

# **BANKING ACT (ZBan-2)**

## **CHAPTER 1: GENERAL PROVISIONS**

### **1.1 Contents of the Act**

#### **Article 1 (subject of the Act)**

(1) This Act shall regulate the following:

1. conditions for setting up, the operations and the ordinary winding up of credit institutions established in the Republic of Slovenia;
2. conditions under which credit institutions established outside the Republic of Slovenia may operate in the territory of the Republic of Slovenia;
3. the competent authorities, measures and authorisations for the supervision of the operations of credit institutions in the Republic of Slovenia and the supervision of the operations of other persons who accept deposits from the general public in the territory of the Republic of Slovenia in contravention of this Act; and
4. measures and authorisations for managing macro-prudential or systemic risks associated with credit institutions established in the Republic of Slovenia.

(2) This Act shall not apply to services provided by the Bank of Slovenia in accordance with the law governing the Bank of Slovenia or another law governing the powers and tasks of the Bank of Slovenia.

#### **Article 2 (transposition of EU regulations)**

This Act shall transpose the following directives into the laws of the Republic of Slovenia:

1. Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176 of 27 June 2013, p. 338; hereinafter: Directive 2013/36/EU);
2. 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 of 12 June 2014, p 190; hereinafter: Directive 2014/59/EU);
3. Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions (OJ L 372 of 31 December 1986, p. 1), last amended by Directive 2006/46/EC of the European Parliament and of the Council of 14 June 2006 amending Council Directives 78/660/EEC on the annual accounts of certain types of companies, 83/349/EEC on consolidated accounts, 86/635/EEC on the annual accounts and consolidated accounts of banks and

- other financial institutions and 91/674/EEC on the annual accounts and consolidated accounts of insurance undertakings (OJ L 224 of 16 August 2006, p. 1); and
4. Council Directive 89/117/EEC of 13 February 1989 on the obligations of branches established in a Member State of credit institutions and financial institutions having their head offices outside that Member State regarding the publication of annual accounting documents (OJ L 44 of 16 February 1989, p. 40).

## 1.2 Definition of terms and abbreviations

### **Article 3** **(abbreviations of other acts and EU regulations)**

- (1) The following abbreviations of other acts shall be used in this Act:
1. ZFK shall mean the law governing financial conglomerates;
  2. ZGD-1 shall mean the law governing companies;
  3. ZIN shall mean the law governing inspections;
  4. ZPPDFT shall mean the law governing the prevention of money laundering and terrorist financing;
  5. ZPre-1 shall mean the law governing takeovers;
  6. ZTFI shall mean the law governing the financial instruments market;
  7. ZUP shall mean the law governing general administrative procedures; and
  8. ZUS-1 shall mean the law governing administrative disputes.
- (2) The following abbreviated titles of EU regulations shall be used in this Act:
1. Regulation (EU) No 45/2001 shall mean Regulation (EU) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the institutions and bodies of the Community and on the free movement of such data (OJ L 8 of 12 January 2001, p. 1);
  2. Directive 2009/138/EC shall mean Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (recast) (OJ L 335 of 17 December 2009, p. 1);
  3. Regulation (EU) No 1092/2010 shall mean 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 of 15 December 2010, p. 1);
  4. Regulation (EU) No 1093/2010 shall mean 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 (OJ L 331 of 15 December 2010, p. 12);
  5. Directive 2009/65/EC shall mean Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast) (OJ L 302 of 13 July 2009, p. 32), last amended by Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174 of 1 June 2011, p. 1);
  6. Regulation (EU) No 575/2013 shall mean Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176 of 27 June 2013, p. 1);

7. Regulation (EU) No 1024/2013 shall mean Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287 of 29 October 2013, p. 63); and
8. Regulation (EU) No 468/2014 shall mean Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing a framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (SSM Framework Regulation) (OJ L 141 of 14 May 2014, p 1).

#### **Article 4** **(bank, savings bank and banking interest grouping)**

(1) A credit institution with a registered office in the Republic of Slovenia may be established as a bank or savings bank in accordance with this Act.

(2) The term 'bank' shall be used in this Act for a credit institution established in the Republic of Slovenia that has obtained authorisation to provide banking services in accordance herewith.

(3) The term 'savings bank' shall be used in this Act for a credit institution established in the Republic of Slovenia that has obtained authorisation to provide banking services in accordance herewith.

(4) The term 'Member State bank' shall be used in this Act for a credit institution established in another EU Member State that has obtained authorisation from the competent authority in that Member State to provide banking services.

(5) The term 'third-country bank' shall be used in this Act for a credit institution established in a country that is not a Member State that has obtained authorisation from the competent authority in that country to provide banking services.

(6) For the purpose of supervision on a consolidated basis in accordance with Section 9.3 of this Act, the term 'subsidiary bank' shall be used for a bank, savings bank, Member State bank or third-country bank in the position of subsidiary credit institution.

(7) The provisions of this Act shall apply to SID – Slovenska izvozna in razvojna banka, d.d., Ljubljana (hereinafter: SID banka) to the extent set out in the law governing the Slovene Export and Development Bank or other act. SID banka shall be an authorised specialised Slovene bank for the promotion of export and development under the law governing the Slovene Export and Development Bank and shall not accept deposits from the public, except via a public offering relating to the paying up of debt securities issued by SID banka. Notwithstanding the first sentence of this paragraph, SID banka shall be deemed a financial institution for the purposes of Article 116 and Section 9.3 of this Act.

(8) Banks may form a banking interest grouping established as an economic interest grouping under the ZGD-1. A banking interest grouping may carry out training, issue confirmation on the completion of training, organise for its members the out-of-court settlement of disputes relating to the provision of banking services and perform other tasks set out in its articles of association.

## **Article 5** **(banking and financial services)**

(1) Banking services shall mean accepting deposits and other repayable funds from the public and lending on own account.

- (2) Financial services shall include the following:
1. accepting deposits and other repayable funds from the public;
  2. granting of loans, including:
    - consumer loans,
    - mortgage loans,
    - purchase of receivables with or without recourse (factoring),
    - financing of commercial transactions, including export financing based on the purchase of non-current non-past-due receivables at a discount and without recourse, secured by financial instruments (forfeiting);
  3. financial leasing (lease or rent) of assets, where all material risks and benefits arising from ownership of the leased asset are transferred to the lessee, and where the transfer of ownership rights to the lessee is possible but not necessarily exercised;
  4. payment services and electronic money issuing services;
  5. issuing and managing other payment instruments (e.g. travellers' cheques and bankers' drafts), insofar as such services are not included in the services referred to in the previous point;
  6. issuing of guarantees and other sureties;
  7. trading for own account or for the account of clients:
    - in money-market instruments,
    - in foreign legal tender, including currency exchange transactions,
    - in standardised futures and options,
    - in currency and interest-rate instruments,
    - in transferable securities;
  8. participation in securities issues and the provision of associated services;
  9. corporate consultancy with regard to capital structure, operational strategy and related matters, and consultancy and services in connection with corporate mergers and acquisitions;
  10. monetary intermediation on interbank markets;
  11. investment management and related advisory services;
  12. safekeeping of securities and other related services;
  13. credit rating services: collecting, analysing and disseminating information regarding creditworthiness;
  14. leasing of safe deposit boxes; and
  15. investment services and transactions, and ancillary investment services in accordance with the ZTFI.

(3) Mutually recognised services under this Act shall mean banking and financial services.

## **Article 6** **(ancillary and other financial services)**

- (1) Ancillary financial services shall include the following:
1. brokerage in the sale of insurance policies pursuant to the law governing the insurance industry;
  2. payment system administration services;
  3. management of pension funds pursuant to the law governing pension and disability insurance;
  4. custody services provided by a bank pursuant to any other law and custody-related services;
  5. credit brokerage for consumer and other loans; and
  6. other services or transactions that, taking into account the manner in which they are provided and the risks to which a bank is exposed in the provision thereof, have similar attributes to mutually recognised financial services or the services set out in points 1 to 5 of this paragraph.

- (2) Other financial services shall include the following:
1. provision of insurance or reinsurance services pursuant to the law governing the insurance industry;
  2. pension company services pursuant to the law governing pension and disability insurance;
  3. insurance agency or brokerage services pursuant to the law governing the insurance industry; and
  4. investment fund management pursuant to the law governing investment funds.

## **Article 7** **(other terms)**

- (1) The terms used in this Act shall have the following meanings:
1. “banking group” shall mean a group within which at least one undertaking shall be:
    - a parent credit institution or a credit institution with a participating interest in at least one other credit or financial institution,
    - a credit institution that is linked to another credit or financial institution by means of joint control,
    - a parent financial holding company that has at least one subsidiary credit institution, or
    - a parent mixed financial holding company that has at least one subsidiary credit institution;
  2. “actual costs” shall mean the level of costs that shall not exceed the costs that arise or that can be justifiably expected to arise from the provision of services or the performance of an activity;
  3. “Member State” shall mean a Member State of the European Union or a signatory state of the Agreement creating the European Economic Area (OJ L 1 of 3 January 1994, p. 1);
  4. “EU parent undertaking” shall mean an EU parent institution, an EU parent financial holding company or an EU parent mixed financial holding company;
  5. “European Banking Committee” shall mean the European Banking Committee established by Commission Decision of 5 November 2003 establishing the European Banking Committee (OJ L 3 of 7 January 2004, p. 36);

6. "European Systemic Risk Board" shall mean the European Systemic Risk Board established by Regulation (EU) No 1092/2010;
7. "European Banking Authority" shall mean the European Banking Authority established by Regulation (EU) No 1093/2010;
8. "European Securities and Markets Authority" shall mean the European Securities and Markets Authority established by Regulation (EU) No 1095/2010;
9. "European Insurance and Occupational Pensions Authority" shall mean the European Insurance and Occupational Pensions Authority established by Regulation (EU) No 1094/2010;
10. "European supervisory authority" shall mean the European Banking Authority, the European Securities and Markets Authority or the European Insurance and Occupational Pensions Authority;
11. "financial undertaking" shall mean:
  - an institution established in the Republic of Slovenia or other Member State,
  - a financial institution established in the Republic of Slovenia or other Member State, if it is a subsidiary of a credit institution, investment firm or undertaking referred to in the third or fourth indent of this point and is included in the supervision of the parent undertaking on a consolidated basis pursuant to Articles 6 to 17 of Regulation (EU) No 575/2013,
  - a financial holding company, a mixed financial holding company or a mixed-activity holding company established in the Republic of Slovenia or other Member State,
  - a parent financial holding company in the Republic of Slovenia, an EU parent financial holding company, a parent mixed financial holding company in the Republic of Slovenia or an EU parent mixed financial holding company,
  - the branch of a third-country bank in the Republic of Slovenia or other Member State;
12. "financial agreement" shall mean any of the following contracts or agreements:
  - securities agreements, including agreements on the purchase, sale or lending of securities or a category or index of securities, options on securities or a category or index of securities, and repo transactions involving such securities, or a category or index,
  - contracts on commodities, including agreements on the purchase, sale or lending of commodities or a category or index of commodities with a future delivery date, options on commodities or a category or index of commodities, and repo transactions involving such commodities, or a category or index,
  - forward contracts and forward agreements, including agreements (not included in contracts on commodities from the previous indent) for the purchase, sale or transfer of commodities or assets of another type, services, rights or participating interest at a set price at date in the future,
  - swap agreements, including swaps and options involving interest-rates, agreements on a spot or other exchange rate, foreign currency, share index or equity instrument, debt index or debt instrument, commodities index or commodities, weather, emissions or inflation, total return swaps, credit spread swaps or credit swaps, and other similar agreements or transactions that are periodically traded on swap or derivatives markets,
  - interbank lending agreements with a maximum repayment period of three months,
  - framework agreements relating to the contracts and agreements set out in the first to fifth indents of this point;
13. "emergency fiscal aid" shall mean state aid in terms of the first paragraph of Article 107 of the Treaty on the Functioning of the European Union or other fiscal support at the supranational level that would be deemed state aid if it was allocated at the national level with the aim of maintaining or re-establishing the successful operations, liquidity or solvency of a bank or an individual financial undertaking in a group of which the bank is a part, or an entire group of which the bank is a part;
14. "Commission" shall mean the European Commission;

15. "model risk" shall mean potential losses that a bank could incur as a result of decisions that could, in principle, be founded on the results of internal models due to errors in their development, implementation or use;
16. "supervisory authority" shall mean an authority responsible for the supervision of financial sector entities that is not deemed a competent authority; in the Republic of Slovenia, this means the Insurance Supervision Agency and the Securities Market Agency;
17. "internal approach" shall mean the Internal Ratings Based Approach set out in the first paragraph of Article 143 of Regulation (EU) No 575/2013, the Internal Models Approach set out in Article 221 of Regulation (EU) No 575/2013, the approach based on own estimates set out in Article 225 of Regulation (EU) No 575/2013, the Advanced Measurement Approaches set out in the second paragraph of Article 312 of Regulation (EU) No 575/2013, the Internal Model Method set out in Articles 283 and 363 of Regulation (EU) No 575/2013, and the Internal Assessment Approach set out in the third paragraph of Article 259 of Regulation (EU) No 575/2013;
18. "Financial Stability Committee" shall mean the Financial Stability Committee established pursuant to the law governing macro-prudential supervision of the financial system;
19. "supervisory body" shall mean a bank's supervisory board in a two-tier governance system and, in a single-tier governance system, the non-executive members of a bank's board of directors who are authorised to supervise and monitor the management of a bank's operations in accordance with this Act;
20. "management body" shall mean a bank's management board in a two-tier governance system and, in a single-tier governance system, a bank's executive directors who are authorised to manage a bank's operations in accordance with this Act;
21. "immediate family member" shall mean a person in one of the following relationships with another person:
  - a spouse or a person with whom they live in a relationship that has the same rights in property as those arising out of a matrimonial relationship, or a person with whom they live in a same-sex civil partnership according to the law governing the registration of same-sex civil partnerships,
  - a child or adopted child of such a person or person from the previous indent,
  - other persons under such a person's guardianship, or
  - the grandparents of such a person or the person referred to in the first indent of this point;
22. "significant bank" shall mean a bank defined as significant by the Bank of Slovenia on the basis of this Act, in connection with the enforcement of requirements set out for significant banks herein;
23. "competent authority" shall mean a competent authority as set out in point 40 of the first paragraph of Article 4 of Regulation (EU) No 575/2013, and the European Central Bank whenever the latter is responsible for exercising powers and performing tasks relating to the prudential supervision of credit institutions in accordance with Regulation (EU) No 1024/2013; in the territory of the Republic of Slovenia that authority is the Bank of Slovenia or the European Central Bank whenever the latter is responsible for exercising powers and performing tasks relating to the prudential supervision of credit banks in accordance with Regulation (EU) No 1024/2013;
24. "group" shall mean a parent undertaking and its subsidiaries;
25. "systemically important bank" shall mean a bank whose collapse or poor operations could result in systemic risk, and that holds one of the following positions:
  - EU parent bank,
  - subsidiary bank of an EU parent financial holding company or an EU parent mixed financial holding company,
  - bank that is not a subsidiary of the undertaking referred to in the previous two indents of this point;
26. "systemic risk" shall mean the risk of disruptions in the financial system that could have serious negative effects on the functioning of the financial system and the real economy;

27. “undertaking in a group” shall mean a legal person that is part of a group;
28. “third country” shall mean any country that is not a Member State;
29. “governing body” shall mean a bank’s management or supervisory body;
30. “senior management” shall mean individuals who perform executive functions at a bank and are answerable to the management body for the daily execution of a bank’s transactions.

(2) The terms electronic money, payment service and payment system administration services shall have the same meaning as defined in the law governing payment services and systems.

(3) The Bank of Slovenia shall define in detail the criteria identifying a significant bank as referred to in point 22 of the first paragraph of this article in connection with the enforcement of certain requirements set out for significant banks by this Act or Regulation (EU) No 575/2013. The Bank of Slovenia shall take into account the following when defining the detailed criteria for significant banks:

1. a bank’s size and internal organisational structure,
2. the nature, scale and complexity of the activities performed by the bank, and
3. the importance of the bank for the local market.

## **Article 8**

### **(application of terms defined in EU Regulation No 575/2013)**

(1) The terms defined in Article 4 of Regulation (EU) No 575/2013 shall have the same meanings in this Act, taking into account the second paragraph of this article.

(2) The following definitions from Regulation (EU) No 575/2013 shall be used for the needs of this Act, such that:

1. “asset management company” shall mean an asset management company as defined in point 19 of the first paragraph of Article 4 of Regulation (EU) No 575/2013, and shall mean as asset management company as set out in point 6 of Article 2 of the ZFK or other investment fund manager, including third-country entities that carry out similar activities and that are subject to the laws of a third country that applies supervisory and regulatory requirements that are at least equivalent to those applied in the European Union;
2. “financial institution” shall mean a financial institution as defined in point 26 of the first paragraph of Article 4 of Regulation (EU) No 575/2013, and shall mean an undertaking that is not an institution and whose principle activity is to acquire holdings or to pursue one or more of the activities set out in points 2 to 12 and point 15 of the second paragraph of Article 5 of this Act, including financial holding companies, mixed financial holding companies, and the payment institutions set out in the law governing payment services and systems, but excluding the insurance holding companies and mixed insurance holding companies set out in the law governing the insurance industry;
3. “financial instrument” shall mean a financial instrument as set out in point 50 of the first paragraph of Article 4 of Regulation (EU) No 575/2013, and shall mean any of the following:
  - a contract that gives rise to a financial asset of one party and a financial liability or equity instrument of another party,
  - a financial instrument set out in the second paragraph of Article 7 of the ZTFI,
  - a derivative financial instrument,
  - a primary financial instrument, or
  - a cash instrument, whereby the instruments referred to in the first, second and third indents are only financial instruments if their value is derived from the price of an underlying instrument or another underlying item, rate or index;



4. "investment firm" shall mean an investment firm as set out in point 2 of the first paragraph of Article 4 of Regulation (EU) No 575/2013, and shall mean an investment firm as set out in the first paragraph of Article 11 of the ZTFI, excluding the following:
  - credit institutions,
  - local firms,
  - firms that are not authorised under the ZTFI to provide the ancillary investment services set out in point 1 of the first paragraph of Article 10 of the ZTFI and that are entitled to provide only one of more of the investment services and transactions set out in points 1, 2, 4 and 5 of the first paragraph of Article 8 of the ZTFI, and that are not permitted to manage the cash or securities of their clients and thus may not at any time place themselves in debt with those clients;
5. "mixed financial holding company" shall mean a mixed financial holding company as set out in point 21 of the first paragraph of Article 4 of Regulation (EU) No 575/2013, and shall mean the mixed financial holding company set out in Article 7 of the ZFK;
6. "reinsurance undertaking" shall mean a reinsurance undertaking as set out in point 6 of the first paragraph of Article 4 of Regulation (EU) No 575/2013, and shall mean the reinsurance undertaking set out in the first and second indents of point 3 of Article 2 of the ZFK;
7. "regulated market" shall mean a regulated market as set out in point 92 of the first paragraph of Article 4 of Regulation (EU) No 575/2013, and shall mean the regulated market set out in the first paragraph of Article 14 of the ZTFI;
8. "financial sector entity" shall mean a financial sector entity as set out in point 27 of the first paragraph of Article 4 of Regulation (EU) No 575/2013, and shall mean any of the following:
  - an institution,
  - a financial institution,
  - an ancillary services undertaking included in the consolidated financial situation of an institution,
  - an insurance undertaking,
  - a third-country insurance undertaking,
  - a reinsurance undertaking,
  - a third-country reinsurance undertaking,
  - an insurance holding company as defined in the law governing the insurance industry,
  - an undertaking that is entitled to provide insurance services in the Member State where it is established and that is excluded from the scope of Directive 2009/138/EC in accordance with the regulations of that country that transpose Article 4 of the aforementioned directive,
  - a third-country undertaking whose main business is comparable to any of the entities referred to in the previous indents;
9. "participation" shall mean a participation as set out in point 35 of the first paragraph of Article 4 of Regulation (EU) No 575/2013, and shall mean participation as set out in the second indent of point 12 of Article 2 of the ZFK, or the direct or indirect ownership of 20% or more of the voting rights or capital of an undertaking;
10. "insurance undertaking" shall mean an insurance undertaking as set out in point 5 of the first paragraph of Article 4 of Regulation (EU) No 575/2013, and shall mean the insurance undertakings set out in the first and second indents of point 2 of Article 2 of the ZFK.

CHAPTER 2:  
COMPETENT AUTHORITY AND GENERAL PRINCIPLES OF SUPERVISION

**2.1 Competent authorities**

**Article 9  
(competent authority in the Republic of Slovenia)**

(1) The Bank of Slovenia shall be the competent and responsible authority for the supervision of banks in accordance with this Act and Regulation (EU) No 1024/2013, except with regard to the tasks and powers associated with prudential supervision, for which the European Central Bank is competent and responsible in accordance with Regulation (EU) No 1024/2013.

(2) In performing its supervisory tasks and exercising its supervisory powers in accordance with this Act and Regulation (EU) No 1024/2013, the Bank of Slovenia shall ensure that entities subject to supervision act in accordance with the following:

1. the provisions of this Act and Regulation (EU) No 575/2013, and regulations adopted on the basis thereof;
2. the provisions of regulatory and implementing technical standards adopted by the Commission in accordance with Articles 10 to 15 of Regulation (EU) No 1093/2010;
3. guidelines, recommendations, regulations and other legal acts issued by the European Central Bank in accordance with Regulation (EU) No 1024/2013;
4. guidelines, recommendations and other legal acts issued by the European Banking Authority in accordance with Article 16 of Regulation (EU) No 1093/2010;
5. admonishments and recommendations issued by the European Systemic Risk Board in accordance with Article 16 of Regulation (EU) No 1092/2010;
6. other valid legal acts, including acts issued by the Commission or other EU authority on the basis of Directive 2013/36/EU or Directive 2014/59/EU, and international standards and recommendations regarding the operations of credit institutions and the prudential supervision of credit institutions; and
7. guidelines issued by the Bank of Slovenia regarding the implementation of the rules set out in points 1 to 6 of this paragraph pursuant to Article 10 of this Act.

**Article 10  
(issue of guidelines)**

(1) The Bank of Slovenia shall issue guidelines that contain general and more detailed rules for the uniform interpretation and application of the regulations referred to in the second paragraph of Article 9 of this Act and for the formulation of best practices.

(2) Guidelines shall be published on the Bank of Slovenia's website.

**Article 11  
(Bank of Slovenia's authority with regard to macro-prudential supervision)**

The Bank of Slovenia shall be responsible for implementing Article 458 of Regulation (EU) No 575/2013 in terms of defining measures to mitigate macro-prudential or

systemic risk associated with banks, and in terms of defining capital buffer requirements to the extent and in the manner set out in Chapter 7 of this Act.

## **Article 12**

### **(Bank of Slovenia's authority with regard to the supervision of other persons)**

(1) The Bank of Slovenia shall be competent and responsible for the supervision of persons that accept deposits or other funds from the public in contravention of the prohibition set out in Article 96 of this Act.

(2) The supervision of the persons referred to in the previous paragraph shall be carried out to the extent defined in Section 9.4 of this Act.

## **Article 13**

### **(participation in the European System of Financial Supervision)**

(1) In performing its tasks and exercising its powers in connection with the supervision of banks pursuant to this Act and Regulation (EU) No 575/2013, the Bank of Slovenia shall strive to formulate and implement standard supervisory tools and practices, particularly through cooperation with the competent authorities of Member States and EU authorities.

- (2) For the purposes set out in the previous paragraph, the Bank of Slovenia shall:
1. serve as a member of the European System of Financial Supervision and, in particular, ensure the flow of relevant and reliable information between system participants;
  2. participate in the activities of the European Banking Authority and supervisory colleges, as required; and
  3. work with the European Systemic Risk Board.

(3) The Bank of Slovenia shall make decisions regarding the application of guidelines and recommendations issued by the European Banking Authority that relate to banks, and may refuse in whole or part to apply specific guidelines or recommendations provided that reasonable grounds for such a decision exist. Decisions regarding the application of guidelines or recommendations referred to in the previous sentence shall be published in the Official Gazette of the Republic of Slovenia.

(4) The Bank of Slovenia's powers under this and other acts shall not affect the performance of its tasks set out in the previous paragraph.

## **2.2 General principles in connection with supervision**

### *2.2.1 Confidential information*

## **Article 14**

### **(obligation to safeguard confidential information)**

(1) Confidential information under this Act shall mean all information regarding an individual bank obtained by the Bank of Slovenia from a bank subject to supervision or from other persons, and information generated by the Bank of Slovenia for the purpose of supervision of an individual bank, including internal assessments and reports produced by the Bank of Slovenia regarding that bank's operations.

(2) Unless otherwise provided by the law, the Bank of Slovenia shall not disclose confidential information regarding a bank to another person or government authority, except in the form of a summary, from which the individual bank to which such confidential information relates cannot be recognised.

(3) Bank of Slovenia employees, auditors and other experts who act or have acted under the authority of the Bank of Slovenia shall safeguard as confidential all information obtained during the performance of tasks for the Bank of Slovenia in connection with the latter's supervisory tasks and powers, and shall not disclose such information to another person or government authority, unless otherwise determined by this Act.

(4) The prohibition referred in the second and third paragraphs of this article shall not apply:

1. to confidential information required for criminal or pre-trial proceedings;
2. in the event of the bankruptcy or compulsory liquidation of a bank, with respect to confidential information required to enforce creditors' claims against the bank, and other actions in bankruptcy or compulsory liquidation proceedings or civil proceedings associated with these two proceedings, except with regard to information that also relates to other persons involved in attempts to reorganise the bank;
3. to the results of stress tests carried out by the Bank of Slovenia in accordance with the fifth paragraph of Article 172 of this Act or Article 32 of Regulation (EU) No 1093/2010, whenever those results are published by the Bank of Slovenia or forwarded to the European Banking Authority for the purpose of publication;
4. to information regarding authorisations to provide banking, financial and ancillary financial services, authorisations to issue mortgage and municipal bonds, authorisations to acquire a qualifying holding and authorisations to hold office as a member of a bank's management board; and
5. in other cases when the law expressly states that the Bank of Slovenia or person referred to in the third paragraph of this article may disclose confidential information to the public or certain recipients.

(5) The obligation to safeguard confidential information set out in this article shall also apply to information obtained by the Bank of Slovenia or persons referred to in the third paragraph of this article as part of the exchange of information with the European Banking Authority, the European Securities and Markets Authority, the European Systemic Risk Board, supervisory authorities in the Republic of Slovenia or the competent authorities of other Member States, including the European Central Bank, whenever the latter exercises the authorisations of a competent authority in accordance with Regulation (EU) No 575/2013, and the authorities of Member States that manage deposit guarantee schemes in accordance with this Act and Regulation (EU) No 575/2013.

(6) The Bank of Slovenia shall process the personal data that it obtains while performing its tasks and exercising its powers, as defined in this Act or Regulation (EU) No 575/2013, in accordance with the law governing the protection of personal data and Regulation (EU) No 45/2001.

## **Article 15**

### **(use and dissemination of confidential information)**

(1) The Bank of Slovenia may use confidential information solely for the following purposes:

1. to verify conditions for authorisations and consents issued on the basis of this Act or Regulation (EU) No 575/2013 and other acts, and to ensure the effective supervision of the operations of banks on an individual and consolidated basis;

2. to impose supervisory measures, and to make decisions regarding other measures for which the Bank of Slovenia is authorised in accordance with this or another act;
3. to impose penalties for breaches and to file complaints due to a suspected criminal offence; and
4. in judicial protection proceedings against decisions issued by the Bank of Slovenia, and in other judicial proceedings relating to the performance of its tasks and the exercising of its powers on the basis of this Act or EU regulations.

(2) The Bank of Slovenia may only disclose confidential information relating to a specific bank to third parties under the conditions set out in this Act.

(3) The provisions of the previous article and this article shall not prevent the disclosure of confidential information to the European Parliament, whenever the latter exercises its investigative powers on the basis of Article 226 of the Treaty on the Functioning of the European Union.

(4) Notwithstanding the provisions of this article, the law governing access to information of a public nature shall apply to requests the Bank of Slovenia receives on the basis of the aforementioned act.

#### **Article 16** **(disclosure of confidential information)**

(1) The Bank of Slovenia may disclose confidential information to supervisory authorities of the Republic of Slovenia or to the competent authorities of other Member States in connection with their supervisory tasks and powers, and to the European Central Bank, whenever the latter exercises the authorisations of a competent authority in accordance with Regulation (EU) No 575/2013.

(2) The Bank of Slovenia may also disclose confidential information to the following entities in the Republic of Slovenia, other Member States or the European Union in connection with their supervisory tasks and powers:

1. competent authorities responsible for the supervision of other financial sector entities and for the supervision of financial markets;
2. competent authorities responsible for macro-prudential supervision;
3. competent authorities responsible for the resolution of institutions and authorities responsible for maintaining the stability of the financial system;
4. judicial and other authorities that are party to compulsory liquidation or bankruptcy proceedings involving a bank, or in other similar proceedings;
5. the court, state prosecutor or police in accordance with regulations governing criminal and pre-trial proceedings;
6. auditors charged with auditing the financial statements of credit institutions, investment firms, insurance undertakings and financial institutions;
7. entities or authorities that manage deposit guarantee schemes, with respect to the information they require to perform their tasks;
8. a central bank in the European System of Central Banks, the European Central Bank or other authority with similar tasks and powers as the central monetary authority, whenever this information is important for the performance of their legally prescribed tasks, including the pursuit of monetary policy and the associated provision of liquidity, the oversight of payments and the functioning of clearing systems and settlement systems, and ensuring the stability of the financial system;
9. contractual or institutional schemes to protect deposits as set out in the seventh paragraph of Article 113 of Regulation (EU) No 575/2013;
10. authorities responsible for oversight of the functioning of payment systems;

11. the European Banking Authority to the extent required to exercise its powers and perform its tasks in accordance with Regulation (EU) No 1093/2010, the European Systemic Risk Board, whenever such information is important for the performance of its tasks in accordance with Regulation (EU) No 1092/2010, the European Insurance and Occupational Pensions Authority, whenever such information is important for the performance of its tasks in accordance with Regulation (EU) No 1094/2010, and the European Securities and Markets Authority, whenever such information is important for the performance of its tasks in accordance with Regulation (EU) No 1095/2010;
12. authorities responsible for supervising authorities that perform tasks in compulsory liquidation or bankruptcy proceedings involving a bank, or in other similar proceedings;
13. authorities responsible for supervising contractual or institutional schemes to protect deposits as set out in the seventh paragraph of Article 113 of Regulation (EU) No 575/2013;
14. authorities responsible for supervising auditors tasked with auditing the financial statements of financial undertakings subject to supervision;
15. authorities responsible for detecting and prosecuting acts deemed to be breaches of regulations governing the operations of companies, provided that they require such information in proceedings in the scope of their powers;
16. the central securities clearing corporation or other clearing corporation or settlement system pursuant to the ZTFI in connection with the execution of clearing and settlement transactions concluded on one of the markets in the Republic of Slovenia, if the Bank of Slovenia deems that this information is necessary to ensure that appropriate action is taken by such an undertaking due to the failure or potential failure of participants on these markets to settle their liabilities;
17. an appellate body or court that conducts proceedings regarding access to information of a public nature in connection with specific information; and
18. the government authority responsible for oversight of the protection of personal data.

(3) The Bank of Slovenia may only disclose to the entities referred to in the first and second paragraphs of this article the confidential information that an authority or person requires to perform their tasks or exercise their powers in accordance with the valid regulations governing their work and powers. If confidential information includes confidential data regarding a specific client, such data shall only be disseminated to the entities set out in the first and second paragraphs of this article if those entities can also request that confidential data directly from the bank in question, taking into account the second and third paragraphs of Article 126 of this Act.

(4) Whenever the authorities set out in points 12, 13 and 14 of the second paragraph of this article detect and prosecute breaches of regulations with the help of persons appointed to perform specific tasks and who are not public sector entities, the Bank of Slovenia may disclose confidential information to those persons.

(5) Entities who receive confidential information on the basis of this article may only use such information to exercise their supervisory powers and/or to perform the tasks set out in the first paragraph of this article, and may not disclose such information to another person or government authority, except in the cases stated in the fourth paragraph of Article 14 of this Act.

(6) The Bank of Slovenia may disclose the confidential information that it has obtained from a competent authority of another Member State or during the supervision of the operations of a branch of a Member State bank in accordance with Section 9.2 of this Act to the entities set out in points 12 to 16 of the second paragraph of this article with the consent of the competent authority of that Member State.

## **Article 17**

### **(disclosure of confidential information to other authorities in the Republic of Slovenia)**

(1) The Bank of Slovenia may disclose confidential information to the government or another government authority in the Republic of Slovenia responsible for the drafting of legislation governing the supervision of banks, investment firms, financial institutions and insurance undertakings, whenever such disclosure is necessary to implement measures to stabilise banks.

(2) The Bank of Slovenia may disclose confidential information to the National Assembly, whenever the latter, in accordance with its legally prescribed authorisations, supervises the functioning of the Bank of Slovenia in connection with the performance of the Bank of Slovenia's tasks and the exercising of the Bank of Slovenia's powers during supervision, and only when the dissemination of confidential information is necessary to supervise the functioning of the Bank of Slovenia.

(3) Entities that receive confidential information on the basis of the first or second paragraph of this article shall safeguard that information as such, and may not disclose it to another person or government authority, except in the cases stated in the fourth paragraph of Article 14 of this Act.

(4) The Bank of Slovenia may only disclose confidential information it has received from a competent authority of another Member State or during an examination of the operations of a branch of a Member State bank in accordance with Section 9.2 of this Act to the entities referred to in the first and second paragraphs of this article with the consent of the competent authority of that Member State.

## **Article 18**

### **(notification in emergency situations)**

(1) In the event of emergency situations in the Republic of Slovenia, including the cases set out in Article 18 of Regulation (EU) No 1093/2010, or in the context of unfavourable trends on the financial market that could jeopardise the liquidity of the market or the stability of the financial system in another Member State, particularly when such conditions relate to the operations of a significant bank branch or entities in a group in another Member State, the Bank of Slovenia shall notify the competent authority of that Member State, the European Banking Authority, ESCB central banks and the European Systemic Risk Board without delay.

(2) Whenever the Bank of Slovenia receives confidential information regarding the circumstances referred to in the previous paragraph from the competent authority of another Member State or other authority referred to in the previous paragraph, it shall notify the ministry responsible for finance without delay, if such disclosure is necessary to ensure effective supervision and the implementation of measures to resolve and wind up credit institutions.

(3) Notwithstanding the fourth paragraph of the previous article, the Bank of Slovenia may disclose confidential information regarding the circumstances referred to in the previous paragraph of this article to the ministry responsible for finance, even without the consent of the competent authority of another Member State if that disclosure is required for the implementation of measures to stabilise banks.

**Article 19**  
**(dissemination of confidential information to persons from a third country)**

(1) The Bank of Slovenia shall disclose confidential information to persons from a third country who hold the position of competent authority or the entity referred to in points 1 to 6 and points 12 to 14 of the second paragraph of Article 16 of this Act if the following conditions are met:

1. if the Republic of Slovenia has concluded a cooperation agreement with a third country on the mutual exchange of information involving the aforementioned authorities from the Republic of Slovenia and that third country;
2. if the aforementioned persons from a third country apply the rules regarding the obligation to safeguard confidential information in that country that are set out in Articles 14 and 15 of this Act; and
3. if the information subject to disclosure to persons from a third country is intended solely for purpose of performing the tasks of the competent authority or entities referred to in points 1 to 6 and points 12 to 14 of the second paragraph of Article 16 of this Act.

(2) The Bank of Slovenia may only disclose confidential information it has received from a competent authority of another Member State or during an examination of the operations of a branch of a Member State bank in accordance with this Act to the entities referred to in the previous paragraph with the consent of the competent authority of that Member State.

*2.2.2 Responsibility for supervision*

**Article 20**  
**(responsibility for supervision)**

(1) The Bank of Slovenia and the persons who work on its behalf or by its authorisation in exercising supervisory powers on the basis of this Act shall act in accordance with the diligence of a good expert.

(2) The Bank of Slovenia shall be deemed to have acted with the appropriate diligence in imposing supervisory measures and exercising other powers on the basis of this Act if, taking into account the facts and circumstances at the time of its decision, it can justifiably state that the conditions for imposing supervisory measures or exercising other powers in accordance with this Act were met and that imposed measures were legal.

(3) The Bank of Slovenia shall be responsible for the conduct of persons who, in the performance of supervisory tasks and the exercising of the other powers of the Bank of Slovenia in accordance with this Act, worked on the basis of Bank of Slovenia authorisation according to the rules governing the liability of employers for damages caused to third parties by employees during or in connection with their work. If damage arises due to the conduct of a person who worked on behalf of the Bank of Slovenia based on the latter's authorisation, the injured party may only demand compensation for damages from the Bank of Slovenia, notwithstanding the provisions of other acts.

(4) A person who worked on behalf of the Bank of Slovenia while exercising supervisory powers in accordance with this Act is deemed to have acted with the appropriate



diligence if, taking into account the facts and circumstances during the time of their work, they acted as a good expert.

### *2.2.3 Cooperation between supervisory authorities*

#### **Article 21**

##### **(cooperation between supervisory authorities in the Republic of Slovenia)**

(1) The Bank of Slovenia and supervisory authorities in the Republic of Slovenia shall work together to perform their tasks and exercise their powers in the area of supervision, and strive together for effective supervision at the level of the financial system.

(2) The Bank of Slovenia and supervisory authorities in the Republic of Slovenia shall strive to the greatest extent possible for the uniformity of supervisory practices and, within this framework, for the comparability of the methodological approach used in the supervision of risk management.

(3) At the request of an individual supervisory authority, the Bank of Slovenia and other supervisory authorities in the Republic of Slovenia shall forward to that authority all data regarding the subject of supervision that the aforementioned authority needs to perform its supervisory tasks, to issue authorisations or to make decisions regarding specific matters in accordance with this Act.

(4) The Bank of Slovenia and supervisory authorities in the Republic of Slovenia shall inform each other on their own initiative of irregularities and other circumstances identified during supervision or the performance of other tasks or the exercise of other powers, if these findings affect or could affect the performance of supervisory tasks by the authority in question, in particular information regarding:

1. identified unfavourable trends in the operations of an entity subject to supervision, especially with regard to the fulfilment of prudential requirements that could have a serious impact on other entities subject to supervision; and
2. significant sanctions and supervisory measures imposed by the supervisory authority within the scope of its powers.

(5) The detailed content and method of cooperation between the Bank of Slovenia and supervisory authorities in the Republic of Slovenia shall be defined by the minister responsible for finance on the basis of preliminary opinions from the Bank of Slovenia and supervisory authorities in the Republic of Slovenia.

#### **Article 22**

##### **(cooperation with the competent authorities of Member States and third countries)**

(1) The Bank of Slovenia shall cooperate with the competent authorities of Member States responsible for the supervision of credit institutions, regarding the supervision of the operations of credit institutions that operate in the Republic of Slovenia and other Member States in which they do not have a registered office, in particular via branches.

(2) The Bank of Slovenia shall cooperate with the competent authorities of other Member States, in particular by exchanging all information that could facilitate the supervision of credit institutions, including the verification of conditions for issuing authorisations, monitoring the fulfilment of prudential requirements, and assessing the

reputation and experience of members of governing bodies and the suitability of the holders of qualifying holdings.

(3) The Bank of Slovenia shall:

1. submit the information referred to in the previous paragraph to a competent authority at the latter's request; and
2. on its own initiative, submit all information that the Bank of Slovenia believes material for the performance of that competent authority's supervisory tasks.

(4) Information shall be deemed material under the previous paragraph if it could have a significant impact on the assessment of the financial soundness of a Member State bank.

(5) The Bank of Slovenia shall conclude a cooperation agreement with the competent authorities of third countries with respect to the supervision of banks that provide services in a third country in accordance with this Act, and with respect to the supervision of the branches of third-country banks that have obtained authorisation to provide services in the territory of the Republic of Slovenia in accordance with this Act.

### **Article 23** **(cooperation with the European Banking Authority)**

(1) The Bank of Slovenia shall cooperate with the European Banking Authority with respect to the supervision of banks, and submit to the aforementioned authority all information necessary for the performance of the latter's tasks in accordance with the provisions of Article 35 of Regulation (EU) No 1093/2010.

(2) The Bank of Slovenia shall notify the European Banking Authority in accordance with Article 19 of Regulation (EU) No 1093/2010 if the competent authority of another Member State does not submit to the Bank of Slovenia material information for the supervision of banks and with regard to the operations of Member State banks in the Republic of Slovenia, or if it refuses the Bank of Slovenia's request for cooperation, in particular with regard to the exchange of material information relating to supervision, or if does not respond to such a request from the Bank of Slovenia in a reasonable amount of time.

### **Article 24** **(notification of EU authorities)**

The Bank of Slovenia shall notify the Commission, the European Banking Committee, the European Banking Authority, the European Central Bank and other EU authorities in accordance with EU regulations.

## **CHAPTER 3:** **LEGAL STATUS OF A BANK**

### **3.1 General provisions**

### **Article 25** **(organisation as a public limited company)**

(1) A bank shall be organised as a public limited company or a European public limited company.

(2) The provisions of the ZGD-1 that apply to public limited companies or European public limited companies shall apply to banks, unless otherwise provided by this Act.

#### **Article 26** **(use of names)**

(1) Legally registered names in the companies register may not include the words “bank”, “credit institution” or “savings bank” or derivatives thereof if the legal person in question has not obtained authorisation from the competent authority to provide banking services.

(2) If the use of the legally registered name or mark of a Member State bank that provides services in the Republic of Slovenia creates or could create confusion among users, the Bank of Slovenia may request that the bank in question use additional marks to eliminate ambiguities.

### **3.2 Initial capital and shares of a bank**

#### **Article 27** **(initial capital of a bank)**

(1) The minimum amount of a bank’s initial capital shall be EUR 5,000,000.

(2) A bank’s initial capital shall include one or more items from points (a) to (e) of the first paragraph of Article 26 of Regulation (EU) 575/2013.

#### **Article 28** **(shares of a bank)**

(1) A bank’s shares may only be registered shares.

(2) A bank’s shares may only be paid up in cash.

(3) The previous paragraph shall not apply in the following cases:

1. the establishment of a bank or an increase in a bank’s share capital due to a merger or demerger;
2. an internally funded increase in a bank’s share capital;
3. an increase in a bank’s share capital based on early intervention measures in accordance with this Act; and
4. an increase in a bank’s share capital based on measures aimed at resolving a bank in accordance with the law governing the resolution and winding up of banks.

(4) For the purposes of this Act, the following shall not be deemed non-cash contributions aimed at increasing share capital:

1. the delivery of convertible equity instruments issued by a bank that meet conditions in accordance with the provisions of Regulation (EU) No 575/2013, if the equity instruments were paid up in cash; and

2. monetary claims to which employees are entitled from the payment of the variable component of remuneration provided by a bank in accordance with this Act.

(5) A bank's shares shall be paid up in full prior to the entry of a bank's establishment or an increase in its share capital in the companies register.

(6) The provision of the second paragraph of Article 172 of ZGD-1, which states that the value of nominal value shares must be at least one euro or a multiple thereof, shall not apply to a bank's nominal value shares, while the provision of the third paragraph of Article 172 of the ZGD-1, which states that the amount of share capital attributable to one no-par value share may not be less than one euro, shall not apply to a bank's no-par value shares.

(7) The Bank of Slovenia shall prescribe the criteria for non-cash contributions that can be taken into account when increasing a bank's share capital in accordance with point 3 of the third paragraph of this article.

(8) A bank's articles of association may authorise the management board to increase a bank's share capital (authorised capital), where the requirements set out in the ZGD-1, which state that the amount of authorised capital may not exceed one half of share capital at the time the articles of association were amended, shall not apply. A bank's articles of association may also set out the conditions for increasing share capital via authorised capital.

(9) Notwithstanding the provisions of the ZGD-1, the minimum issue value of shares issued during a conditional increase in share capital may exceed one half of share capital at the time a resolution on the conditional increase in share capital was adopted.

## **Article 29**

### **(nullity of general meeting resolutions)**

(1) In addition to the cases set out in the ZGD-1, a general meeting resolution shall be null and void if it is contravention of a measure imposed on a bank by the Bank of Slovenia or European Central Bank on the basis of this Act or Regulation (EU) No 1024/2013, or if the general meeting resolution reduces the effects or bypasses the purpose of such a measure.

(2) A general meeting resolution may be nullified for the reasons stated in the previous paragraph, within six months of the entry of the resolution in the companies register, either by the Bank of Slovenia in connection with supervisory measures issued on the basis of this Act, or by the European Central Bank, whenever the latter has issued supervisory measures on the basis of Regulation (EU) No 1024/2013.

## **3.3 Activities of a bank**

### **Article 30**

#### **(provision of services)**

(1) A bank may provide banking services, financial services and ancillary financial services.

(2) A bank may begin providing the services set out in the previous paragraph when it obtains authorisation to provide those services in accordance with this Act or Regulation (EU) No 1024/2013.

(3) In addition to the services set out in the first paragraph of this article, a bank may also provide ancillary services.

(4) Ancillary services shall include the management of the bank's assets, the administration of databases, including personal data, and similar transactions as support for the provision of services by one or more credit institutions.

(5) A bank may not perform other activities or provide other services, except those set out in the first and third paragraphs of this article.

### **Article 31** **(prohibition on lending and fictitious transactions)**

(1) A bank may not directly or indirectly extend loans or issue guarantees for the purchase of treasury shares or shares in undertakings in which it holds a participating interest or voting rights of at least 20%.

(2) The lending activities referred to in the previous paragraph shall also include other legal transactions whose economic purpose is the same as a loan.

(3) The prohibition referred to in the first paragraph of this article shall also apply to capital or other instruments issued by a bank or undertaking in which a bank holds a participating interest or voting rights of at least 20% and which, given their nature, may be included in the calculation of the capital of the bank or those undertakings.

(4) The fourth paragraph of Article 227 of the ZGD-1 shall not apply for a shareholder's claims against a bank arising from a deposit based on an agreement on the management of a current account, a savings deposit, cash deposit or other positive balances that are the result of ordinary banking transactions based on which the bank must repay funds to the shareholder that were paid to the bank by the latter or by a third party on the shareholder's behalf.

### **Article 32** **(participation of a bank in financial restructuring)**

(1) A bank that concludes an agreement with a debtor on partial debt forgiveness in the scope of financial restructuring may, in insolvency proceedings initiated against the debtor within 12 months of the conclusion of the debt forgiveness agreement, claim the repayment of the debt in full as if the aforementioned agreement had not been concluded.

(2) A loan provided by a bank to a debtor in which the bank obtained a participating interest for the purpose of financial restructuring shall not be deemed assets of the company in subsequent bankruptcy proceedings or compulsory composition proceedings.

## **3.4 Governance system of a bank**

### *3.4.1 Common provisions for a bank's governing body*

### **Article 33**

#### **(governance system of a bank)**

(1) A bank may choose a two-tier governance system with a management board and supervisory board, or a single-tier governance system with a board of directors.

(2) The provisions of this Act regarding a bank's supervisory board shall apply *mutatis mutandis* to a bank's board of directors in a single-tier governance system, while the provisions of this Act regarding a bank's management board shall be applied *mutatis mutandis* to executive directors.

(3) The following special rules shall apply to banks with a single-tier governance system:

1. a bank's board of directors shall appoint at least two executive directors from its members, where the appointment of executive directors is limited exclusively to the members of the board of directors;
2. no more than one half of the members of a bank's board of directors may be appointed executive directors;
3. members of the board of directors who are not executive directors may not manage a bank's operations; and
4. the chairman or chairwoman of the board of directors (hereinafter: the chairperson of the board of directors) may not be appointed as executive director at the same bank. At a bank's request, the Bank of Slovenia may permit the chairperson of the board of directors to serve as executive director, provided that the bank in question provides justifiable grounds.

(4) The provisions of the law governing the participation of workers in management with respect to employee representatives on a bank's management board and supervisory board shall not apply to banks.

### **Article 34**

#### **(composition of a governing body)**

(1) A bank's governing body shall be composed in such a way that it possesses the relevant knowledge, skills and experience as a whole that are required for the in-depth understanding of the bank's activities and the risks to which it is exposed.

(2) A bank's bodies responsible for the selection and appointment of members of the governing body shall draw up and implement an appropriate policy on the selection of suitable candidates that ensures:

1. that the governing body as a whole takes into account the wide range of knowledge, skills and experience of its members;
2. initiatives to achieve diversity within the governing body, including the appropriate representation of both genders and policies to achieve these objectives by increasing the number of members of an under-represented gender on the governing body; and
3. the definition of conditions for the performance of a specific function, including the required profile of members of the governing body before they are appointed.

(3) A bank's policy on the selection of suitable candidates and the implementation of that policy in accordance with the previous paragraph shall be appropriately documented and published pursuant to point (c) of the second paragraph of Article 435 of Regulation (EU) 575/2013.

(4) The Bank of Slovenia shall collect the information referred to in the previous paragraph with the aim of comparing practices in the area of diversity in banks' governing bodies, and forward that information to the European Banking Authority.

(5) A bank shall ensure the appropriate staff and financial conditions for the initiation and training of members of its governing body.

### **Article 35**

#### **(assessment of the suitability of members of a governing body)**

(1) A bank shall establish and implement a process for assessing the suitability of members of its governing body prior to their appointment and after their appointment, should circumstances arise that require the reassessment of suitability, and at a minimum of once a year.

(2) Whenever a bank employee is party to the assessment referred to in the previous paragraph, a bank shall provide for the protection of that person against potential retaliatory measures.

(3) Within five days following the adoption of a resolution by its supervisory board on the appointment or dismissal of members of the management board and/or regarding confirmation of the suitability of candidates as members of its supervisory board, a bank shall inform the Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in point (e) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation. A bank shall submit the assessment of the suitability of candidates that it has carried out in connection with the appointment of members of the management board or supervisory board.

### **Article 36**

#### **(incompatibility with respect to the holding of other directorships)**

(1) When defining the number of directorships a member of the governing body may hold in different undertakings and organisations while serving as a member of its governing body, a bank shall take into account the individual circumstances involving the bank and the member in question, particularly in terms of the time the latter requires to perform their function, and the nature, scale and complexity of the bank's activities.

(2) The following shall be deemed a directorship at another undertaking or organisation for the purposes of this article:

1. a management function in which the person in question is authorised to manage operations and represent an undertaking, including a sole trader, procurator and senior management functions (hereinafter: executive directorships); and
2. a supervisory function in which the person in question is authorised and responsible for supervising and monitoring the management of an undertaking's operations (non-executive directorships).

(3) The members of the governing body of a significant bank may hold several directorships at the same time in other undertakings and organisations, taking into account the requirements set out in the first paragraph of this article, if one of the following combinations are involved:

1. one executive directorship with a maximum of two non-executive directorships; or
2. a maximum of four non-executive directorships.

(4) For the purposes set out in the previous paragraph, the following shall be deemed a single directorship:

1. executive or non-executive directorships at undertakings in the same group; and
2. executive or non-executive directorships at:
  - credit institutions that are members of the same institutional deposit protection scheme, provided that the conditions set out in the seventh paragraph of Article 113 of Regulation (EU) No 575/2013 are met, or
  - undertakings (including non-financial entities) in which a bank holds a qualifying holding.

(5) Directorships held by an individual member of a bank's governing body in undertakings and organisations that pursue a primarily non-profit activity shall not be taken into account for the purposes of the third paragraph of this article.

(6) Based on the request of an individual member and with a bank's consent, the Bank of Slovenia may authorise that member to hold an additional non-executive directorship, taking into account the first paragraph of this article. The Bank of Slovenia shall inform the European Banking Authority of every authorisation it issues to hold an additional non-executive directorship.

(7) Before their appointment and for the duration that they serve as a member of the governing body, each member shall inform the bank in writing about all directorships they hold or will hold in other undertakings and organisations, and when they cease to hold such functions.

#### *3.4.2 Management board of a bank*

### **Article 37 (composition of a management board)**

(1) A bank's management board shall comprise at least two members who shall jointly act on behalf of and represent the bank in legal transactions.

(2) No member of a bank's management board or its procurator may be authorised to act independently on behalf of the bank with respect to the entire scope of the bank's activities.

(3) Members of a bank's management board shall manage a bank on the basis of a full-time employment contract.

(4) At least one member of the management board shall have sufficient knowledge of the Slovenian language to properly perform their duties as member of a bank's management board.

(5) The management board shall manage a bank's operations in the Republic of Slovenia.

### **Article 38 (conditions for appointment as a management board member)**

(1) A person may be appointed as a member of a bank's management board if:



1. they possess the knowledge, skills and experience required to manage the operations of a bank or an undertaking of similar size and activity to those of a bank, or other similar transactions;
2. they enjoy the reputation and possess the traits required to manage a bank's operations, and their conduct does not raise doubt about their ability to ensure the safe and prudent management of a bank's operations in accordance with risk management rules, professional diligence and the highest ethical standards, and the prevention of conflicts of interest; and
3. they are not in breach of Article 36 of this Act, or assurances have been given that the candidate will meet these requirements by the deadline set out in the second paragraph of Article 43 of this Act.

(2) A person is deemed not to enjoy the reputation and possess the traits required to manage a bank's operations if:

1. they have been convicted of a criminal offence and the conviction has not yet been expunged from the records; or
2. they have been charged with a criminal offence prosecuted *ex officio* and for which a prison sentence of a year or more may be imposed.

### **Article 39** **(performance of the function of member of a management board)**

(1) The function of member of a bank's management board may only be performed by persons who have obtained the requisite authorisation in accordance with this Act.

(2) The supervisory board shall make a decision regarding the appointment of an individual as member of a bank's management board before that person files a request to issue authorisation to perform that function. To that end, the supervisory board shall also be briefed on the assessment of the nomination committee regarding the suitability of the person to serve as member of the bank's management board.

(3) A resolution by the supervisory board on the appointment of an individual as member of the management board shall enter into force:

1. under the suspensive condition that arises if such a person receives authorisation to perform that function; and
2. under the resolutive condition that arises:
  - if the person in question does not file a request to issue authorisation to perform that function within 15 days from the receipt of the resolution on their appointment as member of a bank's management board, or if they withdraw their request; or
  - if the request to issue authorisation to perform the function as a member of a bank's management board is discarded or rejected.

(4) A member of a bank's management board may be entered in the companies register when they receive authorisation to perform the function of member of a bank's management board, except if they are appointed as an alternate member of the management board in accordance with the fifth paragraph of this article.

(5) In the event an individual management board member's function ceases or if due to other circumstances they do not or likely will not perform their function as a member of a bank's management board for a more than two months in total and the bank's management board therefore functions or will function with only one member, the supervisory board shall appoint a new member to the management board without delay or a person who replaces the missing member of the management board in the management and

representation of the bank (hereinafter: alternate member of the management board). The supervisory board shall take into account the conditions set out in the previous article when appointing an alternate member of the management board.

(6) Notwithstanding the first paragraph of this article, an alternate member of a management board may perform the function of member of a bank's management board without the requisite authorisation for a maximum of six months from the day of their appointment.

(7) The provisions of the fourth to sixth paragraphs of this article shall apply *mutatis mutandis* to a member of a management board appointed by the court in accordance with Article 256 of the ZGD-1.

#### **Article 40** **(request to issue authorisation to perform the function of member of a bank's management board)**

(1) Candidates shall attach the following to their request to issue authorisation to perform the function of member of a bank's management board:

1. evidence regarding the fulfilment of the conditions set out in Article 38 of this Act; and
2. their strategy for managing the bank's operations.

(2) A request to issue authorisation to perform the function of member of a bank's management board shall be submitted to the Bank of Slovenia. Whenever the supervisory powers and tasks set out in point (e) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 relating to the bank in question are exercised and performed by the European Central Bank, the procedure shall continue in accordance with that regulation.

(3) The Bank of Slovenia shall obtain information regarding the other directorships set out in Article 36 of this Act and information regarding the circumstances referred to in the second paragraph of Article 38 of this Act from a candidate for member of a bank's management body, or from the competent government authorities or official records.

(4) Based on a request to issue authorisation to perform the function of member of a bank's management board, the Bank of Slovenia may request that a bank submit to it an assessment of a candidate's suitability by a specific deadline.

#### **Article 41** **(oral interview)**

(1) As part of the procedure of issuing authorisation to perform the function of member of a bank's management board, the Bank of Slovenia may conduct an oral interview, at which it invites a candidate for management board member to present in detail circumstances that it believes are important for the Bank of Slovenia's decision to issue authorisation.

(2) An audio recording shall be made of the interview. The responsible committee shall inform the candidate that the interview will be recorded before the interview begins. The recording shall include the following information: the name of the attending official, the composition of the committee, the place, date and time of the interview, the matter at hand and information used to identify the candidate and other persons present during the interview. It shall be clear from the recording who gave a particular statement.

(3) Based on the audio recording, the attending official shall draw up a report that includes a summary of the interview. The report shall state that the interview was recorded using an audio recording device, that the candidate and others in attendance were informed of the recording, that a copy of the recording was made at the candidate's request and the place where the recording is stored, if it does not accompany the report.

(4) The attending official referred to in the previous paragraph shall draw up the report within eight days following the interview. The candidate shall have the right to review the report and to object in writing to possible inaccuracies therein during the next three days.

(5) The Governing Board of the Bank of Slovenia shall issue a decision regarding a candidate's objection in the form of a resolution. A resolution regarding a candidate's objection may not be appealed or referred for special judicial protection.

(6) The Bank of Slovenia shall store the audio recording of the interview until a final decision regarding a request to issue authorisation to perform the function of member of a bank's management board is issued.

## **Article 42**

### **(decisions regarding a request to perform the function of member of a management board)**

(1) Based on the relevant request, documentation and a presentation of a candidate for member of a management board, the Bank of Slovenia shall assess the fulfilment of the conditions set out in the first paragraph of Article 34, the first paragraph of Article 36 and Article 38 of this Act, in particular with regard to the appropriateness of the selection and appointment process conducted by a bank, and with regard to the strategy submitted by a candidate for the secure and prudent management of a bank's operations.

(2) The Bank of Slovenia shall obtain the information it requires for its decision regarding the issue of authorisation to perform the function of member of a management board *ex officio* from the competent government authorities or holders of public authorisations, free of charge. In order to assess the reputation and experience of a specific candidate, the Bank of Slovenia shall also obtain information processed by the European Banking Authority regarding possible measures and sanctions imposed by other competent authorities.

(3) With regard to a request to issue authorisation to perform the function of member of the management board of a bank that is included in the supervision of a Member State bank on a consolidated basis in accordance with this Act, the Bank of Slovenia shall consult with the competent authorities of Member States included in supervision on a consolidated basis, if the decision regarding the issue of authorisation affects or could affect the performance of tasks by a Member State's competent authority in connection with a Member State bank.

(4) If the Bank of Slovenia determines, based on the notification from a bank referred to in the third paragraph of Article 35 of this Act in connection with the appointment of a member to a bank's management board, that a bank has not conducted itself in accordance with this Act or its internal rules during the selection and assessment of the suitability of a candidate, the Bank of Slovenia shall reject the candidate's request to serve as member of the bank's management board and order the bank to repeat the selection process.

#### **Article 43**

##### **(rejection of a request to issue authorisation to perform the function of member of a management board)**

(1) The Bank of Slovenia shall reject a request to issue authorisation to perform the function of member of a bank's management board if the candidate in question does not fulfil the conditions for appointment to such a function set out in Article 38 of this Act.

(2) If no reasons are given for the rejection of a request as set out in the previous paragraph during the process of deciding to issue authorisation to perform the function of member of a bank's management board, but the obstacles to performing that function set out in Article 36 of this Act exist because the candidate in question holds directorships at other undertakings and organisations, the Bank of Slovenia shall issue authorisation to perform the function of member of a bank's management board and set a deadline of at least 30 days and no more than three months by which the management board member shall comply with the requirements of Article 36 of this Act.

(3) In the case referred to in the previous paragraph, a management board member may begin to perform their function as such when the requirements of Article 36 of this Act have been met and the Bank of Slovenia has been informed accordingly.

#### **Article 44**

##### **(termination of authorisation to perform the function of member of a bank's management board)**

(1) Authorisation to perform the function of member of a bank's management board shall be terminated if:

1. a person's function as member of a bank's management board to which the authorisation relates is terminated; or
2. if the member of the management board does not comply with the requirements of Article 36 of this Act by the deadline set out in the decision on the issue of authorisation to perform the function of management board member.

(2) In the cases set out in the previous paragraph, a bank shall inform the Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in point (e) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of the bank in accordance with the same regulation, within five days that a person's function as member of its management board has been terminated.

(3) The Bank of Slovenia shall issue a declaratory decision in the cases set out in the first paragraph of this article.

#### **Article 45**

##### **(duties and responsibilities of management board members)**

(1) The members of a bank's management board shall fulfil the conditions set out in Article 38 of this Act at all times while performing their function, and:

1. conduct themselves in accordance with the requisite professional diligence and, in particular, ensure that the bank's management board functions in accordance with Article 136 of this Act;
2. conduct themselves in an open, fair and independent manner in order to effectively assess the decisions of senior management in connection with the management of the bank;

3. conduct themselves in accordance with the highest ethical standards of governance, taking into account the prevention of conflicts of interest; and
4. dedicate sufficient time to their function as management board member, so that they may perform that function effectively, taking into account the requirements of Article 36 of this Act.

(2) Members of a bank's management board shall ensure that the bank operates in accordance with:

1. the acts referred to in the second paragraph of Article 9 of this Act;
2. other acts governing the provision of services and the execution of transactions by the bank, and regulations issued on the basis thereof; and
3. the requisite professional diligence and the highest level of ethical standards, as well as rules governing best business practices and consumer protection.

(3) The members of a bank's management board shall be jointly and severally liable for damage that arises as a result of the breach of their duties, unless they prove that they avoided conflicts of interest and acted in accordance with regulations and due professional diligence while discharging their duties in the management of the bank's operations.

#### **Article 46** **(notification of the supervisory board and management board)**

(1) A member of a bank's management board shall inform the supervisory board and the Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in point (e) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of the bank in accordance with the same regulation, in writing without delay of their appointment to or termination of a directorship at another undertaking or organisation, with the aim of verifying the conditions set out in Article 36 of this Act.

(2) A member of a bank's management board shall inform the management board and supervisory board without delay about circumstances that could result in conflicts of interest during the performance of their function as member of that bank's management board, and about other circumstances that could affect the fulfilment of conditions for appointment as member of the bank's management board in accordance with this Act, including every significant change that affects or could affect the bank's assessment of their suitability as member of the management board.

#### **Article 47** **(verification of the fulfilment of conditions to perform the function of member of a bank's management board)**

(1) For the purpose of verifying whether a management board member fulfils the conditions set out in Article 38 of this Act and carries out the duties set out in Article 45 of this Act while performing their function, the Bank of Slovenia may conduct an oral interview, at which it invites the management board member to present in detail circumstances that the Bank of Slovenia deems important for assessing the fulfilment of prescribed conditions and duties.

(2) Article 41 of this Act shall be applied for the oral interview in the cases referred to in the previous paragraph.

### 3.4.3 Supervisory board

#### **Article 48 (competences of a bank's supervisory board)**

In addition to the competences of a supervisory board in accordance with the ZGD-1, a bank's supervisory board shall also have the following competences:

1. the granting of consent to the management board with regard to defining a bank's business policy;
2. the granting of consent to the management board with regard to defining a bank's financial plan;
3. the granting of consent to the management board with regard to defining an organisational internal control system;
4. the granting of consent to the management board with regard to defining the internal audit department's framework annual work programme;
5. supervision of the suitability of procedures and the effectiveness of the work of the internal audit department;
6. the granting of consent for the appointment and dismissal of the head of the internal audit department;
7. the adoption and supervision of the basic principles of remuneration policies;
8. discussion of the findings of the Bank of Slovenia or the European Central Bank, whenever the latter exercises its powers and performs tasks relating to the supervision of a bank in accordance with Regulation (EU) No 1024/2013, the findings of other government authorities, when those findings relate to a bank, and the findings of the tax inspector or other supervisory authority during the supervision of a bank;
9. the verification of annual and other financial reports, and the drafting of the related written report to the bank's general meeting of shareholders;
10. the explanation to the general meeting of shareholders with respect to its opinion regarding the annual internal audit report and regarding the management board's annual report; and
11. decisions regarding other matters defined in this Act.

#### **Article 49 (supervisory board committees)**

(1) A bank's supervisory board shall appoint an audit committee and a risk committee.

(2) At the request of a bank that is not deemed a significant bank, the Bank of Slovenia may permit the merging of the risk committee and the audit committee into a single committee, provided that the members of the merged committee have the knowledge, skills and experience required for members of an audit committee and risk committee.

(3) A risk committee shall have a chairperson and at least two members who serve as members of the supervisory board. The chairperson and members of the risk committee shall possess the requisite knowledge, skills and experience for the comprehensive understanding and monitoring of the bank's risk management strategy and its propensity to assume risks.

(4) The supervisory board of a significant bank shall also appoint a remuneration committee and a nomination committee.

(5) The supervisory board's committees shall comprise a chairperson and at least two members. Notwithstanding the provisions of the ZGD-1, only members of a bank's supervisory board shall serve as members of the latter's committees.

(6) A bank's management board shall ensure that the supervisory board's committees are adequately staffed and receive sufficient financial resources to perform their tasks, including the possibility of hiring external advisers.

## **Article 50** **(tasks of the nomination committee)**

(1) The nomination committee shall serve as an advisory body to the supervisory board and perform the following tasks:

1. select and recommend to the supervisory board candidates for members of the management board, and select and recommend to a bank's general meeting of shareholders candidates for members of the supervisory board, taking into account policies on the selection of suitable candidates, as set out in the second paragraph of Article 34 of this Act;
2. define the tasks and required conditions for a specific appointment, including an assessment of the time envisaged for the performance of the function in question;
3. define the target number of an under-represented gender on the management board or supervisory board, and draw up the associated policy on how to increase the number of members of an under-represented gender to achieve that target;
4. assess the size, structure and performance of the management board and supervisory board at least once a year, and draw up a report detailing potential changes;
5. assess the knowledge, skills and experience of individual members of the management board and supervisory board and the governing body as a whole at least once a year, and report to the supervisory board and management board accordingly;
6. regularly review the management board's policy on the selection and appointment of suitable candidates for the bank's senior management, and draw up a report detailing potential changes; and
7. actively contribute to the fulfilment of the bank's obligation to adopt appropriate policies on the assessment of the suitability of members of the governing body.

(2) In performing its tasks, the nomination committee shall strive to ensure that an individual or group of individuals does not prevail in such a way that would harm the interests of the bank when making decisions in the scope of the governing body.

(3) The tasks set out in the first paragraph of this article shall be performed by the supervisory board of a bank without a nomination committee.

## **Article 51** **(tasks of the risk committee)**

The risk committee shall serve as an advisory body to the supervisory board and perform the following tasks:

1. provide advice regarding the bank's current and future propensity to assume risks and regarding its risk management strategy;
2. provide assistance in the supervision of senior management with respect to the implementation of the risk management strategy;
3. verify, without encroaching on the tasks of the remuneration committee, whether the forms of stimulation provided for by the remuneration system take into account the risks,

- capital, liquidity and likelihood and allocation of the bank's revenue with the aim of formulating prudent remuneration policies and practices; and
4. verify whether the prices of the bank's products are fully compatible with the bank's business model and risk management strategy, and formulate proposed measures for the elimination of identified discrepancies and submit those measures to the bank's management board and supervisory board.

## **Article 52**

### **(tasks of the remuneration committee)**

(1) The remuneration committee shall serve as an advisory body to the supervisory board and perform the following tasks:

1. carry out technical and independent assessments of remuneration policies and practices, and formulate initiatives for measures on the basis thereof with the aim of improving the management of the risks to which the bank is exposed, its capital and liquidity.
2. draw up proposals for decisions by the governing body regarding the remuneration of employees, including remuneration that impacts the risks to which the bank is exposed and the management thereof; and
3. control the remuneration of members of senior management who perform risk management functions and ensure the compliance of operations.

(2) In drafting the proposals referred to in the previous paragraph, the remuneration committee shall take into account the long-term interests of shareholders, investors and other stakeholders.

(3) The tasks set out in the first paragraph of this article shall be performed by the supervisory board of a bank without a remuneration committee.

## **Article 53**

### **(conditions for appointment as member of a bank's supervisory board)**

- (1) A person may be appointed as a member of a bank's supervisory board if:
1. they possess the knowledge, skills and experience required to supervise and monitor the operations of a bank or an undertaking of similar size and activity to those of a bank, or other similar transactions;
  2. they enjoy the reputation and possess the traits required to supervise the management of a bank's operations, and their conduct does not raise doubt about their ability to ensure the safe and prudent supervision of the management of a bank's operations in accordance with professional diligence and the highest ethical standards, and the prevention of conflicts of interest; and
  3. they are not in breach of Article 36 of this Act, or assurances have been given that the candidate will meet these requirements within six months from the entry of the general meeting resolution on the appointment of a member of the supervisory board in the companies register.

(2) A person is deemed not to enjoy the reputation and possess the traits required to supervise the management of a bank's operations if:

1. they have been convicted of a criminal offence and the conviction has not yet been expunged from the records; or
2. they have been charged with a criminal offence prosecuted *ex officio* and for which a prison sentence of a year or more may be imposed.



**Article 54**  
**(notification regarding the appointment of member of a bank's supervisory board)**

Within five days following the appointment of a member of its supervisory board at the general meeting of shareholders, a bank shall inform the Bank of Slovenia or the European Central Bank accordingly, whenever the latter performs the tasks set out in point (e) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of the bank in accordance with the same regulation.

**Article 55**  
**(duties and responsibilities of the members of a bank's supervisory board)**

(1) The members of a bank's supervisory board shall fulfil the conditions set out in Article 53 of this Act at all times while performing their function, and:

1. conduct themselves in accordance with the requisite professional diligence and, in particular, ensure that the bank's supervisory board functions in accordance with Article 137 of this Act;
2. conduct themselves in an open, fair and independent manner in order to effectively monitor and supervise the decisions of the management board and senior management in connection with the management of the bank;
3. conduct themselves in accordance with the highest ethical standards of governance, taking into account the prevention of conflicts of interest; and
4. dedicate sufficient time to their function as supervisory board member, so that they may perform that function effectively, taking into account the requirements of Article 36 of this Act.

(2) The members of a bank's supervisory board shall be jointly and severally liable for damage that arises as a result of the breach of their duties, unless they prove that they avoided conflicts of interest and acted in accordance with regulations and due professional diligence while discharging their duties in supervising the management of the bank's operations.

**Article 56**  
**(notifications from a member of a bank's supervisory board)**

(1) A member of a bank's supervisory board shall inform the bank, supervisory board and Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in point (e) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of the bank in accordance with the same regulation, in writing without delay of their appointment to or termination of a directorship at another undertaking or organisation, with the aim of verifying the conditions set out in Article 36 of this Act.

(2) A member of a bank's supervisory board shall inform the supervisory board without delay about circumstances that could result in conflicts of interest during the performance of their function as member of that bank's supervisory board, and about other circumstances that could affect the fulfilment of conditions for appointment as member of the bank's supervisory board in accordance with this Act, including every significant change that affects or could affect the bank's assessment of their suitability as member of the supervisory board.

**Article 57**  
**(verification of the conditions to perform the function of member of a bank's supervisory board)**

(1) For the purpose of verifying whether a supervisory board member fulfils the conditions and duties set out in Article 55 of this Act, the Bank of Slovenia may conduct an oral interview, at which it invites the supervisory board member to present in detail circumstances that the Bank of Slovenia deems important for assessing the fulfilment of the conditions and duties of a member of a bank's supervisory board.

(2) Article 41 of this Act shall be applied for the oral interview in the cases referred to in the previous paragraph.

*3.4.4 Implementing regulations regarding the functioning of a governing body*

**Article 58**  
**(regulations on governing bodies)**

The Bank of Slovenia shall prescribe:

1. detailed rules regarding the functioning of a governing body and its committees, and regarding the conduct of its members in accordance with the relevant standards of professional diligence, the highest ethical standards and the prevention of conflicts of interest;
2. the detailed content of criteria for assessing the suitability of candidates to perform the function of member of a management board, and the detailed content of documentation submitted by a candidate for member of a bank's management board with their request to issue authorisation to perform the function of member of a bank's management board in connection with the fulfilment of the conditions set out in Article 38 of this Act; and
3. the detailed content of criteria for assessing the suitability of candidates to perform the function of member of a bank's supervisory board, and the detailed content of documentation that must be submitted together with a request for the appointment of a member of a bank's supervisory board in connection with the fulfilment of the conditions set out in Article 53 of this Act.

*3.5 Shareholders' agreements and qualifying holdings*

**Article 59**  
**Shareholders' agreement**

A bank's shareholders who jointly own shares based on which they fall short of a qualifying holding in the bank and who enter into an agreement on the coordinated exercise of management entitlements deriving from such shares (hereinafter: shareholders' agreement) shall notify the Bank of Slovenia accordingly within eight days following the conclusion of such an agreement.

**Article 60**  
**(acquisition of a qualifying holding)**

(1) Any person intending to acquire bank shares in order to achieve or exceed a qualifying holding (hereinafter: future qualifying holder) shall obtain authorisation from the

Bank of Slovenia prior to acquiring such a holding in a bank (hereinafter: authorisation to acquire a qualifying holding) in accordance with this Act.

(2) Persons who have agreed to act in concert to acquire bank shares with the aim of concluding a shareholders' agreement (hereinafter: future joint qualifying holders) and who intend to acquire a holding, on the basis of which they would together achieve or exceed a qualifying holding, shall obtain authorisation to acquire a qualifying holding prior to the acquisition thereof.

(3) Shareholders who together already hold a bank's shares on the basis of which they achieve or exceed a qualifying holding in that bank and who intend to conclude a shareholders' agreement (hereinafter: qualifying shareholders' agreement) shall obtain authorisation to acquire a qualifying holding prior to concluding such an agreement.

(4) Parties to a qualifying shareholders' agreement with authorisation to acquire a qualifying holding shall obtain new authorisation to acquire a qualifying holding prior to any further acquisition of bank shares, based on which their joint holding will exceed the range set out in Article 70 of this Act to which a previously issued authorisation to acquire a qualifying holding relates.

(5) The previous paragraph shall also apply *mutatis mutandis* when a new party intends to join a shareholders' agreement.

(6) Unless proven otherwise, the following entities are deemed to act in concert as future joint qualifying holders or are deemed to have concluded a shareholders' agreement:

1. members of a management of supervisory body with legal persons at which they perform such a function;
2. persons who are related as immediate family members;
3. a management company and the investment funds managed by that company;
4. persons attending a bank's general meeting:
  - who proposed the adoption of a resolution on the appointment or dismissal of members of the governing body, or another resolution adopted in accordance with the ZGD-1 with a majority of at least three quarters of represented share capital, and
  - who achieved the adoption of such a resolution by exercising their voting rights or in some other way.

(7) The provisions of this Act governing the acquisition of a qualifying holding and the rights and obligations of an individual qualifying holder shall also apply *mutatis mutandis* to future joint qualifying holders and to shareholders who intend to conclude a qualifying shareholders' agreement.

## **Article 61**

### **(other cases involving the acquisition of a qualifying holding in a bank)**

(1) A person who intends to conclude an agreement based on corporate law or another legal transaction, on the basis of which they will become the parent entity of a bank, shall obtain authorisation to acquire a qualifying holding, regardless of whether they are already one of that bank's shareholders and notwithstanding the proportion of the bank's shares that they hold, prior to concluding that legal transaction.

(2) The provisions of this Act governing the acquisition of a qualifying holding and the rights and obligations of an individual qualifying holder shall also apply *mutatis mutandis* to the person referred to in the previous paragraph.

**Article 62**  
**(determination of a qualifying holding)**

(1) All bank shares with voting rights shall be taken into account as the basis for determining a qualifying holding based on voting rights, including own shares and shares for which the exercising of voting rights is limited based on the law or the bank's articles of association in accordance with the law.

(2) When determining the qualifying holding of an individual (hereinafter: potential qualifying holder) based on voting rights, the voting rights attached to the following shares shall be taken into account:

1. those whose holder is a potential qualifying holder on their own account;
2. those whose holder is a third party with whom the potential qualifying holder concluded an agreement that binds the contracting parties to implement a bank's permanent common governance policy through the coordinated exercising of voting rights;
3. those whose holder is a third party with whom the potential qualifying holder concluded an agreement based on which the exercising of voting rights was temporarily transferred to that person in return for payment;
4. those that were temporarily transferred to a potential qualifying holder as collateral, if they control the voting rights attached to these shares and if they express the intention to exercise those rights;
5. those with regard to which a potential qualifying holder has the right to benefit;
6. those whose holder is the subsidiary of a potential qualifying holder, or based on which the subsidiary of a potential qualifying holder may exercise voting rights within the meaning of points 2 to 5 of this paragraph;
7. those whose holder is a potential qualifying holder on behalf of a third party, and based on which they may exercise their voting right at their own discretion if they do not receive appropriate instructions from that third party;
8. those whose holder is a third party on their own behalf and for the account of a potential qualifying holder; and
9. those based on which a potential qualifying holder may exercise voting rights as an authorised representative, and which they may exercise at their own discretion if they do not receive appropriate instructions from their holder.

(3) All shares to which a bank's share capital was allocated, including own shares, shall be taken into account as the basis for determining a qualifying holding based on participation in capital.

(4) Points 1, 2, 3, 5, 6 and 8 of the second paragraph of this article shall apply *mutatis mutandis* in determining the qualifying holding of a specific qualifying holder on the basis of participation in capital.

**Article 63**  
**(exceptions in the determination of a qualifying holding)**

(1) The following shares shall not be taken into account when determining a qualifying holding:

1. shares that a potential qualifying holder has acquired exclusively for settlement in a typically short settlement period; and
2. shares that a potential qualifying holder has acquired on behalf of a third party in connection with the provision of custody services, if they may exercise the voting rights attached to these shares based solely on instructions in writing or electronic form provided by the person on whose behalf they hold them.

(2) When determining the qualifying holding of an undertaking that is the parent of a management company, the investments of collective investment undertakings in bank shares which, under the conditions set out in the law governing investment funds or in an act in the home Member State of the management company by which Directive 2009/65/EC was transposed into the laws of that country, are managed by the management company shall not be taken into account, if the management company exercises the voting rights attached to these shares independently of the parent company.

(3) The previous paragraph shall not apply if:

1. the parent company or its subsidiary is a holder of bank shares with voting rights managed by a management company; and
2. the management company may not exercise voting rights attached to these shares at its own discretion, but only according to the direct or indirect instructions of the parent company or its subsidiary.

(4) When determining the qualifying holding of a company that is the parent of an investment firm which, in accordance with the ZTFI or an act in the home Member State of the investment firm by which Directive 2004/39/EC was transposed into the laws of that country, is entitled to provide investment services and transactions, the holdings from investments in bank shares managed by this investment firm in the scope of portfolio management services within the meaning defined in the ZTFI shall not be taken into account when the following conditions are met:

1. the investment firm has the requisite authorisation from the competent authority to provide the investment service of portfolio management; and
2. the investment firm:
  - may either exercise the voting rights attached to investments in bank shares based solely on instructions in writing or electronic form provided by the client on whose behalf they manage them, or
  - through the application of appropriate measures, it has ensured conditions that are equal to the conditions set out in the law governing investment funds in order to provide portfolio management services independently from other services and transactions provided by the investment firm; and
3. the investment firm exercises voting rights independent of the parent company.

(5) The previous paragraph shall not apply if:

1. the parent company or its subsidiary is a holder of bank shares with voting rights managed by an investment firm; and
2. the investment firm may not exercise voting rights attached to these shares at its own discretion, but only according to the direct or indirect instructions of the parent company or its subsidiary.

(6) When determining the qualifying holding of a bank, Member State bank or investment firm, the shares that this bank, Member State bank or investment firm has acquired from the execution of initial and subsequent offerings of financial instruments on a firm commitment basis in accordance with the ZTFI or the act of another Member State by which Directive 2004/39/EC is transposed into the laws of that Member State, shall not be taken into account when the following conditions are met:

1. the bank, Member State bank or investment firm is entitled to provide investment services in accordance with the ZTFI or the act of another Member State by which Directive 2004/39/EC is transposed into the laws of that Member State;
2. the bank, Member State bank or investment firm does not exercise the voting rights attached to the shares and does not exercise other management entitlements arising from the shares in a manner that would affect the management of the bank's operations; and

3. the bank, Member State bank or investment firm disposes of the shares within one year following acquisition.

**Article 64**  
**(request to issue authorisation to acquire a qualifying holding)**

(1) A request to issue authorisation to acquire a qualifying holding shall be submitted to the Bank of Slovenia and include the following:

1. the level of participation in voting rights or in the capital of a bank that the future qualifying holder intends to acquire; and
2. documentation and information confirming that the future qualifying holder satisfies the criteria prescribed by this Act.

(2) The Bank of Slovenia shall issue a resolution on the elimination of deficiencies in a request to issue authorisation to acquire a qualifying holding within two working days following the receipt thereof.

(3) The Bank of Slovenia shall issue an applicant confirmation of the receipt of a complete request to issue authorisation to acquire a qualifying holding within two working days.

(4) The deadline set out in the previous paragraph shall apply:

1. from the receipt of a request, if the Bank of Slovenia did not issue a resolution on the elimination of deficiencies in a request by the deadline set out in the second paragraph of this article; or
2. from the receipt of an amended or corrected request, if the Bank of Slovenia issued a resolution on the elimination of deficiencies in a request by the deadline set out in the second paragraph of this article and the applicant amended or corrected the request in accordance with that resolution by the deadline stated therein.

(5) The Bank of Slovenia may request that an applicant submit additional information or documents required to assess the suitability of a future qualifying holder (hereinafter: request for additional information or documents). The Bank of Slovenia may request additional information and documents from an applicant until the 50th working day following the expiry of the deadline set out in the third paragraph of this article.

(6) The Bank of Slovenia shall issue an applicant confirmation of the receipt of additional information or documents within two working days following the receipt thereof based on the former's request for additional information or documents.

(7) In the confirmation referred to in the third and sixth paragraphs of this article, the Bank of Slovenia shall state the date on which the deadline set out in the first paragraph of Article 67 of this Act.

(8) The Bank of Slovenia shall submit a request to issue authorisation to acquire a qualifying holding, including the additional information and documentation set out in the fifth paragraph of this article, to the European Central Bank in accordance with Article 15 and point (c) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013, and inform the parties to the procedure accordingly. The decision-making process with respect to the request shall continue in accordance with Regulation (EU) No 1024/2013.

**Article 65**  
**(consultation with the competent authorities and supervisory authorities)**

(1) In connection with the assessment of the suitability of a qualifying holder based on the request referred to in the previous article, the Bank of Slovenia shall consult with the competent authority of a Member State, if the future qualifying holder is:

1. a bank in that Member State;
2. an insurance undertaking, reinsurance undertaking, investment firm or management company in that Member State;
3. a parent to the entities set out in points 1 and 2 of this paragraph; or
4. a legal person or natural person who controls the entities set out in points 1 and 2 of this paragraph.

(2) In connection with the assessment of the suitability of a qualifying holder based on the request referred to in the previous article, the Bank of Slovenia shall consult with a supervisory authority in the Republic of Slovenia or another Member State, if the future qualifying holder is:

1. an insurance undertaking, reinsurance undertaking, brokerage company or management company in the Republic of Slovenia;
2. a parent to the entities set out in the previous point; or
3. a legal person or natural person who controls the entities set out in point 1 of this paragraph.

(3) The Bank of Slovenia shall consult and exchange information with the competent authorities and supervisory authorities of Member States regarding the suitability of qualifying holders, and the reputation, knowledge, skills and experience of members of the management boards of undertakings within the same group, and other information required or important for determining whether a future qualifying holder meets the criteria prescribed by this Act.

(4) If a future qualifying holder is a third-country financial sector entity subject to supervision, a request for authorisation to acquire a qualifying holding shall also be accompanied by the consent or opinion of the competent authority or supervisory authority, or by notification that no such consent or opinion is required in accordance with regulations applicable for the future qualifying holder in its country of establishment.

**Article 66**  
**(assessment of the suitability of a future qualifying holder)**

(1) To ensure the secure and prudent management of the bank in which a future qualifying holder intends to acquire a qualifying holding, the Bank of Slovenia shall assess the suitability of the future qualifying holder on the basis of the following criteria, taking into account the influence that the future qualifying holder would likely have on the bank's management if the qualifying holding that is the subject of the request is acquired:

1. the reputation of the future qualifying holder;
2. the reputation, knowledge, skills and experience of all members of management and supervisory bodies and all senior management staff who will be afforded the opportunity to manage the bank or to otherwise influence the bank's operations if the future qualifying holder acquires the qualifying holding that is the subject of the request;

3. the financial soundness of the future qualifying holder, particularly in connection with the types of transactions that the bank executes or is planning; and
4. the likely consequences, should the future qualifying holder acquire the qualifying holding that is the subject of the request, for the bank's ability to act in accordance with risk management rules and to meet the requirements and restrictions set out in this Act, Regulation (EU) No 575/2013 and other regulations that apply to the bank.

(2) When assessing the suitability of a future qualifying holder based on the criterion set out in point 4 of the previous paragraph, the Bank of Slovenia shall also assess the organisational structure, processes and systems within the group that the bank will become part of when the qualifying holding that is the subject of the request is acquired by the future qualifying holder, and the likely consequences for the possibility of effective supervision, the efficient exchange of information between the competent supervisory authorities, and the segregation of supervisory powers and responsibilities between the competent supervisory authorities.

(3) When assessing the suitability of a future qualifying holder, the Bank of Slovenia shall also assess whether there are any reasons to suspect:

1. that an act of money laundering or terrorist financing, as set out in the ZPPDFT, was or will be committed or an attempt to commit such an act was or will be carried out in connection with the acquisition of a qualifying holding; or
2. that the acquisition in question will increase the risk of money laundering or terrorist financing as set out in the ZPPDFT.

(4) The Bank of Slovenia shall not assess the suitability of a future qualifying holder in terms of the economic needs of the market.

(5) If the Bank of Slovenia processes two or more requests to acquire a qualifying holding in the same bank at the same time, it shall treat all future qualifying holders in a non-discriminatory manner.

## **Article 67**

### **(deadline for a decision regarding a request to issue authorisation to acquire a qualifying holding)**

(1) Notwithstanding the other provisions of this Act, a decision regarding a request to issue authorisation to acquire a qualifying holding shall be issued within 60 working days.

(2) The deadline set out in the previous paragraph shall apply:

1. from the issue of confirmation, if the Bank of Slovenia issued that confirmation by the deadline set out in the third paragraph of Article 64 of this Act; and
2. from the expiry of the deadline set out in the third paragraph of Article 64 of this Act, if the Bank of Slovenia did not issue confirmation by that deadline.

(3) If prior to the expiry of the deadline set out in the first paragraph of this article the Bank of Slovenia called on an applicant to make a statement regarding reasons for the rejection of its request, the deadline set out in the first paragraph of this article shall not apply from the delivery of the Bank of Slovenia's call until the expiry of the deadline for the submission of the aforementioned statement, or until the receipt of that statement, if it was delivered by the deadline set out in the invitation.

(4) If the Bank of Slovenia issues a request for additional information or documents in accordance with the fifth paragraph of Article 64 of this Act, the deadline set out in the first paragraph of this article shall be suspended from the issue of the request for



additional information or documents until the day the applicant submits the requested additional information or documents, but for a maximum of 20 days from the initial request. A second and third request issued by the Bank of Slovenia in accordance with the fifth paragraph of Article 64 of this Act shall not result in the suspension of the deadline set out in the previous paragraph.

(5) Notwithstanding the previous paragraph, the Bank of Slovenia may decide in its first request for additional information or documents, set out in the fifth paragraph of Article 64 of this Act, to suspend the deadline set out in the first paragraph of this article for more than 20 days, but for a maximum of 30 days from issue of its request, if:

1. the future qualifying holder is a third-country entity; or
2. the future qualifying holder is not a credit institution, investment firm, management company, collective investment undertaking, insurance undertaking or reinsurance undertaking.

#### **Article 68**

##### **(reasons for the rejection of a request to issue authorisation to acquire a qualifying holding)**

The Bank of Slovenia shall reject a request to issue authorisation to acquire a qualifying holding, if:

1. the future qualifying holder does not satisfy the criteria set out in Article 66 of this Act;
2. it is likely that the bank's ability to act in accordance with risk management rules and to meet the requirements and set out in this Act, Regulation (EU) No 575/2013 and other regulations that apply to the bank will be compromised due to the acquisition of the qualifying holding that is the subject of the request;
3. it is likely that effective supervision, the efficient exchange of information between the competent authorities and supervisory authorities, and the segregation of supervisory powers and responsibilities between the competent authorities and supervisory authorities will be hindered or made difficult due to the acquisition of the qualifying holding that is the subject of the request;
4. it is suspected that an act of money laundering or terrorist financing, as set out in the ZPPDFT, will be committed or an attempt to commit such an act will be carried out in connection with the intended acquisition of a qualifying holding, or that the risk of money laundering or terrorist financing will increase due to that acquisition;
5. it is likely that effective supervision, the efficient exchange of information between the competent authorities and supervisory authorities, and the segregation of supervisory powers and responsibilities between the competent supervisory authorities will be hindered or made difficult in connection with a third-country future qualifying holder, taking into account the regulations in that person's country, or taking into account the practices in that person's country in the application and implementation of such regulations; and
6. the future qualifying holder does not submit all documentation and information required for the assessment of their suitability by the deadline set by the Bank of Slovenia in accordance with this Act.

#### **Article 69**

##### **(decision regarding a request to issue authorisation to acquire a qualifying holding)**

(1) A decision regarding a request to issue authorisation to acquire a qualifying holding shall include justification with respect to the positions and concerns of the authorities set out in Article 65 of this Act.

(2) A written copy of a decision regarding the issue of authorisation or the rejection of a request to issue authorisation to acquire a qualifying holding shall be issued and sent within two working days following that decision, but by no later than the deadline set out in the first paragraph of Article 67 of this Act, taking into account the possible suspension of the deadline in accordance with the fourth and fifth paragraphs of Article 67 of this Act.

(3) If a written copy of the aforementioned decision is not issued by the deadline set out in the first paragraph of Article 67 of this Act, taking into account the possible suspension of the deadline in accordance with the fourth and fifth paragraphs of Article 67 of this Act, in accordance with the previous paragraph, it shall be deemed that the applicant is issued authorisation to acquire a qualifying holding on the day of expiry of that deadline.

(4) Notwithstanding the other provisions of this Act, an abstract of the European Central Bank's decision to reject a request to issue authorisation to acquire a qualifying holding, including a summary of the reasons for that decision, shall be made available on a public website at the applicant's request. The abstract of the European Central Bank's decision shall not include confidential information and data relating to other persons.

## **Article 70**

### **(authorisation to acquire a qualifying holding)**

(1) Authorisation to acquire a qualifying holding shall set out the level of participation in the voting rights or capital of a bank, for which authorisation is issued, in one of the following ranges:

1. participation in the voting rights or capital of a bank that is equal to or greater than the qualifying holding and less than 20%;
2. participation in the voting rights or capital of a bank that is equal to or greater than 20% and less than 1/3;
3. participation in the voting rights or capital of a bank that is equal to or greater than 1/3 and less than 50%;
4. participation in the voting rights or capital of a bank that is equal to or greater than 50%;  
or
5. participation based on which a future qualifying holder becomes the parent entity of a bank.

(2) A qualifying holder shall obtain new authorisation to acquire a qualifying holding prior to any further acquisition of shares, based on which they would exceed the range to which a previously issued authorisation to acquire a qualifying holding relates.

(3) Joint qualifying holders with valid authorisation to acquire a qualifying holding shall obtain new authorisation to acquire a qualifying holding prior to any further acquisition of bank shares, based on which their joint holding would exceed the range to which a previously issued authorisation to acquire a qualifying holding relates.

## **Article 71**

### **(deadline for the acquisition of a holding to which an authorisation relates)**

(1) A decision to issue authorisation to acquire a qualifying holding may impose a deadline, which shall not be less than six months, on a qualifying holder to acquire the bank shares based on which it exceeds the range for which authorisation to acquire a qualifying holding was issued. That obligation may also be issued following the issue of authorisation.

(2) The deadline set out in the previous paragraph may be extended at the request of the future qualifying holder, provided that the request is submitted prior to the expiry of that deadline.

## **Article 72**

### **(cessation of the validity of authorisation to acquire a qualifying holding)**

(1) If a deadline has been set for the acquisition of bank shares in accordance with the first paragraph of the previous article, and the future qualifying holder fails to acquire the shares based on which it would achieve a qualifying holding by the aforementioned deadline, authorisation shall cease to be valid in its entirety.

(2) If a deadline has been set for the acquisition of bank shares in accordance with the first paragraph of the previous article, and the qualifying holder achieves a qualifying holding by that deadline but fails to achieve the range for which authorisation was issued, that authorisation shall cease to be valid in the part that exceeds the range achieved by the holder.

(3) If the qualifying holder, after having acquired a holding in the range for which authorisation was issued, disposes of bank shares so that their participation in the voting rights or capital of the bank no longer achieves the range for which authorisation was issued, that authorisation shall cease to be valid in the part that exceeds the range that is achieved by the holder after such a disposal of shares.

(4) The previous paragraph shall also apply *mutatis mutandis* if the holding of the qualifying holder is reduced due to an increase in share capital or other corporate actions by the bank.

(5) A declaratory decision shall be issued on the total or partial cessation of the validity of authorisation to acquire a qualifying holding.

## **Article 73**

### **(voting rights of an ineligible holder)**

(1) The holder of bank shares that were acquired in contravention of this Act (hereinafter: ineligible holder), because the holder did not obtain authorisation to acquire a qualifying holding in accordance with this Act, or authorisation ceased to be valid or was revoked, shall have no voting rights with respect to those shares.

(2) The number of shares for which an ineligible holder may exercise their voting rights shall be calculated as follows:

1. by subtracting one share from the number of shares that represents a qualifying holding, if based on those shares the holder achieves or exceeds a qualifying holding without holding authorisation to acquire a qualifying holding, or if that authorisation was revoked; or
2. by setting the number of shares equal to the number of shares that represents the upper limit of the range for which the holder holds valid authorisation, if based on those shares the holder exceeds the range for which authorisation to acquire a qualifying holding is valid.

(3) The voting rights that an ineligible holder is not entitled to exercise shall be added to the voting rights of other shareholders in proportion to their participation in all voting rights attached to the bank shares.

(4) If an ineligible holder submits a request for authorisation to acquire a qualifying holding within one month following acquisition, and if such authorisation is issued, the holder shall acquire the voting rights attached to shares up to the number of shares that represents the upper limit of the range for which authorisation was granted.

(5) A bank shall prevent an ineligible holder from exercising their voting rights referred to in the first paragraph of this article.

(6) The provisions of the first to fifth paragraphs of this article shall also apply *mutatis mutandis* if the holding of the qualifying holder is increased due to a reduction in share capital or other corporate actions by the bank. When applying the provisions of the previous sentence *mutatis mutandis*, a one-month deadline to submit a request for authorisation to acquire a qualifying holding shall apply from the day when the qualifying holder is informed or could be informed that their holding has increased due to a corporate action of the bank.

#### **Article 74** **(notifications in connection with qualifying holdings)**

(1) A bank shall notify the Bank of Slovenia without delay with regard to changes in circumstances that could lead to a change in an individual shareholder's holding, whereby that holding:

1. exceeds the limit of a qualifying holding or no longer achieves a qualifying holding; or
2. exceeds the upper limit of the range or falls below the lower limit of the range of the qualifying holding for which the qualifying holder was issued authorisation.

(2) A bank with shares that are traded on a regulated market shall notify the Bank of Slovenia at least once a year with regard to shareholders who hold a qualifying holding and with regard to those qualifying holdings.

(3) A bank shall notify the Bank of Slovenia without delay about the conclusion of a shareholders' agreement, or about arrangements and other circumstances in connection with future qualifying holders.

(4) If a qualifying holder who has obtained authorisation to acquire a qualifying holding intends to dispose of bank shares such that they would no longer hold a qualifying holding or their holding would fall below the lower limit of the range for which authorisation applies, they shall inform the Bank of Slovenia in advance accordingly.

(5) A qualifying holder shall inform the Bank of Slovenia without delay about every merger or demerger to which it is party, about every other change in status, and about any other change that affects the fulfilment of the suitability criteria set out in Article 66 of this Act.

(6) A parent financial holding company, parent mixed financial holding company or mixed-activity holding company that is in the position of parent company vis-à-vis a bank in accordance with authorisation to acquire a qualifying holding shall inform the Bank of Slovenia of every change in members of their governing body.

**Article 75**  
**(regulations on qualifying holders)**

The Bank of Slovenia shall prescribe:

1. the detailed content of criteria for assessing the suitability of a future qualifying holder, and the detailed content of the documentation and information that must accompany a request to issue authorisation to acquire a qualifying holding; and
2. the detailed content and method for sending the notifications set out in the previous article.

**3.6 Exclusion of the application of the ZPre-1**

**Article 76**  
**(exemptions from the ZPre-1 with regard to a mandatory takeover bid)**

(1) In addition to the cases set out in the ZPre-1, a holder who has achieved the takeover threshold in a bank due to the acquisition of the shares of a bank during the process of increasing the latter's share capital shall not be obliged to issue a mandatory takeover bid:

1. based on an additional Bank of Slovenia measure in accordance with Article 250 of this Act or an early intervention measure in accordance with Article 253 of this Act; or
2. based on the conversion of the capital instruments of a bank that the latter may take into account in the calculation of capital and that are converted to bank shares when an objective condition arises.

(2) A holder may exercise the exception set out in point 1 of the previous paragraph if it obtains the prior consent of the Bank of Slovenia. The Bank of Slovenia shall issue consent if an increase in share capital is required to ensure a bank's capital adequacy in accordance with the requirements of the Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in point (e) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of the bank in accordance with the same regulation. The Bank of Slovenia shall inform the Securities Market Agency about the issue of consent and the conversion referred to in point 2 of the previous paragraph.

(3) The provisions of the first to fourth paragraphs of Article 22b of the ZPre-1 shall not apply to entities that have achieved the takeover threshold at a bank.

(4) The obligation to issue a takeover bid in accordance with the ZPre-1 shall arise for the holder referred to in the first paragraph of this article upon the first subsequent acquisition of bank shares, where the conditions set out in the previous paragraph are not met or other reasons are not given in accordance with the ZPre-1, for which reason the holder is not obliged to issue a takeover bid, provided that they continue to achieve the takeover threshold upon the acquisition of new bank shares.

#### **Article 77**

##### **(exemptions from the ZPre-1 with regard to the exercising of voting rights attached to bank shares)**

(1) When issuing consent on the basis of the fifth paragraph of Article 22b of the ZPre-1, the Securities Market Agency shall obtain the Bank of Slovenia's opinion regarding the need for measures to stabilise a bank's operations. A shareholder shall not be obliged to submit the opinion of an expert set out in the sixth paragraph of Article 22b of the ZPre-1 in connection with a request for the issue of the Security Market Agency's consent.

(2) The Securities Market Agency shall issue consent to exercise a shareholder's voting rights at a bank's general meeting, if it is evident from the Bank of Slovenia's opinion that an increase in the share capital of the bank in question is required to ensure the stable operations of that bank and to fulfil the requirements of the competent authority.

(3) If the shareholder referred to in the first paragraph of this article participated in an increase in a bank's share capital under the conditions set out in Article 76 of this Act, such that after that increase they hold at least the same participation in the bank's capital as before that increase, the shareholder may revoke the prohibition on the exercising of voting rights attached to those shares imposed by the Securities Market Agency, until the first subsequent acquisition of bank shares for which the conditions set out in Article 76 of this Act are not met, provided that the shareholder continues to achieve the takeover threshold.

#### **Article 78**

##### **(exemptions from the ZPre-1 with regard to a bank's takeover bid for the securities of a target company)**

(1) In addition to the cases set out in the ZPre-1, a bank that has achieved the takeover threshold in a target company due to the acquisition of the shares or other securities of the target company that were delivered to the bank as a non-cash contribution during an increase in the latter's share capital in accordance with this act shall not be obliged to issue a mandatory takeover bid.

(2) A bank shall inform the Securities Market Agency about the acquisition of the securities referred to in the previous paragraph and the disposal thereof within three working days from the acquisition or disposal.

(3) The obligation to issue a takeover bid in accordance with the ZPre-1 shall arise for the bank referred to in the first paragraph of this article five years following the acquisition of the shares of the target company, provided that the bank continues to achieve the takeover threshold in the target company following the aforementioned period.

(4) The obligation to issue a takeover bid shall arise for the bank referred to in the first paragraph of this article before five years have passed since the acquisition of a target company's shares upon the first subsequent acquisition of the target company's shares, provided that the bank continues to achieve the takeover threshold and the conditions set out in the first paragraph of this article are not met or other reasons are not given in accordance with the ZPre-1, for which reason the bank is not obliged to issue a takeover bid.

### **3.7 Regular liquidation of a bank**

#### **Article 79 (general meeting resolution on the liquidation of a bank)**

(1) A bank's general meeting may adopt a resolution to wind up a bank and initiate liquidation proceedings, provided that the bank's management board has drawn up a liquidation plan and submitted it to the Bank of Slovenia in accordance with Article 81 of this Act before the general meeting adopts the aforementioned resolution.

(2) A general meeting resolution adopted in contravention of the previous paragraph shall be null and void.

#### **Article 80 (liquidator of a bank)**

Only a person with authorisation to perform the function of member of a bank's management board may be appointed liquidator of that bank.

#### **Article 81 (liquidation plan)**

(1) At least six months prior to the publication of the convening of the general meeting that will decide on the initiation of liquidation proceeding against a bank, that bank's management board shall inform the Bank of Slovenia about the plan of measures for the liquidation of the bank and the winding up of its operations, and with regard to the bank's guarantees as collateral for creditors' claims.

(2) Based on the notification from the previous paragraph, the Bank of Slovenia shall assess the appropriateness of measures to liquidate a bank, and request that the bank's management board adjust the plan as required with the aim of protecting the stability of the financial system and the position of the bank's creditors.

#### **Article 82 (restriction of authorisation to provide services)**

Based on a general meeting resolution on the initiation of liquidation proceedings against a bank, the Bank of Slovenia shall issue a decision:

1. restricting the authorisation to render the services that the bank provides in accordance with this Act, by defining the type and scope of transactions that the bank may provide during liquidation and other conditions in connection with the provision of those services; and
2. defining to what extent the rules of this Act, Regulation (EU) No 575/2013 and regulations adopted on the basis thereof shall be applied to a bank in liquidation.

**Article 83**  
**(implementation of liquidation)**

Unless otherwise defined in Section 3.7 of this Act, the provisions of the ZGD-1 governing the liquidation of public limited companies based on a general meeting resolution shall apply for the liquidation of a bank on the basis of a general meeting resolution on the initiation of liquidation proceedings.

**Article 84**  
**(reacquiring authorisation to provide banking services)**

(1) If following the adoption of the resolution set out in Article 82 of this Act a bank's general meeting decides to halt liquidation proceedings and continue the bank's operations, that bank may resume providing the banking, financial and ancillary financial services and transactions that were restricted by the aforementioned resolution, provided that it obtains authorisation to provide those services in accordance with this Act.

(2) The proposal to enter the resolution referred to in the previous paragraph in the companies register shall be accompanied by a new authorisation to provide services.

**Article 85**  
**(cessation of the provision of banking services due to a change in a bank's activity)**

The provisions of Section 3.7 of this Act shall also apply *mutatis mutandis*, if a bank's general meeting adopts a resolution changing the activity of the bank, such that the bank no longer provides banking services.

CHAPTER 4:  
BOOKS OF ACCOUNT, ANNUAL REPORTS AND ADDITIONAL DISCLOSURES

**Article 86**  
**(books of account and annual reports of banks)**

(1) Unless special rules are set out in Chapter 4 of this Act, the books of account and annual reports of banks, and the auditing of banks' annual reports shall be subject to the general rules set out in Chapter 8 of Part I of the ZGD-1 and in the law governing auditing. Point 5 of the first paragraph of Article 685 of the ZGD-1 shall not be applied in connection with the books of account and annual reports of banks.

(2) A bank shall keep its books of account, draw up bookkeeping documents, value bookkeeping items and prepare reports in accordance with the rules referred to in the previous paragraph and the implementing regulations issued on the basis of Article 93 of this Act.



**Article 87**  
**(special rules on books of account, annual reports and reports on the financial information of banks)**

- (1) A bank shall keep a general ledger based on an internal chart of accounts.
- (2) The financial year for which financial statements and consolidated financial statements are compiled as an integral part of a bank's annual report and consolidated annual report shall be the same as the calendar year.
- (3) A bank shall report financial information in connection with its financial statements to the Bank of Slovenia.

**Article 88**  
**(additional disclosures)**

- (1) A bank shall publish the disclosures set out in Part 8 of Regulation (EU) No 575/2013 on its website.
- (2) The Bank of Slovenia shall prescribe rules on more frequent disclosures of the information referred to in the previous paragraph if necessary due to changed conditions in the operations of banks and the functioning of the financial system.
- (3) A bank shall explain on its public website how it meets the requirements set out in the regulations stated in the second paragraph of Article 9 of this Act, with regard to:
1. the bank's internal governance arrangements and organisational structure;
  2. the policy for selecting members of the governing body set out in Article 34 of this Act; and
  3. the remuneration policy set out in Articles 169 and 171 of this Act.
- (4) Once a year, a parent bank in the Republic of Slovenia shall publish on its website the legal and organisational structure of the banking group, including a description of internal governance arrangements in accordance with Article 128 of this Act, arrangements regarding close relationships and arrangements regarding the governance of subsidiaries in accordance with Article 134 of this Act, or provide reference to the equivalent information in lieu of the publication of the aforementioned description.

**Article 89**  
**(special rules on the auditing of a bank's annual report)**

- (1) A bank shall submit the following to the Bank of Slovenia within eight days of receiving the auditor's report, but no later than four months after the end of the calendar year:
1. the annual report;
  2. the auditor's report on the auditing of the annual report set out in the second paragraph of Article 57 of the ZGD-1; and
  3. the additional auditor's report regarding a bank's compliance with risk management rules set out in the first paragraph of Article 90 of this Act.

(2) The previous paragraph and Articles 90 to 92 of this Act shall apply *mutatis mutandis* to the submission, audit and publication of a consolidated annual report if a bank is obliged to compile the latter.

#### **Article 90 (additional audit rules)**

(1) In addition to the audit and examination pursuant to the first paragraph of Article 57 of the ZGD-1 and the content of the auditor's report pursuant to the second paragraph of Article 57 of the ZGD-1, the audit of a bank's annual report and the auditor's report shall also include an additional audit and additional auditor's report on a bank's compliance with risk management rules.

(2) For the audit of the annual report referred to in the previous paragraph, a bank shall appoint an audit firm for a period of no less than three financial years. A single audit firm may audit a bank's annual report for a maximum of ten consecutive financial years, followed by a break of at least the next four financial years.

(3) A bank or audit firm may only terminate the agreement referred to in the previous paragraph before the contractually agreed expiration thereof for justified reasons. Differing opinions regarding accounting treatment or audit procedures shall not be deemed justified reasons for the termination of the aforementioned agreement. An agreement on audit services shall be terminated in judicial proceedings. A bank's management board may only terminate an agreement on audit services before the contractually agreed expiration thereof with the supervisory board's consent and in consultation with the audit committee.

(4) A bank shall inform the Bank of Slovenia in writing of the dismissal or withdrawal of an audit firm prior to the contractually agreed expiration of an agreement, and explain the reasons for that dismissal or withdrawal accordingly.

(5) The Bank of Slovenia may require an audit firm to provide additional explanations in connection with an audit.

(6) If an audit is not carried out or the auditor's report or additional auditor's report are not prepared in accordance with the first paragraph of this article or with the requirement set out in the second paragraph of Article 93 of this Act, the Bank of Slovenia may require the amendment or correction of that report.

#### **Article 91 (obligations of an audit firm vis-à-vis the Bank of Slovenia)**

(1) An audit firm that audits a bank's annual report shall notify the Bank of Slovenia without delay of any fact or circumstance identified during the audit that might:

1. represent a major breach of the regulations stated in the second paragraph of Article 9 of this Act;
2. could affect the smooth operations of a bank; or
3. could result in a qualified auditor's opinion, a negative opinion or refusal to issue an opinion.

(2) The obligation referred to in the previous paragraph shall also apply to the facts or circumstances associated with an undertaking that has close links with a bank based on control.

(3) An audit firm shall also provide the Bank of Slovenia, at the latter's request, other information required by the Bank of Slovenia to conduct supervision of a bank in accordance with this Act.

(4) The submission of information to the Bank of Slovenia pursuant to the first to third paragraphs of this Article shall not be deemed a breach of the auditor's duty to safeguard confidential information in accordance with the law governing auditing, or based on the relevant agreement.

## **Article 92**

### **(publication of a bank's audited annual report)**

(1) A bank shall, within four months following the end of the calendar year, publish its annual report, together with the auditor's report referred to in the second paragraph of Article 57 of the ZGD-1, on its website.

(2) If a bank's competent body has not adopted the annual report by the deadline set out in the previous paragraph, the bank shall publish by the aforementioned deadline a composite annual report that the bank's management board shall submit to the supervisory board pursuant to the third paragraph of Article 272 of the ZGD-1 (hereinafter: composite annual report) and indicate this in the publication.

(3) In the case referred to in the previous paragraph, a bank shall also publish the adopted annual report within 15 days following the day the annual report was adopted by the bank's competent body. If a bank's competent body did not amend the composite annual report during the adoption of the annual report, the bank may only publish the information that the bank's competent body adopted the annual report with the content of the composite annual report, in lieu of republishing the entire annual report.

(4) A bank shall ensure that the annual report and the auditor's report referred to in the second paragraph of Article 57 of the ZGD-1 are available on its website at least five years following their publication.

(5) A bank shall submit the annual report, together with the auditor's report set out in the second paragraph of Article 57 of the ZGD-1, within 15 days after the adoption of the annual report, but no later than six months following the end of the calendar year, to the Agency of the Republic of Slovenia for Public Legal Records and Related Services for its publication pursuant to the first paragraph of Article 58 of the ZGD-1.

(6) A branch of a Member State bank or a third-country bank shall publish the audited financial statements and audited consolidated financial statements of the Member State bank or the third-country bank, together with the auditor's opinion, on its website within 15 days following the expiration of the deadline for publication in the bank's home country.

## **Article 93**

### **(implementing regulations governing the books of account and annual reports of a bank)**

(1) The Bank of Slovenia shall prescribe the following with regard to the books of account and annual reports of a bank:

1. the content of the general ledger as it relates to the keeping of books of account, and the types and schemes of a bank's financial statements and consolidated financial statements;

2. the detailed content of the financial report and business report, and consolidated financial report and consolidated business report;
3. the detailed method used to value bookkeeping items; and
4. the detailed content, form, method and frequency of and deadlines for the submission of the financial information set out in third paragraph of Article 87 of this Act.

(2) In connection with the audit of a bank's annual and consolidated annual reports, the Bank of Slovenia shall prescribe the detailed scope and content of the additional audit and additional auditor's report regarding a bank's compliance with risk management rules set out in the first paragraph of Article 90 of this Act.

## CHAPTER 5: PROVISION OF SERVICES BY BANKS

### 5.1 General provisions

#### **Article 94 (acceptance of deposits and other repayable funds)**

(1) A deposit for the purpose of defining the acceptance of deposits shall mean any cash deposit made by a single person (hereinafter: depositor) in favour of another person (hereinafter: payment recipient) on the basis of a deposit agreement or on the basis of another legal transaction, whereby the depositor receives the right to request repayment of the deposited cash from the payment recipient by set deadlines, and where an agreement or other conditions between parties do not set additional conditions excluding or limiting the exercise of the right to repayment of funds.

(2) Accepting deposits and other repayable funds from the public shall mean accepting deposits and other repayable funds from uninformed persons.

(3) An uninformed person shall mean a person who is not a professional client or a person who may be deemed a well-informed investor in accordance with the ZTFI.

(4) Notwithstanding the second paragraph of this article, the following shall not be deemed the acceptance of deposits and other repayable funds under this Act:

1. an offer to pay up debt securities that were not issued by a credit institution, except if the issuer also provides lending services as its core activity; and
2. an offer addressed exclusively to professional clients or other persons who are deemed to be well-informed investors as set out in the ZTFI.

(5) In the event of doubt, the Bank of Slovenia shall decide whether an offer or another transaction is deemed the acceptance of deposits or other repayable funds from the public.

#### **Article 95 (provision of banking services)**

The following persons may provide banking services in the territory of the Republic of Slovenia:

1. a bank that has obtained authorisation to provide banking services in accordance with this Act;

2. a Member State bank that establishes a branch in the territory of the Republic of Slovenia in accordance with this Act or is entitled to provide banking services in the territory of the Republic of Slovenia directly in accordance with this Act; and
3. a third-country bank that obtains authorisation to establish a branch in the Republic of Slovenia in accordance with this Act.

#### **Article 96**

##### **(prohibition on the acceptance of deposits or other repayable funds from the public)**

(1) No one other than the persons referred to in the previous article may accept deposits or other repayable funds from the public in the territory of the Republic of Slovenia.

(2) The prohibition set out in the previous paragraph shall not apply:

1. to the acceptance of deposits or other repayable funds from the Bank of Slovenia, the Republic of Slovenia and its regional and local authorities, or from international organisations whose members include one of more Member State; and
2. in other cases envisaged by the regulations of the Republic of Slovenia or the European Union, if such services are subject to regulation and control to ensure the protection of investors.

#### **5.2 (authorisation to provide banking, financial and ancillary financial services)**

#### **Article 97**

##### **(authorisation to provide services)**

(1) An undertaking established in the Republic of Slovenia may begin providing banking services in the territory of the Republic of Slovenia when it obtains authorisation from the European Central Bank to provide banking services in accordance with this Act and Regulation (EU) No 1024/2013.

(2) A bank may begin providing financial services and ancillary financial services in the territory of the Republic of Slovenia when it obtains authorisation from the Bank of Slovenia to provide those services in accordance with this Act.

(3) Notwithstanding the previous paragraph, a bank may provide the ancillary financial services set out in point 5 of the first paragraph of Article 6 of this Act and ancillary services, provided that it informs the Bank of Slovenia accordingly in advance.

(4) A bank's notification set out in the previous paragraph shall be accompanied by a business plan for the first three years of operations that shall include:

1. a detailed description of the services that the bank intends to provide; and
2. a description of the internal governance arrangements set out in Article 128 of this Act in connection with the services referred to in the previous paragraph.

#### **Article 98**

##### **(territory covered by the provision of services)**

(1) A bank may also provide the banking and financial services that it is entitled to provide in the territory of the Republic of Slovenia:

1. in the territory of another Member State: either through a branch or directly, provided that the conditions set out in Subsection 5.3.1 of this Act have been met; and

2. in the territory of a third country: through a branch, provided that the conditions set out in Subsection 5.3.2 of this Act have been met.

(2) A bank may also provide the ancillary financial services that it is entitled to provide in the Republic of Slovenia in another Member State or third country, if it meets the conditions to provide those services set out in the regulations of that country.

#### **Article 99** **(authorisation to provide banking services)**

A bank shall obtain authorisation to provide banking services prior to the entry of its establishment in the companies register.

#### **Article 100** **(request to issue authorisation to provide banking services)**

(1) A request to issue authorisation to provide banking services shall be submitted to the Bank of Slovenia.

(1) A request to issue authorisation to provide banking services shall be accompanied by the following:

1. a bank's articles of association in the form of certified copy of a notarial record;
2. a bank's business plan for the first three years of operations that shall include:
  - a detailed description of the services that the bank intends to provide; and
  - a description of the internal governance arrangements set out in Article 128 of this Act;
3. a list of persons who will obtain a qualifying holding in the bank and the amount of each holder's qualifying holding or, if there will be no qualifying holders in the bank, a list of the bank's 20 largest shareholders and the amount of each shareholder's participating interest at the time the bank is established;
4. a list of the persons who will be in a close relationship with the bank, with a description of those relationships; and
5. other evidence demonstrating that the conditions to issue authorisation to provide banking services have been met.

(3) If, in addition to banking services, a bank intends to provide financial or ancillary financial services, the applicant shall file the requisite request and submit evidence regarding the fulfilment of the conditions to issue authorisation to provide those services.

(4) An applicant shall ensure the following when submitting its request to issue authorisation to provide banking services:

1. that the persons who will acquire a qualifying holding when the bank is established submit a request to issue authorisation to acquire a qualifying holding in the bank in accordance with Article 64 of this Act; and
2. that candidates for members of the bank's management board submit a request to issue authorisation to perform the function of member of the bank's management board in accordance with Article 40 of this Act.

**Article 101**  
**(consultation with the competent authorities of Member States)**

(1) In connection with the assessment of a request to issue authorisation to provide banking services, the Bank of Slovenia shall consult with the competent authority of a Member State, if:

1. the bank in question is a subsidiary of a Member State bank;
2. the bank in question is a subsidiary of the parent undertaking of a Member State bank;  
or
3. the bank in question is controlled by the same natural person or legal person that controls a Member State bank.

(2) In connection with the assessment of a request to issue authorisation to provide banking service, the Bank of Slovenia shall consult with the competent authority of a Member State responsible for the supervision of insurance undertakings and investment firms, if:

1. the bank in question is a subsidiary of a Member State investment firm or insurance undertaking;
2. the bank in question is a subsidiary of the parent company of a Member State investment firm or insurance undertaking; or
3. the bank in question is controlled by the same natural person or legal person that controls a Member State investment firm or insurance undertaking.

(3) In the scope of consultations based on the first and second paragraphs of this article, the Bank of Slovenia shall obtain the opinion of the competent authority or supervisory authority of a Member State, primarily with regard to circumstances that are important for the assessment of the suitability of holders of qualifying holdings, and the assessment of the reputation and experience of members of the bank's governance bodies who participate in the management of other companies within a group that are deemed important.

**Article 102**  
**(decision regarding a request to issue authorisation to provide banking services)**

(1) The Bank of Slovenia shall reject a request to issue authorisation to provide banking services, if requirements regarding the following are not met:

1. the legal status of a bank in accordance with the provisions of Sections 3.1 to 3.5 of this Act, including the conditions to issue authorisation to acquire a qualifying holding to qualifying holders, and the conditions to issue authorisation to perform the function of member a bank's management board to the members of that bank's management board;  
or
2. the internal governance arrangements in accordance with Article 128 of this Act; or
3. the conditions for effective supervision in accordance with this Act and Regulation (EU) No 575/2013, particularly if such supervision is hindered due to the bank's close relationships with other persons.

(2) The Bank of Slovenia shall reject a request to issue authorisation to provide banking services whenever the laws and other regulations of a third country governing one or more persons in close relationships with a bank or difficulties in implementing the aforementioned laws and other regulations prevent the effective supervision of the bank in question.

(3) If the Bank of Slovenia determines that the reasons for the rejection of a request to issue authorisation to provide banking services set out in the first and second paragraphs of this article are not given, it shall submit that request to issue authorisation to the European Central Bank in accordance with Article 14 and point (c) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013, and inform the parties to the procedure accordingly. The decision-making process with respect to the request to issue authorisation to provide banking services shall continue before the European Central Bank in accordance with Regulation (EU) No 1024/2013.

(4) Authorisation to provide banking services may include conditions or limitations on the provision of services for which authorisation is issued with the aim of preventing breaches of this Act or Regulation (EU) 575/2013.

(5) If an applicant submits a request to provide financial services or ancillary financial services, together with its request to issue authorisation to provide banking services, the Bank of Slovenia shall make a decision regarding the request to issue authorisation to provide financial and ancillary financial services after the European Central Bank makes its decision regarding the request to issue authorisation to provide banking services.

### **Article 103**

#### **(authorisation to provide financial and ancillary financial services)**

(1) A bank that intends to begin providing the financial services set out in Article 5 of this Act or the ancillary financial services set out in Article 6 of this Act following its establishment shall obtain Bank of Slovenia authorisation for each of those services, except for the services set out in Article 97 of this Act.

(2) A bank shall obtain authorisation to provide financial and ancillary financial services before it begins providing those services.

### **Article 104**

#### **(request to issue authorisation to provide financial and ancillary financial services)**

(1) A request to issue authorisation to provide financial and ancillary financial services shall be submitted to the Bank of Slovenia.

(2) The request referred to in the previous paragraph shall be accompanied by the following:

1. a bank's business plan for the first three years of operations that shall include:
  - a detailed description of the services the bank intends to provide, and
  - a description of the internal governance arrangements set out in Article 128 of this Act;
2. other information and evidence demonstrating that a bank will ensure the secure and prudent governance of the bank in connection with the provision of planned services; and
3. evidence demonstrating the fulfilment of the conditions set out in other regulations for the provision of the services referred to in the previous paragraph.

(3) The Bank of Slovenia shall reject a request to issue authorisation to provide financial and ancillary financial services, if:

1. the planned internal governance arrangements set out in Article 128 of this Act is not appropriate and suitable for managing the risks to which the bank is exposed in the provision of planned services; or
2. the bank in question does not fulfil the conditions set out in other regulations for the provision of these services.



(4) Whenever all of the supervisory powers and tasks set out in the first paragraph of Article 4 of Regulation (EU) No 1024/2013 relating to the bank in question are exercised and performed by the European Central Bank in accordance with the aforementioned regulation, the Bank of Slovenia shall consult with the European Central Bank in connection with the circumstance referred to in point 1 of the previous paragraph.

(5) The Bank of Slovenia shall issue authorisation to provide financial and ancillary financial services, and state the services for which authorisation is issued, provided that the reasons set out in the third paragraph of this article are not given concerning the bank in question.

(6) A Bank of Slovenia decision to issue authorisation may include conditions or limitations on the provision of services for which authorisation is issued with the aim of preventing breaches of this Act or Regulation (EU) 575/2013.

### **Article 105** **(authorisation for mergers and demergers)**

(1) If a merger or demerger results in a new undertaking that will provide banking services, that new undertaking shall obtain authorisation to provide banking services before the merger or demerger in question is entered in the companies register.

(2) If a bank is party to the merger or demerger of undertakings in which it continues to provide banking services, it shall obtain authorisation before that merger or demerger from the Bank of Slovenia or the European Central Bank, whenever the latter performs all of the tasks set out in the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation.

(3) The request to issue authorisation set out in the previous paragraph shall be submitted to the Bank of Slovenia, whenever the latter performs the tasks set out in point (b) and points (d) to (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation. The provisions of the previous article shall apply *mutatis mutandis* to a request submitted to the Bank of Slovenia and to decisions regarding that request.

(1) A request to issue authorisation for a merger or demerger shall be accompanied by the following documents:

1. for a merger:
  - merger agreement,
  - report or reports regarding the merger prepared by the management boards of the banks or management of the undertakings involved in the merger,
  - report or reports regarding the audit of the merger,
  - proposal for the publication of the convening of the general meeting or general meetings that will approve the merger,
  - written report of the supervisory board; and
2. for a demerger:
  - demerger plan,
  - report of the bank's management board on the demerger,
  - report regarding the audit of the demerger,
  - proposal for the publication of the convening of the bank's general meeting that will approve the demerger,
  - written report of the supervisory board.

(5) A decision to issue authorisation may include conditions or limitations on the provision of services for which authorisation is issued with the aim of preventing breaches of this Act or Regulation (EU) 575/2013.

#### **Article 106** **(invalidation of authorisation to provide services)**

(1) Authorisation to provide specific services shall be invalidated, if a bank:

1. does not begin providing the services for which authorisation was issued within one year of issue;
2. ceases to provide services for more than six months; or
3. issues a statement on the cessation of the provision of services.

(2) Authorisation to provide services shall also be invalidated if a decision is issued finding that conditions exist for the initiation of bankruptcy proceedings against a bank. That decision shall be issued in accordance with the law governing the winding up of banks.

(3) If the reason specified in the first paragraph of this article arises in connection with the provision of financial or ancillary financial services, the Bank of Slovenia shall issue a ruling stating that authorisation to provide specific services has been invalidated due to the existence of the circumstances set out in the first paragraph of this article.

(4) If the reasons set out in points 1 to 3 of the first paragraph of this article arise in connection with the provision of banking services, authorisation for all services provided by the bank in question shall be invalidated.

(5) A bank may no longer conclude new transactions in connection with banking, financial or ancillary financial services for which authorisation has been invalidated in accordance with this article:

1. from the day authorisation is invalidated in the cases specified in points 1 and 2 of the first paragraph of this article; and
2. from the day stated in the bank's statement on the cessation of the provision of services in the case specified in point 3 of the first paragraph of this article.

#### **Article 107** **(implementing regulations in connection with the issue of authorisation to provide services)**

The Bank of Slovenia shall prescribe detailed rules regarding:

1. the documentation and information that shall accompany a request to issue authorisation to provide banking services, including requirements relating to the business plan set out in point 2 of the second paragraph of Article 100 of this Act; and
2. the documentation and information that shall accompany a request to issue authorisation to provide financial and ancillary financial services, and for status changes, whenever a request to issue authorisation in accordance with this Act and Regulation (EU) No 1024/2013 shall be submitted to the Bank of Slovenia.

### **5.3 Cross-border provision of services**

#### **Article 108 (direct provision of services)**

(1) For the purposes of this Act, services shall be deemed to be provided directly in the territory of a specific country, if in that territory:

1. legal transactions are concluded whose subject are mutually recognised financial services; or
2. the general public is offered mutually recognised financial services via agents or intermediaries.

(2) A Member State bank may market mutually recognised services in the territory of the Republic of Slovenia via advertisements or other means of public communication, provided that the form and content of such advertising is in line with regulations governing advertising in connection with consumer protection. Such advertising shall not be deemed the direct provision of services.

#### **Article 109 (provision of services via a branch)**

(1) For the purposes of this Act, two or more branches established by a bank in an individual Member State shall be deemed a single bank branch in that Member State.

(2) The previous paragraph shall also apply to branches established in the territory of the Republic of Slovenia by a Member State or third-country bank.

##### *5.3.1 Provision of mutually recognised services by banks in the territory of another Member State*

#### **Article 110 (notification of the intention to establish a bank branch in another Member State)**

(1) A bank that intends to establish a branch in another Member State for the purpose of providing mutually recognised financial services for which it has obtained the requisite authorisation in accordance with this Act shall inform the Bank of Slovenia or the European Central Bank accordingly, whenever the latter performs the tasks set out in point (b) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation.

(2) Notification regarding the intent to establish a branch shall be accompanied by the following information:

1. the Member State in which the bank intends to establish a branch;
2. a business plan that shall include a detailed description of the activities the bank intends to perform via the branch and the organisational structure of that branch;
3. the address in the host Member State from which documentation regarding the branch may be obtained; and
4. data regarding the persons authorised to manage the branch.

(3) Notification from a bank on its intention to establish a branch sent to the Bank of Slovenia shall be deemed to include a request to forward that notification to the competent authority of the Member State in which the bank intends to establish a branch (hereinafter: request to forward notification to the competent authority of a Member State). Whenever the supervisory powers and tasks set out in point (b) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 relating to the bank in question are exercised and performed by the European Central Bank, the procedure shall continue in accordance with that regulation and Regulation (EU) 468/2014.

#### **Article 111** **(forwarding of notification to the competent authority of a Member State)**

(1) The Bank of Slovenia shall reject a request to forward notification to the competent authority of a Member State if, taking into account the scope and type of services that the bank intends to provide via its branch, doubt exists regarding the suitability of the organisational structure in terms of the branch's management and/or the bank's financial position.

(2) If the reasons set out in the previous paragraph are not given, the Bank of Slovenia shall forward notification, including the attachments listed in the second paragraph of the previous article, to the competent authority of the host Member State within three months from receipt of that notification and notify the bank accordingly.

(3) Together with the notification referred to in the previous paragraph, the Bank of Slovenia shall also forward to the competent authority of the host Member State the information regarding the bank's capital and capital adequacy set out in Article 92 of Regulation (EU) 575/2013.

(4) If a bank does not receive the notification referred to in the second paragraph of this article or a decision rejecting its request to forward notification, within three months following the submission of notification and the attachments listed in the second paragraph of the previous article to the Bank of Slovenia, the bank's request to forward notification shall be deemed rejected.

(5) The Bank of Slovenia shall inform the Commission and the European Banking Authority with regard to the number of cases and reasons for the rejection of requests to forward notification to the competent authority of the host Member State.

#### **Article 112** **(start of a branch's operations in a Member State)**

A bank may begin executing transactions via a branch in a Member State:

1. from the day it receives notification from the competent authority of the host Member State regarding possible conditions that the bank shall take into account when providing services in the host Member State in order to protect public interests; or
2. when two months have passed from the day the competent authority of the host Member State received notification in accordance with the second paragraph of the previous article if, during that time, the bank does not receive notification from the competent authority of the host Member State referred to in the previous point.

**Article 113**  
**(notification of changes in a bank branch in a Member State)**

(1) If a bank intends to make changes regarding any fact or circumstance referred to in the second paragraph of Article 110 of this Act, it shall notify the Bank of Slovenia and the competent authority of the Member State accordingly, one month prior to the implementation of any such change.

(2) The provisions of Articles 110 to 112 of this Act shall apply *mutatis mutandis* to the changes referred to in the previous paragraph, whereby the deadlines set out in the second and fourth paragraphs of Article 111 and in point 2 of Article 112 of this Act shall be reduced to one month.

**Article 114**  
**(direct provision of services in a Member State)**

(1) A bank that intends to provide mutually recognised financial services directly in another Member State shall notify the Bank of Slovenia or the European Central Bank accordingly, whenever the latter performs the tasks set out in point (b) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, and state the host Member State in which it intends to start the direct provision of those services.

(2) The Bank of Slovenia or the European Central bank shall forward the notification referred to in the previous paragraph to the competent authority of the host Member State within one month from receipt thereof and notify the bank accordingly.

(3) A bank may begin the direct provision of the mutually recognised financial services stated in the notification set out in the first paragraph of this article in the host Member State on the day the competent authority of the host Member State receives notification from the competent authority referred to in the previous paragraph.

*5.3.2 Provision of services by banks in the territory of a third country*

**Article 115**  
**(authorisation to establish a bank branch in a third country)**

(1) A bank may establish a branch in a third country for the purpose of providing the services that it provides in the territory of the Republic of Slovenia, provided that it obtains authorisation to establish a branch in that third country in accordance with this Act.

(2) A request to issue authorisation to establish a branch in a third country shall be submitted to the Bank of Slovenia.

(3) The first and second paragraphs of Article 110 and the first to third paragraphs of Article 111 of this Act shall apply *mutatis mutandis* to a request and decisions regarding a request to issue authorisation to establish a bank branch in a third country.

(4) The Bank of Slovenia shall reject a request to issue authorisation to establish a branch in a third country if, taking into account the regulations of the country in which the

bank intends to establish a branch and/or practices in the implementation of those regulations, it is likely that supervision of the bank will be impeded.

### 5.3.3 Cross-border provision of mutually recognised financial services by special financial institutions

#### **Article 116 (special financial institution)**

(1) A special financial institution shall be an undertaking established in the Republic of Slovenia that meets the following conditions:

1. it is not a bank;
2. its parent undertaking is a bank, independently or together with other banks;
3. it is entitled to provide mutually recognised financial services based on its founding acts; and
4. it meets all of the following additional conditions:
  - the banks referred to in point 2 of this paragraph have obtained authorisation to provide banking services in accordance with this Act,
  - the special financial institution actually provides the mutually recognised financial services in the Republic of Slovenia that it intends to provide in another Member State,
  - the banks referred to in point 2 of this paragraph are the joint holders of shares or participating interests that represent at least 90% of voting rights,
  - according to the Bank of Slovenia, the banks referred to in point 2 of this paragraph manage the undertaking with due diligence and have assumed joint and several liability for all liabilities of the special financial institution in question with the Bank of Slovenia's consent, and
  - the special financial institution is included in the consolidated supervision of its parent bank or all parent banks, with regard to the mutually recognised financial services that it provides, in accordance with Section 9.3 of this Act and Part 1, Title II, Chapter 2 of Regulation (EU) No 575/2013, in particular for the purposes of calculating capital requirements in accordance with Article 92 of Regulation (EU) No 575/2013, for the control of large exposures in accordance with Part 4 of Regulation (EU) No 575/2013, and for the purpose of limiting qualifying holdings outside the financial sector in accordance with Articles 89 and 90 of Regulation (EU) No 575/2013.

(2) The special financial institution referred to in the previous paragraph may also provide the aforementioned services in the territory of another Member State under the conditions set out in this Act.

(3) The provisions of this Act governing the provision of mutually recognised financial services by banks in other Member States shall apply *mutatis mutandis* to special financial institutions.

(4) Together with the notification set out in the second paragraph of Article 111 of this Act, the Bank of Slovenia shall also forward the following to the competent authority in the host Member State in which a special financial institution intends to establish a branch:

1. confirmation that all the conditions set out in the first paragraph of this article have been met in connection with the special financial institution in question; and
2. data regarding the level and composition of the special financial institution's capital and regarding the total risk exposure of the bank referred to in point 2 of the first paragraph of this Article, calculated in accordance with the third and fourth paragraphs of Article 92 of Regulation (EU) No 575/2013.

(5) If a special financial institution that provides mutually recognised financial services in the territory of a host Member State no longer fulfils any one of the conditions set out in the first paragraph of this article, it shall no longer be entitled to provide mutually recognised financial services in the territory of another Member State based on the provisions of this Act. The Bank of Slovenia shall notify the competent authority of that Member State accordingly without delay.

(6) The provisions of this article shall apply *mutatis mutandis* to the subsidiary undertakings of a special financial institution.

#### 5.3.4 *Provision of mutually recognised financial services by Member State banks*

### **Article 117** **(provision of mutually recognised financial services by Member State banks)**

(1) A Member State bank may provide the mutually recognised financial services that it provides in its home Member State in accordance with the competent authority's authorisation in the territory of the Republic of Slovenia via a branch or directly, provided that the Bank of Slovenia receives prior notification from the competent authority of the home Member State regarding the provision of services by the bank in the territory of the Republic of Slovenia via a branch or directly, together with the information set out in the second paragraph of Article 110 of this Act.

(2) A Member State bank may establish a branch in the territory of the Republic of Slovenia or begin to provide mutually recognised financial services in the Republic of Slovenia when the Bank of Slovenia forwards the notification set out in the third paragraph of Article 118 of this Act to that Member State bank. The branch of a Member State bank may be entered in the companies register when it receives the notification referred to in the previous paragraph.

(3) The Bank of Slovenia shall be responsible for the supervision of the branch of a Member State bank to the extent and under the conditions set out in Section 9.2 of this Act.

(4) Article 238 of this Act shall apply *mutatis mutandis* in connection with the supervision of the branch of a Member State bank in accordance with this Act.

(5) If in connection with its branch in the Republic of Slovenia a Member State bank intends to make changes regarding any fact or circumstance referred to in the second paragraph of Article 110 of this Act, it shall notify the Bank of Slovenia one month prior to the implementation of any such change.

(6) The branch of a Member State bank shall report to the Bank of Slovenia in connection with its operations in the territory of the Republic of Slovenia.

(7) The Bank of Slovenia shall prescribe the detailed scope of data and information referred to in the previous paragraph that it requires to supervise the operations of a branch in accordance with this Act, for informative and statistical purposes and for the purpose of determining the importance of the branch in accordance with Article 286 of this Act.

**Article 118**  
**(application of regulations governing the activities of a Member State bank)**

(1) A Member State bank shall provide mutually recognised financial services in the territory of the Republic of Slovenia in accordance with the regulations thereof that govern the provision of such services.

(2) Notwithstanding the law applied between parties, a Member State bank that provides services in the territory of the Republic of Slovenia in accordance with this Act shall not, in the execution of transactions, be exempt from the application of regulations in the Republic of Slovenia that govern the following areas:

1. the safeguarding of confidential data in accordance with Section 5.4 of this Act;
2. the safeguarding of personal data in accordance with the law governing personal data protection;
3. the protection of consumers in accordance with regulations aimed at consumer protection;
4. requirements regarding the prevention of money laundering and terrorist financing in accordance with the ZPPDFT; and
5. other requirements that apply to banks in the Republic of Slovenia to protect the interests of the public.

(3) The Bank of Slovenia shall notify a Member State bank that intends to establish a branch in the Republic of Slovenia or intends to provide mutually recognised financial services directly in accordance with this Act about the regulations stated in the previous paragraph, within two months following the receipt of the notification of the competent authority set out in the first paragraph of Article 117 of this Act.

*5.3.5 Provision of mutually recognised financial services by Member State special financial institutions*

**Article 119**  
**(provision of mutually recognised financial services by Member State special financial institutions)**

(1) A Member State special financial institution shall be an undertaking established in another Member State that fulfils the conditions as a special financial institution set out in the first paragraph of Article 116 of this Act in its home Member State, and that has received confirmation from the competent authority of that home Member State regarding the fulfilment of those conditions.

(2) The provisions of this Act governing the provision of mutually recognised financial services by Member State banks in the Republic of Slovenia shall apply *mutatis mutandis* to Member State special financial institutions.

(3) Notification of the competent Member State referred to in the first paragraph of Article 117 of this Act shall include:

1. confirmation from the competent authority of a Member State that the special financial institution of that Member State fulfils the conditions set out in the first paragraph of Article 116 of this Act; and



2. data regarding the level and composition of the special financial institution's capital and regarding the total risk exposure of the parent Member State bank, calculated in accordance with the third and fourth paragraphs of Article 92 of Regulation (EU) No 575/2013.

(4) If the competent authority of the home Member State informs the Bank of Slovenia that the Member State special financial institution no longer fulfils any one of the conditions set out in the first paragraph of this article, that special financial institution shall no longer be entitled to provide mutually recognised financial services in the Republic of Slovenia based on the provisions of this Act.

(5) The provisions of this article shall apply *mutatis mutandis* to the subsidiary undertakings of Member State special financial institution.

#### 5.3.6 *Provision of services by third-country banks*

### **Article 120 (provision of services by a third-country bank)**

A third-country bank may provide the banking, financial and ancillary financial services that it provides in its home country in the Republic of Slovenia, but only via a branch and under the conditions set out in this Act.

### **Article 121 (authorisation to establish a third-country bank branch)**

(1) A third-country bank may establish a branch and enter it in the companies register, provided that it obtains authorisation to establish a third-country bank branch in accordance with this Act.

(2) A request to issue authorisation to establish a third-country bank branch shall be submitted to the Bank of Slovenia.

(3) A request to issue authorisation to establish a third-country bank branch shall be accompanied by the following:

1. an extract from the companies register or another relevant register in the country of establishment for the parent bank;
2. the articles of association or other relevant rules of the parent bank;
3. data regarding members of the management and supervisory bodies of the parent bank;
4. the audited annual reports of the parent bank for the last three years of operation;
5. data regarding the holders of qualifying holdings or, if no such holders exist, data regarding the third-country bank's 20 largest shareholders and/or owners, and the relevant documentation that credibly illustrates the aforementioned shareholders and their participating interests;
6. an extract from the companies register or another relevant register in the country of establishment for the legal persons that are holders of qualifying holdings in the parent bank;
7. a description of the services the branch will provide, and a business plan for the first three years of operations;
8. authorisation to provide banking, financial or ancillary financial services issued to the parent bank by the competent authority in the country of the parent bank's establishment;

9. authorisation of the competent authority of the parent bank to establish a branch or a statement from this authority that such authorisation is not required pursuant to the regulations of that bank's country;
10. a statement from the third-country bank that the branch will keep all documentation relating to its operations in the Slovene language and that it will store that documentation at the registered office of the branch, and that it will keep separate financial statements in accordance with this Act and regulations issued on the basis thereof;
11. a detailed description of the deposit guarantee scheme valid in the country where the parent bank is established; and
12. other documentation based on which it is possible to determine whether the branch has the personnel, technical and organisational capacities to provide the services to which its request relates.

(4) When issuing authorisation to establish a third-country bank branch, the Bank of Slovenia may request that a third-country bank deposit a specific sum of cash or other eligible collateral in the Republic of Slovenia, or provide other appropriate collateral as a guarantee for the settlement of liabilities from transactions concluded in the Republic of Slovenia.

(5) The Bank of Slovenia shall issue authorisation to establish a third-country bank branch, if based on available information and documentation accompanying the request to issue authorisation it assesses that the branch has the financial, managerial, organisational, personnel and technical capacities to operate. The Bank of Slovenia shall inform the Commission, the European Banking and the European Banking Authority with regard to authorisations issued.

(6) The Bank of Slovenia shall reject a request to issue authorisation to establish a third-country bank branch if, taking into account the regulations of the country in which the parent bank is established and/or practices in the implementation of those regulations, it is likely that supervision in accordance with the provisions of this Act will be impeded.

(7) A third-country bank that has obtained the authorisation set out in the first paragraph of this article may provide the banking, financial and ancillary financial services stated in the authorisation to establish a third-country bank branch in the Republic of Slovenia via a branch.

(8) If a third-country bank intends to begin providing additional services via a branch in the Republic of Slovenia that are not stated in the previously issued authorisation to establish a third-country bank branch, it shall obtain additional Bank of Slovenia authorisation to provide those services.

(9) The second paragraph, points 7 and 12 of the third paragraph and the fifth and sixth paragraphs of this article shall apply *mutatis mutandis* to the additional authorisation referred to the seventh paragraph of this article.

(10) The Bank of Slovenia shall prescribe the detailed content of the documentation that a third-country bank shall submit with its request to issue authorisation to establish a branch in the Republic of Slovenia.

**Article 122**  
**(application of the provisions of this Act to the operations of a third-country bank branch)**

(1) The following shall apply *mutatis mutandis* to the operations of a third-country bank branch in the Republic of Slovenia:

1. the provisions of this Act and the other regulations stated in the second paragraph of Article 9 of this Act regarding the operations of banks and the supervision of banks by the Bank of Slovenia; and
2. the provisions of other acts governing the operations of banks in the territory of the Republic of Slovenia.

(2) The provisions of this Act regarding a bank's management board shall apply *mutatis mutandis* to a branch's management staff.

(3) The provisions of this Act regarding the withdrawal and invalidation of authorisation to provide banking services shall apply *mutatis mutandis* to the withdrawal and invalidation of Bank of Slovenia authorisation to establish a third-country bank branch.

(4) The Bank of Slovenia shall also withdraw authorisation to establish a third-country bank branch:

1. if the supervisory authority of the third-country bank withdraws that bank's authorisation to provide banking services; or
2. if the branch does not fulfil its deposit guarantee obligations when it is included in the deposit guarantee scheme in the Republic of Slovenia.

**Article 123**  
**(representative office of a third-country bank)**

(1) A third-country bank may present and disseminate information regarding its services and perform market research via a representative office as its organisational unit in the Republic of Slovenia.

(2) A representative office shall not be a legal person.

(3) The representative office of a third-country bank may not perform any activities in the Republic of Slovenia except those set out in the first paragraph of this article.

**Article 124**  
**(authorisation to establish a representative office of a third-country bank)**

(1) A third-country bank shall obtain Bank of Slovenia authorisation to establish a representative office.

(1) The request to issue authorisation referred to in the previous paragraph shall be accompanied by the following documents:

1. an extract from the companies register or another relevant register in the country of establishment for the parent bank;
2. the articles of association or other relevant rules of the parent bank;
3. the audited annual reports of the parent bank for the last three years of operation;

4. a list of persons who will manage the representative office.

(3) The Bank of Slovenia shall keep a register of representative offices.

(4) The Bank of Slovenia shall withdraw authorisation to establish a third-country bank's representative office if that representative office acts in contravention of the provision of the third paragraph of the previous article.

## **5.4 Protection of confidential data**

### **Article 125 (confidential data)**

Confidential data according to this Act shall be all data, facts and circumstances regarding a specific client at a bank's disposal.

### **Article 126 (obligation to safeguard confidential data)**

(1) A bank shall safeguard the data referred to in the previous article, regardless of the manner in which that data has been obtained.

(2) Members of a bank's bodies, its shareholders and employees, and other persons to whom the confidential data referred to in the previous article is in any way accessible in the course of their work or while they are providing services for a bank may not disclose this data to third parties, nor enable a third party to make use of it, or use it for their own purposes.

(3) The obligation set out in the first paragraph of this article with regard to the safeguarding of confidential data shall not apply:

1. if a client provides its express written consent to the disclosure of certain confidential data;
2. if this data is required by the Bank of Slovenia, the European Central Bank or a supervisory authority for the supervision of a bank that it manages in the scope of its powers;
3. if such data is requested in writing by an anti-corruption commission, or if requested in writing by a court, state prosecutor or police for pre-trial and criminal proceedings, except in cases when the law expressly requires an order by an investigating judge for the forwarding of confidential data;
4. when data is forwarded to parent entities in connection with supervision on a consolidated basis in accordance with the provisions of Section 9.3 of this Act or the ZFK;
5. for the exchange of information regarding client credit ratings for the purpose of credit risk management:
  - between members of a system for the exchange of information regarding client credit ratings that was established in accordance with the applicable regulations for the purposes of managing the credit risk to which banks are exposed, or
  - with Member State banks or systems for the exchange of information regarding client credit ratings organised in other Member States, with regard to information on the credit ratings of corporate clients; and
6. in other cases where the law expressly sets out a bank's obligation with regard to the forwarding of confidential data regarding a specific client.

(4) The obligation to safeguard confidential data shall not apply if a bank or person set out in the second paragraph of this article forwards such data to a prosecutor or the police for the purpose of informing those authorities of reasons to suspect a criminal act has been committed.

(5) In addition to the cases set out in the third and fourth paragraphs of this article, a bank may also disclose confidential data if required to carry out negotiations for the conclusion of an agreement or to fulfil an agreement that the bank concludes in the scope of standard banking activities, and if the recipient ensures the appropriate safeguarding of that data. For the needs referred to in the previous sentence, a bank may only disclose confidential data regarding a client that are crucial for the conclusion or implementation of an agreement.

(6) Every time that confidential data is forwarded, a bank shall ensure that it is possible to subsequently determine which confidential data were forwarded, to whom, when and on what basis, for a period of ten years following the forwarding of that data.

### **Article 127 (use of confidential data)**

The Bank of Slovenia or other authorities and persons may use the data they have obtained based on the previous article exclusively for the purpose for which that data was obtained, and may forward that data to other persons exclusively under the conditions set out in this or another act.

## **CHAPTER 6: INTERNAL GOVERNANCE ARRANGEMENTS AND INTERNAL CAPITAL ADEQUACY**

### **6.1 General provisions**

#### **Article 128 (stable internal governance arrangements)**

- (1) A bank shall have stable internal governance arrangements that include:
1. a clear organisational structure with precisely defined, transparent and consistent internal relationships with regard to responsibilities;
  2. effective risk management processes for identifying, measuring or assessing, managing and monitoring risks, including recovery plans and the reporting of the risks to which the bank is or could be exposed in its operations;
  3. suitable internal control mechanisms that include appropriate administrative and accounting procedures; and
  4. appropriate remuneration policies and practices that are in line with prudent and effective risk management, and thus also promote risk management.

(2) Internal governance arrangements shall be comprehensive and proportionate to the nature, scale and complexity of the risks that derive from a bank's business model and the activities it performs.

## **Article 129**

### **(capital adequacy)**

(1) A bank shall ensure that it has at its disposal at all times adequate capital to cover the capital requirements set out in Article 92 of Regulation (EU) No 575/2013, requirements based on the third paragraph of Article 250 of this Act and requirements to maintain capital buffers based on Chapter 7 of this Act, and to ensure internal capital adequacy in accordance with Article 131 or in accordance with the assessment based on Article 183 of this Act.

(2) A bank may include the capital instruments set out in Articles 52 and 63 of Regulation (EU) No 575/2013 in its calculation of capital, if it obtains authorisation to include a specific capital instrument in that calculation from the Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in point (d) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation.

(3) The authorisation set out in the previous paragraph shall be issued, provided that the capital instrument in question satisfies the conditions set out in Regulation (EU) No 575/2013.

(4) The Bank of Slovenia shall prescribe the documentation that a bank shall submit with its request to issue the authorisation set out in the second paragraph of this article and the authorisation set out in the third paragraph of Article 26 of Regulation (EU) No 575/2013, which shall be submitted to the Bank of Slovenia in accordance with Regulation (EU) No 1024/2013.

## **Article 130**

### **(liquidity adequacy)**

A bank shall ensure that is it capable, at all times, of meeting the liquidity requirements set out in Part 6 of Regulation (EU) No 575/2013 and the regulations issued on the basis of Articles 460 and 510 thereof, and the requirements based on the fifth paragraph of Article 250 of this Act. It shall also ensure that it is capable of settling its mature liabilities on time at any given moment.

## **Article 131**

### **(assessing and ensuring internal capital adequacy)**

(1) A bank shall have appropriate, effective and comprehensive strategies and processes to continuously assess and ensure the amounts, types and distribution of internal capital that it deems necessary as coverage with respect to the characteristics and extent of the risks to which it is or could be exposed in its operations.

(2) A bank shall ensure on the basis of regular reviews that the strategies and processes referred to in the previous paragraph are comprehensive and proportionate to the nature, scale and complexity of the activities it performs, and internal capital adequacy to cover those risks.

(3) In accordance with Article 10 of Regulation (EU) No 575/2013, the Bank of Slovenia may decide to waive in full or part the application of the requirements set out in the first and second paragraphs of this article for an individual bank affiliated with a central body.

### **Article 132** **(internal capital adequacy for market risks)**

(1) Based on established market risk management policies and processes, a bank shall take into account significant market risks that are not the subject of capital requirements in accordance with Regulation (EU) No 575/2013 when assessing and ensuring internal capital adequacy in accordance with the previous article.

(2) A bank that, when calculating capital requirements for position risk in accordance with Chapter 2 of Title IV of Part 3 of Regulation (EU) No 575/2013, nets its positions in one or more equity instruments that comprise a stock index with one of more positions in a stock-index futures contract or in another stock-index product shall ensure internal capital adequacy to cover the basic risk of a loss as the result of different movement in the value of futures contracts or other derivatives relative to the movement in the value of the underlying instruments to which they are tied.

(3) A bank shall also ensure internal capital adequacy whenever it holds opposite positions in stock-index futures contracts that do not match in terms of maturity or composition, or both.

(4) When applying the procedure set out in Article 345 of Regulation (EU) No 575/2013, a bank shall ensure internal capital adequacy to cover the risk of a loss that exists from the assumption of the associated liability until the next working day.

### **Article 133** **(level of compliance with obligations regarding internal capital adequacy)**

(1) A bank that is not a subsidiary bank or parent bank in the Republic of Slovenia and a bank that is not included in prudential consolidation in accordance with Article 19 of Regulation (EU) No 575/2013 shall fulfil the obligation to assess and ensure internal capital adequacy in accordance with Article 131 of this Act on an individual basis.

(2) A parent bank in the Republic of Slovenia shall fulfil the obligation to assess and ensure internal capital adequacy on a consolidated basis in accordance with Article 131 of this Act to the extent and in the manner set out in Sections 2 and 3 of Chapter 2 of Title II of Part 1 of Regulation (EU) No 575/2013.

(3) A bank that is controlled by a parent financial holding company or parent mixed financial holding company in the Republic of Slovenia shall fulfil the obligation to assess and ensure internal capital adequacy in accordance with Article 131 of this Act based on the consolidated financial position of that financial holding company or mixed financial holding company to the extent and in the manner set out in Sections 2 and 3 of Chapter 2 of Title II of Part 1 of Regulation (EU) No 575/2013.

(4) If, in addition to the aforementioned bank, other banks or Member State banks are subsidiaries of the same parent financial holding company or mixed financial holding company in the Republic of Slovenia or an EU parent financial holding company or EU parent mixed financial holding company, the previous paragraph shall apply in accordance with and in the manner set out in Section 9.3 of this Act.

(5) A subsidiary bank that is itself or whose parent financial holding company or mixed financial holding company is the parent of or holds a participating interest in another credit institution, financial institution or management company established in a third country shall fulfil the obligation set out in the first paragraph of this article on a sub-consolidated basis.

#### **Article 134**

##### **(level of compliance with obligations regarding internal governance arrangements)**

(1) A bank shall fulfil the requirements regarding the internal governance arrangements set out in Article 128 of this Act on an individual basis, except in cases where the Bank of Slovenia waives the application of those requirements, in part or full, in accordance with Article 7 of Regulation (EU) No 575/2013.

(2) A bank that is the subsidiary of a parent financial holding company or parent mixed financial holding company in the Republic of Slovenia or an EU parent financial holding company or EU mixed financial holding company shall fulfil the requirements regarding the internal governance arrangements set out in Article 128 of this Act on the basis of the consolidated financial position of that financial holding company or mixed financial holding company.

(3) If, in addition to the aforementioned bank, other banks or Member State banks are subsidiaries of the same parent financial holding company or mixed financial holding company in the Republic of Slovenia or an EU parent financial holding company or EU parent mixed financial holding company, the previous paragraph shall apply in accordance with and in the manner set out in Section 9.3 of this Act.

(4) A parent bank in the Republic of Slovenia and its subsidiary banks shall fulfil the requirements regarding internal governance arrangements on a consolidated or sub-consolidated basis.

(5) A parent bank in the Republic of Slovenia and its subsidiary banks shall ensure that the aforementioned internal governance arrangements are appropriately integrated, and that they are consistently implemented at all of their other subsidiaries in such a way that facilitates the compilation of all data and information important for supervision.

(6) Notwithstanding the previous paragraph, a parent bank in the Republic of Slovenia or a subsidiary bank of an EU parent financial holding company or EU parent mixed financial holding company shall not be obliged to fulfil the requirements regarding internal governance arrangements in connection with subsidiaries established in a third country, if it demonstrates to the Bank of Slovenia that the fulfilment of those requirements would be in contravention of the valid regulations of that third country.

#### **Article 135**

##### **(implementing regulations)**

The Bank of Slovenia shall prescribe detailed rules:

1. regarding internal governance arrangements, including detailed risk management rules and a remuneration policy and practices;
2. regarding the assessment of internal capital adequacy; and
3. in connection with reporting, the detailed content of notifications and reports on circumstances in connection with the fulfilment of requirements based on this Act or Regulation (EU) No 575/2013, and the deadlines and manner of reporting.



## **6.2 Organisational structure**

### *6.2.1 Responsibility of the management board and supervisory board*

#### **Article 136 (functioning of the management board)**

(1) A bank's management board shall establish and implement the type of internal governance arrangements set out in Article 128 of this Act that facilitate the effective and prudent governance of the bank based on clearly defined competences and responsibilities, and on policies and measures to prevent conflicts of interest.

(2) For the purposes of the previous paragraph, a bank's management board shall be fully responsible for a bank's operations and risk management, including:

1. approving the bank's strategic objectives, formulating, adopting and regularly reviewing the strategy on the taking up and management of risks, and the bank's internal governance arrangements;
2. ensuring the integrity of accounting and financial reporting systems, which also include financial and operational control, and ensuring the compliance of the bank's operations with valid regulations and standards;
3. controlling the disclosure of information by the bank and the notification of competent authorities and other interested parties; and
4. ensuring the effective supervision of senior management.

(3) A bank's management board shall monitor and regularly assess the effectiveness of internal governance arrangements, and ensure appropriate measures for the elimination of potential deficiencies.

(4) A bank's management board shall inform the supervisory board in writing without delay:

1. if reasons arise, or it is likely that reasons will arise, for the invalidation or withdrawal of authorisation to provide banking or financial services, or for the prohibition of the execution of individual transactions that the bank executes;
2. if the bank's position changes in such a way that it no longer ensures or it is likely that it will no longer ensure capital adequacy in accordance with Article 129 of this Act or adequate liquidity in accordance with Article 130 of this Act;
3. regarding the findings of the Bank of Slovenia, the tax authorities and other supervisory authorities during the supervision of the bank; and
4. regarding other matters, whenever this is necessary or appropriate in order for the supervisory board to exercise its powers and perform its duties in accordance with this or another act, in particular circumstances that have arisen or are likely to arise at the bank that represent a serious breach of the regulations set out in the second paragraph of Article 9 of this Act.

#### **Article 137 (functioning of the supervisory board)**

(1) When supervising the work of the management board and adopting policies and making decisions in the scope of its powers, the supervisory board shall, in particular, supervise the implementation of the bank's strategic objectives, formulate, adopt and regularly review the strategies for taking up and managing risks, and contribute to the establishment and implementation of the bank's stable internal governance arrangements set

out in Article 128 of this Act. To that end, it shall comply with policies and measures for preventing conflicts of interest.

(2) By supervising the work of the management board and exercising its powers in accordance with this Act, the supervisory board assumes general responsibility, together with the management board, for the effective and prudent governance of the bank.

(3) A bank's management board shall ensure the requisite human and financial resources to initiate and train members of the supervisory board and the risk committee, whenever the latter has been established, including the possibility of hiring external experts to handle specific issues.

### **Article 138 (risk management function)**

(1) A bank's management board shall establish a risk management function that reports directly to the former and that is functionally and organisationally segregated from the bank's other functions in which conflicts of interest could arise vis-à-vis the risk management function. To that end, it shall take into account the nature, scale and complexity of the activities it performs. The risk management function shall be headed by a person in a senior management position at the bank.

(2) A bank's management board shall ensure that the risk management function has the requisite authorisation and influence to perform that function, as well as sufficient human and financial resources for effective risk management.

(3) Whenever the nature, scale and complexity of the activities a bank performs do not justify the appointment of a special person to a senior management position to head the risk management function, that function may be performed by a person in a senior management position at the bank who performs other senior management functions, provided that this does not result in conflicts of interest.

(4) In particular, the risk management function shall ensure:

1. that all significant risks are identified, assessed and measured, and reported on appropriately;
2. active participation in the drafting of the bank's risk management strategy and in all important decisions regarding risk management; and
3. the formulation of a comprehensive overview of the risks to which the bank is or could be exposed in its operations.

(5) The head of the risk management function shall be independent and directly answerable to the bank's management board. They shall report all circumstances to the bank's management board that affect or could affect the specific development of the risks to which the bank is exposed, and shall have direct access to the supervisory board. The management board shall obtain the supervisory board's consent to dismiss the head of the risk management function.

(6) The head of the risk management function shall report all significant risks and circumstances that affect or could affect the bank's risk profile to the management board without delay on its own initiative. If the management board does not adopt the appropriate measures, the head of the risk management function shall inform the chairperson of the supervisory board and the chairperson of the risk committee.

(7) A bank's management board shall ensure that the head of the risk management function is able to notify the chairpersons of the supervisory board and risk committee, independently of the management board, in the event of the specific development of risks that affect or could affect the bank's risk profile, and to express any reservations or forward warnings in that respect to them.

### **Article 139** **(submission of risk-related information)**

(1) The supervisory board and risk committee may request from a bank's management board all information required to identify the bank's risk profile, and define the content, extent, form and frequency for the reporting of information that the bank's management board is obliged to submit.

(2) The supervisory board and risk committee may also request clarifications from the head of the risk management function for the purpose of discussing specific issues relating to a bank's risk profile.

(3) Notwithstanding the first and second paragraphs of this article, a bank's management board and supervisory board shall be fully responsible for the formulation and implementation of the strategy and policy for taking up, managing, monitoring and controlling the risks to which the bank is exposed.

### **Article 140** **(system for reporting breaches)**

(1) A bank shall establish a system for reporting internal breaches that allows bank employees to report breaches of regulations and the bank's internal acts via independent and autonomous reporting lines. To that end, the bank may also use systems that were set up at the bank in the scope of the independently organised activities of bank employees, provided that the requirements set out in this article are fulfilled.

(2) The system referred to in the previous paragraph shall facilitate a simple and accessible way for employees to report breaches, and shall include clearly defined procedures for receiving and handling notifications, including reporting on findings in connection with notifications received and activities carried out.

(3) Taking into account the provisions of the law governing personal data protection, a bank may process the personal data of the person who has reported a breach and the person allegedly responsible for that breach for the purpose of handling the notifications set out in the first paragraph of this article, including reporting on findings in connection with notifications received and activities carried out. The bank shall ensure that all data regarding the persons who have reported breaches in accordance with the first paragraph of this article are treated as confidential, and shall not disclose such data without the consent of those persons, except when disclosure of the identity of the reporting party is required in accordance with the law for criminal proceedings or subsequent judicial proceedings.

(4) A bank shall adopt measures to prevent retaliatory acts, discrimination or other forms of inappropriate treatment of bank employees who have reported breaches in accordance with the first paragraph of this article, and measures to reverse the consequences of retaliatory acts, if inappropriate treatment has occurred.

### *6.2.2 Internal audit department and compliance department*

#### **Article 141 (internal audit department)**

(1) A bank's management board shall establish an internal audit department as an independent organisational unit that reports directly to the bank's management board, and is functionally and organisationally segregated from the bank's other organisational units.

(2) The purpose, importance and tasks of the internal audit department shall be defined in an internal act approved by the bank's management board with the supervisory board's consent.

#### **Article 142 (tasks of the internal audit department)**

- (1) Internal auditing shall comprise the following:
1. monitoring and assessing the effectiveness of internal governance arrangements;
  2. evaluation of the internal capital adequacy assessment process with respect to the bank's internal risk assessment;
  3. assessment of the reliability of the information system, including the electronic information system and electronic banking services;
  4. assessment of the reliability and credibility of accounting records and financial reports;
  5. verification of the integrity, reliability and timeliness of reporting in accordance with the relevant regulations;
  6. verification of the bank's compliance with regulations, internal acts and measures adopted on the basis thereof; and
  7. conducting special investigations.

(2) The internal audit department shall conduct an internal audit of operations in accordance with:

1. International Standards for the Professional Practice of Internal Auditing;
2. the Code of Internal Auditing Principles; and
3. the Code of Ethics of Internal Auditors.

#### **Article 143 (internal audit department employees)**

(1) To perform internal audit tasks, a bank shall employ at least one person who has obtained the title of certified internal auditor in accordance with the law governing auditing, and who possesses the requisite traits and experience to perform internal audit tasks at the bank in line with best practices and high ethical standards.

(2) Persons who perform internal auditing tasks may not perform any other tasks at a bank.

(3) Internal audit tasks may not be performed by members of a bank's management board.

**Article 144**  
**(annual work plan of the internal audit department and internal audit report)**

(1) The internal audit department's annual work plan shall be based on a risk assessment drawn up at least once a year.

(2) The bank's management board shall adopt the internal audit department's annual work plan with the consent of the supervisory board.

(3) The internal audit department's annual work plan shall include:

1. the areas of operations that will be subject to auditing; and
2. a description of planned audits of operations by individual area.

(4) The internal audit department shall draw up an internal audit report at least every six months that includes:

1. a description of the content of audits of operations;
2. a general assessment of the appropriateness and effectiveness of risk management;
3. an assessment of the appropriateness and effectiveness of the functioning of internal control systems;
4. breaches and irregularities that the internal audit department identified during a specific audit of operations, and proposed measures to eliminate those breaches and irregularities; and
5. findings related to the elimination of the breaches and irregularities that were identified by the internal audit department.

(5) The internal audit department shall draw up an annual internal audit report that includes:

1. a report on the implementation of the annual work plan;
2. an assessment of the compliance of remuneration practices with the remuneration policy; and
3. a summary of significant findings from audits of operations.

(6) The internal audit department shall submit its half-yearly and annual reports to the bank's management board and supervisory board.

(7) The management board shall submit the annual internal audit report with the supervisory board's opinion to the bank's general meeting, together with the bank's annual report and the report of the supervisory board set out in Article 282 of the ZGD-1.

**Article 145**  
**(notification of a bank's management board and supervisory board)**

(1) If during an audit of operations the internal audit department determines that a bank is in breach of risk management rules and is thus susceptible to the risk of illiquidity or capital inadequacy, or the security of operations is jeopardised and the deposit guarantee scheme could be activated, it shall notify the management board accordingly without delay. If the management board does not adopt the appropriate measures, the internal audit department shall inform the supervisory board without delay.

(2) If during an audit of operations the internal audit department determines that the bank's management board is in breach of risk management rules, it shall notify the management board and supervisory board without delay.

(3) If the management board does not adopt the appropriate measures to eliminate the breaches referred to in the first paragraph of this article, or if the management board and supervisory board do not adopt the appropriate measures to eliminate the breaches referred to in the previous paragraph, the internal audit department shall inform the Bank of Slovenia without delay.

#### **Article 146 (compliance department)**

(1) A significant bank shall establish a compliance department that reports directly to the bank's management board and that is functionally and organisationally segregated from the bank's other functions in which conflicts of interest could arise vis-à-vis the compliance function.

(2) The compliance function shall identify the risks associated with the compliance of operations to which a bank is or could be exposed in its operations due to the breach of valid regulations or requirements of the Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, or due to the breach of valid agreements, prescribed practices or ethical standards that could impact the bank's revenues, capital or reputation.

(3) The compliance function shall report its findings to the management board and supervisory board, and to the risk management function, as appropriate.

### **6.3 Risk management**

#### *6.3.1 General provisions regarding risk management*

#### **Article 147 (management strategy and policy)**

(1) In the scope of their powers and duties on the basis of this Act, a bank's management board and supervisory board shall be responsible for defining, adopting and regularly reviewing the strategy and policy for taking up and managing the risks to which the bank is or could be exposed in its operations, including risks from the macroeconomic environment in which the bank operates, taking into account the current business cycle. The risk management strategy and policy shall include guidelines for taking up risks, and procedures and tools for managing risks.

(2) The management board shall ensure the requisite human and financial resources for the effective and comprehensive treatment of risks at a bank, including the identification, measurement or assessment, management and monitoring of risks to which the bank is or could be exposed in its operations.

(3) The management board and supervisory board shall dedicate sufficient time to the treatment of risks, and shall establish a reporting system that ensures that the management board and supervisory board are informed in a timely manner of all significant risks to which a bank is exposed, and that takes into account the risk management policy and changes thereto.

(4) In particular, the management board and supervisory board shall actively take part in decisions relating to the treatment of the significant risks defined in this Act and Regulation (EU) No 575/2013, including the valuation of assets, and the use of external credit ratings and internal models associated with those risks.

#### **Article 148** **(risk management activities)**

(1) A bank shall formulate an action plan for managing risks in accordance with the strategies and policies referred to in the previous article that includes, in particular, procedures for identifying, measuring or assessing and managing risks, and a method for monitoring the implementation of those procedures.

(2) In the plan set out in the previous paragraph, a bank shall define the procedures and activities for managing each type of risk to which it is or could be exposed in connection with the specific types of services it provides, and for the risks to which the bank is or could be exposed in all activities that it performs.

(3) The plan set out in the first paragraph of this article shall be adopted by a bank's management board with the supervisory board's consent and following consultation with the risk committee, if one has been appointed.

#### *6.3.2 Transactions with persons in a special relationship with a bank*

#### **Article 149** **(treatment of risks in transactions with persons in a special relationship with a bank)**

(1) A bank shall establish and implement a policy and procedures for identifying transactions with persons in a special relationship with the bank, for setting conditions and limits on exposures to such persons, and for monitoring and managing exposures, including conditions for the application of possible exceptions from the relevant policy and procedures.

(2) Persons in a special relationship with a bank include:

1. a member of the bank's management board and/or their immediate family member;
2. a member of the bank's supervisory board and/or their immediate family member;
3. a bank's procurator and/or their immediate family member;
4. a member of the bank's senior management;
5. a legal person whose management board member, supervisory board member or procurator is also a member of the management board or supervisory board or procurator of the bank;
6. a legal person in which a qualifying holding is held by a member of the management board or supervisory board or procurator of the bank or the immediate family member of those persons;
7. the holder of a qualifying holding in the bank;
8. a legal person in which the bank holds a qualifying holding;
9. the member of a management board, the member of a supervisory board, the member of another management or supervisory body or the procurator of the legal person referred to in points 7 and 8 of this paragraph; and
10. another person who the bank defines as a person in a special relationship with the bank due to the nature of that person's relationship with the bank or with the persons set out in point 1 to 9 of this paragraph, because conflicts of interest could arise in relation to those persons in the bank's operations.

(3) When assuming their function, a member of the management board or supervisory board and the procurator of a bank shall inform the latter of the name and company name of persons deemed to be in a special relationship with the bank due to their relationship with such a member based on the previous paragraph, and inform the bank without delay about changes that affect the definition of an individual person deemed to be a person in a special relationship with the bank.

(4) A bank shall maintain a list of persons in a special relationship with the bank, and ensure the appropriate reporting of exposures to those persons to the Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in point (d) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation.

#### **Article 150** **(transactions with persons in a special relationship with a bank)**

(1) A bank shall conclude legal transactions with an individual person in a special relationship with the bank under conditions that are no more favourable than those under which the bank typically concludes transactions with other persons during the same period.

(2) Notwithstanding the previous paragraph, a bank may exceptionally conclude a legal transaction with a person in a special relationship with the bank under conditions that are more favourable than usual, provided that objectively justified reasons are given for the conclusion of such a transaction, particularly in the event of the restructuring of a debtor who is a person in a special relationship with the bank.

(3) The prior consent of a bank's supervisory board shall be obtained:

1. for the conclusion of a legal transaction with a person in a special relationship with the bank if, due to that transaction or the total value of all transactions, the bank's exposure to that person (including indirect exposure) reaches or exceeds EUR 100,000, and for each subsequent transaction due to which the bank's total exposure to that person from all transactions increases by an additional EUR 100,000; and
2. for the conclusion of a legal transaction in the cases set out in the previous paragraph.

(4) A bank shall take into account the value that has not yet been reduced for impairments and provisions when defining the exposure set out in the previous paragraph.

(5) A bank shall inform the Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in point (d) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, about the conclusion of the legal transaction set out in the second paragraph of this article.

### **6.3.3 Credit risk and counterparty risk management**

#### **Article 151** **(credit risk and counterparty risk management policy and procedures)**

(1) A bank shall establish and implement an appropriate policy and procedures for managing credit risk, including counterparty risk.

(2) A bank shall employ clearly defined processes for approving, amending, renewing and refinancing loans, including criteria and procedures for identifying and



managing problematic loans and an appropriate policy regarding the creation of impairments and provisions.

**Article 152**  
**(taking up credit risk)**

- (1) A bank shall apply appropriate and precisely defined loan approval criteria.
- (2) During the loan approval process or during the conclusion of another agreement that is the basis for a bank's exposure, that bank shall assess the debtor's ability to settle its liabilities to the bank (hereinafter: credit worthiness assessment), and the quality of collateral used to secure the bank's claims by the type and extent of that collateral.
- (3) In connection with the assessment set out in the previous paragraph, a bank shall obtain an extract of credit rating data for that debtor from the system for the exchange of information regarding client credit ratings that was established in accordance with the applicable regulations for the purposes of managing the credit risk to which banks are exposed.

**Article 153**  
**(treatment of credit risk)**

- (1) A bank shall establish appropriate processes and techniques for assessing credit risk:
  1. at the level of exposure to a specific client arising from securities or securitisation positions; and
  2. at the portfolio level.
- (2) A bank's credit portfolio shall be appropriately diversified with respect to the target market and the bank's overall strategy.
- (3) A bank shall monitor an entity's operations and the quality of collateral used to secure the bank's claims for the entire duration of the legal relationship that is the basis for exposure.

**Article 154**  
**(techniques for assessing credit risk and counterparty risk)**

- (1) A bank shall not rely exclusively or automatically on external credit ratings when assessing credit risk. Whenever capital requirements for credit risk are based on external credit ratings or on the fact that an exposure has not been assessed, the bank shall take into account other relevant information when assessing credit risk and allocating internal capital.
- (2) A bank shall ensure a system for continuous monitoring and reporting with regard to the effectiveness of applied credit risk assessment techniques.

**Article 155**  
**(treatment of residual credit risk)**

A bank shall ensure the appropriate treatment and control of risks, if the recognised techniques used by the bank to mitigate credit risk prove to be less effective than expected. The bank shall have a written policy and procedures for that purpose.

*6.3.4 Market risk management*

**Article 156**  
**(policy and procedures for managing market risks)**

A bank shall establish and implement an appropriate policy and procedures for identifying, measuring and managing all significant market risk factors.

**Article 157**  
**(treatment of interest-rate risk)**

A bank shall establish appropriate processes and criteria for assessing and managing risks that arise due to potential changes in interest rates that affect the bank's non-trading activities.

*6.3.5 Liquidity risk management*

**Article 158**  
**(liquidity risk management policies and procedures)**

(1) A bank shall establish and implement reliable strategies, a policy and procedures for managing liquidity risks to ensure that it maintains adequate levels of liquidity buffers at all time.

(2) In particular, the liquidity risk management set out in the previous paragraph shall include the following:

1. the planning of known and potential liquidity outflows and expected liquidity inflows from assets, liabilities and off-balance-sheet items, including contingent liabilities, taking into account normal business events and potential liquidity crises, including the possible effect of reputation risk;
2. the regular management of liquidity for relevant time series, including on an intra-day basis;
3. a distinction between pledged assets and assets free of encumbrances that are available at all times, including in stress situations; and
4. the definition of appropriate measures to prevent or eliminate the causes of liquidity deficits.

(3) The strategies, policy and procedures set out in the first paragraph of this article shall be adjusted to business areas, the currencies of transactions a bank executes and to entities in a group, and shall include an appropriate methodology for allocating the costs, benefits and risks that arise in the provision of liquidity.

(4) The strategies, policy and procedures set out in the first paragraph of this article shall be proportionate to the nature, scale and complexity of transactions executed by the bank, and shall take into account a still-acceptable level of liquidity risk as defined by the bank's management board, taking into account the significance of the bank. A bank shall ensure that all significant business areas at the bank take into account the still-acceptable level of liquidity risk.

#### **Article 159 (treatment of liquidity risk)**

(1) A bank's liquidity risk profile shall be in line with the nature, scale and complexity of the activity the bank performs.

- (2) A bank shall establish the appropriate procedures and tools for:
1. identifying, measuring, managing and monitoring funding positions, taking into account current and planned significant cash flows associated with assets, liabilities and off-balance-sheet items, including contingent liabilities, and the possible effect of reputation risk; and
  2. mitigating liquidity risk, including a system of limits and liquidity buffers that improve the bank's resilience to liquidity risk in crises situations.

(3) A bank shall ensure diverse structure of funding sources and access thereto.

(4) At least once a year, a bank shall employ various liquidity risk management scenarios, including the mitigation of liquidity risk, to verify the accuracy and adequacy of the assumptions used to define its liquidity risk management policy, and verify the appropriateness of procedures and tools for mitigating liquidity risk, including the use of various liquidity risk management scenarios. Based on the findings of that verification, the bank shall adopt the appropriate measures to improve its liquidity risk management policy, procedures and tools.

#### **Article 160 (action plan for re-establishing adequate liquidity)**

(1) A bank shall adopt a strategy and action plan to be used in the event of potential liquidity deficits, taking into account the operations of branches established in other Member States.

(2) At least one a year, a bank shall verify the appropriateness of its strategy and action plan to re-establish adequate liquidity and update them based on the results of liquidity management scenarios. Based on the findings of that verification, the bank's management board shall adopt the appropriate measures to adjust the bank's liquidity risk management strategies, policy and procedures.

(3) Based on its action plan to re-establish adequate liquidity, a bank shall ensure all operational conditions to facilitate the prompt implementation of envisaged measures should a liquidity deficit arise.

### 6.3.6 *Operational risk management*

#### **Article 161** **(operational risk management policy and procedures)**

(1) A bank shall establish and implement an appropriate policy and procedures for managing operational risk, including model risk.

(2) For the purposes set out in the previous paragraph, a bank shall define operational risk factors that include rare events that could have material consequences for the bank.

#### **Article 162** **(business continuity plan)**

A bank shall draw up a business continuity plan for emergency situations that defines measures to ensure business continuity at the bank with the aim of limiting losses due to such disruptions.

### 6.3.7 *Management of other risks*

#### **Article 163** **(concentration risk)**

(1) A bank shall establish and implement a clear policy and procedures for handling the risks that it takes up due to the concentration of its exposures (concentration risk).

- (2) In particular, a bank shall address concentration that is the result of:
1. exposure to a specific counterparty, including central counterparties, and groups of related counterparties;
  2. exposure to counterparties in the same economic sector, geographical region, or in the same activity or in connection with transactions in the same commodities; or
  3. the use of techniques to mitigate credit risk, in particular risks related to a large indirect credit exposure, as in the case of single issuer of collateral.

#### **Article 164** **(consent of the supervisory board to conclude individual transactions)**

(1) The prior consent of a bank's supervisory board shall be obtained for the conclusion of a legal transaction based on which the bank's total exposure (including indirect credit exposure) to an individual client or a group of related clients would reach or exceed 10% of the bank's eligible capital set out in point 71 (b) of the first paragraph of Article 4 of Regulation (EU) No 575/2013. The prior consent of a bank's supervisory board shall also be obtained for the conclusion of a legal transaction based on which the bank's total exposure (including indirect credit exposure) to an individual client or a group of related clients increases by each subsequent 5% of the bank's eligible capital.

(2) A bank shall not take into account relationships with central government when determining groups of related clients for the purpose of the previous paragraph.

(3) A bank shall take into account the value of exposure not yet reduced for impairments and provisions when defining the exposure set out in the first paragraph of this article.

#### **Article 165 (securitisation risks)**

(1) A bank shall assess and address risks arising from securitisation transactions in which the bank acts in the role of investor, originator or sponsor, including reputation risk (that arises, for example, in connection with complex structures or products), based on the appropriate policy and procedures, in particular to ensure that the economic substance of a transaction is appropriately and fully reflected in the assessment of risks and executive decisions regarding the management of those risks.

(2) A bank that acts in the role of originator in revolving securitisation transactions that include early repayment provisions shall formulate plans for providing liquidity in the event of planned and early repayments.

#### **Article 166 (risk of excessive leverage)**

(1) A bank shall establish and implement an appropriate policy and procedures for managing the risk of excessive leverage.

(2) For the purposes set out in the previous paragraph, a bank shall define indicators of the risk of excessive leverage that include a leverage ratio defined in accordance with Article 429 of Regulation (EU) No 575/2013, and the mismatch of assets and liabilities.

(3) A bank shall treat the risk of excessive leverage by taking appropriate account of a possible increase in the aforementioned risk that is the result of a decrease in the bank's capital due to expected or actual losses. To that end, a bank shall be able to withstand various stress scenarios that take into account the risk of excessive leverage.

### **6.4 Internal control mechanisms**

#### **Article 167 (internal control mechanisms)**

A bank shall ensure that the internal control mechanisms referred in point 3 of the first paragraph of Article 128 of this Act include procedures for verifying the appropriateness of the management of the risks to which a bank is or could be exposed in its operations, in particular with regard to:

1. assessing and ensuring internal capital adequacy for those risks;
2. the compliance of practices in taking up risks with the bank's policy on the management of those risks; and
3. the appropriateness of the implementation of internal governance arrangements and the prevention of conflicts of interest at the level of the governing body or bank.

**Article 168**  
**(keeping of business records)**

A bank shall organise its operations, and keep its books of account, business documentation and other administrative and/or business records current, in such a way that it is possible to verify at any time whether the bank operates in accordance with the regulations set out in the second paragraph of Article 9 of this Act.

**6.5 Remuneration policy**

**Article 169**  
**(remuneration policy)**

(1) A bank shall formulate remuneration policies at the level of the group, parent company and subsidiaries, including those established in areas with more favourable tax regimes (tax havens).

(2) The remuneration policies referred to in the previous paragraph shall include wages and discretionary pension benefits, and shall apply to categories of employees who, in the scope of their competences or work tasks and activities, could have a material impact on the bank's risk profile, in particular:

1. the management board and senior management;
2. management functions within the internal control system and other independent control functions at the bank;
3. employees who, in the scope of their competences, can conclude transactions that have an impact on the bank's risk profile; and
4. other employees whose total remuneration is equal to or exceeds the remuneration of senior management or employees who have a material impact on the bank's risk profile.

(3) For the purposes of the first paragraph of this article, remuneration shall include all forms of direct or indirect financial and non-financial payments and benefits to which an employee is entitled on the basis of agreements concluded with a bank or other entity in the same group.

(4) A bank's supervisory board shall adopt and regularly verify the appropriateness of the remuneration policy and practices, while the bank's management board shall ensure a comprehensive and independent review of the compliance of actual remuneration with that policy and practices at least once a year.

(5) The Bank of Slovenia shall collect and use the information that a bank discloses in accordance with the disclosure criteria set out in points (g), (h) and (i) of the first paragraph of Article 450 of Regulation (EU) No 575/2013 for the comparison of remuneration trends and practices, and shall submit that information to the European Banking Authority.

(6) In addition to the information set out in the previous paragraph, the Bank of Slovenia shall, based on reports submitted by banks in accordance with the regulation issued on the basis of Article 135 of this Act, collect information regarding the number of natural persons at an individual bank whose remuneration is equal to or greater than EUR 1,000,000 per financial year, taking into account pay bands of EUR 1,000,000, including their work responsibilities, the business area in question and the main components of wages, bonuses, long-term awards and pension contributions, and submit that information to the European Banking Authority for the publication of aggregate information at the level of the Republic of Slovenia regarding remuneration paid by banks.

**Article 170**  
**(basic principles for defining a remuneration policy and practices)**

(1) A bank shall take into account the following principles when defining the remuneration policy and practices for the individuals set out in the second paragraph of the previous article:

1. the remuneration policy shall be compatible with prudent and effective risk management, and shall promote such risk management without encouraging exposure to risk that exceeds the acceptable level of risk for the bank;
2. the remuneration policy shall be in line with the bank's business strategy, objectives, values and long-term interests, and shall include measures to prevent conflicts of interest;
3. employees who perform control functions shall be independent from the organisational units that they control, and shall have the appropriate authority and receive remuneration with respect to the achievement of objectives linked to their functions, independent of the performance of the business areas that they control;
4. the remuneration policy shall make a clear distinction between the criteria for setting:
  - fixed remuneration which, in particular, shall be an appropriate reflection of a person's professional experience and responsibilities at the bank, as defined in the description of the employee's work tasks as part of the terms and conditions of employment, and
  - variable remuneration, which shall be an appropriate reflection of sustainable and risk-adjusted performance, and performance that exceeds expectations, as defined in the description of the employee's work tasks as part of the terms and conditions of employment;
5. the variable component of remuneration shall be based on a combination of an assessment of the performance of an individual and their business-organisational unit, and the overall operating results of the bank;
6. the variable remuneration of an individual shall not exceed 100% of their fixed remuneration;
7. at least 50% of the variable remuneration of every individual shall comprise ordinary and preference shares of the bank, or share-linked instruments or equivalent non-cash instruments, whenever the bank's shares are not listed on a regulated market, where the acquirer may only transfer such shares or instruments with the bank's permission, which may not be issued for at least two years following acquisition;
8. a bank shall defer a significant proportion, but no less than 40% of the variable remuneration of every individual, for a period of three to five years;
9. variable remuneration, including the deferred proportion referred to in the previous point, shall be paid out or fall due for payment only if sustainable with respect to the financial position of the bank as a whole, and if justified by the performance of the bank, the organisational unit and the individual in question;
10. with regard to variable remuneration, the bank shall establish internal rules on a malus or clawback arrangement and criteria for the application of those rules which, in connection with an individual, include an assessment of circumstances surrounding:
  - an individual's participation in or liability for conduct that led to significant losses for the bank, or
  - the fulfilment of fitness and propriety standards;
11. an individual shall undertake to avoid using personal hedging strategies or remuneration- and liability-related insurance to undermine the risk alignment effects embedded in their variable remuneration; and
12. payment to an individual in connection with the early termination of their employment contract shall reflect the performance of that individual during a specific period and shall not reward them for failures or possible breaches at the bank.

(2) A bank shall take into account the principles set out in the previous paragraph in a manner and to an extent appropriate to its size, internal organisational structure, and the nature, scale and complexity of the activities that it performs.

(3) The remuneration subject to the deferral set out in point 8 of the first paragraph of this article shall fall due for payment in accordance with the principle of proportionality. If the amount of the variable component of remuneration is particularly high, the bank shall defer at least 60% of that amount. The length of the deferral period shall be defined by the bank in accordance with the business cycle, the nature of its operations and the accompanying risks, and the activities of the employee in question.

(4) Total variable remuneration shall generally be significantly lower when a bank's financial performance is weak or negative, taking into account current remuneration and reductions in payments of previously earned amounts, including through malus or clawback arrangements, taking into account the law governing employment or the sector-level collective agreement.

(5) The remuneration paid to the individuals set out in the second paragraph of the previous article who are employed by a bank deemed to be a bank under the majority ownership of the Republic of Slovenia or a self-governing local community in accordance with the law governing the remuneration of management staff at companies under majority ownership of the Republic of Slovenia and self-governing local communities shall not exceed the remuneration set out in the aforementioned act. The provision of the law governing the remuneration of management staff at companies under the majority ownership of the Republic of Slovenia and self-governing local communities that prohibits the payment of management staff in the form of shares or their participation in share schemes shall not apply to the payment of the remuneration referred to in the previous sentence.

(6) An individual who acquires bank shares in accordance with point 7 of the first paragraph of this article may only exercise the right set out in Article 389 of the ZGD-1 after two years have passed since the acquisition of those shares.

#### **Article 171**

##### **(remuneration at banks that have received emergency fiscal aid)**

(1) Banks that have received emergency fiscal aid in accordance with the European Union's rules on state aid shall adapt their remuneration policy and practices in such a way that they are in line with the banks' secure and reliable risk management.

(2) The adaptations referred to in the previous paragraph shall contribute to the timely repayment of emergency fiscal aid, with the aim of ensuring the conditions for establishing successful operations over the long term, and shall include, in particular, appropriate limitations on the remuneration of members of the governing body.

(3) A bank that has received emergency fiscal aid shall only pay variable remuneration to the members of its governing body if so justified by the circumstances surrounding a specific case and the position of the bank.

(4) In the cases set out in the first paragraph of this article, the Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in point (e) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, may request that a bank amend its remuneration policy to bring it in line with prudent risk management and to ensure long-term growth, and



may set limits on the remuneration of the members of an institution's governing body, as required.

## **6.6 Supervisory review and evaluation process**

### *6.6.1 General provisions*

#### **Article 172**

##### **(purpose and scope of the supervisory review and evaluation process)**

(1) Whenever it performs the tasks set out in point (f) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, the Bank of Slovenia shall verify whether internal governance arrangements, and the capital and liquidity that a bank provides in accordance with this Act and Regulation (EU) No 575/2013 facilitate the effective and prudent governance of the bank and the appropriate coverage of all risks to which the bank is or could be exposed to in its operations. To that end, the level of compliance with the obligations defined for the bank based on Regulation (EU) No 575/2013 shall be taken into account in accordance with Articles 133 and 134 of this Act.

(2) With the aim of ensuring the effective and prudent governance of a bank, the Bank of Slovenia, whenever it performs the tasks set out in point (f) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, shall assess:

1. the risks to which the bank is or could be exposed in its operations;
2. the risks that the bank poses to the financial system, taking into account criteria for the assessment of systemic risks in accordance with Regulation (EU) No 1093/2010 and the recommendations of the European Systemic Risk Board; and
3. the risks identified during stress tests, taking into account the nature, scale and complexity of the activities performed by the bank.

(3) Whenever it performs the tasks set out in point (f) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, the Bank of Slovenia shall determine the frequency and intensity of the supervisory review referred to in the first and second paragraphs of this article, taking into account the size and significance of the bank to the financial system, and the nature, scale and complexity of the activities that the bank performs.

(4) Whenever it performs the tasks set out in point (f) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, the Bank of Slovenia shall perform the review and evaluation referred to in the first and second paragraphs at least once a year.

(5) Whenever it performs the tasks set out in point (f) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, the Bank of Slovenia shall perform stress tests at least once a year with the aim of supplementing the review and evaluation process referred to in the first and second paragraphs.

(6) The Bank of Slovenia shall send the European Banking Authority information regarding:

1. the performance of the supervisory review and evaluation process in accordance with this article; and
2. the methodology used to justify supervisory decisions and measures imposed in accordance with this Act based on the findings of the supervisory review and evaluation process.

**Article 173**  
**(technical criteria of the supervisory review and evaluation process)**

In addition to credit, market and operational risks, the supervisory review and evaluation process performed by the Bank of Slovenia in accordance with the previous article shall also take into account:

1. the results of the stress tests carried in accordance with Article 177 of Regulation (EU) No 575/2013 by a bank applying an Internal Ratings Based approach;
2. the exposure to and management of concentration risk by the bank, including the fulfilment of the requirements set out in Part 4 of Regulation (EU) No 575/2013 and Article 163 of this Act;
3. the robustness, suitability and manner of application of the policies and procedures implemented by the bank for the management of the residual credit risk referred to in Article 155 of this Act in connection with the use of credit risk mitigation techniques;
4. the extent to which the capital provided by the bank in respect of assets that it has securitised is adequate, taking into account the economic substance of a transaction, including the degree of risk transfer achieved;
5. the exposure to, measurement and management of liquidity risk by the bank, including the development of alternative scenario analyses, the management of instruments to mitigate risk (in particular the level, composition and quality of liquidity buffers) and effective contingency plans;
6. the impact of diversification effects and how such effects are included in the risk measurement system;
7. the results of stress tests carried out by a bank that uses an internal model to calculate capital requirements for market risk in accordance with Chapter 5 of Title IV of Part 3 of Regulation (EU) No 575/2013;
8. the geographical location of the bank's exposures;
9. the bank's business model; and
10. the assessment of systemic risk in accordance with the criteria set out in the previous article.

**Article 174**  
**(assessment of liquidity risk)**

When assessing the liquidity risk to which a bank is exposed, the Bank of Slovenia shall regularly and comprehensively verify that bank's liquidity risk management strategy, policy and procedures, and shall promote the development of reliable internal methodologies at the bank that take into account the bank's significance to and role in the financial system.

**Article 175**  
**(assessment of securitisation risks)**

(1) When assessing securitisation risks, the Bank of Slovenia shall, in particular, verify and assess on a regular basis whether a bank provides indirect support in securitisation.

(2) Based on the assessment referred to in the previous paragraph, the Bank of Slovenia shall request that a bank make the necessary changes in the calculation of capital requirements linked to securitisation, particularly if the bank provides indirect support in more than one case of securitisation, and it is likely that the bank will provide support in securitisation in the future, for which reason it does not transfer a significant portion of the associated risk.

#### **Article 176** **(assessment of market risk and interest-rate risk)**

(1) When assessing the market risks to which a bank is exposed, the Bank of Slovenia shall, in particular, verify and assess on a regular basis whether adjustments to valuation for positions or portfolios in the trading book as set out in Article 105 of Regulation (EU) No 575/2013 allow the bank sell its positions in a short period of time or exercise collateral on those positions without incurring a material loss under normal market conditions.

(2) As part of the verification and assessment referred to in the previous paragraph, the Bank of Slovenia shall also assess a bank's exposure to the risk of changing interest rates that derives from non-trading activities. The Bank of Slovenia may require a bank to make appropriate changes to its interest-rate risk management, particularly if due to sudden and unexpected changes in interest rates of 200 basis points the bank discloses a loss that exceeds 20% of its capital that is taken into account in the fulfilment of capital requirements.

#### **Article 177** **(assessment of the risk of excessive leverage)**

(1) When assessing a bank's exposure to the risk of excessive leverage, the Bank of Slovenia shall verify, in particular, the exposures that derive from indicators of excessive leverage and the leverage ratio defined in accordance with Article 429 of Regulation (EU) No 575/2013.

(2) As part of the verification referred to in the previous paragraph, the Bank of Slovenia shall take appropriate account of a bank's business model in its assessment of the appropriateness of the leverage ratio and its assessment of the appropriateness of arrangements, strategies, processes and mechanisms established by the bank for managing the risk of excessive leverage.

#### **Article 178** **(assessment of the appropriateness of a bank's internal governance arrangements)**

(1) The Bank of Slovenia shall examine and evaluate the appropriateness of a bank's internal governance arrangements, corporate culture and values, as well as the qualifications of members of the governing body to perform their tasks.

(2) For the purpose of the examination and evaluation referred to in the previous paragraph, the Bank of Slovenia may request at any time that a bank submit the agendas of and other documentation discussed at meetings of the governing body or its committees, the minutes of those meetings and the results of any internal or external assessment of the performance of the bank's governing body.

#### *6.6.2 Examination and evaluation of the use of internal approaches*

**Article 179**  
**(reporting on internal approaches for the calculation of capital requirements)**

(1) A bank that uses an internal approach to calculate the amount of risk-weighted exposure or capital requirements defined in accordance with Regulation (EU) No 575/2013 (except for operational risks) shall submit a report, at least once a year, to the European Banking Authority and Bank of Slovenia, or the European Central Bank, whenever the latter performs all tasks set out in the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, detailing the results of the calculations of its internal approaches for exposures or positions included in benchmark portfolios defined in accordance with the second paragraph of this article, together with an explanation of the methodologies it uses.

(2) A bank shall submit the report set out in the previous paragraph regarding the benchmark portfolios defined by the Commission via a regulation based on Article 78 of Directive 2013/36/EU.

(3) In addition to the benchmark portfolios referred to in the previous paragraph, the Bank of Slovenia or the European Central Bank, whenever the latter performs all tasks set out in the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, may define additional benchmark portfolios for which a bank shall submit a report detailing the results of the calculations of its internal approaches for exposures or positions included in those additional benchmark portfolios, together with an explanation of the methodologies it uses. The Bank of Slovenia shall consult with the European Banking Authority before making a decision defining additional benchmark portfolios for reporting purposes.

(4) A bank shall report the results of calculations for the benchmark portfolios referred to in the first paragraph separately from the results for the benchmark portfolios referred to in the previous paragraph.

**Article 180**  
**(assessment of internal approaches)**

(1) Based on the information from the reports set out in the previous article, the Bank of Slovenia shall monitor and analyse the range of risk-weighted exposure amounts or capital requirements (excluding operational risks) for exposures in a benchmark portfolio.

(2) Based on the findings referred to in the previous paragraph, the Bank of Slovenia shall assess the quality of banks' internal approaches at least once a year, in particular:

1. approaches for which significant differences in capital requirements defined in accordance with Regulation (EU) No 575/2013 exist for the same exposure; and
2. approaches that differ greatly or are exceptionally similar and for which capital requirements defined in accordance with Regulation (EU) No 575/2013 are significantly and systematically underestimated.

(3) If the results of calculations of specific banks differ significantly from the results of the majority of banks or if approaches provide a large number of different results, the Bank of Slovenia shall study the reasons for those differences.

(4) If taking into account the findings referred to in the previous paragraph the Bank of Slovenia assesses that the results based on the internal approaches used by a bank lead to an underestimation of capital requirements for that bank that cannot be justified by

the differences in the risks associated with specific exposures or positions, the Bank of Slovenia shall require the bank to make the requisite corrections to the methodology that it uses.

(5) In connection with the assessment of banks' internal approaches and when determining requirements to correct the methodology used by banks, the Bank of Slovenia, whenever it performs the tasks set out in point (f) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, shall ensure that it does not:

1. promote the standardisation of banks' internal approaches or the use of specific internal approaches over others;
2. erroneously promote the use of internal approaches; or
3. promote the indiscriminate use of internal approaches through mimicry.

#### **Article 181**

##### **(use of internal approaches to calculate capital requirements)**

(1) Whenever it performs the tasks set out in point (f) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, the Bank of Slovenia shall encourage banks that use external credit ratings to assess the creditworthiness of an entity or financial instrument not to use those ratings as the only criteria or as automatic criteria to assess creditworthiness. To that end, the Bank of Slovenia shall take into account the size and organisational structure of a bank, and the nature, scale and complexity of the activities performed by the bank-

(2) Whenever it performs the tasks set out in point (f) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, the Bank of Slovenia shall encourage banks to develop internal capacities for assessing credit risk with respect to the nature, scale and complexity of the activities they perform and taking into account the criteria set out in Section 1 of Chapter 3 of Title II of Part 3 and Sections 1 to 5 of Chapter 5 of Title IV of Part 3 of Regulation (EU) No 575/2013, and to use the following more frequently:

1. an Internal Ratings Based approach for calculating capital requirements for credit risk, whenever banks' exposures are significant in absolute terms and whenever banks also have a large number of significant counterparties; and
2. internal models for calculating capital requirements for the specific risk of debt instruments in the trading book, together with internal models for calculating capital requirements for the risk of default and migration, whenever banks' exposure to specific risk is significant in absolute terms and whenever banks have a large number of significant positions in the debt instruments of various issuers.

#### **Article 182**

##### **(regular verification of conditions for the use of internal approaches)**

(1) Whenever it performs the tasks set out in point (f) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, the Bank of Slovenia shall verify regularly (but at a minimum every three years) whether a bank that has obtained Bank of Slovenia authorisation to use internal approaches to calculate capital requirements in accordance with Part 3 of Regulation (EU) No 575/2013 meets the conditions and requirements set out in this Act and Regulation (EU) No 575/2013 to obtain that authorisation.

(2) In its assessment set out in the previous paragraph, the Bank of Slovenia shall review and assess whether the internal approaches that a bank uses include well-developed and contemporary techniques and practices. In particular, it shall take into account potential changes in a bank's operations and in the use of the aforementioned approaches for the bank's new products.

(3) If based on the review and assessment referred to in the previous paragraph the Bank of Slovenia identifies significant deficiencies in the capture of risks using an internal approach, it shall require the bank in question to make the necessary changes to that approach with the aim of eliminating those deficiencies or mitigating the consequences thereof. In such cases, the Bank of Slovenia may, in particular, require the bank to use higher multiplication factors, define capital add-ons or impose other appropriate measures.

(4) If based on the verification referred to in the first paragraph of this article and in connection with the internal model for market risks the Bank of Slovenia identifies a large number of the overshootings referred to in Article 366 of Regulation (EU) No 575/2013, which indicate that the aforementioned model is not sufficiently accurate, the Bank of Slovenia may revoke authorisation for the use of that internal model or may require a bank to implement the necessary measures to ensure the immediate improvement of the internal approach model.

(5) If based on the verification referred to in the first paragraph of this article the Bank of Slovenia determines that a bank no longer meets the requirements to use an internal approach to calculate capital requirements in accordance with Part 3 of Regulation (EU) No 575/2013, the Bank of Slovenia may require the bank:

1. to demonstrate that the effect of non-compliance with the requirements to use that approach is not material for the calculation of capital requirements in accordance with Regulation (EU) No 575/2013; or
2. to submit a plan for the prompt re-establishment of compliance with those requirements and set a deadline for the implementation of that plan.

(6) In the cases set out in point 2 of the previous paragraph, the Bank of Slovenia may require a bank to make the necessary changes to its plan, if it is not evident from the plan submitted by the bank that the latter will ensure full compliance with the requirements for the use of an internal approach, or if the deadline proposed by the bank is inappropriate.

(7) Based on the verification referred to in the first paragraph of this article, the Bank of Slovenia shall revoke authorisation for the use of an internal approach or limit the use of that approach to specific areas, if:

1. it is unlikely that a bank will be able to ensure compliance with the requirements to use an internal approach by a suitable deadline based on planned measures; or
2. the bank did not satisfactorily demonstrate that the effect of non-compliance is immaterial.

#### *6.6.3 Internal capital adequacy review and assessment*

### **Article 183 (internal capital adequacy assessment)**

(1) If based on the findings of the supervisory review and evaluation process in accordance with Subsection 6.6.1 of this Act the Bank of Slovenia determines that a bank does not ensure internal capital adequacy in accordance with Article 131 of this Act with respect to the risks to which the bank is or could be exposed in its operations, the Bank of

Slovenia shall inform the bank about its own assessment of the adequate amount, type and allocation of the bank's internal capital, and set a deadline by which the bank shall submit a report on the measures it will adopt to ensure internal capital adequacy and regarding circumstances that could lead to a different assessment of the adequate amount, type and allocation of internal capital.

(2) Based on the findings of the supervisory review and evaluation process in accordance with Subsection 6.6.1 of this Act, the Bank of Slovenia shall draw up the assessment set out in the previous paragraph taking into account:

1. quantitative and qualitative elements of the internal capital adequacy assessment process set out in Article 131 of this Act;
2. a bank's internal governance arrangements, processes and mechanisms set out in Article 128 of this Act; and
3. an assessment of systemic risk.

(3) If by a specific deadline a bank does not submit the report on measures to bring its assessment in line with the Bank of Slovenia's assessment set out in the first paragraph of this article, or does not submit the report on circumstances that could lead to a different assessment of the adequate amount, type and allocation of internal capital, the Bank of Slovenia may order the bank to provide capital in accordance with point 1 of the second paragraph of Article 250 of this Act.

(4) If circumstances that could lead to a different assessment of the adequate amount, type and allocation of internal capital are evident from a bank's report, the Bank of Slovenia shall amend its own internal capital adequacy assessment and proceed in accordance with the first paragraph of this article.

(5) A bank may not lodge a specific objection against the assessment referred to in the first or fourth paragraph of this article, but may present the circumstances and factors that could lead to a different assessment of the adequate amount, type and allocation of internal capital in an appeal against an order to provide additional capital issued by the Bank of Slovenia based on the third paragraph of this article.

## **6.7 Recovery planning and intra-group financial support**

### *6.7.1 Recovery plan*

#### **Article 184 (recovery plan)**

(1) A bank that is not part of a group subject to supervision by the Bank of Slovenia or another competent authority on a consolidated basis shall adopt a plan of measures (hereinafter: recovery plan) that will facilitate the restructuring of the bank in the event of a significant deterioration in its financial position with the aim of maintaining or restoring the viability and financial soundness of the bank.

(2) A bank that is part of a group subject to supervision by the Bank of Slovenia, the European Central Bank or another competent authority on a consolidated basis and that is not an EU parent bank shall adopt an individual recovery plan, taking into account circumstances and measures at the level of that bank, if the decision set out in point 3 of the third paragraph of Article 199 of this Act is adopted.

**Article 185**  
**(content of a bank's recovery plan)**

(1) A bank's recovery plan shall take into account various measures to maintain or restore the viability and financial soundness of a bank (recovery measures) with respect to different stress scenarios that envisage a deterioration in different macroeconomic and financial factors that could have a significant impact on the bank's position, including events at the banking system level and specific circumstances relating to an individual entity or group. A recovery plan shall not take into account the possible use of emergency fiscal aid, and shall not generate other direct negative fiscal effects.

(2) A bank's recovery plan shall include the following in particular:

1. a summary of the recovery plan's key elements, including material changes relative to the previous recovery plan;
2. a strategic analysis of the bank that shall include a description of the bank's organisational structure and business model, and its core business lines and critical functions;
3. a description of available restructuring options to ensure or restore the bank's viability and financial soundness, including measures with a timeframe for their implementation;
4. an analysis of the effects of each option explored in the plan, including the effects that each option has on the continuation of critical functions, and the impact on other market participants, creditors, the bank's shareholders and employees;
5. an analysis of the feasibility of specific options explored in the plan, including possible impediments to the implementation of those options, and a description of procedures and measures to eliminate those impediments;
6. a description of arrangements to secure bank funding in emergencies, including a definition of potential sources that would be available, and an assessment of available collateral, including an analysis of the fulfilment of conditions to access loans via the Bank of Slovenia as a lender of last resort;
7. a description of qualitative and quantitative indicators of a deterioration in the bank's financial position that ensure the timely implementation of measures to maintain or restore the financial soundness of the bank through the latter's own efforts, including a definition of procedures for the escalation of measures that ensure that the management board is informed in a timely manner of that escalation and that it is included in decisions regarding those measures, and that ensure the timely notification of the Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, with regard to the escalation of measures and with regard to threshold values of deterioration indicators that have been reached or exceeded;
8. a description of stress scenarios included in the plan and an assessment of the effectiveness and feasibility of implementing the plan under the conditions of a specific stress scenario;
9. a description of measures that could be implemented, if the conditions for early intervention measures in accordance with this Act are met;
10. a plan outlining the internal exchange of information and public communication, including disclosures made by the bank in connection with the implementation of recovery measures that, taking into account the specific characteristics of an individual recovery option, prevent or mitigate possible negative effects on the market; and
11. a list of measures that have been drawn up and adopted or that will be adopted by the bank with the aim of facilitating the implementation of the recovery plan.

(3) The Bank of Slovenia shall prescribe the detailed information that shall be included in a bank's recovery plan.



(4) With respect to a specific bank, the Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in point (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, may:

1. define additional information that a bank shall include in its recovery plan; and
2. request that a bank keep detailed records with data regarding concluded financial arrangements for the purpose of assessing and implementing its recovery plan.

#### **Article 186**

##### **(indicators of a deterioration in a bank's financial position)**

(1) A bank shall ensure that the quantitative and qualitative indicators of a deterioration in its financial position which, based on the recovery plan, trigger specific recovery measures or preparatory activities for the implementation of specific recovery measures, facilitate the simple, continuous and appropriate monitoring of the bank's financial position.

(2) A bank shall establish the appropriate internal arrangements for the regular monitoring of the indicators set out in the previous paragraph.

(3) If circumstances warranting the implementation of specific recovery measures arise by taking into account the indicators of a deterioration in a bank's financial position set out in the recovery plan, the bank shall not be obliged to implement the recovery measures envisaged in the recovery plan for such cases, if the bank's governing body considers the implementation of those measures inappropriate given the actual conditions.

(4) A bank may implement the recovery measures envisaged in the recovery plan, even if circumstances warranting the application of specific recovery measures did not arise by taking into account the indicators of a deterioration in the bank's financial position set out in the recovery plan, if the bank's governing body considers the implementation of those measures appropriate given the actual conditions.

(5) A bank shall inform the Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in point (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, with regard to the decision referred to in the third or fourth paragraph of this article.

#### **Article 187**

##### **(internal approval and verification of the appropriateness of a recovery plan)**

(1) A bank's governing body shall approve the recovery plan and all changes thereto before it is submitted to the Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in point (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation. A bank shall also submit evidence that:

1. the implementation of measures set out in the recovery plan is reasonably likely to maintain or restore the viability and sound financial position of the bank, taking into account the preparatory measures that the bank has adopted or will adopt; and
2. the plan and specific measures envisaged in the plan are reasonably likely to be implemented quickly and effectively in stress situations, thus preventing to the maximum extent possible any significant adverse effect on the financial system, including in stress scenarios in which other institutions would implement recovery plans in the same period.

(2) A bank shall regularly verify the appropriateness of the recovery measures set out in its recovery plan. The bank shall update its recovery plan at least once a year based on the findings from regular verification. Notwithstanding the previous sentence, a bank shall update its recovery plan after every change to its legal or organisational structure or its business or financial situation that could have a material effect on the implementation of envisaged recovery measures or the success of the recovery plan with regard to stabilising the bank's operations. (4) The Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in point (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, may require a bank to update its recovery plan regularly in periods of less than one year.

(3) A bank shall submit its recovery plan in the manner determined by the Bank of Slovenia, whenever the latter performs the tasks set out in point (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation.

### **Article 188** **(simplified obligations)**

(1) The Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in point (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, may decide that the obligations set out in Articles 185 to 187 of this Act shall not apply to a bank's recovery plan, if it assesses that the winding up or bankruptcy of the bank or parent undertaking is not likely to have significant negative effects on the functioning of the financial market, on other institutions, on funding conditions or on the wider economy.

(2) In the assessment referred to in the previous paragraph, the Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in point (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, shall take into account the nature of a bank's business, its shareholding structure, its risk profile, its size and legal form, its interconnectedness to other institutions or the financial system in general, the scope and complexity of its activities, its membership in an institutional deposit protection scheme that meets the requirements set out in Article 113 of Regulation (EU) No 575/2013, and the provision of investment services and transactions. The Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in point (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, shall consult with the Financial Stability Committee in connection with the assessment set out in the previous paragraph.

(3) In the case set out in the first paragraph of this article, the Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in point (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, shall determine the extent of obligations and the content and details of the recovery plan, as well as information that shall be included in a simplified recovery plan and the frequency of updates to that plan.

(4) The Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in point (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, may rescind the simplified obligations set out in the first paragraph of this article at any time and require a bank or its parent undertaking referred to in the first paragraph of this article to draw up and adopt a recovery plan in accordance with Articles 185 to 187 of this Act.

(5) The Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in point (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, may waive the application of the requirements set out in Section 6.7 of this Act, in whole or part, for a specific bank with regard to its recovery plan, even if:

1. that bank is exempted wholly or partially from prudential requirements in accordance with Article 10 of Regulation (EU) No 575/2013 and the requirements set out in Section 6.7 of this Act are applied on a consolidated basis to the central body and institutions affiliated to it within the meaning of Article 10 of Regulation (EU) No 575/2013; or
2. the bank is included in an institutional deposit protection scheme that fulfils the requirements set out in the seventh paragraph of Article 113 of Regulation (EU) No 575/2013, and the scheme fulfils the requirements set out in Section 6.7 of this Act in cooperation with all members of the scheme for which such a waiver applies.

(6) For the purpose set out in the previous paragraph all references:

1. to Section 6.7 of this Act shall include the central body and institutions affiliated to it within the meaning of Article 10 of Regulation (EU) No 575/2013 and their subsidiaries; and
2. to parent undertakings or institutions that are subject to consolidated supervision in accordance with Article 291 of this Act shall include the central body.

(7) Notwithstanding the fifth paragraph of this article, a bank shall draw up a recovery plan in accordance with Articles 185 to 187 of this Act:

1. if the European Central Bank performs all tasks set out in the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation; or
2. if the bank constitutes a significant share of the financial system in the Republic of Slovenia.

(8) For the purposes set out in the previous paragraph, the activities of a bank shall be deemed to constitute a significant share of the financial system in the Republic of Slovenia if any one of the following conditions are met:

1. the total value of its assets exceeds EUR 30,000,000,000; or
2. the ratio of its total assets to the GDP of the Republic of Slovenia exceeds 20%, unless the total value of its assets is below EUR 5,000,000,000.

(9) The Bank of Slovenia shall inform the European Banking Authority of decisions it makes on the basis of the first, fifth or seventh paragraph of this article.

## **Article 189**

### **(group recovery plan)**

(1) An EU parent undertaking included in consolidated supervision carried out by the Bank of Slovenia in accordance with Article 291 of this Act or by the European Central Bank, whenever the latter performs the tasks set out in point (g) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, shall draw up a group recovery plan whose aim shall be the stabilisation of the group as a whole or any institution within the group if it is in distress, so as to resolve or eliminate the causes of that distress and improve the financial position of the group or institution in question, while taking into account the financial position of other group entities.

(2) A group recovery plan shall include:

1. a description of various measures to maintain or restore conditions for the stable operations of the group as a whole, its parent undertaking and all group subsidiaries, and measures to improve the financial position of each undertaking (recovery measures), taking into account different stress scenarios that envisage a deterioration in different macroeconomic and financial factors that could have a significant impact on the position of the group as a whole and all of its undertakings, including events at the banking system level and specific circumstances relating to an individual entity or group;
2. the relevant qualitative and quantitative indicators set out in Article 186 of this Act;
3. a description of procedures and conditions for the timely and effective implementation of envisaged recovery measures, including an assessment of conditions for access by any group entity to loans via the competent central bank as a lender of last resort, in particular with regard to the collateral the entity shall provide in connection with that loan in the circumstances envisaged in the recovery plan; and
4. a description of measures that could be implemented, if the conditions for early intervention measures in accordance with this Act are met.

(3) A group recovery plan shall not take into account the possible use of emergency fiscal aid, and shall not result in other direct negative fiscal effects.

(4) The group recovery plan of an EU parent undertaking shall also include arrangements for the coordinated and consistent implementation of measures at the level of:

1. the EU parent undertaking;
2. a financial holding company, mixed financial holding company and mixed-activity holding company established in a Member State;
3. a parent financial holding company in the Republic of Slovenia, an EU parent financial holding company, a parent mixed financial holding company in the Republic of Slovenia and an EU parent mixed financial holding company;
4. every subsidiary undertaking of an entity set out in points 1 to 3 of this paragraph, and significant branches.

(5) For each of the stress scenarios explored in the group recovery plan, the group recovery plan shall identify potential impediments to the implementation of recovery measures within the group and at the level of individual entities, including any actual or legal impediments to the prompt transfer of capital or the repayment of liabilities or assets within the group.

(6) The group recovery plan and every individual recovery plan drawn up for an individual group subsidiary shall also include a description of arrangements for the intra-group financial support set out in Article 190 of this Act.

(7) The governing body of the EU parent undertaking referred to in the first paragraph of this article shall approve the group recovery plan before it is submitted to the Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in points (g) and (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, as the consolidating supervisor based on Article 291 of this Act.

(8) Unless otherwise set out in this article, Articles 185 to 187 of this Act shall apply to a group recovery plan.

### *6.7.2 Group financial support agreement*

#### **Article 190 (group financial support agreement)**

(1) A group financial support agreement shall be an agreement concluded by a parent bank in the Republic of Slovenia, an EU parent bank or an entity set out in point 2 or 3 of the fourth paragraph of the previous article and its subsidiaries in other Member States or third countries that are institutions or financial institutions included in consolidated supervision carried out by the Bank of Slovenia in accordance with Article 291 of this Act or by the European Central Bank, whenever the latter performs the tasks set out in point (g) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, and on the basis of which the parties to the agreement provide financial support to any other institution that is party to the agreement and that meets the conditions for the implementation of the early intervention measures set out in the first paragraph of Article 253 of this Act.

(2) A group financial support agreement may cover one or more subsidiaries of the group and may provide for financial support from the parent undertaking to subsidiaries, from subsidiaries to the parent undertaking, between subsidiaries of the group that are party to the agreement, or any combination of those entities.

(3) A group financial support agreement may provide for financial support in the form of a loan, the provision of guarantees, the provision of assets for use as collateral, or any combination of those forms of financial support, in one or more transactions, including between the beneficiary of the support and a third party. A group financial support agreement may include a reciprocal agreement by which the group entity receiving the support will provide financial support to the group entity providing the support. A bank may only conclude a group financial support agreement if, at the time the proposed agreement was submitted to the Bank of Slovenia, the bank did not meet the conditions for early intervention set out in Article 253 of this Act.

(4) Third persons who are not party to a group financial support agreement shall not be entitled to exercise the rights, claims or actions arising from that agreement vis-à-vis parties to the group financial support agreement.

- (5) A group financial support agreement shall not constitute a prerequisite:
1. to provide group financial support to any group entity that experiences financial difficulties if the bank decides to do so, on a case-by-case basis and according to group policies, if this does not represent a risk for the whole group; or
  2. for the functioning of a group entity in the Republic of Slovenia.

#### **Article 191 (principles and conditions for the conclusion of a group financial support agreement)**

(1) The parties shall comply with the following principles when concluding a group financial support agreement:

1. each party shall enter into the agreement freely;
2. when entering into the agreement and determining the consideration for the provision of financial support, each party shall act in its own best interests, which may take into

account any direct or indirect benefit that a party may receive as a result of the provision of the financial support;

3. each party providing financial support shall have at their disposal all relevant information regarding the party receiving financial support prior to the determination of the consideration for the provision of financial support and prior to any decision to provide financial support;
4. rules are defined for determining the consideration for every transaction executed under the agreement, where:
  - consideration is determined when financial support is provided,
  - information in the possession of the party providing financial support may be taken into account for the purpose of determining consideration because it is in the same group as the party receiving financial support and that information is not available to the market, and
  - the parties are not obliged to take into account any anticipated temporary impact on market prices arising from events outside the group.

(2) A group financial support agreement shall ensure that financial support based on such an agreement may only be provided if the following conditions are met:

1. it is reasonable to expect that support provided will significantly ease the financial difficulties of the group entity receiving that support;
2. the provision of financial support is intended to maintain or restore the financial stability of the group as a whole or any of the group entities and is in the interest of the group entity providing the support;
3. the financial support is provided under the terms and conditions set out in the agreement, in accordance with the previous paragraph;
4. it is reasonable to expect, based on the information available to the governing body of the group entity providing financial support at the time when the decision to approve financial support is made, that the group entity receiving support will pay consideration for that support and, if the support is provided in the form of a loan, that the loan will be repaid by the group entity receiving the support. If the support is provided in the form of a guarantee or any form of surety, the group entity receiving the support will settle liability arising from the enforcement of the guarantee or surety;
5. the provision of financial support will not jeopardise the liquidity or solvency of the group entity providing the support;
6. the provision of financial support will not threaten financial stability, in particular in the Member State of the group entity providing the support;
7. at the time support is provided, the group entity providing that support fulfils requirements relating to capital or liquidity based on valid regulations in the country in which it is established, and the requirements of the competent authority responsible for the supervision of the entity providing support on an individual basis relating to capital requirements on the basis of point 1 of the second paragraph of Article 250 of this Act, and the provision of financial support does not result in a breach of those requirements, unless this is approved by that competent authority;
8. at the time support is provided, the group entity providing that support fulfils requirements relating to large exposures set out in Regulation (EU) No 575/2013 and set out in valid regulations in the country in which it is established, and the provision of financial support does not result in a breach of those requirements, unless this is approved by the competent authority responsible for the supervision of the entity providing support on an individual basis;
9. the provision of financial support will not undermine the resolvability of the group entity providing the support.

**Article 192**  
**(review of the compliance of a group financial support agreement)**

(1) Before concluding the group financial support agreement set out in Article 190 of this Act, an EU parent undertaking shall submit a request for the approval of that agreement, accompanied by the proposed wording of the agreement and a list of parties to the agreement, to the Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in point (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, as the consolidating supervisor based on Article 291 of this Act.

(2) The Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in points (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, as consolidating supervisor based on Article 291 of this Act, shall forward the request set out in the previous paragraph without delay to the competent authority of each subsidiary that is party to the proposed agreement, with the aim of reaching a joint decision.

(3) In connection with a proposed group financial support agreement, the Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in point (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, shall strive to adopt a joint decision with the competent authorities involved regarding the compliance of the proposed agreement with the conditions for financial support set out in the second paragraph of the previous article within four months of the date the consolidating supervisor forwarded the proposed agreement to the competent authorities involved for review. In making their joint decision, the competent authorities involved shall take into account the possible effect of the execution of the agreement in all Member States in which the group in question operates, including financial consequences. That joint decision shall be set out in writing, including an explanation, and submitted to the consolidating supervisor, who in turn shall forward the decision of the applicant referred to in the first paragraph of this article.

(4) The Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in points (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, as consolidating supervisor based on Article 291 of this Act, shall:

1. approve the proposed agreement if, by taking into account the joint decision set out in the previous paragraph, the principles and conditions of the agreement are in line with the previous article, and if all competent authorities referred to in the second paragraph of this article assess that none of the parties met the conditions for early intervention set out in Article 253 of this Act at the time the agreement was submitted; or
2. prohibit the conclusion of the proposed agreement, if the conditions set out in the previous point are not met.

(5) In connection with the joint decision set out in the third paragraph of this article, any of the competent authorities included in supervision on a consolidated basis may submit a request to the European Banking Authority in accordance with Article 19 of Regulation (EU) No 1093/2010 before the expiry of the four-month deadline or at any time before the adoption of a final decision.

(6) The consolidating supervisor shall make its own decision regarding the compliance of a proposed agreement with the conditions for financial support set out in the second paragraph of the previous article, if:

1. the joint decision set out in the third paragraph of this article is not made within four months; or
2. the European Banking Authority does not make a decision regarding the request set out in the previous paragraph within one month.

(7) As consolidating supervisor in the case referred to in the previous paragraph, the Bank of Slovenia shall, at its own discretion, take into account the opinions and reservations expressed by the competent authorities involved in its decision. If the request set out in the fifth paragraph of this article is submitted, the Bank of Slovenia, as consolidating supervisor, shall halt the decision-making process until the European Banking Authority issues its own decision. If based on the third paragraph of Article 19 of Regulation (EU) No 1093/2010 the European Banking Authority adopts its own decision regarding the matter, the Bank of Slovenia, as consolidating supervisor, shall take into account that decision and act in accordance with the fourth paragraph of this article. As consolidating supervisor, the Bank of Slovenia shall forward a justified decision to the competent authorities involved and the applicant referred to in the first paragraph of this article.

(8) As a competent authority involved in the case referred to in the previous paragraph during the supervision of a bank on a consolidated basis, the Bank of Slovenia shall treat the decision of the consolidating supervisor as final, whenever the latter is the competent authority of another Member State.

(9) The Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in point (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, shall forward a group financial support agreement approved by the competent consolidating supervisor and any changes to that agreement to the resolution authority responsible for the group bank in question.

### **Article 193**

#### **(approval of a group financial support agreement by shareholders)**

(1) A proposed group financial support agreement that has been approved by the competent consolidating supervisor shall also be approved by the general meeting of shareholders of every entity that is party to that agreement before it is concluded.

(2) A group financial support agreement shall only be valid for those group entities whose general meeting of shareholders has decided that:

1. the entity shall be party to a group financial support agreement that has been approved by the competent consolidating supervisor; and
2. the governing body of that entity shall be authorised to make a decision that the entity shall provide or receive financial support in accordance with the terms and conditions of the agreement.

(3) A group financial support agreement shall cease to be valid for a specific entity, if that entity's general meeting of shareholders revoked the authorisation referred to in the previous paragraph.



**Article 194**  
**(disclosure in connection with entry into a group financial support agreement)**

(1) Every group entity included in consolidated supervision carried out by the Bank of Slovenia or the European Central Bank in accordance with Article 291 of this Act and Article 4 of Regulation (EU) No 1024/2013 shall make public whether a group financial support agreement was concluded between all or individual entities referred to the first paragraph of Article 190 of this Act, including information as to whether an entity has entered into such an agreement. If an entity entered into that agreement, it shall make public all parties to and the general terms and conditions of that agreement.

(2) The group entity shall update the information set out in the previous paragraph that it makes public, at least once a year.

(3) Articles 431 to 434 of Regulation (EU) No 575/2013 shall apply to the publication of information referred to in the first paragraph of this article.

**Article 195**  
**(decision regarding the provision or receipt of financial support)**

(1) A decision to provide financial support in accordance with a group financial support agreement shall be made by the governing body of the group entity providing financial support, in accordance with the authorisation set out in point 2 of the second paragraph of Article 193 of this Act.

(2) The governing body shall justify the decision set out in the previous paragraph. In particular, the decision shall indicate the objective of the proposed financial support and the circumstances from which it is evident that the provision of the financial support meets the conditions set out in the second paragraph of Article 191 of this Act.

(3) A decision to receive financial support in accordance with a group financial support agreement shall be made by the governing body of the group entity receiving financial support, in accordance with the authorisation set out in point 2 of the second paragraph of Article 193 of this Act.

(4) The governing body of every entity that is party to a group financial support agreement shall report every year to the general meeting of shareholders with regard to the implementation of the agreement and regarding all decisions adopted on the basis thereof.

**Article 196**  
**(assessment of conditions for the provision of group financial support)**

(1) The governing body of a group entity intending to provide financial support in accordance with a group financial support agreement shall notify the following authorities before providing that support:

1. the Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in points (b) and (d) to (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a group bank in accordance with the same regulation;
2. the consolidating supervisor;
3. the competent authority responsible for supervision on an individual basis in connection with the entity receiving financial support; and

4. the European Banking Authority.

(2) The notification referred to in the first paragraph of this article shall include the justified decision set out in the first paragraph of the previous article and details of the proposed financial support, including a copy of the valid group financial support agreement.

(3) If a bank intends to provide financial support on the basis of a group financial support agreement, the Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in points (b) and (d) to (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a group bank in accordance with the same regulation, may prohibit or restrict the provision of financial support within five working days from the receipt of the notification set out in the first paragraph of this article, if it assesses that the conditions for the provision of group financial support set out in the second paragraph of Article 191 of this Act are not met. That decision shall be justified.

(4) In the case referred to in the previous paragraph, the Bank of Slovenia shall inform the following authorities immediately of its decision to approve, prohibit or limit the provision of financial support by a group entity:

1. the consolidating supervisor;
2. the competent authority responsible for supervision on an individual basis in connection with the entity receiving financial support; and
3. the European Banking Authority.

(5) As the consolidating supervisor based on Article 291 of this Act and Regulation (EU) No 1024/2013, the Bank of Slovenia shall inform other members of the supervisory college and the members of the resolution college immediately with regard to the decision of the competent authority responsible for supervision on an individual basis in connection with the entity that will provide financial support regarding the approval, prohibition or limitation of the financial support that the group entity intends to provide.

(6) If the consolidating supervisor or the competent authority responsible for supervision on an individual basis in connection with the entity that will receive financial support has objections regarding the decision set out in the third paragraph of this article to prohibit or restrict financial support, it may refer the European Banking Authority within two days and assistance requested in accordance with Article 31 of Regulation (EU) No 1093/2010.

(7) If the Bank of Slovenia, in connection with a bank's intent referred to in the first paragraph of this article or, in connection with an entity's intent to provide financial support, another competent authority responsible for supervision on an individual basis in connection with an entity that will provide financial support does not prohibit or restrict the intended financial support within the period set out in the third paragraph of this article, or approves that support before the end of the aforementioned period, financial support may be provided under the terms and conditions stated in the notification referred to in the second paragraph of this article.

(8) The decision of a bank's governing body regarding the provision of financial support shall be sent to:

1. the Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in points (b) and (d) to (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a group bank in accordance with the same regulation;
2. the consolidating supervisor, who shall immediately inform other members of the supervisory college and the members of the resolution college, accordingly;

3. the competent authority responsible for supervision on an individual basis in connection with the entity receiving financial support; and
4. the European Banking Authority.

(9) If a group financial support agreement is included in a group recovery plan and the competent authority responsible for supervision on an individual basis in connection with the entity that will provide financial support restricts or prohibits financial support to a bank, the Bank of Slovenia, whenever it performs the tasks set out in point (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, may request that the competent consolidating supervisor reassess the group recovery plan in accordance with Article 197 of this Act and according to the procedure set out in Article 199 of this Act, or request that the bank in question submit a revised individual recovery plan.

### *6.7.3 Review and assessment of a recovery plan*

#### **Article 197 (assessment of a recovery plan)**

(1) In the scope of the review and evaluation set out in Article 172 of this Act, the Bank of Slovenia shall assess whether a recovery plan, submitted by a bank in accordance with Article 184 of this Act, includes all information and fulfils the requirements set out in Articles 185 to 187 of this Act.

(2) As part of the assessment referred to in the previous paragraph, the Bank of Slovenia shall take particular account of the following:

1. whether the bank's capital and funding structure is appropriate with respect to the organisational structure and risk profile of the bank;
2. whether the implementation of measures set out in the recovery plan is likely to maintain or restore the viability and stable financial position of the institution or group, taking into account the preparatory measures that the institution has adopted or will adopt;
3. whether the plan and the specific measures envisaged in the plan are likely to be implemented quickly and effectively, including in significant financial distress, thus preventing to the maximum extent possible any significant adverse effect on the financial system, including in scenarios in which other institutions would implement recovery plans in the same period; and
4. whether measures and activities envisaged in the recovery plan could adversely impact the resolvability of the bank.

(3) For the purpose of assessing a recovery plan in accordance with the first paragraph of this article, the Bank of Slovenia may require that a bank:

1. submit additional clarifications and evidence in connection with the circumstances referred to in the previous paragraph by a specific deadline;
2. harmonise the recovery plan with the requirements set out in Articles 185 to 187 of this Act by a specific deadline; and
3. establish and maintain data records regarding financial agreements concluded by the bank.

(4) The Bank of Slovenia shall forward the recovery plan referred to in the first paragraph of this article to the resolution authority and shall obtain the latter's assessment with regard to the circumstances referred to in point 4 of the second paragraph of this article.

(5) The Bank of Slovenia shall draw up the assessment referred to in the first paragraph of this article within six months from the submission of the plan, taking into account the assessment and recommendations of the resolution authority.

#### **Article 198** **(elimination of identified deficiencies and impediments)**

(1) If in the scope of verification based on the first paragraph of the previous article the Bank of Slovenia assesses that there are material deficiencies in the bank's recovery plan or material impediments to its effective implementation, it shall inform the bank or parent undertaking of the group in writing of its assessment and call on the bank and the parent undertaking of the group to submit a report on the circumstances and reasons that justify a different assessment of the recovery plan's suitability by a specific deadline, or to submit, within two months, a revised recovery plan demonstrating how the bank eliminated identified deficiencies and/or impediments. The Bank of Slovenia may extend the deadline set out in the previous sentence by one month at the bank's request.

(2) If a bank does not take the steps set out in the previous paragraph, the Bank of Slovenia shall issue an order to rectify breaches, requiring the bank to make specific changes to the recovery plan by a specific deadline.

(3) If in the scope of verification based on the first paragraph of the previous article the Bank of Slovenia assesses that identified deficiencies or impediments cannot be eliminated by revising the recovery plan, it shall require the bank to make appropriate changes in its operations by a specific deadline in order to eliminate identified deficiencies or impediments to the implementation of the recovery plan that it deems necessary and proportionate, taking into account the seriousness of identified deficiencies and impediments, and the effect of required changes on the bank's operations.

(4) In addition to the other supervisory measures set out in this Act, the Bank of Slovenia may, in the cases referred to in the previous paragraph, request that a bank:

1. reduce its risk profile, including liquidity risk;
2. ensure the conditions and carry out the necessary activities for the timely recapitalisation of the bank;
3. assess the appropriateness of the bank's strategy and organisational structure;
4. amend its funding strategy with the aim of improving the resilience of core business lines and critical functions; and
5. make changes to the bank's governance structure.

#### **Article 199** **(assessment of a group recovery plan)**

(1) The Bank of Slovenia, as consolidating supervisor shall, together with the competent authorities responsible for the supervision of group entities on an individual basis, review the group recovery plan submitted by an EU parent undertaking that is included in accordance with Article 291 of this Act in supervision on a consolidated basis carried out by the Bank of Slovenia based on this Act and Regulation (EU) No 1024/2013, and assess whether the group recovery plan includes all the information and meets the requirements and criteria set out in Article 187 of this Act.

(2) The provisions of the first to fourth paragraphs of Article 197 of this Act and the previous article shall apply *mutatis mutandis* to the assessment referred to in the previous paragraph. To that end, the Bank of Slovenia, as consolidating supervisor, shall take into

account the potential impact of recovery measures on the financial stability in all Member States in which the group operates.

(3) When assessing a group recovery plan in accordance with the first and second paragraphs of this article, the Bank of Slovenia and other competent authorities shall strive to reach a joint decision on:

1. the review and assessment of the group recovery plan;
2. the measures that shall be implemented by the group's parent undertaking to eliminate the deficiencies of the plan and the impediments to its implementation; and
3. the requirement that an individual institution that is part of a group draw up an individual recovery plan, and on the measures that shall be implemented by the subsidiary to eliminate the deficiencies of the group recovery plan and the impediments to its implementation.

(4) The Bank of Slovenia and other competent authorities shall strive to reach the joint decision referred to in the previous paragraph within four months of the date on which the consolidating supervisor submitted the group recovery plan to the competent authorities involved.

(5) In connection with the joint decision set out in the third paragraph of this article, the Bank of Slovenia or any of the competent authorities included in supervision on a consolidated basis may submit a request to the European Banking Authority in accordance with Article 19 of Regulation (EU) No 1093/2010 before the expiry of the deadline referred to in the previous paragraph or at any time before the adoption of a decision in accordance with the sixth or seventh paragraph of this article.

(6) The consolidating supervisor shall make the decision referred to in the first paragraph of this article itself, if:

1. the joint decision on these matters is not made by the deadline set out in the fourth paragraph of this article; or
2. the request set out in the previous paragraph, in connection with the joint decision referred to in the third paragraph of this article, has been submitted and the European Banking Authority did not make a decision on the matter within one month.

(7) A competent authority shall make the decision referred to in point 3 of the third paragraph of this article itself, if:

1. the joint decision on these matters is not made by the deadline set out in the fourth paragraph of this article; or
2. the request set out in the fifth paragraph of this article, in connection with the joint decision referred to in the third paragraph of this article, has been submitted and the European Banking Authority did not make a decision on the matter within one month.

(8) If the joint decision referred to in point 3 of the third paragraph of this article is not adopted by the deadline set out in the fourth paragraph of this article, the competent authorities involved that did not voice an objection to the adoption of the decision referred to in point 3 of the third paragraph of this article may adopt a joint decision for a group that covers only the entities under their jurisdiction.

(9) As consolidating supervisor, the Bank of Slovenia shall, at its own discretion, take into account the opinions and reservations expressed by the competent authorities involved in connection with the decision referred to in the sixth paragraph of this article. If in connection with the decision referred to in point 1 or 2 of the third paragraph of this article the request set out in the fifth paragraph of this article is submitted, the Bank of Slovenia, as consolidating supervisor, shall halt the decision-making process until the European Banking Authority issues its own decision. If based on the third paragraph of Article 19 of Regulation

(EU) No 1093/2010 the European Banking Authority adopts its own decision regarding the matter, the Bank of Slovenia shall take that decision into account. As consolidating supervisor, the Bank of Slovenia shall forward a justified decision to the EU parent undertaking and the competent authorities involved.

(10) As a competent authority involved in the supervision of a bank on an individual basis, the Bank of Slovenia shall treat the joint decision referred to in the third or eighth paragraph of this article and the decision of the consolidating supervisor adopted in accordance with the sixth paragraph of this article as final.

(11) If in connection with the decision referred to in point 3 of the third paragraph of this article the request set out in the fifth paragraph of this article is submitted, the Bank of Slovenia, as a competent authority involved, shall halt the decision-making process on the basis of the seventh paragraph of this article until the European Banking Authority issues its own decision. If based on the third paragraph of Article 19 of Regulation (EU) No 1093/2010 the European Banking Authority adopts its own decision regarding the matter, the Bank of Slovenia shall take that decision into account in the decision referred to in the seventh paragraph of this article. The Bank of Slovenia shall send a justified decision to the bank and the consolidating supervisor.

## **6.8 Qualifying holdings of a bank**

### **Article 200**

#### **(authorisation for the acquisition of qualifying holdings)**

(1) A qualifying holding under this Act shall mean an investment on the basis of which a bank acquires a qualifying holding in:

1. a financial institution established in the Republic of Slovenia or another Member State, except financial institutions for which a bank shall obtain authorisation from the supervisory authority in the Republic of Slovenia or another Member State to acquire a qualifying holding in those entities; or
2. a financial sector entity established in a third country.

(2) A bank shall obtain Bank of Slovenia authorisation before each acquisition of a qualifying holding (hereinafter: authorisation to acquire a qualifying holding).

(3) The Bank of Slovenia shall issue authorisation to acquire a qualifying holding, if:

1. the bank has provided for the appropriate internal governance arrangements arising from the acquisition and management of the qualifying holding;
2. effective supervision of the bank is not impeded due to the acquisition of such a holding; and
3. the capital and liquidity adequacy on an individual and consolidated basis is not jeopardised due to the acquisition of such a holding.

(4) For the purpose set out in point 2 of the previous paragraph, effective supervision shall be deemed impeded, if:

1. taking into account a third country's regulations or the practices of that country in the implementation of those regulations, it is likely that supervision in accordance with the provisions of this Act will be impeded; or
2. supervision in accordance with the provisions of this Act would be impeded due to the business and ownership links that the entity in which a bank intends to acquire a

qualifying holding has with other undertakings or individuals, due to mutual links based on participation in capital and due to non-transparent operations.

(5) The second paragraph of this article shall not apply to holdings that a bank acquires in the scope of:

1. the provision of services on behalf of a client;
2. the recovery of its claims through the exercising of rights arising from collateral, if those holdings were given to the bank as collateral for its claims and the bank disposes of those holdings within five years following acquisition; and
3. the restructuring of its claims against a financial sector entity into a participating interest in that entity during composition or similar proceedings against that entity due to insolvency.

(6) A bank shall inform the Bank of Slovenia without delay with regard to the acquisition of a qualifying holding and the conditions set out in the previous paragraph, and submit evidence regarding the fulfilment of those conditions. If a bank that acquired a qualifying holding on the basis of point 2 of the previous paragraph does not dispose of or reduce the qualifying holding within five years following acquisition, it shall obtain Bank of Slovenia authorisation to keep the qualifying holding.

(7) In its decision to issue authorisation to acquire a qualifying holding, the Bank of Slovenia shall set out the level of participation in the voting rights or capital of the financial sector entity for which authorisation is issued, as one of the ranges set out in Article 70 of this Act. A bank shall obtain new Bank of Slovenia authorisation to acquire a qualifying holding prior to any further acquisition of holdings, based on which it would exceed the range to which a previously issued authorisation to acquire a qualifying holding relates.

(8) The Bank of Slovenia shall prescribe the documentation that a bank shall submit with its request to issue authorisation to acquire a qualifying holding.

## **Article 201** **(invalidation of authorisation)**

(1) In its decision regarding authorisation to acquire a qualifying holding, the Bank of Slovenia shall set a deadline by which a bank shall acquire the qualifying holding for which authorisation was issued. The aforementioned deadline shall not be shorter than three months.

(2) Article 72 of this Act shall apply *mutatis mutandis* to the invalidation of authorisation to acquire a qualifying holding.

(3) Notwithstanding the third paragraph of Article 72 of this Act, authorisation to acquire a qualifying holding shall not be invalidated if, following the acquisition of the qualifying holding in the range for which authorisation was issued, the bank reduces the holding such that it no longer achieves the range for which authorisation was issued, and it increases its holding within three months following disposal, such that it once again achieves the range for which authorisation was issued.

(4) A bank shall inform the Bank of Slovenia without delay if the qualifying holding falls below the range for which Bank of Slovenia authorisation was issued.

**Article 202**  
**(withdrawal of authorisation)**

(1) The Bank of Slovenia shall withdraw authorisation to acquire a qualifying holding, if the conditions set out in the third paragraph of Article 200 of this Act, in connection with that qualifying holding, are no longer met. In its decision to withdraw authorisation, the Bank of Slovenia shall set a deadline by which the bank shall reduce the qualifying holding in question or restructure the holding accordingly.

(2) If the bank does not reduce the qualifying holding or restructure the holding accordingly by the deadline referred to in the previous paragraph, the acquisition of that holding shall be deemed unauthorised.

**Article 203**  
**(unauthorised acquisition of a qualifying holding)**

If a bank acquires a qualifying holding in contravention of Article 200 of this Act, the Bank of Slovenia shall issue to the bank an order setting a deadline by which the bank shall dispose of the qualifying holding, restructure the holding accordingly or file a request for the issue of authorisation.

**Article 204**  
**(reporting at the request of the Bank of Slovenia)**

(1) The Bank of Slovenia may request from a financial institution in which a bank has obtained a qualifying holding a report on the facts and circumstances that are of significance to its operations and that have an impact on the assessment of the risks to which the bank is exposed in connection with the qualifying holding.

(2) If the financial institution referred to in the previous paragraph reports the aforementioned facts to other supervisory authorities in the Republic of Slovenia, the Bank of Slovenia may request from those authorities all information regarding that financial institution's operations that affect the assessment of risks to which the bank is exposed in connection with the qualifying holding.

**6.9 Reporting on material circumstances**

**Article 205**  
**(reports regarding material facts and circumstances)**

(1) A bank shall report the following facts and circumstances to the Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in points (b) and (d) to (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation:

1. changes to data that are entered in the companies register;
2. the convening of the general meeting and all resolutions adopted at that meeting;
3. holders of the bank's shares and the acquisition of and/or changes to qualifying holdings;



4. the acquisition and/or disposal of shares, participating interests and/or membership rights in legal persons;
5. cessation of the provision of services provided by the bank; and
6. other facts and circumstances defined by the Bank of Slovenia in the implementing regulation referred to in Article 135 of this Act that are important for assessing whether the bank operates in accordance with the regulations set out in the second paragraph of Article 9 of this Act.

(2) The management board of a bank shall report the following events without delay to the Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in points (b) and (d) to (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation:

1. if the bank is unable to pay an investor's maturing deposits at the latter's request;
2. if the bank's position changes in such a way that it no longer ensures or it is likely that it will no longer ensure capital adequacy in accordance with Article 129 of this Act or adequate liquidity in accordance with Article 130 of this Act;
3. if the bank begins an extensive upgrade of its information systems, or if the bank begins to develop a new range of services that are predominantly IT-supported; and
4. other events that could have a significant impact on the bank's operations in accordance with risk management rules.

## CHAPTER 7: CAPITAL BUFFERS

### 7.1 General provisions

#### **Article 206** **(definition of terms)**

The terms used in Chapter 7 shall have the following meanings:

1. "capital conservation buffer" shall mean the own funds that a bank shall maintain in accordance with Article 208 of this Act;
2. "institution-specific countercyclical capital buffer" shall mean the own funds that a bank shall maintain in accordance with Article 209 of this Act;
3. "G-SIB buffer" shall mean the own funds that a bank shall maintain in accordance with Article 220 of this Act;
4. "O-SIB buffer" shall mean the own funds that a bank shall maintain in accordance with Article 221 of this Act;
5. "systemic risk buffer" shall mean the own funds that a bank shall maintain in accordance with Article 222 of this Act;
6. "combined buffer requirement" shall mean the total capital that a bank shall maintain to meet the requirements in connection with:
  - the capital conservation buffer,
  - the institution-specific countercyclical capital buffer,
  - the G-SIB buffer,
  - the O-SIB buffer, and
  - the systemic risk buffer;
7. "countercyclical buffer rate" shall mean the rate a bank shall apply in order to calculate its institution-specific countercyclical capital buffer, and that is set in accordance with Articles 210 to 213 of this Act or by a relevant third-country authority;
8. "buffer guide" shall mean a benchmark buffer rate calculated in accordance with Article 210 of this Act;

9. "total risk exposure amount" shall mean the risk exposure amount calculated in accordance with the third paragraph of Article 92 of Regulation (EC) No 575/2013;
10. "designated authority of another country" shall mean an authority of a Member State or third country that, according to the law of that country or in accordance with Regulation (EU) No 1024/2013, is responsible for setting requirements regarding capital buffers that shall be maintained by a Member State or third-country bank, and for the designation of a Member State or third-country bank as a G-SIB or O-SIB;
11. "G-SIB" shall mean global systemically important bank, defined as such on a consolidated basis by the Bank of Slovenia in accordance with this Act and Regulation (EU) No 1024/2013; and
12. "O-SIB" shall mean other systemically important bank, defined as such on an individual, sub-consolidated or consolidated basis by the Bank of Slovenia in accordance with this Act and Regulation (EU) No 1024/2013.

## **Article 207**

### **(competences of the Bank of Slovenia)**

(1) In accordance with this Act, the Bank of Slovenia shall define requirements regarding the maintenance of capital buffers that a bank shall meet for the purpose of preventing or mitigating macro-prudential and systemic risks.

(2) For the purposes set out in the previous paragraph, the Bank of Slovenia shall define requirements regarding the maintenance of one or more capital buffers:

1. the countercyclical buffer set out in Article 209 of this Act;
2. the systemic risk buffer set out in Article 222 of this Act;
3. the G-SIB buffer set out in Article 220 of this Act; and
4. the O-SIB buffer set out in Article 221 of this Act.

(3) The Bank of Slovenia shall inform the Financial Stability Committee before making decisions regarding:

1. the designation of a bank as a G-SIB or O-SIB;
2. requirements to maintain a countercyclical capital buffer;
3. requirements to maintain a systemic risk buffer; and
4. requirements to maintain an O-SIB buffer.

(4) The Financial Stability Committee shall issue an opinion in connection with the Bank of Slovenia's proposed decisions in the matters set out in the previous paragraph by the deadline set by the Bank of Slovenia, which shall be at least eight days. If the Financial Stability Committee issues an opinion regarding a proposed decision by the aforementioned deadline, the Bank of Slovenia shall take that opinion into account in its decision or provide a written explanation why it did not take that opinion into account.

## **7.2 Types of capital buffers**

### *7.2.1 Capital conservation buffer*

## **Article 208**

### **(requirement to maintain a capital conservation buffer)**

(1) A bank shall maintain a capital conservation buffer equal to 2.5% of the total risk exposure amount on an individual and consolidated basis, as applicable in accordance with Title II of Part 1 of Regulation (EU) No 575/2013.

(2) A bank shall satisfy the requirement set out in the previous paragraph with Common Equity Tier 1 capital. The Common Equity Tier 1 capital that a bank maintains to satisfy the requirement set out in the previous paragraph shall not be used to satisfy:

1. the capital requirements set out in Article 92 of Regulation (EU) No 575/2013;
2. the requirements based on the third paragraph of Article 250 of this Act; or
3. the requirements regarding the maintenance of internal capital adequacy in accordance with Article 131 of this Act or in accordance with the Bank of Slovenia's assessment on the basis of Article 183 of this Act.

#### *7.2.2 Countercyclical capital buffer*

##### **Article 209**

##### **(requirement to maintain an institution-specific countercyclical capital buffer)**

(1) A bank shall maintain an institution-specific capital buffer equal to its total risk exposure amount multiplied by the weighted average of the countercyclical buffer rates calculated in accordance with the fourth paragraph of this article on an individual and consolidated basis, as applicable in accordance with Title II of Part 1 of Regulation (EU) No 575/2013.

(2) A bank shall satisfy the requirement set out in the previous paragraph with Common Equity Tier 1 capital. The Common Equity Tier 1 capital that a bank maintains to satisfy the requirement set out in the previous paragraph shall not be used to satisfy:

1. the capital requirements set out in Article 92 of Regulation (EU) No 575/2013;
2. the requirements based on the third paragraph of Article 250 of this Act;
3. the requirements regarding the maintenance of internal capital adequacy in accordance with Article 131 of this Act or in accordance with the Bank of Slovenia's assessment on the basis of Article 183 of this Act; or
4. the requirement to maintain a capital conservation buffer set out in the previous article.

(3) An institution-specific capital buffer rate shall comprise the weighted average of countercyclical buffer rates that apply in countries in which the credit exposures of the bank in question are located.

(4) The Bank of Slovenia shall prescribe detailed rules on the calculation of institution-specific countercyclical capital buffer rates.

##### **Article 210**

##### **(setting of a countercyclical buffer rate)**

(1) On a quarterly basis, the Bank of Slovenia shall calculate a buffer guide, which is a meaningful reflection of the credit cycle and risks due to excess credit growth in the Republic of Slovenia, and takes into account the specificities of the Slovenian economy accordingly. The buffer guide shall be based on the deviation of the ratio of credit to gross domestic product (hereinafter: GDP) from its long-term trend, taking into account:

1. an indicator of growth of levels of credit in the Republic of Slovenia and, in particular, an indicator reflective of the changes in the ratio of credit granted in the Republic of Slovenia to GDP; and
2. guidance from the European Systemic Risk Board regarding the calculation of the buffer guide.

(2) On a quarterly basis, the Bank of Slovenia shall assess and set the countercyclical buffer rate used to calculate the institution-specific countercyclical capital buffer rate with respect to credit exposure in the Republic of Slovenia (hereinafter: the countercyclical buffer rate for the Republic of Slovenia).

(3) When setting the countercyclical buffer rate for the Republic of Slovenia, the Bank of Slovenia shall take into account:

1. the buffer guide calculated in accordance with the first paragraph of this article;
2. guidance and recommendations from the European Systemic Risk Board regarding the setting of the buffer rate; and
3. other variables that the Bank of Slovenia deems relevant for identifying cyclical systemic risk.

#### **Article 211** **(countercyclical buffer rate level)**

(1) The Bank of Slovenia shall set the countercyclical buffer rate for the Republic of Slovenia between 0% and 2.5% of the total risk exposure amount, where that rate shall be set in steps of 0.25 percentage points or multiples of 0.25 percentage points.

(2) Notwithstanding the previous paragraph, the Bank of Slovenia may set a countercyclical buffer rate for the Republic of Slovenia that exceeds 2.5% of the total risk exposure amount, if that is justified based on the assessment referred to in the previous article.

#### **Article 212** **(application of the countercyclical buffer)**

(1) When the Bank of Slovenia sets a countercyclical buffer rate for the Republic of Slovenia above zero or increases the prevailing rate, that new countercyclical buffer rate for the Republic of Slovenia shall begin to apply 12 months following the publication set out in Article 215 of this Act.

(2) Notwithstanding the previous paragraph, the Bank of Slovenia may decide to apply the new countercyclical buffer rate for the Republic of Slovenia, published in accordance with Article 215 of this Act, before 12 months have passed since that publication, should exceptional circumstances arise.

(3) If the Bank of Slovenia reduces the valid countercyclical buffer rate for the Republic of Slovenia or reduces it to zero, it shall also set an indicative period during which no increase in the buffer is expected. However, the Bank of Slovenia shall not be bound by that indicative period.

#### **Article 213** **(recognition of a countercyclical buffer rate exceeding 2.5%)**

(1) When a designated authority of another country sets a countercyclical buffer rate for that country in excess of 2.5% of the total risk exposure amount, the Bank of Slovenia may recognise that buffer rate for the purpose of calculating an institution-specific countercyclical capital buffer.

(2) When the Bank of Slovenia recognises another country's countercyclical buffer rate that exceeds 2.5% of the total risk exposure amount, banks shall take that rate into

account in the calculation of their own institution-specific countercyclical capital buffer in connection with their exposures located in that Member State or third country.

(3) When the Bank of Slovenia does not recognise another country's countercyclical buffer rate that exceeds 2.5% of the total risk exposure amount, banks shall take into account a countercyclical buffer rate of 2.5% in the calculation of their own institution-specific countercyclical capital buffer in connection with their exposures located in that Member State or third country.

#### **Article 214** **(setting of a countercyclical buffer rate for banks' exposures located in third countries)**

(1) If a designated authority in a third country authority does not set and publish a countercyclical buffer rate for that country, the Bank of Slovenia may set a countercyclical buffer rate for banks' exposures located in that country, which those banks shall take into account when calculating their institution-specific countercyclical capital buffer.

(2) If a designated authority in a third country sets and publishes a countercyclical buffer rate for that country, the Bank of Slovenia may set a different countercyclical buffer rate for banks' exposures located in that country, if the buffer rate set by that third-country's designated authority is not sufficient to protect the banks against the risk of excessive credit growth in that country.

(3) The countercyclical buffer rate for banks' exposures located in a third country set by the Bank of Slovenia based on the previous paragraph shall not be lower than the rate set by the designated authority in that third country, unless the buffer rate set by the third-country's designated authority exceeds 2.5% of the total risk exposure amount.

(4) The Bank of Slovenia may notify the European Systemic Risk Board that the countercyclical buffer rate for a third country set by the latter's designated authority is insufficient.

(5) If the European Systemic Risk Board issues a recommendation based on the notification referred to in the previous paragraph or on its own initiative, the Bank of Slovenia shall take that recommendation into account in its assessment based on the first to third paragraphs of this article.

(6) When the Bank of Slovenia sets a countercyclical buffer rate for banks' exposures located in a third country in accordance with the second and third paragraphs of this article that increases the countercyclical buffer rate set by that third country's designated authority, the new countercyclical buffer rate for banks' exposures located in that country shall begin to apply 12 months following the publication set out in Article 216 of this Act.

(7) Notwithstanding the previous paragraph, the Bank of Slovenia may decide to apply the new countercyclical buffer rate for banks' exposures located in a third country, published in accordance with Article 216 of this Act, before 12 months have passed since that publication, should exceptional circumstances arise.

#### **Article 215** **(publication of the countercyclical buffer rate for the Republic of Slovenia)**

(1) The Bank of Slovenia shall publish the countercyclical buffer rate for the Republic of Slovenia, set in accordance with Article 210 of this Act, quarterly on its website,

and shall strive for the timely harmonisation of that publication with the publications of other designated authorities.

(2) The publication of the countercyclical buffer rate referred to in the previous paragraph shall include the following information, at a minimum:

1. the countercyclical buffer rate;
2. the credit-to-GDP ratio and the deviation of that ratio from its long-term trend;
3. the buffer guide calculated in accordance with the first paragraph of Article 210 of this Act;
4. justification for the buffer rate in question;
5. when the buffer rate is set above zero or is increased for the first time, the date from which banks shall apply that increased buffer rate for the purposes of calculating their own institution-specific countercyclical capital buffer;
6. reference to exceptional circumstances that justify a decision to apply the buffer rate before 12 months have passed from publication in accordance with this article; and
7. if the buffer rate is reduced, the indicative period during which no increase in the buffer rate is expected, together with justification for that period.

(3) Every quarter, the Bank of Slovenia shall send the European Systemic Risk Board official notification regarding the setting of the countercyclical buffer rate for the Republic of Slovenia, and report the information set out in the previous paragraph.

#### **Article 216**

##### **(publication of the countercyclical buffer rate for banks' exposures located in a third country)**

(1) The Bank of Slovenia shall publish on its website the countercyclical buffer rate for banks' exposures located in a third country, set in accordance with the first and second paragraphs of Article 214 of this Act.

(2) The Bank of Slovenia shall include the following information in the publication referred to in the previous paragraph:

1. the countercyclical buffer rate and the third country to which it applies;
2. justification for the buffer rate in question;
3. when the buffer rate is set above zero or is increased for the first time, the date from which banks shall apply that increased buffer rate for the purposes of calculating their own institution-specific countercyclical capital buffer; and
4. reference to exceptional circumstances that justify a decision to apply the buffer rate before 12 months have passed from publication in accordance with this article.

#### **Article 217**

##### **(publication of a countercyclical buffer rate exceeding 2.5%)**

When the Bank of Slovenia recognises the buffer rate for another Member State or a third country that exceeds 2.5% of the total risk exposure amount, in accordance with Article 213 of this Act, it shall publish that recognition on its website. That publication shall include the following, at a minimum:

1. the countercyclical buffer rate;
2. the Member State or third country to which that buffer rate applies;
3. when the buffer rate is increased, the date from which banks shall apply that increased buffer rate for the purposes of calculating their own institution-specific countercyclical capital buffer; and

4. reference to exceptional circumstances that justify a decision to apply the buffer rate before 12 months have passed from publication in accordance with this article.

### *7.2.3 G-SIB and O-SIB buffers*

#### **Article 218 (designating global systemically important institutions)**

(1) Taking into account the methodology set out in the second paragraph of this article, the Bank of Slovenia shall issue a decision designating a bank as a G-SIB, if:

1. it is an EU parent bank;
2. it is a subsidiary bank of an EU parent financial holding company or an EU parent mixed financial holding company; or
3. it is not a subsidiary of one of the entities referred to in points 1 and 2 of this paragraph.

(2) The Bank of Slovenia shall designate a bank as a G-SIB, if its collapse or poor operations could result in global systemic risk. The Bank of Slovenia shall assess the impact of an individual bank on global systemic risk using a methodology based on the following measurable and equally weighted indicators:

1. the size of the group;
2. the interconnectedness of the group with the financial system;
3. the substitutability of the services or the financial infrastructure provided by the group;
4. the complexity of the group; and
5. the cross-border activities of the group, including cross-border activity between the Republic of Slovenia and other Member States and between the Republic of Slovenia and a third country.

(3) Based on the overall score produced by the methodology set out in the previous paragraph, the Bank of Slovenia shall assign a bank referred to in the first paragraph of this article whose overall score exceeds the lowest cut-off score set for the first G-SIB subcategory to one of the five G-SIB sub-categories set out in the first paragraph of Article 220 of this Act. The cut-off scores between adjacent subcategories shall take into account a constant linear increase in the systemic significance of a G-SIB, between each sub-category, with the exception of the highest sub-category.

(4) When the Bank of Slovenia designates a bank as a G-SIB and assigns it to the appropriate sub-category, it shall set a deadline for the fulfilment of the requirement to maintain a G-SIB buffer defined for that sub-category in accordance with Article 220 of this Act.

(5) In special circumstances the Bank of Slovenia may:

1. reassign a G-SIB to a higher G-SIB sub-category as defined on the basis of the third paragraph of this article; or
2. designate as a G-SIB a bank referred to in the first paragraph of this article that, based on the applied methodology, does not exceed the lowest cut-off score for the first G-SIB sub-category defined on the basis of the third paragraph of this article.

(6) In the case set out in point 2 of the previous paragraph, the Bank of Slovenia shall inform the European Banking Authority of its decision to designate a bank as a G-SIB, and provide the relevant reasons.

(7) At least once a year, the Bank of Slovenia shall verify the overall score produced by the methodology set out in the second paragraph of this article and the

reassignment of the G-SIB to the appropriate G-SIB sub-category. If during its review the Bank of Slovenia determines that a G-SIB is to be reassigned to another G-SIB sub-category based on the overall score produced by the methodology set out in the second paragraph of this article or due to special circumstances, or if it determines that a bank no longer meets the criteria as a G-SIB, the Bank of Slovenia shall decide that:

1. the G-SIB in question shall be assigned to a new G-SIB sub-category defined based on the third paragraph of this article, and a deadline set for the fulfilment of the requirement to maintain a G-SIB buffer defined for that sub-category in accordance with Article 220 of this Act; or
2. the bank shall no longer be designated as a G-SIB.

(8) The Bank of Slovenia shall inform the Commission, the European Systemic Risk Board and the European Banking Authority about the results of its review, and about the designation of G-SIBs and the G-SIB sub-categories to which each G-SIB is assigned. The Bank of Slovenia shall publish this information on its website.

### **Article 219** **(designating other systemically important institutions)**

(1) Taking into account the criteria set out in the second paragraph of this article, the Bank of Slovenia shall issue a decision designating a bank as an O-SIB, if:

1. it is an EU parent bank;
2. it is a subsidiary bank of an EU parent financial holding company or an EU parent mixed financial holding company; or
3. it is not a subsidiary of one of the entities referred to in points 1 and 2 of this paragraph.

(2) The Bank of Slovenia shall designate a bank as an O-SIB, if its collapse or poor operations could result in systemic risk in the Republic of Slovenia. The Bank of Slovenia shall base its assessment of the impact of a specific bank on systemic risk in the Republic of Slovenia on at least one of the following criteria:

1. its size;
2. its importance for the economy of the European Union or the Republic of Slovenia;
3. the importance of cross-border activities; and
4. the interconnectedness of the bank or group with the financial system.

(3) When the Bank of Slovenia designates a bank as an O-SIB, it shall also set the associated O-SIB buffer rate and a deadline for the fulfilment of the requirement to maintain that buffer.

(4) Notwithstanding the second paragraph of this article, if the Bank of Slovenia sets a lower or higher O-SIB buffer based on a review of the O-SIB in question, or if it determines that the conditions no longer exist for the designation of a bank as an O-SIB taking into account the criteria set out in the first and second paragraphs of this article, the Bank of Slovenia shall decide that:

1. a new buffer rate shall be applied for that O-SIB and a deadline set for the fulfilment of the requirement to maintain that buffer; or
2. the bank shall no longer be designated as an O-SIB.

(5) The Bank of Slovenia shall inform the Commission, the European Systemic Risk Board and the European Banking Authority with regard to banks that it has designated as O-SIBs, and shall publish a list of O-SIBs on its website.

(6) At least once a year, the Bank of Slovenia shall verify the fulfilment of O-SIB criteria and the appropriateness of O-SIB buffer rates. The Bank of Slovenia shall inform the



O-SIB in question, the Commission, the European Systemic Risk Board and the European Banking Authority about the results of its verification, and shall publish an updated list of O-SIBs on its website.

#### **Article 220** **(requirement to maintain a G-SIB buffer)**

(1) A G-SIB shall maintain a G-SIB buffer appropriate to the G-SIB sub-category to which it is assigned based on the third paragraph of Article 218 of this Act, in the following amounts:

1. for the first (lowest) sub-category: 1% of the total risk exposure amount;
2. for the second sub-category: 1.5% of the total risk exposure amount;
3. for the third sub-category: 2% of the total risk exposure amount;
4. for the fourth sub-category: 2.5% of the total risk exposure amount; and
5. for the fifth sub-category: 3.5% of the total risk exposure amount.

(2) A G-SIB shall satisfy the requirement set out in the previous paragraph with Common Equity Tier 1 capital. The Common Equity Tier 1 capital that a bank maintains to satisfy the requirement set out in the previous paragraph shall not be used to satisfy:

1. the capital requirements set out in Article 92 of Regulation (EU) No 575/2013;
2. the requirements based on the third paragraph of Article 250 of this Act;
3. the requirements regarding the maintenance of internal capital adequacy in accordance with Article 131 of this Act or in accordance with the Bank of Slovenia's assessment on the basis of Article 183 of this Act;
4. the requirement to maintain a capital conservation buffer set out in Article 208 of this Act; or
5. the requirement to maintain an institution-specific countercyclical capital buffer set out in Article 209 of this Act.

#### **Article 221** **(requirement to maintain an O-SIB buffer)**

(1) An O-SIB shall maintain an O-SIB buffer in the amount set by the Bank of Slovenia.

(2) The Bank of Slovenia may set an O-SIB buffer in the amount of 2% of the total risk exposure amount, taking into account the criteria for designating an O-SIB set out in Article 219 of this Act on a consolidated, sub-consolidated or individual basis. The Bank of Slovenia shall ensure that the requirement to maintain an O-SIB buffer does not entail disproportionate adverse effects on the whole or parts of the financial system, including effects in other Member States or at the European Union level that would impede or result in impediments to the functioning of the internal market.

(3) Notwithstanding the first paragraph of this article, if an O-SIB is a subsidiary of a G-SIB or an O-SIB that is an EU parent bank and subject to the requirement to maintain an O-SIB buffer on a consolidated basis, the buffer that applies to that subsidiary O-SIB on an individual or sub-consolidated basis shall not exceed the higher of:

1. 1% of the total risk exposure amount; or
2. the G-SIB or O-SIB buffer rate on a consolidated bases.

(4) An O-SIB shall satisfy the requirement set out in the first paragraph of this article with Common Equity Tier 1 capital. The Common Equity Tier 1 capital that the

aforementioned bank maintains to satisfy the requirement set out in the first paragraph of this article shall not be used to satisfy:

1. the capital requirements set out in Article 92 of Regulation (EU) No 575/2013;
2. the requirements based on the third paragraph of Article 250 of this Act;
3. the requirements regarding the maintenance of internal capital adequacy in accordance with Article 131 of this Act or in accordance with the Bank of Slovenia's assessment on the basis of Article 183 of this Act;
4. the requirement to maintain a capital conservation buffer set out in Article 208 of this Act; or
5. the requirement to maintain an institution-specific countercyclical capital buffer set out in Article 209 of this Act.

(5) The Bank of Slovenia shall inform the Commission, the European Systemic Risk Board, the European Banking Authority and the competent and designated authorities of the Member States concerned one month prior to publishing its decision to set or reset an O-SIB buffer.

(6) The notification referred to in the previous paragraph shall include:

1. the reasons why the Bank of Slovenia assesses that the O-SIB buffer will be effective and proportionate in the mitigation of risk;
2. an assessment of the likely positive or negative impact of the O-SIB buffer on the internal market based on available information to the Bank of Slovenia; and
3. the O-SIB buffer rate that the Bank of Slovenia intends to set.

#### *7.2.4 Systemic risk buffer*

### **Article 222 (requirement to maintain a systemic risk buffer)**

(1) The Bank of Slovenia may require a bank to maintain a systemic risk buffer of at least 1% of the total risk exposure amount on an individual, sub-consolidated or consolidated basis, or on an individual and consolidated basis, if required to prevent or mitigate long-term non-cyclical systemic or macro-prudential risks.

(2) When setting the requirement referred to in the previous paragraph, the Bank of Slovenia shall take into account the risks that are not covered by capital requirements based on this Act and Regulation (EU) No 575/2013 (except Articles 458 and 459 of the aforementioned regulation), in particular the risk of disruption in the financial system that could have serious negative consequences for the financial system and real economy in the Republic of Slovenia.

(3) A bank shall satisfy the requirement set out in the first paragraph of this article with Common Equity Tier 1 capital. The Common Equity Tier 1 capital that the aforementioned bank maintains to satisfy the requirement set out in the first paragraph of this article shall not be used to satisfy:

1. the capital requirements set out in Article 92 of Regulation (EU) No 575/2013;
2. the requirements based on the third paragraph of Article 250 of this Act;
3. the requirements regarding the maintenance of internal capital adequacy in accordance with Article 131 of this Act or in accordance with the Bank of Slovenia's assessment on the basis of Article 183 of this Act;
4. the requirement to maintain a capital conservation buffer set out in Article 208 of this Act; or

5. the requirement to maintain an institution-specific countercyclical capital buffer set out in Article 209 of this Act; or
6. the requirement to maintain a G-SIB or O-SIB buffer in accordance with the provisions of Articles 220 and 221 of this Act.

### **Article 223** **(setting a systemic risk buffer rate)**

(1) The Bank of Slovenia may set a systemic risk buffer rate for all banks or for a specific group of banks that shall apply to exposures located in the Republic of Slovenia, another Member State or a third country, and that shall be set in gradual or accelerated steps of adjustment of 0.5 percentage points. The Bank of Slovenia may set different requirements for different groups of banks.

(2) When setting the requirement to maintain a systemic risk buffer, the Bank of Slovenia shall ensure that the systemic risk buffer does not entail disproportionate adverse effects on the whole or parts of the financial system in other Member States or at the EU level that would impede or result in impediments to the functioning of the internal market.

(3) At least every other year, the Bank of Slovenia shall verify the reasons for setting the requirement to maintain a systemic risk buffer.

(4) When the Bank of Slovenia sets a systemic risk buffer in accordance with Subsection 7.2.4 of this Act, it may propose that the European Systemic Risk Board issue a recommendation in accordance with Article 16 of Regulation (EU) No 1092/2010 for one or more Member States for the recognition of a systemic risk buffer rate for exposures located in the Republic of Slovenia in accordance with Article 226 of this Act.

### **Article 224** **(procedure for setting a systemic risk buffer rate)**

(1) Before setting or resetting a systemic risk buffer rate of up to 3% of the total risk exposure amount, the Bank of Slovenia shall inform the Commission, the European Systemic Risk Board, the European Banking Authority and the designated authorities of the countries concerned one month prior to the publication referred to in Article 225 of this Act. The notification shall include:

1. a description of the systemic or macroprudential risk in the Republic of Slovenia;
2. a description of the dimension of the systemic or macroprudential risk that threatens the stability of the financial system in the Republic of Slovenia;
3. justification for why the Bank of Slovenia assesses that the requirement to maintain a systemic risk buffer is required and represents an effective and proportionate measure to mitigate that risk;
4. an assessment of the likely positive or negative impact of the systemic risk buffer on the internal market based on available information to the Bank of Slovenia;
5. justification for why other measures set out in this Act or in Regulation (EU) No 575/2013 (excluding Articles 458 and 459 of the aforementioned regulation), alone or in combination, will not be sufficient to eliminate identified macroprudential or systemic risk taking into account the relative effectiveness of those measures; and
6. the systemic risk buffer rate that the Bank of Slovenia intends to set.

(2) The Bank of Slovenia may set a systemic risk buffer rate of up to 3% for exposures located in other Member States or third countries after sending the official notification referred to in the previous paragraph. If the Bank of Slovenia sets a systemic risk

buffer rate for exposures located in other Member States, that rate shall be the same for all exposures throughout the European Union.

(3) The Bank of Slovenia shall notify the Commission before setting or resetting a systemic risk buffer rate for exposures in the Republic of Slovenia or for exposures in third countries of between 3% and 5% of the total risk exposure amount, and shall send the Commission the information set out in the first paragraph of this article. The Bank of Slovenia shall adopt a decision regarding the systemic risk buffer rate in accordance with the opinion of the Commission or explain why it will not take that opinion into account.

(4) Notwithstanding the previous paragraph, before setting or resetting a systematic risk buffer rate for exposures in the Republic of Slovenia of between 3% and 5% of the total risk exposure amount, the Bank of Slovenia shall notify the designated authorities of the Member State concerned, the Commission and the European Systemic Risk Board when the parent undertaking of the bank in question is established in another Member State. If within one month's time from the notification referred to in the first paragraph of this article the designated authorities of that Member State express their disagreement with the proposed systemic risk buffer rate or if the Commission and the European Systemic Risk Board issue a negative recommendation during that period, the Bank of Slovenia shall:

1. suspend the procedure and may request to refer the matter to the European Banking Authority in accordance with Article 19 of Regulation (EU) No 1093/2010 with regard to the setting of the systemic risk buffer, and adopt a decision in line with the decision of the European Banking Authority; or
2. halt the procedure for setting the proposed systemic risk buffer rate referred to in the previous paragraph.

(5) Before setting or resetting a systemic risk buffer rate for exposures located in the Republic of Slovenia or a third country in excess of 5% of the total risk exposure amount or for exposures located in another Member State in excess of 3% of the total risk exposure amount, the Bank of Slovenia shall inform the Commission, the European Systemic Risk Board, the European Banking Authority and the designated authorities of the countries concerned. That notification shall include all of the information referred to in the first paragraph of this article.

(6) If within two months' time from the notification referred to in the previous paragraph the Commission adopts an implementing act authorising the Bank of Slovenia to introduce a systemic risk buffer, the Bank of Slovenia shall set the systemic risk buffer rate in accordance with the aforementioned act.

## **Article 225**

### **(publication of a systemic risk buffer rate)**

(1) The Bank of Slovenia shall publish the decision regarding the systemic risk buffer rate on its website, including the following information:

1. the systemic risk buffer rate;
2. the banks to which the systemic risk buffer applies;
3. justification for the systemic risk buffer;
4. the date from which banks shall maintain the systemic risk buffer; and
5. the names of the countries where exposures located in those countries are recognised in the systemic risk buffer.

(2) If the publication referred to in point 3 of the previous paragraph could jeopardise the stability of the financial system, the Bank of Slovenia shall exclude such information from the publication.

(3) The Bank of Slovenia shall publish the decision regarding the abolishment of the systemic risk buffer rate on its website, taking into account *mutatis mutandis* the information referred to in the first paragraph of this article.

#### **Article 226** **(recognition of a systemic risk buffer rate)**

(1) The Bank of Slovenia may recognise the systemic risk buffer rates set by the designated authorities of other Member States, and may apply those rates to banks with exposures located in the Member States that have introduced those buffer rates.

(2) If the Bank of Slovenia recognises a systemic buffer rate set by the designated authority of another Member State, it shall inform the Commission, the European Systemic Risk Board, the European Banking Authority and the designated authority of that Member States accordingly. The Bank of Slovenia shall publish its decision to recognise and apply a systemic risk buffer rate set by the designated authority of another Member State on its website.

(3) When deciding whether to recognise and apply a systemic risk buffer rate set by the designated authority of another Member State, the Bank of Slovenia shall take into account the information that the Member State that set that buffer rate submitted in accordance with the first paragraph of Article 224 of this Act.

### **7.3 Combined use of G-SIB and O-SIB buffers and the systemic risk buffer**

#### **Article 227** **(requirements regarding the combined use of G-SIB and O-SIB buffers and the systemic risk buffer)**

(1) Whenever the requirement to maintain a G-SIB, O-SIB or systemic risk buffer applies to a bank on a consolidated basis, the bank shall meet that requirement by maintaining the buffer for which the highest requirement has been set. Whenever the requirement to maintain an O-SIB or systemic risk buffer applies to a bank on an individual or sub-consolidated basis, the bank shall meet that requirement by maintaining the buffer for which the highest requirement has been set.

(2) Notwithstanding the previous paragraph, if the systemic risk buffer only applies to exposures in the Republic of Slovenia, that buffer shall be cumulative with the O-SIB or G-SIB buffer that is applied in accordance with Article 220 or 221 of this Act.

(3) For a bank that is part of a group or sub-group that includes a G-SIB or O-SIB, the combined buffer requirement that a bank shall fulfil on an individual basis shall not be lower than:

1. the sum of the capital conservation buffer, the countercyclical capital buffer and the higher of the O-SIB buffer and the systemic risk buffer that is applied on an individual basis, in the case referred to in the first paragraph of this article; or
2. the sum of the capital conservation buffer, the countercyclical capital buffer, the O-SIB buffer and the systemic risk buffer that is applied on an individual basis, in the case referred to in the previous paragraph.

## **7.4 Capital conservation measures**

### **Article 228 (combined buffer requirement)**

A bank shall meet or exceed the combined buffer requirement with Common Equity Tier 1 capital at all times.

### **Article 229 (restrictions on distributions)**

(1) A bank shall not make distributions in connection with Common Equity Tier 1 capital instruments, if such distributions would decrease its Common Equity Tier 1 capital to an extent that the bank would no longer meet the combined buffer requirement.

(2) A bank that fails to meet the combined buffer requirement shall calculate the maximum distributable amount (hereinafter: MDA) in accordance with Article 230 of this Act. The bank shall inform the Bank of Slovenia without delay about its failure to meet the combined buffer requirement and with regard to the calculation of the MDA, and shall submit a capital conservation plan in accordance with Article 232 of this Act.

(3) In the case referred to in the previous paragraph, a bank shall refrain from taking any of the following actions before it has calculated the MDA:

1. make a distribution in connection with Common Equity Tier 1 capital;
2. create an obligation to pay variable remuneration or discretionary pension benefits or pay variable remuneration, if the obligation to pay was created at a time when the bank failed to meet the combined buffer requirement; or
3. make payments in connection with Additional Tier 1 instruments.

(4) The following shall be deemed a distribution in connection with Common Equity Tier 1 capital for the purposes of the first and third paragraphs of this article:

1. the payment of cash dividends;
2. the full or partial payment of the variable component of remuneration in the form of the shares or other capital instruments set out in point (a) of the first paragraph of Article 26 of Regulation (EU) No 575/2013;
3. the redemption or purchase of own shares or other capital instruments set out in point (a) of the first paragraph of Article 26 of Regulation (EU) No 575/2013;
4. the payment of the capital instruments set out in point (a) of the first paragraph of Article 26 of Regulation (EU) No 575/2013; and
5. the distribution of the items set out in points (b) to (e) of the first paragraph of Article 26 of Regulation (EU) No 575/2013.

(5) If a bank fails to meet or exceed the combined buffer requirement, it may make the distributions set out in the third paragraph of this article up to the amount of the MDA calculated in accordance with Article 230 of this Act.

(6) The restrictions on distributions imposed by this article shall only apply to payments that result in a reduction in Common Equity Tier 1 capital or in a reduction in profits, and where a suspension of payment or failure to pay does not constitute a default event or a condition for the initiation of insolvency proceedings.

(8) If the enforcement of the restrictions set out in this paragraph renders it impossible to improve the level of a bank's Common Equity Tier 1 capital with respect to the systemic risk referred to in Article 222 of this Act, the Bank of Slovenia shall impose the appropriate supervisory measures on the bank in accordance with this Act.

### **Article 230 (calculation of the MDA)**

(1) A bank shall calculate the MDA by multiplying the sum calculated in accordance with the second paragraph of this article, by the factor determined in accordance with the third paragraph of this article. The MDA calculated as such shall be reduced by the distributions or other actions referred to in the third paragraph of Article 229 of this Act.

(2) The sum referred to in the previous paragraph shall be calculated as the sum of the bank's interim and year-end profits that are not included in the bank's Common Equity Tier 1 capital in accordance with the second paragraph of Article 26 of Regulation (EU) No 575/2013 and that were generated since the last decision of the bank's general meeting regarding the distribution of distributable profit or any of the actions referred to in the third paragraph of the previous article, less the tax that the bank in question would have to pay if that profit was retained.

(3) The factor referred to in the first paragraph of this article shall be determined with regard to the proportion of Common Equity Tier 1 capital expressed as a percentage of the total risk exposure amount in the combined buffer requirement, as follows:

1. a factor of 0 shall be applied if the aforementioned proportion is less than or equal to 25%;
2. a factor of 0.2 shall be applied if the aforementioned proportion is greater than 25% and less than or equal to 50%;
3. a factor of 0.4 shall be applied if the aforementioned proportion is greater than 50% and less than or equal to 75%; and
4. a factor of 0.6 shall be applied if the aforementioned proportion is greater than 75% and less than or equal to 100%.

(4) For the purpose of the previous paragraph, capital that is not used to fulfil the following requirements shall be deemed Common Equity Tier 1 capital:

1. the capital requirements set out in Article 92 of Regulation (EU) No 575/2013;
2. the requirements based on the third paragraph of Article 250 of this Act;
3. the requirements regarding the maintenance of internal capital adequacy in accordance with Article 131 of this Act or in accordance with the Bank of Slovenia's assessment on the basis of Article 183 of this Act.

### **Article 231 (notification of the Bank of Slovenia)**

(1) A bank that fails to meet the combined buffer requirement, shall inform the Bank of Slovenia accordingly at least one month prior to the intended distribution of distributable profit or other action referred to in the third paragraph of Article 229 of this Act, and provide the following information:

1. the amount of capital broken down as follows:
  - Common Equity Tier 1 Capital,
  - Additional Tier 1 capital, and
  - Tier 2 capital;
2. the amount of its interim and year-end profits;

3. the MDA calculated in accordance with the previous article;
4. the amount of distributable profits it intends to allocate to the following items:
  - dividend payments,
  - share buybacks, and
  - payments in connection with Additional Tier 1 instruments; and
  - the payment of variable remuneration or discretionary pension benefits, whether by the creation of a new obligation to pay or by payment pursuant to an obligation to pay that was created at a time when the bank failed to meet its combined buffer requirements.

(2) A bank shall establish and maintain arrangements to ensure the accurate calculation of distributable profit and the MDA, and shall be able to demonstrate that accuracy to the Bank of Slovenia at the latter's request.

### **Article 232** **(capital conservation plan)**

(1) If a bank fails to meet its combined buffer requirement, it shall draw up a capital conservation plan and submit it to the Bank of Slovenia no later than five working days after it determined that it was failing to meet its combined buffer requirement. Based on a bank's proposal, the Bank of Slovenia may extend the deadline for the submission of the aforementioned plan to a maximum of ten days, taking into account the scope and complexity of the bank's activities.

(2) The capital conservation plan referred to in the previous paragraph shall include the following:

1. estimates of income and expenditure, and a forecast balance sheet;
2. measures to increase the bank's capital ratios; and
3. a plan and timeframe for an increase in capital with the objective of meeting the combined buffer requirement in full.

(3) The Bank of Slovenia may also request other information from a bank for the assessment referred to in the next paragraph of this article.

(4) The Bank of Slovenia shall assess the capital conservation plan within one month following receipt, and shall approve the plan if it assesses that it is reasonable to expect that the implementation of the plan would conserve or raise sufficient capital to enable the bank to meet its combined buffer requirements by an appropriate deadline. If significant deviations occur during the implementation of the capital conservation plan, the Bank of Slovenia shall require the submission of a new capital conservation plan.

(5) If the Bank of Slovenia does not approve the plan referred to in the previous paragraph, it shall require the submission of revisions to the capital conservation plan or impose one or both of the following additional measures on the bank:

1. require the bank to increase its capital by a specific deadline; or
2. further restrict distributions by the bank.

### **Article 233** **(reporting)**

The Bank of Slovenia may issue an implementing act prescribing the content of reports, and the deadlines and manner of reporting in connection with the capital buffer requirements set out in Chapter 7 of this Act.



## CHAPTER 8: SUPERVISORY MEASURES

### 8.1 General provisions

#### **Article 234 (supervision)**

(1) During supervision in accordance with this Act, the Bank of Slovenia shall perform the supervisory tasks, exercise the supervisory powers and impose the supervisory measures set out in this Act and Regulation (EU) No 1024/2013, except when the European Central Bank is responsible for performing the supervisory tasks, exercising the supervisory powers and imposing the supervisory measures set out in this Act in accordance with Regulation (EU) No 1024/2013.

(2) The Bank of Slovenia shall carry out supervision in accordance with the previous paragraph with the aim of:

1. preventing or rectifying breaches of the regulations set out in the second paragraph of Article 9 of this Act, and preventing and rectifying irregularities that jeopardise or could jeopardise the assets entrusted to a bank; and
2. ensuring the stability of the financial system.

(3) The Bank of Slovenia shall carry out supervision in accordance with this Act:

1. by issuing authorisations and consents;
2. by monitoring, collecting and verifying the information regarding banks and other persons who, in accordance with the provisions of this Act and other regulations, are obliged to report to the Bank of Slovenia and inform it of material facts and circumstances;
3. by carrying out reviews of the operations of banks and other persons as provided for by this Act; and
4. by imposing supervisory measures.

(4) In connection with the imposition of measures in the scope of supervision based on this Act, the Bank of Slovenia shall, with respect to the information available to it at the time of decisions, particularly in emergency situations, take appropriate account of the possible impact of its decisions on the stability of the financial system of Member States.

(5) Whenever it is responsible for performing all or some of the tasks set out in the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation, the European Central Bank shall perform the supervisory tasks, exercise the supervisory powers and impose the supervisory measures as set out in this Act for the performance of tasks and the exercising of powers of the Bank of Slovenia, unless explicitly stipulated otherwise in Regulation (EU) No. 1024/2013 or Regulation (EU) No 468/2014 for the performance of certain tasks of the European Central Bank.

(6) Whenever a supervised entity submits a request to the Bank of Slovenia in accordance with this Act or Regulation (EU) No 575/2013, and the European Central Bank is responsible for the resolution of that request in accordance with Regulation (EU) No 1024/2013, the Bank of Slovenia shall reject that request via an explanatory decision, unless such a request shall be submitted to the Bank of Slovenia in accordance with Regulation (EU) No 1024/2013. The Bank of Slovenia's decision to reject the request referred to in the previous paragraph shall not be referred for judicial protection.

### **Article 235**

#### **(supervisory examination programme)**

(1) In performing its tasks and exercising its powers in accordance with this Act and Regulation (EU) No 1024/2013, the Bank of Slovenia shall adopt a supervisory examination programme at least once a year.

(2) The Bank of Slovenia shall define the following in the plan referred to in the previous paragraph:

1. the banks for which the results of the supervisory review and evaluation process in accordance with Section 6.6 of this Act, including the results of the stress tests carried out in accordance with Article 172 of this Act, indicate the existence of potential significant risks to their financial soundness or indicate potential breaches of this Act or Regulation (EU) No 575/2013;
2. banks that pose systemic risk to the financial system; and
3. other banks for which the Bank of Slovenia deems enhanced supervision justified due to other circumstances.

(3) Taking into account the results of the supervisory review and evaluation process performed at a bank in accordance with Section 6.6 of this Act, the Bank of Slovenia shall define the following in the supervisory examination programme referred to in the previous paragraph:

1. the activities it will perform at a particular bank and the conditions for performing those activities;
2. the banks for which enhanced supervision will be carried out in the manner set out in the fourth paragraph of this article; and
3. a programme of on-site examinations at a bank, including its branches and subsidiaries established in other countries.

(4) If, taking into account the results of the supervisory review and evaluation process performed at a bank in accordance with Section 6.6 of this Act, the Bank of Slovenia decides to carry out enhanced supervision at a bank, the supervisory examination programme shall define, in particular, the following activities and/or measures:

1. additional or more frequent examinations of the bank's operations;
2. the ordering of the permanent presence of inspectors or other authorised persons from the Bank of Slovenia at the bank;
3. additional or more frequent reporting by the bank;
4. additional or more frequent examinations of the operational, strategic or business plans of the bank; and
5. thematic reviews to verify the bank's exposure to specific risks that are likely to arise.

(5) Notwithstanding the supervisory examination programmes of the competent authorities of the home Member State, the Bank of Slovenia may exercise its powers and perform its tasks, including the examination of operations, at the branches of Member State banks in the Republic of Slovenia.

### **Article 236**

#### **(Bank of Slovenia measures)**

(1) Under the conditions set out in this Act, the Bank of Slovenia may impose supervisory measures, by order or decision, on the entities over which it exercises its supervisory powers and performs its supervisory tasks in accordance herewith (subject of supervision).

(2) When defining supervisory measures, the Bank of Slovenia shall take into account all the circumstances surrounding a breach in order to ensure the effective rectification of the breach through the imposition of those measures and to prevent further acts or omissions deemed breaches of this Act or Regulation (EU) No 575/2013, in particular:

1. the seriousness and duration of the breach and the degree of responsibility of the person who committed the breach;
2. the financial position of the person who committed the breach, and the gain earned or loss avoided by means of the breach, if they can be determined;
3. the losses incurred by third parties due to the breach, if they can be determined;
4. the cooperation of the person who committed the breach in the process of identifying that breach; and
5. previous breaches and the possible systemic consequences of the breach.

#### **Article 237** **(authorised representatives of the Bank of Slovenia)**

(1) Persons employed at the Bank of Slovenia shall perform specific tasks during supervision carried out by the Bank of Slovenia based on an employment contract and in accordance with the Bank of Slovenia's internal acts.

(2) The Governor of the Bank of Slovenia may authorise a certified auditor or other professionally qualified person who is not an employee of the Bank of Slovenia to perform specific tasks during supervision carried out by the Bank of Slovenia, if requirements regarding the safeguarding of confidential information apply to that person.

(3) If a public tender procedure to select a certified auditor or other professionally qualified person could lead to the disclosure of confidential information and that disclosure would render supervision impossible or significantly hinder the effectiveness of supervision or jeopardise the stability of the financial system of the Republic of Slovenia and thus pose a considerable threat to the interests of the state, the Bank of Slovenia shall enter into an agreement with the service provider directly, taking into account point (a) of the first paragraph of Article 346 of the Treaty on the Functioning of the European Union. The law governing public procurement in the area of defence and security, in the part that sets out the method for defining the subject and communication of statistical information regarding contracts awarded in the previous year, shall apply to the tender procedure to conclude the contract referred to in the previous paragraph.

(4) In its annual report, the Bank of Slovenia shall disclose aggregated information regarding agreements that it has concluded on the basis of this article and regarding the total value of those agreements for a specific year.

#### **Article 238** **(annual fee for the supervision of banks by the Bank of Slovenia)**

(1) Banks shall pay the Bank of Slovenia an annual fee for the supervision carried out by the latter on the basis of this Act and Regulation (EU) No 1024/2013.

(2) The Bank of Slovenia shall set the fee referred to in the previous paragraph in such an amount that the sum of fees that all banks are obliged to pay for a specific year does not exceed the actual costs of supervision by the Bank of Slovenia during that year, reduced for revenues from fees charged in connection with the issue of authorisations and the Bank of Slovenia's supervisory procedures on the basis of this Act.

(3) A bank shall pay the annual fee for supervision in two instalments. The Bank of Slovenia shall issue an invoice for payment of the first instalment by 30 September in the current year on the basis of the planned costs of supervision for the year in question, while the invoice for the second instalment shall be issued by 31 March of the following year for the previous year, taking into account the actual costs of supervision in the previous year.

(4) If a bank does not pay the fee for supervision referred to in the first paragraph of this article within 15 days following the receipt of the relevant invoice, the Bank of Slovenia shall issue a decision ordering the bank in question to make payment.

(5) The decision referred to in the previous paragraph shall be deemed an enforcement order.

(6) The Bank of Slovenia shall define the detailed rules for setting the fee referred to in the first paragraph of this article by implementing regulation.

## **8.2 Reporting and review of a bank's operations**

### **Article 239 (system for reporting breaches)**

(1) The Bank of Slovenia shall establish a system for reporting breaches, particularly by bank employees, so that the latter may report to the Bank of Slovenia circumstances in connection with a bank that represent a potential or actual breach of the requirements or restrictions set out in the regulations referred to in the second paragraph of Article 9 of this Act.

(2) In connection with the reporting system referred to in the previous paragraph, the Bank of Slovenia shall ensure:

1. a simple and accessible method for reporting breaches; and
2. internal procedures for receiving and handling notifications, including reporting on findings in connection with notifications received and activities carried out.

(3) The Bank of Slovenia shall ensure:

1. the appropriate safeguarding of the personal data of persons who have filed a report against a bank and of persons allegedly responsible for a breach, in accordance with the provisions of the law governing personal data protection; and
2. that all data regarding persons who have filed a report against a bank are treated as confidential.

(4) The data referred to in the previous paragraph shall not be disclosed without the consent of the person who filed a report, except when disclosure of the identity of the reporting party is required in accordance with the law for criminal proceedings or subsequent judicial proceedings. The Bank of Slovenia shall not disclose to a bank to which a report relates data regarding the person who filed that report, and shall strive to prevent the disclosure of that person's identity in the process of investigating and handling the breach that is the subject of the report.

(5) Whenever the identity of the person who filed a report is disclosed despite the measures set out in the third and fourth paragraphs of this article, the bank in question shall ensure the appropriate conditions to prevent retaliatory acts, discrimination or other forms of inappropriate treatment of bank employees who have reported breaches in accordance with

the first paragraph of this article, and conditions to reverse the consequences of such retaliatory acts, discrimination or other forms of inappropriate treatment.

#### **Article 240** **(collection and processing of information)**

(1) The Bank of Slovenia shall be responsible for collecting and processing information regarding all facts and circumstances, including personal data, that it obtains in connection with the performance of its tasks and the exercising of its powers set out in this or another act.

(2) At the Bank of Slovenia's request, government authorities and the holders of public authorisations shall forward all information that the Bank of Slovenia requires to perform its tasks and exercise its powers in connection with supervision on the basis of this Act.

(3) Information regarding the following, in particular, shall be deemed the information referred to in the first paragraph:

1. conditions for the issue of authorisation to provide banking services and other authorisations issued by the Bank of Slovenia on the basis of this Act;
2. members of banks' management boards and supervisory boards in connection with the assessment of the conditions to perform the function of member of a bank's management board or supervisory board;
3. a bank's operations in other Member States and the operations of Member State banks in the Republic of Slovenia;
4. a bank's operations in third countries and the operations of third-country banks in the Republic of Slovenia;
5. the financial position and operations of banks, holders of qualifying holdings, parent and subsidiary undertakings, and other legal persons over which the Bank of Slovenia conducts supervision;
6. circumstances in connection with the assessment of conditions for the issue of authorisation to the holder of a qualifying holding; and
7. circumstances in connection with the activities of other entities, whenever suspicions arise regarding the acceptance of deposits from the public in contravention of this Act.

(4) The Bank of Slovenia shall be exempt from the payment of court and administrative fees or other costs charged in connection with information that it obtains from registers and other records maintained by the courts, other government authorities or the holders of public authorisations.

(5) When, while exercising its powers on the basis of this Act, the Bank of Slovenia assesses the reputation of an individual entity, it shall obtain information regarding the functioning of that entity from a centralised database maintained by the European Banking Authority with regard to imposed administrative measures, taking into account regulations governing the exchange of information from criminal records between Member States.

#### **Article 241** **(reporting by banks)**

(1) At the Bank of Slovenia's request, a bank shall forward all documentation, reports and information relating to its operations that the Bank of Slovenia requires to perform its tasks and exercise its powers in connection with supervision in accordance with this Act, or to exercise its other powers and perform its other tasks in accordance with valid

regulations. A bank shall forward the information and reports referred to in the previous sentence in the form and manner determined by the Bank of Slovenia.

(2) The Bank of Slovenia may also request reports and information in connection with a bank's operations that are relevant to supervision from the bank's management board or its employees.

(3) The Bank of Slovenia shall call on the persons referred to in the previous paragraph to draw up a written report regarding the matters set out in the first and second paragraphs of this article or call on them to issue an oral statement regarding those matters by a deadline that shall not be shorter than three days from the receipt of the Bank of Slovenia's call.

#### **Article 242** **(review of operations)**

(1) A bank shall allow the Bank of Slovenia's authorised staff to conduct a review of its operations, in accordance with the request set out in Article 243 of this Act, at the bank's head office and in other premises in which the bank or person it authorises performs activities and executes transactions that are subject to supervision by the Bank of Slovenia.

(2) In particular, a review of operations shall include a review of a bank's books of account, administrative and/or business records and other business documentation in accordance with the request set out in Article 243 of this Act.

#### **Article 243** **(request for review of operations)**

(1) The Bank of Slovenia shall send a bank a request for the review of operations at least eight days prior to the start of that review.

(2) Notwithstanding the previous paragraph, the Bank of Slovenia may send a bank a request for the review of operations on the day that review commences, if it is otherwise impossible to achieve the purpose of specific supervision.

(3) A request for the review of operations shall state the books of account, business documentation, records and business events that are the subject of the review, including a list of documentation that a bank shall deliver in the form of computer printouts or copies for the purpose of the review, together with the deadline for submission.

(4) A request for the review of operations shall also include legal remedies in connection with the legal consequences that could arise if the bank in question does not comply with a request for the review of operations or does not allow the Bank of Slovenia to carry out its review in the manner set out in Articles 244 to 247 of this Act.

(5) The Bank of Slovenia may supplement its request for the review of operations during the course thereof. The first to fourth paragraphs of this article shall apply *mutatis mutandis* to the supplementation of a request.

#### **Article 244** **(method for conducting a review)**

(1) A review of a bank's operations shall be conducted by a qualified employee of the Bank of Slovenia or by a person authorised to conduct a review of a bank's operations by the Governor of the Bank of Slovenia (hereinafter: Bank of Slovenia inspector).

(2) A review of operations shall be conducted on working days between the hours of 8 am and 6 pm. The Bank of Slovenia may also conduct a review after 6 pm or on non-working days, when so required by the scope and/or nature of the review.

(3) The Bank of Slovenia shall conduct a review of operations in such a way that it impedes a bank's normal operations only to the extent required to achieve the purpose of supervision.

(4) The provisions of the ZUP governing minutes shall not apply in connection with a review of operations.

#### **Article 245 (scope of review)**

(1) A bank shall allow a Bank of Slovenia inspector to review its books of account, business documentation and administrative or business records to the extent necessary to conduct supervision in accordance with the relevant request.

(2) A bank shall deliver to a Bank of Slovenia inspector computer printouts and/or copies of its books of account, business documentation and administrative or business records.

(3) A bank's management board and employees shall forward to a Bank of Slovenia inspector reports and information regarding all matters relevant to a review of operations in accordance with the relevant request.

#### **Article 246 (conditions for conducting a review)**

(1) A bank shall provide Bank of Slovenia inspectors appropriate premises in which they can conduct a review of operations unimpeded and without the presence of other persons.

(2) A bank shall ensure that authorised bank employees are present at the time when and in the premises where Bank of Slovenia inspectors conduct their review of operations, with the aim of providing relevant explanations, at the request of a Bank of Slovenia inspector, in connection with the bank's books of account, business documentation, business events and administrative or business records that are the subject of the review.

#### **Article 247 (special conditions for the review of computerised books of account and records)**

(1) A bank that uses computers to process data and maintain its books of account and other records shall ensure that Bank of Slovenia inspectors have at their disposal the necessary tools for reviewing such books of account and records, and for testing the appropriateness of data processed using computers.

(2) A bank shall deliver documentation with a full description of the functioning of the accounting system to Bank of Slovenia inspectors. The accounting system's subsystems

and data files shall be evident from the aforementioned documentation. Documentation shall provide an overview of:

1. the relevant IT solution;
2. procedures in the scope of that IT solution;
3. controls to ensure accurate and reliable data processing; and
4. controls that prevent the unauthorised addition, modification or deletion of stored computer records.

(3) Every change to the IT solution referred to in the first paragraph of this article shall be documented in the sequence in which changes were made, together with the date of each change. Every change to file formats shall also be evident from documentation.

#### **Article 248** **(reporting and review of the operations of other persons)**

(1) If necessary to achieve the purpose of supervision of a bank, the Bank of Slovenia may also request the submission of business documentation, the relevant reports and information from the following persons:

1. persons in a close relationship with the bank;
2. persons to whom the bank has transferred a portion of business processes;
3. the holders of a qualifying holding in the bank;
4. persons in whom the bank holds a qualifying holding;
5. the parent financial holding company, mixed financial holding company and mixed-activity holding company;
6. other persons included in the consolidated supervision of the bank; and
7. an undertaking that is a subsidiary of a parent financial holding company or mixed financial holding company or mixed-activity holding company.

(2) The Bank of Slovenia may also request the reports and information set out in the previous paragraph from members of the management bodies and employees of those persons.

(3) The Bank of Slovenia may conduct a review of operations at the legal persons set out in the first paragraph of this article, whenever this is necessary to verify the documentation, reports and information received on the basis of the first or second paragraph of this article. The provisions of this Act governing the review of a bank's operations shall apply *mutatis mutandis* to a review of operations in the aforementioned case.

(4) If another supervisory authority is responsible for the supervision of one of the persons referred to in the first paragraph of this article, the Bank of Slovenia shall conduct a review of the operations of that person in cooperation with that authority in accordance with the provisions of this Act.



### **8.3 Supervisory measures against a bank**

#### **8.3.1 *Order to rectify breaches by a bank***

#### **Article 249 (order)**

(1) If, during supervision, the Bank of Slovenia determines that a bank is in breach or is likely to be in breach of the regulations set out in the second paragraph of Article 9 of this Act within the next 12 months, it shall inform that bank in writing of its findings and order it to cease such conduct and rectify the aforementioned breaches, and to submit a written report to the Bank of Slovenia by a specific deadline describing measures to rectify the breaches, together with the appropriate evidence.

(2) If, during supervision, the Bank of Slovenia determines that a bank is in breach or is likely to be in breach of the regulations set out in the second paragraph of Article 9 of this Act within the next 12 months that could have material effects on the secure and prudent governance of the bank, it shall, in addition to the requirements set out in the previous paragraph, order the bank to implement the additional measures set out in Article 250 of this Act to rectify or prevent breaches (hereinafter: additional measures).

(3) Material effects on the secure and prudent governance of the bank shall be deemed to exist if a breach has or could have significant consequences for the bank's financial position or for the management of the risk to which it is exposed in its operations, if the bank does not ensure or is not likely to ensure the appropriate internal governance arrangements within the next 12 months, in particular:

1. the appropriate quantitative or qualitative elements of the internal capital adequacy assessment process;
2. the fulfilment of requirements regarding the large exposures set out in Article 393 of Regulation (EU) No 575/2013; and
3. the fulfilment of capital and liquidity adequacy requirements set out in this Act and Regulation (EU) No 575/2013.

#### **Article 250 (additional measures)**

(1) The Bank of Slovenia may issue an order requiring a bank or its governing body to implement additional activities or procedures to rectify breaches identified at the bank, if it is reasonable to expect that these measures will ensure the more effective rectification of breaches, establish operations of the bank in accordance with this Act and Regulation (EU) No 575/2013 or prevent breaches of the regulations set out in the second paragraph of Article 9 of this Act that have or could have material effects on the secure and prudent governance of the bank.

(2) In particular, the Bank of Slovenia may impose the following additional measures:

1. order a bank to provide capital that exceeds the requirements set out in Chapter 7 of this Act and in Regulation (EU) No 575/2013 in connection with the elements of risks and risks that are not covered by Article 1 of the aforementioned regulation;

2. order a bank to implement specific measures to improve the bank's internal capital adequacy assessment and maintenance process and its internal governance arrangements;
3. order a bank to submit a detailed plan of measures to rectify breaches of this Act or Regulation (EU) No 575/2013, including a deadline for the implementation of those measures;
4. require a bank to apply a special policy for the creation of impairments and provisions, or for the treatment of assets in terms of calculating capital requirements;
5. impose measures to reduce the risks a bank takes up in connection with specific transactions, products or systems, including:
  - the prohibition or restriction of the expansion of the bank's branch network, or the requirement to reduce the scope of the bank's branch network, and
  - the prohibition or restriction of the bank's activities that represent a material risk to the bank's financial position;
6. prohibit or restrict the conclusion of individual transactions or transactions of specific types, and require a gradual reduction in the number of concluded transactions, taking into account early termination options in accordance with contractual arrangements, including the prohibition or restriction of the conclusion of transactions by the bank:
  - with persons who represent increased risk for the bank due to an unsuitable credit rating or other circumstances, or
  - with individual shareholders, members of the management board and supervisory board, undertakings with whom the bank is in a close relationship, investment funds managed by a management company with whom the bank is in a close relationship, or other undertakings and persons who represent increased risk for the bank;
7. prohibit or limit the payment of profits or interest to shareholders or the holders of Additional Tier 1 instruments, unless that prohibition would result in default by the bank;
8. order a bank to use net profits and retained earnings to improve its capital adequacy;
9. prohibit or limit the use of accounting criteria that would result in the incorrect disclosure of a bank's financial position or results, and define the appropriate criteria;
10. limit the variable remuneration of employees applying an appropriate proportion of total revenues for the financial year, if the payment of that portion of remuneration would jeopardise the fulfilment of obligation or targets regarding a bank's capital adequacy;
11. set additional requirements regarding the provision of liquidity, including restrictions with respect to the maturity matching of a bank's claims and liabilities;
12. require additional and more frequent reporting by a bank, in particular with regard to the capital and liquidity of the bank;
13. require the supervisory board to appoint the relevant committees for specific types of specialised tasks in the scope of the supervisory board's competences;
14. require additional disclosures from a bank;
15. require a bank's supervisory board to recall a member or members of the management board who are directly responsible for breaches identified at the bank, and appoint a new member or members to the management board; and
16. require the holders of a qualifying holding to recall a member or members of the supervisory board who permitted breaches identified at a bank to occur, even though they were aware or should have been aware of those breaches, and appoint a new member or members to the supervisory board.

(3) The Bank of Slovenia shall impose on a bank the additional measure set out in point 1 of the previous paragraph, in particular if the bank is unlikely to improve internal governance arrangements, processes, mechanisms and strategies based on other measures imposed by the Bank of Slovenia, and the following circumstances exist:

1. the bank does not ensure the appropriate coverage of risks or risk factors that are not taken into account in the calculation of the bank's capital requirements in accordance with Regulation (EU) No 575/2013 or on the basis of Chapter 7 of this Act;

2. if, taking into account the assessment set out in Article 176 of this Act or the assessment set out in Article 182 of this Act, the Bank of Slovenia determines that the bank does not meet or is not likely to meet capital requirements due to failure to comply with the requirements for the application of the relevant approaches;
3. if the risks to which the bank is exposed are underestimated despite the fulfilment of requirements set out in this Act and Regulation (EU) No 575/2013;
4. if, in accordance with the fifth paragraph of Article 377 of Regulation (EU) No 575/2013, the bank informs the Bank of Slovenia that the results of the stress tests carried out by the bank in accordance with the aforementioned article significantly exceed the capital requirement for the correlation trading portfolio; and
5. in the event of other circumstances from which it is apparent that the bank does not or likely will not meet requirements regarding internal governance arrangements in accordance with this Act or requirements regarding large exposures set out in Article 393 of Regulation (EU) No 575/2013.

(4) The Bank of Slovenia shall impose the additional measure set out in point 1 of the second paragraph of this article, taking into account the findings of the supervisory review and evaluation process in accordance with Section 6.6 and Article 183 of this Act.

(5) The Bank of Slovenia shall define additional requirements with regard to ensuring the adequate liquidity position of a bank on the basis of point 11 of the second paragraph of this article with the aim of ensuring the coverage of the liquidity risks to which a bank is or could be exposed in its operations, taking into account:

1. the bank's business model;
2. internal governance arrangements with respect to liquidity risk management;
3. the findings of the review and evaluation process in accordance with Section 6.6 of this Act; and
4. systemic liquidity risks that pose a threat to the integrity of financial market.

(6) Taking into account the mismatch between a bank's actual liquidity position and requirements regarding liquidity and stable sources of funding, the Bank of Slovenia may impose other supervisory measures on the bank in question, in addition to the requirements set out in the previous paragraph.

(7) If it determines that banks with similar risk profiles are or could be exposed to specific risks or represent a specific risk for the financial system, the Bank of Slovenia may apply comparable or identical review and evaluation criteria for those banks in accordance with Section 6.6 of this Act and, based on the findings of the aforementioned process, impose similar or identical measures on those banks in accordance with this article, and shall inform the European Banking Authority accordingly.

## **Article 251**

### **(report on the rectification of breaches)**

(1) A bank shall implement additional measures and rectify identified breaches by the deadline set out in the relevant order, and deliver to the Bank of Slovenia a report on implemented activities (hereinafter: report on the rectification of breaches).

(2) Documents and other evidence from which it is clear that breaches were rectified shall accompany a report on the rectification of breaches.

(3) In its order, the Bank of Slovenia may require a bank's report on the rectification of breaches to include an opinion of a certified auditor that identified breaches were rectified.

**Article 252**  
**(declaratory decision on the rectification of breaches)**

(1) If it is clear from the report on the rectification of breaches referred to in the first paragraph of this article and accompanying evidence that a bank has implemented measures and rectified the breaches identified in the relevant order, the Bank of Slovenia shall issue a decision, within three months from the receipt of the bank's comprehensive report on the rectification of breaches, finding that the breaches have been rectified (hereinafter: declaratory decision on the rectification of breaches).

(2) Before issuing a declaratory decision on the rectification of breaches, the Bank of Slovenia may require the supplementation of the report or conduct a review of the bank's operations to the extent required to determine whether the bank implemented the relevant measures and rectified identified breaches.

(3) If, during supervision the Bank of Slovenia determines that a bank is in breach of the regulations set out in the second paragraph of Article 9 of this Act, but the bank rectified the breaches prior to the issue of the order referred to in the first paragraph of Article 249 of this Act, the Bank of Slovenia may issue a declaratory decision, taking into account the conditions set out in the fourth paragraph of this article, finding that the bank breached the regulations set out in the second paragraph of Article 9 of this Act and that it rectified those breaches.

(4) The Bank of Slovenia shall issue the declaratory decision referred to in the previous paragraph if, given the nature and significance of breaches for the secure and prudent governance of the bank, the issue of such a decision and the publication of the information based on Article 277 of this Act could contribute significantly to improving the governance practices of banks and to preventing conduct that would result in breaches of the regulations set out in the second paragraph of Article 9 of this Act.

(5) Prior to issuing the declaratory decision referred to in the third paragraph of this article, the Bank of Slovenia shall inform the bank in writing of its findings in connection with breaches of the regulations set out in the second paragraph of Article 9 of this Act and of its intent to issue a declaratory decision on the rectification of breaches, and shall call on the bank to issue a statement regarding the facts and circumstances relevant for a decision to issue a declaratory decision on the rectification of breaches.

*8.3.2 Early intervention measures*

**Article 253**  
**(early intervention measures)**

(1) If a bank is in breach or is likely to be in breach of the regulations set out in the second paragraph of Article 9 of this Act, and in the event of the rapidly deteriorating financial position of the bank, in particular rapidly deteriorating liquidity, or an increase in leverage, the scope of non-performing loans or the concentration of exposures, the Bank of Slovenia may issue an order requiring the bank or its governing body to implement the following additional measures (hereinafter: early intervention measures):

1. require the bank's governing body to implement activities in the scope of one or more arrangements or measures set out in the bank's recovery plan:
2. require the bank's governing body to update the bank's recovery plan as appropriate if the circumstances that led to early intervention differ from the assumptions set out in the

- original recovery plan, and to implement activities for the implementation of arrangements or measures set out in the updated plan by a specific deadline;
3. require the bank's governing body to submit a detailed plan of measures aimed at preventing or overcoming problems of the bank, including a deadline for the implementation of those measures;
  4. require the bank's governing body to convene the bank's general meeting by a specific deadline and propose to the latter the adoption of specific measures for the bank's recovery, including measures to increase the bank's share capital and measures to decrease share capital due to the coverage of losses or a transfer to the share premium account;
  5. require the dismissal or replacement of one or more members of the bank's governing body or senior management;
  6. require the bank's governing body to draw up a plan for negotiations on the restructuring of debt with some or all of the bank's creditors in accordance with the recovery plan;
  7. require changes to the bank's business strategy;
  8. require changes to legal arrangements and operational processes at the bank; and
  9. require the bank to ensure the conditions and information that the resolution authority requires to update the resolution plan or to plan resolution measures, including the valuation of the bank's assets and liabilities for resolution purposes.

(2) In assessing whether the signs exist of a rapid deterioration in a bank's financial position that would warrant the implementation of the measures referred to in the previous paragraph, the Bank of Slovenia shall take into account various indicators and define threshold values for the deterioration of those indicators that justify the implementation of the aforementioned measures. In connection with the assessment referred to in the previous paragraph, the Bank of Slovenia shall also take into account the minimum capital requirements for a bank, to which it shall add 1.5 percentage points. The Bank of Slovenia shall inform the resolution authority without delay when it determines that the conditions for the implementation of the measures referred to in the previous paragraph have been met in connection with a bank.

(3) In addition to the early intervention measures referred to in the first paragraph of this article, the Bank of Slovenia may also impose the other additional measures set out in Article 250 of this Act.

#### **Article 254** **(convening of a bank's general meeting)**

(1) If the Bank of Slovenia issues an order based on point 4 of the first paragraph of the previous article requiring a bank to convene its general meeting by a specific deadline and to propose the adoption of certain recovery measures, the convening of the bank's general meeting shall be published at least 15 days prior to the meeting, notwithstanding Article 297 of the ZGD-1. The publication of the convening of the general meeting shall state that the general meeting is being convened on the basis of this Act and in accordance with the requirements set out in point 4 of the first paragraph of the previous article.

(2) At least eight days prior to the intended convening of the general meeting that will decide on the proposed resolutions based on a requirement set out in the previous paragraph, a bank's management board shall submit proposed general meeting resolutions to the Bank of Slovenia, which may require the bank's management board to correct those resolutions prior to the publication of the convening of the general meeting.

(3) If a bank's management board does not convene the general meeting that will decide on the proposed resolutions in accordance with a requirement set out in the first

paragraph of this article, the Bank of Slovenia may convene the bank's general meeting itself and propose that it increase the bank's share capital.

The bank shall reimburse the Bank of Slovenia for costs that the latter incurred in connection with the convening of the general meeting.

**Article 255**  
**(decisions by the general meeting regarding proposed resolutions in accordance with a requirement set out in Article 253)**

(1) Notwithstanding Article 300 of the ZGD-1, a bank's shareholders may not submit proposed resolutions for items on the agenda that relate to the proposed general meeting resolutions drawn up in accordance with a requirement set out in point 4 of the first paragraph of Article 253 of this Act.

(2) When another act or a bank's articles of association specify separate voting via an extraordinary resolution for the adoption of decisions at a general meeting, voting shall be carried out at joint session of the general meeting when decisions are made regarding the proposed resolutions drawn up in accordance with a requirement set out in point 4 of the first paragraph of Article 253 of this Act, notwithstanding the provisions of that other act or the articles of association.

(3) When a bank's general meeting makes decisions regarding proposed measures in accordance with a requirement set out in point 4 of the first paragraph of Article 253 of this Act that include measures to increase the bank's share capital or changes to its articles of association required for the implementation of recovery measures, such a resolution shall be deemed validly adopted if it is approved by a simple majority of represented capital, provided that at least half of subscribed capital with voting rights is represented at the general meeting, otherwise a two-thirds majority of represented capital with voting rights shall be required. The provisions of the ZGD-1 or articles of association that set higher requirements for the validity of such a resolution shall not apply to the decisions by the general meeting referred to in the previous sentence.

(4) If in connection with a requirement set out in point 4 of the first paragraph of Article 253 of this Act a bank's management board proposes a simplified reduction in share capital to the general meeting due to the transfer of amounts to the share premium account, such a reduction in the bank's share capital may be carried out, notwithstanding the conditions set out in the second paragraph of Article 379 of the ZGD-1.

(5) If based on a requirement set out in point 4 of the first paragraph of Article 253 of this Act a bank's management board proposes, for the purpose of increasing the bank's capital, the issue of an instrument that includes a bank's exclusive option to exchange a holder's instrument for the bank's shares, such a resolution shall be deemed validly adopted by the bank's general meeting if it is adopted by a simple majority of represented capital, provided that at least half of subscribed capital with voting rights is represented, otherwise a two-thirds majority of represented capital with voting rights shall be required.

(6) Authorisation of the management board to issue the instruments referred to in the previous paragraph based on a general meeting resolution shall be valid for one year.

(7) If based on a requirement set out in point 4 of the first paragraph of Article 253 of this Act a bank's management board proposes that the general meeting increase the bank's share capital by offering new shares exclusively to the bank's existing shareholders and known creditors from the bank's qualifying liabilities, such an offer shall not be deemed a

public offering of securities and the provisions of Article 36 of the ZTFI regarding the mandatory publication of a prospectus shall not apply.

#### **Article 256** **(increase in a bank's share capital via non-cash contributions)**

(1) In connection with measures to increase a bank's share capital in accordance with a requirement set out in point 4 of the first paragraph of Article 253 of this Act, the bank's management board may propose that the general meeting increase share capital via new non-cash contributions.

(2) The provisions of the second and third paragraphs of Article 334 of the ZGD-1 shall not apply in the case referred to in the previous paragraph. The Bank of Slovenia may require a bank's management board to order the review of an increase in share capital via non-cash contributions by a certified auditor prior to the convening of the general meeting, if doubt exists regarding the value of the non-cash contribution at the time it is paid up.

(3) A proposed general meeting resolution to increase a bank's share capital via non-cash contributions shall include:

1. a description of the subject of the non-cash contribution and the person from whom that contribution will be acquired;
2. the number of shares or the nominal value of shares that will be issued based on the paying up of the non-cash contribution; and
3. a statement from the holder of the subject of the non-cash contribution that it will transfer the subject of the non-cash contribution to the bank following the approval of the resolution to increase the bank's share capital.

(4) If the subject of a non-cash contribution is a claim, the proposed resolution referred to in the previous paragraph shall include a statement from the creditor on the subscription and paying up of new shares with the transfer of that claim to the bank, under the suspensive condition that the proposed resolution to increase the bank's share capital via non-cash contributions will be validly approved by the bank's general meeting.

(5) If the subject of a non-cash contribution is a claim that is secured by a right *in rem* or right *in personam*, the aforementioned statement shall be accompanied by documents assuring the effects of that collateral in relation to the bank, as well, unless those effects already arise vis-à-vis the bank based on the law.

(6) If the subject of the non-cash contribution are securities or other assets on which a lien has been entered in the relevant register or another right *in rem* in favour of a third party, the aforementioned statement shall be accompanied by the appropriate documents permitting a bank, unconditionally and without delay, to delete those rights from the relevant register.

#### **Article 257** **(special audit, nullity and contestability)**

(1) In accordance with Article 318 of the ZGD-1, the court shall appoint a special auditor to verify the process of increasing a bank's share capital carried out in accordance with a requirement set out in point 4 of the first paragraph of Article 253 of this Act, if the shareholders proposing that the court appoint a special auditor pay an advance to cover the costs of that special audit. In that case, the sixth paragraph of Article 318 of the ZGD-1 shall not apply.

(2) In connection with a general meeting resolution adopted in accordance with Articles 254 to 256 of this Act, nullity may not be enforced on the basis of the first and third indents of Article 390 of the ZGD-1.

(3) A general meeting resolution referred to in the previous paragraph that was adopted by the majority of votes set out in Article 255 of this Act may not be contested because the resolution in question was not adopted by the majority of votes defined in a bank's articles of association.

(4) A general meeting resolution referred to in the second paragraph of this article to increase a bank's share capital may not be contested for the reasons set out in the second paragraph of Article 400 of the ZGD-1.

(5) The contesting of a general meeting resolution referred to in the second paragraph of this article shall not stay the validity of that resolution. If in proceedings contesting a resolution the court determines that reasons to contest the resolution exist and that the resolution should be nullified, that resolution shall not be nullified; instead only the existence of reasons to contest the resolution shall be established. Shareholders that contested a resolution may file claims for damages based on the court's ruling on the existence of reasons to contest the resolution.

#### **Article 258** **(dismissal of members of a bank's governing body and senior management)**

(1) The Bank of Slovenia may issue an order on the basis of point 5 of the first paragraph of Article 253 of this Act requiring the dismissal or replacement of one or more members of a bank's governing body or senior management if, taking into account the criteria set out in Article 45 or Article 55 of this Act, those persons are not deemed suitable for performing tasks in connection with the rectification of breaches at the bank.

(2) Notwithstanding the previous paragraph, the Bank of Slovenia may issue an order requiring the dismissal of all or certain members of a bank's governing body or senior management, if:

1. circumstances at the bank indicate a significant deterioration in the bank's financial position or serious breaches of the regulations set out in the second paragraph of Article 9 of this Act or internal arrangements at the bank; or
2. the early intervention measures set out in Article 253 of this Act are not sufficient to improve the bank's financial position or to rectify breaches appropriately.

(3) In connection with the measure set out in the first or second paragraph of this article regarding the dismissal or replacement of members of the governing body or senior management, a bank shall notify the Bank of Slovenia about its proposal to appoint a new member to the governing body or senior management prior to that appointment. Within five working days following the receipt of that notification, the Bank of Slovenia may express its objection to the aforementioned proposal if, taking into account the reasons for the request to dismiss or replace members of the governing body or senior management and the bank's position, it assesses that an individual member of the governing body or senior management or the governing body or senior management as a whole does not meet the requirements regarding the functions and tasks they are expected to perform.

(4) In connection with the measure set out in the first or second paragraph of this article, new members may only be appointed to the governing body or senior management if the Bank of Slovenia does not object to that appointment by the deadline set out in the previous paragraph.



(5) Together with the measure set out in the first and second paragraphs of this article, the Bank of Slovenia may also impose other supervisory measures set out in Article 249 of this Act, the additional measures set out in Article 250 of this Act and the other early intervention measures set out in Article 253 of this Act.

#### **Article 259** **(appointment of a temporary administrator)**

(1) The Bank of Slovenia may issue an order appointing one or several temporary administrators to a bank if the reasons set out in the first paragraph of the previous article exist and the dismissal of one or all members of the governing body or senior management based on the previous article is not sufficient to improve the bank's financial position or to rectify breaches appropriately.

(2) The Bank of Slovenia may give a temporary administrator the power to:

1. perform the function of member of a bank's management board; or
2. to perform specific tasks at a bank without authorisation to represent that bank.

(3) The Bank of Slovenia shall appoint a person who is professionally qualified to perform the function and tasks set out in the previous paragraph, as temporary administrator. If a temporary administrator is appointed to perform the function of member of a bank's management board, that person shall fulfil the conditions set out in Article 38 of this Act.

(4) The Bank of Slovenia may appoint a temporary administrator to perform the function of a member of a bank's management board who has been dismissed or to work with the existing members of the management board. On behalf of the bank, the Bank of Slovenia shall propose the entry of the appointment or dismissal of a temporary administrator with the powers to perform the function of member of the bank's management board in the companies register.

(5) When appointing a temporary administrator, the Bank of Slovenia may decide that a bank's management board shall consult with the temporary administrator or obtain their consent before adopting specific decisions or measures.

(6) In its order appointing a temporary administrator, the Bank of Slovenia shall define the role, competences and powers of the temporary administrator, including possible restrictions referred to in the previous paragraph. When appointing a temporary administrator, the Bank of Slovenia may also decide that the temporary administrator shall consult with the Bank of Slovenia before adopting specific decisions or measures. In particular, the tasks of a temporary administrator may include ascertaining a bank's financial position, managing all or some of the bank's transactions with the aim of maintaining or restoring the bank's financial position, and adopting measures to restore the reliable and prudent governance of the bank. If a temporary administrator has the power to convene a bank's general meeting, they shall obtain the Bank of Slovenia's consent prior to publishing the convening of the general meeting or setting the agenda thereof.

(7) The Bank of Slovenia may issue an order at any time amending the role, powers and competences of the temporary administrator.

(8) Together with the measure set out in the first paragraph of this article, the Bank of Slovenia may also impose other supervisory measures set out in Article 249 of this Act, the additional measures set out in Article 250 of this Act and the other early intervention measures set out in Articles 253 and 258 of this Act.

**Article 260**  
**(duration of the function and dismissal of a temporary administrator)**

(1) A temporary administrator may be appointed for no more than one year. Exceptionally, the term of office of a temporary administrator may be extended if the reasons set out in the first paragraph of the previous article continue to exist at the bank. The reasons for the extension of the powers of a temporary administrator shall be published in accordance with Article 277 of this Act.

(2) The Bank of Slovenia may dismiss a temporary administrator at any time, if it determines that the reasons set out in the first paragraph of the previous article no longer exist or if other reasons exist for that person's dismissal. A temporary administrator may only be dismissed on the basis of a Bank of Slovenia decision.

**Article 261**  
**(performing the tasks and exercising the powers of a temporary administrator)**

(1) In performing their tasks, a temporary administrator shall act in accordance with the powers and restrictions defined in accordance with the sixth paragraph of Article 259 of this Act, and comply with the Bank of Slovenia's instructions and valid regulations, best business practices and the highest professional and ethical standards in their work at a bank.

(2) A bank shall provide a temporary administrator permanent and unimpeded access to the bank's premises, and other appropriate premises in which they may exercise their powers unimpeded in accordance with the relevant order.

(3) A bank shall provide a temporary administrator access to all books of account, files and other documentation, and deliver computer printouts and copies of records and/or other business records and documentation.

(4) Members of the governing body and bank employees shall forward to the temporary administrator, at the latter's request, reports and information regarding all matters relevant to the performance of the temporary administrator's tasks in accordance with the order on their appointment. If a temporary administrator has the powers of a member of a bank's management board, the members of the management board shall turn over to the temporary administrator, without delay, the tasks for which the temporary administrator is authorised in accordance with the relevant order.

(5) A temporary administrator shall report to the Bank of Slovenia without delay all material information that affects or could affect the assessment of a bank's financial position, or breaches of regulations or the bank's internal arrangements.

(6) The Bank of Slovenia may require a temporary administrator to report to the former regularly regarding the performance of their tasks, and submit to the Bank of Slovenia, by a specific deadline and in any case at the end of their term of office, a report detailing a bank's financial position and the measures implemented at the bank during that term of office.

**Article 262**  
**(coordination of early intervention measures and the appointment of a temporary administrator for groups)**

(1) If the Bank of Slovenia, as the consolidating supervisor of an EU parent undertaking, determines that the circumstances exist in connection with that EU parent

undertaking for the early intervention measures set out in Article 253 of this Act or for the appointment of a temporary administrator in accordance with Article 259 of this Act, it shall inform the other competent authorities within the supervisory college and the European Banking Authority accordingly without delay and consult with those competent authorities before implementing the aforementioned measures.

(2) Based on consultations with the competent authorities involved, the Bank of Slovenia, as the consolidating supervisor, shall decide whether it will impose any of the measures referred to in the previous paragraph in connection with the EU parent undertaking in question, taking into account the impact of those measures on the group entities in other Member States. The Bank of Slovenia shall notify the other competent authorities within the supervisory college and the European Banking Authority of its decision to implement measures.

(3) If, during supervision, the Bank of Slovenia or the European Central Bank, whenever the latter performs the tasks set out in point (i) of the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a group bank in accordance with the same regulation, determines that the circumstances for the early intervention measures set out in Article 253 of this Act or for the appointment of a temporary administrator in accordance with Article 259 of this Act exist at a bank that is an EU parent undertaking subject to supervision by another consolidating supervisor, it shall inform the European Banking Authority and that other consolidating supervisor accordingly and consult with the latter before implementing the aforementioned measures.

(4) In the case referred to in the previous paragraph, the Bank of Slovenia shall make a decision regarding the implementation of the measures set out in the first paragraph of this article at a bank, taking into account the assessment of the consolidating supervisor, which shall be issued within three days following the notification referred to in the previous paragraph. In its decision, the Bank of Slovenia shall take into account the potential impact of the decision on financial stability in other Member States. The Bank of Slovenia shall notify the bank in question, the consolidating supervisor, other competent authorities within the supervisory college and the European Banking Authority of its justified decision to implement measures.

(5) If, as the consolidating supervisor of an EU parent undertaking, the Bank of Slovenia receives the notification from another competent authority referred to in the third paragraph of this article in connection with a specific subsidiary undertaking, it shall, based on that notification, assess the likely impact of the implementation of measures set out in the first paragraph of this article at that subsidiary undertaking on the group as a whole or on other groups entities. As the consolidating supervisor, the Bank of Slovenia shall forward that assessment to the competent authority that sent the notification set out in the third paragraph of this article, within three days.

(6) If the circumstances referred to in the third paragraph of this article exist at several subsidiary undertakings within a group, the Bank of Slovenia and the competent authorities involved shall strive to reach a joint decision, within five days from the receipt of notification, regarding the following:

1. the appointment of the same temporary administrator for all institutions concerned; and
2. the coordination of the measures referred to in the first paragraph of this article for more than one institution in order to facilitate the implementation of measures to restore the financial position of a specific institution.

(7) As the consolidating supervisor, the Bank of Slovenia shall forward the justified decision referred to in the previous paragraph to the EU parent undertaking.

(8) If the joint decision referred to in the sixth paragraph of this article is not reached within five days, the Bank of Slovenia may make its own decision regarding the implementation of measures in connection with an EU parent undertaking or bank over which it exercises supervision in accordance with this Act and Regulation (EU) No 1024/2013, taking into account the opinions and reservations expressed by other competent authorities during the aforementioned five-day consultation period and the potential impact of its decision on financial stability in the Member States concerned. The Bank of Slovenia shall forward a justified decision to the EU parent undertaking or the bank in question.

(9) The Bank of Slovenia or another competent authority included in supervision on a consolidated basis may, under the conditions set out in the tenth paragraph of this article, submit a request to the European Banking Authority in accordance with Article 19 of Regulation (EU) No 1093/2010 regarding a decision that includes one or more measures:

1. set out in points 1 and 2 of the first paragraph of Article 253 of this Act in connection with:
  - capital- and liquidity-related measures required to ensure or restore an institution's ability to function successfully and its financial position,
  - arrangements and measures to maintain or restore capital,
  - arrangements and measures to ensure that an institution has appropriate access to sources of funding for unforeseen events, including potential sources of liquidity, the assessment of eligible collateral and the assessment of the possible transfer of liquidity between group entities and business areas to ensure that the institution can continue to perform its activities and settle its obligations at maturity,
  - preparatory measures that an institution has adopted or that it intends to adopt for the purpose of implementing a recovery plan, including measures required to ensure the timely recapitalisation of the institution; and
2. set out in points 6 and 8 of the first paragraph of Article 253 of this Act.

(10) The Bank of Slovenia or other competent authority included in supervision on a consolidated basis shall submit the request referred to in the previous paragraph, if:

1. it does not agree with the decision of the competent authority or consolidating supervisor that was adopted in accordance with the second or fourth paragraph of this article, and if it submits that request before the expiry of the three-day consultation period; or
2. if a joint decision was not adopted in accordance with the sixth paragraph of this article and if the request is submitted before the expiry of the five-day consultation period.

(11) If the request set out in the ninth paragraph of this article is submitted, the Bank of Slovenia shall halt the decision-making process based on the second, fourth or eighth paragraph of this article until the European Banking Authority issues its own decision. If based on the third paragraph of Article 19 of Regulation (EU) No 1093/2010 the European Banking Authority adopts its own decision regarding the matter within three days, the Bank of Slovenia shall take that decision into account in its own decision. If the European Banking Authority does not adopt a decision within three days, the Bank of Slovenia shall make a decision in accordance with the second, fourth or eighth paragraph of this article.

### *8.3.3 Withdrawal of authorisation to provide banking services*

#### **Article 263 (withdrawal of authorisation to provide banking services)**

(1) Authorisation to provide banking services may be withdrawn if a bank commits the breaches set out in the second paragraph of this article, and if the given circumstances

indicate that the reasons for the aforementioned breaches are not likely to be rectified by an appropriate deadline.

(2) Authorisation to provide banking services may be withdrawn if:

1. a bank obtained authorisation by stating false information;
2. a bank does not meet the conditions required to obtain authorisation to provide banking services in accordance with this Act;
3. a bank no longer meets the requirements set out in Part 3, 4 or 6 of Regulation (EU) No 575/2013, or the requirements regarding the provision of capital or additional liquidity based on the additional measures set out in Article 250 of this Act, and identified breaches cannot be rectified by implementing other supervisory measures;
4. if a bank does not comply with an order, and does not rectify breaches or implement the measures imposed by the Bank of Slovenia, and identified breaches cannot be rectified by implementing other supervisory measures;
5. it is no longer reasonable to expect that a bank will settle its obligations to creditors, and the bank no longer provides an appropriate guarantee for the assets entrusted to it by its investors, in particular if the bank does not fulfil its obligation to provide assets for the repayment of guaranteed deposits;
6. if reasons exist to withdraw authorisation to acquire a qualifying holding from an entity that is a bank's direct or indirect parent undertaking; and
7. if given conditions impede the effective supervision of a bank, and breaches cannot be rectified by implementing other supervisory measures.

(3) For the purpose set out in point 7 of the previous paragraph, effective supervision shall be deemed impeded, if a bank's business and ownership links with other undertakings or individuals are such that the mutual links between those entities make it impossible to assess the risk to which the bank is exposed.

(4) If a bank does not meet the technical, personnel, organisational and other conditions to execute specific types of transactions during the provision of banking services, the bank may be prohibited from executing those transactions in lieu of withdrawing authorisation to provide banking services.

(5) The Bank of Slovenia shall inform the resolution authority without delay if it determines that the reasons set out in the second paragraph of this article exist at a bank or are likely to arise at a bank within six months.

(6) Notwithstanding the first paragraph of this article, authorisation to provide banking services shall not be withdrawn if the resolution authority decides by a specific deadline to implement resolution measures at a bank that will rectify the circumstances referred to in the first paragraph of this article.

## **Article 264**

### **(withdrawal of authorisation to provide financial and ancillary financial services)**

(1) The Bank of Slovenia may withdraw a bank's authorisation to provide financial or ancillary financial services, if:

1. a bank obtained authorisation by stating false information;
2. a bank does not meet the conditions required to obtain authorisation to provide services in accordance with this Act;
3. a bank does not comply with the request of the Bank of Slovenia or the European Central Bank, and does not rectify breaches or implement measures to rectify breaches, or does not prevent breaches that arise as the result of its actions in the provision of those services; and

4. if a bank's actions in the provision of those services give rise to conditions that impede the comprehensive assessment of the risks to which the bank is exposed, and breaches cannot be rectified by implementing other supervisory measures.

(2) If a bank does not meet the technical, personnel, organisational and other conditions to execute specific types of transactions during the provision of financial or ancillary financial services, the Bank of Slovenia may prohibit the bank from executing those transactions in lieu of withdrawing authorisation to provide financial or ancillary financial services.

(3) In connection with identifying the reasons referred to in the first and second paragraphs of this article, the Bank of Slovenia shall be bound by the findings of the European Central Bank, whenever the latter performs the tasks set out in the first paragraph of Article 4 of Regulation (EU) No 1024/2013 during the supervision of a bank in accordance with the same regulation.

(4) The provisions of this Act governing the withdrawal of authorisation shall apply *mutatis mutandis* to procedures in connection with the prohibition of the execution of specific transactions during the provision of financial or ancillary financial services.

(5) Applying this article *mutatis mutandis*, the Bank of Slovenia may also impose the conditional withdrawal of authorisation to provide financial or ancillary financial services on a bank.

#### **Article 265** **(conditional withdrawal of authorisation)**

(1) In its decision to withdraw authorisation, the Bank of Slovenia may suspend the withdrawal of authorisation, if, during a probationary period that shall be no shorter than six months and no longer than two years from the day the relevant decision was issued, a bank does not commit a new breach that would result in the withdrawal of authorisation.

(2) Whenever the Bank of Slovenia imposes the conditional withdrawal of authorisation in accordance with the previous paragraph, it may also decide to withdraw authorisation, in addition to the cases referred to in the previous paragraph, if a bank does not rectify the breach for which the conditional withdrawal of authorisation was imposed, by a specific deadline. The Bank of Slovenia shall set a deadline for the fulfilment of those obligations within the limits of the probationary period.

(3) The Bank of Slovenia shall suspend the conditional withdrawal of authorisation set out in the first paragraph of this article and withdraw authorisation if a bank commits a new breach during the probationary period that would result in the withdrawal of authorisation, or if it does not satisfy the additional conditions set out in the previous paragraph.

### **8.4 Supervisory measures against qualifying holders**

#### **Article 266** **(withdrawal of authorisation to acquire a qualifying holding)**

- (1) Authorisation to acquire a qualifying holding shall be withdrawn, if:
1. the qualifying holder, as a parent undertaking, parent financial holding company, parent mixed financial holding company or parent mixed-activity holding company, breaches its

- obligations set out in this Act, and fails to rectify those breaches, despite an order from the competent authority or the supervisory authority of another Member State responsible for supervision on a consolidated basis; or
2. other circumstances arise in connection with the qualifying holder based on which a request to issue authorisation to acquire a qualifying holding may be rejected in accordance with the provisions of this Act.

(2) The legal consequences set out in Article 73 of this Act shall arise when an order to withdraw authorisation to acquire a qualifying holding becomes final.

#### **Article 267** **(order to dispose of shares)**

(1) If an unauthorised holder fails to submit a request to issue authorisation to acquire a qualifying holding within one month following the acquisition of bank shares, the Bank of Slovenia shall issue that holder an order to dispose of shares that it holds in contravention of this Act (hereinafter: order to dispose of shares).

(2) In its order to dispose of shares, the Bank of Slovenia shall set a deadline for the disposal of those shares that shall be a minimum of three months and a maximum of six months.

(3) The first and second paragraphs of this article shall also apply *mutatis mutandis*, if:

1. an unauthorised holder submits a request to issue authorisation to acquire a qualifying holding within one month following the acquisition of shares, and that request is rejected, dismissed or withdrawn; or
2. the holder's authorisation to acquire a qualifying holding is withdrawn.

(4) The provisions of this Act governing orders shall apply to an order to dispose of shares.

#### **Article 268** **(report on the disposal of shares and declaratory decision on the rectification of breaches)**

(1) An unauthorised holder shall submit a report on the disposal of shares to the Bank of Slovenia by the deadline set out in the order to dispose of shares. That report shall include:

1. evidence regarding disposal; and
2. information regarding the acquirer or acquirers of the shares.

(2) The Bank of Slovenia may require the acquirer referred to in the previous paragraph to clarify whether they acquired the shares on their own behalf and on their own account, and obtain other evidence regarding on whose account the acquirer acquired those shares.

(3) The first and second paragraphs of Article 339 of this Act shall apply *mutatis mutandis* to the procedure set out in the previous paragraph.

(4) If, during supervision, the Bank of Slovenia determines that a holder acquired bank shares in contravention of this Act and failed to submit a request to issue authorisation to acquire a qualifying holding within one month following the acquisition of those shares, but the holder disposed of those shares prior to the issue of an order to dispose of shares set out

in the previous article, the Bank of Slovenia may issue a declaratory decision, under the conditions set out in the fifth paragraph of this article, finding that the holder acquired those shares in contravention of this Act and that the holder rectified that breach.

(5) The Bank of Slovenia shall issue the declaratory decision referred to in the previous paragraph if, given the nature and significance of the breach for the secure and prudent governance of a bank, the issue of such a decision and the publication of the information based on Article 277 of this Act could contribute significantly to improving the governance practices of banks and to preventing conduct that would result in a breach of this Act.

(6) Prior to issuing the declaratory decision referred to in the fourth paragraph of this article, the Bank of Slovenia shall inform an unauthorised holder in writing of its findings in connection with breaches of the regulations set out in the second paragraph of Article 9 of this Act and of its intent to issue a declaratory decision on the rectification of breaches, and shall call on the holder to issue a statement regarding the facts and circumstances relevant for a decision to issue a declaratory decision on the rectification of breaches.

### **Article 269**

#### **(decision prohibiting the exercising of rights attached to shares)**

(1) If an unauthorised holder does not dispose of shares by the deadline set out in an order to dispose of shares, or if the Bank of Slovenia determines that the acquirer of the shares that were the subject of the aforementioned order holds those shares on their own behalf and for the account of an unauthorised holder (hereinafter: unauthorised acquirer), the Bank of Slovenia shall issue an order prohibiting the unauthorised holder and a potential unauthorised acquirer from exercising any of the rights attached to bank shares held in contravention of this Act (hereinafter: decision prohibiting the exercising of rights attached to shares).

(2) Following the issue of a decision prohibiting the exercising of rights attached to shares, an unauthorised holder and a potential unauthorised acquirer may jointly exercise only those rights attached to the number of shares calculated *mutatis mutandis* in accordance with the second paragraph of Article 73 of this Act.

(3) The operational part of a decision prohibiting the exercising of rights attached to shares shall include:

1. information regarding the unauthorised holder and, if the latter sold those shares to an unauthorised acquirer, including information regarding the unauthorised acquirer or acquirers; and
2. the number of shares bearing rights that the unauthorised holder and potential unauthorised acquirer may exercise jointly.

(4) The decision prohibiting the exercising of rights attached to shares shall also be delivered to the bank in question. After delivery of the aforementioned decision, the bank shall not permit the unauthorised holder and unauthorised acquirer of the shares to which the decision relates to exercise any of the rights attached to those shares.

(5) If the bank paid dividends during the period following the delivery of the decision prohibiting the exercising of rights attached to shares until the date the shares to which the decision relates are acquired by a new holder in accordance with this Act, the bank shall pay the new holder dividends pertaining to those shares within eight days from the new holder's notification of acquisition of those shares.



## **8.5 Supervisory measures against a member of the governing body**

### **Article 270**

#### **(order imposed on a member of the governing body and declaratory decision on the rectification of breaches)**

(1) If, during the supervision of a bank, the Bank of Slovenia determines that a member of the bank's management board is in breach of their duties set out in the first or second paragraph of Article 45 of this Act or that a member of the supervisory board is in breach of their duties set out in the first paragraph of Article 55 of this Act and no reasons exist for the withdrawal of authorisation to perform the function of member of the bank's management board or supervisory board, the member of the governing body shall be issued an order to cease specific activities or rectify identified breaches.

(2) The Bank of Slovenia shall inform the supervisory board and management board of the bank with regard to the issue of the order referred to in the previous paragraph.

(3) If, during supervision, the Bank of Slovenia determines that a member of the governing body is in breach of their duties under this Act, but that member rectified the breach prior to the issue of the order set out in the first paragraph of this article and no reasons exist for the withdrawal of authorisation to perform the function in question, the Bank of Slovenia may issue a declaratory decision, under the conditions set out in the fourth paragraph of this article, finding that the member of the governing body breached their duties under this Act and that the member in question rectified that breach.

(4) The Bank of Slovenia shall issue the declaratory decision referred to in the previous paragraph if, given the nature and significance of the breach for the secure and prudent governance of the bank, the issue of such a decision and the publication of the information based on Article 277 of this Act could contribute significantly to improving the governance practices of banks and to preventing conduct that would result in a breach of the duties of members of banks' governing bodies.

(5) Prior to issuing the declaratory decision referred to in the third paragraph of this article, the Bank of Slovenia shall inform the member of the governing body in writing of its findings in connection with breaches of the regulations set out in the second paragraph of Article 9 of this Act and of its intent to issue a declaratory decision on the rectification of breaches, and shall call on the member of the governing body to issue a statement regarding the facts and circumstances relevant for a decision to issue a declaratory decision on the rectification of breaches. The Bank of Slovenia shall also issue the declaratory decision referred to in the third paragraph of this article, if the function of the member of the bank's governing body is terminated before the issue of such a decision.

### **Article 271**

#### **(withdrawal of authorisation to perform the function of member of a bank's management board)**

(1) Authorisation to perform the function of member of a bank's management board shall be withdrawn, if:

1. authorisation to perform the function of member of a bank's management board was obtained by stating false information and that action had a significant impact on the decision to issue authorisation;

2. that member accepts a directorship in contravention of Article 36 of this Act following their appointment to a bank's management board, or they no longer meet the conditions set out in Article 38 of this Act for appointment to that function; or
3. that member is in serious breach of the duties of a management board member set out in Article 45 of this Act.

(2) A breach by a management board member shall be deemed serious, if:

1. the circumstances set out in the second paragraph of Article 249 of this Act arise at the bank or if the breach set out in the first paragraph of Article 373 of this Act occurs as the result of the conduct of a management board member;
2. the management board member does not comply with the order set out in the previous article; or
3. the management board member repeats the breach of duties set out in Article 45 of this Act through the same or similar conduct.

(3) In the case set out in the first paragraph of this article, the Bank of Slovenia shall consult with the competent authority of another Member State prior to issuing a decision to withdraw authorisation to perform the function of member of the management board of a bank that is part of a group that includes other Member State banks, if the Bank of Slovenia's decision affects or could affect the performance of tasks by the competent authority of another Member State in connection with the supervision of a Member State bank.

## **Article 272**

### **(conditional withdrawal of authorisation to perform the function of member of a bank's management board)**

(1) If special mitigating circumstances arise in connection with the breaches by a management board member set out in the first paragraph of the previous article, the Bank of Slovenia may suspend the withdrawal of authorisation to perform the function of member of a bank's management board, if, during the probationary period set by the Bank of Slovenia, which shall be no shorter than six months and no longer than two years from the day the relevant decision was issued, the management board member does not commit a new breach that would result in the withdrawal of authorisation.

(2) The Bank of Slovenia shall suspend the conditional withdrawal of authorisation and withdraw authorisation if the management board member commits a new breach during the probationary period that would result in the withdrawal of authorisation.

## **Article 273**

### **(prohibition of the performance of the function of member of a bank's supervisory board)**

(1) The Bank of Slovenia shall issue a supervisory board member a decision prohibiting the performance of their function, if:

1. at the time of appointment or following the assumption of their function, that member no longer meets the conditions for appointment set out in the first paragraph of Article 53 of this Act;
2. the appointment of the member in question is not in accordance with Article 34 of this Act; or
3. that member is in serious breach of the duties of a supervisory board member set out in Article 55 of this Act.

(2) A supervisory board member shall be deemed in serious breach of the duties set out in Article 55 of this Act, if:

1. the circumstances set out in the second paragraph of Article 250 of this Act arise at the bank or if the breach set out in the first paragraph of Article 373 of this Act occurs as the result of the conduct of a supervisory board member;
2. the supervisory board member repeats the breach of duties set out in Article 55 of this Act through the same or similar conduct; or 3. the member of the bank's supervisory board does not rectify the breach in accordance with Article 270 of this Act.

(3) In the case set out in the first paragraph of this article, the Bank of Slovenia shall consult with the competent authority of another Member State prior to issuing a decision prohibiting the performance of the function of member of the supervisory board of a bank that is part of a group that includes other Member State banks, if the Bank of Slovenia's decision affects or could affect the performance of tasks by the competent authority of another Member State in connection with the supervision of a Member State bank.

(4) The provisions of this Act governing the withdrawal of authorisation shall apply *mutatis mutandis* to a decision prohibiting the performance of the function of member of a bank's supervisory board.

## **8.6 Disclosures in connection with supervision**

### **Article 274**

#### **(disclosure of general information regarding supervision)**

(1) The Bank of Slovenia shall publish the following information on its website:

1. the texts of laws, other regulations and guidelines and rules applied in the Republic of Slovenia in connection with the operations and supervision of banks;
2. the manner in which the options and discretions set out in Directive 2013/36/EU and Regulation (EU) No 575/2013 are exercised; and
3. the general criteria and methodologies used by the Bank of Slovenia in the review and evaluation referred to in Article 172 of this Act.

(2) Without prejudice to the provisions of this Act governing the safeguarding of confidential information obtained during the performance of supervision, the Bank of Slovenia shall publish on its website aggregate statistical data on key aspects regarding arrangements and the implementation of rules on the secure and prudent management of risks to which banks are exposed, and aggregate information regarding the number and nature of supervisory measures imposed by the Bank of Slovenia on the basis of this Act due to breaches of this Act or Regulation (EU) No 575/2013, including sanctions imposed in misdemeanour proceedings.

(3) The disclosures referred to in the first and second paragraphs of this article shall be sufficient to facilitate a meaningful comparison of the approaches used by the competent authorities of different Member States.

(4) The Bank of Slovenia shall publish all of the disclosures referred to in the first and second paragraphs of this article as complete information and shall supplement and update them regularly.

**Article 275**  
**(disclosure of special information regarding supervision)**

(1) The Bank of Slovenia shall also publish the following information on its website in connection with the exercising of its powers on the basis of Part 5 of Regulation (EU) No 575/2013:

1. the general criteria and methodologies adopted to review compliance with Articles 405 to 409 of Regulation (EU) No 575/2013; and
2. a summary of the outcome of the supervisory review and a description of measures imposed in cases of non-compliance with Articles 405 to 409 of Regulation (EU) No 575/2013, identified on an annual basis.

(2) If it exercises the discretion set out in the third paragraph of Article 7 of Regulation (EU) No 575/2013, the Bank of Slovenia shall also publish the following information on its website:

1. the criteria it applies to determine that there is no current or foreseen material practical or legal impediment to the prompt transfer of capital or repayment of liabilities;
2. the number of parent banks that the Bank of Slovenia has permitted to benefit from the exercise of the discretion set out in the third paragraph of Article 7 of Regulation (EU) No 575/2013, and the number of such parent banks with a subsidiary in a third country; and
3. on an aggregate basis for the Republic of Slovenia:
  - the total amount of capital on a consolidated basis of parent banks that benefit from the exercise of the discretion set out in the third paragraph of Article 7 of Regulation (EU) No 575/2013, which is held in subsidiaries established in third countries;
  - the proportion of total capital on a consolidated basis of parent banks that benefit from the exercise of the discretion set out in the third paragraph of Article 7 of Regulation (EU) No 575/2013, accounted for by capital held in subsidiaries established in third countries;
  - the proportion of total capital required under Article 92 of Regulation (EU) No 575/2013 on a consolidated basis of parent banks that benefit from the exercise of the discretion set out in the third paragraph of Article 7 of Regulation (EU) No 575/2013, accounted for by capital held in subsidiaries established in third countries;

(3) If it exercises the discretion set out in the first paragraph of Article 9 of Regulation (EU) No 575/2013, the Bank of Slovenia shall also publish the following information on its website:

1. the criteria it applies to determine that there is no current or foreseen material practical or legal impediment to the prompt transfer of capital or repayment of liabilities;
2. the number of parent banks that the Bank of Slovenia has permitted to benefit from the exercise of the discretion set out in the first paragraph of Article 9 of Regulation (EU) No 575/2013, and the number of such parent banks with a subsidiary in a third country; and
3. on an aggregate basis for the Republic of Slovenia:
  - the total amount of capital of parent banks that benefit from the exercise of the discretion set out in the first paragraph of Article 9 of Regulation (EU) No 575/2013, which is held in subsidiaries in third countries;
  - the proportion of total capital of parent banks that benefit from the exercise of the discretion set out in the first paragraph of Article 9 of Regulation (EU) No 575/2013, accounted for by capital held in subsidiaries established in third countries; and
  - the proportion of total capital required under Article 92 of Regulation (EU) No 575/2013 on a consolidated basis of parent banks that benefit from the exercise of the discretion

set out in the first paragraph of Article 9 of Regulation (EU) No 575/2013, accounted for by capital held in subsidiaries established in third countries.

(4) The Bank of Slovenia shall disclose the information set out in the first to third paragraphs of this article in aggregate form or as a summary, from which an individual bank or other person to which such information relates cannot be identified.

#### **Article 276** **(disclosure of information regarding issued authorisations)**

(1) The Bank of Slovenia shall publish on its website information regarding authorisations issued to provide banking services, to acquire a qualifying holding and to perform the function of member of a bank's management board or supervisory board.

(2) Notwithstanding the other provisions of this Act that define the confidentiality of information in its possession, the Bank of Slovenia shall publish on its website the operational part of its decision to reject a request to issue authorisation to acquire a qualifying holding, including a summary of the reasons for that decision, at the applicant's request.

#### **Article 277** **(disclosure of information regarding imposed measures)**

(1) With the aim of preventing and deterring conduct that represents a breach of this Act or Regulation (EU) No 575/2013, the Bank of Slovenia shall publish the information referred to in the second paragraph of this article in connection with supervisory measures and sanctions due to breaches of this Act or Regulation (EU) No 575/2013, after the process of imposing measures or sanctions has been completed.

- (2) The information referred to in the previous paragraph shall include information:
1. regarding the entity or person responsible for the breach:
    - the name and registered office of the legal person, or
    - the name of the natural person;
  2. regarding the breach:
    - a description of the circumstances and conduct that represent a breach of this Act or Regulation (EU) No 575/2013;
    - the nature of the identified breaches;
  3. the operational part of the decision by which the relevant proceedings were completed; and
  4. information as to whether judicial protection proceedings were initiated against a decision in accordance with this Act.

(3) Notwithstanding the first and second paragraphs of this article, the Bank of Slovenia may publish an entire decision regarding the imposition of measures, or the summary of that decision, which, in addition to the information referred to in the previous paragraph, shall include additional information in connection with supervisory measures imposed on a bank, if it deems such disclosure necessary for the effective prevention of breaches of this Act or Regulation (EU) No 575/2013 or to ensure the appropriate protection of depositors.

(4) When publishing information based on the previous paragraph, the Bank of Slovenia shall not disclose personal and other confidential data regarding a client or third party, except for the information set out in the second paragraph of this article. Prior to

publishing a decision or the summary of a decision, the Bank of Slovenia shall call on the person to whom the data in the decision or summary relates to identify the data it deems to be confidential and provide justification for the treatment of that data as such, by a specific deadline.

(5) The information referred to in the second and third paragraphs of this article shall be published on the Bank of Slovenia's website and shall remain accessible on that website for a minimum of five years following publication. The Bank of Slovenia shall forward the information referred to in the second and third paragraphs of this article to the European Banking Authority.

#### **Article 278** **(disclosure of the identity of a person responsible for a breach)**

(1) Notwithstanding the first and second paragraphs of the previous article, the Bank of Slovenia shall decide, *ex officio* or on the basis of the objection referred to in the third paragraph of this article, that information regarding the identity of the person responsible for a breach shall not be published, if:

1. a supervisory measure is imposed on a natural person, and the publication of data regarding the person responsible for a breach is not proportionate to the gravity of the breach; or
2. the publication of information regarding the person responsible for a breach would jeopardise the stability of the financial markets or impede a criminal investigation; or
3. publication would result in disproportionate damage to the parties involved.

(2) If, when issuing a decision, the Bank of Slovenia assesses that the reasons set out in the previous paragraph exist in connection with the publication of the identity of the person responsible for a breach, it shall, at the same time as it issues the decision by which it imposes supervisory measures, also decide not to publish the identity of the person responsible for the breach. If the reasons referred to in the previous paragraph exist, the Bank of Slovenia may also decide to withhold the publication of the identity of the person responsible for the breach and state the date until which it shall withhold publication, if is likely that the reasons for withholding publication will cease to exist during that period.

(3) If, when publishing a decision, the Bank of Slovenia does not identify the reasons referred to in the first paragraph of this article, its decision to impose supervisory measures, issued in accordance with this Act, shall warn the person responsible for the breach in question that information regarding imposed measures and sanctions and regarding that person will be published on the Bank of Slovenia's website in accordance with the previous article. It shall also inform that person that, if the reasons referred to in the first paragraph of this article exist, those reasons shall be stated in their objection, which shall be submitted by the deadline for the filing of legal remedy against a decision to impose supervisory measures, set in accordance with this Act.

(4) The Bank of Slovenia shall issue a decision regarding the objection referred to in the previous paragraph.

(5) If based on an objection filed by the person responsible for a breach the Bank of Slovenia determines that the reasons referred to in the first paragraph of this article exist, its decision ruling in favour of that objection shall state that the identity of the person responsible for the breach shall not be published or that publication shall be suspended temporarily, including the date until which publication shall be suspended.

(6) A person responsible for a breach may file for judicial protection, under the conditions set out in this Act, against the Bank of Slovenia's rejection of its objection or against the decision to temporarily suspend publication of that person's identity.

(7) Notwithstanding the fifth paragraph of this article, the Bank of Slovenia may decide to remove information regarding a person responsible for a breach from its website, at that person's request, before the aforementioned five-year period has passed. The provisions of this article governing the objection referred to in the third to sixth paragraphs of this article shall apply to the request of a person responsible for a breach.

## **CHAPTER 9: SPECIAL TYPES OF SUPERVISION**

### **9.1 Supervision of a bank in connection with operations in the territory of another Member State**

#### **Article 279 (cooperation between competent authorities in connection with the provision of services by a bank in another Member State)**

(1) The Bank of Slovenia shall cooperate with the competent authority of a Member State in which a bank provides services directly or via a branch, in particular with regard to the exchange of all information deemed crucial or important for the supervision of that bank, including information regarding liquidity, capital adequacy, deposit guarantees, restrictions on large exposures, recovery plans, internal control mechanisms and other factors that could impact the systemic risk that the bank poses.

(2) If a competent authority rejects the Bank of Slovenia's request for cooperation referred to in the previous paragraph, in particular with regard to the exchange of information at its disposal that is required to monitor the operations of a bank, or if it does not respond to such a request in a reasonable amount of time, the Bank of Slovenia may notify the European Banking Authority in accordance with Article 19 of Regulation (EU) No 1093/2010.

(3) The Bank of Slovenia shall forward to the competent authority of a Member State in which a bank provides services, without delay, all information and findings in connection with that bank regarding the fulfilment of liquidity-related requirements in accordance with Part 6 of Regulation (EU) No 575/2013 and the provisions of this Act regarding the fulfilment of requirements on a consolidated basis that are important for the operations of the bank's branch in a Member State, in particular for the protection of depositors in that Member State.

(4) If the Bank of Slovenia determines that a bank has liquidity problems or it is reasonable to expect that such problems will arise, it shall inform the competent authority of the Member State in which the bank provides services of these findings without delay. It shall also provide information regarding implemented and planned recovery measures to eliminate those problems, including supervisory measures that it has imposed.

(5) If the Bank of Slovenia receives information from the competent authority of the Member State in which a bank provides services, in connection with that bank's operations, it shall explain, at the competent authority's request, how the aforementioned information and findings were taken into account.

(6) If the Bank of Slovenia receives information from the competent authority of a Member State regarding breaches by a bank in the latter's operations in that Member State, in particular that the bank is in breach of or is likely to breach the requirements set out in this Act or Regulation (EU) No 575/2013, it shall explain, at that competent authority's request, the measures that the Bank of Slovenia has imposed on the bank to rectify or prevent such breaches in connection with the bank's operations in the Member State concerned.

(7) If, despite the Bank of Slovenia's measures and explanations referred to in the previous paragraph, the competent authority of a Member State imposes measures on a bank in connection with its operations in that Member State and the Bank of Slovenia assesses that those measures are insufficient to prevent further breaches by the bank in that Member State or to protect the interests of depositors, investors and other persons to whom the bank provides services in that Member State, or to ensure the stability of the financial system of that Member State, the Bank of Slovenia may refer the matter to the European Banking Authority and request the latter's assistance in accordance with Article 19 of (EU) No 1093/2010.

(8) If it does not agree with the temporary measures adopted by the competent authority of a Member State in which a bank provides services, the Bank of Slovenia may refer the matter to the European Banking Authority and request the latter's assistance in accordance with Article 19 of (EU) No 1093/2010.

#### **Article 280**

##### **(designation of a bank branch in a Member State as significant)**

(1) Whenever the competent authority of a Member State in which a bank provides services via a branch requests that the Bank of Slovenia designate that branch as significant, the Bank of Slovenia shall work with that competent authority and strive to reach a joint decision regarding the designation of that bank branch in that Member State as significant.

(2) The joint decision referred to in the previous paragraph shall be set out in a document that shall include an explanation, and shall be forwarded to the competent authorities of the Member States concerned.

(3) If a joint decision designating a branch as significant is not reached within two months from the submission of the request by the competent authority of a Member State referred to in the first paragraph of this article and the competent authority of the Member State concerned adopts a decision during the next two months, that decision shall be binding for the Bank of Slovenia.

#### **Article 281**

##### **(cooperation in connection with supervision of the operations of significant bank branches in other Member States)**

(1) The Bank of Slovenia shall cooperate with the competent authority of a Member State with regard to the operations of a significant bank branch in that Member State by forwarding to the competent authority, on its own initiative, the following information regarding the bank's operations:

1. the unfavourable development of the operations of the bank or other group entities that could have a serious effect on institutions in that Member State;
2. significant penalties and supervisory measures imposed on the bank by the Bank of Slovenia in accordance with this Act, in particular possible requirements to ensure capital in accordance with the third paragraph of Article 250 of this Act and measures to



limit the use of the Advanced Measurement Approach for the calculation of capital requirements in accordance with the second paragraph of Article 312 of Regulation (EU) No 575/2013; and

3. findings based on the assessment of the risks to which the bank is exposed carried out in accordance with Article 172 of this Act, and the joint decisions of competent authorities in accordance with Article 294 of this Act, and decisions regarding supervisory measures, if those assessments and decisions are material in terms of the operations of a significant bank branch in other Member States.

(2) The Bank of Slovenia shall consult with the competent authority of a Member State in which a bank has a significant branch with regard to the appropriateness of operational procedures defined by the bank in its plan to restore liquidity in accordance with Article 160 of this Act, if that information is material in terms of liquidity risks in that Member State.

(3) In connection with the supervision of a bank with significant branches in other Member States, the Bank of Slovenia shall plan and coordinate its supervisory tasks and measures in cooperation with the competent authorities of those Member States and the competent ESCB central banks, as required, in particular with regard to drawing up and implementing measures in crisis situations and in the event of unfavourable developments in the operations of the bank or on the financial markets.

(4) For the purposes of the previous paragraph, the Bank of Slovenia shall establish and chair a college of competent authorities, if such a college has not yet been established based on Article 295 of this Act.

(5) The establishment and functioning of the college referred to in the previous paragraph shall be based on a written agreement concluded by the competent authorities involved. The Bank of Slovenia shall decide which competent authorities will participate at an individual meeting or in the activities of the college, taking into account the importance of the supervisory activity to be discussed at a meeting of the college for those competent authorities, in particular the potential impact on the stability of the financial system in those Member States. The Bank of Slovenia shall inform all members of the college about planned meetings and the matters to be discussed, as well as the decisions made at those meetings and activities carried out.

## **Article 282**

### **(review of a bank branch's operations in a Member State)**

(1) If the Bank of Slovenia conducts a review of the operations of the branch of a bank in a Member State, it shall inform the competent authority of the Member State in which the bank provides mutually recognised services in advance.

(2) Notwithstanding the previous paragraph, the Bank of Slovenia may request that the competent authority of the Member State in which a bank provides services via a branch conduct a review of the operations of the branch in that Member State, or may authorise an auditor or other qualified person to do so. The Bank of Slovenia's authorised representatives may participate in supervision conducted by the competent authority of that Member State.

(3) When defining its supervisory examination programme, the Bank of Slovenia shall take into account the information and findings regarding the operations of a branch provided by the competent authority of a Member State based on the review of the

operations of that branch, as well as the stability of the financial system in that Member State.

#### **Article 283**

##### **(supervisory measures imposed on a bank that provides services in a Member State)**

(1) If the Bank of Slovenia receives information from the competent authorities of a Member State in which a bank provides services directly or via a branch that the aforementioned bank is in breach of or that there is considerable risk that the bank will breach the regulations of the Member State that transpose Directive 2013/36/EU, or the provisions of Regulation (EU) No 575/2013, the Bank of Slovenia shall adopt supervisory measures in accordance with this Act without delay so that the bank will rectify those breaches.

(2) The Bank of Slovenia shall notify the competent authority of that Member State without delay regarding the measures it has adopted.

#### **Article 284**

##### **(notification of the competent authority of a Member State regarding the withdrawal of authorisation from a bank)**

If the Bank of Slovenia withdraws a bank's authorisation to provide banking services or prohibits that bank from providing specific services, it shall notify, without delay, the competent authorities of the Member States in which the bank provides those services.

### **9.2 Supervision of the operations of a Member State bank in the territory of the Republic of Slovenia**

#### **Article 285**

##### **(cooperation in connection with supervision of the provision of services by a Member State bank in the Republic of Slovenia)**

(1) The Bank of Slovenia shall cooperate with the competent authority of a Member State for the purpose of conducting supervision of the operations of a Member State bank that provides services directly or via a branch in the Republic of Slovenia, in particular through the exchange of information deemed material to the supervision of that Member State bank, including information regarding liquidity, capital adequacy, deposit guarantees, restrictions on large exposures, internal control mechanisms and other factors that could impact the systemic risk that the Member State bank poses in the Republic of Slovenia.

(2) If a competent authority rejects the Bank of Slovenia's request for cooperation referred to in the previous paragraph, in particular with regard to the exchange of information at its disposal that is required to monitor the operations of a bank, or if it does not respond to such a request in a reasonable amount of time, the Bank of Slovenia may notify the European Banking Authority in accordance with Article 19 of Regulation (EU) No 1093/2010.

(3) Whenever the competent authority of a Member State or the consolidating supervisor of a bank that has a significant branch in the Republic of Slovenia does not consult with the Bank of Slovenia regarding the appropriateness of the operational procedures defined by the bank in its plan to restore liquidity, or whenever, following consultation, the Bank of Slovenia deems that those operational procedures are

inappropriate, the Bank of Slovenia may refer the matter to the European Banking Authority and request the latter's assistance in accordance with Article 19 of (EU) No 1093/2010.

**Article 286**  
**(designation of a significant branch of a Member State bank)**

(1) The Bank of Slovenia may propose to the competent authority of a Member State responsible for the supervision of a Member State bank that provides services in the Republic of Slovenia via a branch that the aforementioned branch of that Member State bank be designated as significant.

(2) In its proposal referred to in the previous paragraph, the Bank of Slovenia shall justify the significance of the branch of a Member State bank in the Republic of Slovenia, taking particular account of whether:

1. its market share in terms of deposits collected in the Republic of Slovenia exceeds 2%;
2. the suspension or closure of the operations of the Member State bank branch would have negative consequences for systemic liquidity, and for the payment, clearing and settlement systems in the Republic of Slovenia; and
3. the Member State bank branch is significant for the banking or financial system of the Republic of Slovenia due to its size in terms of the number of clients.

(3) The Bank of Slovenia shall work with the competent authority of a Member State and strive to reach a joint decision regarding the designation of a branch as significant.

(4) If a joint decision designating a branch as significant is not reached within two months from the submission of the Bank of Slovenia's proposal to designate a Member State bank branch as significant, the Bank of Slovenia shall adopt its own decision, during the next two months, regarding the designation of the branch in question as significant.

(5) In the decision referred to in the previous paragraph, the Bank of Slovenia shall take into account the views of the competent authority of the Member State to the greatest extent possible. The Bank of Slovenia shall inform the competent authority of the Member State in writing of its decision to designate a Member State bank branch as significant, and state the reasons for that decision.

(6) If a consolidating supervisor is appointed to perform the tasks set out in Article 293 of this Act, all of the provisions of this article relating to the competent authority of a Member State shall apply to that consolidating supervisor.

(7) The designation of a bank branch as significant shall not impact the competences and responsibilities of the Bank of Slovenia under this Act.

**Article 287**  
**(review of the operations of a Member State bank branch)**

(1) The competent authority of a Member State or the persons authorised by that competent authority may conduct a review of the operations of the branch of a bank of that Member State in the territory of the Republic of Slovenia in accordance with Slovenian law. The competent authority of that Member State shall inform the Bank of Slovenia in advance of its intent to review operations as set out in the previous sentence. The Bank of Slovenia may participate in that review.

(2) In the case referred to in the previous paragraph, the competent authority of a Member State or the persons authorised by that competent authority shall have the same competences as the Bank of Slovenia based on Articles 242 to 247 of this Act.

(3) At the request of the competent authority of a Member State, the Bank of Slovenia shall conduct a review of the operations of the branch of a bank of that Member State in the territory of the Republic of Slovenia. If it so requests, the competent authority of the Member State may participate in that review.

(4) Notwithstanding the first to third paragraphs of this article, the Bank of Slovenia shall be responsible for conducting a review of the operations of the branch of a bank of that Member State in the Republic of Slovenia to verify whether the branch acts in accordance with the provisions of the regulations referred to in the first and second paragraphs of Article 118 of this Act.

(5) Following prior consultation with the competent authority of a Member State, the Bank of Slovenia may conduct a review of a branch's operations and request that branch to provide all information regarding its operations, if that information is relevant for the assessment of the risk the branch poses to the stability of the financial system in the Republic of Slovenia. Following the completion of its review, the Bank of Slovenia shall forward to the competent authority of a Member State the information and findings that are relevant for assessing the risk associated with the bank in question or the stability of the financial system in the Republic of Slovenia.

#### **Article 288** **(reporting by a Member State bank)**

A Member State bank that provides services in the Republic of Slovenia via a branch shall, at the Bank of Slovenia's request, forward information regarding all matters relevant for supervision and for exercising the powers and performing the tasks of the Bank of Slovenia in connection with the provision of services by a Member State bank in the Republic of Slovenia, including information required to designate a branch as significant.

#### **Article 289** **(supervisory and other measures in connection with the operations of a Member State bank and Member State bank branch)**

(1) If a Member State bank that provides services in the territory of the Republic of Slovenia breaches the provisions of the regulations set out in Article 118 of this Act, the Bank of Slovenia shall, for the purpose of protecting the general good, order that bank to rectify those breaches or impose other measures in accordance with this Act, and inform the competent authority of the bank's home Member State.

(2) If the Bank of Slovenia forwarded information and findings to the competent authority of a Member State regarding breaches in connection with the operations of a Member State bank in the territory of Republic of Slovenia, in particular that the bank is in breach of or is likely to breach the requirements defined by this Act or Regulation (EU) No 575/2013, and it determines on the basis of clarifications provided by the competent authority of that Member State that the competent authority did not impose measures on the bank or adopted measures that it deems inappropriate, the Bank of Slovenia may, after informing the competent authority of the Member State concerned and the European Banking Authority, adopt measures in accordance with this Act with the aim of preventing further breaches by that Member State bank in its operations in the Republic of Slovenia and protecting the interests of depositors, investors and other persons for whom services are provided, or with the aim of ensuring the stability of the financial system.

(3) In urgent cases, the Bank of Slovenia may adopt temporary measures and require or prohibit certain activities by a Member State bank, prior to forwarding information to the competent authority of the Member State in accordance with the previous paragraph, or before the competent authority of the Member State, based on information provided by the Bank of Slovenia, imposes measures on a Member State bank that provides services in the Republic of Slovenia, or before measures are adopted to stabilise the bank's operations, if so required to protect the stability of the financial system or to prevent threats to the collective interests of depositors, investors or other persons in the Republic of Slovenia.

(4) The temporary measures referred to in the previous paragraph shall be proportionate to the purpose of protecting against financial instability and shall not facilitate discrimination against the creditors of other Member States. They may also include a prohibition on payments and the other measures set out in Article 262 of this Act.

(5) The Bank of Slovenia shall suspend the temporary measures referred to in the third paragraph of this article when it deems that the purpose for which those measures were adopted has been achieved, in particular when the competent authority of the Member State concerned has adopted the appropriate measures or when the appropriate measures to stabilise the operations of the bank in question have been adopted.

(6) The Bank of Slovenia shall inform the European Banking Authority, the Commission and the competent authority of the other Member State concerned, without delay, about the adoption and suspension of the temporary measures referred to in the third paragraph of this article.

(7) If a Member State bank does not rectify breaches, despite the measures imposed by the competent authority of a Member State or because those measures are ineffective or cannot be imposed in the home Member State of a bank, or that Member State bank does not rectify breaches, despite the Bank of Slovenia's measures referred to in the first paragraph of this article, the Bank of Slovenia may prohibit that bank from providing services in the territory of the Republic of Slovenia.

(8) The Bank of Slovenia shall inform the competent authority of the Member State concerned before imposing the measures referred to in the previous paragraph, unless the imposition of measures cannot be delayed in order to protect the interests of the bank's clients or to protect the general good. In such cases, the Bank of Slovenia shall inform the competent authority of the Member State, the European Banking Authority and the Commission regarding the prohibition on the provision of services, as soon as this is possible.

## **Article 290**

### **(measures due to the withdrawal of authorisation from a Member State bank)**

If the competent authority of a bank's home Member State informs the Bank of Slovenia that authorisation to provide banking services was withdrawn from a bank that provides services directly or via a branch in the Republic of Slovenia or that it has prohibited that bank from providing specific services, the Bank of Slovenia shall adopt measures in accordance with this Act, without delay, to prevent that bank from continuing to provide those services and to protect the interests of that bank's clients.

### **9.3 Supervision on a consolidated basis**

#### **Article 291**

##### **(Bank of Slovenia's authority with regard to supervision on a consolidated basis)**

(1) The Bank of Slovenia shall be competent and responsible for supervision on a consolidated basis, as the consolidating supervisor, if:

1. a bank is a parent bank in the Republic of Slovenia or an EU parent bank; or
2. a bank is a subsidiary of:
  - a parent financial holding company or mixed financial holding company in the Republic of Slovenia; or
  - an EU parent financial holding company or an EU parent mixed financial holding company; or
3. in the cases set out in Article 22 of Regulation (EU) No 575/2013.

(2) If, in addition to the aforementioned bank, other Member State banks are subsidiaries of the same parent financial holding company, parent mixed financial holding company, EU parent financial holding company or EU parent mixed financial holding company, the Bank of Slovenia shall be competent and responsible for supervision on a consolidated basis, if that financial holding company or mixed financial holding company is established in the Republic of Slovenia.

(3) If a bank is the subsidiary of several financial holding companies or mixed financial holding companies established in the Republic of Slovenia or other Member States, and if another bank from those member states is also the subsidiary of each of those holding companies, the Bank of Slovenia shall be competent and responsible for supervision on a consolidated basis, if the total assets of the first bank exceeds the total assets of other subsidiary banks of other Member States.

(4) If, in addition to the aforementioned bank, other Member State banks are subsidiaries of the same financial holding company or mixed financial holding company, and none of the subsidiary banks have acquired authorisation to provide services in the home Member State of that financial holding company or mixed financial holding company, the Bank of Slovenia shall be competent and responsible for supervision of the bank on a consolidated basis, if the bank's total assets exceed the total assets of the subsidiary banks of other member states.

(5) Notwithstanding the provisions of the second, third and fourth paragraphs of this article, the Bank of Slovenia shall also be competent and responsible for supervision on a consolidated basis in cases where it assumed responsibility for such supervision based on an agreement with the competent authority of another Member State that was otherwise responsible for that supervision.

(6) Notwithstanding point 2 of the first paragraph of this article, the Bank of Slovenia shall not be competent and responsible for supervision on a consolidated basis, if:

1. a parent financial holding company or parent mixed financial holding company in the Republic of Slovenia or an EU parent financial holding company or an EU parent mixed financial holding company is an investment firm; or
2. another supervisory authority is competent and responsible for supervision on a consolidated basis of that investment firm.

**Article 292**  
**(transfer of authority for supervision on a consolidated basis)**

(1) In agreement with the competent authorities of other Member States, the Bank of Slovenia may transfer its authority and responsibility for supervision on a consolidated basis referred to in the second, third or fourth paragraph of the previous article to the competent authority of the home Member State of another subsidiary bank, if that is appropriate taking into account the activities of banks in other Member States.

(2) Before making the decision referred to in the previous paragraph, the Bank of Slovenia shall give the relevant EU parent bank, EU parent financial holding company, EU parent mixed financial holding company or subsidiary bank with the highest total assets the opportunity to make a statement in this regard.

(3) The Bank of Slovenia shall inform the Commission and the European Banking Authority of every transfer of authority for supervision on a consolidated basis referred to in the first paragraph of this article.

**Article 293**  
**(additional tasks relating to supervision on a consolidated basis)**

(1) If the Bank of Slovenia is the consolidating supervisor in accordance with Article 291 of this Act, in addition to its general supervisory tasks, it shall also carry out the following tasks:

1. coordination of the gathering and dissemination of essential information between competent authorities included in supervision on a consolidated basis in going-concern and emergency situations;
2. planning and coordination of supervisory tasks in going-concern situations, including supervision on a consolidated basis in cooperation with other competent authorities involved in that process; and
3. planning and coordination of supervisory tasks in cooperation with other competent authorities involved in that process, and, if necessary, with ESCB central banks, in preparation for and during emergency situations, including adverse developments at banks or on the financial markets, using existing channels of communication for effective crisis management.

(2) The planning and coordination of the supervisory tasks referred to in point 3 of the previous paragraph shall include the measures set out in Article 250 of this Act and the establishment of restrictions on the use of the Advanced Measurement Approach for the calculation of capital requirements for operational risk, the preparation of joint assessments, the implementation of contingency plans and communication to the public.

(3) If the Bank of Slovenia determines that competent authorities included in supervision on a consolidated basis do not perform their supervisory tasks to the extent set out in the first paragraph of this article or do not cooperate with the Bank of Slovenia to the extent required to perform the supervisory tasks set out in the first paragraph of this article appropriately, the Bank of Slovenia may refer the matter to the European Banking Authority and request its assistance in accordance with Article 19 of Regulation (EU) No 1093/2010.

(4) If the consolidating supervisor is the competent authority of another Member State and the Bank of Slovenia determines that the aforementioned authority does not perform the tasks relating to supervision on a consolidated basis set out in the first paragraph of this article appropriately, the Bank of Slovenia may refer the matter to the European

Banking Authority and request its assistance in accordance with Article 19 of Regulation (EU) No 1093/2010.

(5) The Bank of Slovenia may request the submission of financial or other reports in connection with a group or banking group, and may define the detailed content of reports and the method and deadline for their submission.

#### **Article 294** **(cooperation with other competent authorities in joint decisions)**

(1) During supervision on a consolidated basis, the Bank of Slovenia and other competent authorities shall strive to reach a joint decision on:

1. the assessment of capital adequacy on a consolidated basis for a banking group, taking into account its financial position and risk profile, and the required level of capital on the basis of the third paragraph of Article 250 of this Act, at each entity in the banking group and on a consolidated basis; and
2. measures to address any significant matters and material findings relating to liquidity supervision, taking into account the adequacy of the organisation and the management of liquidity risk referred to in Subsection 6.3.5 of this Act and the need for bank-specific liquidity requirements in accordance with the fifth paragraph of Article 250 of this Act.

(2) The Bank of Slovenia and other competent authorities shall strive to reach a joint decision:

1. within four months following the submission of the report of the consolidating supervisor containing a risk assessment of the banking group to other competent authorities, in the case referred to in point 1 of the previous paragraph; and
2. within one month following the submission of the report of the consolidating supervisor containing an assessment of the liquidity risk profile of the banking group to other competent authorities, in the case referred to in point 2 of the previous paragraph.

(3) In addition to a risk assessment of the banking group and an assessment of the liquidity risk profile of the banking group referred to in the previous paragraph, the joint decision referred to in the first paragraph of this article shall also include risk assessments of subsidiaries performed by the competent authorities involved.

(4) As consolidating supervisor, the Bank of Slovenia shall forward the justified joint decision referred to in the first paragraph of this article to the relevant EU parent bank.

(5) In connection with the joint decision set out in the first paragraph of this article or the decision of a competent authority in accordance with the sixth or seventh paragraph of this article, the Bank of Slovenia or any of the other competent authorities included in supervision on a consolidated basis may submit a request to the European Banking Authority in accordance with Article 19 of Regulation (EU) No 1093/2010 before the expiry of the deadline set out in the second paragraph of this article or at any time before the adoption of a decision by the competent authority concerned.

(6) The consolidating supervisor shall make a decision itself, if:

1. the joint decision referred to in the first paragraph of this article is not made by the deadline set out in the second paragraph of this article; or
2. the European Banking Authority does not make a decision within one month from the submission of the request set out in the previous paragraph.

(7) If the Bank of Slovenia adopts a decision in accordance with the previous paragraph as consolidating supervisor, it shall, at its own discretion, take into account risk



assessments of subsidiaries drawn up by the competent authorities involved. As consolidating supervisor, the Bank of Slovenia shall explain its decision in writing and forward it to the EU parent bank and competent authorities involved. That explanation shall include detailed reasons for the decision that take into account risk assessments of subsidiaries performed by the competent authorities involved, and the Bank of Slovenia's views regarding the opinions and reservations of other competent authorities.

(8) If a bank is part of a group subject to supervision by the competent authority of another Member State as the consolidating supervisor, the Bank of Slovenia shall adopt the decision referred to in the first paragraph of this article itself on an individual or sub-consolidated basis for a bank that is a subsidiary of an EU parent bank, EU parent financial holding company or EU parent mixed financial holding company, taking into account the joint decision and the opinions and reservations of the consolidating supervisor, whenever the joint decision referred to in the first paragraph of this article is not adopted by the deadline set out in the second paragraph of this article. The Bank of Slovenia shall explain its decision in writing and forward it to the bank and consolidating supervisor concerned. That explanation shall include detailed reasons for the decision that take into account the Bank of Slovenia's views regarding the opinions and reservations of the consolidating supervisor.

(9) If the request set out in the fifth paragraph of this article is submitted, the Bank of Slovenia shall halt the decision-making process set out in the seventh or eighth paragraph of this article until the European Banking Authority issues its own decision. If based on the third paragraph of Article 19 of Regulation (EU) No 1093/2010 the European Banking Authority adopts its own decision regarding the matter, the Bank of Slovenia shall take that decision into account in its decision based on the seventh or eighth paragraph of this article, and explain every major deviation from the European Banking Authority's decision. As consolidating supervisor, the Bank of Slovenia shall forward a justified decision to the EU parent bank and the competent authorities involved or to the subsidiary bank and consolidating supervisor concerned, if the Bank of Slovenia is a competent authority involved.

(10) As a competent authority involved in the supervision of a bank on an individual basis or sub-consolidated basis, the Bank of Slovenia shall treat the joint decision referred to in the first paragraph of this article and the decision of the consolidating supervisor referred to in the sixth paragraph of this article as final.

(11) As consolidating supervisor, the Bank of Slovenia shall ensure that the joint decision referred to in the first paragraph of this article and the decision referred to in the sixth and ninth paragraphs of this article is updated at least once a year. The Bank of Slovenia shall also ensure that the decision is updated whenever the authority responsible for the supervision of subsidiaries of an EU parent bank, EU parent financial holding company or EU parent mixed financial holding company submits a written and justified request to the Bank of Slovenia, as consolidating supervisor, to update that decision. In the case stated in the previous sentence, the updating of a decision may be based on a bilateral agreement between the Bank of Slovenia and the competent authority that submitted the request.

(12) If the consolidating supervisor is the competent authority of another Member State, the Bank of Slovenia may submit a written and justified request to update the joint decisions set out in the first paragraph of this article.

**Article 295**  
**(college of competent authorities and the Bank of Slovenia's participation in that college)**

(1) As consolidating supervisor, the Bank of Slovenia shall, based on the written arrangements set out in Article 298 of this Act, establish a college of competent authorities of Member States (hereinafter: college) to facilitate effective cooperation in the performance of the tasks set out in Articles 293, 294 and 296 of this Act.

(2) The college shall provide a framework for the consolidating supervisor and other competent authorities involved, including the European Banking Authority, to carry out their tasks and exercise their powers, in particular:

1. the exchange of information between members of the college, including the European Banking Authority, in accordance with Article 21 of Regulation (EU) No 1093/2010;
2. the drafting of agreements on the allocation of tasks and transfer of responsibilities between members of the college;
3. the definition of a supervisory examination programme based on the risk assessment of a banking group;
4. the prevention and elimination of duplicated supervisory requirements, including requests for the information set out in Article 297 and the third paragraph of Article 299 of this Act, for the purpose of improving the efficiency of supervision;
5. the consistent application of the prudential requirements set out in this Act and Regulation (EU) No 575/2013 across all entities of a banking group, without prejudice to the options and discretions available under this Act and Regulation (EU) No 575/2013; and
6. the performance of the tasks set out in point 3 of the first paragraph of Article 293 of this Act, taking into account the work of other forums established for that purpose.

(3) The following authorities may participate in the college: the competent authorities responsible for the supervision of subsidiaries of an EU parent bank, EU parent financial holding company or EU parent mixed financial holding company, and the competent authorities of the Member State in which the significant branches referred to in Article 286 of this Act are established, the European Banking Authority and ESCB central banks as appropriate, and the competent authorities of third countries (members of the college), if they are subject to confidentiality requirements that are equivalent to the obligation set out in Subsection 2.2.1 of this Act.

(4) The Bank of Slovenia shall chair the college set out in the first paragraph of this article, and perform the following activities, in particular:

1. make decisions regarding which competent authorities shall participate in an individual meeting and in the activities of the college;
2. inform members of the college about meetings and the main issues to be discussed, as well as decisions made at those meetings and activities carried out; and
3. inform the European Banking Authority about the activities of the college, including in emergency situations, and communicate to that authority information relevant for supervisory convergence.

(5) In chairing the college, the Bank of Slovenia shall take into account the potential impact of adopted decisions on supervision by other competent authorities involved, in particular the impact on the stability of the financial system in the Member States of those

competent authorities, especially in emergency situations. It shall also take into account the fulfilment of the obligations set out in the fifth paragraph of Article 281 of this Act.

(6) The establishment and functioning of the college shall not impact the competences and responsibilities of the Bank of Slovenia under this Act and Regulation (EU) No 575/2013.

(7) If, as consolidating supervisor, the competent authority of another Member State is responsible for establishing a college, the Bank of Slovenia shall participate in that college based on the written arrangements set out in Article 298 of this Act.

#### **Article 296** **(notification and information in emergency situations)**

(1) If an emergency situation, including a situation set out in Article 18 of Regulation (EU) No 1093/2010 or a situation of adverse developments on the markets, arises that could jeopardise market liquidity and the stability of the financial system in any of the Member States in which the entities of a banking group or the significant branches set out in Article 280 of this Act included in that group are established, the Bank of Slovenia shall, as consolidating supervisor and taking into account Article 18 of this Act, alert as soon as possible the European Banking Authority, the European Systemic Risk Board, the competent authorities of the Member States included in the supervision of that group, and the following authorities of each of those Member States when such information is deemed essential:

1. ESCB central banks, whenever such information is essential for the performance of their legally prescribed tasks, including the pursuit of monetary policy and the associated provision of liquidity, the oversight of payments and the functioning of clearing systems and settlement systems, and safeguarding the stability of the financial system; and
2. the ministry responsible for finance and the government authorities of other Member States responsible for the implementation of laws governing the supervision of credit institutions, financial institutions, investment firms or insurance undertakings.

(2) If the consolidating supervisor is the competent authority of another Member State, the Bank of Slovenia shall alert as soon as possible the consolidating supervisor and the other competent authorities of Member States included in the supervision of the banking group in question on a consolidated or sub-consolidated basis and the European Banking Authority that an emergency situation referred to in the first paragraph of this article has arisen.

#### **Article 297** **(obtaining information from other competent authorities)**

If the Bank of Slovenia, as consolidating supervisor, requires information that has already been provided to another competent authority, it shall obtain that information from the aforementioned competent authority, if possible, to prevent the duplication of reporting by banks to various competent authorities involved in supervision.

**Article 298**  
**(cooperation arrangements with competent authorities regarding supervision on a consolidated basis)**

(1) With the aim of ensuring effective supervision on a consolidated basis, the Bank of Slovenia and other competent authorities involved in that supervision shall conclude written coordination and cooperation arrangements.

(2) Under the arrangements referred to in the previous paragraph, additional tasks may be entrusted to the consolidating supervisor, and procedures for decision making and cooperation with other competent authorities may be defined.

(3) The Bank of Slovenia may, in accordance with Article 28 of Regulation (EU) No 1093/2010 and based on a bilateral agreement, delegate its powers and responsibilities for the supervision of a subsidiary bank to the competent authority of another Member State that issued authorisation and supervises the Member State parent bank concerned, such that the aforementioned competent authority assumes responsibility for the supervision of the subsidiary bank.

(4) If it is responsible for the supervision of a parent bank, the Bank of Slovenia may, in accordance with Article 28 of Regulation (EU) No 1093/2010 and based on a bilateral agreement with the competent authority of another Member State responsible for the supervision of a subsidiary bank, assume the powers and responsibilities for the supervision of that subsidiary bank. The Bank of Slovenia shall inform the European Banking Authority accordingly in such cases.

**Article 299**  
**(exchange of information with the competent authorities of Member States during supervision on a consolidated basis)**

(1) The Bank of Slovenia shall cooperate with the competent authorities of other Member States in connection with supervision on a consolidated basis and, taking into account Article 22 of this Act, provide those authorities information regarding:

1. the legal structure of a group and its governance structure, including the organisational structure, covering all regulated entities, non-regulated entities, non-regulated subsidiaries and significant branches belonging to the group, as well as parent undertakings, with a description of the internal governance structure in accordance with Article 128 of this Act, arrangements regarding close relationship and governance at subsidiaries in accordance with the fourth paragraph of Article 134 of this Act, and a list of all competent authorities of the regulated entities in the group;
2. the collection of information from institutions in a group and the verification of the accuracy of that information;
3. adverse developments at a bank or other entities in a group that could seriously affect the other banks in that group; and
4. significant measures imposed on a bank, including the requirement to provide capital set out in the third paragraph of Article 250 of this Act, and the imposition of any limitation on the use of the Advanced Measurement Approach for operational risk.

(2) When the Bank of Slovenia is responsible for the supervision of a bank controlled by an EU parent credit institution and requires information regarding the

implementation of approaches and methodologies set out in this Act and Regulation (EU) No 575/2013, it shall verify, where possible, whether that information is available from the consolidating supervisor, before addressing a request to the bank concerned for the submission of that information.

(3) If the consolidating supervisor or the competent authority of another Member State does not provide the Bank of Slovenia all of the essential information referred to in the first paragraph of this article or does not respond to a request to provide that information within a reasonable period of time, the Bank of Slovenia may refer the matter to the European Banking Authority in accordance with Article 19 of Regulation (EU) No 1093/2010.

### **Article 300**

#### **(consultation with the competent authorities of Member States included in supervision on a consolidated basis)**

(1) Before making any decision of importance for the performance of supervisory tasks by the competent authorities of other Member States, the Bank of Slovenia shall consult with those competent authorities with regard to the following:

1. changes in the shareholder, organisational or governance structure of a bank in a group that require the authorisation of the competent authority; and
2. significant measures that it intends to impose on a bank, including the requirement to provide capital set out in the third paragraph of Article 250 of this Act, and the imposition of any restriction on the use of the Advanced Measurement Approach for operational risk in accordance with the second paragraph of Article 312 of Regulation (EU) No 575/2013.

(2) In the cases referred to in point 2 of the previous paragraph, the Bank of Slovenia shall always consult with the consolidating supervisor.

(3) Notwithstanding the first and second paragraphs of this article, the Bank of Slovenia shall not be obliged to consult in advance, if the implementation of a measure is urgent or if such consultation could jeopardise the efficiency of planned measures. In such cases, the Bank of Slovenia shall inform the competent authority of the Member State concerned, without delay, of the adoption of a measure.

### **Article 301**

#### **(obligations of subsidiaries and a parent financial holding company or parent mixed financial holding company with regard to supervision on a consolidated basis)**

(1) Subsidiaries shall forward to the parent bank in a group or a bank that is controlled by a parent financial holding company or parent mixed financial holding company all information that the latter requires to fulfil its obligations on a consolidated basis.

(2) A parent financial holding company or parent mixed financial holding company shall forward to its subsidiary bank all information that the latter requires to fulfil its obligations on a consolidated basis.

(3) If a parent financial holding company or parent mixed financial holding company does not forward the information referred to in the previous paragraph to a bank, the latter shall inform the Bank of Slovenia accordingly without delay.

(4) Subsidiaries and the parent financial holding company or parent mixed financial holding company shall allow the Bank of Slovenia or another competent authority

responsible for supervision on a consolidated basis to review their operations for the purpose of verifying the information referred to in the first or second paragraph of this article.

(5) The obligations set out in the first to fourth paragraphs of this article shall also arise if the parent bank, parent financial holding company, mixed financial holding company or bank that is a subsidiary of the parent financial holding company or mixed financial holding company is not established in the Republic of Slovenia.

(6) An undertaking that is a subsidiary of a bank, financial holding company or mixed financial holding company, but is not included in the supervision of that bank, financial holding company or mixed financial holding company on a consolidated basis, shall:

1. submit to the competent authority responsible for the supervision of that bank, financial holding company or mixed financial holding company on a consolidated basis, at the former's request, all information that the competent authority requires for the supervision of individual banks in the banking group; and
2. allow the competent authority to review that undertaking's operations for the purpose of verifying the information referred to in the previous point.

(7) If the undertaking referred to in the previous paragraph is an insurance undertaking or investment firm, information may also be obtained and verified through cooperation with the supervisory authorities referred to in Article 306 of this Act.

(8) If the undertaking referred to in the sixth paragraph of this article is established in another Member State, the review of operations set out in point 2 of the sixth paragraph of this article may also be performed in the manner set out in Article 308 of this Act.

(9) If a subsidiary bank is not included in supervision on a consolidated basis in accordance with one of the cases set out in Article 19 of Regulation (EU) No 575/2013, the Bank of Slovenia may request information from the parent undertaking to facilitate the supervision of the subsidiary bank.

## **Article 302**

### **(fulfilment of obligations on a consolidated basis in connection with a mixed financial holding company)**

(1) If a mixed financial holding company is subject to equivalent provisions under this Act and the ZFK, in particular in terms of risk-management supervision, the Bank of Slovenia, as consolidating supervisor, may apply only the relevant provisions of the ZFK to that mixed financial holding company, after consulting with the other competent authorities or supervisory authorities responsible for the supervision of subsidiaries.

(2) If a mixed financial holding company is subject to equivalent provisions under this Act and the law governing the insurance industry, in particular in terms of risk-management supervision, the Bank of Slovenia, as consolidating supervisor, may, in agreement with the authority responsible for the supervision of an insurance group, apply to that mixed financial holding company only the relevant provisions of the ZFK governing the banking sector as the most significant in the financial sector of a financial conglomerate, as set out in Articles 9 and 10 of the ZFK.

(3) As consolidating supervisor, the Bank of Slovenia shall inform the European Banking Authority and the European Insurance and Occupational Pensions Authority about decisions adopted on the basis of the first and second paragraphs of this article.

**Article 303**  
**(obligations of a mixed-activity holding company and its subsidiaries with regard to supervision)**

(1) If the parent undertaking of one or more banks is a mixed-activity holding company, the latter and its subsidiaries shall provide subsidiary banks, the Bank of Slovenia and other competent authorities all relevant information for the supervision of those subsidiary banks.

(2) A parent mixed financial holding company and its subsidiaries shall allow the Bank of Slovenia or another competent authority responsible for the supervision of subsidiary banks to review their operations for the purpose of verifying the information referred to in the previous paragraph.

(3) If a mixed-activity holding company or one of its subsidiaries is established in another Member State, the verification of information shall be carried out in accordance with Article 308 of this Act.

**Article 304**  
**(supervision of transactions between a mixed-activity holding company and its subsidiaries)**

(1) If the parent undertaking of one or more banks is a mixed-activity holding company, the Bank of Slovenia, in the scope of its powers and responsibilities for the supervision of those banks, shall also be responsible for the supervision of transactions between those banks and the mixed-activity holding company and its other subsidiaries.

(2) In the case referred to in the previous paragraph, a bank shall establish and consistently implement appropriate internal risk management processes and internal control mechanisms, including sound reporting and accounting procedures, with the aim of identifying, measuring, monitoring and controlling transactions with the parent mixed-activity holding company and its subsidiaries.

(3) A bank shall report to the Bank of Slovenia all significant transactions with a mixed-activity holding company and its other subsidiaries that are not included in reporting based on Article 394 of Regulation (EU) No 575/2013.

(4) The Bank of Slovenia may prescribe in detail the method, content and frequency of reporting set out in the previous paragraph.

**Article 305**  
**(exchange of information for the purpose of supervision on a consolidated basis)**

If a parent undertaking or any of its subsidiary banks are established in different Member States, the Bank of Slovenia and the competent authorities of those Member States shall exchange all relevant information that may facilitate or aid supervision on a consolidated basis.

#### **Article 306**

##### **(cooperation between competent authorities, if one of the subsidiaries is an insurance undertaking or investment firm)**

(1) If a bank, financial holding company, mixed financial holding company or mixed-activity holding company controls one or more subsidiaries that are insurance undertakings or other undertakings that provide investment services that have acquired authorisation to provide services, the Bank of Slovenia shall also cooperate with authorities responsible for the supervision of those undertakings.

(2) The Bank of Slovenia shall exchange all information with the supervisory authorities referred to in the previous paragraph that may simplify their tasks and facilitate supervision of the operations and overall financial position of the undertakings they supervise.

(3) If a mixed-activity holding company or its subsidiary is an insurance undertaking, the review of operations referred to in the second paragraph of Article 303 of this Act shall be carried out in cooperation with the authority responsible for the supervision of that insurance undertaking.

#### **Article 307**

##### **(list of parent financial holding companies and parent mixed financial holding companies)**

The Bank of Slovenia shall make lists of parent financial holding companies or parent mixed financial holding companies in the Republic of Slovenia referred to in Article 11 of Regulation (EU) No 575/2013, and communicate those lists to the competent authorities of other Member States, the European Banking Authority and the Commission.

#### **Article 308**

##### **(review of operations for the purpose of verifying information)**

(1) If, for the purpose of supervision for which it is responsible under this Act or Regulation (EU) No 575/2013, the Bank of Slovenia wishes to verify information concerning a bank, financial holding company, mixed financial holding company, financial institution, ancillary services undertaking, mixed-activity holding company or a subsidiary referred to in the first paragraph of Article 303 of this Act that is established in another Member State, it shall ask the competent authority of that Member State to conduct a review of the operations of the undertaking in question with the aim of verifying that information, or allow the Bank of Slovenia to conduct that review itself.

(2) A competent authority responsible for supervision on a consolidated basis or supervision of a Member State bank may, for the purpose of verifying information concerning a bank, financial holding company, mixed financial holding company, financial institution, ancillary services undertaking, mixed-activity holding company or a subsidiary referred to in the first paragraph of Article 303 of this Act that is established in the Republic of Slovenia, conduct a review of that undertaking. The competent authority of that Member State shall inform the Bank of Slovenia in advance of its intent to review operations as set out in the previous sentence. The Bank of Slovenia may participate in that review.



(3) In the case referred to in the previous paragraph, the competent authority of a Member State or the persons authorised by that competent authority shall have the same competences as the Bank of Slovenia based on Article 248 of this Act.

(4) At the request of the competent authority of a Member State, the Bank of Slovenia shall conduct a review of the operations of the undertaking referred to in the second paragraph of this article. If it so requests, the competent authority of the Member State may participate in the review referred to in the previous sentence.

### **Article 309** **(management staff of a parent financial holding company or parent mixed financial holding)**

(1) A parent financial holding company or parent mixed financial holding company shall ensure that the members of its management staff are of sufficiently good repute and possess the experience to manage that undertaking's operations.

(2) Unless proven otherwise, the members of the management staff of a parent financial holding company or parent mixed financial holding company shall be deemed to be of sufficiently good repute and possess the experience to manage that undertaking's operations, if each member fulfils the following conditions:

1. they possess the requisite traits and experience to manage the operations of a financial corporation or an undertaking of similar size and activity to those of a financial corporation, or other similar transactions; and
2. they have not been convicted of a criminal offence and they have not been charged with a criminal offence prosecuted *ex officio* and for which a prison sentence of a year or more may be imposed.

### **Article 310** **(measures imposed on a financial holding company, a mixed financial holding company or a mixed-activity holding company)**

(1) If a financial holding company, mixed financial holding company or mixed-activity holding company breaches its obligations set out in Section 9.3 of this Act, the Bank of Slovenia shall issue an order against that holding company and/or its management staff. The provisions of Chapter 8 of this Act governing measures imposed on a bank and on the members of a bank's management board shall apply *mutatis mutandis* to the measures referred to in the previous sentence.

(2) If a financial holding company, mixed financial holding company or mixed-activity holding company is established in another Member State, the Bank of Slovenia shall inform the competent authority or supervisory authority of that Member State with regard to the breaches of obligations referred to in the previous paragraph and the measures adopted.

(3) When imposing measures aimed at rectifying identified breaches or the causes of such breaches by a financial holding company, mixed financial holding company or mixed-activity holding company, the Bank of Slovenia shall cooperate with the competent authorities or supervisory authorities of other Member States.

#### **Article 311**

##### **(supervision in the event a parent undertaking is established in a third country)**

(1) If a bank that is a subsidiary of another bank or a financial holding company or mixed financial holding company established in a third country is not subject to supervision on a consolidated basis for which the Bank of Slovenia is responsible in accordance with Article 291 of this Act or for which the competent authority of another Member State is responsible, the Bank of Slovenia shall, at the request of the parent undertaking or other regulated entity within the banking group or on its own initiative, assess whether that bank is subject to supervision on a consolidated basis by the competent authority of that third country that is equivalent to supervision on a consolidated basis in accordance with this Act or Chapter 2 of Title II of Part 1 of Regulation (EU) No 575/2013.

(2) During the verification referred to in the previous paragraph, the Bank of Slovenia shall take into account any general guidance issued by the European Banking Committee regarding consolidated supervision arrangements with the supervisory authorities of a third country, and shall consult with the European Banking Authority and the other competent authorities of Member States included in the supervision of group entities.

(3) In the absence of such equivalent supervision on a consolidated basis in a third country, the provisions of this Act and Regulation (EU) No 575/2013 shall apply *mutatis mutandis* to the bank referred to in the first paragraph of this article, or the Bank of Slovenia shall define and apply other appropriate supervisory procedures and measures that achieve the purpose of supervision of that bank on a consolidated basis. In particular, the Bank of Slovenia may require the establishment of a financial holding company or mixed financial holding company in the European Union, and shall apply rules on consolidated supervision to the consolidated position of that financial holding company or mixed financial holding company.

(4) Following prior consultation with the other competent authorities of Member States included in supervision, the competent authority of the Member State that would be responsible for supervision on a consolidated basis shall agree with the supervisory procedures and measures referred to in the previous paragraph.

(5) The Bank of Slovenia shall inform the other competent authorities of Member States involved, the European Banking Authority and the Commission about the supervisory procedures and measures referred to in the third paragraph of this article.

#### **Article 312**

##### **(exclusion of responsibility for supervision on an individual basis)**

None of the Bank of Slovenia's powers set out in Section 9.3 of this Act vis-à-vis financial holding companies, mixed financial holding companies, financial institutions, ancillary services undertakings and other undertakings that are not banks shall imply that the Bank of Slovenia is responsible for the supervision of such undertakings on an individual basis.

## 9.4 Supervision of other persons

### Article 313

#### **(order on the cessation of the activity of accepting deposits from the public and the performance of other activities as a bank)**

(1) If an entity accepts deposits from the public in contravention of the prohibition set out in Article 96 of this Act, the Bank of Slovenia shall issue an order requiring that entity to cease the aforementioned activity (hereinafter: order on the cessation of the activity of accepting deposits from the public).

(2) Before issuing an order on the cessation of the activity of accepting deposits from the public, the Bank of Slovenia may conduct a review of an entity's books of account and other documentation, conduct a review of operations and collect other evidence to determine whether that entity accepts deposits from the public. The provision of Articles 240 to 247 of this Act shall apply *mutatis mutandis* to the collection of information and review of a legal person's operations.

(3) In its order on the cessation of the activity of accepting deposits from the public, the Bank of Slovenia shall require an entity to submit, by a deadline that shall not be shorter than eight days or longer than 15 days, a report in which that entity shall describe the measures it has implemented in connection with the cessation of the collection of deposits from the public and in which that entity may make a statement regarding the grounds for the issue of that order. The entity's report shall include evidence from which it is clear that it has implemented measures in connection with the cessation of the collection of deposits from the public.

(4) If an entity that has not obtained authorisation to provide banking services presents itself as a bank in the provision of services and this is not a case covered by the second paragraph of Article 26 of this Act, the Bank of Slovenia shall issue an order requiring that entity to cease such conduct (hereinafter: order on the cessation of the performance of activities as a bank).

(5) The second and third paragraphs of this article shall apply *mutatis mutandis* to an order on the cessation of the performance of activities as a bank.

(6) If, in connection with an entity that did not obtain authorisation to provide banking services, the Bank of Slovenia determines that the circumstances referred to in the first or fourth paragraph of this article exist, but that the entity in question rectified the breaches prior to the issue of the order referred to in the first or fourth paragraph of this article, the Bank of Slovenia may issue a declaratory decision, under the conditions set out in the eighth paragraph of this article, finding that the aforementioned entity breached the provisions of this Act and that it rectified identified breaches.

(7) The Bank of Slovenia shall issue the declaratory decision referred to in the previous paragraph if, given the nature and significance of the breaches referred to in the first or fourth paragraph of this article for ensuring the legal certainty and protection of depositors, the issue of such a decision and the publication of the information based on Article 277 of this Act contributes significantly to improving the governance practices of

banks and to preventing conduct that would result in a breach of the duties of members of banks' governing bodies.

(8) Prior to issuing the declaratory decision referred to in the sixth paragraph of this article, the Bank of Slovenia shall inform the person responsible for breaches in writing of its findings in connection with breaches referred to in the first or fourth paragraph of this article and of its intent to issue a declaratory decision on the rectification of breaches, and shall call on that person to issue a statement regarding the facts and circumstances relevant for a decision to issue a declaratory decision on the rectification of breaches.

**Article 314**  
**(decision finding reasons to initiate compulsory liquidation proceedings against a legal person)**

(1) If a legal person does not comply with the order referred to in the first or fourth paragraph of the previous article, the Bank of Slovenia shall issue a decision finding that reasons exist to initiate compulsory liquidation proceedings against that entity (hereinafter: decision finding reasons to initiate compulsory liquidation proceedings). The Bank of Slovenia may also issue the decision referred to in the previous sentence if a legal person does not allow an authorised representative of the Bank of Slovenia to conduct a review or if it impedes the supervision referred to in the second paragraph of the previous article in any other way.

(2) A decision finding reasons to initiate compulsory liquidation proceedings shall be justified.

(3) Based on a final decision finding reasons to initiate compulsory liquidation proceedings, the Bank of Slovenia shall propose that the competent court initiate compulsory liquidation proceedings against a legal person in accordance with the law governing the compulsory winding up of undertakings.

(4) The court shall issue a decision on the initiation of compulsory liquidation proceedings against a legal person based on the Bank of Slovenia's proposal referred to in the previous paragraph, without re-examining the conditions for the initiation of those proceedings, within three working days from the submission of the aforementioned proposal.

(5) No appeal shall be lodged against the decision on the initiation of compulsory liquidation proceedings referred to in the previous paragraph.

(6) The Bank of Slovenia shall be exempt from the payment of fees in compulsory liquidation proceedings initiated at the former's proposal referred to in the third paragraph of this article.

**CHAPTER 10:**  
**SAVINGS BANKS**

**Article 315**  
**(application of provisions governing banks)**

(1) The provisions of the other chapters of this Act governing banks shall apply to savings banks, unless otherwise specified in Chapter 10 of this Act.

(2) A savings bank may transfer internal audit tasks by contract to another entity that meets the conditions for the performance of these tasks.

#### **Article 316 (activities of savings banks)**

A savings bank may take up foreign exchange transactions after it has obtained the relevant authorisation in accordance with this Act.

#### **Article 317 (initial capital)**

The minimum amount of a savings bank's initial capital shall be EUR 1,000,000.

### **CHAPTER 11: OUT-OF-COURT SETTLEMENT OF DISPUTES**

#### **Article 318 (settlement of disputes between service providers and clients)**

(1) Banks shall offer clients the possibility of the out-of-court settlement of disputes in connection with banking services before an independent entity.

(2) A bank that authorises an independent entity to settle disputes in accordance with the previous paragraph shall publish, on its website and in a visible position in all premises in which it transacts with clients, information regarding the entity authorised to settle disputes, the form and composition of the body responsible for the settlement of disputes at that authorised entity, and the decision-making method and procedures of the aforementioned body.

### **CHAPTER 12: BANK OF SLOVENIA'S DECISION-MAKING PROCEDURE IN SPECIFIC MATTERS AND JUDICIAL PROTECTION PROCEEDINGS**

#### **12.1 General provisions**

#### **Article 319 (application of provisions governing procedures)**

(1) The Bank of Slovenia shall make decisions regarding specific matters for which it is competent under this Act and Regulation (EU) No 1024/2013, and shall perform procedural acts in procedures for which the European Central Bank is competent in accordance with Regulation (EU) No 1024/2013, pursuant to the procedure set out in Chapter 12 of this Act, unless otherwise specified for a specific type of procedure by this Act, Regulation (EU) No 1024/2013 or regulations issued on the basis thereof.

(2) Unless otherwise specified by this Act, the provisions of the ZUP shall apply to the Bank of Slovenia's decision-making procedure.

**Article 320**  
**(conducting procedures and decision-making authorisations)**

(1) The Governing Board of the Bank of Slovenia shall make decisions as a collegiate body with regard to matters for which the Bank of Slovenia is competent under this Act or Regulation (EU) No 1024/2013.

(2) The procedure until the issue of a decision shall be conducted by a Bank of Slovenia expert who meets the conditions set out in Article 31 of the ZUP and who is authorised by the Governing Board of the Bank of Slovenia for that purpose.

**Article 321**  
**(statements by parties to procedures)**

(1) Parties shall make their statements in writing.

(2) Parties may also make an oral statement at a hearing in the case set out in the second paragraph of Article 324 of this Act.

**Article 322**  
**(opportunity to make a statement)**

(1) Before issuing a decision *ex officio*, the Bank of Slovenia shall call on the party in question to make a statement of the facts and circumstances material to that decision, if in a particular case the party was not given another opportunity to make a statement regarding the facts and circumstances.

- (2) The call referred to in the preceding paragraph shall contain the following:
1. an explicit statement of the facts and circumstances regarding which the party should make a statement, and evidence from which those facts are clear;
  2. the deadline for making a statement that shall not be shorter than eight days; and
  3. instruction to the party in question that its statement shall be accompanied by documentary evidence, if referenced, and that it shall have no right to cite new facts or to produce new evidence after the deadline for making its statement has passed.

(3) In its statement, the party in question may provide facts from which it is clear that the facts and circumstances stated in the call referred to in the first paragraph of this article do not exist, and may present evidence proving the existence of the asserted facts. If the party references documentary evidence in its statement, that statement shall be accompanied by the aforementioned evidence.

(4) If documentary evidence does not accompany a statement, the provisions governing incomplete applications shall not apply; instead the Bank of Slovenia shall only take into account that evidence accompanying that statement when making its decision.

(5) After the deadline for making a statement has passed, a party shall have no right to cite new facts or to produce new evidence.

### **Article 323 (service)**

(1) In procedures under this Act, the service of a legal person or sole trader shall be carried out, such that documents shall be served on a person authorised to receive such documentation or, if no such person exists, another employee found in the office or business premises.

(2) The members of a bank's management board and supervisory board shall be served by serving the bank. The members of a bank's management board and supervisory board shall be deemed served when the bank is served.

(3) When a party to a procedure is represented by an attorney, that party shall be deemed served if the document in question is served on that attorney or an employee in the law office.

### **Article 324 (hearing)**

(1) The Bank of Slovenia shall handle matters without a hearing.

(2) Notwithstanding the previous paragraph, the Bank of Slovenia shall call an oral hearing in the following cases:

1. if necessary to question witnesses or experts;
2. if the procedure involves two or more parties with conflicting interests;
3. if an oral interview is required in accordance with Article 41 of this Act; or
4. in other cases when deemed useful to clarify a matter.

### **Article 325 (types of decisions)**

(1) The Bank of Slovenia shall adopt decisions in the form of decisions, resolutions and orders (hereinafter: acts).

(2) The Bank of Slovenia shall issue decisions to issue or withdraw authorisations and regarding other matters, except those that are subject to resolutions or orders according to the law.

(3) The Bank of Slovenia shall adopt resolutions regarding matters relating to a procedure or that arise in connection with a procedure.

(4) Unless otherwise stipulated by this Act or another law, acts issued by the Bank of Slovenia shall be justified.

(5) The operational part of an act set out in the first paragraph of this article shall include:

1. personal data of the subject of supervision when the latter is a natural person (full name, personal ID number, or, if the natural person is a non-resident, their birth-related data, citizenship, temporary or permanent residence, etc.), or the company name, registered office and registration number for a legal person, and if that data is not available, data

- regarding the subject of supervision that were stated or determined during a procedure; and
2. a brief description of the facts and circumstances indicating a breach of the regulations referred to in the second paragraph of Article 9 of this Act (place and time the regulations were breached, manner in which the regulations were breached and decisive circumstances regarding the breach), with an indication of the regulation that sets out the obligation or requirement that was breached.

(6) The justification of a decision or resolution that concludes the Bank of Slovenia's decision-making procedure shall include a brief statement from the subject of supervision regarding its actions whenever, in accordance with this Act, that subject is called on to make a statement. It shall also include the facts and evidence on which a decision was based.

(7) Information on available legal remedies shall include information on the right to legal remedy, the deadline and method for the filing of legal remedy and an indication of the authority with which the legal remedy is to be filed.

#### **Article 326** **(legal remedy in Bank of Slovenia procedures)**

(1) An appeal against an order may be filed in the cases and under the conditions set out by this Act.

(2) No appeals shall be allowed against acts issued by the Bank of Slovenia in accordance with this Act.

(3) A request for *restitutio ad integrum* shall not be permitted in the Bank of Slovenia's decision-making process.

(4) Judicial protection against acts issued by the Bank of Slovenia in accordance with this Act shall be provided for in the proceedings set out in this Act (hereinafter: judicial protection proceedings).

#### **Article 327** **(enforceability)**

(1) Bank of Slovenia decisions shall become enforceable when they become final, while decisions that impose fines or financial obligations on a bank shall become enforceable when they enter into legal force.

(2) Bank of Slovenia orders cannot be forcibly executed.

#### **Article 328** **(review of documents and access to confidential data)**

(1) The subject of supervision shall have the right to review documents regarding a matter in the Bank of Slovenia's decision-making procedure, and shall transcribe or copy documents in physical or electronic form at its own expense. The review, transcription and copying of documents shall be overseen by an appointed official.

(2) The right referred to in the previous paragraph may also be exercised by anyone likely to demonstrate they enjoy a legal benefit from that right.



(3) The review and transcription of documents in accordance with the first and second paragraphs of this article shall be requested in writing. If the Bank of Slovenia has doubts about the aforementioned request, it may require the person referred to in the previous paragraph to justify its legal benefit in writing and submit the appropriate evidence.

(4) If documents were used during a procedure that contain data deemed to be a trade secret relating to a person who is not the subject of supervision in the procedure in question, the Bank of Slovenia shall call on the person to whom that data relate to identify, by a specific deadline, the data in the documents in question that it deems to be confidential and provide justification for the treatment of that data as such. Prior to disclosing those documents, the Bank of Slovenia shall blackout personal data and the other confidential data referred to in the first sentence.

(5) A document shall be disclosed to the person referred to in the first and second paragraphs of this article, without the personal or other confidential data referred to in the previous paragraph, to an extent that takes into account the legal interests of persons who are not the subject of supervision during Bank of Slovenia's procedures. The right referred to in the first and second paragraphs of this article shall not include the right to access confidential information, unless the conditions set out in Subsection 2.2.1 of this Act regarding the disclosure to and use of confidential information by the person referred to in the first and second paragraphs of this article are met.

(6) If, in connection with the request of a subject of supervision or other person to review documents in a specific matter, the conditions referred to in the first to fifth paragraphs of this article are not met, the Bank of Slovenia shall issue a decision rejecting that request. The subject of supervision or other person who requested to review documents in a specific matter may initiate judicial protection proceedings in accordance with this Act against a decision rejecting a request.

(7) In its tariff, the Bank of Slovenia shall set the fees that it shall charge the person referred to in the first and second paragraphs of this article for the review, transcription and copying of documents. That fee shall reflect the actual costs incurred in connection with those actions.

## **12.2 Decisions regarding the issue of authorisations and consents**

### **Article 329 (application of provisions)**

(1) The provisions of Section 12.2 of this Act shall apply to decisions regarding the issue of authorisations and consents (hereinafter: authorisations) made by the Bank of Slovenia on the basis of this Act and Regulation (EU) No 575/2013, unless otherwise specified by this Act for a specific procedure to issue authorisation.

(2) The provisions of Section 12.1 of this Act shall apply to decisions to issue authorisation, unless otherwise specified by Section 12.2 of this Act.

### **Article 330 (fees for decisions)**

(1) Applicants or the recipients of authorisations shall pay the fees set out in the Bank of Slovenia's tariff for decision regarding requests submitted to the Bank of Slovenia for

authorisations issued on the basis of this Act or Regulation (EU) No 575/2013 and for decisions regarding authorisations issued *ex officio* by the Bank of Slovenia.

(2) When the Bank of Slovenia is responsible for specific activities in decisions regarding matters for which the European Central Bank is responsible on the basis of Regulation (EU) No 1024/2013, the Bank of Slovenia shall set a fee in its tariff for the actions it performs in such procedures.

### **Article 331** **(parties to decisions regarding a request to issue authorisation)**

(1) The person who submits a request to issue authorisation shall be a party to the associated procedure (hereinafter: applicant).

(2) Members of a bank's supervisory board and the holders of qualifying holdings may also be parties to the procedure to issue authorisation to a bank, if so decided by the Bank of Slovenia because such participation is crucial or appropriate to achieve the objectives of supervision of that bank in accordance with this Act or Regulation (EU) No 1024/2013 and, if based on the Bank of Slovenia's call, that person confirms their participation in that procedure in writing by a specific deadline. A member of the supervisory board or a qualifying holder who is entitled to participate in procedures in accordance with this Act may be present or briefed on activities, but shall not be entitled to carry out activities independently in procedures.

(3) A bank, another member of the management board, another member of the supervisory board or another qualifying holder may also be party to the procedure to issue authorisation to a member of the management board, member of the supervisory board or a qualifying holder, if so decided by the Bank of Slovenia because such participation is crucial or appropriate to achieve the objectives of supervision of that bank in accordance with this Act or Regulation (EU) No 1024/2013 and, if based on the Bank of Slovenia's call, that person confirms their participation in that procedure in writing by a specific deadline. A person who is entitled to participate in procedures in accordance with this Act may be present or briefed on activities, but shall not be entitled to carry out activities independently in procedures.

(4) In addition to the subject of supervision and the parties set out in the second and third paragraphs of this article, a person who the Bank of Slovenia invites to participate based on the proposal of the subject of supervision may also be party to the procedure to issue authorisation, if it is determined that their legal interests could be affected by the issue of that authorisation. A person who is entitled to participate in procedures in accordance with this paragraph may make a written statement in procedures, but shall not be entitled to perform other procedural acts independently in procedures until the issue of a decision on a request to issue authorisation.

(5) The provisions of Article 43, 44, 45, 142 and 143 of the ZUP shall not apply in the supervisory process and the issue of supervisory measures with respect to participants.

(6) Article 328 of this Act shall apply to the persons referred to in the second to fourth paragraphs of this article as regards the review of documents in a specific matter and access to confidential information and data. A decision or resolution that concludes the Bank of Slovenia's decision-making procedure shall be served on those persons in such a way that the data and information to which those persons are not entitled shall be blacked out.

(7) Each party shall bear their own costs of procedures.

**Article 332**  
**(initiation of procedures)**

(1) The Bank of Slovenia's decision-making procedure shall be initiated with the submission of a request to issue authorisation to the Bank of Slovenia (hereinafter: request).

(2) The Bank of Slovenia shall initiate the procedure to issue authorisation *ex officio* or at the proposal of another competent authority, only when so provided by the law, Regulation (EU) No 575/2013, Regulation (EU) No 1024/2013 or other EU regulations.

**Article 333**  
**(content of a request)**

(1) A request to issue authorisation submitted to the Bank of Slovenia shall include:

1. personal data regarding the applicant;
2. a specific request to issue authorisation or consent; and
3. other data required by the law, Regulation (EU) No 575/2013 or Regulation (EU) No 1024/2013 and regulations issued on the basis thereof.

(2) A request shall be accompanied by documents required by the law or a regulation, and other documents justifying the request to issue authorisation, as well as proof of payment of the fee for the relevant decision.

**Article 334**  
**(procedural conditions for the decision-making procedure)**

(1) During the preliminary examination of a request, the Bank of Slovenia shall examine whether the following procedural conditions for a decision regarding a request have been met:

1. whether the request was submitted by an eligible person;
2. whether the request contains all required data;
3. whether the request was accompanied by the prescribed documents;
4. whether the request was accompanied by proof of payment of the fee for the Bank of Slovenia's work; and
5. whether other procedural conditions required for a decision regarding every request have been met.

(2) If the Bank of Slovenia finds that the procedural conditions for a decision regarding a request have not been met, and the associated deficiencies cannot be eliminated, it shall issue a resolution rejecting the request.

(3) If the Bank of Slovenia finds that the procedural conditions for a decision regarding a request have not been met, and the associated deficiencies can be eliminated, it shall call on the applicant to eliminate those deficiencies by a deadline that shall not be shorter than eight days or longer than 15 days.

(4) If the applicant does not eliminate the deficiencies by the deadline set out in the resolution on the elimination of deficiencies, the Bank of Slovenia shall issue a resolution rejecting the request.

(5) A resolution on the elimination of deficiencies shall not be referred for special judicial protection.

(6) If a request relates to the issue of authorisation to provide banking services or relates to a merger or demerger, the Bank of Slovenia shall issue a resolution to eliminate deficiencies within two months from the receipt of the request, or within one month from the receipt of the request in other cases.

### **Article 335** **(collection of evidence and decision-making)**

(1) When making a decision regarding a request, the Bank of Slovenia may also collect evidence that was not provided by an applicant, if that evidence is required to determine the facts relevant to that decision. To that end, the Bank of Slovenia may require that the applicant:

1. submit additional data or documents by a deadline that shall not be shorter than eight days; and
2. facilitate a review of the applicant's operations.

(2) The provisions of Articles 242 to 247 of this Act shall apply *mutatis mutandis* to the review of operations referred to in point 2 of the previous paragraph.

(3) The Bank of Slovenia shall reject a request, if the applicant:

1. fails to submit the required data or documents by the deadline set out in the request referred to in point 1 of the first paragraph of this article; or
2. refuses the Bank of Slovenia's request referred to in point 2 of the first paragraph of this article or in any other way impedes the review of operations.

### **Article 336** **(opportunity to provide a statement regarding the rejection of a request to issue authorisation)**

(1) If the Bank of Slovenia intends to reject a request to issue authorisation based on the facts or evidence that was not provided by an applicant, it shall give the applicant the opportunity to provide a statement regarding the facts and circumstances relevant to the decision, prior to the issue of that decision to reject the request.

(2) The first to fifth paragraphs of Article 322 of this Act shall apply *mutatis mutandis* to the opportunity to provide a statement referred to in the previous paragraph, the difference being that the deadline for providing a statement shall not be shorter than 15 days.

### **Article 337** **(deadline for decisions)**

(1) The Bank of Slovenia shall make a decision within six months from the receipt of a request to issue authorisation:

1. to provide banking, financial and ancillary financial services; and
2. for a merger or demerger.

(2) The Bank of Slovenia shall make a decision regarding a request to issue other authorisations and consents within three months from the receipt of such a request, unless this Act, Regulation (EU) No 575/2013 or another regulation explicitly provides for a different deadline for a decision regarding a specific authorisation or consent.

(3) If the Bank of Slovenia has called on a party to eliminate deficiencies in accordance with the sixth paragraph of Article 334 of this Act, the deadline set out in the first

or second paragraph of this article shall apply from the moment those deficiencies were eliminated.

(4) If, prior to the expiry of the deadline set out in the first paragraph of this article, the Bank of Slovenia called on an applicant to make a statement regarding reasons for the rejection of its request, in accordance with Article 336 of this Act, the deadline set out in the first or second paragraph of this article shall not apply from the service of the Bank of Slovenia's call until the expiry of the deadline for the submission of the aforementioned statement, or until the receipt of that statement, if it was submitted by the deadline set out in the call.

### **12.3 Supervisory process**

#### **12.3.1 General provisions**

#### **Article 338 (application of provisions)**

(1) The provisions of Section 12.3 of this Act governing the supervisory process shall apply to all supervisory processes carried out by the Bank of Slovenia in accordance with this Act or another law, unless otherwise specified by the law for a specific supervisory process.

(2) The provisions of Section 12.1 of this Act shall apply to the supervisory process, unless otherwise specified by Section 12.3 of this Act.

(3) The third paragraph of Article 20 and the second paragraph of Article 23 of the ZIN shall apply *mutatis mutandis* to the supervisory process.

#### **Article 339 (parties to the supervisory process and the issue of supervisory measures)**

(1) A party to the supervisory process and the issue of supervisory measures shall be a subject of supervision by the Bank of Slovenia in accordance with this Act and Regulation (EU)

No 1024/2013.

(2) A member of a bank's supervisory board may also be party to the supervision of a bank, if so decided by the Bank of Slovenia because such participation is crucial or appropriate to achieve the objectives of supervision of that bank in accordance with this Act or Regulation (EU) No 1024/2013 and, if based on the Bank of Slovenia's call, that person confirms their participation in the process in writing by a specific deadline. A member of the supervisory board who is entitled to participate in the supervisory process in accordance with this Act may be present or briefed on activities in the supervisory process, make a statement and provide evidence, but shall not be entitled to carry out activities independently in the supervisory process.

(3) In addition to the subject of supervision and the parties set out in the previous paragraph, a person who the Bank of Slovenia invites to participate based on the proposal of the subject of supervision may also be party to the supervisory process, if it is determined that their legal interests could be affected by a supervisory measure. A person who is entitled

to participate in the issue of supervisory measures in accordance with this paragraph may make a written statement or provide evidence, but shall not be entitled to perform other procedural acts independently until the issue of a Bank of Slovenia act imposing such supervisory measures.

(4) The provisions of Article 43, 44, 45, 142 and 143 of the ZUP shall not apply in the supervisory process and the issue of supervisory measures with respect to participants.

(5) Article 328 of this Act shall apply to the persons referred to in the third and fourth paragraphs of this article as regards the review of documents in a specific matter and access to confidential information and data. Acts issued in relation to the imposition of supervisory measures shall be served on those persons in such a way that the data and information to which those persons are not entitled shall be blacked out.

#### **Article 340** **(conducting the supervisory process and imposing supervisory measures)**

(1) The Bank of Slovenia shall conduct the supervisory process and impose supervisory measures *ex officio*.

(2) The Bank of Slovenia shall initiate the supervisory process with respect to another person referred to in Article 12 of this Act based on notification from a market inspector or other competent government authority, while it shall initiate such a process *ex officio*, whenever the information it receives during the supervision of a bank or in connection with the exercising of its other powers indicates that reasons for such supervision exist.

#### **12.3.2 Order**

#### **Article 341** **(application of provisions regarding an order)**

The provisions of Subsection 12.3.2 of this Act shall apply, whenever this Act states that the Bank of Slovenia shall make a decision in the form of an order.

#### **Article 342** **(content of an order)**

The operational part of an order shall include:

1. an explicit description of the breaches whose rectification is imposed by the order;
2. the deadline by which the subject of supervision shall rectify the breaches and submit a report to that effect;
3. the method used to rectify breaches, whenever the Bank of Slovenia imposes additional measures on the subject of supervision to rectify the breaches in a specific manner; and
4. documents or evidence regarding the rectification of breaches, whenever the Bank of Slovenia orders the subject of supervision to submit specific documents or other evidence regarding the rectification of breaches.

5.

### **Article 343 (objection to an order)**

(1) The subject of supervision and other persons party to the issue of supervisory measures in accordance with this Act shall have the right to lodge an objection against an order within eight days of the service thereof.

(2) If a person entitled to do so lodges an objection in a timely manner, the deadline for the rectification of the breaches set out in the order in question shall be extended for the period from the lodging of that objection until the service of a decision regarding that objection.

(3) Notwithstanding the previous paragraph, the Bank of Slovenia may rule in an order that an objection to the order shall not stay its enforcement, if the enforcement of the order cannot be delayed due to the nature of the breach.

### **Article 344 (grounds for objection)**

- (1) An objection shall be allowed, if:
1. there is no breach whose rectification is imposed by the order;
  2. the act or omission representing the grounds for the issue of the order does not have the characteristics of a breach;
  3. the order cannot be enforced or cannot be enforced by the deadline and in the manner set out in the order;
  4. the enforcement of the order would cause an act that is in contravention of forcible regulations;
  5. the order imposed the rectification of breaches on a person over whom the Bank of Slovenia is not responsible for supervision;
  6. the actual situation has been identified erroneously or incompletely in the order; and
  7. the rules of procedure in question have been breached.

(2) The following shall be deemed a material breach of rules of procedure in accordance with this Act:

1. the order was issued by a person or body at the Bank of Slovenia that is not responsible for issuing orders;
2. a person who is not the subject of supervision has acted as a party to the procedure;
3. a person who should have been excluded was involved in decisions or the conducting of procedures; or
4. the order cannot be tested.

(3) A person who participated in the issue of a measure in accordance with this Act and a person entitled on the basis of the second paragraph of Article 343 of this Act may only lodge an objection against an order, if their legal interests are affected for the reasons set out in the first paragraph of this article.

### **Article 345 (content of an order)**

- (1) An objection shall include:
1. an indication of the order against which the objection is being lodged;

2. a statement as to whether the order is being challenged in its entirety or with regard to a specific part;
3. grounds for the objection; and
4. other data that shall be included in every petition.

(2) The applicant shall pay the fee set out in the Bank of Slovenia's tariff for a decision regarding its objection.

(3) In its objection, the subject of supervision may provide facts from which it is clear that the breaches whose rectification was imposed by order do not exist, and may present evidence proving the existence of the asserted facts. If the subject of supervision references documentary evidence in its objection, that objection shall be accompanied by the aforementioned evidence.

(4) If the subject of supervision does not provide documentary evidence, the provisions governing incomplete applications shall not apply; instead the Bank of Slovenia shall only take into account that evidence accompanying the objection when making its decision.

(5) After the deadline for lodging an objection has passed, the subject of supervision shall have no right to cite new facts or to produce new evidence.

#### **Article 346** **(limits on the testing of an order)**

The Bank of Slovenia shall test an order in the part in which it is challenged by objection and within the limits of the grounds stated and explained in the objection.

#### **Article 347** **(decision regarding an objection)**

(1) The Governing Board of the Bank of Slovenia shall decide on an objection in the form of a decision.

(2) In its decision regarding an objection, the Governing Board of the Bank of Slovenia may dismiss or reject the objection, or amend or vacate the order to which the objection relates.

(3) The Governing Board of the Bank of Slovenia shall reject an objection, if no objection is allowed, if the objection was not submitted on time or if the objection was lodged by an unauthorised person.

(4) If the Governing Board of the Bank of Slovenia finds that the grounds set out in point 1, 2 or 5 of the first paragraph of Article 344 of this Act exist, it shall vacate the order.

(5) If the Governing Board of the Bank of Slovenia finds that the grounds set out in point 3, 4, 6 or 7 of the first paragraph of Article 344 of this Act exist, it shall vacate or amend the order, depending on the nature of the breach.



### 12.3.3 *Withdrawal of authorisation*

#### **Article 348**

##### **(initiation of procedures to withdraw authorisation)**

(1) The Bank of Slovenia shall initiate procedures to withdraw authorisation if from the data at its disposal it is reasonable to suspect that any of the grounds for the withdrawal of authorisation set out in this Act exist, unless the European Central Bank is responsible for a decision on the withdrawal of a specific authorisation during the supervision of a bank in accordance with Regulation (EU) No 1024/2013.

(2) The Bank of Slovenia shall issue a decision to initiate procedures to withdraw authorisation.

- (3) A decision to initiate procedures to withdraw authorisation shall include:
1. an explicit description of the actions, conduct or circumstances that constitute grounds to initiate proceedings;
  2. an indication of the documents and other evidence on the basis of which the Bank of Slovenia has concluded that there is a reasonable suspicion referred to in the first paragraph of this article; and
  3. the grounds for the decision to initiate procedures.

(4) In its decision to initiate procedures to withdraw authorisation, the Bank of Slovenia shall set a deadline of no less than 15 days and no more than 30 days from the date of service of the decision on the subject of supervision, during which time the subject of supervision may issue a statement regarding the grounds for the initiation of the procedures (hereinafter: statement of grounds for the withdrawal of authorisation).

#### **Article 349**

##### **(statement of grounds for the withdrawal of authorisation)**

(1) In its statement of grounds for the withdrawal of authorisation, the subject of supervision may provide facts from which it is clear that the withdrawal is baseless, and may present evidence proving the existence of the asserted facts. If the subject of supervision references documentary evidence in its statement, that statement shall be accompanied by the aforementioned evidence.

(2) If the subject of supervision does not include documentary evidence in its statement of grounds for the withdrawal of authorisation, the provisions of this Act governing incomplete applications shall not apply; instead the Bank of Slovenia shall only take into account that evidence accompanying the statement when making its decision.

(3) After the deadline for making a statement of grounds for the withdrawal of authorisation has passed, the subject of supervision shall have no right to cite new facts or to produce new evidence.

**Article 350**  
**(decisions regarding the withdrawal of authorisation)**

(1) The Bank of Slovenia shall issue a decision regarding the withdrawal of authorisation within 30 days from the receipt of a statement of grounds for the withdrawal of authorisation or following the expiration of the deadline for the submission of such a statement.

(2) The Bank of Slovenia may only decide to withdraw authorisation due to those actions, conduct or circumstances for which it issued a decision to initiate procedures to withdraw authorisation, and only on the basis of those documents and other evidence stated in its decision to initiate procedures and that the subject of supervision submitted with its statement of grounds for the withdrawal of authorisation.

**Article 351**  
**(suspension of procedures)**

The Bank of Slovenia shall suspend procedures to withdraw authorisation if based on the evidence referred to in the second paragraph of the previous article it determines that the actions, conduct and circumstances for which it issued a decision to initiate procedures to withdraw authorisation are not characteristic of the grounds for the withdrawal of authorisation.

**Article 352**  
**(decision on the withdrawal of authorisation)**

- (1) The operational part of a decision to withdraw authorisation shall include:
1. the decision on the withdrawal of authorisation, indicating the number and date of issue of the authorisation in question;
  2. the name and registered office of an undertaking, or the full name and date of birth of the subject of supervision whose authorisation is being withdrawn; and
  3. an explicit description of the actions, conduct or circumstances that constitute grounds to withdraw authorisation.

(2) A decision on the withdrawal of authorisation shall be justified.

**Article 353**  
**(application of provisions governing procedures to withdraw authorisation)**

The provisions of Subsection 12.3.3 shall also apply *mutatis mutandis* to:

1. procedures to revoke the conditional withdrawal of authorisation; and
2. the revocation of consent issued by the Bank of Slovenia.

## **12.4 Judicial protection proceedings**

### **Article 354 (judicial protection proceedings)**

(1) The provisions of the ZUS-1 shall apply to judicial protection proceedings against decisions issued by the Bank of Slovenia, unless otherwise specified by this Act.

(2) The Administrative Court of the Republic of Slovenia shall rule, in a panel of three judges, on judicial protection proceedings against decisions issued by the Bank of Slovenia.

### **Article 355 (right to judicial protection)**

(1) Only the subject of supervision may lodge objections against acts issued by the Bank of Slovenia in the supervisory process, under the conditions set out in this Act.

(2) A party who has not passed the state bar exam may only perform acts during judicial protection proceedings in accordance with this Act through an authorised person who has passed the state bar exam.

### **Article 356 (challenging of acts issued by the Bank of Slovenia)**

(1) Judicial protection proceedings may be initiated by filing a lawsuit against a decision issued by the Bank of Slovenia, unless otherwise specified by this Act.

(2) Notwithstanding the previous paragraph, no special judicial protection proceedings shall be initiated against the following decisions:

1. a decision by which the Bank of Slovenia initiates procedures to withdraw authorisation; and
2. a decision by which the Bank of Slovenia rules on an objection to an order, and dismisses or rejects that objection, or amends that order.

(3) A decision referred to in point 1 of the previous paragraph may be challenged by virtue of a lawsuit in judicial protection proceedings against a decision to withdraw authorisation.

(4) A decision referred to in point 2 of the second paragraph of this article may be challenged by virtue of a lawsuit in judicial protection proceedings against a decision by which the Bank of Slovenia rejected an objection against an order.

(5) Judicial protection proceedings may be initiated against a resolution that concludes a decision-making process initiated at the request of a party involved, and in other cases when this Act expressly states that special judicial protection proceedings may be initiated against a resolution.

(6) An order issued by the Bank of Slovenia shall not be referred for special judicial protection.

**Article 357**  
**(priority ruling)**

Matters in judicial protection proceedings pursuant to this Act shall be deemed urgent, and the court shall therefore prioritise them in ruling.

**Article 358**  
**(lawsuit and response thereto)**

- (1) A lawsuit shall be brought in judicial protection proceedings within 15 days.
- (2) The deadline set out in the previous paragraph shall apply from the date a ruling was served. If the ruling was not served on the plaintiff, the deadline set out in the previous paragraph shall apply from the date of the ruling's publication in accordance with Articles 276 and 277 of this Act.
- (3) A lawsuit brought in judicial protection procedures against a decision issued by the Bank of Slovenia shall not stay the enforcement of that decision.
- (4) Notwithstanding the previous paragraph, the Bank of Slovenia may issue a decision *ex officio*, via resolution, staying the enforcement of a decision against which a lawsuit was brought in judicial protection proceedings. That resolution shall not be referred for judicial protection.
- (5) The deadline for responding to a lawsuit shall be 15 days.

**Article 359**  
**(new facts and evidence)**

A plaintiff in judicial protection proceedings may not cite new facts or produce new evidence.

**Article 360**  
**(testing limits)**

- (1) The court shall test a decision by the Bank of Slovenia within the limits of the claim and within the limits of the grounds stated in the relevant lawsuit, and shall give attention *ex officio* to material breaches of the provisions of the procedures in question.
- (2) The following shall be deemed a material breach of rules of procedure in the issue of a decision by the Bank of Slovenia:
1. the order was issued by a person or body at the Bank of Slovenia that is not responsible for issuing orders;
  2. the subject of supervision was not afforded the opportunity to make a statement regarding the facts and circumstances relevant for the issue of a decision, unless specified as such by this Act;
  3. a person who is not the subject of supervision has acted as a party to the procedure;
  4. the subject of supervision was not represented by a legal representative, or that person did not have the relevant authorisation;
  5. a person who should have been excluded was involved in decisions or the conducting of procedures; or
  6. the decision cannot be tested.

### **Article 361 (session)**

(1) The court may issue a ruling without a main hearing, if the actual situation that was the basis for issue of a decision is not disputed by the plaintiff or the Bank of Slovenia.

(2) Notwithstanding the provision of the previous paragraph, the court may also issue a ruling without a main hearing in the following cases:

1. if it is evident from a lawsuit, contested act and administrative files that a ruling must be made in favour of a lawsuit and an administrative act reversed on the basis of the first paragraph of Article 64 of the ZUS-1, but there were no accessory parties with conflicting interests involved in the administrative dispute;
2. if the actual situation between the plaintiff and the Bank of Slovenia is in dispute, but the parties only present those new facts and evidence that the court may not consider in accordance with Article 359 of this Act; and
3. if it is a dispute involving the same parties, but the actual and legal bases are similar and the court has already issued a final ruling in this matter.

(3) The parties may also waive a main hearing. In this case, the court shall rule at a session, taking into account the actual situation that was determined during the issue of an administrative act, and any new facts and evidence that are provided by the parties and may be taken into account by the court in accordance with Article 359 of this Act.

### **Article 362 (decisions of the court)**

If the subject of supervision has implemented a decision issued by the Bank of Slovenia in full or for the most part, the court may, when determining the reasons for the reversal or nullification of a contested act in judicial protection proceedings, decide not to reverse that contested act but merely establish its illegality.

## **CHAPTER 13: IMPLEMENTATION OF EXTRAORDINARY MEASURES BY THE BANK OF SLOVENIA**

### **Article 363 (application of provisions regarding the implementation of extraordinary measures)**

The provisions of Chapter 7.7 of the Banking Act (Official Gazette of the Republic of Slovenia, Nos. 99/10 [official consolidated version], 9/11 [ZPlaSS-B], 35/11, 59/11, 85/11, 48/12, 105/12, 56/13, 63/13, [ZS-K] and 96/13; hereinafter: the ZBan-1), the law governing the bank resolution authority and fund, and this Act shall apply for the implementation of extraordinary measures to ensure the stability of the financial system.

### **Article 364 (early repayment due to the orderly winding up of a bank)**

(1) If, during the imposition of special administration, the Bank of Slovenia determines with respect to the implementation of a reorganisation plan that the conditions have been met for the repayment of a bank's specific liabilities prior to maturity on the basis of the orderly winding up of a bank, such a bank with special administration shall have the right to the early repayment of those liabilities and the right to subtract interest for the period from the date of payment to maturity, notwithstanding the general rules on the right to early

repayment specified by the law or in an agreement. The conditions for the early repayment of liabilities shall be deemed to have been met if on the basis of measures to liquidate a bank's assets a sufficient level of liquid assets is ensured and early repayment will not jeopardise the objectives of extraordinary measures at the bank.

(2) If on the basis of the previous paragraph a bank's liability deemed a guaranteed deposit pursuant to the third paragraph of Article 310 of the ZBan-1 is repaid early, the interest for the period from the date of payment until maturity shall be subtracted.

#### **Article 365** **(deposits with priority in repayment in the event of the bankruptcy of a bank)**

(1) The bank deposits taken into account in determining guaranteed deposits on the basis of the third paragraph of Article 310 of the ZBan-1 that exceed EUR 100,000 shall be repaid from the bankruptcy estate of a bank against which bankruptcy proceedings have been initiated, following the repayment of all senior claims, but before the repayment of the claims referred to in the second paragraph of this article and ordinary claims.

(3) The claims based on the deposits referred to in the fifth paragraph of Article 310 of the ZBan-1, except the claims referred to in point 8 of the fifth paragraph of the same article, shall be repaid from the bankruptcy estate of a bank against which bankruptcy proceedings have been initiated, following the repayment of senior claims and the claims set out in the previous paragraph, but before ordinary claims.

(3) The provisions of the first and second paragraphs shall also be taken into account when determining the positions of a bank's creditors with respect to extraordinary measures.

### **CHAPTER 14:** **SYSTEM FOR THE EXCHANGE OF INFORMATION REGARDING CLIENT CREDIT RATINGS**

#### **Article 366** **(system for the exchange of information regarding client credit ratings)**

(1) The Bank of Slovenia shall establish a system for the exchange of information regarding client credit ratings.

(2) The data shall be collected and processed in the system for the exchange of information regarding client credit ratings solely for the purposes of:

- managing the credit risk of banks and other legal persons specified in Article 367 of this Act,
- ensuring responsible lending and preventing excessive borrowing,
- conducting supervision of credit risk management at banks,
- carrying out statistical reporting.

(3) For the purpose of credit risk management, banks and other legal persons specified in Article 367 of this Act shall collect and process the information referred to in the first and second paragraphs of Article 368 of this Act regarding their clients who are natural persons, submitting it to the system referred to in the first paragraph of this article.

(4) The system for the exchange of information regarding client credit ratings shall be designed such that:

1. it allows access to credit rating data about a particular person, the display of this data on screen and the printout of this data on paper (hereinafter: a statement of credit rating data about a particular person);
2. erroneous data being deleted pursuant to Article 370 of this Act is no longer stated in the statement of credit rating data about a particular person once it has been deleted.

(5) A person included in the system may not use data from the system for the exchange of information regarding client credit ratings:

- in deciding whether to open a current account for a natural person;
- for direct or targeted marketing.

(6) As the manager of the database of credit ratings of clients who are natural persons, the Bank of Slovenia shall prevent any legal person that fails to meet the prescribed technical conditions from using the system for the exchange of information regarding client credit ratings.

(7) The Bank of Slovenia shall use data from the system for the exchange of information regarding client credit ratings by means of the review and processing of this data, including electronic processing, for the purpose of conducting supervision of credit risk management at banks and statistical reporting.

#### **Article 367** **(persons included in the system)**

(1) The following shall be included in the system for the exchange of information regarding client credit ratings:

1. all banks;
2. any financial institution established in the Republic of Slovenia whose exclusive or principal business activities comprise the provision of financial leasing services referred to in point 3 of the second paragraph of Article 5 of this Act and that meets one of the following conditions:
  - a bank, a Member State bank or another undertaking in a banking group in which a bank or a Member State bank is a member holds at least 20% of the voting rights or at least 20% of the capital of the institution, or
  - the institution's total assets as at the end of the previous calendar year were at least EUR 50,000,000;
3. a Member State bank or a third-country bank that provides services in the territory of the Republic of Slovenia in accordance with this Act via a branch;
4. any other legal person established in another Member State or a third country that via a branch in the Republic of Slovenia exclusively or principally provides financial leasing services referred to in point 3 of the second paragraph of Article 5 of this Act and that meets one of the following conditions:
  - a bank, a Member State bank or another undertaking in a banking group in which a bank or a Member State bank is a member holds at least 20% of the voting rights or at least 20% of the capital of the legal person, or
  - the legal person's total assets as at the end of the previous calendar year were at least EUR 50,000,000.

(2) In addition to the entities referred to in the previous paragraph, the following shall also be included in the system referred to in the first paragraph of the previous article:

1. any Member State bank that provides services directly in the territory of the Republic of Slovenia in accordance with this Act;
2. any other legal person established in another Member State or a third country that in accordance with applicable regulations provides services of issuing personal deferred

payment cards via a branch in the Republic of Slovenia or directly in the territory of the Republic of Slovenia, when the total number of valid deferred payment cards that it has issued in providing services in the Republic of Slovenia is at least 50,000 as at the end of the previous calendar year.

#### **Article 368**

##### **(data that may be collected and processed in the system for the exchange of information regarding client credit ratings)**

(1) The following data on natural persons shall be collected and processed in the system for the exchange of information regarding client credit ratings:

1. name;
2. date and place of birth;
3. address of permanent and temporary residence;
4. tax number;
5. information about the person's personal bankruptcy, viz:
  - about the initiation and completion of personal bankruptcy proceedings,
  - about the initiation of debt forgiveness proceedings, and
  - about the issue and finality of the debt forgiveness order;
6. information about court and tax enforcements:
  - date of receipt of an enforceable enforcement order and date of end of enforcement proceedings.

(2) The following data on the transactions of the bank or the financial institution with natural persons may be collected and processed in the system for the exchange of information regarding client credit ratings:

1. with regard to current accounts:
  - date of opening of the current account,
  - information as to whether regular or extraordinary overdrafts in the account have been approved, and the amount of the approved overdraft;
2. with regard to bank loans, financial leasing transactions referred to in point 3 of the second paragraph of Article 5 of this Act, repo transactions, and instalment purchases by means of personal deferred payment cards:
  - agreement date,
  - approved loan amount,
  - amount of unpaid liability,
  - amount and type of individual annuity or instalment,
  - repayment period;
3. with regard to personal deferred payment cards and credit cards:
  - date of issue of the card,
  - amount of monthly spending approved;
4. with regard to sureties accepted for other persons:
  - date of acceptance of surety,
  - amount of the liability for which the person has accepted the surety, and
  - data referred to in point 2 of this paragraph on the liabilities of the principal debtor for whom the person has accepted the surety, excluding data on the principal debtor's name or business name;
5. when the person is in arrears in meeting liabilities to the bank or financial institution on the basis of an individual transaction referred to in points 1 to 3 of this paragraph that exceeds EUR 10, and the period of arrears is more than 90 days:
  - date of occurrence of arrears,
  - amount of the liability in respect of which the person is in arrears,
  - information as to whether forcible recovery proceedings were initiated for the recovery of the liability,



- termination of the agreement owing to arrears in meeting liabilities,
  - information that the current account or personal deferred payment card was blocked owing to arrears in meeting liabilities, and information on the unblocking of the account or personal deferred payment card,
  - period and type of any moratorium;
6. changes to the information on transactions referred to in points 1 to 5 of this paragraph owing to business actions or other events occurring during the business relationship on the basis of such transactions that do not entail the position referred to in the previous point, viz:
- date of payment of liability,
  - data on early repayment,
  - change in repayment period,
  - change in amount or type of individual annuity or instalment.

(3) The data referred to in point 5 of the first paragraph of this article shall be forwarded to the system by the IT Centre at the Supreme Court of the Republic of Slovenia.

#### **Article 369** **(access to data)**

(1) Only persons that are authorised to access the system for the exchange of information regarding client credit ratings at the bank or other legal person referred to in Article 367 of this Act may access the data in a system for the exchange of information regarding client credit ratings for the purpose of deciding on their credit rating.

(2) The data processed in a system for the exchange of information regarding client credit ratings may also be accessed by persons who are authorised at the Bank of Slovenia to access information in the system for the exchange of information regarding client credit ratings for the review and processing of this data, including electronic processing, for the purpose of conducting supervision of credit risk management at banks and statistical reporting.

#### **Article 370** **(deletion of data)**

Should the bank or other legal person referred to in Article 367 of this Act determine on the basis of an objection by its client that erroneous data has been captured by the system, it shall delete the data within seven working days of receiving the client's objection. The previous sentence shall also apply *mutatis mutandis* should the bank or other legal person referred to in Article 367 of this Act determine itself that erroneous data has been cited in the system.

#### **Article 371** **(access to data)**

(1) Data on individual transactions referred to in the second paragraph of Article 368 of this Act shall be accessible for banks and other legal persons referred to in Article 367 of this Act in the system for the exchange of information regarding client credit ratings, via citation in the statement of credit rating data about a particular person, for four years after the liability expires.

(2) Data referred to in point 5 of the first paragraph of Article 368 of this Act shall be accessible in the system for the exchange of information regarding client credit ratings such that it is cited in the statement of credit rating data about a particular person until four years have passed since the day of finality of the order on the completion of personal bankruptcy proceedings.

(3) Personal data in the system for the exchange of information regarding client credit ratings shall be deleted, destroyed, blocked or made anonymous after the deadlines referred to in the first and second paragraphs of this article have passed, unless the data is required by the Bank of Slovenia for the purpose of supervision and statistical reporting. The Bank of Slovenia shall store personal data processed in the system for the exchange of information regarding client credit ratings only for such time as is necessary for the purpose of supervision and statistical reporting.

### **Article 372** **(Bank of Slovenia bylaws)**

(1) The Bank of Slovenia shall set out system rules on the technical conditions for accessing the system for the exchange of information regarding client credit ratings and the requisite measures to secure the personal data collected and processed in the system.

(2) Before the entry into force of the rules referred to in the previous paragraph, the Bank of Slovenia shall consult the Information Commissioner of the Republic of Slovenia.

(3) The Bank of Slovenia shall by virtue of a tariff set out the fee for accessing information regarding client credit ratings that is collected and processed in the system. The amount of the fee shall conform to the actual costs of the functioning of the system and the access to the information.

## **CHAPTER 15:** **PENAL PROVISIONS**

### **Article 373** **(fines for breaches by bank)**

(1) A fine of between EUR 25,000 and EUR 250,000 for a misdemeanour shall be imposed upon a bank that:

1. obtained an authorisation or a consent set out by this Act or Regulation (EU) No 575/2013 by stating false information or on the basis of other misleading actions;
2. in contravention of the fifth paragraph of Article 30 of this Act provides services that it is not allowed to provide;
3. fails to inform the Bank of Slovenia of any change in the holding of an individual shareholder in accordance with Article 74 of this Act;
4. fails to put in place the internal governance arrangements in accordance with Article 128 of this Act, or fails to provide adequate internal capital in accordance with Article 131 of this Act;
5. fails to report information with regard to the fulfilment of capital requirements set out in accordance with Article 92 of Regulation (EU) No 575/2013, in accordance with the first paragraph of Article 99 of Regulation (EU) No 575/2013, or provides incomplete or incorrect information or fails to report financial information in accordance with the second paragraph of Article 99 of Regulation (EU) No 575/2013;

6. fails to report information in accordance with Article 101 of Regulation (EU) No 575/2013 or provides incomplete or incorrect information;
7. fails to report information on large exposures in accordance with the first paragraph of Article 394 of Regulation (EU) No 575/2013 or provides incomplete or incorrect information;
8. fails to report information on liquidity and on stable funding in accordance with the first and second paragraphs of Article 415 of Regulation (EU) No 575/2013 or provides incomplete or incorrect information;
9. fails to report information on the leverage ratio in accordance with the first paragraph of Article 430 of Regulation (EU) No 575/2013 or provides incomplete or incorrect information;
10. fails to hold liquid assets in accordance with Article 412 of Regulation (EU) No 575/2013;
11. incurs an exposure that exceeds the limits set out in Article 395 of Regulation (EU) No 575/2013;
12. is exposed to credit risk of a securitisation position without meeting the conditions set out in Article 405 of Regulation (EU) No 575/2013;
13. fails to disclose information in accordance with the first, second and third paragraphs of Article 431 or the first paragraph of Article 451 of Regulation (EU) No 575/2013 or provides incomplete or incorrect information;
14. makes distributions to holders of instruments taken into account in the calculation of capital in contravention of Article 229 of this Act, or distributions in contravention of Articles 28, 51 or 63 of Regulation (EU) No 575/2013;
15. allowed one person or several persons that fail to meet the conditions set out by this Act to perform the function of a member of a governing body, including its supervisory function, or of its senior management;
16. lends or provides guarantees for the purchase of shares in contravention of the first paragraph of Article 31 of this Act;
17. after the invalidation of the authorisation to provide services concludes new transactions in contravention of the prohibition set out in the fifth paragraph of Article 106 of this Act;
18. fails to act in accordance with the order set out in Article 203 of this Act;
19. establishes a branch in a Member State without notifying the Bank of Slovenia in advance of this intention in accordance with the first paragraph of Article 110 of this Act, or begins executing transactions via a branch in another Member State in contravention of Article 112 of this Act;
20. begins directly providing mutually recognised financial services in a Member State without notifying the Bank of Slovenia in accordance with the first paragraph of Article 114 of this Act;
21. establishes a branch in a third country without obtaining an authorisation to establish a branch in accordance with Article 115 of this Act;
22. obtains a qualifying holding in contravention of the second paragraph of Article 200 of this Act;
23. fails to put in place or fails to pursue an appropriate policy for the selection of candidates for the governing body in accordance with the second paragraph of Article 34 of this Act;
24. fails to ensure that the supervisory board appoint committees in accordance with Article 49 of this Act, or fails to ensure the functioning of these committees in accordance with Articles 50, 51 and 52 of this Act;
25. keeps books of account, draws up bookkeeping documents, values bookkeeping items or prepares reports in contravention of the second paragraph of Article 86 of this Act;
26. fails to report financial information in connection with the financial statements in accordance with the third paragraph of Article 87 of this Act;
27. fails to submit an annual report, a consolidated annual report, an auditor's report or an additional auditor's report in accordance with Article 89 of this Act;
28. with regard to the disclosure of additional information fails to act in accordance with Article 88 of this Act;

29. fails to publish on its website an annual report or a consolidated annual report, or an auditor's report on the auditing of the annual report referred to in the second paragraph of Article 57 of the ZGD-1 by the deadlines set out in the first and third paragraphs of Article 92 of this Act;
30. fails to ensure that the annual report and the auditor's report referred to in the second paragraph of Article 57 of the ZGD-1 are available on its website for at least five years following their publication (fourth paragraph of Article 92 of this Act);
31. fails to allow authorised staff from the Bank of Slovenia to conduct a review, or impedes the execution of their tasks and authorisations in the manner set out in Articles 242, 245, 246, 247 and 248 of this Act;
32. fails to put in place appropriate risk management procedures or internal control mechanisms, including the requisite reporting and accounting procedures, for the purpose of identifying, measuring, monitoring and controlling transactions with its parent mixed financial holding company and the latter's subsidiaries in accordance with the second paragraph of Article 304 of this Act;
33. breaches the duty to safeguard confidential data in accordance with Article 126 of this Act;
34. fails to act in accordance with the order referred to in Articles 253 and 258 of this Act;
35. fails to allow the temporary administrator referred to in Article 259 of this Act to perform his/her tasks and exercise his/her powers in accordance with Articles 259 and 261 of this Act, or impedes him/her in so doing.

(2) A fine of between EUR 80,000 and EUR 500,000 shall be imposed upon a bank classed as a medium-sized or large enterprise pursuant to the ZGD-1 for a misdemeanour referred to in the previous paragraph.

(3) When the nature of the committed misdemeanour referred to in the first paragraph of this article is particularly severe on account of the amount of damage caused, the amount of unlawful material benefit gained, the intent of the perpetrator or the intended self-interest, a fine of up to following amounts shall be imposed upon the bank:

1. 10% of the total annual net turnover, including gross income in the previous financial year in the form of interest income and similar income, income from shares and other variable/fixed-yield securities, and fees and commissions received in accordance with Article 316 of Regulation (EU) No 575/2013, or
2. double the amount of the gain earned or the loss avoided by means of the breach, when such gain or loss is definable, if that amount exceeds the amount referred to in the previous point.

(4) A fine of between EUR 2,500 and EUR 10,000 for a misdemeanour shall be imposed upon a management board member who breaches the duties of a member of the management board referred to in the first or second paragraph of Article 45 of this Act for which reason a breach referred to in the first paragraph of this article has been committed.

(5) A fine of between EUR 2,500 and EUR 10,000 for a misdemeanour shall be imposed upon a member of the supervisory board of a bank who breaches the duties of a member of the supervisory board of a bank referred to in the first paragraph of Article 55 of this Act thereby causing the bank to commit a breach referred to in the first paragraph of this article.

(6) When the nature of the committed misdemeanour referred to in the fourth or fifth paragraph of this article is particularly severe on account of the amount of damage caused, the amount of unlawful material benefit gained, the intent of the perpetrator or the intended self-interest, a fine of up to EUR 5,000,000 shall be imposed upon the member of the management board or supervisory board.

(7) For a misdemeanour referred to in the first paragraph of this article, a fine of between EUR 800 and EUR 10,000 shall be imposed on the responsible person of the bank who is not a member of the management board or supervisory board. When the nature of the committed misdemeanour referred to in the previous sentence is particularly severe on account of the amount of damage caused, the amount of unlawful material benefit gained, the intent of the perpetrator or the intended self-interest, a fine of between EUR 2,500 and EUR 30,000 shall be imposed upon the bank's responsible person.

#### **Article 374** **(fine for breaches by qualifying holder)**

(1) A fine of between EUR 25,000 and EUR 250,000 for a misdemeanour shall be imposed upon a legal person that as an unauthorised holder fails to dispose of its shares in accordance with the order to dispose of shares referred to in Article 267 of this Act. A fine of between EUR 80,000 and EUR 500,000 shall be imposed upon a legal person classed as a medium-sized or large enterprise pursuant to the ZGD-1 for a misdemeanour referred to in the previous sentence.

(2) When the nature of the committed misdemeanour referred to in the previous paragraph is particularly severe on account of the amount of damage caused, the amount of unlawful material benefit gained, the intent of the perpetrator or the intended self-interest, a fine of up to following amounts shall be imposed upon the legal person:

1. 10% of the total annual net turnover, including gross income in the previous financial year in the form of interest income and similar income, income from shares and other variable/fixed-yield securities, and fees and commissions received in accordance with Article 316 of Regulation (EU) No 575/2013, or
2. double the amount of the gain earned or the loss avoided by means of the breach, when such gain or loss is definable, if that amount exceeds the amount referred to in the previous point.

(3) A fine of between EUR 2,500 and EUR 10,000 for a misdemeanour shall be imposed upon a natural person who as an unauthorised holder fails to dispose of his/her shares in accordance with the order to dispose of shares referred to in Article 267 of this Act.

(4) When the nature of the committed misdemeanour referred to in the previous paragraph is particularly severe on account of the amount of damage caused, the amount of unlawful material benefit gained, the intent of the perpetrator or the intended self-interest, a fine of up to following amounts shall be imposed upon the natural person:

1. EUR 5,000,000, or
2. double the amount of the gain earned or the loss avoided by means of the breach, when such gain or loss is definable, if double the determined amount of gain or loss exceeds the amount referred to in the previous point.

(5) A fine of between EUR 800 and EUR 10,000 for a misdemeanour shall be imposed upon the responsible person of a legal person that commits a misdemeanour referred to in the first paragraph of this article as an unauthorised holder. When the nature of the committed misdemeanour referred to in the previous sentence is particularly severe on account of the amount of damage caused, the amount of unlawful material benefit gained, the intent of the perpetrator or the intended self-interest, a fine of between EUR 2,500 and EUR 30,000 shall be imposed upon the legal person's responsible person.

**Article 375**  
**(breaches by other persons)**

(1) A fine of between EUR 80,000 and EUR 250,000 for a misdemeanour shall be imposed upon a legal person that:

1. accepts deposits from the public in contravention of the prohibition referred to in Article 96 of this Act; or
2. fails to submit information to authorised staff from the Bank of Slovenia or fails to allow them to conduct a review of operations in the manner set out in Articles 242, 245, 246, 247 and 248 of this Act, or otherwise impedes the supervision referred to in the second paragraph of Article 313 of this Act.

(2) A fine of between EUR 2,500 and EUR 10,000 for a misdemeanour shall be imposed upon the responsible person of a legal person that commits a misdemeanour referred to in the previous paragraph.

(3) A fine of between EUR 400 and EUR 150,000 for a misdemeanour shall be imposed on a sole trader or an individual independently pursuing registered business activities who:

1. accepts deposits from the public in contravention of the prohibition referred to in Article 96 of this Act; or
2. fails to submit information to authorised staff from the Bank of Slovenia or fails to allow them to conduct a review of operations in the manner set out in Articles 242, 245, 246, 247 and 248 of this Act, or otherwise impedes the supervision referred to in the second paragraph of Article 314 of this Act.

(4) A fine of between EUR 400 and EUR 5,000 for a misdemeanour shall be imposed on an individual who:

1. accepts deposits from the public in contravention of the prohibition referred to in Article 96 of this Act; or
2. fails to submit information to authorised staff from the Bank of Slovenia or fails to allow them to conduct a review of operations in the manner set out in Articles 242, 245, 246, 247 and 248 of this Act, or otherwise impedes the supervision referred to in the second paragraph of Article 314 of this Act.

(5) A fine of between EUR 80,000 and EUR 250,000 for a misdemeanour shall be imposed upon a legal person that is a shareholder in a bank and:

1. acquires shares in the bank without first obtaining the authorisation referred to in the first paragraph of Article 70 of this Act;
2. fails to notify the Bank of Slovenia of the conclusion of a shareholders' agreement referred to in Article 59 of this Act.

(6) A fine of between EUR 2,500 and EUR 10,000 for a misdemeanour shall be imposed upon the responsible person of a legal person that commits a misdemeanour referred to in the previous paragraph.

(7) A fine of between EUR 400 and EUR 3,500 for a misdemeanour shall be imposed on an individual who is a shareholder in a bank or savings bank and who commits a misdemeanour referred to in the fifth paragraph of this article.

(8) A fine of between EUR 80,000 and EUR 250,000 for a misdemeanour shall be imposed upon a legal person that concludes an agreement based on corporate law or another legal transaction on the basis of which it obtains the position of the parent entity of a bank or savings bank without first obtaining an authorisation from the Bank of Slovenia referred to in Article 70 of this Act.

(9) A fine of between EUR 2,500 and EUR 10,000 for a misdemeanour shall be imposed upon the responsible person of a legal person that commits a misdemeanour referred to in the previous paragraph.

(10) A fine of between EUR 1,000 and EUR 150,000 for a misdemeanour shall be imposed on a sole trader or an individual independently pursuing registered business activities who commits a misdemeanour referred to in the eighth paragraph of this article.

(11) A fine of between EUR 400 and EUR 3,500 for a misdemeanour shall be imposed on an individual who commits a misdemeanour referred to in the eighth paragraph of this article.

(12) A fine of between EUR 12,000 and EUR 120,000 for a misdemeanour shall be imposed upon a legal person in which a bank has acquired a qualifying holding should it fail to report to the Bank of Slovenia in accordance with the first paragraph of Article 204 of this Act.

(13) A fine of between EUR 2,500 and EUR 10,000 for a misdemeanour shall be imposed upon the responsible person of a legal person that commits a misdemeanour referred to in the previous paragraph.

(14) A fine of between EUR 25,000 and EUR 500,000 for a misdemeanour referred to in the first, fifth, eighth or twelfth paragraph of this article shall be imposed upon a legal person classed as a medium-sized or large enterprise pursuant to the ZGD-1 that commits a misdemeanour referred to in the first, fifth, eighth or twelfth paragraph of this article.

(15) When the nature of the committed misdemeanour referred to in the previous paragraphs is particularly severe on account of the amount of damage caused, the amount of unlawful material benefit gained, the intent of the perpetrator or the intended self-interest, a fine of between EUR 41,000 and EUR 750,000 shall be imposed upon a legal person, a fine of between EUR 41,000 and EUR 1,500,000 shall be imposed upon a legal person classed as a medium-sized or large enterprise pursuant to the ZGD-1, a fine of between EUR 2,500 and EUR 30,000 shall be imposed upon a legal person's responsible person, a fine of between EUR 41,000 and EUR 450,000 shall be imposed upon a sole trader or an individual independently pursuing registered business activities, and a fine of between EUR 400 and EUR 15,000 shall be imposed upon an individual.

#### **Article 376**

##### **(breaches in connection with notification of the Securities Market Agency)**

(1) A fine of between EUR 15,000 and EUR 250,000 for a misdemeanour shall be imposed upon a bank if within three working days of acquiring or disposing of the securities of a target company pursuant to the first paragraph of Article 78 of this Act it fails to notify the Securities Market Agency (second paragraph of Article 78 of this Act).

(2) A fine of between EUR 25,000 and EUR 500,000 for a misdemeanour referred to in the previous paragraph shall be imposed upon a bank classed as a medium-sized or

large enterprise pursuant to the ZGD-1 that commits a misdemeanour referred to in the previous paragraph.

(3) A fine of between EUR 1,000 and EUR 10,000 for a misdemeanour shall be imposed upon the responsible person of a bank that commits a misdemeanour referred to in the first paragraph of this article.

(4) When the nature of the committed misdemeanour referred to in the first paragraph of this article is particularly severe on account of the amount of damage caused, the amount of unlawful material benefit gained, the intent of the perpetrator or the intended self-interest, a fine of between EUR 41,000 and EUR 750,000 shall be imposed upon a bank, a fine of between EUR 41,000 and EUR 1,500,000 shall be imposed upon a bank classed as a medium-sized or large enterprise pursuant to the ZGD-1, and a fine of between EUR 2,500 and EUR 30,000 shall be imposed upon a bank's responsible person.

(5) The provisions of the ZPre-1 shall apply to the imposition of the fine, the proceedings and the statute of limitations.

### **Article 377** **(breaches by persons in a banking group)**

(1) A fine of between EUR 80,000 and EUR 250,000 for a misdemeanour shall be imposed upon:

1. a subsidiary that fails to forward to the parent bank in the banking group or to a bank that is controlled by a parent financial holding company or parent mixed financial holding company all the information that the latter requires to fulfil its obligations on a consolidated basis (first paragraph of Article 301 of this Act);
2. a parent financial holding company or parent mixed financial holding company that fails to forward to its subsidiary bank all the information that the latter requires to fulfil its obligations on a consolidated basis (second paragraph of Article 301 of this Act);
3. a subsidiary, parent financial holding company or parent mixed financial holding company that fails to allow the Bank of Slovenia or another competent authority responsible for supervision on a consolidated basis to conduct a review of operations in accordance with Article 248 of this Act (fourth paragraph of Article 301 of this Act);
4. a mixed-activity holding company or its subsidiary that fails to forward to subsidiary banks, the Bank of Slovenia or another competent authority responsible for the supervision of such banks all information material to the supervision of the subsidiary banks (first paragraph of Article 303 of this Act);
5. a subsidiary or parent mixed-activity holding company that fails to allow the Bank of Slovenia or another competent authority responsible for the supervision of subsidiary banks to conduct a review of operations in accordance with Article 248 of this Act (second paragraph of Article 303 of this Act);

(2) A fine of between EUR 25,000 and EUR 500,000 for a misdemeanour referred to in the previous paragraph shall be imposed upon a person referred to in the previous paragraph that is classed as a medium-sized or large enterprise pursuant to the ZGD-1 and that commits a misdemeanour referred to in the previous paragraph.

(3) A fine of between EUR 2,500 and EUR 10,000 for a misdemeanour shall be imposed upon the responsible person of a legal person that commits a misdemeanour referred to in the previous paragraph.

(4) When the nature of the committed misdemeanour referred to in the first paragraph of this article is particularly severe on account of the amount of damage caused,



the amount of unlawful material benefit gained, the intent of the perpetrator or the intended self-interest, a fine of between EUR 41,000 and EUR 750,000 shall be imposed upon a person referred to in the first paragraph of this article, a fine of between EUR 41,000 and EUR 1,500,000 shall be imposed upon a person referred to in the second paragraph of this article, and a fine of between EUR 2,500 and EUR 30,000 shall be imposed upon a responsible person referred to in the previous paragraph.

#### **Article 378** **(breaches by audit firm and certified auditor)**

(1) A fine of between EUR 25,000 and EUR 250,000 for a misdemeanour shall be imposed upon an audit firm that:

1. fails to conduct an audit or fails to prepare reports in accordance with the first paragraph of Article 90 of this Act or the regulations referred to in Article 93 of this Act;
2. fails to provide additional explanations to the Bank of Slovenia at its request in accordance with the third paragraph of Article 91 of this Act;
3. fails to review or supplement its reports in accordance with a Bank of Slovenia request referred to in the fourth paragraph of Article 90 of this Act;
4. fails to notify the Bank of Slovenia without delay of facts and circumstances referred to in the first paragraph of Article 91 of this Act.

(2) A fine of between EUR 25,000 and EUR 500,000 shall be imposed upon an audit firm classed as a medium-sized or large enterprise pursuant to the law governing companies for a misdemeanour referred to in the previous paragraph.

(3) A fine of between EUR 2,500 and EUR 10,000 for a misdemeanour shall be imposed upon a certified auditor who commits a misdemeanour referred to in the first paragraph of this article.

(4) When the nature of the committed misdemeanour referred to in the first paragraph of this article is particularly severe on account of the amount of damage caused, the amount of unlawful material benefit gained, the intent of the perpetrator or the intended self-interest, a fine of between EUR 41,000 and EUR 750,000 shall be imposed upon an audit firm, a fine of between EUR 41,000 and EUR 1,500,000 shall be imposed upon an audit firm classed as a medium-sized or large enterprise pursuant to the ZGD-1, and a fine of between EUR 2,500 and EUR 30,000 shall be imposed upon an audit firm's responsible person.

#### **Article 379** **(breaches of the chapter on the system for the exchange of information regarding client credit ratings)**

(1) A fine of between EUR 10,000 and EUR 250,000 for a misdemeanour shall be imposed upon a bank or another legal person that is a member of the system referred to in the first paragraph of Article 366 of this Act and that:

1. uses data referred to in the first or second paragraph of Article 368 of this Act in contravention of the second or fifth paragraph of Article 366 of this Act, or fails to ensure that only persons referred to in Article 369 of this Act may access the data referred to in the first and second paragraphs of Article 368 of this Act;
2. fails to delete erroneous data within seven working days of receiving the client's objection or determining itself that erroneous data has been captured by the system (Article 370 of this Act).

(2) A fine of between EUR 2,500 and EUR 10,000 for a misdemeanour shall be imposed upon the responsible person of a bank or another legal person that commits a misdemeanour referred to in the previous paragraph.

#### **Article 380 (misdemeanours authority)**

(1) In accordance with the law governing misdemeanours, the misdemeanours authority that decides on misdemeanours committed pursuant to this Act and imposes fines pursuant to this Act is the Bank of Slovenia.

(2) The previous paragraph notwithstanding, the misdemeanours authority for misdemeanours referred to in Article 376 of this Act is the Securities Market Agency, and the misdemeanours authority for breaches referred to in Article 379 of this Act is the Information Commissioner of the Republic of Slovenia.

#### **Article 381 (misdemeanours proceedings)**

(1) Misdemeanours proceedings shall be conducted and ruled on by an authorised official of the Bank of Slovenia who meets the conditions pursuant to the law governing misdemeanours and regulations adopted on its basis.

(2) The Bank of Slovenia shall, by virtue of a bylaw regulating organisation and the job classification system, set out the conditions and method for conferring the authorisation on the person deemed the authorised official of the Bank of Slovenia referred to in the previous paragraph, and for withdrawing it.

(3) Article 319 of this Act notwithstanding, the law governing misdemeanours shall apply to misdemeanours proceedings.

#### **Article 382 (fine imposed in fast-track procedure)**

For misdemeanours referred to in this Act, a fine may also be imposed in a fast-track procedure that is higher than the minimum fine set out by this Act.

### **CHAPTER 16: TRANSITIONAL PROVISIONS**

#### **16.1 Transitional provisions with regard to liquidity requirements**

#### **Article 383 (transition period with regard to liquidity requirements)**

With regard to the determination of the liquidity requirements that must be met by banks and branches of Member State banks, the provisions of Subsection 16.1 of this Act shall apply until 1 January 2018.

**Article 384**  
**(fulfilment of liquidity requirements)**

(1) In addition to the requirements referred to in Article 130 of this Act, banks shall meet the additional liquidity requirements set out in accordance with the third paragraph of this article by the Bank of Slovenia, or the European Central Bank when it is executing powers and tasks with regard to supervision in accordance with Regulation (EU) No 1024/2013, by 1 January 2018.

(2) Branches of Member State banks shall meet the additional liquidity requirements set out in accordance with the third paragraph of this article by the Bank of Slovenia, by 1 January 2018.

(3) The Bank of Slovenia shall define the liquidity requirements referred to in the first and second paragraphs of this article with regard to:

1. the ratio of actual and potential sources of liquidity to actual and potential use of liquid assets in the same period;
2. the loan-to-deposit ratio for the non-banking sector.

(4) The Bank of Slovenia shall set out requirements with regard to reporting in connection with the fulfilment of the requirements referred to in the previous paragraph and with regard to the monitoring of liquidity flows.

**16.2 Transitional provisions in connection with supervision of the cross-border provision of services**

**Article 385**  
**(transition period with regard to supervision of the cross-border provision of services)**

(1) With regard to the exercise of the Bank of Slovenia's power of supervision over banks with regard to the provision of mutually recognised financial services in another Member State and the exercise of supervision of Member State banks providing mutually recognised financial services in the territory of the Republic of Slovenia, the provisions of Subsection 16.2 of this Act shall apply until 1 January 2018.

(2) The third paragraph of Article 117 of this Act notwithstanding, until 1 January 2018 the Bank of Slovenia shall be responsible for the supervision of a branch of a Member State bank, without any curtailment of the powers of the competent authority of the home Member State, in the extent and under the conditions set out by Chapter 9 of this Act, unless stipulated otherwise by Subsection 16.2 of this Act.

**Article 386**  
**(Bank of Slovenia supervision of branch of Member State bank)**

(1) The Bank of Slovenia shall conduct supervision of branches of Member State banks in the Republic of Slovenia with regard to the implementation of the regulations referred to in Article 118 of this Act and with regard to the fulfilment of Bank of Slovenia requirements in connection with the liquidity and reporting of a branch of a Member State bank set out pursuant to Subsection 16.1 of this Act.

(2) For the purposes of conducting the supervision referred to in the previous paragraph, the Bank of Slovenia may request from the branch of a Member State bank the reporting of the data and information that it requires for the purpose of conducting

supervision of the branch with regard to the requirements referred to in Article 384 of this Act or for statistical purposes, when it also requires this information from banks in the Republic of Slovenia.

(3) The Bank of Slovenia shall have sole responsibility for measures taken against a branch of a Member State bank in the Republic of Slovenia that entail the exercise of monetary policy.

#### **Article 387** **(cooperation in connection with supervision of branch of Member State bank)**

(1) Article 285 of this Act notwithstanding, until 1 January 2018 the Bank of Slovenia shall cooperate with the competent authority of a Member State for the purpose of conducting supervision of the operations of a Member State bank that provides services directly or via a branch in the Republic of Slovenia, in particular through the exchange of information deemed crucial or material to the supervision of the Member State bank, including information on liquidity, capital adequacy, deposit guarantees, restrictions on large exposures and internal control mechanisms.

(2) With regard to notification of and consultation with the competent authority of a Member State about the findings of the Bank of Slovenia in the supervision of a branch of a Member State bank, the provisions of the fourth paragraph of Article 279 of this Act and the first and second paragraphs of Article 281 of this Act shall not apply during the transition period to 1 January 2018.

(3) With regard to a review of operations at a branch of a Member State bank in the Republic of Slovenia conducted by the competent authority of the home Member State, the fifth paragraph of Article 287 of this Act shall not apply until 1 January 2018.

#### **Article 388** **(supervisory measures against a Member State bank)**

(1) The second to seventh paragraphs of Article 289 of this Act notwithstanding, the provisions of the second to fifth paragraphs of this article shall apply until 1 January 2018 to the imposition of Bank of Slovenia supervisory measures if in its operations in the Republic of Slovenia a Member State bank breaches the regulations referred to in Article 118 of this Act or Bank of Slovenia requirements in connection with the liquidity and reporting of a branch of a Member State bank set out pursuant to Article 384 of this Act.

(2) Should the Bank of Slovenia in its supervision of a branch of a Member State bank in the Republic of Slovenia find breaches of the regulations referred to in Article 118 of this Act or Bank of Slovenia requirements in connection with the liquidity and reporting of a branch of a Member State bank set out pursuant to Article 384 of this Act, it shall order the branch of the Member State bank to eliminate the breaches or shall impose other measures pursuant to this Act on the branch.

(3) Should the branch of the Member State bank fail to act in accordance with the order, the Bank of Slovenia shall notify the competent authority of the bank's home country accordingly. Should the competent authority of the home country fail to take appropriate measures on the basis of the notification referred to in the previous paragraph to eliminate the breaches in the operations of the Member State bank in the Republic of Slovenia, or should the measures be ineffective, the Bank of Slovenia shall prohibit the Member State

bank from providing mutually recognised financial services in the territory of the Republic of Slovenia.

(4) In urgent cases, prior to taking the action referred to in the previous paragraph, the Bank of Slovenia may adopt temporary measures and require or prohibit certain activities by the Member State bank, when so required to protect the stability of the financial system or to prevent threats to the collective interests of depositors, investors and other persons in the Republic of Slovenia.

(5) The Bank of Slovenia shall inform the Commission and the competent authority of the other Member State concerned without delay of the adoption and termination of the measures referred to in the previous paragraph. Should the Commission decide on the basis of the notification and after consultation with the competent authorities that the measures referred to in the previous paragraph should be overturned or modified, the Bank of Slovenia shall rule on the termination or modification of the measures, having regard for this decision.

#### **Article 389**

##### **(cooperation in connection with supervision of bank branch in another Member State)**

(1) In conducting supervision of a bank that provides services in another Member State, until 1 January 2018 the Bank of Slovenia shall take account of measures imposed upon the bank by the competent authority of the host country in connection with liquidity requirements applying to the branch of the bank in the Member State in question.

(2) Should the competent authority of the Member State inform the Bank of Slovenia that the bank has failed to eliminate breaches in connection with its operations in the Member State in accordance with a measure by the competent authority of the host country referred to in the previous paragraph, the Bank of Slovenia shall impose supervisory measures upon the bank in accordance with this Act to eliminate the breaches in connection with the bank's operations in the Member State, notifying the competent authority of the host country accordingly.

(3) Article 279 of this Act notwithstanding, until 1 January 2018 the Bank of Slovenia shall cooperate with the competent authority of a Member State for the purpose of conducting supervision of the operations of a bank in another Member State, in particular through the exchange of information deemed crucial or material to the supervision of a Member State bank, including information on liquidity, capital adequacy, deposit guarantees, restrictions on large exposures and internal control mechanisms.

(4) With regard to cooperation in the supervision of a significant branch of a bank in another Member State, the provisions of the first and second paragraphs of Article 281 of this Act shall not apply until 1 January 2018.

### **16.3 Transitional provisions for capital buffers**

#### **Article 390**

##### **(transition period in determining the capital conservation buffer and the institution-specific countercyclical capital buffer)**

Articles 208 and 209 of this Act notwithstanding, banks shall maintain a capital conservation buffer and an institution-specific countercyclical capital buffer in accordance with Article 391 of this Act in the period between 1 January 2016 and 31 December 2018.

#### **Article 391**

##### **(transitional provisions for the capital conservation buffer and the institution-specific countercyclical capital buffer)**

(1) During the period between 1 January and 31 December 2016, banks shall maintain:

1. a capital conservation buffer in the amount of 0.625% of the total risk exposure amount;
2. an institution-specific countercyclical capital buffer of no more than 0.625% of the total risk exposure amount.

(2) During the period between 1 January and 31 December 2017, banks shall maintain:

1. a capital conservation buffer in the amount of 1.25% of the total risk exposure amount;
2. an institution-specific countercyclical capital buffer of no more than 1.25% of the total risk exposure amount.

(3) During the period between 1 January and 31 December 2018, banks shall maintain:

1. a capital conservation buffer in the amount of 1.875% of the total risk exposure amount;
2. an institution-specific countercyclical capital buffer of no more than 1.875% of the total risk exposure amount.

(4) Should a bank fail to meet the combined buffer requirements in the period between 1 January 2016 and 31 December 2018, having regard for the requirements referred to in this article, it shall be subject to the requirements with regard to the distribution restrictions referred to in Article 229 of this Act and the capital conservation plan referred to in Article 232 of this Act.

#### **Article 392**

##### **(transitional provisions for designating G-SIBs and O-SIBs and applying the G-SIB buffer)**

As of 1 January 2016, banks shall maintain the G-SIB buffer as follows:

1. during the period from 1 January to 31 December 2016, in the amount of 25% of the G-SIB buffer determined in accordance with Article 220 of this Act;
2. during the period from 1 January to 31 December 2017, in the amount of 50% of the G-SIB buffer determined in accordance with Article 220 of this Act;
3. during the period from 1 January to 31 December 2018, in the amount of 75% of the G-SIB buffer determined in accordance with Article 220 of this Act;
4. as of 1 January 2019, in the amount of 100% of the G-SIB buffer determined in accordance with Article 220 of this Act.

#### **16.4 Transitional provisions for harmonising with other requirements of law**

#### **Article 393**

##### **(maintenance of validity of authorisations)**

(1) Banks' authorisations to provide banking or other services, to perform the function of a member of the management board of a bank, to acquire a qualifying holding and to acquire a qualifying asset, and other authorisations and consents that pursuant to the ZBan-1 are valid upon the entry into force of this Act shall be deemed authorisations and consents issued pursuant to this Act or Regulation (EU) No 575/2013. Should the conditions

for maintaining an authorisation or consent set out by this Act or Regulation (EU) No 575/2013 not be met, the authorisation or consent shall be withdrawn or terminated.

(2) A bank that upon the entry into force of this Act holds a qualifying holding for which it did not require a Bank of Slovenia authorisation in accordance with the ZBan-1 shall, as of the day of the entry into force of this Act, be deemed to hold a Bank of Slovenia authorisation to acquire a qualifying holding referred to in Article 200 of this Act.

(3) A bank that upon the entry into force of this Act provides financial services referred to in point 13 or point 14 of Article 10 of the ZBan-1 pursuant to point 1 of the first paragraph of Article 89 of the ZBan-1 shall, as of the day of the entry into force of this Act, be deemed to hold a Bank of Slovenia authorisation to provide such financial services referred to in Article 103 of this Act.

#### **Article 394**

##### **(compliance with rules on the functioning of governing bodies)**

(1) Banks' supervisory boards shall appoint a risk committee in accordance with Articles 49 and 51 of this Act within two months of the entry into force of this Act.

(2) Significant banks' supervisory boards shall appoint a nomination committee in accordance with Articles 49 and 50 of this Act and shall harmonise the functioning of the remuneration committee with Article 52 of this Act within two months of the entry into force of this Act.

(3) Members of governing bodies shall comply with the requirements set out in Article 36 of this Act within three months of the entry into force of this Act.

#### **Article 395**

##### **(compliance with rules for auditing and the risk management department)**

(1) The second and third paragraphs of Article 90 of this Act shall apply to the appointment of an audit firm that is undertaken after the entry into force of this Act. For the purposes of the second paragraph of Article 90 of this Act, audits of annual reports that the audit firm conducted at the bank before the entry into force of this Act shall also be taken into account in the appointment of an audit firm.

(2) Banks shall organise the risk management function in accordance with Article 138 of this Act within two months of the entry into force of this Act.

#### **Article 396**

##### **(determination of recovery plans)**

Banks and EU parent undertakings referred to in Articles 184 and 189 of this Act shall adopt and submit recovery plans in accordance with this Act within six months of the entry into force of this Act.

#### **Article 397**

##### **(compliance of remuneration policy)**

(1) For contracts that they concluded with individuals referred to in the second paragraph of Article 169 of this Act after 1 January 2014 and before harmonisation with the

remuneration policy referred to in the first paragraph of Article 169 of this Act, within six months of the entry into force of this Act banks shall ensure the compliance of provisions in connection with remuneration with the remuneration policy drawn up in accordance with the requirements of Subsection 6.5 of this Act.

(2) The requirement set out in point 6 of the first paragraph of Article 170 of this Act shall apply to remuneration paid in connection with services or performance as of 1 January 2014.

#### **Article 398** **(procedures in progress)**

(1) Procedures for the issue of an authorisation and other procedures initiated at the request of a party in which the Bank of Slovenia has yet to rule upon the entry into force of this Act shall be completed pursuant to the provisions of the ZBan-1 in force until the entry into force of this Act.

(2) Other procedures initiated before the entry into force of this Act in which the Bank of Slovenia has yet to rule upon the entry into force of this Act shall be completed pursuant to the provisions of this Act.

(3) Judicial protection proceedings against Bank of Slovenia rulings issued before the entry into force of this Act shall be completed pursuant to the provisions of this Act, unless stipulated otherwise for particular proceedings by Article 405 of this Act.

#### **Article 399** **(publication of disclosures in connection with supervision)**

(1) The Bank of Slovenia shall publish the disclosures set out in Article 274 and the first paragraph of Article 275 of this Act within three months of the entry into force of this Act.

(2) The provisions of Article 277 of this Act shall not apply in connection with supervisory measures and sanctions for misdemeanours that the Bank of Slovenia imposed before the entry into force of this Act.

#### **Article 400** **(establishment and operation of the system for the exchange of information regarding client credit ratings)**

(1) The Bank of Slovenia shall establish the system for the exchange of information regarding client credit ratings referred to in Article 366 of this Act within one year of the entry into force of this Act. Until the establishment of the system for the exchange of information regarding client credit ratings referred to in Article 366 of this Act, the system for the exchange of information regarding client credit ratings organised by banks pursuant to the ZBan-1 in accordance with Article 390a of the ZBan-1 shall be used for the exchange of information regarding client credit ratings.

(2) The system for the exchange of information regarding client credit ratings organised by banks pursuant to Article 390a of the ZBan-1 shall cease to function as of the day of the establishment of the system referred to in Article 366 of this Act, and in any case within one year of the entry into force of this Act. As of the aforementioned day the operator of the system organised by banks pursuant to Article 390a of the ZBan-1:



- may no longer collect or process personal data;
- shall permanently and irrevocably destroy all the collected data.

(3) The first paragraph of this article notwithstanding, the Bank of Slovenia may take over the operation of the system for the exchange of information regarding client credit ratings organised by banks such that it concludes a contract with the operator of the system for the takeover of information and technical support for the operation of the system, including information being processed in the system as at the day of the transfer. The law governing public procurement shall not apply to the conclusion of the contract referred to in the previous sentence.

(4) In connection with the transfer of information and technical support for the operation of the system for the exchange of information regarding client credit ratings, the provisions of the law governing employment with regard to the transfer to the acquiring employer of contractual and other rights and obligations deriving from employment held by employees at the transferring employer on the day of transfer shall apply to the position of employees at the operator of the system.

(5) Legal persons referred to in the first paragraph of Article 367 of this Act that are not members of the system for the exchange of information regarding client credit ratings as at the day of the entry into force of this Act shall join the system within six months of the entry into force of this Act.

#### **Article 401** **(system for reporting breaches)**

(1) Banks shall establish the system for reporting breaches referred to in Article 140 of this Act within six months of the entry into force of this Act.

(2) The Bank of Slovenia shall establish the system for reporting breaches referred to in Article 239 of this Act within six months of the entry into force of this Act.

#### **Article 402** **(issue of regulations)**

(1) The Bank of Slovenia shall issue regulations pursuant to this Act within three months of the entry into force of this Act.

(2) The minister responsible for finance shall issue the act referred to in the fifth paragraph of Article 21 of this Act within three months of the entry into force of this Act.

#### **Article 403** **(application of misdemeanours provisions)**

Until the amendment of the provisions on the amounts and ranges of fines set out by the law governing misdemeanours, the amounts and ranges of fines set out by Articles 373 and 374 of this Act shall apply notwithstanding the provisions of the law governing misdemeanours.

**Article 404**  
**(refusal of access to information of a public nature)**

Until the regulation of the content referred to in this article in the law governing access to the information of a public nature, access to information shall be refused if the request for access relates to information obtained or compiled for a Bank of Slovenia supervisory procedure that is still in progress, but shall only be refused after the completion thereof if the disclosure of the information could damage the bank or another person or could endanger the implementation of the Bank of Slovenia's tasks.

**CHAPTER 17:**  
**FINAL PROVISIONS**

**Article 405**  
**(repeal and application of regulations)**

(1) On the day of the entry into force of this Act, the Banking Act (Official Gazette of the Republic of Slovenia, Nos. 99/10 [official consolidated version], 52/11 [correction], 9/11 [ZPlaSS-B], 35/11, 59/11, 85/11, 48/12, 105/12, 56/13, 63/13 [ZS-K] and 96/13; hereinafter: the ZBan-1) shall cease to be in force, except:

1. the provisions of Subsection 7.7, Subsection 7.8, Chapter 8 and Chapter 9;
2. the provisions of Chapter 10 with regard to the Bank of Slovenia's decision-making procedure and with regard to judicial protection proceedings in connection with decisions by the Bank of Slovenia pursuant to the provisions cited in point 1 of this paragraph;
3. the provisions of Chapter 14 with regard to misdemeanours proceedings, the Bank of Slovenia's powers as the misdemeanours authority, and the definition of breaches of the provisions referred to in point 1 of this paragraph as misdemeanours.

(2) On the day of the entry into force of this Act, the following implementing regulations issued pursuant to the Zban-1 shall cease to be in force:

1. Regulation on eligible assets and documentation for the granting of an authorisation to increase the share capital of banks and savings banks via a non-cash contribution (Official Gazette of the Republic of Slovenia, No. 72/14);
2. Regulation on the amounts of annual fees for supervision and fees for decisions on requests for the granting of authorisations (Official Gazette of the Republic of Slovenia, No. 12/14);
3. Regulation on the documentation for the granting of authorisation to acquire a qualifying holding to banks and savings banks (Official Gazette of the Republic of Slovenia, No. 80/13);
4. Regulation on the documentation for demonstrating fulfilment of the conditions for performing the function of a member of the management board of a bank or savings bank (Official Gazette of the Republic of Slovenia, Nos. 74/13 and 5/14);
5. Regulation on reporting by branches of Member State banks (Official Gazette of the Republic of Slovenia, No. 32/12);
6. Regulation on the books of account and annual reports of banks and savings banks (Official Gazette of the Republic of Slovenia, Nos. 17/12, 104/13 and 89/14);
7. Regulation on the diligence of members of the management and supervisory boards of banks and savings banks (Official Gazette of the Republic of Slovenia, Nos. 62/11 and 74/13);

8. Regulation on the calculation of capital requirements for credit risk in securitisation and rules on the exposure of banks and savings banks to transferred credit risk (Official Gazette of the Republic of Slovenia, Nos. 85/10, 100/11 and 60/13);
9. Regulation on large exposures of banks and savings banks (Official Gazette of the Republic of Slovenia, Nos. 85/10 and 34/11);
10. Regulation on the calculation of the own funds of banks and savings banks (Official Gazette of the Republic of Slovenia, Nos. 85/10, 97/10, 100/11 and 100/12);
11. Regulation on reporting by monetary financial institutions (Official Gazette of the Republic of Slovenia, Nos. 46/09 and 79/11);
12. Regulation on the reporting of individual facts and circumstances of banks and savings banks (Official Gazette of the Republic of Slovenia, Nos. 42/09, 85/10, 62/11, 105/11, 17/12, 71/12, 38/13, 74/13 and 80/13);
13. Regulation on the minimum scope and content of the additional audit of compliance with risk management rules at banks and savings banks (Official Gazette of the Republic of Slovenia, No. 42/09);
14. Regulation on the holders of qualifying holdings of banks and savings banks (Official Gazette of the Republic of Slovenia, Nos. 21/09 and 60/13);
15. Regulation on the reporting of effective interest rates of banks and savings banks in accordance with the Consumer Credit Act (Official Gazette of the Republic of Slovenia, Nos. 18/08 and 72/10);
16. Regulation on the reporting of the own funds and capital requirements of banks and savings banks (Official Gazette of the Republic of Slovenia, Nos. 104/07, 85/10 and 105/11);
17. Rulebook setting out the criteria for determining the principal pursuit of the business activity of obtaining capital assets or the principal provision of mutually recognised financial services referred to in points 2 to 12 and point 15 of Article 10 of the Banking Act (Official Gazette of the Republic of Slovenia, No 55/07);
18. Regulation on the minimum requirements for ensuring an adequate liquidity position at banks and savings banks (Official Gazette of the Republic of Slovenia, Nos. 28/07, 55/07, 83/07, 74/11, 26/12, 98/3 and 38/14);
19. Regulation on the assessment of credit risk losses of banks and savings banks (Official Gazette of the Republic of Slovenia, Nos. 28/07, 102/08, 3/09, 29/12, 12/13 and 12/14);
20. Regulation on the documentation for the granting of an authorisation to establish a branch of a third-country bank (Official Gazette of the Republic of Slovenia, No. 28/07);
21. Regulation on the documentation for the granting of authorisations to provide banking and financial services and for status changes (Official Gazette of the Republic of Slovenia Nos. 28/07, 89/11 and 74/13);
22. Regulation on the investments of banks and savings banks in qualifying holdings in entities in the non-financial sector (Official Gazette of the Republic of Slovenia, Nos. 135/06, 97/10 and 60/13);
23. Regulation on disclosures by banks and savings banks (Official Gazette of the Republic of Slovenia, Nos. 135/06, 42/09, 85/10, 62/11, 100/11 and 60/13);
24. Regulation on the supervision of banks and savings banks on a consolidated basis (Official Gazette of the Republic of Slovenia, Nos. 135/06, 104/07, 97/10 and 60/13);
25. Regulation on risk management and the implementation of the internal capital adequacy assessment process for banks and savings banks (Official Gazette of the Republic of Slovenia, Nos. 135/06, 28/07, 104/07, 85/10, 62/11, 3/13, 38/13, 60/13, 74/13, 12/14 and 25/14).
26. Regulation on the calculation of capital requirements for operational risk for banks and savings banks (Official Gazette of the Republic of Slovenia, Nos. 135/06, 85/10 and 60/13);
27. Regulation on the calculation of capital requirements for market risk for banks and savings banks (Official Gazette of the Republic of Slovenia, Nos. 135/06, 104/07, 85/10, 100/11 and 60/13);

28. Regulation on the recognition of external credit assessment institutions (Official Gazette of the Republic of Slovenia, Nos. 135/06, 64/10 and 100/11);
29. Regulation on credit protection (Official Gazette of the Republic of Slovenia, Nos. 135/06, 104/07, 112/08, 100/09, 85/10 and 100/12);
30. Regulation on the calculation of capital requirements for credit risk under the internal ratings-based approach for banks and savings banks (Official Gazette of the Republic of Slovenia, Nos. 135/06, 104/07, 22/10, 85/10, 62/11, 22/12 and 60/13);
31. Regulation on the calculation of capital requirements for credit risk under the standardised approach for banks and savings banks (Official Gazette of the Republic of Slovenia, Nos. 135/06, 104/07, 85/10, 97/10, 62/11, 100/11, 22/12, 100/12 and 60/13).

(3) The previous paragraph notwithstanding, the following regulations issued pursuant to the ZBan-1 shall apply until the issue of regulations pursuant to Article 402 of this Act:

1. Regulation on eligible assets and documentation for the granting of an authorisation to increase the share capital of banks and savings banks via a non-cash contribution (Official Gazette of the Republic of Slovenia, No. 72/14);
2. Regulation on the amounts of annual fees for supervision and fees for decisions on requests for the granting of authorisations (Official Gazette of the Republic of Slovenia, No. 12/14);
3. Regulation on the documentation for the granting of authorisation to acquire a qualifying holding to banks and savings banks (Official Gazette of the Republic of Slovenia, No. 80/13);
4. Regulation on the documentation for demonstrating fulfilment of the conditions for performing the function of a member of the management board of a bank or savings bank (Official Gazette of the Republic of Slovenia, Nos. 74/13 and 5/14);
5. Regulation on reporting by branches of Member State banks (Official Gazette of the Republic of Slovenia, No. 32/12);
6. Regulation on the books of account and annual reports of banks and savings banks (Official Gazette of the Republic of Slovenia, Nos. 17/12, 104/13 and 89/14);
7. Regulation on the diligence of members of the management and supervisory boards of banks and savings banks (Official Gazette of the Republic of Slovenia, Nos. 62/11 and 74/13);
8. Regulation on reporting by monetary financial institutions (Official Gazette of the Republic of Slovenia, Nos. 46/09 and 79/11);
9. Regulation on the reporting of individual facts and circumstances of banks and savings banks (Official Gazette of the Republic of Slovenia, Nos. 42/09, 85/10, 62/11, 105/11, 17/12, 71/12, 38/13, 74/13 and 80/13);
10. Regulation on the minimum scope and content of the additional audit of compliance with risk management rules at banks and savings banks (Official Gazette of the Republic of Slovenia, No. 42/09);
11. Regulation on the holders of qualifying holdings of banks and savings banks (Official Gazette of the Republic of Slovenia, Nos. 21/09 and 60/13);
12. Regulation on the reporting of effective interest rates of banks and savings banks in accordance with the Consumer Credit Act (Official Gazette of the Republic of Slovenia, Nos. 18/08 and 72/10);
13. Rulebook setting out the criteria for determining the principal pursuit of the business activity of obtaining capital assets or the principal provision of mutually recognised financial services referred to in points 2 to 12 and point 15 of Article 10 of the Banking Act (Official Gazette of the Republic of Slovenia, No 55/07);
14. Regulation on the minimum requirements for ensuring an adequate liquidity position at banks and savings banks (Official Gazette of the Republic of Slovenia, Nos. 28/07, 55/07, 83/07, 74/11, 26/12, 98/3 and 38/14);
15. Regulation on the assessment of credit risk losses of banks and savings banks (Official Gazette of the Republic of Slovenia, Nos. 28/07, 102/08, 3/09, 29/12, 12/13 and 12/14);

16. Regulation on the documentation for the granting of an authorisation to establish a branch of a third-country bank (Official Gazette of the Republic of Slovenia, No. 28/07);
17. Regulation on the documentation for the granting of authorisations to provide banking and financial services and for status changes (Official Gazette of the Republic of Slovenia Nos. 28/07, 89/11 and 74/13);
18. Regulation on risk management and the implementation of the internal capital adequacy assessment process for banks and savings banks (Official Gazette of the Republic of Slovenia, Nos. 135/06, 28/07, 104/07, 85/10, 62/11, 3/13, 38/13, 60/13, 74/13, 12/14 and 25/14).

(4) The first paragraph of this article notwithstanding, the ZBan-1 shall be applied when referred to by the Financial Instruments Market Act (Official Gazette of the Republic of Slovenia, Nos. 108/10 [official consolidated version], 78/11, 55/12, 105/12 [ZBan-1J] and 63/13 [ZS-K]).

#### **Article 406** **(amendment of law governing operations of SID banka)**

In the Slovene Export and Development Bank Act (Official Gazette of the Republic of Slovenia, Nos. 56/08 and 20/09), in the third paragraph of Article 14 before the full stop a new indent shall be added to read: “- the obligations with regard to the formulation of a recovery plan and the provisions on guaranteed deposits shall not apply to SID banka”.

#### **Article 407** **(application of provisions on capital buffers)**

(1) The provisions of Chapter 7 of this Act shall begin to be applied on 1 January 2016, with the exception of Articles 222 to 226 of this Act, which shall apply as of the entry into force of this Act.

(2) The provisions of Articles 218 to 221 of this Act shall apply as of 1 January 2016.

#### **Article 408** **(entry into force of the Act)**

This Act shall enter into force on the thirtieth day after its publication in the Official Gazette of the Republic of Slovenia.

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Ljubljana, 31 March 2015  
EPA 271-VII

National Assembly  
of the Republic of Slovenia  
**Dr Milan Brglez**  
President