

**Memorandum of Understanding between the Bank of Slovenia and
the Commission Bancaire et Financière concerning their co-operation
in the field of banking supervision**

The Bank of Slovenia ("BOS") and the Commission Bancaire et Financière ("CBF"), hereinafter referred to jointly as "the Authorities", express their willingness to co-operate on the basis of mutual trust and understanding and agree to base their co-operation in the field of banking supervision on the principles and procedures outlined in this Memorandum.

Article I

General Issues

- 1) The Slovenian Banking Act (Official Gazette of the Republic of Slovenia No. 7/99 and 59/01) is the basic legal text which applies to all credit institutions. According to the Bank of Slovenia Act (Official Gazette of the Republic of Slovenia No. 58/02), the Bank of Slovenia is entrusted to conduct supervision of banks, savings banks and other persons pursuant to the Banking Act and shall design, bring into effect and control a system of regulations to ensure the standards for safe operation of banks and savings banks.
- 2) The Belgian Law of 22 March 1993 on the legal status and supervision of credit institutions and the Law of 11 January 1993 on the prevention of the use of the financial system for purposes of money-laundering are the basic legal texts which apply to all credit institutions. The Commission Bancaire et Financière in Belgium is entrusted with the supervision of compliance with the provisions of these Laws.
- 3) The Authorities intend to co-operate in the supervision of cross-border establishments of banks incorporated in the other country and within their jurisdiction upon the conditions set forth in the Memorandum to the extent allowed under the law. For the purpose of this Memorandum :
 - a) "branch" means an organisational unit of a credit institution incorporated in Belgium (Slovenia) which has been granted a banking license in Slovenia (Belgium);
 - b) "subsidiary" means a credit institution incorporated in Slovenia (Belgium) which is controlled by a (parent) credit institution incorporated in Belgium (Slovenia);
 - c) "cross-border establishment" means an establishment (branch or subsidiary) of a credit institution incorporated in Belgium (Slovenia) which has been granted a banking license in Slovenia (Belgium);
 - d) "home-country Authority" means the Authority located in Belgium (Slovenia) responsible for the supervision on a consolidated basis of a credit institution or other supervised institution;
 - e) "host-country Authority" means the Authority located in Slovenia (Belgium) in which a credit institution or other supervised institution has a branch or subsidiary.

- 4) The scope of co-operation encompasses licensing (issuance, change and revocation) and prior approval for share acquisition as well as the ongoing supervision of cross-border establishments, including exchange of information and on-site inspections (under conditions stipulated in Article II, sections 2, 3 and 4), be they branches or subsidiaries.
- 5) The fundamental objective of the co-operation between the Authorities is to ensure that all the banking activities of credit institutions with a cross-border establishment are subject to appropriate supervision.

In the case of supervision on a consolidated basis, the first-line supervision of the subsidiary is carried out by the host-country authority, but the home-country authority has all rights and obligations connected with its supervisory tasks on a consolidated basis.

Article II

1. Mutual Exchange of Information

1) The Authorities will mutually provide each other, in good time and spontaneously or on request, with any information on the following entities which might be relevant to the other Authority:

- 1) a) - a (parent) credit institution authorised in Belgium (Slovenia) which applies for a licence or has cross-border establishment in Slovenia (Belgium);
b)- cross-border establishments as mentioned in Article 1(3).
 - b2) A non-bank entity or natural person domiciled in Belgium (Slovenia) which intends to acquire a participation in the capital of a credit institution domiciled in Slovenia (Belgium), on condition that such information is available.
- 2) Requests for information in the framework of this Memorandum shall be made in writing and shall be addressed to the contact person of the requested authority.

In case of emergency, requests for information and replies to such requests may be transmitted orally provided that these requests are confirmed by writing unless the requested authority agrees to waive such requirements.

The request should specify the following:

- a description of the subject matter of the request and the purpose for which the information is sought and the reasons why this information will be of assistance;
- a description of the specific information requested by the requesting authority;
- in so far as the request results from investigations of violations of any laws or regulations, a short description of the relevant provisions that may have been violated and, if known to the requesting authority, a list of persons or institutions believed by the requesting authority to possess the informations sought or the places where such information may be obtained;
- an indication of the sensitivity of the information contained in the request and whether the requesting authority is content for the fact that it has made the request to be disclosed to persons whom the requested authority may need to approach for information;
- an indication of the urgency of the request, or the desired time period for the reply.

2. Granting of licenses and prior approval of acquisition of a share

In addition to the general provisions regarding mutual exchange of information mentioned *sub* 1, the following principles will apply to the cooperation among the Authorities in the field of granting of licenses and prior approval of acquisition of shares:

- 1) If a credit institution authorised in Belgium (Slovenia) applies to the Authority of Slovenia (Belgium) to establish a branch or a subsidiary, the latter shall inform the home-country Authority without delay and shall consult it before granting an authorisation to a cross-border establishment of the credit institution or assessing any acquisition of a holding in a domestic credit institution through a credit institution within the jurisdiction of the other Authority.
- 2) If the adequacy of home-country supervision is one of the statutory prerequisites which the host-country authority needs to address in the licensing procedure, it shall contact the home-country Authority to settle any question in this regard. The home-country Authority shall inform the host-country Authority of the amount of own funds, the solvency ratio of the (parent) credit institution on a solo and consolidated basis and the structure of the credit institution's shareholders owning a share of 10% or more in the capital or voting rights of the credit institution, and of whether it is fully subject to and complies with the domestic banking regulations, and of whether it is expected in the light of its administrative structure and internal control to run the cross-border establishment in an orderly and proper manner. The home-country Authority shall disclose information available to the host-country Authority which might give rise to doubts as regards the fitness and properness of the prospective managers of the cross-border establishment.
- 3) If a legal or natural person domiciled in Belgium (Slovenia) applies for a license to establish a credit institution in Slovenia (Belgium), the home-country Authority shall disclose any information available to the host-country Authority which might give rise to doubts as regards the fitness and properness of the prospective holders of participating interests in the credit institution.
- 4) The aforementioned information shall be provided on the basis of a written request made in good time by the relevant Authority to the second Authority by way of the designated employees of the Authority.
- 5) The home-country Authority shall inform the host-country Authority about changes in the ownership structure of a parent credit institutions authorised in Belgium (Slovenia) having a subsidiary or a branch in Slovenia (Belgium) which indicate that another entity or a group of related entities has taken control of the parent credit institution.
- 6) The aforementioned information shall be provided to the other Authority, save as where agreed otherwise, in good time and to the extent reasonable, by way of the designated employees of the Authorities.

3. Ongoing supervision and corrective action

In addition to the general provisions regarding mutual exchange of information mentioned *sub* 1, the following principles will apply to the cooperation among the Authorities as far as ongoing supervision and corrective action are concerned:

- 1) The Authorities will inform each other, upon request or without request, in good time and to the extent reasonable, about any event which has the potential to endanger the stability of credit institutions having cross-border establishments in the other country.
- 2) The Slovenian and Belgian supervisors shall discuss between each other any significant information on credit institutions having cross-border establishments in the other country which might be relevant to the other Authority. Relevant matters include concerns about the financial soundness of an institution (failure to meet capital adequacy or other financial requirements, significant losses, rapid decline in profits or deterioration in profitability and liquidity problems), concerns relating to the management structure and compliance with internal control procedures, and concerns arising from supervisory visits and on-site examinations.
- 3) The Authorities have to inform each other about any actions, including measures of supervision and other disciplinary proceedings undertaken by the home-country Authority against parent credit institutions which might be relevant for cross-border establishment. The host country will collaborate with the home-country Authority if the latter adopts supervisory counter-measures.

4. On-site inspections

- 1) The Authorities agree that co-operation is particularly useful in assisting each other in carrying out on-site inspections of cross-border establishments. The BOS will allow the CBF to carry out inspections of branches and subsidiaries of Belgian credit institutions located in Slovenia. In return, the CBF will allow the BOS to carry out inspections of branches and subsidiaries of Slovenian credit institutions located in Belgium.
- 2) The Authorities shall notify each other in advance of any inspection, giving details of the names of examiners, the purpose of the audit and its expected duration. The Authorities shall allow each other to accompany any such on-site inspection carried out by the other Authority. The Authorities shall keep each other informed on the results of the inspections, if of interest to the host-country supervisor, to the extent reasonable and in a timely manner. If the parent institution has been audited along with its cross-border establishment in the other country, the home-country Authority shall provide the host-country with a summary report on any findings which bear relevance to the cross-border establishment.

Article III

1. Laws and Regulations

- 1) The Authorities shall notify each other of any major change in the domestic rules and regulations within their jurisdiction, in particular of those changes which have a significant bearing on the activities of cross-border establishments and on the operation of the laws and regulations that concern the banking sector or the financial sector in the prudential conduct of credit institutions, and information about banking sector developments in Belgium and Slovenia.
- 2) Information shall be exchanged between the Authorities in writing or orally, without request or upon request, as well as during consultation sessions between the Authorities' management and other staff.

2. Interest of the general good/general law

When they become aware that the activities of a branch or subsidiary violate the general law of the host country, the Authorities will inform each other according to the principles set out in Article II, *sub* 1. In addition, the Slovenian and Belgian Authorities will co-operate in taking corrective action. The home-country authority will, if necessary, draw the attention of the management of the parent bank to those issues.

3. Meetings and exchange of staff

In order to enhance the quality of co-operation, representatives of the BOS and Belgian banking supervisors shall convene regularly to discuss issues concerning banks which maintain cross-border establishments within their jurisdictions. The Authorities intend to promote this co-operation by visits for informational purposes and by exchange of staff for practical internships. In these meetings they shall also review the effectiveness of these arrangements. The consultations shall be held on regular basis at a time and place specified by the Authorities.

Article IV

1. Professional secrecy


- 1) Compliance with the obligation of professional secrecy by all officials who receive classified information in the course of their activities is a necessary condition for successful co-operation between the Slovenian and Belgian Authorities. The Authorities will maintain the confidentiality of all information received.
- 2) In the event of a request by a third party for disclosure by an Authority of information transmitted by the other Authority, the Authority to which the request has been addressed shall notify the Authority that originated the information of such a request and shall receive prior approval before disclosing this information. If the disclosure of confidential information to a government agency acting in the home state of the relevant Authority is required by law, the BOS and the CBF shall promptly notify the Authority that has provided this confidential information. This does not pertain to cases in which conveyance of information would interfere with the confidentiality clause of legal provisions in Belgium and in Slovenia.
- 3) The CBF shall be bound by professional secrecy with regard to the confidential information which it may possess as a supervisory authority of credit institutions. Secrecy provisions for the CBF are laid down in Articles 74 and 75 of the Law of 2 August 2002 on the supervision of financial sector and financial services.
- 4) The BOS shall be bound by professional secrecy with regard to the confidential information which it may possess as a supervisory authority of credit institutions. Secrecy provisions for the BOS are laid down in Articles 58(4) and 59 of the Banking Act (Official Gazette of the Republic of Slovenia No. 7/99 and 59/01) and in Article 47 of the Bank of Slovenia Act (Official Gazette of the Republic of Slovenia No. 58/02 and 85/02).

2. Technical arrangements

- 1) This Memorandum shall enter into force on the day of its signing by the BOS and CBF.
- 2) Within 30 days of the date this Memorandum enters into force, the Authorities shall exchange lists of the contact persons authorized to request and provide information on behalf of the BOS and on behalf of the CBF pursuant to this Memorandum. The list shall contain the following contact data : the first name and surname, position (function), e-mail address, telephone and fax numbers of the authorized persons. On behalf of the BOS and CBF, persons other than those specified in the manner stated in the preceding clauses may request or provide information of a general nature or information that has been officially disclosed. The Authorities shall inform each other of any modifications to the list of authorized persons without undue delay.
- 3) The Authorities shall advise each other upon request on any aspect of their regulatory systems and notify each other about any major changes to the domestic rules and regulations within their jurisdiction, in particular those changes which have a significant bearing on the activities of cross-border establishments.
- 4) Where one Authority gives the other Authority notice of withdrawal from this agreement, the Memorandum of Understanding shall terminate on the thirtieth day following receipt of the notice of withdrawal by the other Authority, save as where agreed otherwise. If either Authority gives such notice, co-operation assistance in accordance with this Memorandum shall continue with respect to all requests for assistance that were made before the effective date of notification until the requesting Authority withdraws the matter for which assistance was requested. Actions that have started under this Memorandum prior to the notice of withdrawal shall continue up to its termination. In the event of termination of this Memorandum, information obtained under this Memorandum of Understanding shall continue to be treated confidentially.
- 5) Amendments to this Memorandum shall be made in writing only. Any such amendment to the Memorandum shall enter into force when signed by both Authorities.

Signed at _____ on this day *25.08.2003* in two copies, in English

For the Bank of Slovenia



The Governor

For the Commission Bancaire
et Financière



The Chairman