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FINANCIAL LAW NEWS

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CHANGE OF DECREE TO COMMERCIAL REGISTRY ACT

(Decree of the Ministry of Justice of the Slovak Republic No. 231/2010 Coll., Amending and Supplementing Decree of the Ministry of Justice of the Slovak Republic No. 25/2004 Coll., Stipulating Specimen of Forms for Submission of Petition for Registration in the Commercial Registry and List of Documents that Have to be Attached to the Petition for Registration as amended)

By this Decree, the list of documents that shall be attached to the petition for registration of change of registered data on a limited liability company in the Commercial Registry in case of increase in the registered capital is particularised, whereas it is distinguished between increase in the registered capital from own sources and increase in the registered capital by new contributions.

It also amended the list of documents to be attached to the petition for registration of enterprise of foreign entity or branch office of enterprise of foreign entity to the Commercial Registry as regards foreign natural person.

At the same time, it changes the list of documents to be attached to the petition for deletion of registered entity from the Commercial Registry in case of winding up of the registered entity with liquidation.

New forms for registration of other legal entity in the Commercial Registry are also introduced, as well as form for registration of changes related to such person in the Commercial Registry, registration of enterprise (branch office of enterprise) of foreign legal entity and registration of enterprise (branch office of enterprise) of foreign natural person to the Commercial Registry, including new forms regarding changes related to these persons.

This Decree became effective on 1 June 2010.

CHANGE OF DECREE TO ACT ON BANKRUPTCY AND RESTRUCTURALISATION

(Decree of the Ministry of Justice of the Slovak Republic No. 235/2010 Coll., Amending and Supplementing Decree of the Ministry of Justice of the Slovak Republic No. 665/2005 Coll., Executing Certain Provisions of Act No. 7/2005 Coll. on Bankruptcy and Restructuralisation and Changing and Amending Certain Acts as amended by Decree No. 536/2008 Coll.)

This Decree newly regulates provisions stipulating particularly the content of the list of assets owned by the debtor, list of obligations of the debtor, review of contracts, as well as content of the list of receivables.

Pursuant to this Decree, list of assets contains all assets owned by the debtor as of the date of submission of the list of assets or as of the date of its supplementing including disputable assets to which other person claims ownership title or other property title. As far as the bankruptcy proceeding is concerned, the list of assets contains also assets transferred from the property of the debtor on the basis of legal acts, which may be reasonably anticipated to be contested.

List of obligations contains financial obligations of the debtor as of the date of submission of the list of obligations or as of the date of its supplementing including disputable financial obligations that are claimed against the debtor.

Review of contracts forms part of the list of assets and list of obligations and contains all contracts that have not been terminated as of the date of elaboration of list of assets and list of obligations, including employment contracts.

List of estates' property shall be kept in transparent written form, whereas data mentioned in this list are stipulated by the act and this Decree.

This Decree shall become effective on 1 July 2010.

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MUNICIPAL ELECTIONS

(Decision of the Chairman of the National Council of the Slovak Republic No. 225/2010 Coll. on Declaration of Municipal Elections)

Chairman of the National Council of the Slovak Republic declared by this decision elections to municipal parliaments and elections of mayors of municipalities and determined these elections to take place on Saturday 27 November 2010.

TREATY WITH REPUBLIC OF LEBANON ON SUPPORT AND MUTUAL PROTECTION OF INVESTMENT

(Notification of the Ministry of Foreign Affairs of the Slovak Republic No. 223/2010 Coll. on Conclusion of Treaty between the Slovak Republic and Republic of Lebanon on Support and Mutual Protection of Investment)

Ministry of Foreign Affairs of the Slovak Republic by this notification informs on conclusion of the Treaty between the Slovak Republic and the Republic of Lebanon on Support and Mutual Protection of Investment.

Both parties have agreed within support and protection of investment to support and create favourable conditions for investors of other party to invest on its territory and to allow such investments in compliance with its national legislation.

This Treaty regulates issue of national treatment, clause of highest benefits, as well as issue of expropriation, compensation of damages, transfers of investments and payments related to the investments, as well as assignment of rights and resolution of disputes.

The National Council of the Slovak Republic granted its consent with the Treaty on 24 June 2009 and has decided that this Treaty is considered as an international treaty having priority prior the acts.

The President of the Slovak Republic ratified the Treaty on 12 August 2009.

This Treaty became valid and effective on 22 May 2010.

AMENDMENT TO CRIMINAL CODE AND CRIMINAL PROCEDURE CODE

(Act No. 224/2010 Coll., Amending and Supplementing Act No. 300/2005 Coll. Criminal Code as amended and on Change and Amendment of Certain Acts)

This Amendment to the Criminal Code introduced so-called indirect criminal liability of legal entities, as it enabled to impose to the legal entity certain criminal sanctions in the criminal proceeding, which are not defined as punishments, but as protective measures.

Two new types of protective measures have been added into the Criminal Code, being confiscation of financial amount and confiscation of property. This Amendment exactly regulated cases, in which it is possible to impose mentioned protective measures.

Pursuant to the reasoning report to this Amendment, in the criminal proceeding a petition for imposition of protective measure may be given by the prosecutor separately or as a part of accusation, if this is filed upon the exact accused person.

Amendment to the Criminal Procedure Code newly defines term of accessory person and regulates its rights. Also proceeding on petition for confiscation of financial amount and on petition for confiscation of property is regulated, as well as execution of these protective measures.

At the same time, range of punishments that may be imposed on the basis of criminal order is widened by the punishment of expulsion and punishment of ban of stay. Delivery of the criminal order, as well as filing of protest against criminal order are regulated as well.

This Amendment to the Criminal Procedure Code also regulated details on execution of foreign judgement against legal entity.

This Act also amends Act on Registry of Punishments, as well as Act on Bankruptcy and Restructuralisation. Pursuant to this Amendment, if the respective court delivers to the bankruptcy court valid and effective decision on imposition of punishment of

forfeiture of property or protective measure of confiscation of property, the bankruptcy court shall without undue delay decide on declaration of bankruptcy without petition over the property of person to whom such punishment or protective measure has been imposed.

This Act shall become effective on 1 September 2010.

NOTIFICATIONS OF NATIONAL BANK OF SLOVAKIA

(Notification of the National Bank of Slovakia No. 221/2010 Coll. on Issuance of Measure Stipulating Requisites of Application for Granting of Prior Consent of the National Bank of Slovakia under Sec. 45 para. 1 of Act No. 8/2008 Coll. on Insurance and on Change and Amendment of Certain Acts as amended; Notification of the National Bank of Slovakia No. 220/2010 Coll. on Issuance of Measure Stipulating Requisites of Application for Granting of Prior Consent of the National Bank of Slovakia under Sec. 70 para. 1 of Act on Securities; Notification of the National Bank of Slovakia No. 219/2010 Coll. on Issuance of Measure Stipulating Requisites of Application for Granting of Prior Consent of the National Bank of Slovakia under Sec. 28 para. 1 of Act on Banks)

Prior Consent under Insurance Act

By this Notification, National Bank of Slovakia informs on issuance of Measure No. 8/2010, stipulating requisites of the application for granting of prior consent of the National Bank of Slovakia under Sec. 45 para. 1 of Act No. 8/2008 Coll. on Insurance and Amending and Supplementing Certain Acts as amended

This Measure stipulates requisites of the application for granting of prior consent of the National Bank of Slovakia particularly for acquisition of qualified majority on the insurance company or reinsurance company or further increase of qualified majority on insurance company or reinsurance company, upon which the share in the registered capital of the insurance company or the reinsurance company or on voting rights in the insurance or reinsurance company would reach or exceed 20%, 30% or 50% or consent for such insurance company or reinsurance company to become a subsidiary, for decrease in the registered capital of the insurance company or the reinsurance company, for election of person nominated for the member of the Board of Directors,

procurist of the insurance company or reinsurance company, head of the branch office and procurist of foreign insurance company or head of the branch Office and procurist of foreign reinsurance company, for merger, amalgamation or division of insurance company or reinsurance company, for returning of license for performance of insurance activity or reinsurance activity, for sale of enterprise of the insurance company or reinsurance company, branch office of foreign insurance company or branch office of foreign reinsurance company, or part thereof, for prepayment of the loan, change of the loan or repayment of securities under Sec. 34 of the Insurance Act, as well as for creation of further technical reserve.

Prior Consent under Act on Securities

By this Notification, National Bank of Slovakia informs on issuance of Measure No. 7/2010, stipulating requisites of the application for granting of prior consent of the National Bank of Slovakia under Sec. 70 para. 1 of Act No. 566/2001 Coll. on Securities and Investment Services and Amending and Supplementing Certain Acts (Act on Securities) as amended.

This Measure stipulates requisites of the application for granting of prior consent of the National Bank of Slovakia particularly for acquisition of qualified majority on the securities trader or for further increase of the qualified majority on the trader with securities upon which the share in the registered capital of the trader with securities or on voting rights in trader with securities would reach or exceed 20%, 30% or 50% or upon which such trader with securities would become a subsidiary in one or in several operations directly or by concerted action.

Toto Measure also stipulates requisites of the application for granting of prior consent of the National Bank of Slovakia for decrease in the registered capital of the trader with securities, election of persons nominated for the members of the Board of Directors of the trader with securities, head of the branch office of foreign trader with securities, change of seat of securities trader, merger, amalgamation or division or securities trader including merger of the securities trader with

other legal entity or for return of license for provision of investment services, sale of enterprise of the securities trader, branch office of the foreign securities trader or part thereof, as well as for performance of activity of the member.

Prior Consent under Banking Act

By this Notification, National Bank of Slovakia informs on issuance of Measure No. 6/2010, stipulating requisites of the application for granting of prior consent of the National Bank of Slovakia under Sec. 28 para. 1 of Act No. 483/2001 Coll. on Banks and on Changing and Amending Certain Acts as amended.

This Measure stipulates requisites of the application for granting of prior consent of the National Bank of Slovakia particularly for acquisition of qualified majority on the bank or such further increase of qualified majority in the bank, upon which the share in the registered capital of the bank or on the voting rights in the bank would reach or exceed 20%, 30% or 50% or upon which such bank would become a subsidiary of entity that acquires such share, as well as for merger, amalgamation or division of the bank including merger of other legal entity with a bank or for returning of banking licence, as well as for decrease in the registered capital of the bank, dissolution of the bank from another reason or for change of its legal form, sale of enterprise of the bank, branch office of foreign bank or part thereof or for use of shares issued by the bank in order to secure obligations of the owner of these shares or of other person with the exception stipulated by the Banking Act.

All mentioned Measures are published in Bulletin of the National Bank of Slovakia No. 17/2010 and may be inspected at all organisational branches of the National Bank of Slovakia.

These Measures repealed up-to-now valid Measures of the National Bank of Slovakia that regulated requisites of applications for granting of prior consents mentioned above.

These Measures became effective on 1 June 2010.

AMENDMENT TO ACT ON FAMILY

(Act No. 217/2010 Coll. Amending and Supplementing Act No. 36/2005 Coll. on Family and on Change and Amendment of Certain Acts as amended)

This Amendment to the Act on Family regulates entrustment of a child to the changing personal care of both parents in case of divorce of matrimony of minor child and issues related thereto, including determination of allowances in case of changing personal care of parents over child.

Pursuant to this Amendment, the court shall take care of respecting right of a child for nurture and care from side of both parents and right of a child to keep regular, equivalent and coequal personal contact with both parents.

Also the right of parents for regular information on minor child is regulated as well.

This Act became effective on 1 July 2010.

Other significant legal regulations published in the Collection of Laws of the Slovak Republic in May 2010 are as follows:

- Notification of the Ministry of Health of the Slovak Republic No. 236/2010 Coll. on Issuance of Measure Stipulating Amount of Compensation for Suffering and Amount of Compensation for Obstruction of Social Versatility for the Year 2010,
- Decree of the Ministry of Justice of the Slovak Republic No. 234/2010 Coll., Amending and Supplementing Decree of the Ministry of Justice of the Slovak Republic No. 406/2008 Coll. on Composition, Decision Making, Organisation of Work and Process of Committee for Assessment of Conditions in Consumer Contracts,
- Regulation of the Government of the Slovak Republic No. 233/2010 Coll. Amending and Supplementing Regulation of the Government of the Slovak Republic No. 373/2008 Coll., Stipulating Requirements for Bringing of Preparations for Protection of Plants to the Market as amended,
- Notification of the Ministry of Finance of the

- Slovak Republic No. 230/2010 Coll. on Issue of Order Stipulating Daily Limit of Balance of Financial Means in Cash for Clients of State Treasury,
- Decree of the Ministry of Transportation, Posts and Telecommunications No. 229/2010 Coll., Amending and Supplementing Decree of the Ministry of Transportation, Posts and Telecommunications No. 578/2006 Coll. Stipulating Details on Certain Provisions of Act No. 725/2004 Coll. on Conditions of Operation of Motor Vehicles on Road Communications and Amending and Supplementing Certain Acts as amended,
 - Decree of the Ministry of Transportation, Posts and Telecommunications No. 228/2010 Coll., Amending and Supplementing Decree of the Ministry of Transportation, Posts and Telecommunications No. 464/2009 Coll. Stipulating Details on Operation of Motor Vehicles on Road Communications as amended,
 - Decree of the Ministry of Agriculture of the Slovak Republic No. 227/2010 Coll., Amending and Supplementing Decree of the Ministry of Agriculture of the Slovak Republic No. 344/2009 Coll. Executing Act on Huntsmanship,
 - Regulation of the Government of the Slovak Republic No. 212/2010 Coll., Amending and Supplementing Regulation of the Government of the Slovak Republic No. 409/2007 Coll., Stipulating Rules for Operating of Natural Gas Market,
 - Regulation of the Government of the Slovak Republic No. 211/2010 Coll., Amending and Supplementing Regulation of the Government of the Slovak Republic No. 317/2007 Coll., Stipulating Rules for Operating of Market with Electricity as amended by Act No. 309/2009 Coll.,
 - Regulation of the Government of the Slovak Republic No. 210/2010 Coll., Amending and Supplementing Regulation of the Government of the Slovak Republic No. 177/2002 Coll., Stipulating Details on Marking of Noise on Home Appliances,
 - Regulation of the Government of the Slovak Republic No. 206/2010 Coll., Amending Regulation of the Government of the Slovak Republic No. 388/2005 Coll., Stipulating Limits for Appreciation of Electro-Waste and for Repeated Use and Recycling of Components, Materials and Substances,
 - Decree of the Ministry of Transportation, Posts and Telecommunications No. 205/2010 Coll. on Determined Technical Appliances and Determined Activities and Activities on Determined Technical Appliances,
 - Decree of the Ministry of Environment of the Slovak Republic No. 203/2010 Coll., Amending and Supplementing Decree of the Ministry of Environment of the Slovak Republic No. 125/2004 Coll., Stipulating Details on Processing of Old Vehicles and on Certain Requirements for Production of Vehicles as amended by Decree of the Ministry of Environment of the Slovak Republic No. 227/2007 Coll.,
 - Regulation of the Government of the Slovak Republic No. 201/2010 Coll., Amending and Supplementing Regulation of the Government of the Slovak Republic No. 427/2008 Coll., Stipulating Amount of Fee for Use of Determined Parts of Highways and Roads for Motor Vehicles up to 3.5 t,
 - Act No. 200/2010 Coll. Amending and Supplementing Act of the National Council of the Slovak Republic No. 63/1993 Coll. on State Symbols of the Slovak Republic and Their Use as amended and Amending and Supplementing Certain Acts,
 - Act No. 199/2010 Coll., Amending and Supplementing Act No. 131/2002 Coll. on Universities and Amending and Supplementing Certain Acts as amended,
 - Act No. 198/2010 Coll. Amending Act No. 313/2009 Coll. on Viticulture and Viticulture,
 - Decree of the Ministry of Transportation, Posts and Telecommunications No. 197/2010 Coll., Amending and Supplementing the Decree of the Ministry of Transportation, Posts and Telecommunications No. 547/2009 Coll., Determining the Way of Marking of the Sections of Highway, Speedways Use of Which is Subject to Payment, Specimen of the Label and Way of its Placement on the Motor Vehicle as amended by Decree No. 146/2010 Coll.,

- Notification of the Ministry of Transportation, Posts and Telecommunications of the Slovak Republic No. 181/2010 Coll. on Issue of Edict on Provision of Grants for Support of Transposition to Digital Television Broadcasting in the Slovak Republic.

JUDICIAL DECISIONS

In this part are stated quotations from opinions of selected judicial decisions and statements in civil and business matters, which were recently published in From Court Practice journal (in Slovak: Zo súdnej praxe):

BURDEN OF PROOF

(Judgement of the Supreme Court of the Slovak Republic No. 1 M Obdo V9/2007, published in the From Court Practice Journal No. 2/2010)

If the existence of causal connection is asserted by the plaintiff, he must also bear the burden of proof to evidence such assertion. However, for decision of the court shall not be decisive consideration on who shall bear the burden of proof, but the results of evidence that shall be evaluated by the court under Sec. 132 of the Civil Procedure Code.

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Advokátska kancelária Čechová & Partners
Združenie advokátov: JUDr. Katarína Čechová (evidenčné číslo v zozname advokátov vedenom Slovenskou advokátskou komorou: 0339/317 831 63) poverená vedením účtovníctva združenia pod IČ DPH SK1020333083, JUDr. Simona Haláková (5503/318 195 41), Mgr. Ing. Michaela Jurková (4286/307 989 57), Mgr. Tomáš Mareta (1601/318 172 11), Mgr. Tomáš Rybár (3988/307 967 76).

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