

Law

of 26 November 2008,

amending the Law No. 566/2001 Coll. on securities and investment services and on amendment to certain laws (Securities Law), as amended, and on amendment to certain laws

(Extract)

The National Council of the Slovak Republic has enacted the following law:

Article I

The Law No. 566/2001 Coll. on securities and investment services and on amendment to certain laws (Securities Law), as amended by the Law No. 291/2002 Coll., Law No. 510/2002 Coll., Law No. 162/2003 Coll., Law No. 594/2003 Coll., Law No.43/2004 Coll., Law No.635/2004 Coll., Law No. 747/2004 Coll., Law No. 7/2005 Coll., Law No. 266/2005 Coll., Law No. 336/2005 Coll., Law No. 213/2006 Coll., Law No. 644/2006 Coll., Law No.209/2007 Coll., Law No.659/2007 Coll., and Law No. 70/2008 Coll., will be amended as follows:

69. In § 83(2)(b) and (3) the full stop at the end will be replaced by a semicolon, and the following words will be added: „this provision will not apply to branches of foreign investment firms providing the investment services, ancillary services or perform any investment activities on the territory of the Slovak Republic according to the right of free provision of services.“.
70. In § 83(7), in the first sentence, the full stop at the end will be replaced by a semicolon, and the following words will be added: „this prohibition will also apply to any differences in the extent and level of protection of clients in the member states.“.
71. In § 83a(3)(b), the part of the provision before the semicolon will read as follows: „to deliver to each client whose client’s assets are subject to the change in the system of protection of clients, a special written notice on such change, which must contain also the date of the given change and the information on all consequences arising from the change of the system of protection of clients for the client and his client’s assets;“.
72. In § 83a(6), the figure „66“ will be replaced by the figure „67“.

73. A new paragraph § 83b will be added after § 83a, which will read as follows:

„§ 83b

(1) A branch of a foreign investment firm providing the investment services, ancillary services or performing any investment activities on the territory of the Slovak Republic according to the right of free provision of services, may voluntarily participate, under the terms and conditions stipulated in this Law, in the system of protection of clients in the Slovak Republic in order to enhance the protection of clients in the extent in which the protection of the client's assets according to the rules of the system of protection of clients in the Slovak Republic exceeds the total maximum possible amount of compensation for any unavailable protected client's assets according to rules of the system of protection of clients in the member state on whose territory the relevant investment firm is based (hereinafter referred to as the „national system of protection of clients“). For the purposes of such participation, a written agreement must be concluded between the fund, the institution of the national system of protection of clients and the foreign investment firm whose branch participates in the system of protection of clients in the Slovak Republic.

(2) If the branch of a foreign investment firm providing the investment services, ancillary services or performing any investment activities on the territory of the Slovak Republic according to the right of free provision of services, voluntarily participates in the system of protection of clients in the Slovak Republic, then the object of payment of the annual contribution or extraordinary contribution to the fund and the object of provision of compensations from the system of protection of clients in the Slovak Republic are only those client's assets which are received on the territory of the Slovak Republic and protected by this Law, and this only in the extent in which the protection of clients according to the rules of the system of protection of clients in the Slovak Republic exceeds the total maximum possible amount of compensation for any unavailable protected client's assets according to the rules of the national system of protection of clients.

(3) Should the client's assets in the branch of a foreign investment firm voluntarily participating in the system of protection of clients in the Slovak Republic, become unavailable according to the rules of the national system of protection of clients, then the clients and any other beneficiaries entitled to receive the compensation for the unavailable protected client's assets which were received on the territory of the Slovak Republic must have the option to apply and prove the right for compensations for the unavailable protected client's assets and for payment of compensations for unavailable protected client's assets also on the territory of the Slovak Republic.

(4) The branch of a foreign investment firm providing the investment services, ancillary services or performing any investment activities on the territory of the Slovak Republic according to the right of free provision of services and voluntarily participating in the system of protection of clients in the Slovak Republic will be subject to the provisions of this Law; that branch of a foreign investment firm is liable to publish, in its operational premises, in the Slovak language, also the information on protection of the clients according to the national system of protection of clients, including the rules of the national system of protection of clients on protection of client's assets and on provision of compensations for any unavailable client's assets.

(5) Participation of the branch of a foreign investment firm in the system of protection of clients in the Slovak Republic will be terminated by a written notice on termination of the agreement concluded in accordance with clause 1 above; the notice period is one year and will commence on the first day of a calendar month following the date when the written notice was provably delivered to the other parties. The fund may terminate the agreement by a notice only in the event the other parties fail to fulfill their obligations according to the agreement concluded in accordance with clause 1 above or if the relevant foreign investment firm or a branch thereof fails to fulfill its liabilities according to this Law. The annual contribution and the extraordinary contribution to the fund must be paid before termination of participation of the branch of a foreign investment firm in the system of protection of clients in the Slovak Republic, in the amount set forth in § 83a(3)(c) and (d). The branch of a foreign investment firm whose voluntary participation in the system of protection of clients in the Slovak Republic is terminated upon the notice on termination of the agreement, is liable to publish such information in its operational premises in the Slovak language, no later than from the beginning of the notice period until termination of its participation in the system of protection of clients in the Slovak Republic; the information must include also the date of termination of the branch of a foreign investment firm in the system of protection of clients in the Slovak Republic.“.

74. In § 84(5)(a), the words „or 14“ will be added after the words „clause 13“.

75. In § 84, clause 6 will read as follows:

„(6) The annual contribution for the relevant year is determined by the fund for the whole year on or before 20 December of the preceding year as follows:

- a) for the investment firm according to § 54(13) or (14) and for any similar foreign investment firm between 0.1% and 1% from the annual fees charged by the client for the provided investment services and for the ancillary service according to § 6(2)(a), however, minimum the amount of 80 Eur,
- b) for the investment firm according to § 54(12) and for any similar foreign investment firm
 1. between 0.5% and 2% from the annual fees charged to the clients for the provided investment services and for the ancillary service according to § 6(2)(a),
 2. between 0.01% and 2% from the value of the client’s assets determined as an arithmetic mean of the values of the assets recorded in the commercial documentation of the investment firm as of the end of each month, however, minimum the amount of 390 Eur or
 3. the amount of 390 Eur increased per each client which is entitled to the compensation from the fund, by an amount between 1 and 20 Eur,
- c) for any other investment firms and foreign investment firms
 1. between 1% and 3% from the annual fees charged to the clients for the provided investment services and for the ancillary service according to § 6(2)(a),
 2. between 0.01% and 2% from the value of the client’s assets determined as an arithmetic mean of the values of the assets recorded in the commercial documentation of the investment firm as of the end of the last day of each month, however, minimum the amount of Eur 2,300 or
 3. the amount of 2,300 Eur increased per each client which is entitled to the compensation from the fund, by an amount between 1 and 20 Eur.“.

76. In § 87, clause 2 will read as follows:

„(2) For any unavailable protected client’s assets, the fund will provide a compensation to one client or any other entitled person in the amount of 100 % of such client’s assets.“.

77. In § 87(3), the word „eur“ will be replaced by the word „eurocents“.

78. In § 88(7), the first sentence will be deleted.“.

79. In § 91(1)(c) and (5)(b), the figure „2“ will be replaced by the figure „3“.

110. New paragraphs § 173j and § 173k will be added after § 173i, reading as follows including the headings:

„§173j

Transitional Provisions to the Amendments in Force from 1st January, 2009

(1) Any treasury bills issued on or before 31st December, 2008 will be subject to the regulations which are in force until 31st December, 2008.

(2) Any proceedings relating to the prior consents according to § 70(1)(a) and which had commenced and have not been finalized before 1st January, 2009 will be finalized according to the current regulations.

(3) For any client’s assets protected according to this Law, which have become unavailable prior to the date of coming into force of this Law, a compensation will be provided according to the regulations in force from the effective date of this Law; this will be without prejudice to the provision of § 169(4).

Article XI

This Law will come into force on 1st January, 2009, except for the provisions of Article III, clauses 35 to 37 [§ 68, § 69, § 71 and § 72(4)] and clause 49 [§ 122h], Article IX and Article X, which will come into force on the date of publication, except for the provisions of Article I clause 5 [§ 7(9), § 53a(3)], clause 12 [§ 10(4)], clause 15 [§ 29] and clause 110 [§ 173k], which will come into force on 1st February, 2009, and except for the provision of Article VIII clause 37 (§ 97(5)), which will come into force on 1st January, 2010.“.

President of the Slovak Republic
Chairman of the National Council of the Slovak Republic
Prime Minister of the Slovak Republic