

## UPDATE ON MANDATORY ELECTRONIC MAILBOXES FOR LEGAL ENTITIES

As of 1 August 2016, the Slovak Republic instituted the mandatory use of electronic mailboxes (accounts) (hereinafter the "emails") for legal entities. The obligation was introduced by Act No. 305/2013 Coll., on e-Government as amended (hereinafter the "Act on e-Government"), whereby the respective state authority was obliged to activate the emails by 1 August 2016 without any further conditions.

**However, as neither the affected entities, nor the state authorities were sufficiently prepared for the activation of the emails, the deadline for the mandatory activation was rescheduled to 1 July 2017. To the extent an email has been activated, public authorities are required to deliver the documents to such activated emails already during the transition period between 1 August 2016 and 1 July 2017.**

**Moreover, to avoid any potential complaints about discrimination, the access based on an alternative authenticator card has been introduced for foreign nationals as from 1 March 2017 (for the relevant details please see below).**

### WHY?

The general aim of mandatory emails is to replace traditional written communication with public authorities and stands as an alternative to the filings being delivered in paper form. It also facilitates the official delivery of documents of any kind to/from public authorities, substituting postal delivery. On the one hand, this form can speed up communication (and ideally, later, one application could initiate/replace an administrative process that formerly involved several authorities). On the other hand, the entity is obliged regularly and conscientiously to check its emails in order not to miss any deadline.

### WHO?

The email is established by virtue of law and is free of charge. The email is mandatorily established and activated for all legal entities (including the branch offices of foreign entities) registered in the Commercial Register of the Slovak Republic. Natural persons (even if entrepreneurs) may activate the emails voluntarily.

Access to the emails is automatically enabled for the statutory bodies of the legal entity. Certain open issues are still pending in this respect, e.g. how it will be set up if two persons are obliged to act jointly on behalf of the legal entity or if the legal entity is represented by a third person (e.g. trustee in case of the bankruptcy proceeding) etc.

## HOW?

At the moment, the emails can be accessed by:

- 1) Slovak citizens holding a personal identification card (ID) with an electronic chip and a personal security code (the so called BOK code);
- 2) Foreign nationals holding a residence card with an electronic chip and the BOK code; or
- 3) **Foreign nationals/Slovak citizens without a permanent residence in the Slovak Republic holding an alternative authenticator with the BOK code.**

**Prior to 1 March 2017, the third option was unavailable. This was problematic in particular for foreign nationals (acting as statutory representatives of legal entities), who were left with no option but to authorize a third person qualifying for the first two criteria. This issue has now been duly resolved and option three involving the alternative authenticator is fully available to those who need it.**

## WHAT IS AN ALTERNATIVE AUTHENTICATOR?

**As of 1 March 2017, an alternative authenticator (the AA) may be issued to a natural person (acting as statutory representative of a legal entity or as head of a branch), who do not hold a Slovak ID or residence card. The AA is issued free of charge and in the form of a plastic card with an electronic chip and has a maximum validity of three years.**

**The authority in charge of issuing the AA is determined by the identity of the applicant: in case of Slovak non-resident citizens, it can be obtained from certain police stations; foreign nationals need to apply at a specialised police department (for aliens). Prior to issuing an AA, the police checks the identity of the applicant based on a valid ID card and require an extract from the Commercial Register of the respective company (not older than three months). The AA is sent by post to the registered seat of the relevant legal entity or to any other address provided by the applicant.**

## DO I HAVE TO USE MY EMAIL?

The Act on e-Government neither imposes an obligation on any subject to use its email, nor provides any specific sanctions. However, if a public authority delivers its official decision via email and the delivery is not subject to any active action (e.g. confirmation of reception), the delivery will be considered effective regardless of whether the entity was aware of the delivery or not – missing an important deadline shall be a punishment as such for not using the email.

It is also recommended that the certified signature together with the BOK code be obtained, as it is also free of charge and can take the place of the filings when the "real" signature is otherwise required. **Contrary to an ID and/or residence card, the AA does**

**not have the effect of a certified signature and this is considered a major disadvantage. This means that the holder of an AA can access the email and read the documents and notifications so received, but he or she will not be able to send e-mails with a certified signature if required. In such cases, the holder of the AA will either have to send the documents in a paper-form, or authorize a third party (e.g. a lawyer) respectfully.**

## HOW DOES IT WORK?

The email can be accessed on [www.slovensko.sk](http://www.slovensko.sk). Apart from the ID, residence card, **or the AA**, a mechanical card reader (obtained from the police free of charge) and the appropriate software (easily downloadable for free on [www.slovensko.sk/sk/nastiahnutie](http://www.slovensko.sk/sk/nastiahnutie)) are necessary to log in successfully.

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