

DECISION OF THE EUROPEAN CENTRAL BANK

of 31 December 2008

on the paying-up of capital, transfer of foreign reserve assets and contributions by Národná banka Slovenska to the European Central Bank's reserves and provisions

(ECB/2008/33)

(2009/59/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the ESCB Statute), and in particular Articles 30.1, 30.3, 49.1 and 49.2 thereof,

Whereas:

- (1) Pursuant to Article 1 of Council Decision 2008/608/EC of 8 July 2008 in accordance with Article 122(2) of the Treaty on the adoption by Slovakia of the single currency on 1 January 2009⁽¹⁾, Slovakia fulfils the necessary conditions for adoption of the euro and the derogations granted to it under Article 4 of the 2003 Act of Accession⁽²⁾ will be abrogated with effect from 1 January 2009.
- (2) Article 49.1 of the ESCB Statute provides that the national central bank (NCB) of a Member State whose derogation has been abrogated must pay up its subscribed share of the capital of the European Central Bank (ECB) to the same extent as the NCBs of the other participating Member States. The NCBs of the existing participating Member States have paid up their shares in the ECB's subscribed capital in full⁽³⁾. The weighting of Národná banka Slovenska in the ECB's capital key is 0,6934 %, pursuant to Article 2 of Decision ECB/2008/23 of 12 December 2008 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital⁽⁴⁾. Národná banka Slovenska has already paid up part of its share in the ECB's subscribed capital, pursuant to Article 1 of Decision ECB/2006/26 of 18 December 2006 laying down the measures necessary for the

paying-up of the European Central Bank's capital by the non-participating national central banks⁽⁵⁾. The outstanding amount is therefore EUR 37 216 406,81, which results from multiplying the ECB's subscribed capital (EUR 5 760 652 402,58) by the capital key weighting of Národná banka Slovenska (0,6934 %), minus the part of its share in the ECB's subscribed capital that has already been paid up.

- (3) Article 49.1, in conjunction with Article 30.1, of the ESCB Statute provides that the NCB of a Member State whose derogation has been abrogated must also transfer foreign reserve assets to the ECB. Pursuant to Article 49.1 of the ESCB Statute, the sum to be transferred is determined by multiplying the euro value at current exchange rates of the foreign reserve assets which have already been transferred to the ECB in accordance with Article 30.1 of the ESCB Statute, by the ratio between the number of shares subscribed by the NCB concerned and the number of shares already paid up by the NCBs of the other participating Member States. When determining the 'foreign reserve assets which have already been transferred to the ECB in accordance with Article 30.1', due account should be taken of previous capital key adjustments⁽⁶⁾ pursuant to Article 29.3 of the ESCB Statute and the ECB capital key expansions pursuant to Article 49.3 of the ESCB Statute⁽⁷⁾. As a result, pursuant to Decision ECB/2008/27 of 12 December 2008 laying down the measures necessary for the contribution to the European Central Bank's accumulated equity value and for adjusting the national central banks' claims equivalent to the transferred foreign reserve assets⁽⁸⁾, the euro equivalent of the foreign reserve assets which have already been transferred to the ECB under Article 30.1 of the ESCB Statute is EUR 44 154 040 257,26.
- (4) The foreign reserve assets to be transferred by Národná banka Slovenska should be in or be denominated in US dollars and gold.

⁽¹⁾ OJ L 195, 24.7.2008, p. 24.

⁽²⁾ Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ L 236, 23.9.2003, p. 33).

⁽³⁾ Decision ECB/2006/22 of 15 December 2006 laying down the measures necessary for the paying-up of the European Central Bank's capital by the participating national central banks (OJ L 24, 31.1.2007, p. 3).

⁽⁴⁾ See page 66 of this Official Journal.

⁽⁵⁾ OJ L 24, 31.1.2007, p. 15.

⁽⁶⁾ Decision ECB/2003/17 of 18 December 2003 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital (OJ L 9, 15.1.2004, p. 27), and Decision ECB/2008/23.

⁽⁷⁾ Decision ECB/2004/5 of 22 April 2004 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital (OJ L 205, 9.6.2004, p. 5) and Decision ECB/2006/21 of 15 December 2006 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital (OJ L 24, 31.1.2007, p. 1).

⁽⁸⁾ See page 77 of this Official Journal.

- (5) Article 30.3 of the ESCB Statute provides that the ECB must credit each NCB of a participating Member State with a claim equivalent to the foreign reserve assets that it has transferred to the ECB. The provisions regarding the denomination and remuneration of the claims that have already been credited to the NCBs of the existing participating Member States ⁽¹⁾ should also apply to the denomination and remuneration of the claims of Národná banka Slovenska.
- (6) Article 49.2 of the ESCB Statute provides that the NCB of a Member State whose derogation has been abrogated must contribute to the ECB's reserves, to those provisions equivalent to reserves, and to the amount still to be appropriated to the reserves and provisions corresponding to the balance of the profit and loss account as at 31 December of the year prior to abrogation of the derogation. The amount of this contribution is determined in accordance with Article 49.2 of the ESCB Statute.
- (7) By analogy with Article 3.5 of the Rules of Procedure of the European Central Bank ⁽²⁾, the Governor of Národná banka Slovenska has had the opportunity to make observations on this Decision before its adoption,

HAS DECIDED AS FOLLOWS:

Article 1

Definitions

For the purposes of this Decision:

- 'participating Member State' means a Member State that has adopted the euro,
- 'foreign reserve assets' means securities, gold or cash,
- 'gold' means fine troy ounces of gold in the form of London Good Delivery bars, as specified by the London Bullion Market Association,
- 'Eurosysteem' means the ECB and NCBs of participating Member States,
- 'securities' means any security or financial instrument as specified by the ECB,

⁽¹⁾ Pursuant to Guideline ECB/2000/15 of 3 November 1998 as amended by the Guideline of 16 November 2000 on the composition, valuation and modalities for the initial transfer of foreign-reserve assets, and the denomination and remuneration of equivalent claims (OJ L 336, 30.12.2000, p. 114).

⁽²⁾ Adopted by Decision ECB/2004/2 of 19 February 2004 adopting the Rules of Procedure of the European Central Bank (OJ L 80, 18.3.2004, p. 33).

— 'cash' means the lawful currency of the United States (US dollar).

Article 2

Payment of capital

1. With effect from 1 January 2009, Národná banka Slovenska shall pay up the remaining parts of its share in the ECB's subscribed capital, which correspond to EUR 37 216 406,81.
2. Národná banka Slovenska shall pay the amount specified in paragraph 1 to the ECB on 2 January 2009, by means of a separate transfer via the Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2).
3. Národná banka Slovenska shall, by a separate TARGET2 transfer, pay to the ECB on 2 January 2009 the interest accrued on 1 January 2009 on the amount due to the ECB under paragraph 2.
4. Any interest accruing under paragraph 3 shall be calculated on a daily basis, using the actual over-360-day method of calculation, at a rate equal to the marginal interest rate used by the Eurosystem in its most recent main refinancing operation.

Article 3

Transfer of foreign reserve assets

1. Národná banka Slovenska shall transfer to the ECB, with effect from 1 January 2009 and in accordance with this Article and the arrangements taken pursuant to it, an amount of foreign reserve assets denominated in US dollars and gold that is equivalent to EUR 443 086 155,98, as follows:

Euro-equivalent amount of US dollar securities and cash	Euro-equivalent amount of gold	Aggregate euro-equivalent amount
376 623 232,58	66 462 923,40	443 086 155,98

2. The euro-equivalent amount of foreign reserve assets to be transferred by Národná banka Slovenska under paragraph 1 shall be calculated on the basis of the exchange rates between the euro and the US dollar established as a result of the 24-hour written consultation procedure on 31 December 2008 between the Eurosystem and Národná banka Slovenska and, in the case of gold, on the basis of the US dollar price of gold per fine troy ounce established in the London gold fixing at 10.30 a.m., London time, on 31 December 2008.

3. The ECB shall confirm to Národná banka Slovenska as soon as possible the amount calculated in accordance with paragraph 2.

4. Národná banka Slovenska shall transfer to the ECB a portfolio of securities denominated in US dollars and cash whose relative Value at Risk (VaR) vis-à-vis the ECB tactical benchmark at the time of the transfer does not exceed the limit applying to the trading portfolios vis-à-vis the tactical benchmark as set by the ECB. The portfolio of securities denominated in US dollars and cash should also be in conformity with the credit limits specified by the ECB.

5. The transfer of cash shall take place to such accounts as are specified by the ECB. The settlement date for the cash to be transferred to the ECB shall be 2 January 2009. Národná banka Slovenska shall give instructions to effect such transfer to the ECB.

6. The value of the gold which Národná banka Slovenska transfers to the ECB in accordance with paragraph 1 shall be as close as possible to, but no more than EUR 66 462 923,40.

7. Národná banka Slovenska shall transfer the gold referred to in paragraph 1 in uninvested form to such accounts and at such locations as are specified by the ECB. The settlement date for the gold to be transferred to the ECB shall be 5 January 2009. Národná banka Slovenska shall give instructions to effect such transfer to the ECB.

8. If Národná banka Slovenska transfers gold to the ECB with a value of less than the amount specified in paragraph 1, then on 5 January 2009 it shall transfer an amount of US dollar cash equivalent to the shortfall to an account of the ECB as specified by the ECB. Any such US dollar cash shall not form part of the foreign reserve assets denominated in US dollars which Národná banka Slovenska transfers to the ECB in accordance with paragraph 1.

9. Národná banka Slovenska shall transfer securities to the ECB to such accounts as are specified by the ECB. The settlement date for securities to be transferred to the ECB shall be 2 January 2009. Národná banka Slovenska shall give instructions for the transfer of the ownership of securities to the ECB on the settlement date. The value of all such securities shall be calculated on the basis of prices designated by the ECB.

10. The euro equivalent of the sum of the value of all securities transferred to the ECB and the cash shall be equal to the amount indicated in paragraph 1.

11. The difference, if any, between the aggregate euro-equivalent amounts mentioned in paragraph 1 and the amount mentioned in Article 4(1) shall be settled in accordance with the Agreement of 31 December 2008 between the European Central Bank and Národná banka Slovenska regarding the claim credited to Národná banka Slovenska by

the European Central Bank under Article 30.3 of the Statute of the European System of Central Banks and of the European Central Bank ⁽¹⁾.

Article 4

Denomination, remuneration and maturity of the claims equivalent to the contributions

1. With effect from 1 January 2009, and subject to the specifications in Article 3 regarding the settlement dates of the transfers of foreign reserve assets, the ECB shall credit Národná banka Slovenska with a claim denominated in euro, equivalent to the aggregate euro amount of its contribution of foreign reserve assets. This claim corresponds to EUR 399 443 637,59.

2. The claim credited by the ECB to Národná banka Slovenska shall be remunerated from the settlement date. The interest accruing shall be calculated on a daily basis, using the actual over-360-day method of calculation, at a rate equivalent to 85 % of the marginal interest rate used by the Eurosystem in its most recent main refinancing operation.

3. The claim shall be remunerated at the end of each financial year. Each quarter the ECB shall inform Národná banka Slovenska of the cumulative amount.

4. The claim shall not be redeemable.

Article 5

Contributions to the ECB's reserves and provisions

1. With effect from 1 January 2009 and in accordance with Article 3(5) and (6), Národná banka Slovenska shall contribute to the ECB's reserves, to those provisions equivalent to reserves, and to the amount still to be appropriated to the reserves and provisions corresponding to the balance of the profit and loss account at 31 December 2008.

2. The amounts to be contributed by Národná banka Slovenska shall be determined in accordance with Article 49.2 of the ESCB Statute. The references in Article 49.2 to 'the number of shares subscribed by the central bank concerned' and 'the number of shares already paid up by the other central banks' shall refer to the weighting of Národná banka Slovenska, and the NCBs of the existing participating Member States in the ECB's capital key, pursuant to Decision ECB/2008/23.

3. For the purposes of paragraph 1, 'the ECB's reserves' and 'provisions equivalent to reserves' shall include the ECB's general reserve fund, balances on revaluation accounts and provisions for foreign exchange rate, interest rate, market price and gold price risks.

⁽¹⁾ OJ C 18, 24.1.2009, p. 3.

4. At the latest on the first working day following the Governing Council's approval of the ECB's annual accounts for the year 2008, the ECB shall calculate and confirm to Národná banka Slovenska the amount to be contributed by Národná banka Slovenska under paragraph 1.

5. On the second working day following the Governing Council's approval of the ECB's annual accounts for the year 2008, Národná banka Slovenska shall, via TARGET2, pay to the ECB:

(a) the amount due to the ECB under paragraph 4; and

(b) the interest accrued from 1 January 2009 until the payment date on the amount due to the ECB under paragraph 4.

6. Any interest accruing under paragraph 5(b) shall be calculated on a daily basis, using the actual over-360-day method of calculation, at a rate equal to the marginal interest rate used by the Eurosystem in its most recent main refinancing operation.

Article 6

Competencies

1. To the extent necessary, the Executive Board of the ECB shall issue instructions to Národná banka Slovenska to further specify and give effect to any provision of this Decision and to provide for appropriate remedies to address any problems that may arise.

2. Any instruction issued by the Executive Board under paragraph 1 shall be promptly notified to the Governing Council, and the Executive Board shall comply with any decision of the Governing Council thereon.

Article 7

Final provision

This Decision shall enter into force on 1 January 2009.

Done at Frankfurt am Main, 31 December 2008.

The President of the ECB

Jean-Claude TRICHET
