

THIS TEXT IS UNOFFICIAL TRANSLATION AND MAY NOT BE USED AS A BASIS FOR SOLVING ANY DISPUTE

Pursuant to the third paragraph of Article 13 of the Banking Act (Official Gazette of the Republic of Slovenia, Nos. 25/15, 44/16 [ZRPPB] and 77/16 [ZCKR]; hereinafter: the ZBan-2), the third paragraph of Article 9 of the Resolution and Compulsory Winding-Up of Banks Act (Official Gazette of the Republic of Slovenia, Nos. 44/16 and 71/16 [constitutional court ruling]; hereinafter: the ZRPPB) and the first paragraph of Article 31 of the Bank of Slovenia Act (Official Gazette of the Republic of Slovenia, Nos. 72/06 [official consolidated version] and 59/11), the Governing Board of the Bank of Slovenia hereby issues the following

REGULATION

on the application of the Guidelines on the interpretation of the different circumstances when an institution shall be considered as failing or likely to fail under Article 32(6) of Directive 2014/59/EU

Article 1

(purpose and field of application)

(1) Pursuant to Article 16(1) of 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), on 6 August 2015 the European Banking Authority issued the Guidelines on the interpretation of the different circumstances when an institution shall be considered as failing or likely to fail under Article 32(6) of Directive 2014/59/EU (hereinafter: the guidelines), which are published on its website.

(2) The guidelines referred to in the first paragraph of this article provide a set of objective elements that should support the determination that an institution is failing or likely to fail, in accordance with the circumstances laid down in points (a), (b) and (c) of Article 32(4) of Directive 2014/59/EU. The guidelines should be read in conjunction with the conditions laid down in points (b) and (c) of Article 32(1) of Directive 2014/59/EU, and also apply when a determination that an institution is failing or likely to fail is conducted by the relevant authority in the context of determining that an institution is no longer viable for the purpose of exercising the write-down and/or conversion power in accordance with Article 60 of Directive 2014/59/EU.

(3) The guidelines apply to:

1. competent authorities referred to in point (i) of Article 4(2) of Regulation (EU) No 1093/2010,
2. resolution authorities referred to in point (iv) of Article 4(2) of Regulation (EU) No 1093/2010, and
3. institutions as defined in Article 4(1) of Regulation (EU) No 1093/2010.

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**Article 2
(content of regulation and scope of application of guidelines)**

(1) By virtue of this regulation the Bank of Slovenia sets out the application of the guidelines to:

1. banks and savings banks that in accordance with the ZBan-2 have obtained an authorisation to provide banking services in the Republic of Slovenia (hereinafter: banks),
2. the Bank of Slovenia, when in accordance with the ZBan-2 in its role as the competent authority it is exercising supervisory powers and tasks over banks referred to in point 1 of this paragraph,
3. the Bank of Slovenia, when in accordance with the ZRPPB it is exercising the powers and tasks of the resolution authority.

(2) The guidelines shall also be taken into account by banks that determine themselves that they are failing or are likely to fail, in accordance with Article 57 of the ZRPPB.

(3) In exercising its supervisory powers and tasks in accordance with the ZBan-2 and 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, the Bank of Slovenia shall take full account of the provisions of the guidelines in those parts relating to the exercise of the powers and tasks of competent authorities. In exercising the powers and tasks of the resolution authority in accordance with the ZRPPB, the Bank of Slovenia shall take full account of the provisions of the guidelines in those parts relating to the exercise of the powers and tasks of resolution authorities.

**Article 3
(entry into force)**

This regulation shall enter into force on the day after its publication in the Official Gazette of the Republic of Slovenia.

Ljubljana, 29 August 2017

Boštjan Jazbec
President,
Governing Board of the Bank of Slovenia