



RESOLUTION OF THE GOVERNMENT OF THE SLOVAK REPUBLIC

**No. 693**

of 13 November 2024

**on the proposal of criteria for the selection of investment partners**

Number: 44379/2024  
Submitted by: Minister for Transport

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**The Government**

**A. approves**

A.1. proposal of criteria for the selection of investment partners as presented in the submitted material;

**B. repeals**

B.1. resolution of the Government of the Slovak Republic No. 44 of 31 January 2023 on the proposal of criteria for the selection of investment partners.

**For information:** Agency for State-Supported Rental Housing



## **Criteria for the selection of investment partners**

(proposal)

1. A candidate for investment partner status is registered in the relevant register in any Member State of the European Union, or in a state that is a party to the Agreement on the European Economic Area, or in the Swiss Confederation.
  2. A candidate for investment partner status, a controlling party of the candidate, which last in line directly or indirectly controls the candidate under Section 66a(2) of the Commercial Code, and another controlled party which the aforementioned controlling party directly or indirectly controls under Section 66a(1) of the Commercial Code, either each individually or all together cumulatively meet the following conditions:
    - 2.1 They carry out business activity in the field of provision of flats for rent to tenants, natural persons, including the provision of energy supply and services usually supplied to tenants in connection with the use of flats and the provision of operation, maintenance, and repair of residential buildings (rental housing) in any Member State of the European Union, or a State party to the Agreement on the European Economic Area, or the Swiss Confederation for a continuous period of at least ten years.
    - 2.2 They have owned in the past, without limitation of time, and/or currently own at least 1,000 flats used for rental housing purposes, situated or located in any Member State of the European Union, or in a state that is a party to the Agreement on the European Economic Area, or in the Swiss Confederation.
- For the avoidance of doubt, the company of the candidate and the company of the controlling party may also consist of other partners or shareholders who have the status of minority partners or shareholders in relation to the candidate and the controlling party, provided that the criterion referred to in this Article 2 may also be met through minority partners or shareholders.
3. The candidate for investment partner status does not have financial liabilities overdue towards the Slovak Republic and towards the state in the territory of which they are registered, provided that the above criterion in this Article 3 is met concurrently by each partner or shareholder of the candidate.
  4. Professional competence and credibility of natural persons who are members of the statutory body, proxies, members of the supervisory board, and senior employees of the candidate for investment partner status, whereby a trustworthy person is deemed to be a natural person who
    - 4.1 has not been convicted of a criminal offence of a pecuniary nature, a criminal offence committed in the exercise of a managerial position, or a deliberate criminal offence;
    - 4.2 has not acted in the last ten years as a member of the statutory body, proxy, member of the supervisory board, senior employee, head of the internal control and internal audit department or as head of a branch, senior employee of a branch of a commercial company with its registered office in any Member State of the European Union, or in a state that is a party to the Agreement on the European Economic Area, or in the Swiss Confederation, who has been deprived of the authorisation to carry out their business activities, at any time

during the period of one year prior to the deprivation of such authorisation;

- 4.3** has not acted in the last ten years as a member of the statutory body, proxy, member of the supervisory board, senior employee, head of the internal control and internal audit department of a bank, foreign bank or financial institution<sup>1</sup> with its registered office in any Member State of the European Union or in a state that is a party to the Agreement on the European Economic Area, or in the Swiss Confederation, which has been placed under administration or a similar reorganisation measure, at any time within one year prior to the imposition of the administration or reorganisation measure with a purpose and effect on existing third party rights similar to the purpose and effect of the administration or reorganisation measure;
- 4.4** has not acted in the last ten years as a member of the statutory body, proxy, member of the supervisory board, senior employee, head of the internal control and internal audit department in a commercial company with its registered office in any Member State of the European Union or in a state that is a party to the Agreement on the European Economic Area, or in the Swiss Confederation, who has entered into liquidation or who has become bankrupt, whose assets have been declared bankrupt, restructured, confirmed in compulsory liquidation or allowed to be settled, whose bankruptcy petition has been dismissed for lack of assets, against which bankruptcy proceedings have been discontinued for lack of assets, or whose bankruptcy has been discharged for lack of assets<sup>2</sup>, or who has been subject to a reorganisation measure with similar effect at any time within one year prior to the occurrence of such fact;
- 4.5** is not considered to be an untrustworthy person under specific financial market regulations<sup>3</sup>;
- 4.6** has performed their functions or conducted their business reliably, honestly, and without material breach of generally applicable legislation within the last ten years and, having regard to these facts, provides a guarantee to perform the designated position reliably, honestly and without material breach of generally applicable legislation, including the fulfilment of their obligations under generally applicable legislation, the candidate's articles of association or memorandum of association, or their internal regulations and management acts.

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<sup>1</sup> For example, Section 27 of Act No. 203/2011 Z. z. on collective investment, as amended, Act No. 39/2015 Z. z. on insurance and on amendments to certain acts as amended, Article 4(1)(14) of Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements for investment firms and amending Regulations (EU) No. 1093/2010, (EU) No. 575/2013, (EU) No. 600/2014 and (EU) No. 806/2014 (OJ L 314, 5 December 2019), as amended.

<sup>2</sup> Act No. 7/2005 Z. z. on bankruptcy and restructuring and on amendments to certain acts, as amended.

<sup>3</sup> For example, Section 8(b) of Act No. 566/2001 Z. z. on securities and investment services and on amendments to certain acts (Securities Act), as amended, Section 4(11) of Act No. 429/2002 Z. z. on the stock exchange, as amended, Section 23(11) of Act No. 650/2004 Z. z. on supplementary pension savings and on amendments to certain acts, as amended, Section 24 of Act No. 39/2015 Z. z. on insurance and on amendments to certain acts, as amended, Section 23(1) of Act No. 186/2009 Z. z. on financial intermediation and financial counselling and on amendments to certain acts, as amended, Section 2(31) of Act No. 492/2009 Z. z. on payment services and on amendments to certain acts, as amended, Section 28(10) of Act No. 203/2011 Z. z. on collective investment, as amended.

5. The financial results of the candidate for investment partner status and each partner or shareholder of the candidate for investment partner status are audited, disclosed, and publicly available to the extent of a full audit report for at least the last five financial years; if the candidate for investment partner status, partner, or shareholder of the candidate for investment partner status has been doing business for less than five years, then this criterion in this Article 5 is only required to be met for the period of their business operation.
6. The candidate for investment partner status, the controlling legal party of the candidate, which last in line directly or indirectly controls the candidate under Section 66a(2) of the Commercial Code, and another controlled party, which the aforementioned controlling party directly or indirectly controls under Section 66a(1) of the Commercial Code, including minority partners or shareholders of the candidate or of the controlling party of the candidate, either each individually or all together cumulatively, reach in any Member State of the European Union, or in a state that is a party to the Agreement on the European Economic Area, or in the Swiss Confederation, the equity value at least EUR 100,000,000 continuously for at least the last three financial years preceding the financial year in which the candidate has expressed an interest in obtaining the status of an investment partner; from the entry into force of the Investment Agreement<sup>8</sup>, the equity value calculated as above cannot fall below this threshold.
7. A transparent and credible origin<sup>4</sup> of the paid-up capital and other financial resources of the candidate for investment partner status.
8. Appropriate and adequate material, personnel, technical and organisational prerequisites for conducting business in the field of rental housing in accordance with the Rental Housing Act, a functional management and control system, including an internal control and internal audit department, a risk management system, and prudential business practices.
9. The candidate for investment partner status is obliged to meet the criteria under Articles 1 to 8 cumulatively.
10. The criteria under Articles 1 and 2 and Articles 4 to 8 shall be deemed to be fulfilled without further delay if the candidate for investment partner status is a collective investment undertaking<sup>5</sup> established and managed by a management company or a foreign management company authorised to establish and manage collective investment undertakings under a special regulation<sup>6</sup>, who has their place of establishment in a Member State of the European Union or in a state that is a party to the Agreement on the European Economic Area, and whose description of the investment policies and investment strategy consists in particular in the acquisition, operation, and management of residential housing under a special regulation<sup>7</sup> and whose sum of the net asset value of all their sub-funds (with the same investment policy and investment strategy required by

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<sup>4</sup> Act No. 297/2008 Z. z. on protection against money laundering and terrorist financing and on amendments to certain acts, as amended.

<sup>5</sup> Section 4 of Act No. 203/2011 Z. z. on collective investment, as amended.

<sup>6</sup> Section 27 et seq. of Act No. 203/2011 Z. z. on collective investment, as amended.

<sup>7</sup> Act of the National Assembly of the Slovak Republic No. 222/2022 Z. z. on state support for rental housing and on amendments to certain acts.

this criterion) is at least EUR 100,000,000 on the date of conclusion of the Investment Agreement<sup>8</sup> but no later than 18 months after the entry into force of the Investment Agreement; upon reaching this threshold, the sum of the net asset value of all their sub-funds (with the same investment policy and investment strategy as required by this criterion) shall not fall below its minimum level.

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<sup>8</sup> Section 2(i) of Act of the National Assembly of the Slovak Republic No. 222/2022 Z. z. on state support for rental housing and on amendments to certain acts.

## **Justification of the criteria for the selection of investment partners**

These criteria for the selection of investment partners set out the requirements for entities interested in obtaining the investment partner status and apply to all candidates upon the entry into force of the Resolution of the Government of the Slovak Republic approving them. The selection of the investment partner<sup>9</sup> shall be decided by the Government of the Slovak Republic on the proposal of the Agency for State-Supported Rental Housing. The regulation of specific contractual relations between the investment partners and the Agency is subject to negotiation of the content of the Investment Agreement<sup>8</sup>, the conclusion of which is decided by the Government of the Slovak Republic on the proposal of the Agency.

### **Criterion 1 justification:**

Criterion 1 was designed to ensure the freedom of movement of persons, services, goods, and capital according to the rules of the European Union, as well as the requirement for the establishment of a contractual relationship – an Investment Agreement between the Agency for State-Supported Rental Housing and the investment partner – that will be established and implemented through rental housing projects, in a legal environment which, according to the rules of the European Union, either directly or indirectly transposes its legislation into national legal systems or which is selectively (through bilateral or multilateral international treaties) transposed into their legal systems by non-Member States of the European Union.

### **Criterion 2 justification:**

Criterion 2 was designed as a requirement that the candidate (or companies that are in a legal position of a controlling or controlled party in relation to the candidate under Section 66a(2) of the Commercial Code) has been carrying out business activity in the field of the provision of flats for rent to tenants, natural persons, including the provision of energy supply and services usually supplied to tenants in connection with the use of flats and the provision of operation, maintenance, and repair of residential buildings (rental housing) in any Member State of the European Union, or a state that is a party to the Agreement on the European Economic Area, or the Swiss Confederation for a continuous period of at least ten years and has been the owner of at least 1,000 flats for the aforementioned purposes, whereas the conclusion of the Investment Agreement with each investment partner implies the construction of several thousand flats in each individual case, the necessary and successful prerequisite for which is the extensive professional experience and long-term know-how of each candidate for investment partner status in the construction and management of this type of asset, taking into account the fact that through the implementation of rental housing projects, the requirements of the natural persons concerned (and their family members/relatives) for affordable housing will be met, and thus, at the same time, a platform for building their basic social security will be established. The requirement to have experience in providing operation, maintenance, and repair of residential buildings in any Member State of the European Union or a state that is a party to the Agreement on the European Economic Area, or the Swiss Confederation is mainly due to ensuring the standards of rental housing from these countries in Slovakia, as well as their socio-cultural similarities with Slovakia.

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<sup>9</sup> Section 2(f) of Act of the National Assembly of the Slovak Republic No. 222/2022 Z. z. on state support for rental housing and on amendments to certain acts.

**Criterion 3 justification:**

Criterion 3 was designed as a requirement for the candidate for investment partner status (and, at the same time, any partner or shareholder of the candidate for investment partner status) to be debt-free towards the public sector with which they enter into a long-term contractual relationship through the Investment Agreement.

**Criterion 4 justification:**

Criterion 4 was designed as a requirement for the professional competence and credibility of natural persons who are members of the statutory body, proxies, members of the supervisory board, and senior employees of the candidate for investment partner status, taking into account the fact that through the implementation of rental housing projects, the requirements of the individuals concerned (and their family members/relatives) for affordable housing will be met, and thus at the same time a platform for building their basic social security will be established.

**Criterion 5 justification:**

Criterion 5 was designed as a requirement for the financial credibility and transparency of the candidate for investment partner status and any partner or shareholder of the candidate for investment partner status, given the expected financial complexity of the preparation, implementation, and management of rental housing projects and their long-term duration, as the basic cycle of a rental housing project (without taking into account its possible extension) is at least 25 years.

**Criterion 6 justification:**

Criterion 6 was designed as a requirement that the candidate (or companies that are in a legal position of a controlling or controlled party in relation to the candidate under Section Article 66a(2) of the Commercial Code) has an equity value of at least EUR 100,000,000 continuously for at least the last three financial years preceding the year of submission of the complete application to the Agency. At the same time, this criterion defines the requirement for the candidate for investment partner status that, according to the future Investment Agreement, the value of their equity, determined in the manner set out therein, cannot fall below this threshold. This requirement is justified in view of the financial complexity of the preparation, implementation, and management of rental housing projects, combined with the necessary high level of sector-specific professional and multidisciplinary expertise of the entire staff of the candidate for investment partner status and the potential security of the Agency's claims arising from the breach/non-performance of the Investment Agreement by the investment partner.

**Criterion 7 justification:**

Criterion 7 was designed as a requirement for compliance with Act No. 297/2008 Z. z. on protection against the legalization of criminal proceeds and on protection against the financing of terrorism, and on amendments to certain acts, as amended, also by those candidates for investment partner status who are not based in the Slovak Republic.

**Criterion 8 justification:**

Criterion 8 was designed as a requirement for the successful establishment of all the necessary prerequisites for the successful conduct of business in the field of the provision of flats for rent to tenants, natural persons, including the provision of energy supply and services usually supplied to tenants in connection with the use of flats and the provision of operation, maintenance, and repair of residential buildings (rental housing), and the elimination of system failures, taking into account the fact that through the implementation of rental housing projects, the requirements of the individuals concerned (and their family members/relatives) for affordable housing will be met, and thus at the same time a platform for



building their basic social security will be established.

**Article 10 justification:**

Article 10 simplifies the need to demonstrate compliance with the individual criteria where the candidate for investment partner status is a collective investment undertaking established and managed by a management company or a foreign management company authorised to establish and manage collective investment undertakings. Collective investment is a highly regulated field of the financial sector and is extensively standardised across all EU and EEC Member States. The activities of management companies, foreign management companies, as well as the activities carried out by collective investment undertakings set up and managed by them shall be subject to specific supervision by the financial supervisors of their home Member States from their establishment and throughout their period of operation. The existence of this extensive and stringent regulation, as well as the demands placed on business in this field of the financial sector, justifies for these entities the simplification of the need for them to demonstrate compliance with the various criteria, which would be a duplicative and unnecessarily bureaucratic element. By introducing this simplification, it is also possible to expect a fast, safe, and efficient way of collecting investment capital both at home and abroad in a way that is widespread and relatively familiar in countries with established financial markets as well as the distribution of securities issued by collective investment undertakings. Apart from this simplified approach, the collective investment undertaking, just like other candidates for investment partner status, must demonstrate to the Agency at the time of entering into the Investment Agreement with the Agency, but at the latest within 18 months of its entry into force, that the sum of the net asset value of all their sub-funds (with the same description of investment policies and investment strategy required by this criterion) is at least EUR 100,000,000. The granting of the 18-month period is based on the nature and character of the activity of collective investment undertakings which are legally established for the purpose of collecting money and valuables from investors in order to invest them in accordance with a specific investment policy, which requires a certain amount of time. However, the future draft of the Investment Agreement to be submitted by the Agency to the Government for approval will need to include a provision whereby, until the minimum level of the sum of the net asset value required by the criterion has demonstrably been achieved, the Agency may not approve any rental housing project by such investment partner or any of their sub-funds (with the same description of investment policies and investment strategy required by this criterion). Once this threshold is reached, it will not be allowed to fall below the minimum level required by the criterion.