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29 September 2023

Reiteration of support for reform of netting legislation in Slovakia

Dear Sirs,

We are contacting you on behalf of The International Swaps and Derivatives Association (**ISDA**),[1] the European Federation of Energy Traders (**EFET**)[2] and the Slovak and foreign members of both associations in relation to the netting reform proposal in Slovakia. We are aware of the initiative of the Slovak energy companies aimed at broadening the scope of the current Slovak close-out netting legislation and this letter is to support that initiative. .

[1] Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 1,000 member institutions from 79 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: www.isda.org. Follow us on Twitter, LinkedIn, Facebook and YouTube.

[2] The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent and liquid wholesale markets, unhindered by national borders or other undue obstacles. We build trust in power and gas markets across Europe, so that they may underpin a sustainable and secure energy supply and enable the transition to a carbon neutral economy. EFET currently represents more than 100 energy trading companies, active in over 27 European countries. For more information: www.efet.org

We also refer to our letter dated 5 September 2022, attached as appendix to this letter. In September 2022 letter, we explained *inter alia* that it is extremely important, especially in the times of turbulence on the markets, to provide the market participants with netting and collateral protection which is as wide as possible. Such protection should not discriminate between the types of counterparties, types of transactions or governing laws. In most other member states of the European Union, including the Czech Republic, Germany, Austria, The Netherlands, Belgium, France, Italy, Denmark, Slovenia and also in the UK (most of which countries are major trading partners of the Slovak Republic), the close-out netting agreements between two corporate counterparties are protected either by specific netting statutes (similar to Section 180 of the Slovak Bankruptcy Act) or by general doctrine, recognition and no limitation of netting, set-off and similar arrangements in insolvency.

We understand that amendments to Section 180 of the Slovak Bankruptcy Act extending the scope of application of the close-out netting legislation to energy traders were already discussed and approved at your ministries in late 2022 and early 2023. We understand that for the reasons unrelated to close-out netting, this helpful amendment to the law eventually has not been approved by the National Council of the Slovak Republic.

Yet, the reasons for this change are still relevant and the benefits it would bring to Slovak market participants and wider economy are still desired.

Therefore, ISDA and EFET reiterate their support for any proposals of Slovak industry associations concerning the amendments of Section 180 of the Slovak Bankruptcy Act by including energy trading companies within the scope of participants eligible for protection of the close-out netting agreements in bankruptcy or other insolvency proceedings. Any such amendment will bring the much needed additional stability and other benefits for the Slovak energy market participants and their counterparties in wider European energy market.

As was the case in September 2022, in cooperation with local market participants and legal experts, ISDA and EFET would like to offer their assistance to the Slovak authorities in discussing these issues further. ISDA and EFET hope to be helpful, building on considerable experience in assisting numerous legislators in similar cases. The economic benefits to the Slovak Republic of such reform would be significant.

If we can be of any help in this process, we hope that you will not hesitate to contact us.

Yours sincerely,

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