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- Official Gazette of the Republic of Slovenia, No. 50/15 of 10 July 2015 (in force since 11 July 2015)

Pursuant to the fourth paragraph of Article 129 of the Banking Act (Official Gazette of the Republic of Slovenia, No. 25/15; hereinafter: the ZBan-2), 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) in connection with Recital (75) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176 of 27 June 2013, p 1; hereinafter: Regulation (EU) No 575/2013), the Governing Board of the Bank of Slovenia hereby issues the following

REGULATION

on the documentation for the granting of an authorisation to include a capital instrument in the calculation of the own funds of banks and savings banks

1. GENERAL PROVISIONS

Article 1
(content of regulation)

(1) This regulation sets out the detailed content of the documentation that a bank or savings bank (hereinafter: bank) must enclose in its request for the granting of the authorisation referred to in the second paragraph of Article 129 of the ZBan-2 or the authorisation referred to in the third paragraph of Article 26 of Regulation (EU) No 575/2013 to include a capital instrument in the calculation of its own funds.

(2) Wherever this regulation refers to the provisions of other regulations, such provisions shall apply in their wording applicable at the time in question.

Article 2
(definition of terms)

The terms used in this regulation shall have the same meanings as in the ZBan-2 and Regulation (EU) No 575/2013, and regulations issued on their basis.

2. DOCUMENTATION FOR GRANTING OF AUTHORISATION TO INCLUDE CAPITAL INSTRUMENT IN CALCULATION OF OWN FUNDS

Article 3
(general)

(1) In accordance with the third paragraph of Article 26 of Regulation (EU) No 575/2013 or the second paragraph of Article 129 of the ZBan-2, a bank shall obtain the authorisation of the competent authority for the inclusion of a capital instrument in the calculation of own funds, having regard for the procedure for making a decision on the granting of authorisations set out in Section 12.2 of the ZBan-2, unless explicitly stipulated otherwise by Regulation (EU) No 575/2013 or another regulation.

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(2) The bank shall enclose the information set out in Article 4 of this regulation in the request for the granting of an authorisation to include a capital instrument in the calculation of own funds.

Article 4
(content of request for granting of authorisation)

(1) The request for the granting of an authorisation to include a capital instrument in the calculation of own funds referred to in Article 3 of this regulation shall contain the following:

- (a) the basic documentation (contract, prospectus or other) related to the issue of the capital instrument;
- (b) the amount and date of the planned issue of the capital instrument for inclusion in the calculation of capital, and the impact on capital ratios set out in Article 92 of Regulation (EU) No 575/2013;
- (c) an indication of the category of own funds and the level of inclusion of the capital instrument (individual and/or consolidated basis);
- (d) an indication of the holder of the capital instrument where known, or an indication of the potential holder or types of potential holders (e.g. institutional investors) of the specific capital instrument;
- (e) a summary of the main features of the capital instrument on the basis of the prescribed template set out in Annex II of Commission Implementing Regulation (EU) No 1423/2013 of 20 December 2013 laying down implementing technical standards with regard to disclosure of own funds requirements for institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council (OJ L 335 of 31 December 2013);
- (f) an illustration that the conditions set out in Articles 28, 52 or 63 of Regulation (EU) No 575/2013 have been met, including the relevant conditions set out in regulatory and implementing technical standards or other regulations referred to in Article 9 of the ZBan-2;
- (g) a description of the accounting treatment of the specific capital instrument, together with an auditor's opinion of its eligibility;
- (h) the calculation of the bank's own funds and capital requirements, including capital buffers, as at the final day of the month before the request for the granting of the authorisation was filed, including the amount and composition of own funds by individual categories and items;
- (i) a projection of the calculation of the bank's own funds and capital requirements, including capital buffers, for the period of the next three years, and its business strategy, including a projection of the statement of financial position, the income statement and the statement of comprehensive income as defined in the Regulation on the books of account and annual reports of banks and savings banks (Official Gazette of the Republic of Slovenia, No. 50/15);
- (j) the consent of the bank's management and supervisory bodies with regard to the issue of the capital instrument;
- (k) the provisions of the articles of association and restrictions with regard to the issue of the capital instrument;
- (l) a brief substantive and timing description of the additional authorisations and consents that the bank must obtain in connection with the issue of the specific capital instrument on the basis of the legislation governing the financial instruments market;
- (m) other facts and circumstances that could have an impact on the meeting of the conditions for obtaining the authorisation to include the capital instrument in the calculation of the bank's own funds.

(2) The bank shall submit the information referred to in the first paragraph of this article on an individual and/or consolidated basis depending on the level of inclusion of the specific capital instrument in the calculation of own funds. Should the bank intend to include the specific capital

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instrument in the calculation of own funds on a consolidated basis, the provisions of the first paragraph of this article shall apply *mutatis mutandis* to the submission of information.

(3) The information referred to in point (f) of the first paragraph of this article shall be submitted in the form of a table in which the following are cited individually:

- (a) all the required conditions for the specific capital instrument;
- (b) references to the basic documentation referred to in point (a) of the first paragraph of this article (an indication of page, article, paragraph, point or other) whose content justifies that the required conditions have been met;
- (c) a self-assessment of compliance with all the required conditions.

(4) Within the framework of the procedure for making a decision on the request for the granting of the authorisation to include the capital instrument in the calculation of own funds, the bank shall without delay send the competent authority any changes, additions or updates to the information, should there be changes or additions to the originally submitted information referred to in the first paragraph of this article.

(5) When the procedure for making a decision on the request for the granting of the authorisation to include the capital instrument in the calculation of own funds is being conducted on the basis of a draft of the basic documentation referred to in point (a) of the first paragraph of this article, the bank shall submit the final version within five business days of its conclusion or entry into force. At the same time it shall submit a declaration by the bank's management body that the final version of the basic documentation referred to in point (a) of the first paragraph of this article does not differ from the originally submitted draft based on which the competent authority took the decision in the form of a granted authorisation to include the capital instrument in the calculation of own funds, or shall explain any differences from the originally submitted draft.

(6) Notwithstanding whether the bank has obtained the competent authority's authorisation to include a capital instrument in the calculation of own funds pursuant to the second paragraph of Article 129 of the ZBan-2 or the third paragraph of Article 26 of Regulation (EU) No 575/2013, the competent authority may request that the bank amend or supplement individual provisions of the basic documentation referred to in point (a) of the first paragraph of this article should deviations from the required conditions for the bank's specific capital instrument be found in a subsequent procedure to review the quality of the bank's capital instrument by the European Banking Authority pursuant to Article 80 of Regulation (EU) No 575/2013.

3. FINAL PROVISIONS

Article 5 (application of regulation)

On the day that this regulation enters into force, the 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) shall cease to be applied in the part relating to the documentation for the granting of an authorisation to include capital instruments in the calculation of a bank's own funds.

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**Article 6
(entry into force)**

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

Ljubljana, 7 July 2015

Boštjan Jazbec
President,
Governing Board of the Bank of Slovenia