council shall apply its powers referred to in Section 76, as appropriate, to remove that impediment to resolvability.

(10) Liabilities for which an institution or entity referred to in Section 1(3)(b) to (d) fails to include in the contractual provisions the term required under paragraph 1 or for which, in accordance with this paragraph, that requirement does not apply, shall not be counted towards the minimum requirement for own funds and eligible liabilities.

(11) The Council may require institutions and entities referred to in Section 1(3)(b) to (d) to provide the relevant authorities with a legal opinion relating to the legal enforceability and effectiveness of the contractual term referred to in paragraph 1.

(12) Where an institution or entity referred to Section 1(3)(b) to (d) does not include in the contractual provisions governing a relevant liability a contractual term required in accordance with paragraph 1, this will not prevent the Council from exercising the write-down and conversion powers in relation to that liability.

(13) The Council may specify, where it deems it necessary, the categories of liabilities for which an institution or entity referred to in Section 1(3)(b) to (d) may reach the determination that it is legally or otherwise impracticable to include the contractual term referred to in paragraph 1, based on the conditions further specified as a result of the application of the regulatory technical standards of the European supervisory authority (European Banking Authority).

DIVISION EIGHT

WRITE-DOWN OR CONVERSION OF CAPITAL INSTRUMENTS AND ELIGIBLE LIABILITIES

Section 70

Requirement for the write-down or conversion of capital instruments and eligible liabilities

(1) The Council has the power to write down or convert into shares the capital instruments and eligible liabilities of a selected institution or entity referred to in Section 1(3)(b) to (d) in accordance with Section 71, either:
(a) independently of the resolution measures; or
(b) in combination with the resolution measures, if the conditions for resolution set out in Section 34(1) or Section 48(1) are fulfilled.

(2) Before issuing a decision to write down or convert capital instruments and eligible liabilities, the Council shall determine the value of assets and liabilities held by the selected institution or entity referred to in Section 1(3)(b) to (d) in accordance with Section 51. The results of valuation according to the first sentence are to be used as a basis for the write-down or conversion of capital instruments and eligible liabilities with a view to reducing the losses and for the bail-in of the selected institution or entity listed in Section 1(3)(b) to (d).

(3) The Council shall exercise, without undue delay, its write-down or conversion power in relation to capital instruments or eligible liabilities in accordance with Section 71 where one or more of the following conditions are met:
(a) the conditions for resolution set out in Section 34(1) or Section 48(1) are met, before any resolution measure is adopted;
(b) Národná banka Slovenska assumes that, unless the relevant capital instruments and eligible liabilities are written down or converted, the institution under resolution will no longer be viable, or the Council has arrived at this conclusion on the basis of its own activities;
(c) extraordinary public financial support is required by the institution under resolution, except when such support is provided pursuant to point (3) of Section 34(2)(d).

(4) For the purposes of paragraph 3, a selected institution or entity under Section 1(3)(b) to (d) or a group is deemed to be no longer viable if:
(a) the selected institution or entity under Section 1(3)(b) to (d) or the group is failing or is likely to fail soon; and
(b) having regard to all relevant circumstances, there is no reasonable prospect that any alternative private sector measures or supervisory action,[71aa] including early intervention measures under other legislation,[50] except the decision under paragraph 1, taken in respect of the selected institution or entity under Section 1(3)(b) to (d) or the group, would prevent its failure within a reasonable timeframe.

(5) A selected institution or an entity under Section 1(3)(b) to (d) is deemed to be failing or likely to fail where one or more of the circumstances set out in Section 34(2) occur.

(6) For the purposes of paragraph 4(a), a group is deemed to be failing or likely to fail where the group violates or is likely to violate in the near future the consolidated prudential requirements laid down in other legislation[95] in a way that would justify action by the competent supervisory authority, because the group has incurred or is likely to incur losses or there are other objective circumstances that will deplete all or a significant amount of its own funds.

(7) If the Council takes a decision in accordance with paragraph 3(b), it shall notify Národná banka Slovenska without undue delay.

(8) The power to write down or convert eligible liabilities, irrespective of the use of resolution tools, may be exercised only in relation to eligible liabilities that meet the conditions set out in Section 31e(5)(a), except for the condition concerning the residual maturity of these

liabilities under other legislation.[70t] In exercising the write-down or conversion power according to the first sentence, the Council shall proceed in accordance with Section 33(1)(f).

(9) If the Council adopts a resolution measure in relation to a resolution entity or, in an exceptional situation not covered by the resolution plan, in relation to an entity that is not itself a resolution entity, the amount written down or converted in accordance with Section 71(1) at the level of that entity shall be included in the limits set in Sections 59(5)(a) and 59(10)(a), which apply to the entity concerned.

(10) Before writing down or converting capital instruments and eligible liabilities, the Council shall determine the values of assets and liabilities held by the selected institution or entity using the procedure outlined in Section 51. The values determined according to the first sentence shall be used as a basis for write-down and conversion aimed at reducing the losses for bail-in purposes.

(11) Where a resolution entity has purchased capital instruments and eligible liabilities indirectly, through other entities within the same resolution group, the power to write down or convert these capital instruments and eligible liabilities shall be exercised by the Council, along with the same power at the level of the parent undertaking of the entity concerned or at the level of other parent undertakings that are not resolution entities, in order that the losses could be effectively transferred to the resolution entity and that the entity concerned could be recapitalised by the resolution entity.

(12) After exercising its power to write down or convert capital instruments or eligible liabilities, irrespective of the use of resolution tools, the Council shall carry out a valuation in accordance with Sections 77 and 78.

Section 70a

Conditions for writing down or converting capital instruments at a group level

(1) The Council shall, together with the competent resolution authorities of other Member States, make every effort to reach a joint decision on the write-down or conversion of capital instruments where:
(a) the selected institution is a subsidiary and the relevant capital instruments it has issued are recorded as instruments intended for meeting the own funds requirements of that subsidiary on an individual basis and of the group on a consolidated basis;
(b) the application of the write-down or conversion tool is vital for the maintenance of stability within the group to which the selected institution belongs.

(2) If the Council fails to reach a joint decision in accordance with paragraph 1, the Council takes its own decision pursuant to Section 50(3).

(3) The Council as a group-level resolution authority decides to write down or convert the relevant capital instruments of a selected institution where:
(a) the selected institution is a parent institution and the relevant capital instruments it has issued are recorded as instruments intended for meeting the own funds requirements of that parent institution on an individual basis or of the group on a consolidated basis;
(b) the application of the write-down or conversion tool is vital for the maintenance of stability within the group to which the selected institution belongs.

(4) A relevant capital instrument issued by a subsidiary may not be written down under paragraph 1 to a greater extent or converted on worse terms than equally ranked capital instruments at the level of the parent institution.

Section 70b

Reporting obligations towards the authorities of other Member States

(1) Before the Council comes to the conclusion that any of the conditions laid down in Section 70(3)(b) and (c) and Section 70a(1)(b) is met in relation to a selected institution which is a subsidiary and that the capital instruments and eligible liabilities defined in Section 70(8) it has issued are recorded as instruments intended for meeting the requirements concerning the own funds of that subsidiary on an individual basis or those of the group on a consolidated basis, the Council shall, after consulting the relevant resolution authority, notify this fact within 24 hours following that consultation to:

(a) the authority exercising supervision on a consolidated basis or to the competent authority of the Member State in which the authority exercising supervision on a consolidated basis is based;
(b) the resolution authorities of other resolution entities belonging to the same resolution group, which have directly or indirectly purchased liabilities as specified in Section 31e(5) from the entity to which Section 31e(1) applies.

(2) If the Council is considering exercising the powers referred to in Sections 70(3)(b) and 70a(1)(b), it shall, without undue delay, inform the relevant authority in charge of the selected institution or entity referred to in Section 1(3)(b), (c) or (d), which has issued capital instruments in relation to which the write-down or conversion power is to be exercised and, in the case of other authorities, the competent authorities of the Member States in which the relevant authorities, including a consolidated supervisory authority, are based.

(3) A notification as referred to in paragraphs 1 and 2 contains the reasons on the basis of which the Council has come to the conclusion that any of the conditions for the write-down or conversion of the relevant capital instrument is met. The Council also requests the authorities it has notified to take a position on this matter.

(4) Before deciding to write down or convert the relevant capital instruments of a selected institution in accordance with Section 70(3)(b) and (c), Section 70a(1)(b) and (3)(b), the Council takes into consideration the possible effects of such write-down or conversion on all the Member States where that selected institution operates.

(5) Where a notification has been made pursuant to paragraph 1, the relevant authority shall, after consulting the authorities notified in accordance with paragraph 1(a) or paragraph 2, assess the following matters:

(a) whether an alternative measure to the exercise of the power to write down or convert capital instruments and eligible liabilities under Section 70(11) and (12) is available;
(b) if such alternative measure pursuant to subparagraph (a) is available, whether it can feasibly be applied;
(c) if such an alternative measure could feasibly be applied, whether there is a realistic prospect that it would address, in an adequate time frame, the circumstances that would otherwise require a determination referred to in Section 70(11).

Section 71

Provisions governing the write-down or conversion of capital instruments

(1) The Council shall exercise the write-down or conversion power in accordance with the priority of claims determined under other legislation,[62] in a way that produces the following results:

(a) Common Equity Tier 1 items are reduced first in proportion to the losses and to the extent of their capacity, and the Council takes one or both of the actions specified in Section 61(1) in respect of the holders of Common Equity Tier 1 instruments;
(b) the principal amount of Additional Tier 1 instruments is written down or converted into Common Equity Tier 1 instruments or both, to the extent required to achieve the resolution objectives set out in Section 1(2) or to the extent of the capacity of the relevant capital instrument, whichever is lower;
(c) the principal amount of Additional Tier 2 instruments is written down or converted into Common Equity Tier 1 capital instruments or both, to the extent required to achieve the resolution objectives set out in Section 1(2) or to the extent of the capacity of the relevant capital instrument, whichever is lower;
(d) the principal amount of eligible liabilities referred to in Section 70(8) is written down or converted into Common Equity Tier 1 capital instruments or both, to the extent required to achieve the resolution objective set out in Section 1(2) or to the extent of the capacity of the relevant bail-inable liabilities, whichever is lower.

(2) Where the principal amount of a capital instrument or of an eligible liability as defined in Section 70(8) is written down,

(a) the reduction in that principal amount shall be permanent, subject to any write-up in accordance with the reimbursement mechanism referred to in Section 63(3);
(b) no liability to the holder of the relevant capital instruments or bail-inable liabilities as referred to in Section 70(8) shall remain under or in connection with that amount of the instruments which has been written down, except for any liability already accrued, and any liability for damages that may arise as a result of an appeal challenging the legality of the exercise of the write-down power;
(c) no compensation is paid to any holder of the relevant capital instruments or liabilities under Section 70(8) other than compensation in accordance with paragraph 3.

(3) The termination of liabilities in accordance with paragraph 2 will not prevent the use of the procedure outlined in paragraph 4.

(4) In order to carry out a conversion of capital instruments and eligible liabilities under Section 70(8), the Council may, in accordance with paragraph 1(b) to (d), require institutions and entities referred to in Section 1(3)(b) to (d) to issue Common Equity Tier 1 instruments to the holders of the relevant capital instruments. The relevant capital instruments and eligible liabilities may only be converted where the following conditions are fulfilled:

(a) those Common Equity Tier 1 instruments are issued by the selected institution or by its parent undertaking with the consent of the competent resolution authority;
(b) those Common Equity Tier 1 instruments are issued prior to any issuance of shares or other instruments of ownership by that institution or entity for the purposes of provision of own funds by the State;
(c) those Common Equity Tier 1 instruments are awarded and transferred, without delay, after the exercise of the conversion power;

(d) the conversion rate that determines the number of Common Equity Tier 1 instruments that are provided in respect of each relevant capital instrument and each eligible liability is calculated in accordance with Section 64.

(5) Repealed as of 1 January 2016.

(6) Repealed as of 1 January 2016.

DIVISION NINE – repealed as of 15 November 2016

Sections 72 to 75 – Repealed as of 15 November 2016

DIVISION TEN

SAFEGUARDS

Section 76

Treatment of shareholders and creditors in the event of a partial transfer or bail-in

(1) Where the Council transfers only parts of the rights, assets and liabilities of an institution under resolution, the shareholders and those creditors whose claims have not been transferred shall receive in satisfaction of their claims at least as much as what they would have received if the institution under resolution had been wound up under normal insolvency proceedings[62] at the time when the resolution decision referred to in Section 38 was taken.

(2) Where the Council applies the bail-in tool, the shareholders and creditors whose claims have been written down or converted into equity shall not incur greater losses than they would have incurred if the institution under resolution had been wound up under normal insolvency proceedings[62] immediately at the time when the resolution decision referred to in Section 38 was taken.

Section 77

Valuation of difference in treatment

(1) The Council ensures that a valuation of difference in treatment of shareholders and creditors of a selected institution and an entity within the group in the resolution proceedings in comparison with claims satisfied in normal insolvency proceedings under other legislation.[62] The valuation of different treatment is carried out after the relevant decision to end the resolution proceedings has been approved, as at its date of effect; the valuation of difference in treatment is carried out independently of the valuation carried out under Section 51.

(2) The valuation of difference in treatment determines:

(a) the treatment that shareholders and creditors, or the Deposit Protection Fund, would have received if the selected institution and entity within the group under resolution, with respect to which the resolution action or actions have been effected, had entered normal insolvency proceedings at the time when the resolution decision referred to in Section 38 was taken;

(b) the actual treatment that shareholders and creditors, including the relevant deposit guarantee scheme, received during the resolution as at the date when the decision to end the resolution proceedings entered into force;
(c) the valuation of differences between the treatments referred to in subparagraphs (a) and (b).

(3) The valuation carried out under paragraph 2(a):
(a) assumes that the selected institution or entity within the group under resolution, with respect to which the resolution action or actions have been effected, had entered normal insolvency proceedings at the time when the decision referred to in Section 38 was taken;
(b) assumes that no resolution action or actions had been effected;
(c) disregards any provision of extraordinary public financial support to the selected institution or entity within the group under resolution.

Section 78

Safeguards for shareholders and creditors

Shareholders and creditors who have incurred losses as a result of a decision to write down or convert capital instruments, or to take resolution actions, greater than they would have incurred in a winding-up under normal insolvency proceedings are entitled to compensation for the difference determined pursuant to Section 77. The Deposit Protection Fund[1] is also entitled to such compensation under Section 97(3).

Section 78a

Invitation to apply for compensation payment for different treatment

(1) If the Council's decision to write down or convert capital instruments or to take actions interferes with the rights of the owners of capital instruments or with the rights of the creditors, such decision contains an invitation to the owners of capital instruments and creditors to submit an application for compensation payment under Sections 76 and 78 on the basis of a valuation of difference in treatment under Section 77 (hereinafter 'application for compensation payment').

(2) The time limit for the submission of an application for compensation payment expires on the last day of the sixth month following the date of effect of the Council's decision.

(3) With the expiration of the time limit referred to in paragraph 2, the right of the owners of instruments of ownership and of creditors to compensation payment under Sections 76 and 78 for different treatment as defined in Section 77 expires, too. A template for application for such compensation, including its prescribed contents, is published on the Council's website.

Section 78b

Decision-making in respect of compensation payment for different treatment

(1) Decision-making in respect of compensation payment for different treatment to the owners of instruments of ownership and to the creditors under Section 78 falls within the competence of the Council.

(2) A decision as referred to in paragraph 1 is made on the basis of a valuation of difference in treatment carried out under Section 77.

(3) The operative part of such decision contains the amount of compensation payable for the difference in treatment, the person eligible to receive such compensation, and the person responsible for compensation payment.

Section 79

Safeguards for counterparties in partial transfers

(1) Where the Council decides to transfer part of the assets, rights or liabilities of a selected institution under resolution to another entity or part of its assets from a bridge institution or asset management vehicle to another person, or to exercise the powers referred to in Section 13(1)(f), the protections specified in Sections 16 and 17 are without prejudice to the rights referred to in paragraph 2 in accordance with Sections 80 to 82.

(2) The Council's decision is without prejudice to the rights arising from the following arrangements:

(a) security arrangements under which a person has by way of security an actual or contingent interest in the assets or rights that are subject to transfer, irrespective of whether that interest is secured by specific assets or rights or by way of a floating charge or a similar arrangement;
(b) title transfer financial collateral arrangements under which collateral to secure or cover the performance of specified obligations is provided by a transfer of full ownership of assets from the collateral provider to the collateral taker, on terms providing for the collateral taker to transfer assets if those specified obligations are performed;
(c) set-off arrangements under which two or more claims or obligations owed between the selected institution and a counterparty can be set off against each other;
(d) netting arrangements;
(e) covered bonds;[99]
(f) structured finance arrangements, including securitisations and instruments used for hedging purposes which form an integral part of the cover pool and which, according to national law, are secured in a way similar to the covered bonds, which involve the granting and holding of security by a party to the arrangement or a trustee, agent or nominee.

(3) The provisions of paragraphs 1 and 2 apply irrespective of the number of parties involved in the arrangements, of their legal basis, and of the law by which they are governed.

Section 80

Protection for financial collateral, set-off and netting agreements

(1) The Council ensures appropriate protection for the rights and obligations arising from title transfer financial collateral arrangements, set-off arrangements, and netting arrangements so as to prevent the transfer of some, but not all, of the rights and liabilities that are protected under a title transfer financial arrangement, a set-off arrangement or a netting arrangement between the selected institution under resolution and another person and the modification or termination of the rights and liabilities that are protected under such

arrangements, through the use of ancillary powers pursuant to Section 13. Rights and liabilities are to be treated as protected under such arrangements if the parties thereto are entitled to set-off or net those rights and liabilities. In resolution proceedings, other legislation[100] applies mutatis mutandis to the protection of rights and liabilities where appropriate.

(2) Where necessary in order to ensure the availability of covered deposits, the Council may:

(a) transfer covered deposits[1] and protected client assets[2] that are part of any of the arrangements mentioned in paragraph 1 without transferring other assets, rights or liabilities that are part of the same arrangement; and
(b) transfer, modify or terminate any of the arrangements relating to assets, rights or liabilities without transferring covered deposits[1] and protected client assets.[2]

Section 81

Protection for security arrangements

(1) Liabilities secured under a security arrangement is protected in an appropriate manner and the operations listed below are prohibited even where the ancillary powers referred to in Section 13 are applied:

(a) the transfer of assets against which the liability is secured unless that liability and the benefit of the security are also transferred;
(b) the transfer of a secured liability unless the benefit of the security is also transferred;
(c) the transfer of the benefit of the security unless the secured liability is also transferred; or
(d) the modification or termination of a security arrangement if the effect of that modification or termination is that the liability ceases to be secured.

(2) Where necessary in order to ensure the availability of covered deposits,[1] the Council may:

(a) transfer covered deposits[1] that are part of any of the arrangements mentioned in paragraph 1 without transferring other assets, rights or liabilities that are part of the same arrangement; and
(b) transfer, modify or terminate any of the arrangements relating to assets, rights or liabilities without transferring the covered deposits.[1]

Section 82

Protection for structured finance arrangements and covered bonds

(1) Where the selected institution under resolution is a party to a structured finance arrangement or any of the arrangements referred to in Section 79(2)(d) to (f), the Council ensures appropriate protection for that arrangement so as to prevent either of the following:

(a) the transfer of some, but not all, of the assets, rights and liabilities that constitute or form part of the said arrangement, through the use of ancillary powers under Section 13;
(b) the termination or modification through the use of ancillary powers under Section 13 of the assets, rights and liabilities that constitute or form part of the arrangement referred to above.

(2) Where the selected institution under resolution is a party to a structured finance arrangement and, if necessary, in order to ensure the availability of covered deposits,[1] the Council may:

(a) transfer covered deposits[1] without transferring other assets, rights or liabilities under structured finance arrangements; and
(b) transfer, modify or terminate arrangements related to assets, rights or liabilities without transferring the covered deposits.[1]

Section 83

Protection of trading, clearing and settlement systems

Where the Council decides to transfer some but not all of the assets, rights or liabilities of a selected institution under resolution to another entity or to exercise additional powers under Section 13 to cancel or amend the terms of a contract to which the institution under resolution is a party, this decision is without prejudice to the rights, obligations or liabilities related to clearing and settlement in payment systems and the settlement of transactions in securities,[101] consisting in the execution of transfer orders, the settlement of liabilities, and the enforcement of security rights.

DIVISION ELEVEN

COLLEGES

Section 84

Resolution colleges

(1) The Council shall establish a resolution college for the purpose of performing tasks as specified in Sections 26 to 29, 31 to 31f, 49 and 50, and to ensure cooperation and coordination with the resolution authorities of third countries; this shall not apply if the Council proceeds in accordance with Section 85.

(2) The resolution college referred to in paragraph 1 is established to perform the following tasks:
(a) exchanging information needed to for the preparation of group resolution plans;
(b) exercising preparatory and preventive powers in relation to groups of institutions under resolution;
(c) drawing up group resolution plans pursuant to Sections 26 and 27 and assessing the resolvability of groups pursuant to Section 28;
(d) exercising powers to address or remove impediments to the resolvability of groups pursuant to Section 29;
(e) deciding and agreeing on the need to introduce a group resolution scheme as referred to in Sections 49 and 50;
(f) coordinating public communication of group resolution strategies and schemes, and coordinating the use of financing arrangements established under Division Twelve of this Act;
(g) discussing other matters concerning cross-border resolution at group level;
(h) setting the minimum requirements for groups on a consolidated basis and for subsidiaries pursuant to Sections 31 to 31f.

(3) A resolution college as referred to in paragraph 1 comprises the representatives of cooperating resolution authorities who may participate in the college meetings whenever

matters subject to joint decision-making or relating to a group entity falling within their competence are on the agenda. The following authorities are represented in a resolution college:
(a) the Council;
(b) the resolution authority of each Member State in which a subsidiary covered by consolidated supervision is established;
(c) the resolution authority of a Member State in which a parent institution of one or more selected institutions of the group, which is a selected institution, is established;
(d) the resolution authorities of Member States in which significant branches are located;
(e) the consolidating supervisor and the competent supervisory authorities of the Member States where the Council is a member of the resolution college;
(f) the competent ministries, where the resolution authorities which are members of the resolution college are not the competent ministries;
(g) the authority that is responsible for the deposit guarantee scheme and client asset protection scheme of a Member State, if the resolution authority of that Member State is a member of a resolution college;
(h) the resolution authorities of third countries, where a parent institution in the European Union or a selected institution established in a Member State has a subsidiary or significant branch established in a third country, may, at their request, be invited to participate in the resolution college as observers, provided that they are subject to equivalent confidentiality requirements;
(i) the European supervisory authority (European Banking Authority) is also invited to attend the meetings of the resolution college but does not have any voting rights.

(4) The Council is not obliged to establish a resolution college under paragraph 1 where other groups or colleges perform the same functions, carry out the same tasks, and comply with all the conditions and procedures, including those covering membership and participation in resolution colleges pursuant to paragraph 1.

(5) A resolution college established under paragraph 1 is chaired by the Council. In that capacity, the Council:
(a) establishes written arrangements and procedures for the functioning of the resolution college, after consulting the other members of the resolution college referred to paragraph 1;
(b) coordinates all activities of the resolution college referred to in paragraph 1;
(c) convenes and chairs all its meetings;
(d) notifies all members of the resolution college referred to in paragraph 1 in advance of the organisation of meetings, of the main issues to be discussed, and subsequently of the decisions taken;
(e) decides which members and observers are to be invited to attend particular meetings of the resolution college, taking into account the potential impact on financial stability in the Member States concerned.

(6) If the Council is a member of a resolution college established by the resolution authority of another Member State, it cooperates closely with that resolution authority, as well as with the other members of the college and with the European supervisory authority (European Banking Authority).

Section 85

European resolution colleges

(1) Where a third-country selected institution or a third-country parent institution has subsidiaries based in the Slovak Republic and in one or more Member States, or two or more branches that are regarded as significant in the Slovak Republic and in one or more Member States, the Council, in agreement with the resolution authorities of the Member States where those subsidiaries are established or where those significant branches are located, establishes a European resolution college (hereinafter 'European college') to perform the functions and tasks specified in Section 20.

(2) When setting the requirements referred to in Sections 31 and 31f, the members of the European resolution college shall take into consideration the global resolution strategy, if any, adopted by third-country authorities.

(3) Where, in accordance with the global resolution strategy, subsidiaries established in the Slovak Republic and in one or more other Member States or a parent undertaking established in the Slovak Republic or in other Member States and its subsidiaries that are not resolution entities and the members of the European resolution college agree with that strategy, subsidiaries established in the Slovak Republic in one or more other Member States or, on a consolidated basis, a parent undertaking established in the Slovak Republic or in another Member State shall comply with the requirement laid down in Section 31e(1) by issuing instruments referred to in Section 31e(5)(a) and (b) to their ultimate parent undertaking established in a third country, or to the subsidiaries of that ultimate parent undertaking that are established in the same third country or to other entities under the conditions set out in Section 31e(5)(a)(1) and (b)(2).

(4) Where only one parent undertaking established in the Slovak Republic owns all EU subsidiaries of a third-country institution or of a third-country parent undertaking, the European resolution college shall be chaired by the Council. Where the paragraph 1 does not apply, the European resolution college shall be chaired by the Council only if the largest amount of total balance-sheet assets is held by a parent undertaking or subsidiary established in the Slovak Republic.

(5) On the basis of a mutual agreement between the Council and the third-country resolution authorities concerned, the requirement to establish a European college may be waived if other colleges perform the same functions, carry out the same tasks, and observe all the conditions and procedures, including those covering membership and participation in other resolution colleges; the provisions pertaining to the European college apply mutatis mutandis to these colleges or groups, as appropriate.

Section 86

Information exchange

(1) The Council, other competent resolution authorities, Národná banka Slovenska, and the supervisory authorities of Member States provide one another on request with all the information[102] relevant for the performance of tasks under this Act, while maintaining confidentiality in accordance with Section 8.

(2) Upon a request for information which has been provided by a third-country resolution authority, the Council seeks the consent of the third-party resolution authority for the onward transmission of that information, save where the third-country resolution authority has already consented to the onward transmission of that information.

(3) The relevant resolution authorities share information with the Ministry when it relates to a decision on a matter which requires notification, consultation or consent of the Ministry or which may have implications for public funds.

(4) The Council and other relevant resolution authorities, the competent supervisory authorities, the Ministry and other relevant ministries exchange confidential information, including recovery plans, with the relevant authorities of third countries in compliance with the confidentiality requirements only where the following conditions are met:
(a) the third-country authorities comply with the requirements and standards regarding professional secrecy;
(b) the information exchanged is necessary for the relevant third-country authorities to exercise their resolution powers under the law of the third country.

(5) Where confidential information comes from another Member State, the Council and other relevant resolution authorities, Národná banka Slovenska, the competent supervisory authorities, the Ministry and other relevant ministries may provide that information to the resolution authority of a third country if the resolution authority of the Member State from which that information comes agrees to the information exchange in the range and for the purpose specified in its written consent.

DIVISION TWELVE

RESOLUTION FINANCING ARRANGEMENTS

Section 87

The national fund

(1) Selected institutions shall participate in their resolution by making financial contributions (hereinafter ‘contributions’) to the financing of the effective use of resolution tools and the exercise of resolution powers under this Act.

(2) For the collection of contributions from institutions under paragraph 1 and for their use for resolution purposes under this Act and other legislation,[25] a national fund is set up for the Council.

(3) The national fund does not have legal personality and its resources do not constitute part of the state budget, nor part of any other public sector budget.

(4) The national fund has separate books of accounts and separate financial statements, including on- and off-balance sheets and notes to the financial statements. The compilation and management of these accounting documents is ensured by the Deposit Protection Fund at its own expenses. The Deposit Protection Fund may delegate all or part of these tasks to a third person, who is selected and authorised in agreement with the Council.

Section 88

Types of contributions

(1) Selected institutions shall pay the following contributions to the national fund:
(a) annual contributions; and
(b) extraordinary contributions.

(2) 'Annual contribution' means the amount that selected institutions are required to pay under paragraph 1 on an annual basis
(a) in euro;
(b) in irrevocable payment commitments as referred to in Section 89(3).

(3) 'Extraordinary contribution' means the amount to be paid in euro by a selected institution to replenish the resources of the national fund for financing the effective use of resolution tools and the exercise of resolution powers by the Council.

Section 89

Amount of contributions

(1) The amount of the annual contribution for a given year is determined by the Council, after consultation with the Ministry and the Deposit Protection Fund, for each of the selected institutions. The amount of the annual contribution for selected institutions under other legislation[102aa] is determined by the Single Resolution Board[102ab] through a procedure according to other legislation.[102ac]

(2) The annual contribution of each selected institution is calculated as the ratio of its liabilities (excluding own funds), less its own funds and covered deposits under other legislation,[1] to the aggregate liabilities (excluding own funds) of all selected institutions operating in the Slovak Republic, less covered deposits under other legislation[1] of all selected institution operating in the Slovak Republic. The annual contribution is calculated in consideration of the phase of the business cycle and the possible procyclical effect on the financial position of the contributing selected institution and the risk profile of that institution.

(3) The Council may stipulate that annual contributions may be paid in part in irrevocable payment commitments which are fully backed by collateral of highly liquid but low-risk assets unencumbered by any third-party rights and which may be used for the purposes specified in Section 92(5). The share of irrevocable payment commitments shall not exceed 30% of the total amount of contributions paid by a selected institution to the national fund for a given year.

(4) The amount of annual contributions is set by the Council pursuant to paragraph 1 so as to ensure that, over a transitional period ending 31 December 2024, the available resources of the national fund reach at least 1% of the amount of covered deposits (hereinafter 'target level') of selected institutions operating in the territory of the Slovak Republic. The Council may prolong this transitional period by up to four years if the national fund makes cumulative disbursements during that period in excess of 0.5% of the covered deposits under other legislation.[1] The Council sets the amount of annual contributions for the individual years so that the contributions are spread out in time as evenly as possible until the target level is reached.

(5) If, after the transitional period, the available resources of the national fund diminish below the target level, the regular annual contributions resume until the target level is reached.

(6) If, after the target level has been reached, the available resources of the national fund diminish by more than one-third of the target level, the Council, after consulting the Ministry and the Deposit Protection Fund, sets the amount of annual contributions at a level allowing for reaching the target level within six years of the date of decrease in the national fund's resources by more than one-third.

(7) In exceptional circumstances, mainly when the national fund does not have enough resources to cover the expenses incurred in connection with the financing of the effective use of resolution tools and the exercise of resolution powers, the Council may, after consulting the Ministry and the Deposit Protection Fund, require institutions to pay extraordinary contributions in accordance with paragraph 2, unless other legislation[63] provides otherwise.

(8) If the amount of extraordinary contributions is set prior to the setting of the amount of annual contributions, the amount of extraordinary contributions may not be greater than three times the amount of annual contributions set for the previous year.

(9) The Council may grant a selected institution full or partial exemption from the obligation to pay extraordinary contributions in order to avoid a possible threat to its liquidity and solvency. Such exemption may be granted for a maximum of six months, but it may be granted repeatedly if the selected institution so requests.

(10) On expiry of the exemption period referred to in paragraph 9, the relevant selected institution shall pay an extraordinary contribution to the national fund in the amount that it would have to pay without being exempted from the obligation to pay such contributions.

(11) The Council's decisions setting contributions to the national fund and the related decision-making process (hereinafter 'contribution-setting decisions') are not subject to other legislation on proceedings in financial market matters,[26] nor to the administrative code; in its contribution-setting decisions, the Council proceeds at its own discretion and within the limits laid down in this Act.

(12) The Council's contribution-setting decisions shall state the amount of the contribution, the time limit for payment of the contribution, and the provisions of this Act and other legislation[102a] under which the amount of the contribution was set and under which the contribution is due to be paid to the national fund within the period laid down in this Act or stipulated by the Council pursuant to this Act. The written version of a decision shall further state who issued the decision, the date of issue, the business name of the selected institution required to pay the contribution and the address of its registered office and its identification number, and the fact that the decision is final and not subject to appeal. Contribution-setting decisions must bear an official circular stamp including the state emblem, and they must bear the signature of the Chair of the Council or of a person acting on the Chair's behalf, along with the printed full name and position of the signatory; decisions shall expressly state that they were issued by the Council in a plenary meeting.

(13) The Council's contribution-setting decisions take effect on the date when the decision is delivered to the selected institution addressed by the decision; such decisions are not subject to appeal and there is no judicial remedy against them.[102b]

(14) After being delivered, a Council's contribution-setting decision becomes enforceable when the time limit stipulated for the payment of the contribution expires.

(15) A final and enforceable contribution-setting decision of the Council constitutes an execution title and grounds for judicial execution.

(16) The Council issues corrigenda of typing and counting errors, and any other apparent errors, identified in the written version of its contribution-setting decisions, and promptly informs the selected institutions addressed by the decisions of these corrigenda.

Section 90

Date of contribution payment

(1) Selected institutions shall pay their annual contribution to the national fund by 30 April of each calendar year, unless the Council sets another deadline for the payment of the annual contribution or part thereof.

(2) The deadline for extraordinary contribution payment shall be set by the Council.

(3) An institution that fails to pay its contribution to the national fund properly and in due time shall pay interest on the due amount for late payment.[103]

(4) The provisions of paragraph 3 are without prejudice to the responsibility of selected institutions under other legislation.[104]

Section 91

The national fund's resources

(1) The resources of the national fund comprise:
(a) funds for the resolution of selected institutions, transferred to the national fund from the Single Resolution Fund set up under other legislation;[105]
(b) contributions paid under Section 88(2)(a) and (3) (hereinafter 'financial contributions');
(c) contributions paid under Section 88(2)(b);
(d) interest charged for late payment under Section 90(3);
(e) interest income from the use of funds under Section 92(4)(g);
(f) loans provided to the national fund by selected institutions, financial institutions or third persons, where the conditions set out in paragraph 4 are met;
(g) loans provided to the national fund by the financing arrangements of other Member States, where the conditions set out in paragraph 5 are met;
(h) other income under other legislation.[105aa]

(2) The national fund's resources as referred to in paragraph 1 are deposited in separate accounts with Národná banka Slovenska or with the State Treasury; financial resources of the national fund that are deposited in these separate accounts are not subject to enforcement of the decision[105ab] and are excluded therefrom. A separate account is kept for each of the types of income listed in paragraphs 1 and 3 and for funds from each loan received, except for income specified in paragraph 1 (d), (e) and (h). Such income is deposited in loan accounts.

(3) Where the conditions set out in Section 97(1) are met, as well as those stipulated by other legislation,[105] an additional source of funding for the national fund may be funds provided from the Deposit Protection Fund under other legislation.[105a]

(4) The Council may conclude loan agreements to obtain funding for the national fund pursuant to paragraph 1(f) if the funds obtained under paragraph 1(a) to (e) are insufficient or the national fund has no unavailable funds to cover the losses, costs or other expenses incurred in connection with the effective resolution of institutions.

(5) The Council may also apply for a loan for the national fund to the financing arrangements of other Member States where the national fund's resources raised under Section 88(1) are insufficient or unavailable for the coverage of the losses, costs or other expenses incurred in connection with the effective resolution of institutions, and where a loan as referred to in paragraph 1(f) cannot be obtained under reasonable terms.

(6) The interest rate, maturity, and other terms agreed-upon in loan agreements made with the financing arrangements of other Member States are agreed between the Council and the relevant financial arrangements of other Member States. Loan agreements made with financing arrangements shall contain the same interest rate, maturity and other terms, except in cases where the financing arrangements involved agree otherwise. The amount of a loan received from the financial arrangement of another Member State corresponds to the proportion of covered deposits in the Member State of that financing arrangement to the total amount of covered deposits in the Member States that provide loans to the national fund, unless they agree otherwise.

(7) An outstanding loan provided to a financing arrangement of another Member State may be included in the target level of the national fund.

(8) If the funds provided under paragraph 3 are higher than the expected losses of the Deposit Protection Fund that would have to be incurred by the Deposit Protection Fund if the selected institution was wound up in bankruptcy proceedings under other legislation,[62] the Deposit Protection Fund is entitled to compensation for the difference from the national fund's resources, while the value of that difference is determined pursuant to Section 77.

(9) Loans provided to the national fund are eligible for a State guarantee under other legislation.[105b]

Section 92

Management and use of the national fund's resources

(1) The national fund's resources are managed and used as decided by the Council.

(2) The management of the national fund's resources is ensured for the Council by the Deposit Protection Fund at its own expenses under another act,[105c] though the Deposit Protection Fund may delegate this task, in whole or in part, to a third person who is selected and authorised in agreement with the Council. In managing the national fund's resources, the Deposit Protection Fund is eligible and authorised to act on behalf of the Council and the national fund,[105d] as well as to perform the following tasks:

(a) arranging for the payment of financial contributions to the national fund and collecting such contributions, including interest and fees;
(b) compiling statements of contributions due from selected institutions;
(c) ensuring the execution of decisions concerning the national fund's resources or the interest and fees related to them; for these purposes or for those mentioned in subparagraph (a), the Deposit Protection Fund may, on the Council's behalf, file submissions and motions to courts, other public authorities, and to court executors,[105d] as well as to grant authorisation for representation and to conclude contracts for the provision of legal services[106] related to the management of the national fund's resources;
(d) handling the national fund's resources and transferring funds from these resources to the Single Resolution Fund.

(3) The Council provides for the keeping of records for the national fund, the valuation of claims and collaterals provided as security for claims, and the replenishment of collaterals to their original level where collaterals expire before maturity or their value falls or where the income from collateral realisation would probably be insufficient for the coverage of the claims secured; the keeping of such records and the valuation/replenishment of such collaterals are ensured by the Deposit Protection Fund at its own expenses. The Deposit Protection Fund may delegate these tasks, in whole or in part, to a third person who is selected and authorised after consultation with the Council.

(4) The national fund's resources may only be used in a range needed for financing the effective resolution of institutions under this Act for the following purposes:
(a) hedging the liabilities of the clients of a selected institution under resolution towards that selected institution or the liabilities of a selected institution under resolution, its subsidiaries, bridge institution or asset management vehicle;
(b) providing loans to a selected institution, its subsidiaries, bridge institution or asset management vehicle;
(c) providing funds to a bridge institution or an asset management vehicle free of charge and on a no return basis;
(d) paying compensation to shareholders or creditors in accordance with Division Ten of this Act;
(e) providing funds to a selected institution instead of writing off its debt or converting the liabilities of certain creditors, if the bail-in tool is applied and the Council decides to deprive certain creditors of their right to apply the bail-in tool in accordance with Section 59(2);
(f) lending funds voluntarily to the financing arrangements of other Member States, while the amount of funds provided to national funds is determined according to the proportion of covered deposits as defined in other legislation[1] to the sum of covered deposits and protected client assets in the financing arrangements of other Member States, unless the Council, the Deposit Protection Fund, and the financing arrangements of other Member States agree otherwise; the interest rate, maturity period and other contractual terms under which the funds will be provided to the financing arrangements of other Member States, are agreed between the Council and the relevant financing arrangements of other Member States;
(g) repaying loans, interest on loans, and other costs related to loans provided to the national fund;
(h) using the national fund's resources in any of the combinations specified in subparagraphs (a) to (g).

(5) The national fund's resources may also be used to provide a loan to the acquirer where the property transfer tool is applied in relation to an institution under resolution.

(6) The Council may also conclude a loan agreement if requested by the financing arrangement of another Member State.

(7) The national fund's resources may also be used in the cases referred to in Section 95 and Section 91(8) and to cover other expenses under other legislation.[106a]

(8) The national fund's resources may not be used directly to absorb the losses of a selected institution or other entity under resolution, nor to replenish its own funds pursuant to Section 58(1)(a). Where the losses of an institution under resolution are partially transferred to the national fund as an indirect consequence of the use of the national fund's resources for the purpose specified in paragraph 5, the procedure described in Section 59 is applied.

Section 93

Title repealed as of 1 January 2016

(1) Financial transfers from the national fund to the Single Resolution Fund for resolution purposes are governed by Section 92 of this Act, the relevant provisions of other legislation,[105] and by an international agreement by which the Slovak Republic is bound and which was published in the manner stipulated by law.[106b]

(2) The government represented by the ministry is entitled to conclude an agreement with the Single Resolution Board on a credit mechanism for resolution financing of credit institutions.[3]

Section 94

Rights and duties of the Council in respect of the national fund

The Council may request any relevant information and data from a selected institution for the performance of its functions as a resolution authority. The selected institution shall promptly deliver the requested information and data to the Council in printed or electronic form, mainly data for the calculation of contributions pursuant to Section 89(1). If the Council finds inconsistencies in the information so provided, it reports the inconsistencies revealed to the selected institution concerned, which shall eliminate those inconsistencies without delay and send the corrected information back to the Council. The Council verifies whether the inconsistencies have been eliminated and takes the necessary steps to ensure the correct performance of its activities. The Council has the power to carry out a check in any selected institution in which inconsistencies have been found repeatedly for the correct performance of its tasks in accordance with this Act and the related activities.

Section 95

Use of the national fund's resources for resolution financing at group level

(1) If the group-level resolution authority responsible for exercising resolution powers over the group to which the selected institution belongs decides to take resolution actions at group level, the Council uses the national fund's resources in accordance with this Act.

(2) The Council, if requested by the relevant group-level resolution authority, cooperates in the preparation of a financing plan in accordance with Section 96.

Section 96

Financing plan

(1) For the purposes of this Act, 'financing plan' means a plan prepared by a group-level resolution authority in accordance with the decision-making procedures referred to in Sections 84 and 85.

(2) The financing plan shall include:

(a) a valuation prepared in accordance with Section 51;
(b) the losses recognised by each selected institution in the group at the moment the resolution tools are applied;
(c) for each selected institution in the group, the losses that would be suffered by each class of shareholders and creditors;
(d) any contribution that the Deposit Protection Fund would be required to make in accordance with other legislation[1] or that required from the Investment Guarantee Fund under other legislation;[2]
(e) the total contribution made by all resolution financing arrangements and the purpose and form of that contribution;
(f) the basis for calculating the amount that each of the national financial arrangements of the Member States where the group entities under resolution are located is required to contribute to the financing of the group's resolution in order to build up the total contribution referred to in subparagraph (e);
(g) the amount that each of the national financing arrangements of the Member States where selected institutions in the group are located is required to contribute to the financing of the group's resolution and the form of those contributions;
(h) the amount of borrowing that the financing arrangements of the Member States where selected institutions in the group are located will contract in accordance with Section 93;
(i) a timeframe for the use of the financing arrangements of the Member States where the relevant group entities are located, which should be capable of being extended where appropriate.

(3) Unless agreed otherwise in the financing plan, the basis for apportioning the total contribution of the group financing arrangement among the individual national financing arrangements shall in particular have regard to:

(a) the proportion of the group's risk-weighted assets held at individual selected institutions within the group;
(b) the proportion of the group's assets held at individual selected institutions within the group;
(c) the proportion of the losses incurred by individual selected institutions within the group, giving rise to the need for group resolution;
(d) the proportion of the group financing arrangement's resources which are expected to be used for the resolution of the group;
(e) compliance with the principles set out in the group resolution plan in accordance with Section 26(4)(g), unless otherwise agreed in the financing plan.

(4) Unless agreed otherwise in the financing plan, the basis for apportioning any income or yield from the use of group financing arrangements among the individual national financing arrangements is the amount of contributions to resolution financing.

Section 97

Principles for the use of the Deposit Protection Fund's resources

(1) The Council uses Deposit Protection Fund's resources in accordance with other legislation[1] for resolution and to enable depositors to have continuous access to their deposits. The Council uses the Deposit Protection Fund's resources, where:

(a) the bail-in tools are applied in the amount of written-off covered deposits, if the covered deposits were included into the bail-in tool and written-off to the same extent as other liabilities with the same priority ranking under other legislation,[62] at the amount specified in Section 60(1)(a);

(b) other tool than the bail-in tool is applied in the amount of depositors' losses incurred in connection with covered deposits, if the covered deposits were included into other tool, to the extent of other depositors' losses with the same priority ranking under other legislation.[62]

(2) Where the bail-in tool is applied, the Council may not use the Deposit Protection Fund's resources for the coverage of costs incurred by recapitalisation of the selected institution or bridge institution pursuant to Section 58(1).

(3) Where a valuation carried out under Section 77 reveals that the Deposit Protection Fund's resources used for resolution were higher than its expected losses, the Deposit Protection Fund is entitled to compensation of the difference from the national fund in accordance with Section 78.

(4) The Council ensures that the amount of resources referred to in Section 96(2)(d) determined in compliance with paragraph 1 meets the conditions set out in Section 51.

(5) The Deposit Protection Fund's resources as referred to under paragraph 1 will be provided in the euro currency.

DIVISION THIRTEEN

SANCTIONS

Section 98

(1) If the Council finds shortcomings in the activities of a selected institution, including infringement of the conditions stipulated in a decision taken by the Council in respect of the selected institution or infringement or avoidance of the provisions of this Act or the legally binding acts of the European Union pertaining to bank resolution, the Council may, according to the seriousness, range, duration, consequences, and nature of the shortcomings revealed, impose the following penalties or other measures on the selected institution:

(a) an order requiring the selected institution to submit certain statements and reports;

(b) an order requiring the selected institution to stop conducting any unauthorised activity;

(c) an order requiring the institution to release a public statement indicating the natural person, selected institution, financial selected institution, EU parent institution or other legal person responsible, and the nature of the infringement;
(d) a temporary ban against any member of the statutory body or supervisory board of the selected institution or against a manager of that institution or against any other natural person who is held responsible, to exercise managerial functions in the institution under resolution;
(e) an administrative fine of EUR 3,300 to EUR 332,000 or, in the case of a repeated or serious deficiency, a fine of up to 10% of the total annual net turnover for the preceding business year, where the legal person is a subsidiary of the parent institution; the relevant turnover is the main parent institution's turnover according to its consolidated financial statements for the preceding business year;
(f) an administrative fine of up to twice the amount of the benefit derived from the infringement where that benefit can be determined;
(g) an order requiring the institution to correct its accounting books or other records as required by the Council or the auditor;
(h) an order requiring the selected institution to release a correction of any incomplete, inaccurate, or untrue information it has published in accordance with the disclosure requirement stipulated by law;
(i) an order requiring the institution to settle any losses from business operations using share capital, subsequent to the use of retained earnings from previous years, funds created from profits, and capital funds to cover those losses;
(j) an order requiring the selected institution to adopt a measure to improve risk management;
(k) an order requiring the selected institution to reduce any major risk it faces when carrying on its activities;
(l) an order requiring the selected institution to maintain assets in the prescribed range and amount;
(m) an order requiring the selected institution to restrict or suspend the performance of certain activities or services or the conduct of certain types of transactions.

(2) If the Council finds shortcomings in the activities of an institution under resolution pursuant to paragraph 1, the Council may propose that Národná banka Slovenska revokes the selected institution's authorisation to operate.

(3) The Council may impose a fine upon a member of a selected institution's statutory body or supervisory board, the chief executive officer of a foreign selected institution's branch or their deputy, general proxy, a manager of a selected institution or the branch of a foreign selected institution, for any violation of the provisions of this Act or other legislation of general application pertaining to resolution or for any breach of the conditions or obligations imposed by a decision issued by the Council, which fine may, depending on the gravity, nature, and duration of the infringement, go up to EUR 5,000,000.

(4) Fines and corrective measures as referred to in paragraphs 1 and 3 may be imposed concurrently and repeatedly. Fines imposed under this Act represent income for the state budget of the Slovak Republic.

(5) Fines or corrective measures as referred to in paragraphs 1 and 2 may be imposed within two years from the detection of shortcomings, but no later than within ten years of their occurrence. A fine as specified in paragraph 3 may be imposed within one year from the detection of shortcomings, but no later than within three years of their occurrence. The

limitation periods mentioned in the first and second sentences are interrupted when an event causing such interruption under another act[107] occurs, and a new limitation period will begin to lapse from the date of interruption. Shortcomings in the operation of a selected institution over which the Council exercises its powers under this Act, specified in an on-site inspection protocol, are considered detected from the date of on-site inspection carried out under another act.[108]

(6) Apart from corrective measures or penalties approved in resolution proceedings, the Council is entitled to impose upon a selected institution the obligation to submit special statements or reports and to discuss any deficiencies in the selected institution's activities with its statutory body members, supervisory board members, managers, and with the heads of its internal control and internal audit units who are obliged to provide cooperation if requested.

(7) Information on corrective measures and fines as referred to in paragraphs 1 to 3, against which there is no appeal, and information on how an appeal against other sanctions is to be lodged and the results of such appeals is published on the Council's website for at least five years, as soon as the selected institution is notified of the imposition of a corrective measure or fine. The Council publishes mainly information on the type of the corrective measure or fine imposed, the nature of the infringement, the business name, registered office, and identification number of the selected institution, or the full name, residence address, or business name, registered office, and identification number of the person on which a corrective measure or fine has been imposed. Such information is published anonymously up to the time when anonymous publishing is no longer justified, where:

(a) a natural person is involved, and personal data disclosure is inappropriate;
(b) there is a justified risk to financial market stability, or an examination is underway pursuant to other legislation;[109]
(c) there is a justified risk that the bank or natural person may suffer a serious loss or damage.

(8) The Council notifies the European supervisory authority (European Banking Authority) of the sanctions imposed in order to enable an exchange of information between the relevant supervisory authorities through the central database kept by the European supervisory authority (European Banking Authority). The Council provides the European supervisory authority (European Banking Authority) with any information that is needed to keep the central database up to date.

(9) The Council shall preserve the anonymity of a selected institution's employee, manager, statutory body member or supervisory board member who has provided any information to the Council about shortcomings in the selected institution's activities.

(10) Fines imposed with finality are enforced by the Government Audit Office.[109a] To this end, the Council sends the Government Audit Office copies of the legally valid decisions under which the fines were imposed.

DIVISION FOURTEEN

COMMON, TRANSITIONAL AND FINAL PROVISIONS

Section 99

Common provisions

(1) Actions taken by the Council under this Act and under other legislation[26] are not subject to the Administrative Court Procedure Code.

(2) Responsibility for any damage caused by the Council while exercising its powers in matters falling within the competence of the Council under this Act and other legislation is subject to another act.[28g]

Section 99a

Transitional provisions for regulations in effect from 1 January 2016

(1) Proceedings under this Act, commenced before 1 January 2016, shall be completed in accordance with this Act. The legal effects of acts that occurred in the proceedings before 1 January 2016 shall be preserved.

(2) The provisions of Sections 4 to 8 concerning the members of the Council, in effect as of 1 January 2016, shall also apply to persons who were appointed as members of the Council before 1 January 2016 (with effect from 1 January 2016); the persons appointed as Council members before 1 January 2016 shall meet the conditions laid down in Section 4(5) by 1 January 2017 at the latest.

(3) An appeal[111] against a decision of the Council in a matter that falls outside the competence of the Council's executive member, except for the decision in which the Council has specified the amount of contributions under Section 89, may be lodged to the Supreme Court of the Slovak Republic[112] within 15 days of the delivery date of the Council's decision, but no later than 30 June 2016.

(4) Until 30 June 2016, first-instance decisions taken by the Council in matters that fall outside the competence of the Council's executive member are not subject to any other legislation.[113]

(5) Until 30 June 2016, the legality of the Council's final decisions issued under this Act, with the exception of decisions specifying the amount of contributions payable under Section 89, may be reviewed under other legislation;[114] the decisions or procedures of the Council may be reviewed exclusively by the Supreme Court of the Slovak Republic.

(6) With effect from 1 July 2016, the legality of the Council's decisions may be reviewed in accordance with the Administrative Court Procedure Code.

Section 99b

Transitional provisions for regulations effective from 28 December 2020

(1) The Council shall, in relation to Section 31(1), set an adequate transitional period for a selected institution or entity referred to in Section 1(3)(b) to (d) for meeting the requirement laid down in Section 31d or 31e or the requirement arising from Section 31a(4), (5) or (7) depending on which requirement applies to the selected institution or entity referred to in Section 1(3)(b) to (d). This transitional period shall be set so that it should elapse no later than 1 January 2024. The Council may reassess the length of this period according to the first sentence so that it should elapse by 1 January 2024.

(2) The Council may, in contrast with paragraph 1, set a transitional period elapsing after 1 January 2024. Such transitional period must be justified by the Council on the basis of the criteria set out in paragraph 7, with the following aspects taken into account:

(a) the financial situation of the selected institution or entity referred to in Section 1(3)(b) to (d);
(b) the assumption that the selected institution or entity referred to in Section 1(3)(b) to (d) is able to ensure compliance with the requirement set out in Section 31d or 31e or the requirement arising from Section 31a(4) and (5) or (7), whichever is relevant;
(c) the fact whether the selected institution or entity referred to in Section 1(3)(b) to (d) is able to replace the liabilities that no longer meet the criteria for justification or maturity under other legislation[61b] and under Section 31a or 31e(5), and, if not, whether its inability to do so results from the disruption of the institution or of the market as whole.

(3) The Council shall set a preliminary goal for the requirement referred to in paragraph 1, whichever requirement applies to the selected institution or entity referred to in Section 1(3)(b) to (d). The preliminary goal must ensure a linear increase in eligible liabilities and in own funds needed for meeting the minimum requirement. The selected institution or entity referred to in Section 1(3)(b) to (d) must achieve the preliminary goal no later than 1 January 2022.

(4) The time limit for resolution entities to meet the requirements set out in Section 31b(15) and (16) or in Section 31b(17) to (19) will lapse no later than 1 January 2022.

(5) By way of derogation from Section 31(1), the Council shall set an adequate transitional period for meeting the requirement laid down in Section 31d or 31e, or the requirement arising from Section 31a(4) and (5) or (7), whichever applies to the selected institution or entity referred to in Section 1(3)(b) to (d), in relation to which resolution actions have been taken or the power to write down or convert capital instruments and eligible liabilities has been exercised in accordance with Section 70.

(6) The Council shall, for the purposes of paragraphs 1 to 5, Section 31a(17) and Section 31b(32) and (33), notify the selected institution or entity referred to in Section 1(3)(b) to (d) of the planned minimum requirement for each 12-month period during the transitional period in order to enable a gradual increase in their capacity for loss-absorption and recapitalisation. At the end of the transitional period, the minimum requirement must equal the value determined according to Section 31a(4) and (5) or (7), Section 31b(15) and (16) or (17) to (19), Section 31d or Section31e, whichever requirement applies to the selected institution or entity referred to in Section 1(3)(b) to (d). The Council may reassess the planned minimum

requirement notified in accordance with the first sentence.

(7) In setting a transitional period according to paragraphs 1 to 6, the Council shall take into account the following facts:

(a) the dominance of deposits and the absence of debt instruments in the financing model;
(b) access to the capital market in eligible liabilities;
(c) the extent to which the resolution entity relies on Common Equity Tier 1 capital in meeting the requirement laid down in Section 31d.

Section 100

This Act transposes the legally binding acts of the European Union listed in the Annex hereto.

ARTICLE II

This Act took effect on 1 January 2015.

Act No 39/2015, Article VI, took effect on 1 April 2015.

Act No 239/2015, Article III, took effect on 15 October 2015.

Act No 437/2015 took effect on 1 January 2016, with the exception of Article I, Section 6e(13) to (15) point 21, and Article I point 90, all of which took effect on 1 July 2016.

Act No 291/2016 took effect on 15 November 2016.

Act No 279/2017, Article XIV, took effect on 1 January 2018.

Act No 177/2018, Article CLI, took effect on 1 January 2019.

Act No 373/2018 took effect on 1 January 2019, with the exception of the following: Article VI points 2, 11, 18, 37 to 39, 41, 42, 44 and 49, and Article VIII points 2 to 7, 13 and 14, all of which took effect on 21 July 2019.

Act No 281/2019 took effect on 1 October 2019.

Act No 390/2019 took effect on 1 January 2020, with the exception of the following: Articles I to IV, Article V, points 2 to 6, and 8 to 12, Articles VI to XIV, and Articles XVI to XIX, all of which take effect on 1 October 2020.

Act No 343/2020 took effect on 28 December 2020, with the exception of Article I, Section 31g(5), point 45, which takes effect on 1 January 2024.

Act No 209/2021 took effect on 26 June 2021.

Andrej Kiska
Peter Pellegrini
Robert Fico

SCHEDULE OF LEGALLY BINDING ACTS OF THE EUROPEAN UNION ENACTED IN SLOVAK LAW BY THIS ACT

1. Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms, and amending Council Directive 82/891/EEC and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014).

2. Directive (EU) 2017/2399 of the European Parliament and of the Council amending Directive 2014/59/EU as regards the ranking of unsecured debt instruments in insolvency hierarchy (OJ L 345, 27.12.2017).

3. Directive (EU) 2019/879 of the European Parliament and of the Council of 20 May 2019 amending Directive 2014/59/EU as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms and Directive 98/26/EC (OJ EU L 150, 7.6.2019).

4. Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU (OJ L 314, 5.12.2019).

Endnotes

[1] Act No 118/1996 on the protection of bank deposits (and amending certain laws), as amended.

[2] Sections 80 to 98 of Act No 566/2001 on securities and investment services (and amending certain laws) (the Securities Act), as amended.

[3] Section 2(1) of Act No 483/2001 on banks (and amending certain laws), as amended by Act No 213/2014.

[4] Section 54(1) of Act No 566/2001, as amended.

[5] Section 54(11) of Act No 566/2001, as amended.

[6] Section 5(ab) of Act No 483/2001, as amended by Act No 213/2014.

[7] Articles 6 to 17 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, amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013).

[8] Section 33a(k) of Act No 483/2001, as amended by Act No 213/2014.

[9] Section 33a(s) of Act No 483/2001, as amended by Act No 213/2014.

[10] Section 33a(l) of Act No 483/2001, as amended by Act No 213/2014.

[11] Section 33a(n) of Act No 483/2001, as amended by Act No 213/2014.

[12] Section 33a(p) of Act No 483/2001, as amended by Act No 213/2014.

[13] Section 33a(t) of Act No 483/2001, as amended by Act No 213/2014.

[14] Section 33a(u) of Act No 483/2001, as amended by Act No 213/2014.

[15] Section 22(3) of Act No 431/2002 on accounting, as amended.
Article 4(1) point 15 of Regulation (EU) No 575/2013, as amended.

[15a] Article 4(1) point 29 of Regulation (EU) No 575/2013, as amended.

[16] Section 22(4) of Act No 431/2002, as amended by Act No 561/2004.
Article 4(1) point 16 of Regulation (EU) No 575/2013, as amended.

[16a] Article 4(1) point 41 of Regulation (EU) No 575/2013, as amended.

[16aa] Article 4(1) point 135 of Regulation (EU) No 575/2013, as amended.

[17] Section 5 of Act No 566/2001, as amended.
Article 4(1) point 50 of Regulation (EU) No 575/2013, as amended.

[18] Articles 107 to 109 of the Treaty on the Functioning of the European Union (OJ C 326, 26.10.2012).

[19] Articles 52(1) and Article 63 of Regulation (EU) No 575/2013, as amended.

[19a] Article 28(1) to (4), Article 29(1) to (5), Article 31(1) of Regulation (EU) No 575/2013, as amended.

[19aa] Article 50 of Regulation (EU) No 575/2013, as amended.

[19b] Article 52(1) of Regulation (EU) No 575/2013, as amended.

[19c] Article 63 of Regulation (EU) No 575/2013, as amended.

[19ca] Article 72a(1)(b) of Regulation (EU) No 575/2013, as amended.

[19cb] Article 72a and 72b(1), (2), (6) and (7) of Regulation (EU) No 575/2013, as amended.

[19d] Section 2(7) of Act No 483/2001, as amended by Act No 213/2014.

[19e] Section 54(4) of Act No 566/2001.

[19f] Articles 107 to 109 of the Treaty on the Functioning of the European Union (OJ EU C 326, 26.10.2012).
Section 2 of Act No 276/2009 on measures to mitigate the effects of the global financial crisis on the banking sector (and amending certain laws), as amended by Act No 437/2015.
Act No 358/2015 on the regulation of relations in the field of State aid and de minimis aid (and amending certain laws) (the State Aid Act).

[19g] Division Three of Act No 566/2001, as amended.

[19h] Section 1 of Act No 530/1990 on bonds, as amended.

[19i] Article 2(1) of Annex I of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014), as amended.

[19j] Section 44(1), (2) and (9), Section 47(1) to (5) and (8) to (10), and Section 48(2), (5), (6), (9) and (11) of Act No 483/2001, as amended.

[19k] Section 33a(i) of Act No 483/2001, as amended by Act No 213/2014.

[19l] Article 4(1)(133) of Regulation (EU) No 575/2013, as amended.

[20] Act No 566/1992 on Národná banka Slovenska, as amended.

[21] Section 6(2)(c) of Act No 566/1992, as amended.

[22] Section 5(2), part of the first sentence after the semicolon, of Act No 747/2004 on financial market supervision (and amending certain laws), as amended.

[22a] Sections 6 and 7 of Act No 566/1992, as amended.

[22b] Section 26(1) of Act No 215/2004.

[22ba] Section 10(4)(a) of Act No 330/2007 on the Criminal Register (and amending certain laws), as amended by Act No 91/2016.

[22bb] Section 34a(1) and (2) and Section 34b of Act No 566/1992, as amended.
Section 10(1), (5), (6), (7), (10) and (11) and Section 12 of Act No 330/2007, as amended.

[22c] Section 9(3) of the Labour Code, as amended by Act No 257/2001.

[22d] Section 26(2) of Act No 215/2004.

[22e] Section 29 of Act No 215/2004.

[22f] Section 28(1) of Act No 215/2004.

[23] For example, Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board (OJ L 331, 15.12.2010); Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European supervisory authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, as amended (OJ L 331, 15.12.2010); Regulation (EU)

No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European supervisory authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC, as amended (OJ L 331, 15.12.2010); Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European supervisory authority (European Securities Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC, as amended (OJ L 331, 15.12.2010); and Council Regulation (EU) No 1096/2010 of 17 November 2010 conferring specific tasks upon the European Central Bank concerning the functioning of the European Systemic Risk Board (OJ L 331, 15.12.2010).

[23a] Section 176(1) of Act No 7/2005 on bankruptcy and restructuring (and amending certain laws), as amended.

[24] Article 16 of Regulation (EU) No 1093/2010, as amended.

[25] For example, Act No 483/2001, as amended; Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010, as amended; Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.7.2014).

[26] Act No 747/2004, as amended.

[26a] Article 43(1)(c) of Regulation (EU) No 806/2014, as amended.

[27] Section 11 of Act No 747/2004, as amended.

[28] Section 14 of Act No 747/2004, as amended.

[28a] For example, Articles 70(2) and 71(2) of Regulation (EU) No 806/2014.

[28b] Sections 12 to 34 of Act No 747/2004, as amended.

[28c] Section 27 of Act No 747/2004, as amended.

[28d] Section 5 of Act No 747/2004, as amended.

[28e] Section 6 of Act No 566/1992, as amended.

[28f] Sections 177 to 193 of the Administrative Court Procedure Code.

[28g] Act No 514/2003 on liability for damage caused by the exercise of public authority (and amending certain laws), as amended.

[28h] Sections 38 to 40 of Act No 233/1995 on court executors and execution activities (and amending certain laws) (the Execution Code), as amended.

[28i] Sections 22 to 24 and 27 of Act No 153/2001 on the public prosecution service, as amended by Act No 102/2010.

[28j] Section 14(6) of Act No 747/2004, as amended.

[29] Sections 2, 3, 29, 39(1), and 73a to 73k of Act No 323/1992 on notaries and notarial activities (the Notarial Code), as amended.

[30] Section 34 of Act No 540/2007 on auditors, audit and audit oversight (and amending Act No 431/2002 on accounting), as amended.

[31] Section 2(2) of Act No 540/2007.

[32] Section 2(3) of Act No 540/2007.

[33] Sections 99 to 111 of Act No 566/2001, as amended.

[34] Section 2 of Act No 429/2002 on stock exchanges, as amended.

[35] For example, Act No 233/1995 on court executors and execution activities (and amending certain laws) (the Execution Code), as amended; Act No 382/2004 on experts, interpreters and translators (and amending certain laws), as amended; Act No 7/2005 on bankruptcy and restructuring (and amending certain laws), as amended.

[36] For example, Act No 483/2001, as amended.

[37] Section 17(3) and (4) of Act No 747/2004.

[38] For example, Regulation (EU) No 1092/2010 and Regulation (EU) No 1093/2010, as amended.

[39] Section 41 of Act No 566/1992, as amended.

[40] For example, Act No 540/2007, as amended.

[41] Act No 211/2000 on free access to information (and amending certain laws) (the Freedom of Information Act), as amended.

[42] For example, Section 11(1)(g) and (h) of Act No 211/2000, as amended.

[43] Sections 91 of Act No 483/2001, as amended.

[44] Section 41 of Act No 566/1992, as amended.
Article 37(37.1) of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank (OJ C 326, 26.10.2012).

[44a] Article 18 of Regulation (EU) No 806/2014, as amended.

[44b] Act No 483/2001, as amended.
Act No 566/2001, as amended.
Act 7/2005, as amended.
Act 492/2009, as amended.

[44c] Article 14 of Regulation (EU) No 648/2012, as amended.

[44d] Article 25 of Regulation (EU) No 648/2012, as amended.

[44e] Section 3(3) of Act No 118/1996, as amended.

[45] Section 14(1)(d) of Act No 566/2001.

[46] Sections 28 of Act No 483/2001, as amended.
Section 70 of Act No 566/2001, as amended.

[47] Section 120 of Act No 566/2001, as amended.

[48] For example, Act No 530/2003 on the Commercial Register (and amending certain laws), as amended.

[49] Section 33p(7) of Act No 483/2001, as amended by Act No 371/2014.

[50] Section 65a(1)(a) to (h) of Act No 483/2001, as amended by Act No 437/2015.

[51] Section 54 of Act No 483/2001, as amended.

[52] Article 9 of Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) (OJ L 177, 4.7.2008).

[55] Section 7(14) of Act No 483/2001, as amended.

[56] Section 35(4) of Act No 483/2001, as amended.

[57] Sections 14, 15 and 27 of Act No 586/2003 on the legal profession (and amending Act No 455/1991 on small business activity (the Trade Licensing Act), as amended.

[58] Section 5b of Act No 530/2003, as amended by Act No 136/2010.

[59] Act No 429/2002, as amended.

[60a] Article 2(2) of Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012), as amended.

[61] Article 81 of Regulation (EU) No 648/2012, as amended.

[61a] Section 33k(13) of Act No 483/2001, as amended by Act No 340/2020.

[61b] Article 72b and 72c of Regulation (EU) No 575/2013, as amended.

[61c] Article 26(2) of Regulation (EU) No 575/2013, as amended.

[61d] Article 92a of Regulation (EU) No 575/2013, as amended.

[61e] Article 92(3) of Regulation (EU) No 575/2013, as amended.

[62] Act No 7/2005, as amended.

[63] Regulation (EU) No 806/2014.

[63a] Article 281 of the Treaty on the Functioning of the European Union.

[64] Section 6 of Act No 483/2001, as amended.

[65] Section 24 of Act No 566/1992, as amended.

[65a] Section 29a of Act No 483/2001, as amended by Act No 340/2020.

[66] Regulation (EU) No 1093/2010, as amended.

[66a] Article 92a and 494 of Regulation (EU) No 575/2013, as amended.

[66b] Article 429 and 429a of Regulation (EU) No 575/2013, as amended.

[66c] Article 387 and 403 of Regulation (EU) No 575/2013, as amended.

[68] Article 25(1) of Regulation (EU) No 1093/2010, as amended.

[68a] Article 19 of Regulation (EU) No 1093/2010, as amended.

[70] Article 113(6) of Regulation (EU) No 575/2013, as amended.

[70a] Articles 72a, 72b(1) and (2)(a) to (c) and (e) to (n), Article 72b(3) to (5) and Article 72c of Regulation (EU) No 575/2013, as amended.

[70b] Article 92a or 92b of Regulation (EU) No 575/2013, as amended.

[70c] Article 72k of Regulation (EU) No 575/2013, as amended.

[70d] Part Two, Title I, Chapter 5a of Regulation (EU) No 575/2013, as amended.

[70e] Article 72a(2)(l) of Regulation (EU) No 575/2013, as amended.

[70f] Articles 104 and 105 of Regulation (EU) No 575/2013, as amended.

[70g] Article 72b(3) of Regulation (EU) No 575/2013, as amended.

[70h] Article 92(1)(c) of Regulation (EU) No 575/2013, as amended.

[70i] Section 29b of Act No 483/2001, as amended by Act No 340/2020.

[70j] Article 72a of Regulation (EU) No 575/2013, as amended.

[70k] Article 72a, Article 72b(1) and (2)(a) to (c) and (e) to (n), and Article 72b(3) to (5) of Regulation (EU) No 575/2013, as amended.

[70l] Section 70 of the Commercial Code.
Section 66 of Act No 483/2001, as amended.

[70m] Section 29b of Act No 483/2001, as amended by Act No 340/2020.
Article 92(1)(c) of Regulation (EU) No 575/2013, as amended.

[70n] Article 92(1)(d) of Regulation (EU) No 575/2013, as amended.

[70o] Section 33a(i), point one of Act No 483/2001, as amended by Act No 213/2014.

[70p] Section 114b(3) of Act No 483/2001, as amended.
Section 160a(3) of Act No 566/2001, as amended.
Decree No 9/2017 of Národná banka Slovenska laying down national discretions for institutions under a separate regulation (Notification No 305/2017), as amended by Decree No 1/2019 of Národná banka Slovenska (Notification No 19/2019).

[70q] Articles 92b and 494 of Regulation (EU) No 575/2013, as amended.

[70r] Article 72a, Article 72b(1) and (2)(a), (d) to (j) and (n), and Article 72b(6) and (7) of Regulation (EU) No 575/2013, as amended.

[70s] Section 48(1) of Act 566/2001.

[70t] Article 72c(1) of Regulation (EU) No 575/2013, as amended.

[70u] Article 72e of Regulation (EU) No 575/2013, as amended.

[70v] Article 12 of Regulation (EU) No 575/2013, as amended.

[70w] Articles 72e to 72j of Regulation (EU) No 575/2013, as amended.

[70x] Article 52(1)(p) and (q) and Article 63(n) and (o) of Regulation (EU) No 575/2013, as amended.

[70y] Section 50(1), (13) and (14) of Act No 483/2001, as amended.
Section 144(24) of Act No 566/2001, as amended by Act No 213/2014.

[70z] Section 65a of Act No 483/2001, as amended by Act No 437/2015.
Section 144 of Act No 566/2001, as amended.

[70aa] Sections 50 to 65a of Act No 483/2001, as amended.
Section 144 of Act No 566/2001, as amended.

[70ab] Article 72a(1)(a) and Article 72b(1) and (2) of Regulation (EU) No 575/2013, as amended.

[70ac] Section 8a(4) of Act No 566/2001, as amended by Act No 209/2007.

[70ad] Section 73f of Act No 566/2001, as amended.

[71aa] Sections 50 to 65a of Act No 483/2001, as amended.
Sections 135 to 158 of Act No 566/2001, as amended.

[71b] Article 32 of Regulation (EU) No 1093/2010, as amended.

[71c] Section 18(1) of Act No 431/2002, as amended by Act No 198/2007.

[72] Act No 200/2011 on the Commercial Journal (and amending certain laws).

[73] Section 67 of Act No 483/2001, as amended by Act No 659/2007.

[74] Section 59b of the Commercial Code, as amended by Act No 657/2007.

[75] Section 193(2) of the Commercial Code, as amended by Act No 500/2001.

[76] Section 202 of the Commercial Code.

[77] Section 184(3) and (4), Sections 202 and 212 of the Commercial Code.

[78] Section 204a of the Commercial Code, as amended.

[79] Section 211(1) of the Commercial Code, as amended.

[80] Section 213(4) of the Commercial Code, as amended by Act No 500/2001.

[81] Section 215(3) of the Commercial Code, as amended by Act No 500/2001.

[81a] Section 9(4) of Act No 483/2001, as amended.

[81b] Section 525(2) of the Civil Code.

[81c] Section 92(8) of Act No 483/2001, as amended.

[82] Sections 3 to 8 of Act No 200/2011.

[83] Section 179 of the Administrative Court Procedure Code.

[83a] Section 47 of Act No 429/2002 on the stock exchange.

[84] Section 6(5) of Act No 431/2002.

[85] Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (OJ, Special Issue, Chap. 13/29; L 243, 11.9.2002), as amended.
Commission Regulation (EC) No 1126/2008 of 3 November 2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council (OJ L 320, 29.11.2008), as amended.

[85a] Section 4(3) of Act No 384/2011 on a special levy on selected financial institutions (and amending certain laws), as amended.

[86] The Commercial Code, as amended.
Act No 483/2001, as amended.
Act No 566/2001, as amended.

[87] Act No 483/2001, as amended.
Act No 566/2001, as amended.

[88] Section 28(1), (5) and (6) of Act No 483/2001, as amended.
Section 70 of Act No 566/2001, as amended.

[89] Article 17(1), (5) and (6) of Regulation (EU) No 596/2014 of the European Parliament and of the Council on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014).

[90] For example, Sections 154 to 220a of the Commercial Code, as amended; Act No 566/2001, as amended.

[91] Section 154 of the Commercial Code, as amended.

[92] Section 162 of the Commercial Code, as amended.

[93] Sections 7 and 28 of Act No 483/2001, as amended.
Sections 54 and 70 of Act No 566/2001, as amended.

[93a] Section 50 of Act No 483/2001, as amended.
Sections 144 to 146a of Act No 566/2001, as amended.

[93b] Act No 136/2001 on the protection of competition (and amending Act No 347/1990 on the organisation of ministries and other central state administration authorities of the Slovak Republic), as amended.

[94] Act No 483/2001, as amended.
Act No 566/2001, as amended.
Regulation (EU) No 575/2013, as amended.

[95] Sections 67 to 80 of Act No 483/2001, as amended.
Regulation (EU) No 575/2013, as amended.

[95a] Section 4 of Act No 203/2011, as amended.

[95b] Sections 70 to 82 of Act No 203/2011, as amended.

[95ba] Act No 492/2009, as amended.

[95bb] Act No 566/2001, as amended.

[95c] Commission Delegated Regulation (EU) No 604/2014 of 4 March 2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards with respect to qualitative and appropriate quantitative criteria to identify categories of staff whose professional activities have a material impact on an institution's risk profile (OJ L 167, 6.6.2014), as amended.

[95d] Section 95(2) and (3) and Section 180a(2) to (4) of Act No 7/2005, as amended.

[96] Section 28 of Act No 483/2001, as amended.

[96a] Section 95(3) of Act No 7/2005, as amended.

[97] Sections 23(1), 33r and 33q of Act No 483/2001, as amended.

[98] Section 180a(2) of Act No 7/2005, as amended by Act No 373/2018.

[99] Section 89 of Act No 203/2011 on collective investment.

[100] Section 180 of Act No 7/2005.

[101] Section 107a of Act No 566/2001, as amended.
Section 51 of Act No 492/2009, as amended by Act No 130/2011.

[102] Act No 211/2000, as amended.
Section 89 of Act No 483/2001, as amended.
Act No 215/2004 on the protection of confidential information (and amending certain laws), as amended.
Act No 122/2013 on the protection of personal data (and amending certain laws), as amended by Act No 84/2014.

[102a] For example, Commission Delegated Regulation (EU) 2015/63 of 21 October 2014 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to ex ante contributions to resolution financing arrangements (OJ L 11, 17.1.2015).

[102aa] Article 2 of Regulation (EU) No 806/2014.

[102ab] Articles 42 to 48 of Regulation (EU) No 806/2014.

[102ac] Article 70 of Regulation (EU) No 806/2014.

[102b] For example, Section 248(d) of Act No 99/1963 – the Civil Procedure Code, as amended, and Section 7(h) of Act No 162/2015 – the Administrative Court Procedure Code.

[103] Article 13(4) of Commission Delegated Regulation (EU) No 2015/63 of 21 October 2014 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to ex ante contributions to resolution financing arrangements (OJ L 11, 17.1.2015).

[104] For example, Sections 50 to 65 of Act No 483/2001, as amended.

[105] Article 67 of Regulation (EU) No 806/2014.

[105a] Section 13(4)(g) of Act No 118/1996, as amended.

[105aa] For example, Sections 66 to 179 of Act No 233/1995 as amended; Section 714 of the Commercial Code.

[105ab] For example, Act No 233/1995, as amended; Sections 71 to 80 of Act No 71/1967, as amended; Regulation (EU) No 655/2014 of the European Parliament and of the Council of 15 May 2014 establishing a European Account Preservation Order procedure to facilitate cross-border debt recovery in civil and commercial matters (OJ L 189, 27.6.2014).

[105b] Act No 386/2002 on state debt and state guarantees, amending Act No 219/2002 on the State Treasury (and amending certain laws), as amended.

[105c] Section 2(1), second sentence, of Act No 118/1996, as amended by Act No 371/2014.

[105d] For example, Section 21(2), the first sentence of Section 24, Section 26(5) and Section 25l(1) and (4) of the Civil Procedure Code, as amended; Sections 22 to 24 and 31 to 33b of the Civil Code, as amended by Act No 509/1991; and Sections 36 to 192 of Act No 233/1995, as amended.

[106] Section 21(2), the first sentence of Section 24, and Section 26(5) of the Civil Procedure Code, as amended.
Sections 22 to 24 and 31 to 33b of the Civil Code, as amended by Act No 509/1991.
Section 1(2) and (3) and Sections 12 and 30 of Act No 586/2003, as amended.

[106a] For example, Section 43(3)(a) of Act No 595/2003 on income tax, as amended. Section 711(1) of the Commercial Code.

[106b] Agreement on the transfer and mutualisation of contributions to the Single Resolution Fund (Notice of the Ministry of Foreign and European Affairs of the Slovak Republic No 78/2016).

[107] Section 19(4) of Act No 747/2004, as amended.

[108] Section 10(5) of Act No 747/2004.

[109] For example, the Criminal Procedure Code, as amended.

[109a] Section 4 of Act No 357/2015 on financial controls and audits (and amending certain laws).

Section 3(1) and (2) of Act No 374/2014 on State claims (and amending certain laws).

111 Sections 250l to 250d of Civil Procedure Code, as amended.

112 Sections 244 to 246d of the Civil Procedure Code, as amended.

113 Section 28(2) of Act No 747/2004.

114 Section 244, Section 246(2)(b) and Sections 247 to 250k of the Civil Procedure Code, as amended.

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