



COMMITTEE OF EXPERTS ON THE  
EVALUATION OF ANTI-MONEY  
LAUNDERING MEASURES AND THE  
FINANCING OF TERRORISM  
(MONEYVAL)

MONEYVAL(2011)4 ANN

# Croatia

## Progress report – *Annexes* <sup>1</sup>

13 April 2011

<sup>1</sup> Second 3<sup>rd</sup> Round Written Progress Report Submitted to MONEYVAL

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**Annex 1: Judicial statistics 2009 and 2010**

**JUDICIAL STATISTICS**

2009.	PERSONS	CASES	INVESTIGATIONS		INDICTMENTS		COURT RULING	
			cases	persons	cases	persons	cases	persons
<b>TOTAL</b>	<b>40</b>	<b>19</b>	<b>6</b>	<b>16</b>	<b>9</b>	<b>15</b>	<b>7</b>	<b>13</b> <b>(6 convictions, 7 acquittals)</b>
<b>FIU INITIATED</b>	22	9	4	11	4	7	2	6
<b>%</b>	55%	47%	67%	69%	44%	47%	29%	46%
<b>FIU PARTICIPATED</b>	37	16	6	16	7	13	4	10
<b>%</b>	93%	84%	100%	100%	78%	87%	57%	77%

2010.	PERSONS	CASES	INVESTIGATIONS		INDICTMENTS		COURT RULING	
			cases	persons	cases	persons	cases	persons
<b>TOTAL</b>	<b>39</b>	<b>13</b>	<b>3</b>	<b>11</b>	<b>5</b>	<b>20</b>	<b>5</b>	<b>8</b> (6 convictions, 2 acquittals)
<b>FIU INITIATED</b>	19	5	1	3	3	15	1	1
<b>%</b>	49%	38%	33%	27%	60%	75%	20%	13%
<b>FIU PARTICIPATED</b>	37	11	3	11	5	20	3	6
<b>%</b>	95%	85%	100%	100%	100%	100%	60%	75%

## Annex 2: Inter-Agency Cooperation: Cooperation Between AMLO (FIU) and Governmental Institutions of the Republic of Croatia in 2009 and 2010

### INTER-AGENCY COOPERATION: COOPERATION BETWEEN AMLO (FIU) AND GOVERNMENTAL INSTITUTIONS OF RoC IN 2009

GOVERNMENTAL INSTITUTIONS 01/01 - 31/12/2009	NUMBER OF NATURAL PERSONS	NUMBER OF LEGAL PERSONS
<b>POLICE</b>	191	90
<b>FINANCIAL INSPECTORATE</b>	85	184
<b>STATE ATTORNEY'S OFFICE</b>	51	35
<b>TAX ADMINISTRATION</b>	73	45
<b>SECURITY AND INTELLIGENCE AGENCY</b>	38	19
<b>USKOK</b>	26	11
<b>CUSTOMS ADMINISTRATION</b>	2	0
<b>TOTAL</b>	<b>466</b>	<b>384</b>

**Police** – within the analytical cases disseminated to Police, FIU analytically processed transactions in relation to 191 natural persons and 90 legal persons. Amount of funds in relation to above mentioned transactions and persons is approximately 45 million EUR.

**Financial Inspectorate** – within the analytical cases disseminated to Financial Inspectorate, FIU analytically processed transactions in relation to 85 natural persons and 184 legal persons. Amount of funds in relation to above mentioned transactions and persons is approximately 134 million EUR.

**State Attorney's Office** – within the analytical cases disseminated to State Attorney's Office, FIU analytically processed transactions in relation to 51 natural persons and 35 legal persons. Amount of funds in relation to above mentioned transactions and persons is approximately 60 million EUR.

**Tax Administration** – within the analytical cases disseminated to Tax Administration, FIU analytically processed transactions in relation to 73 natural persons and 45 legal persons. Amount of funds in relation to above mentioned transactions and persons is approximately 26 million EUR.

**Security and Intelligence Agency (SOA)** – within the analytical cases disseminated to Security Intelligence Agency, FIU analytically processed transactions in relation to 38 natural persons and 19 legal persons. Amount of funds in relation to above mentioned transactions and persons is approximately 20 million EUR.

**USKOK** – within the analytical cases disseminated to USKOK, FIU analytically processed transactions in relation to 26 natural persons and 11 legal persons. Amount of funds in relation to above mentioned transactions and persons is approximately 290,000 EUR.

**Customs Administration** – within the analytical cases disseminated to Customs Administration, FIU analytically processed transactions in relation to 2 natural persons (no legal person involved).

**INTER-AGENCY COOPERATION: COOPERATION BETWEEN AMLO (FIU) AND  
GOVERNMENTAL INSTITUTIONS OF RoC IN 2010**

GOVERNMENTAL INSTITUTIONS 01/01 - 31/12/2010	NUMBER OF NATURAL PERSONS	NUMBER OF LEGAL PERSONS
<b>POLICE</b>	286	93
<b>USKOK</b>	134	36
<b>FINANCIAL INSPECTORATE</b>	35	76
<b>STATE ATTORNEY'S OFFICE</b>	69	51
<b>TAX ADMINISTRATION</b>	14	12
<b>SECURITY AND INTELLIGENCE AGENCY</b>	7	24
<b>CUSTOMS ADMINISTRATION</b>	1	12
<b>FINANCIAL POLICE</b>	0	1
<b>CROATIAN NATIONAL BANK</b>	1	1
<b>CRATIAN FINANCIAL SERVICES SUPERVISORY AGENCY</b>	2	0
<b>TOTAL</b>	<b>549</b>	<b>306</b>

**Police** – within the analytical cases disseminated to Police, FIU analytically processed transactions in relation to 286 natural persons and 93 legal persons. Amount of funds in relation to above mentioned transactions and persons is approximately 47 million EUR.

**USKOK** – within the analytical cases disseminated to USKOK, FIU analytically processed transactions in relation to 134 natural persons and 36 legal persons. Amount of funds in relation to above mentioned transactions and persons is approximately 45 million EUR.

**Financial Inspectorate** – within the analytical cases disseminated to Financial Inspectorate, FIU analytically processed transactions in relation to 35 natural persons and 76 legal persons. Amount of funds in relation to above mentioned transactions and persons is approximately 16 million EUR.

**State Attorney's Office** – within the analytical cases disseminated to State Attorney's Office, FIU analytically processed transactions in relation to 69 natural persons and 51 legal persons. Amount of funds in relation to above mentioned transactions and persons is approximately 24 million EUR.

**Tax Administration** – within the analytical cases disseminated to Tax Administration, FIU analytically processed transactions in relation to 14 natural persons and 12 legal persons. Amount of funds in relation to above mentioned transactions and persons is approximately 25 million EUR.

**Security and Intelligence Agency (SOA)** – within the analytical cases disseminated to Security Intelligence Agency, FIU analytically processed transactions in relation to 7 natural persons and 24 legal persons. Amount of funds in relation to above mentioned transactions and persons is approximately 3 million EUR.

**Customs Administration** – within the analytical cases disseminated to Customs Administration, FIU analytically processed transactions in relation to 1 natural persons and 12 legal persons.

**Financial Police** – within the analytical cases disseminated to Financial Police, FIU analytically processed transactions in relation to 1 legal person (no natural persons involved).

**Croatian National Bank** – within the analytical cases disseminated to Croatian National Bank, FIU analytically processed transactions in relation to 1 natural person and 1 legal person.

**Croatian Financial Services Supervisory Agency** – within the analytical cases disseminated to Customs Administration, FIU analytically processed transactions in relation to 2 natural persons (no legal persons involved). Amount of funds in relation to above mentioned transactions and persons is approximately 390,000 EUR.

**NOTE:**

Above mentioned data for 2009 and 2010 confirm enhanced inter-agency cooperation of the FIU and other governmental institutions. In the implementation of its activities which are primarily focused on AML/CFT, which includes suppression and detection of corruption when connected to ML, FIU cooperates with all competent state authorities and it can confirm its involvement in the most complex cases of suppression and detection of serious organized crime and corruption.

**Annex 3: Rulebook on determining conditions under which the reporting entities shall make grouping of customers representing a negligible money laundering or terrorist financing risk (June 2009)**

**MINISTRY OF FINANCE**

Pursuant to Article 7, paragraph 5 of the Anti Money Laundering and Terrorist Financing Law (Official Gazette *Narodne novine*, No. 87/08), the Minister of Finance shall hereby pass the

**RULEBOOK**

**on determining conditions under which the reporting entities shall make grouping of customers representing a negligible money laundering or terrorist financing risk**

**Article 1**

This Rulebook shall prescribe conditions under which the reporting entities referred to in Article 4, paragraph 2 of the Anti Money Laundering and Terrorist Financing Law (hereinafter referred to as the Law) shall make grouping of customers representing a negligible money laundering or terrorist financing risk.

**Article 2**

In the context of this Rulebook, the public authority bodies shall be understood as the state bodies (the bodies of legislative, executive and judiciary branches), the local and regional self-government units' bodies, legal persons with vested public powers and other legal persons with delegated public powers.

**Article 3**

(1) In pursuance of Article 7, paragraph 5 of the Law, a reporting entity shall be entitled to group public authority bodies referred to in Article 2 of this Rulebook as customers representing a negligible money laundering or terrorist financing risk, providing such a customer shall simultaneously meet the following requirements:

1. the customer shall perform matters that the were legislatively entrusted with it as public authorities, i.e. matters the customer shall be authorised to perform;
2. customer's identity may be reliably verified from publicly available sources;



3. the customer shall perform a publicly known activity, in which the customer, in keeping with a law rendering the customer liable, shall undertake to regularly carry out audits of financial statements.

(2) In pursuance of Article 7, paragraph 5 of the Law, in addition to the public authority bodies referred to in Article 2 of this Rulebook and the customers referred to in Article 35, paragraph 1, items 1 and 3 of the Law, a reporting entity shall be entitled to group the reporting entities referred to in Article 4, paragraph 2, items 4, 5 and 15 b) of the Law as customers representing a negligible money laundering or terrorist financing risk, providing they shall simultaneously meet the following requirements:

1. customer's identity may be reliably verified from publicly available sources;
2. the customer must mandatorily obtain financial service rendering permits, whereas the financial service rendering permit may be withdrawn in case of a failure to meet requirements as prescribed in a law providing for the rendering of financial services;
3. the customer shall be subject to direct onsite supervision by a competent supervisor, which may set supervising measures applying the principle of proportionality, in keeping with the authorities and procedures for conducting onsite supervision to eliminate illegalities and irregularities concerning the implementation of anti money laundering or terrorist financing measures, actions and procedures.

(3) By way of derogation from the provisions contained in paragraphs 1 and 2 of this Article, should a reporting entity know or have suspicion that a customer is associated with money laundering or terrorist financing, the reporting entity shall be obliged to take course of action in adherence with the provisions contained in Article 8, Article 30, paragraph 3 and Article 42 of the Law.

#### **Article 4**

This Rulebook shall be published in *Narodne novine*, and shall enter into force on the date of publication.

CLASS: 470-06/09-140/1  
REF. NO.: 513-06-2/027-09-12  
Zagreb, 18 June 2009

**MINISTER OF FINANCE**

Ivan Šuker

**Annex 4: Rulebook on terms and conditions under which the reporting entities under the Anti Money Laundering and Terrorist Financing Law shall be allowed to entrust the conducting of customer due diligence with third persons (June 2009)**

**MINISTRY OF FINANCE**

Pursuant to Article 28, paragraph 6 of the Anti Money Laundering and Terrorist Financing Law (Official Gazette *Narodne novine*, No. 87/08), the Minister of Finance shall hereby pass the

**RULEBOOK  
on terms and conditions under which the reporting entities under the Anti Money Laundering and Terrorist Financing Law shall be allowed to entrust the conducting of customer due diligence with third persons**

**Introductory Provisions**

**Article 1**

This Rulebook shall prescribe:

1. who may be a third person;
2. terms and conditions under which the reporting entities shall be allowed to entrust the conducting of customer due diligence with a third person;
3. obtaining data and documentation prescribed by the Anti Money Laundering and Terrorist Financing Law (hereinafter referred to as the Law) from a third person;
4. instances in which a reporting entity shall be disallowed to establish a business relationship;
5. third person obligations;
6. instances in which the reporting entities shall not be permitted to entrust the conducting of customer due diligence with a third person.

**Third Persons**

**Article 2**

(1) A third person may be:

1. a reporting entity referred to in Article 4, paragraph 2, items 1, 2, 3, 4, 6, 7, 8, 9 and 10 of the Law;
2. the Financial Agency;
3. a credit institution from a European Union member-state or a state signatory to the European Economic Area Agreement (hereinafter referred to as the member-state) or a member-state branch of the credit institution seated in the Republic of Croatia;
4. investment funds management companies from a member-state or a business unit of an investment funds management company in a member-state seated in the Republic of Croatia;
5. member-state pension companies;
6. companies authorised to do business with financial instruments from member-states or a business unit of companies for doing business with financial instruments in a member-state seated in the Republic of Croatia;
7. member-state insurance companies or a business unit of an insurance company in a member state

- seated in the Republic of Croatia;
8. a business unit or a subordinate credit institution of a member-state credit institution in a third country, a business unit or a subordinate company of a member-state investment funds management company in a third country, a business unit or a subsidiary of a member-state company authorised to do business with financial instruments in a third country or a business unit or a subordinate insurance company of a member-state insurance company in a third country;
  9. credit institutions, investment funds management companies, pension companies, companies authorised to do business with financial instruments, insurance companies, seated in a third country, providing they shall simultaneously meet the following requirements:
    - a) they are subject to mandatory registration;
    - b) they apply measures of customer due diligence, keeping records and data in agreement with the provisions contained in Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, the recommendations of the Financial Action Task Force (FATF), i.e. equivalent standards, the application of which measures shall be subject to supervision conducted in keeping with the provisions contained in Directive 2005/60/EC or have their business seat in a third country applying measures equal to the provisions contained in Directive 2005/60/EC.

(2) Outsourced associates and agents of a reporting entity who shall conduct customer due diligence on the basis of a contractual relationship shall not be regarded third persons referred to in Article 28, paragraph 1 of the Law, it shall rather be deemed that the reporting entity has conducted customer due diligence in such a case.

(3) A shell bank or another similar credit institution which shall not perform or shall not be allowed to perform its business activity in its country of registration may not be a third person.

### **Terms and conditions under which the reporting entities may entrust the conducting of customer due diligence with a third person**

#### **Article 3**

The reporting entities obliged to implement anti money laundering and terrorist financing measures, actions and procedures as set forth in Article 4, paragraph 2 of the Law may entrust the conducting of customer due diligence with a third person under terms and conditions prescribed in Article 28 of the Law and Article 2, paragraph 1 of this Rulebook.

### **Obtaining data and documentation from a third person**

#### **Article 4**

(1) A third person who shall conduct customer due diligence as per the provisions of the Law and this Rulebook *in lieu* of a reporting entity shall be obliged to supply the reporting entity without any undue delay with obtained data on the customer necessary for the reporting entity to establish a business relationship in agreement with the Law.

(2) A third person must supply the reporting entity without any undue delay with a copy of the identification document and other documentation, on the basis of which the third person has conducted customer due diligence and obtained the required customer data. The reporting entity shall keep the obtained copies of documents and documentation in keeping with the provisions of the Law providing for data protection and keeping.

(3) Should the reporting entity judge that there shall be suspicion of the credibility of customer due

diligence conducted or documents and other documentation, i.e. of the veracity of the customer data collected, the reporting entity shall immediately require the third person files a written statement on the credibility of customer due diligence conducted and the veracity of customer data collected.

### **Instances in which reporting entities shall not be allowed to establish a business relationship**

#### **Article 5**

A reporting entity shall not be allowed to establish a business relationship in instances when:

1. customer due diligence was conducted by a person other than a third person as per Article 2 of this Rulebook;
2. a third person entrusted with the conducting of customer due diligence by the reporting entity has identified the customer and verified customer's identity without customer's presence with the third person;
3. the reporting entity has not received data referred to in Article 4, paragraph 1 of this Rulebook from a third person who conducted customer due diligence;
4. the reporting entity has not received copies of identification documents and other customer documentation referred to in Article 4, paragraph 2 of this Rulebook from a third person who conducted customer due diligence;
5. there shall exist suspicion of the credibility of customer due diligence conducted or the veracity of customer data collected, and the reporting entity, contrary to its request, has not received a written statement from the third person referred to in Article 4, paragraph 3 of this Rulebook or the written statement has not removed suspicion from the credibility of customer due diligence conducted.

### **Third person obligations**

#### **Article 6**

Should a third person who conducted customer due diligence *in lieu* of a reporting entity be a reporting entity provided for in Article 4, paragraph 2, items 1, 2, 3, 4, 6, 7, 8, 9 and 10 of the Law or should it be the Financial Agency, the third person also shall be responsible to meet the requirements as per the Law, including the obligation of reporting transactions and persons in relation to which there shall exist reasons for suspicion of money laundering or terrorist financing, as well as the obligation of keeping data and documentation.

### **Instances in which reporting entities shall not be permitted to entrust the conducting of customer due diligence with a third person**

#### **Article 7**

The conducting of customer due diligence may not be entrusted with a third person in the following instances:

1. if the customer shall be a foreign legal person which does not perform or is not allowed to perform trading, production or other activities in its domicile country of registration;
2. if the customer shall be a trust or other similar foreign law company with unknown, i.e. hidden owners, secret investors or managers.

## **Transitional and Final Provisions**

### **Article 8**

This Rulebook shall be published in *Narodne novine*, and shall enter into force on the date of publication.

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REF. NO.: 513-06-2/027-09-13

Zagreb, 18 June 2009

**MINISTER OF FINANCE**

Ivan Šuker

### **Annex 5: Rulebook on the manner of and deadlines for supplying the Anti Money Laundering Office with data on the money laundering and terrorist financing offences (June 2009)**

#### **MINISTRY OF FINANCE**

Pursuant to Article 82, paragraph 2 of the Anti Money Laundering and Terrorist Financing Law (Official Gazette *Narodne novine*, No. 87/08), the Minister of Finance shall hereby pass the

#### **RULEBOOK**

#### **on the manner of and deadlines for supplying the Anti Money Laundering Office with data on the money laundering and terrorist financing offences**

#### **Introductory Provisions**

#### **Article 1**

This Rulebook shall prescribe the manner of and deadlines for supplying data on persons against which investigations have been initiated, the indictment entry into legal force, the rendered appeals, i.e. trial judgments for money laundering and terrorist financing offences, and on predicate money laundering related offences, with that the competent State Attorney's offices and competent courts (hereinafter referred to as the Competent Bodies) shall be obliged to supply such data to the Anti Money Laundering Office (hereinafter referred to as the Office).

#### **Article 2**

In the context of this Rulebook, some terms shall have the following meaning:

1. money laundering offence shall be the money laundering criminal offence referred to in Article 279 of the Criminal Code;
2. terrorist financing offence shall be a criminal offence of planning criminal offences against the values protected by international law set forth in Article 187a, paragraphs 1 and 2 of the Criminal Code, in relation to the terrorism criminal offence referred to in Article 169, the criminal offence of public incitement to terrorism referred to in Article 169a and the offence of terrorist recruitment and training referred to in Article 169b of the Criminal Code;

3. a predicate offence shall be any offence provided for in the Criminal Code or other Law as a criminal offence that led to the generation of illegal earnings which shall be the subject matter of the money laundering offence.

### **Data supply manner**

#### **Article 3**

The Competent Bodies shall supply data on persons and proceedings initiated against money laundering and terrorist financing offences via registered mail or in another adequate manner to the Office using a printed Form (UZSPN-O-82) which must clearly show the stage of the proceeding at the end of a semester for which data are being supplied, which form shall make an integral part of this Rulebook.

### **Data supply deadlines**

#### **Article 4**

(1) The Competent Bodies must supply the Office with data referred to in Articles 1 and 2 of this Rulebook twice a year.

(2) The Competent Bodies shall supply data for the first semester of the current calendar year no later than by end-July of the current calendar year, and for the second semester of the current calendar year no later than by end-January of the next calendar year.

### **Transitional and Final Provisions**

#### **Article 5**

This Rulebook shall be published in *Narodne novine*, and shall enter into force on the date of publication.

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Zagreb, 18 June 2009

**MINISTER OF FINANCE**

Ivan Šuker

**Annex 6: Form for notifying the Anti Money Laundering Office of money laundering and terrorist financing offences (June 2009)**

**RESTRICTED AFTER COMPLETION**

**FORM FOR NOTIFYING THE ANTI MONEY LAUNDERING OFFICE OF MONEY LAUNDERING AND TERRORIST FINANCING OFFENCES**

**(UZSPN-O-82 Form)**

**The form supplies data on an offence of (check):**

- MONEY LAUNDERING
- TERRORIST FINANCING

**A. DATA ON NATURAL/LEGAL PERSON SUBJECT TO A LEGAL PROCEEDING FOR OFFENCES LAID DOWN IN ARTICLE 279 OR ARTICLE 187a OF THE CRIMINAL CODE**

Name and surname / Company name:
Date, place and country of birth:
Residence / Company seat:
Personal identification number:

**In case of money laundering:**

- THE PERSON HAS COMMITTED BOTH OFFENCES (PREDICATE AND MONEY LAUNDERING)
- THE PERSON HAS COMMITTED A MONEY LAUNDERING OFFENCE ONLY

**B. STAGE OF PROCEEDING (CHECK)**

<b>INVESTIGATION:</b> <input type="checkbox"/> making a resolution of carrying out an investigation, issuing an investigation order
--

<b>INDICTMENT:</b> <input type="checkbox"/> valid indictment, filing a bill of indictment, indictment verification
---

<b>COURT DECISION (judgment, order):</b> <input type="checkbox"/> conviction <input type="checkbox"/> acquittal <input type="checkbox"/> rejecting charges
---

<input type="checkbox"/> non - final  <input type="checkbox"/> final
--

**C. OFFENCE INFORMATION (Please indicate an article and a paragraph in the Criminal Code and a description of the criminal offence(s) - place, time and manner of offence commitment)**

**C.1. MONEY LAUNDERING OFFENCE**

Article:	Paragraph:	Place:	Time:
Manner of commitment:			

**C.2. TERRORIST FINANCING OFFENCE**

Article:	Paragraph:	Place:	Time:
Manner of commitment:			

**C.3. PREDICATE OFFENCE**

Article:	Paragraph:	Place:	Time:
Manner of commitment:			

**D. MEASURES AND ACTIONS TAKEN RELATING TO MEANS, INCOME OR ASSETS OF A PERSON SUBJECT TO A PROCEEDING (e.g. security measures of an enforced confiscation of means, income or assets, confiscating material benefits gained from an offence commitment, temporary suspension of a financial transaction execution, etc. Please indicate a provision of a regulation applied, type and value of assets.)**

--

**E. COMPETENT BODY, PLACE, DATE, STAMP AND SIGNATURE**

COMPETENT BODY NAME:
----------------------



PLACE AND DATE:	STAMP AND SIGNATURE:
-----------------	----------------------

**ANNEX TO THE UZSPN-O-82 FORM** (Please complete if a proceeding is being conducted against two or more natural or legal persons)

**F. DATA ON NATURAL/LEGAL PERSON SUBJECT TO A LEGAL PROCEEDING FOR OFFENCES LAID DOWN IN ARTICLE 279 OR ARTICLE 187a OF THE CRIMINAL CODE**

Name and surname / Company name:
Date, place and country of birth:
Residence / Company seat:
Personal identification number:

**In case of money laundering:**

- THE PERSON HAS COMMITTED BOTH OFFENCES (PREDICATE AND MONEY LAUNDERING)
- THE PERSON HAS COMMITTED A MONEY LAUNDERING OFFENCE ONLY

**G. OFFENCE INFORMATION** (Please indicate an article and a paragraph in the Criminal Code and a description of the criminal offence(s) - place, time and manner of offence commitment)

**G.1. MONEY LAUNDERING OFFENCE**

Article:	Paragraph:	Place:	Time:
Manner of commitment:			

**G.2. TERRORIST FINANCING OFFENCE**

Article:	Paragraph:	Place:	Time:
Manner of commitment:			

**G.3. PREDICATE OFFENCE**

Article:	Paragraph:	Place:	Time:
Manner of commitment:			

**H. COMPETENT BODY, PLACE, DATE, STAMP AND SIGNATURE**

COMPETENT BODY NAME:	
PLACE AND DATE:	STAMP AND SIGNATURE:

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## **Annex 7: Rulebook on the manner of and deadlines for supplying the Anti Money Laundering Office with data on misdemeanour proceedings (June 2009)**

### **MINISTRY OF FINANCE**

Pursuant to Article 82, paragraph 3 of the Anti Money Laundering and Terrorist Financing Law (Official Gazette *Narodne novine*, No. 87/08), the Minister of Finance shall hereby pass the

### **RULEBOOK on the manner of and deadlines for supplying the Anti Money Laundering Office with data on misdemeanour proceedings**

#### **Introductory Provisions**

##### **Article 1**

This Rulebook shall prescribe the manner of and deadlines for supplying data on cases in which the first-instance misdemeanour proceeding has been completed conducted due to misdemeanours prescribed in the Anti Money Laundering and Terrorist Financing Law (hereinafter referred to as the Law), which data the Financial Inspectorate shall be obliged to supply to the Anti Money Laundering Office (hereinafter referred to as the Office).

#### **Data supply manner**

##### **Article 2**

- (1) The Financial Inspectorate shall supply data on cases in which the first-instance misdemeanour proceeding has been completed conducted due to misdemeanours prescribed in the Law to the Office using a printed Form (UZSPN-O-82/3), which shall make an integral part of this Rulebook.
- (2) In an annex to the Form referred to in paragraph 1 of this Article, the Financial Inspectorate shall also supply a copy of the first-instance decision made.

#### **Data supply deadlines**

##### **Article 3**

- (1) The Financial Inspectorate shall be obliged to supply the Office with data referred to in Article 2, paragraph 1 of this Rulebook twice a year.
- (2) The Financial Inspectorate shall supply data for the first semester of the current calendar year no later than by end-July of the current calendar year, and for the second semester of the current calendar year no later than by end-January of the next calendar year.

## Transitional and Final Provisions

### Article 4

This Rulebook shall be published in *Narodne novine*, and shall enter into force on the date of publication.

CLASS: 470-06/09-140/1  
REF. NO.: 513-06-2/027-09-16  
Zagreb, 18 June 2009

MINISTER OF FINANCE

Ivan Šuker

### **Annex 8: Form for supplying data on misdemeanour proceedings to the Anti Money Laundering Office (June 2009)**

#### **FORM FOR SUPPLYING DATA ON MISDEMEANOUR PROCEEDINGS TO THE ANTI MONEY LAUNDERING OFFICE**

(UZSPN-O-82/3 Form)

#### **A. DATA ON A PERSON AGAINST WHICH A FIRST-INSTANCE MISDEMEANOUR PROCEEDING WAS CONDUCTED DUE TO MISDEMEANOURS PRESCRIBED IN THE ANTI MONEY LAUNDERING AND TERRORIST FINANCING LAW**

Name and surname / Company name:
Capacity (natural person, legal person, member of a Management Board or another responsible person of a legal person, a natural person craftsman or a natural person performing another independent business activity, a responsible person in a state body or a local or regional self-government unit):
Date, place and country of birth:
Residence / Company seat:
Personal identification number:

#### **B. MISDEMEANOUR DATA** (please indicate article, paragraph and item of the Anti Money Laundering and Terrorist Financing Law and a misdemeanour description)

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#### **C. DATA ON THE PRONOUNCED MISDEMEANOUR PENALTY OR A MEASURE**

**APPLIED AGAINST THE PERSON SUBJECT TO THE PROCEEDING** (e.g. pecuniary fine referred to in Articles 90-98 of the Law, please indicate the provision of the regulation applied, fine amount and/or measure pronounced.)

--

**D. COMPETENT BODY, PLACE, DATE OF FORM COMPLETION, STAMP AND SIGNATURE**

FINANCIAL INSPECTORATE	
DATE AND PLACE:	STAMP AND SIGNATURE:

**ANNEX TO THE UZSPN-O-82/3 FORM** (please complete if the misdemeanour proceeding was conducted against two or more natural or legal persons)

**E. DATA ON A PERSON AGAINST WHICH A FIRST-INSTANCE MISDEMEANOUR PROCEEDING WAS CONDUCTED**

Name and surname / Company name:
Capacity (natural person, legal person, member of a Management Board or another responsible person of a legal person, a natural person craftsman or a natural person performing another independent business activity):
Date, place and country of birth:
Residence / Company seat:
Personal identification number:

**F. MISDEMEANOUR DATA** (please indicate article, paragraph and item of the Anti Money Laundering and Terrorist Financing Law and a misdemeanour description)

--

**G. DATA ON THE PRONOUNCED MISDEMEANOUR PENALTY OR A MEASURE**

**APPLIED AGAINST THE PERSON SUBJECT TO THE PROCEEDING** (e.g. pecuniary fine referred to in Articles 90-98 of the Law, please indicate the provision of the regulation applied, fine amount and/or measure pronounced.)

--

**H. COMPETENT BODY, PLACE, DATE OF FORM COMPLETION, STAMP AND SIGNATURE**

FINANCIAL INSPECTORATE	
DATE AND PLACE:	STAMP AND SIGNATURE:

**Annex 9: Act on Games of Chance (July 2009)**

THE CROATIAN PARLIAMENT

Pursuant to Article 88 of the Constitution of the Republic of Croatia, I hereby issue the

**DECISION PROMULGATING THE ACT ON GAMES OF CHANCE**

Hereby I promulgate the Act on Games of Chance passed by the Croatian Parliament at its session on July 10, 2009.

Class: 011-01/09-01/133  
Reg.No. 71-05-03/1-09-2  
Zagreb, July 17, 2009

The President of the Republic of Croatia Stjepan Mesić m.p.

Act on Games of Chance

Came into force and applicable since 1 January 2010

Title I

GENERAL PROVISIONS

Scope of the Act

Article 1

This Act shall govern:

1. The system, types and conditions related to the operating of games of chance,
2. The rules and procedures for obtaining and revoking the gaming concession,
3. The rights and obligations of gaming operators,
4. The allocation of revenues generated from games of chance,
5. The control of the gaming operations.

## Article 2

For the purpose of this Act:

Game of Chance shall mean a game in which, in exchange for payment of a specific sum, participants are provided with the opportunity to gain cash, objects, services or rights, where gain or loss depends mostly on chance or on another uncertain event.

## Gaming Concession

### Article 3

(1) It shall be the right of the Republic of Croatia to operate games of chance in the territory of the Republic of Croatia, unless otherwise specified by this Act.

(2) Games of chance can be organised in accordance with this Act, the decision of the Government of the Republic of Croatia and the authorization of the Ministry of Finance.

(3) The Republic of Croatia shall transfer its right to organise all games of chance from Article 5 of this Act to Hrvatska Lutrija d.o.o. (Croatian Lottery Ltd.), a company founded by it.

(4) The right to organise the games of chance from Article 5, paragraph 1, items 2, 3 and 4 of this Act may be obtained, based on decision and authorization, by other companies with their registered offices in the Republic of Croatia.

(5) By way of exception, non-profit legal entities with their registered office in the Republic of Croatia shall be entitled, based on an authorisation, to organise occasionally and on a one-time basis some of the games from Article 5 of this Act.

## Definitions

### Article 4

For the purpose of this Act, the following terms mean:

1. The right to organise Games of Chance is the right whereby, based on this Act, the decision of the Government of the Republic of Croatia and the authorization of the Ministry of Finance, games of chance may be organised within the scope, in the manner and under conditions stipulated by this Act.
2. A gaming Operator is a legal entity authorised to organise games of chance on the basis of this Act and the concession obtained based on the decision of the Government of the Republic of Croatia and the authorization of the Ministry of Finance.
3. The Concession Contract is a contract signed between the Minister of Finance and the gaming concessionaire upon the decision of the Government of the Republic of Croatia and includes provisions on mutual rights and obligations pertaining to the exploitation of the concession awarded;
4. An authorisation is an administrative act issued by the Minister of Finance, acknowledging the fulfilment of legal requirements for operating games of chance subject to authorisation;
5. The Fee for Operating Games of Chance is a fee payable pursuant to this Act and the Concession Contract, set out in a fixed and variable amount and it shall be deemed a public levy within the meaning of the General Tax Act;

6. The Tax on Winnings from Games of Chance is a withholding tax payable by natural persons who obtain winnings from lottery games and betting games;
7. Casino Games are games played by players against the casino or one against the other on gaming tables with balls, cards or dices in compliance with international rules and which are operated exclusively in casinos. In addition to the table games, games of chance on slot machines may also be operated in the casino premises;
8. Betting Games are games in which participants (players) guess the outcomes of various events proposed by the operator, and the circumstance leading to the gain or loss may not be known in advance to anyone and must be of such nature that neither the operator nor the players can have any influence on it, where the amount of gain or loss depends on the stake per combination and on the individual event coefficient (sports betting, betting on horse and dog races, betting on events offered by the operator, etc.)
9. Slot Machines Games are games played on programmed electromechanical or electronic devices, where upon payment of a certain amount, players have the opportunity to win depending on chance or another uncertain event;
10. Lottery Games:
  - a) Drawing games (games with numbers), the result of which is a consequence of drawing of numbers, symbols or coupons conducted by the operator. Drawing is a random selection of a specific set of numbers, symbols or letters from a defined group of numbers, symbols or letters, conducted after the receipt of payments is closed (lotto, keno, bingo, standard lottery, joker, etc.),
  - b) Games with a predetermined result, where the outcome is predetermined, i.e. where it is determined in advance whether a specific ticket or combination is winning or losing, as well as the number and the sum of possible winnings in a series or cycle. Directly upon joining the game, the player finds out the outcome of the game (instant and express lottery, electronic lottery, etc.),
  - c) Games the result of which is caused by the outcome of an uncertain event, sports or other competitions proposed by the operator, and the circumstance deciding on the gain or loss must not be known in advance to anyone and must be of such nature that neither the operators nor the players can influence it (sports betting),
  - d) Games the result of which is caused by the player's selection of the order of occurrence of specific game elements. Each played ticket or combination is a potential win until played by the player;
11. A casino is a special area for operating games of chance on tables and slot machines according to the approved rules of the game, and consists of an area that is deemed a specific structural unit;
12. A tournament in games of chance is a competition in which participants compete in specific games of chance, where based on a paid participation fee they may join the competition and have an equal start position, and based on the results in the game they may win predetermined sums provided by the organiser of the tournament from the funds collected from payments by participants or from his own funds;
13. A Slot Machine Club is a specifically arranged area for operating games of chance on slot machines according to the approved rules of the game. The area of a slot machine club must have its own entry or must be a specific structural unit;
14. Betting Shops are specifically arranged areas where bet payments are received based on an authorisation, and according to the rules of the game;
15. An Authorization for Technical Inspection of Slot Machines and Tables for Games of Chance and On-Line Systems is an administrative act issued by the Minister of Finance, whereby legal entities fulfilling legal requirements are licensed for technical inspection of slot machines, tables for games of chance and on-line systems;
16. Within the meaning of this Act, a suspicious transaction is any transaction for which the operator and/or the regulator estimates that there is reasonable doubt of money laundering or terrorist financing, i.e. that the transaction involves funds generated from illegal activities;
17. Within the meaning of this Act, Beneficial Owner is a natural person who is the ultimate owner of the operator or who controls the legal entity by means of direct or indirect ownership. A natural person who has control over a sufficient percentage of shares or voting rights in that legal entity is deemed the beneficial owner (and the condition is fulfilled with a 25% plus one share) or a other natural person who in another way has control over the management board of the legal entity;
18. Within the meaning of this Act, Related Parties are legally independent companies, mutually related by management, capital or in another way, which provides them with the possibility to form the business



policy jointly, where one company has directly or indirectly more than 50% share in the other company or has directly or indirectly majority shareholders rights;

19. Within the meaning of this Act, Player Registration means the collection and storage of a player's information, identification of player with the operator, issue of the player's ID number and opening of a player's account with the operator;

20. An Electronic Payment Receipt is an electronic record of receipt of payment for the game, marked with the player's ID number in the player's account in the operator's central system;

21. Within the meaning of this Act, On-Line Playing (remote playing) means the operating of games of chance via Internet, telephone or other interactive communication devices through which a player may play independently, by means of interaction with the system, without a direct representative of the operator;

22. A Random Number Generator is a certified device which based on random patterns, generates random, fully independent and unpredictable ranges of numbers or symbols which are equally positioned within defined scales.

## Types of Games of Chance

### Article 5

(1) Games of chance are classified into four groups:

1. Lottery games
2. Casino games
3. Betting games
4. Slot machine games.

(2) Lottery games are:

1. Games the result of which is conditioned upon the drawing of numbers or symbols after the conclusion of sales:
  - a) Lotto and alike,
  - b) Numerical lotteries,
  - a) Bingo and alike,
  - a) Keno and alike,
  - a) Tombola and alike,
  - f) Additional games to those from this item;
2. Games with predetermined (result) gains:
  - a) Express lotteries
  - b) Instant lotteries,
  - c) Other similar games;
3. Games the result of which is conditioned upon the outcome of a competition:
  - a) Sports betting,
  - c) Other similar games;
4. Games the result of which is conditioned by the player's selection of way, the order of occurrence of specific elements of the game:
  - a) Tickets with random selection of numbers or symbols,
  - c) Other similar games;

(3) Casino games are:

1. Games played by players against the casino or one against another on gaming tables with balls, cards or dices in compliance with international rules,
2. Various tournaments in which the number of players is not predetermined and the number of payments is unknown.

(4) Betting games are:

1. Betting on the results of individual or group sports events,
2. Betting on other events.

(5) Slot machine games are:

games on electromechanical, electronic or similar devices (slot machines) where by payment of a specific amount players have the opportunity to generate gain.

#### Article 6

(1) It is prohibited to organise games or activities in which participants pay certain amounts to those participants that joined the game or activity before them and who expect the payment of specific amounts from participants that should join the game or activity after them (chains of luck, etc.).

(2) No person shall receive payments and promise a winning if that is not in compliance with the provisions of this Act.

#### Article 7

Games of chance shall not be organised in free zones.

#### Allocation of gaming revenues

#### Article 8

(1) The Government of the Republic of Croatia shall issue a regulation stipulating the criteria for determining the beneficiaries and the way of allocation of revenues from games of chance for financing the programs of the organisations who:

1. Promote the development of sports,
2. Contribute to the fight against narcotics abuse and all other forms of addiction,
3. Engage in social and humanitarian work,
4. Engage in problems and the fulfilment of the needs of disabled persons,
5. Engage in technical education,
6. Engage in culture,
7. Engage in non-institutional education of children and youth,
8. Contribute to the development of a civil society.

(2) For the financing of the programs from paragraph 1 of this Article, the funds shall be allocated as follows:

1. 50% of the annual fee from operating casino games (Article 38, paragraphs 1 and 2),
2. 50% of the monthly fee from operating casino games (Article 38, paragraphs 3 and 9),
3. 50% of the annual fee from betting games (Article 51, paragraphs 1 and 2),
4. 50% of the monthly fee from betting games (Article 51, paragraph 3),
5. 50% of the annual fee from operating slot machine games (Article 58, paragraph 1),
6. 50% of the monthly fee from operating slot machine games (Article 58, paragraph 4),
7. 50% of the monthly fee from operating lottery games (Article 17, paragraph 1),
8. 50% of the profits of Hrvatska Lutrija d.o.o. (Article 9, paragraph 6).

#### Title II

#### HRVATSKA LUTRIJA (Croatian Lottery)

## General Provisions

### Article 9

- (1) Hrvatska Lutrija d.o.o. (Croatian Lottery) shall have the right to operate all games of chance from Article 5 of this Act.
- (2) Hrvatska Lutrija d.o.o. shall have the exclusive right to operate the games of chance from Article 5, paragraph 1, item 1 hereof.
- (3) The privatization of Hrvatska Lutrija d.o.o. shall be admissible based on a special act.
- (4) Hrvatska Lutrija d.o.o. shall before the expiration of the one-year and three-year period propose both one-year and three-year operating plans for the following time period and submit them to the Government of the Republic of Croatia for adoption.
- (5) The plans from paragraph 4 of this Article shall be adopted by the Government of the Republic of Croatia, with prior opinion from the Ministry of Finance.
- (6) Profits of Hrvatska Lutrija d.o.o. shall be the state budget revenue.

## Lottery Game Rules

### Article 10

- (1) The conditions for operating lottery games are established by the rules adopted by the operator for each type of a game, and are applicable after receipt of authorisation issued by the Ministry of Finance.
- (2) The conditions for operating lottery games with participation of several international operators are established by the rules of game, applicable after an authorisation issued by the Ministry of Finance.
- (3) The rules unauthorized by the Ministry of Finance shall be null and void.
- (4) The lottery game rules shall include:
  1. The name and address of the operator, the name of the operator's body that adopted the decision on organising a game, and the date and number of the decision,
  2. The name and description of the game, the area and time of organising, the conditions of participation, the price and fund of winnings, the terms of inclusion into the game and payouts,
  3. A method of control of drawing, or determination of a winning combination or the organising of the game itself,
  4. A method of notification of interested parties,
  5. A procedure in case of cancellation of a game or a drawing.

## Notification and Change of Lottery Game Rules

### Article 11

### Article 11

- (1) The operator of lottery games shall publish the rules of game in public before the start of the game, and enable the persons interested in participating in the game to familiarize themselves with the rules at the points of sale.

2) The lottery game rules cannot be changed after the start of sales of lottery of a specific series or the receipt of payments for participation in a game in an already started cycle.

(3) The Ministry of Finance may, for valid reasons and upon the operator's request, authorize a change of the place of drawing the winnings, the date of drawing or the time of the game, or the cancellation of the game.

(4) Any change to the rules from paragraph 1 of this Article shall be published by the operator in the same way in which the rules on the organising of a game were published.

## Receipt of Payments

### Article 12

(1) Payments for lottery games may be received at the points of payment, by means of terminals, the internet, the telephone, or other interactive communication devices, only after obtaining an authorisation from the Ministry of Finance.

(2) The Minister of Finance shall stipulate the standards for technical and other conditions for the receipt of payments from paragraph 1 of this Article.

## Participant and Winner in Lottery Games

### Article 13

(1) The participant in a lottery game is a natural person aged 18 and over who, pursuant to this Act and the rules of a specific game, fulfils the requirements for participation in a game (cycle or series).

(2) The participant in lottery games in which participation is proven by holding a (electronic) payment receipt is the holder of such a receipt if the information on the receipt is identical to that recorded by the operator on an indelible data storage medium. The participant in standard numerical and fast lotteries is the holder of an undisputable lottery ticket (its electronic record) issued by the operator.

(3) The winner in a lottery game is exclusively the holder of the winning receipt. In on-line lottery games, the winner is the player whose ID number is on the winning electronic payment receipt.

## Drawing of Winnings

### Article 14

(1) In the lottery games from Article 5, paragraph 1, item 1 of this Act, the drawing must be public in the presence of a three-member commission appointed by the operator and in the presence of an authorised official of the Ministry of Finance and a public notary.

(2) In international games where the drawing of numbers or symbols is conducted outside of the Republic of Croatia, the drawing procedure is conducted in compliance with the rules of profession and the laws and regulations of the country where the drawing takes place.

(3) If a drawing is conducted by means of a random number generator, the presence of the persons from paragraph 1 of this Article is decided upon by an authorisation issued by the Ministry of Finance for the rules of such a game.

(4) Before the start of the drawing of winnings in lottery games from Article 5, paragraph 1, item 1 above, the organiser shall determine and publish the full payment and number of the tickets sold.

(5) In games where the public drawing of winnings must be conducted in the presence of all participants (hall bingo or keno), the drawing is conducted before a commission appointed by the organiser in compliance with the rules of the game.

(6) The winning combination or winnings in the lottery games from Article 5, paragraph 2, item 1 hereof are determined in compliance with the rules of a game authorized by the Ministry of Finance.

(7) The procedure of drawing, determining and paying the winnings is closely regulated by a special regulation adopted by the organiser and it is applicable after the authorisation by the Ministry of Finance.

(8) The Minister of Finance shall stipulate the conditions of use, testing and certification of the devices for drawing the winnings in specific lottery games.

#### Record and Publication of the Drawing Results

##### Article 15

(1) The course of the drawing is recorded in the manner set out in detail in the regulation from Article 14, paragraph 7 hereof.

(2) The record on the course of the drawing shall be submitted by the organiser to the Ministry of Finance.

(3) The report on the results of the drawing or the determination of the winnings shall be officially published by the organiser latest within seven days from the drawing date and in the same way in which the rules of the game were published, and the persons interested in the results of the game shall be given the opportunity to view the results at the points of sale.

#### Winnings Fund

##### Article 16

(1) In lottery games from Article 5, paragraph 1, item 1 of this Act, the winnings fund is determined according to the rules of such games, and it amounts to minimum 50% of the basis formed in all types of lotteries by the total value of the issue of tickets, i.e. the total value of the received payments for a game, minus the fee for conducting lottery games.

(2) In international games, the winnings fund is determined according to the rules of such games.

(3) The winnings fund is the sum returned to players as winnings.

#### Fee

##### Article 17

(1) For organising lottery games from Article 5, paragraph 1, item 1 hereof, the operator shall pay a monthly fee of 10% of the basis formed in all types of lotteries by the total value of the sold tickets, i.e. the total value of received payments for a game.

(2) The monthly fee for organising lottery games is paid into the state budget latest on the 15th day of the current month for the preceding month, and the monthly record with the final operating result and proof of payment of the monthly fee shall be submitted by the operator to the Ministry of Finance latest until the 20th day of the current month for the preceding month.

## Tax on Winnings from Lottery Games

### Article 18

(1) The tax on winnings from lottery games shall be paid by natural persons winning gains from games of chance.

(2) The basis for the calculation of tax on financial gains shall be the sum of individual gain, and the basis for the tax on gains consisting of objects, services or rights shall be the market value of the objects, services or rights forming an individual gain.

(3) The tax on winnings shall be payable at a rate of 15% on gains ranging from HRK 30,000.00 to HRK 500,000.00 and at a rate of 20% on gains exceeding HRK 500,000.00.

(4) The tax on winnings from paragraph 1 of this Article shall be charged and collected upon the payment of a winning, and the tax shall be calculated and paid by the operator of the games of chance.

## Disbursement of Winnings

### Article 19

(1) The term for disbursement or collection of winnings in lottery games may start immediately after the publication of results, and may not be shorter than 15 days or longer than 60 days from the date of publication of the final report on the results of the game.

(2) After expiration of the term from paragraph 1 of this Article, the commission appointed by the operator shall determine which winnings in that cycle or series have not been disbursed or collected and their value, and make a record thereof.

(3) If a winner of lottery games fails to ask the organiser for disbursement of the winning within the term from paragraph 1 of this Article, the amount of the winning shall be transferred to the following cycle or series or shall be used for winnings in other games.

(4) The record from paragraph 2 of this Article shall be submitted by the organiser to the Ministry of Finance latest within seven days from the expiration of the term for the disbursement and collection of winnings.

(5) The disbursement of winnings from games of chance organised by Hrvatska Lutrija d.o.o. shall be guaranteed by the Republic of Croatia.

## Occasional One-Time Organising of Games of Chance

### Article 20

(1) A non-profit legal entity with the registered office in the territory of the Republic of Croatia may organise an occasional tombola, once per year, to collect funds for financing its activities as prescribed by the organiser's general legal acts.

(2) A game from paragraph 1 of this Article may be organised exclusively based on a specific authorisation by the Ministry of Finance, provided that the tickets sale period may not exceed 30 days and that only the tickets sold are included in the drawing.

(3) The operator from paragraph 1 of this Article organising sports competitions may, once per year, conduct betting related to such competitions in the premises of a sports institution, stadium or hall in which such competitions take place.

#### Article 21

(1) The organizer from Article 20 of this Act shall enclose to the application for authorisation, an excerpt from its general legal act showing the economic activity of the organiser, the decision of the organiser's competent body on organising a game of chance with the mention of the responsible person, the rules of the game of chance, and the financial calculation showing the minimum number of tickets that should be sold to ensure the disbursement of winnings and the payment of the state budget revenues.

(2) When adopting a decision on an application for one-time only games of chance from Article 20, paragraphs 1 and 3 of this Act, the Ministry of Finance shall particularly take into account:

1. The purpose of conducting the game
2. The total value of issued tickets,
3. The total value of winnings,
4. The price of a single ticket,
5. The funds by which the organiser ensures the disbursement of winnings, and
6. The compliance of the rules of the game with the provisions of this Act.

(3) The total value of the issued tickets for specific games of chance shall not exceed HRK 300,000.00. The price of a ticket shall not exceed the value of the minimum winning.

#### Article 22

(1) Out of the revenues from occasional one-time organising of games of chance, the organiser shall pay a fee of 5% of the calculation basis to the state budget which consists of a sum of total payments for the participation in an occasional one-time game.

(2) The fee from paragraph 1 of this Article shall be due within seven days from the publication of the drawing, and within the same time, the Ministry of Finance must obtain a report on the final calculation, with evidence of payment.

(3) For the disbursement of the winnings from games organised by them, the organisers of occasional one-time games of chance shall guarantee with their entire assets.

#### Title III

#### GAMING CONCESSION

#### Article 23

- (1) Games of chance from Article 5, paragraph 1, items 2, 3 and 4 of this Act may be organised by companies with registered office in the Republic of Croatia based on a decision of the Government of the Republic of Croatia and the authorisation of the Ministry of Finance.
- (2) The decision on the number of operators who may be awarded the concession to organise the games from paragraph 1 of this Article shall be made by the Government of the Republic of Croatia.
- (3) The decision on the gaming concession shall be made by the Government of the Republic of Croatia upon the proposal of the Ministry of Finance.
- (4) In addition to the conditions stipulated by this Act, the gaming concession applicant must fulfil specific conditions established by the Minister of Finance.
- (5) The selection of the best applicant shall be particularly evaluated in terms of the financial effects on the state budget.
- (6) In compliance with the decision of the Government of the Republic of Croatia concerning the number of organizers eligible for concession, the Minister of Finance shall make a decision on the announcement or cancellation of an invitation to bid for concession from paragraph 2 of this Article.
- (7) The professional services pertaining to the preparation and conducting of the bidding shall be provided by the Ministry of Finance.
- (8) A public tender for awarding the gaming concession from paragraph 1 of this Article shall be published in the daily press available in the entire territory of the Republic of Croatia.
- (9) The Ministry of Finance shall, in written form and within 30 days, notify all participants in the tender on the decision from paragraph 3 of this Article.
- (10) The companies awarded the gaming concession shall be invited to sign a concession contract within 60 days from the date of the decision of the Government of the Republic of Croatia.

## Tender Documentation

### Article 24

- (1) The application for the gaming concession from paragraph 1 of Article 23 of this Act shall have the following mandatory enclosure:
  1. The name and address of the company,
  2. A Certificate of the company's economic activity registered with the court register, including proof of secured share capital and proof of the origin of share capital funds,
  3. The Deed of Incorporation,
  4. For a legal entity submitting the application: a list of shareholders, including full names and addresses and/or company names and addresses of registered offices including the total nominal values of shares and percentages of interest in the share capital of that legal entity,
  5. For a legal entity founding the company: a court registration certificate or, for a foreign legal entity founding the company: a certificate from another public register, a list of the shareholders, including full names and addresses and/or company names and addresses of registered offices, the total nominal values of shares and percentages of interests in the share capital of the founder of that legal entity,
  6. For a natural person founding the company: the original or a certified copy of an identification document clearly indicating the name, surname, address, date and place of birth,
  7. Information on the beneficial owner of the legal entity,



8. Proof of no criminal record for the authorized persons (director, founders of the company, supervisory board members). Foreign citizens shall enclose an appropriate certificate from the domicile state and a certificate from the state in which they resided for the last two years prior to the application,

9. For a foreign legal entity or a foreign natural person founding the company, proof of the fulfilment of tax and other public obligations by the company and the founder, issued a maximum of 30 days prior to the tender application. Proof shall be issued by the state of the registered office or by the state of residence,

10. The operating plan of the company for a three-year period, including information on the revenues, expenses, profits, the number of employees, fee, type and scope of games.

(2) Evidence of fulfilment of the requirements from items 2, 4, 6, 7 and 8, paragraph 1 of this Article shall be issued a maximum of 30 days prior to the tender application.

## Exclusion of Bidder

### Article 25

(1) A tender application without all documents stipulated in Article 24 of this Act shall not be taken into consideration.

(2) Bids of companies in bankruptcy or liquidation, as well as those who have not fulfilled the obligation to pay public levies in terms of the provisions of the General Tax Act shall be excluded from consideration.

(3) Bids of companies which, in compliance with the Act on the Protection of Market Competition, may be subject to measures for the protection of market competition, and bids which in terms of this Act concern related parties shall also be excluded from consideration.

## Tender Cancellation

### Article 26

(1) The decision on the cancellation of a tender after the expiration of the term for the tender application delivery may be made in the following events:

1. where circumstances become known that, have they been known before the start of the concession procedure, would have led to the non-publication of the invitation to bid or a decision completely different in content,
2. where no bids have been received before the expiration of the bidding term,
3. where after the exclusion of the bids in the procedure, no acceptable bids remain,
4. where based on the criteria for the selection of the best bidder, no selection can be made.

(2) The decision on the cancellation of a tender for awarding the gaming concession from paragraph 1 of Article 23 of this Act shall be submitted to each bidder in written form and within 10 days from the date of the notification on the cancellation.

(3) The decision on the cancellation of a tender shall be notified in the same way as a notification on the invitation for bids for the gaming concession.

## Concession Term

### Article 27

The gaming concession shall be provided for a 15-year term. The concession term is calculated from the date of signing of contract.

## Changes by the operator

### Article 28

(1) A company which is, according to this Act, awarded the gaming concession from paragraph 1 of Article 23 of this Act shall not be entitled to transfer that right to another company.

(2) In case of any changes to the ownership structure of the operator, the Ministry of Finance shall initiate the procedure of deciding on the right to keep the gaming concession from paragraph 1, Article 23 of this Act. In addition to the application for the change of the ownership structure, the company shall submit the documentation listed under items 4, 5, 6, 7, 8 and 9 of paragraph 1, Article 24 of this Act, evidence on the origin of funds for the purchase of shares as well as any other documentation that may be requested by the Ministry of Finance.

(3) The organiser shall without any delay notify the Ministry of Finance on change of any information or circumstance, in particular those concerning:

1. The Members of the Management Board and Supervisory Board of the operator,
2. Other persons authorised for representation and management of the operator,
3. Other circumstances relevant to the operations of the operator.

## Concession Contract

### Article 29

(1) Based on the decision of the Government of the Republic of Croatia on the concession for organising games of chance, the Minister of Finance shall conclude a contract with the concessionaire.

(2) The contract may be cancelled and the notice period shall be six months.

(3) When the concessionaire from paragraph 1 of Article 23 of this Act cancels the contract due to operating losses, the notice period shall be 60 days.

## Contents of the Concession Contract

### Article 30

(1) The Concession Contract shall mandatorily include the following provisions:

1. The name and address of the company,
2. The concession term,
3. The term for start of the activity subject to concession,
4. The scope of concession,
5. The amount of the fee and payment method,
6. The implementation of control,
7. The rights and obligations of the contracting parties,
8. The termination of the concession.

(2) Any change in the contents of the contract from paragraph 1 of this Article shall be governed by a separate contract in the form of an annex to the concession contract.

## Annual Gaming Fee

### Article 31

- (1) The operator shall pay an annual fee for the gaming concession.
- (2) The annual fee shall be payable in a fixed amount and shall be the state budget revenue.
- (3) The annual fee shall be payable by the end of December of the current year for the following year.

## Revocation of Concession

### Article 32

(1) The Government of the Republic of Croatia may, upon proposal by the Ministry of Finance, decide to revoke a gaming concession where it determines that:

1. The concession was obtained based on inaccurate information,
2. The operator is breaching the contractual provisions,
3. The operator fails to perform the obligations from this Act or contract within specified terms,
4. The operator discloses false information on turnover,
5. The operator fails to start the operations within the specified term,
6. The operator started its operations before obtaining an authorisation from the Ministry of Finance,
7. The operator fails to fulfil the prescribed technical requirements,
8. The operator does not possess a bank guarantee in the defined amount,
9. The operator breaches the rules of the games of chance,
10. The operator does not permit or otherwise makes impossible the implementation of control stipulated by this Act,
11. The operator lends money to players,
12. The operator ceased organising games of chance without an authorisation from the Ministry of Finance,
13. The operator changed its corporate ownership structure without an authorisation from the Ministry of Finance,
14. The operator fails to proceed in compliance with the laws and regulations pertaining to the prevention of money laundering and terrorism financing,
15. Circumstances have occurred due to which the operator would not have obtained the concession.

(2) By adopting the decision from paragraph 1 of this Article, the concession contract shall be deemed terminated. Any and all rights acquired by the decision on the concession shall cease to be valid upon adoption of the decision by the Government of the Republic of Croatia on its revocation.

(3) In case of a revocation of the gaming concession from paragraph 1 of Article 23 of this Act, the Ministry of Finance shall be entitled to recover any damage caused by the operator, in compliance with the obligations from Article 34 of this Act.

## Liability for Disbursement of Winnings

### Article 33

For the disbursement of winnings from games of chance and the payment of public levies, in terms of the General Tax Acts, the companies organising games of chance based on the decision of the Government of the Republic of Croatia and the organisers of occasional one-time games of chance from Article 20 hereof shall guarantee with their entire assets.

## Operating Plans

### Article 34

(1) An operator who was awarded the concession by the decision of the Government of the Republic of Croatia shall by the end of the year establish a proposal of an annual operating plan for the following year, which is subject to the approval of the Ministry of Finance.

(2) The operator from paragraph 1 of this Article shall by the end of three-year period prepare a proposal of a three-year operating plan for the following three-year period, which is subject to the approval of the Ministry of Finance.

(3) The operating plan shall include information on revenues, expenses, profits, the number of employees, the annual fee, the monthly fee, the income from games of chance, and the type and scope of games.

## Title IV

### CASINO GAMES

#### Concession

### Article 35

(1) Games of chance from Article 5, paragraph 1, items 2 and 4 hereof may, in addition to Hrvatska Lutrija d.o.o., be also organised by companies which are awarded the concession by the decision of the Government of the Republic of Croatia on operating games of chance in casinos and which have entered into a concession contract pursuant to Article 29 of this Act.

(2) Companies which are awarded the concession pursuant to this Act or the decision from paragraph 1 of this Article to operate games of chance in casinos may be awarded a concession to operate games of chance in casinos through interactive sales channels of on-line gaming. The Minister of Finance shall stipulate the standards pertaining to the technical requirements of the gaming system in casinos through interactive sales channels of on-line gaming, such as player registration and identification procedure, software and hardware requirements, certification of the system and games, procedures regarding payment receipts and disbursements transactions, security principles, control requirements, principles of responsible organising, etc. An operator willing to operate games of chance in this way shall harmonize its system with the technical standards stipulated by the Minister of Finance.

(3) An authorisation for the start of the gaming operations from paragraphs 1 and 2 of this Article shall be issued by the Ministry of Finance.

#### Type and Scope of Games

## Article 36

(1) Games of chance from paragraphs 1 and 2 of Article 35 of this Act may be organised within the scope stipulated by this Act, the contract and the authorisation of the Ministry of Finance from paragraph 3 of Article 35 of this Act, and the type and scope of the games may be changed only with an authorisation of the Ministry of Finance.

(2) Games of chance in casinos may be organised on a seasonal basis in a continuous period of a minimum of four to a maximum of six months in a calendar year, and in two casinos at the most.

(3) For organising various tournaments, the operator must obtain an authorisation from the Ministry of Finance. Information on the amounts of payments by participants shall be enclosed to the application for organising a tournament.

## Share Capital and Bank Guarantee

### Article 37

(1) The operator who was awarded the concession by the decision of the Government of the Republic of Croatia shall during the concession term have in the Register of the Commercial Court the registered share capital of minimum HRK 4,000,000.00 during the entire concession term. If a company is awarded a concession for another game of chance from Article 5 of this Act, it must also have the prescribed registered share capital for the other game of chance it organises.

(2) For the purpose of ensuring the disbursement of winnings to players and the payment of public levies in terms of the General Tax Act, the operator who was awarded the concession by the decision of the Government of the Republic of Croatia shall for each casino continuously have, in the period in which he organises casino games, a bank guarantee of HRK 1,500,000.00 in a bank with registered office in Croatia. If the guarantee is provided for a period shorter than the concession term, the concessionaire shall submit a new guarantee latest 30 days before the expiration of the former guarantee.

(3) If a concessionaire organises casino games through interactive channels of on-line games, he shall also continuously have, in the period in which such games are organised, a bank guarantee of HRK 3,000,000.00 for the disbursement of winnings to the players and the payment of public levies in terms of the General Tax Act.

## Fee

### Article 38

(1) For operating casino games, an annual fee shall be paid pursuant to Article 31 of this Act, in the amount of HRK 500,000.00 per casino. For every casino opening during the year, the annual fee shall be payable to the full amount.

(2) For operating casino games through interactive sales channels of on-line playing, an annual fee of HRK 3,000,000.00 shall be paid.

(3) A concessionaire shall pay a monthly fee from the receipts from casino games. The monthly fee for organising casino games shall be 15% of the basis for the calculation of the fee from paragraph 4 of this

Article, and it shall be payable to the state budget latest by the 15th day in the current month for the preceding month.

(4) The basis for the calculation of the monthly fee shall be the sum of the daily accounts of all tables and the sum of the daily accounts of all slot machines. The basis for the calculation of the monthly fee in games played by players one against the other (chemin de feer, texas holdem poker, etc.) shall be a percentage of the receipts kept by the operator from all players. The operator shall submit a monthly report separately for tables and slot machines. The monthly account shall be final.

(5) The daily account per table shall be carried out by increasing the final value of the chips on the table by the amount exchanged for the chips on the table, stored in special boxes (drop bucket) and by the credit amount and by reducing it by a chip refill during the table operations and by the opening value of the chips on the table (closing balance + drop + credits – refills – opening balance = daily table account).

(6) The daily account of a slot machine shall be carried out by reducing the amount of all receipts by the amount of winnings paid out to the players, and the difference shall be the daily account for a specific slot machine. The slot machines with several seats are a special type of game and are subject to a separate daily account.

(7) The basis for the calculation of the monthly fee shall not include the value of the entry tickets and tips.

(8) The entry ticket from paragraph 7 of this Article shall be deemed a receipt which cannot be exchanged for chips or cash in the casino.

(9) The monthly fee for organising casino tournaments shall be 25% of the basis, which is formed by a percentage of the receipts retained by the organiser from all the receipts from participants in a tournament, and it shall be paid to the state budget latest by the 15th day in the current month for the preceding month.

## Mandatory Records

### Article 39

(1) The monthly record with the final account of the operating results and proof of the payment of the monthly fee shall be provided in the prescribed forms by the operator to the Ministry of Finance latest by the 20th day in the current month for the preceding month.

(2) The contents of the form from paragraph 1 of this Article as well as the method and form of submission of the records from paragraph 1 of this Article, as well as any other forms to be kept by the operator shall be prescribed by the Minister of Finance.

## Chips

### Article 40

(1) An operator shall use specially marked chips in a casino. The appearance, size and other features of the chips shall be authorized by the Ministry of Finance upon the operator's request. The operator shall specify the quantity and the nominal value of each type of chip with a detailed coloured graphical representation.

(2) For any change pertaining to paragraph 1 of this Article, the operator must obtain an authorisation from the Ministry of Finance.

(3) The operator shall keep an accurate record of all chips, and the report on lost, destroyed or otherwise alienated chips shall be submitted to the Ministry of Finance latest by the 20th day of a month for the preceding month.

## Physical, Technical and Other Conditions

### Article 41

(1) Games of chance from Article 35, paragraph 1 of this Act may be organised only in specially arranged premises consisting of a separate structural unit.

(2) By way of exception, the activities from Article 35, paragraph 1 of this Act may be organised in premises that are not separate structural units, provided that they are organised in hotels or hospitality facilities of a category of five or more stars, as well as on passenger ships. The premises in which a casino is opened must fulfil the requirements in terms of arrangement, equipment and space as well as other conditions stipulated by this Act and the regulations adopted on the basis hereof.

(3) The operator shall ensure continuous audio-video surveillance in a casino. Records shall be kept for 60 days, or in case of dispute, until the termination of the dispute.

(4) The operator shall have a stored safety deposit in the casino in the minimum amount of HRK 500,000.00 or the equivalent value in EUR.

(5) The name “casino” or its derivatives, translations of such names or their derivatives may be used only by the concessionaires for casino games.

(6) Other physical and technical requirements for casino games shall be stipulated by the Minister of Finance in a special document and with prior consent of the Ministry of Interior pertaining to the requirements from paragraph 3 of this Article.

## Transfer of Casino to a New Location

### Article 42

(1) The Ministry of Finance may authorise the transfer of a casino to a new location. In addition to proof of the fulfilment of the conditions from Article 41 hereof, the application shall include:

1. A specific explanation of the reason for the transfer,
2. Proof of ownership or the right of use of the premises to where the transfer is requested.

(2) The interruption in the casino operations due to the transfer may last up to 60 days.

## Identification of casino customers and verification of their identification

### Article 43

(1) The visit to a casino and the participation in a game shall be allowed to adults only who are obliged to identify themselves.

(2) The operator shall determine, check and record the identity of all persons entering the casino by keeping a record containing personal identification data, such as: the name and surname, address, date and place of birth, identification document number, the number and name of the authority that issued the identification document, as well as the date and time of entry into the casino.

(3) The information from paragraph 2 shall be kept by the operator for at least 10 years.

(4) The information from paragraph 2 of this Article are confidential and the operator may not disclose them to third parties unless stipulated otherwise by the law.

(6) The activities pertaining to the entry into a casino and the ban of entry shall be stipulated by the concessionaire's internal procedures which are subject to the approval of the Ministry of Finance.

(7) In a casino, the operator shall place prominent messages regarding responsible playing, possible gambling hazards, and realistic chances for winning.

(8) The organiser shall provide physical security for players and customers pursuant to the provisions of the Act on the Security of Persons and Property.

(5) Persons wearing a uniform may enter a casino only for professional duty. The visit to casino and the participation in games of chance may be temporarily banned or restricted to specific persons where there is a reasonable assumption that the frequency and intensity of their participation in the game may put at risk their subsistence minimum, and where this is requested by institutions engaged in the protection of family in cases where a player causes damage to himself or to a family supported by him by uncontrolled gambling.

## Casino Employees

### Article 44

The casino employees directly participating in the gaming operations shall have a permit (license) for working in a casino. The method and conditions for obtaining the permit on the professional qualification and the specific provisions for employees shall be prescribed by the Minister of Finance.

## Rules of casino games

### Article 45

(1) For each type of casino games, the operator shall adopt rules in compliance with the good business practice and international rules, which shall be applicable after the authorisation of the Ministry of Finance.

(2) For the organisation of tournaments, the operator shall adopt the rules pursuant to paragraph 1 of this Article.

(3) The rules of the games of chance shall be written in Croatian, Latin script, and translated in at least two world languages, and they shall always be available to the players.

(4) The rules of the games of chance may not be changed during the game started by the players after the payment of the amount for participation in a game of chance, and the game shall be played under the same rules until its completion.



## Title V

### BETTING GAMES

#### Concession

##### Article 46

(1) The games of chance from Article 5, paragraph 1, items 2 and 4 hereof may, in addition to Hrvatska Lutrija d.o.o., be also organised by companies who have been awarded the concession by the decision of the Government of the Republic of Croatia on operating betting games and who have entered into a concession contract pursuant to Article 29 of this Act.

(2) The payments for betting games are collected in betting shops and self-service terminals.

(3) The operators who were awarded a concession for betting games based on this Act or the decision of the Government of the Republic of Croatia may be authorized to organise such games through interactive sales channels of on-line games, provided that they have fulfilled the prescribed conditions.

(4) The authorisation for the start of receipt of payments from paragraphs 2 and 3 hereof shall be issued by the Ministry of Finance.

#### Physical and Technical Conditions for the Receipt of Bets

##### Article 47

(1) An operator who receives payments for bets in betting shops and through self-service terminals shall fulfil the physical and technical requirements stipulated by this Act and the regulations adopted on the basis hereof.

(2) The Minister of Finance shall stipulate the standards pertaining to the technical conditions of the system for betting games through interactive sales channels of on-line gaming, including player registration and identification, software and hardware requirements, certification of system and games, procedures regarding payment receipts and disbursements transactions, security principles, conditions of control, principles of responsible organisation, the number of points for receipt of bets, etc. An operator willing to organise betting games in that way shall harmonize his system with the technical standards stipulated by the Minister of Finance.

#### Ban of Betting

##### Article 48

In the territory of the Republic of Croatia, the organisation of betting is banned:

1. Where it is contrary to the legal provisions and the general ethical principles,
2. Where it pertains to the results of the elections for President of the Republic of Croatia, Croatian Parliament members, and members of the representative bodies of the local and regional self-government units,

3. To an operator whose owner or shareholder is also a member, owner or shareholder of a sports club with regard to events in the type of sport and within the range of competition to which the club in which the operator is owner or shareholder belongs to.

#### Ban of Receipt of Bets from Minors

##### Article 49

(1) It is prohibited to receive payments for bets from persons under the age of 18.

(2) In case of doubt regarding the fulfilment of the condition from paragraph 1 of this Article, the player shall submit evidence of his age of majority to the operator.

#### Share Capital and Bank Guarantee

##### Article 50

(1) The operator who was awarded a concession by the decision of the Government of the Republic of Croatia shall during the concession term have in the Register of the Commercial Court a registered share capital of minimum HRK 4,000,000.00 during the entire concession term. If the concessionaire is awarded a concession for another game of chance from Article 23 of this Act, he must also have the prescribed registered share capital for the other game of chance he organises.

(2) For the purpose of ensuring the disbursement of winnings to the players and paying the public levies in terms of the General Tax Act, the operator who was awarded a concession by the decision of the Government of the Republic of Croatia and who in the precedent business year received payments from bets in the amount of HRK 200.000.000,00 , shall continuously have, in the period in which he carries out the gaming operations, a bank guarantee of HRK 5.000.000,00 in a bank with registered office in Croatia. The bank guarantee which covers payments exceeding HRK 200.000.000,00 shall be submitted according to the following table:

##### PAYMENTS IN HRK MILLION GUARANTEE AMOUNT IN

HRK

200 – 300	7.000.000,00
300 – 400	9.000.000,00
400 – 500	11.000.000,00
500 – 600	12.000.000,00
600 – 800	13.000.000,00
800 – 1000	14.000.000,00
Exceeding 1000	15.000.000,00

(3) The operator shall provide the bank guarantee for the current year by January 31, with the validity period until the last day of February of the following year.

#### Fee

##### Article 51

(1) For the organisation of betting through betting shops and self-service terminals, an annual fee in the amount of HRK 1,000,000.00 shall be paid pursuant to Article 31 hereof.

(2) An operator who in addition to betting from paragraph 1 of this Article also organises betting through interactive sales channels of on-line gaming shall, pursuant to Article 31 hereof, pay an annual fee in the amount of HRK 3,000,000.00.

(3) The operator shall also pay to the state budget a monthly fee of 5% of the basis formed of the total sum of payments, latest by the 15th day in the current month for the preceding month.

(4) The monthly record with the final account of the operating results and proof of payment of the monthly fee shall be provided by the operator in the prescribed forms to the Ministry of Finance latest by the 20th day of the current month for the preceding month.

## Tax on Winnings from Betting Games

### Article 52

(1) The tax on winnings from betting games shall be paid by the natural persons who generate winnings from betting games.

(2) The tax on winnings shall be paid at a rate of 15% for winnings ranging from HRK 30,000.00 to HRK 500,000.00 and at a rate of 20% for winnings exceeding HRK 500,000.00.

(3) The tax on winnings from paragraph 1 of this Article shall be charged and collected upon the payment of a winning, and the tax shall be calculated and paid by the operator of the betting games. The basis for the tax on winning is a single amount of winnings exceeding HRK 30,000.00.

## Control of bet receipts and disbursements

### Article 53

(1) The operator shall provide the possibility for the storage of bet receipts and disbursements by providing for a control system. The operator shall make it possible for the Ministry of Finance to connect to the organiser's IT system, in real time, for the purpose of establishing and ensuring continuous and direct control – integral control.

(2) Integral control shall reliably monitor, record and store the information on received payments and disbursements, and ensure the non-changeability of the information received.

(3) The Ministry of Finance shall provide the software for integral control by means of construction of a software system and the appropriate hardware.

## Betting Rules

### Article 54

(1) The description of betting and the conditions for the participation in specific betting games as well as betting with the participation of several foreign organisers shall be established in the rules of betting which are applicable after the authorisation of the Ministry of Finance.

(2) The rules without an authorisation of the Ministry of Finance shall be null and void. The betting rules shall be published in the betting shop and should always be available to the players.

(3) The rules of the game may not be changed during the game started by the players after the payment of the amount for participation and the game shall be played under the same rules until its completion.

#### Article 55

(1) The provisions of Article 13 and Article 43, paragraphs 5 and 7 hereof shall apply mutatis mutandis to companies operating betting games.

(2) The other conditions to be fulfilled by the operators of betting games shall be stipulated by the Minister of Finance in a regulation from Article 47 hereof.

#### Title VI

### SLOT MACHINE GAMES

#### Concession

#### Article 56

(1) The games of chance from item 4, paragraph 1 of Article 5 hereof may, in addition to Hrvatska Lutrija d.o.o., be also organised by companies who were awarded the concession by the decision of the Government of the Republic of Croatia on operating slot machine games and who have entered into a concession contract pursuant to Article 29 of this Act.

(2) The authorization for the start of operations on slot machines shall be issued by the Ministry of Finance.

(3) The operator may organise slot machine games on a seasonal basis in a continuous period of a minimum of four to a maximum of six months, in two slot machine clubs at the most.

(4) The operator may stop organising slot machine games only with a specific authorisation of the Ministry of Finance.

#### Share Capital and Bank Guarantee

#### Article 57

(1) The operator who has been awarded a concession for slot machine games by the decision of the Government of the Republic of Croatia shall have, during the concession term, registered share capital of minimum HRK 2,000,000.00 in the Register of the Commercial Court. If the concessionaire is awarded a concession for another game of chance from Article 5 of this Act, he must also have the prescribed registered share capital for the other game of chance he organises.

(2) For the purpose of ensuring the disbursement of the winnings to the players and the payment of public levies in terms of the General Tax Act, the operator of slot machine games who has been awarded a concession by the decision of the Government of the Republic of Croatia shall, prior to the operations of the first 30 slot machines, submit a bank guarantee in the amount of HRK 300.000,00 to a bank with

registered office in Croatia. If a concessionaire operates games of chance in several slot machine clubs or on several slot machines, the concessionaire shall submit a guarantee according to the following table:

NUMBER OF SLOT MACHINES GUARANTEE AMOUNT IN HRK

31 – 60 500.000,00

61 – 90 700.000,00

91 – 120 900.000,00

121 – 150 1.100.000,00

151 – 180 1.300.000,00

181 – 210 1.500.000,00

211 – 250 2.000.000,00

Exceeding 250 5.000.000,00

(3) The operator shall continuously have a bank guarantee for the period during which slot machine games are organised. If the guarantee is provided for a term shorter than the concession term, the operator shall provide a new guarantee latest 30 days prior to the expiration of the former guarantee.

Fee

Article 58

(1) For the purpose of organising slot machine games, an annual fee in the amount of HRK 10,000.00 per machine shall be paid pursuant to Article 31 hereof. If an operator organises a game of chance in a slot machine club on an electronic roulette of up to 6 playing places, the operator shall pay an annual fee of HRK 40,000.00 and a fee of HRK 50,000.00 where exceeding 6 playing places. At the start of operations of new slot machines during the year, an annual fee per machine shall be paid to the full amount.

(2) The operator shall pay a monthly fee from the payments received from slot machine games, and the basis for the calculation of the monthly fee shall be the sum of the daily accounts of similar slot machines. The monthly account shall be final.

(3) The daily account of a slot machine shall be carried out according to the manner established in Article 38, paragraph 6 hereof.

(4) The monthly fee for organising slot machine game shall be 25%, determined from the basis for the calculation of the fee from paragraph 2 of this Article.

(5) The monthly fee from paragraph 2 of this Article shall be due on the 15th day of a month for the preceding month, and the evidence of payment shall be submitted to the Ministry of Finance latest by the 20th day of a month for the preceding month.

Physical and Technical Requirements

Article 59

(1) Slot machine games from item 4, paragraph 1 of Article 5 hereof may be organised only in specifically arranged premises with a separate entrance or premises deemed a separate unit, for which there is evidence of the fulfilment of the conditions regarding the arrangement, equipment and space and other conditions stipulated by this Act and the regulations adopted on the basis hereof. If slot machine games are organised in a slot machine club, the premises must have at least a 100m<sup>2</sup> surface area with at least 30 machines in use. The electronic roulette is deemed a single slot machine.

(2) Other requirements pertaining to the physical and technical conditions for organising games of chance from paragraph 1 of this Article shall be prescribed by the Minister of Finance in a separate regulation.

## Ban of Participation of Minors

### Article 60

The visit and the participation in slot machine games is permitted only to adults of the age of majority who at the organiser's request are obliged to prove their age with an ID document.

### Article 61

The provisions pertaining to the rights, obligations, relations and responsibilities stipulated in Article 39, Article 42, Article 43, paragraphs 5, 6 and 7, and Article 45 hereof pertaining to the organising of casino games shall apply mutatis mutandis to companies organising slot machine games.

## Title VII

## SLOT MACHINES AND GAMING TABLES

### Conditions and Method of Start of Operation

#### Article 62

(1) The operator of slot machines shall provide the possibility for the storage of received payments and disbursements by providing for a control system. The operator shall make it possible for the Ministry of Finance to connect to the organiser's IT system, in real time, for the purpose of establishing and ensuring continuous and direct control – integral control.

(2) Integral control shall reliably monitor, record and store information on received payments and disbursements, and ensure the non-changeability of the information received.

(3) The Ministry of Finance shall provide the software for integral control by means of construction of a software system and the appropriate hardware.

(4) An operator may put into operation those slot machines and gaming tables which are owned or leased by him.

(5) Legal entities leasing slot machines and gaming tables shall have a registered activity for the lease of slot machines and tables and the manufacturer's authorisation for representation, and shall provide a monthly report including a list of operators, the number of slot machines and information on the leased slot machines and tables to the Ministry of Finance.

(6) The slot machines and gaming tables put in operation for the first time cannot at the moment of the start of operations be older than one year from the date of production.

(7) For the purpose of test requirements, the operator shall be entitled to provisional import and the placement into operation of maximum 10% of the total number of slot machines and tables used by the operator, for the maximum duration of three months.

## Technical Functionality and Sealing of Slot Machines

### Article 63

(1) The slot machines and gaming tables shall be technically functional and the control devices for receipts, disbursements, program boards and games and parts affecting the result of the game shall be sealed. A certificate of technical functionality shall be issued by a legal entity licensed for technical inspection.

(2) The operator shall display in a visible place, a message for players stating the minimum average percentage of return of cash, the rules of the game and the value of the credit.

(3) The sealing of the slot machines shall be conducted by authorised officials of the Ministry of Finance and the operator shall enclose to the application for sealing proof of payment of a fee in the amount of HRK 300.00 per slot machine to the state budget. Proof of payment of a fee in the amount of HRK 500.00 per system to the state budget shall be enclosed to the application for the sealing of the jack-pot and the on-line systems.

(4) The specific requirements pertaining to the technical functionality of the slot machines and the gaming tables, the conditions and method of placement into operation, transfers, disbursements to players, cumulative winnings (jack-pot) and connection to an on-line system shall be prescribed by the Minister of Finance in a separate regulation.

(5) The conditions to be fulfilled by legal entities licensed for the technical inspection of slot machines and gaming tables shall be prescribed by the Minister of Finance in a separate regulation.

## Disbursements at the Slot Machines

### Article 64

The slot machines shall be designed in such a way that on the total number of programmed combinations, 80% of the value of the receipts for the participation in the games of chance is disbursed to the players, whereas the input and output are recorded.

## Title VIII

### SPECIFIC OPERATOR'S DUTIES

#### Prevention of Money Laundering and Terrorism Financing

### Article 65

(1) The gaming operators from this Act shall operate according to the legislation regulating the prevention of money laundering and terrorist financing, particularly in cases of customer due diligence, identification of the beneficiary owner, and identification of customers, suspicious transactions and terms for keeping customers' information.

2) The gaming operators from this Act shall conduct due diligence of a client in all cases and in the way stipulated in the Act on the Prevention of Money Laundering and Terrorism Financing.

#### Confidentiality of Information on Players and Winnings

##### Article 66

(1) The operator and his employees shall keep confidential any and all information on players and their participation in the game, including information on their winnings and losses.

(2) Confidentiality shall not be breached in cases where according to the General Tax Act, there is no obligation to keep a tax secret and where the operator is obliged to proceed in accordance with the laws and regulations governing the prevention of money laundering and terrorism financing.

(3) The operator shall, at the player's request, issue a certificate to the player on his winnings. The operator shall keep a record of the certificates for five years after the year of issue of the certificate.

#### Ban of Advertising Games of Chance in Printed and Electronic Media for Youth

##### Article 67

(1) Advertisements and publicity related to games of chance shall not be broadcasted on the radio and TV programs for children and youth or in any printed materials for children and youth.

(2) The ban from paragraph 1 of this Article shall also apply to the service providers and publishers.

#### Title IX

#### INTERNATIONAL GAMES OF CHANCE

##### Article 68

(1) It is prohibited:

1. To operators from abroad and to organise the games of chance from Article 5 and award games from Article 69 hereof in the territory of the Republic of Croatia,
2. To participate in international games of chance if stakes are paid in the territory of the Republic of Croatia,
3. To collect stakes in the Republic of Croatia for the participation and payment in games of chance organised abroad,
4. Sale, keeping, assignment, issue, advertising or any promotion or publicity of international games of chance and award games in the territory of the Republic of Croatia.

(2) The ban from item 4, paragraph 1 of this Article shall also apply to the service providers and publishers.

(3) Persons who do not have Croatian citizenship and who temporarily reside in the Republic of Croatia shall be allowed to hold receipts or tickets of international games of chance for personal participation in the game.



## Title X

### AWARD GAMES

#### Article 69

- (1) Award Games are games organised by companies for the promotion of their products and services as well as by other legal entities and individual entrepreneurs, where an organiser undertakes to distribute prizes in goods or services to the drawn winners, without asking the participants for specific payment for the participation in the game.
- (2) The registration of participants in award games by means of calls in all forms of electronic communication networks and via SMS is not deemed a special payment for participation provided that the cost per call or SMS does not exceed the amount determined in the special regulation issued by the Minister of Finance, in agreement with the relevant regulatory authority for electronic communication.
- (3) Award games are not deemed to include quizzes. A quiz shall, in terms of this Act, mean a game played in public, in which one or several prequalified participants compete in skill, competence or knowledge in various fields, according to the organiser's rules, where winning depends exclusively on the results achieved in a given topic. One or several prequalified players are included in the quiz exclusively based on the presented skills and capacities, that is, knowledge.
- (4) The registration of participants in various types of games organised through calls in all forms of electronic communication networks and via SMS shall be conducted in compliance with paragraph 2 of this Article.
- (5) The rules of an award game, in compliance with the regulations adopted on the basis of this Act, shall be set out by the organiser, and shall be applicable after an authorisation of the Ministry of Finance and their publication in electronic and other public media.
- (6) An award game cannot be organised according to the rules of the games of chance and the organiser cannot create the fund of gains with the payments of the participants.
- (7) The fund of prizes in an award game may consist exclusively of goods and services that cannot be exchanged for money by the winner, the total value of which according to market prices cannot exceed HRK 1,000,000.00 per award game.
- (8) Out of the determined value of the fund of the award game, the organisers shall pay a fee of 5% to the Croatian Red Cross.
- (9) If a prize fund exceeding HRK 5,000.00 in value is not distributed upon the completion of an award game, the organiser shall sell it at a public auction and the proceedings shall be paid to the state budget within 90 days from the expiration of the term for the collection of the prizes. By way of exception, this provision does not refer to prizes whose value has become null upon the expiration of a specific term.
- (10) Other conditions for the organisation of award games shall be prescribed by the Minister of Finance in a separate regulation.

## Title XI

### CONTROL

## Article 70

- (1) The implementation of this Act shall be supervised by the Ministry of Finance.
- (2) A legal entity organising the games of chance from Article 5 of this Act shall provide the possibility of daily control of all its material and financial operations.
- (3) The Ministry of Finance shall control the legality of operations of each casino by means of its authorised officials present in the casino during its operations.
- (4) The authorized officials of the Ministry of Finance shall, during their control, inspect the premises and all procedures directly or indirectly related to the organising of games of chance in casinos, betting shops or slot machine clubs, the devices and aids for games of chance, the equipment for the supervision of games of chance, the audio and video devices and aids, the business books, reports, records and other documents or data making it possible to determine the condition, and control the implementation of provisions related to the prevention of money laundering and terrorism financing.
- (5) The authorised officials of the Ministry of Finance may be present at the signing of the opening, accounting and closure of gaming tables and slot machines in a casino, or slot machines in a slot machine club, as well as at the daily account of a cashier's desk and other gaming equipment, the daily account of the cashier's desk of all betting shops, and other services related directly or indirectly to the operations of the casino, slot machine or betting shop.
- (6) The authorised officials of the Ministry of Finance shall be entitled to supervise during control the premises and all procedures directly or indirectly related to the organising of the games of chance.

## Article 71

- (1) If during their control the authorised officials find out that the games of chance from Article 5 or an award game from Article 69 hereof are organised contrary to the provisions of this Act or the contract from Article 29 hereof and contrary to the rules of the games, or that the operators are organising games despite the fact that they are not fulfilling all requirements stipulated by this Act or contract, they may temporarily and for a maximum of up to eight days, order one or several precaution measures and within eight days from the date of ordering the precaution measure, submit a statement of claim to the court to extend the implementation of the precaution measure.
- (2) The precaution measure from paragraph 1 of this Article shall be implemented through the sealing or temporary seizure of tables, slot machines and equipment, and through sealing of the casino, slot machine club or betting shop, or other premises in which such games are organised.
- (3) After the completion of the procedure, the temporarily seized objects shall be seized on a permanent basis and destroyed.
- (4) The determination, collection and return of the annual and monthly fee, the appeal procedure, the statute of limitations, the magistrate's court procedure and other measures related to the obligations and rights stipulated in this Act shall be governed *mutatis mutandis* by the provisions of the General Tax Act and the Act on Offences.
- (5) The costs of the seizure of the objects, the storage and destruction of slot machines and tables from paragraph 2 of this Article shall be borne by the operator or owner.

## Title XII

### PENAL PROVISIONS

#### Article 72

(1) A legal person shall be subject to a fine ranging from HRK 50,000.00 to HRK 500,000.00 for the following offences:

1. Organising games of chance from Article 5, paragraph 1 of this Act without a decision from the Croatian Government on the concession or authorisation (Article 3),
2. Organising games or activity in which participants make cash payments to participants joining the game before or after them – chains of luck (Article 6),
3. Organising a lottery game, without being licensed to do so pursuant to this Act (Article 9, paragraph 2),
4. Organising a lottery game contrary to the provisions of this Act (Articles 10, 11, 12, 14, 15 and 19),
5. Failing to establish one-year and three-year operating plans and failing to submit them for prior opinion or approval (Article 9 and 34),
6. Failing to establish a winnings fund according to the rules of the games and in accordance to this Act (Article 16),
7. Failing to accurately calculate, pay and deliver the fee for the organisation of lottery games within the stipulated terms (Article 17),
8. Failing to account for and pay the tax on winnings at the disbursement of the winnings (Article 18),
9. Organising an occasional one-time lottery game without specific authorisation from the relevant authority (Article 20, paragraph 2),
10. Organising occasional one-time games of chance contrary to the provisions of this Act (Articles 20, 21 and 22),
11. Selling the company or changing its ownership structure without authorisation from the relevant authority (Article 28, paragraphs 2 and 3),
12. Failing to pay the annual fee within the stipulated term (Article 31; Article 38, paragraphs 1 and 2; Article 51, paragraphs 1 and 2; Article 58, paragraphs 1),
13. Organising games of chance in a casino without a decision of the Government of the Republic of Croatia and the authorisation for organising games of chance in a casino and without having concluded a concession contract (Articles 29 and 35)
14. Organising games of chance in casinos via interactive sales channels of on-line game without the approval, contract and authorisation of a relevant authority (Article 29 and Article 35),
15. Organising a game of chance in a casino contrary to this Act, contract and authorisation of the relevant authority (Articles 30, 36, 37, 40, 41, 42, 44, 45, 62, 63 and 64),
16. Failing to accurately calculate, pay and deliver the monthly fee for organising games of chance in casinos within the stipulated terms and on the defined forms (Article 38, with reference to Article 39, paragraphs 1 and 2),
17. Proceeding contrary to the provision on the identification and control of the identity of customers, and continuing to organise games in a casino without fulfilling any of the prescribed conditions (Article 43),
18. Organising betting games without a decision of the Government of the Republic of Croatia and authorisation for gaming operations and without having concluded a concession contract (Articles 29 and 46),
19. Organising betting games contrary to the provisions of this Act, the concession contract and the authorisation (Articles 30, 46, 47, 48, 49, 50, 53, 54 and 55),
20. Failing to accurately calculate and pay the monthly fee for organising betting games, and to deliver the proof of payment within the stipulated terms and on the defined forms (Article 51, with reference to Article 55, paragraph 2),
21. Failing to account for and pay the tax on winnings at the disbursement of the winnings (Article 52),
22. Organising slot machine games without decision of the Government of the Republic of Croatia and the authorisation for gaming operations and without having concluded a concession contract (Articles 29 and 56),

23. Organising games of chance on slot machines contrary to the provisions of this Act, the concession contract and the authorisation (Articles 30, 56, 57, 59, 60, 61, 62, 63 and 64),
24. Failing to accurately calculate and pay the monthly fee for organising slot machine games, and to deliver the proof of payment within the prescribed terms and on the defined forms (Articles 58 and 61),
25. If a legal entity licensed for technical inspection proceeds contrary to the provisions of this Act (Article 64),
26. Proceeding contrary to the provisions of this Act related to the confidentiality of the information on the players and winnings (Article 66),
27. Advertising and publishing games of chance in printed and electronic media for youth (Article 67),
28. Proceeding contrary to the ban with reference to international games of chance (Article 68),
29. Failing to make it possible for the authorised officials performing control to view documents, premises, aids and devices, and making the daily control of all material and financial operations, as well as the control of the implementation of provisions related to the prevention of money laundering and terrorism financing impossible (Article 70).

(2) For offences from paragraph 1 of this Article, a responsible person within a legal entity shall be subject to a fine ranging from HRK 5,000.00 to HRK 50,000.00.

#### Article 73

(1) A natural person shall be subject to a fine ranging from HRK 30,000.00 to HRK 100,000.00 for organising a game of chance from Article 5, paragraph 1 of this Act.

(2) An owner or lessee of the premises in which games from Article 5, paragraph 1 of this Act are organised contrary to the provisions of the Act, shall be subject to a fine ranging from HRK 30,000.00 to HRK 100,000.00.

(3) A natural person shall be subject to a fine ranging from HRK 10,000.00 to HRK 50,000.00 for proceeding contrary to the ban with reference to international games of chance (Article 68).

(5) In addition to the fine from paragraphs 1 and 2 of this Article, a precaution measure of permanent seizure of the object used for the organising of the game of chance shall also be ordered, and all revenues obtained from the offence shall be seized.

(4) If during their control the authorised officials find that a natural person is organising games of chance, they shall, without delay, issue a decision on temporary seizure of objects used for the organising of the game of chance.

#### Article 74

(1) A legal person shall be subject to a fine ranging from HRK 5,000.00 to HRK 500,000.00 for the following offences:

1. Organising an award game contrary to the provisions of this Act (Article 69)
2. Organising an award game without the authorisation of the rules of the award game (Article 69, paragraph 5),
3. Organising an award game contrary to the rules authorized by the Ministry of Finance (Article 69, paragraph 5).

(2) For offences from paragraph 1 of this Article, a responsible person within a legal entity shall be subject to a fine ranging from HRK 5,000.00 to HRK 50,000.00.

## Article 75

(1) A natural person shall be subject to a fine ranging from HRK 5,000.00 to HRK 50,000.00 for the following offences:

1. Organising an award game contrary to the provisions of this Act (Article 69)
2. Organising an award game without the authorisation of the rules of the award game (Article 69, paragraph 5),
3. Organising an award game contrary to the rules authorized by the Ministry of Finance (Article 69, paragraph 5).

## Article 76

(1) In addition to the fine, in case of an offence from Article 72, paragraph 1, items 1, 2, 3, 4, 9, 10, 13, 14, 15, 18, 19, 22, 23 and 28 hereof, any and all revenues obtained from the offence shall be seized and the precaution measure of seizure of property shall be ordered.

(2) If an offence from Article 72, paragraph 1, items 4, 12, 15, 16, 19, 20, 23 and 24 hereof is repeated, in addition to the fine, a precaution measure of ban of activity may be ordered in the duration of three to six months.

## Article 77

In case of an offence from Articles 74 and 75 hereof, in addition to the fine, all revenues obtained from the offence shall be seized and a precaution measure of seizure of property shall be ordered.

## Title XIII

### TRANSITIONAL AND FINAL PROVISIONS

## Article 78

(1) Companies organising games of chance in casinos and slot machine clubs based on the decision of the Government of Croatia on the concession shall continue their operations until the expiration of their concession term, provided that within six months from the date of taking effect hereof, they shall harmonize their operations, acts and the entire business with the provisions of this Act.

(2) The obligation from Article 62, paragraph 1 of this Act shall be fulfilled by all companies organising slot machine games within a year from the entry into force of this Act.

(3) Companies organising betting games based on an authorisation from the Minister of Finance, which have harmonized their operations and acts within six months from the date of entry into force hereof, shall be awarded a contract on organising betting games in accordance with this Act.

(4) The obligation of harmonisation of operations and acts with the provisions of this Act shall apply to Hrvatska Lutrija d.o.o. as well.

(5) Companies from paragraphs 1, 2 and 3 of this Article failing to harmonize their operations and acts with the provisions of this Act shall cease their operations upon the expiration of the specified terms.

(6) Any and all procedures started with regard to the gaming concession for organising games of chance in casinos, slot machine clubs and betting shops in which no final decision has been made shall be completed in accordance with the provisions of this Act.

(7) Any and all procedures started with regard to the authorisation of the rules of award games in which no authorisation was given shall be completed in accordance with the provisions of the Act that was in effect until the date of entry into force of this Act.

(8) Legal entities authorized for the issue of certificates on the technical functionality of slot machines on the basis of this Act shall continue their operations provided that within a year from the date of entry into force hereof, they harmonize their operations and acts with the provisions of this Act.

#### Article 79

(1) The Minister of Finance shall issue the by-laws within his scope of the authority stipulated by this Act, within six months from the entry into force of this Act.

(2) Until the adoption of the regulations from paragraph 1, the regulations adopted on the basis of the Act on Organising of Games of Chance and Award Games (“Official Gazette” no. 83/02 and 149/02 – corr.) shall apply.

#### Article 80

(1) The Act on Organising Games of Chance and Award Games (“Official Gazette” no. 83/02 and 149/02.-corr.) ceases to be valid upon taking effect of this Act.).

#### Article 81

This Act shall be published in the “Official Gazette” and shall come into force as of January 1, 2010.

## **Annex 10: Ordinance on Organizing Remote Betting Games (January 2010)**

MINISTRY OF FINANCE

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Pursuant to Article 47, paragraph 2 of the Act on Games of Chance (“Official Gazette” number 87/2009 – hereinafter: Act) I hereby issue

### **ORDINANCE**

#### **ON ORGANIZING REMOTE BETTING GAMES**

##### **I. GENERAL PROVISIONS**

###### **Article 1**

This Ordinance shall regulate:

1. Manner and requirements for organizing betting games via the Internet and SMS messages,
2. Method of registration and identification of players,
3. Method of dealing with the pay-in and pay-out transactions,
4. Software and equipment requirements,
5. Surveillance requirements, safety principles and principles of responsible business operations.

###### **Terminology**

###### **Article 2**

Within the meaning of this Ordinance, the terms shall mean the following:

1. On-line gaming (remote gaming) is games of chance conducted via the Internet and SMS messages where players can play a game individually, in interaction with a system, without a direct representative of the operator,
2. Operating system is a computer system or system of computers by means of which the game is operated and which includes operational systems and software support and which shall not be altered without the prior authorization of the Ministry of Finance,
3. Registration of players is the collection and storage of information on players based on the agreement concluded in a betting shop or via the operator's web page,
4. Identification of players is the verification of the accuracy of information on players as well as the verification of the player's full age by means of the system of electronic services of the Tax Administration (e-Porezna) or the electronic payment system by means of verification of the holder of the debit or credit card,

5. Electronic Payment Receipt is an electronic record of the bet, marked with the player's ID number on the player's account in the operator's central system. The operator shall enable the printing of the record on paper,

6. Player's Virtual Account (I-account) is an account assigned by the operator into which the player deposits the money which he will use for the purpose of payment for betting games via the Internet or SMS messages,

7. Remote gaming equipment is a system composed of electronic, electric or mechanical devices and circuits (hardware) and computer program support (software) or any other device or object which is used or can be used for the purpose of betting games via the Internet or SMS messages and which is located in the territory of the Republic of Croatia,

8. Electronic means are electronic transfers of data pertaining to betting via the Internet or telephone authorized by the Ministry of Finance,

9. Surveillance system is a set of procedures with the purpose of monitoring and controlling the gaming process, including the players' registration, identification, pay-ins, pay-outs, deregistration of players from the remote gaming system as well as the determination of potential irregularities, i.e. the actions which are not in compliance with the Act and this Ordinance.

## II. METHOD AND REQUIREMENTS FOR ORGANIZING

### Right for Organizing Remote Betting Games

#### Article 3

(1), In addition to Hrvatska lutrija, the companies that pursuant to Article 46, paragraph 1 of the Act and by the decision of the Government of the Republic of Croatia were granted the right to organize betting and which pursuant to Article 29 of the Act contracted their right for organizing, shall have the right to organize betting games via the Internet and SMS messages.

(2) An operator who employs minimum 100 employees and who at every moment of the game has minimum 50 active payment spots shall have the right to organize the games from paragraph 1 of this Article.

(3) The operator who is pursuant to Article 53 of the Act directly connected to the information system of the Ministry of Finance shall solely have the right to organize betting games from paragraph 1 of this Article.

(4) The authorization for the start-up of the organizing of betting games via the Internet and SMS messages shall be issued by the Ministry of Finance after they establish that all the requirements prescribed by the Act, this Ordinance and other relevant regulations are fulfilled.

#### Article 4

(1) Betting games via the Internet and SMS messages is the conduct of betting in which players participate by means of computer communication technology.

(2) Within the meaning of this Ordinance, the Internet and SMS messages are electronic communication resources for the receipt of bets.



(3) The games based on software, which for the purpose of determining a random outcome of an event uses the Random Number Generators (RNG), shall be certified.

#### Article 5

Remote betting via the Internet and SMS messages shall be recorded as a separate betting shop, where the Internet shall be one betting shop and telephone (SMS) another.

#### Operator's and Player's Account

#### Article 6

(1) The operator who captures bets via the Internet and SMS messages shall, for mutual transactions with players, use only the special purpose account opened in the Republic of Croatia.

(2) The winning shall be paid out only to the player's account registered with the operator.

#### Authorization Application

#### Article 7

The companies entitled to organize betting games on the basis of the Act or the Decision of the Republic of Croatia, which contracted their organizing right, shall submit, for the purpose of obtaining the authorization for the conduct of remote betting via the Internet and SMS messages, their application with the following documentation enclosed:

1. Name and address of the company,
2. Proof of payment of the annual gaming fee in accordance with Article 51, paragraph 2 of the Act,
3. Information on program, system, network and data support (software) and equipment,
4. Rules for every kind of game,
5. Information on the special purpose account for betting via the Internet and SMS messages opened at a bank institution registered in the Republic of Croatia,
6. Information on the location in which the betting equipment will be put in place,
7. Information on the communication services provider registered for business operations in the Republic of Croatia,
8. Information on the planned security measures for the protection of personal data of natural persons in accordance with the regulations in force on the protection of personal data of natural persons,
9. For Internet betting, the address of the web page on which the games will be conducted,
10. For betting games via SMS messages, information on the telephone numbers by means of which the games will be conducted,
11. Copy of the contract concluded with the communication services provider,

12. Information on the number of betting shops in which bets are captured and number of employees therein.

#### Operator's Home Page

##### Article 8

The operator who captures bets via the Internet shall list on his web page the link to the page providing:

1. Name and address of the company,
2. Registration number and class of the authorization for organizing Internet betting issued by the Ministry of Finance,
3. Rules of games authorized by the Ministry of Finance,
4. Notification banning the participation of persons under 18 years of age,
5. Warning that games of chance may cause addiction and information on the web page on which information on professional help related to the prevention of the gambling addiction is available,
6. Statement on the measures of protection of player's personal data.

##### Article 9

The prices of SMS betting transactions shall not exceed the amount authorized by the regulations on games of chance.

### III. METHOD OR REGISTRATION AND IDENTIFICATION OF PLAYERS

#### Registration of Players

##### Article 10

(1) The players can be registered on the basis of the agreement concluded in the betting shop or by means of the operator's web page.

(2) The player shall, for the purpose of registration, provide the following information:

1. Name and Surname,
2. Address,
3. Player's identification number from his identification document,
4. Date of birth,
5. E-mail address for Internet betting,
6. The preferred user name,
7. The preferred password compliant with the necessary safety standard,

8. The number of the registered mobile phone for betting via SMS messages,
9. The number of only one transaction account for the purpose of betting payouts from Article 16, paragraph 1, items 2, 3 and 4.

#### Identification of Players

##### Article 11

- (1) The identification of players is a process of verification of the accuracy of players' data and establishment of their full age by means of verification of their correct PIN by means of access to the PIN Registry through the use of the electronic services of the Tax Administration (e-Porezna).
- (2) The identification of the players' full age can also be carried out by means of the verification of the holder of debit or credit card through the use of the electronic payment system.
- (3) The player shall provide the information from paragraphs 1 and 2 of this Article during registration.

#### Disclosure of Players' Information

##### Article 12

The information from Article 10, paragraph 2 and Article 11 of this Ordinance shall be confidential and the operator shall not disclose it to third parties unless stipulated by the law.

### IV. METHOD OF DEALING WITH THE PAY-IN AND PAY-OUT TRANSACTIONS

#### Method of Capturing the Bets for Betting Games

##### Article 13

- (1) The bets for the betting games via the Internet and SMS messages can be placed:
  1. In cash in betting shops,
  2. By debit or credit card or any other electronic payment system,
  3. By standard bank payment (payment order).
- (2) The operator shall provide the players with the option of double confirmation of the execution of the intended transaction. Once executed, the payment transaction cannot be cancelled.

##### Article 14

It shall not be permitted to the operator to capture a bet from the player who does not have sufficient funds on his account (I-account) to cover the payment amount.

##### Article 15

- (1) The operator shall not use the money paid by the players to the special purpose account for betting, the purpose of which is the settlement of other liabilities arising from the operator's business activities and the pay-out of winnings to the players.

(2) The operator shall keep the money from the players separate from his own money, in a special account opened solely for the purpose of remote betting.

(3) The amount of money in the special operator's account opened for betting purposes shall exceed or equal the total amount of money paid by the players into their accounts (I-accounts).

#### Method of Winnings Payout to Players

##### Article 16

(1) The payout of winnings from a betting game via the Internet or SMS messages shall be exercised:

1. In betting shops,
2. Into the player's virtual account (I-account),
3. By means of electronic money transfer system,
4. Into the registered player's transaction account.

(2) The winning from a betting game via the Internet or SMS messages gained by the player shall be automatically transferred by the operator to the player's virtual account (I-account).

##### Article 17

(1) The operator shall, upon the registered player's written request, immediately and at the latest within three days transfer the money from his virtual account (I-account) to the player's transaction account.

(2) When there is not a single payment transaction recorded from the player's virtual account (I-account) during a twelve month period, the operator shall return the money from that account to the player's transaction account.

#### V. SURVEILLANCE SYSTEM

##### Article 18

(1) The operator of betting games from this Ordinance shall submit, together with his application for the authorization for organizing remote betting games, the written procedures of the surveillance system which he intends to use for the purpose of organizing betting games via the Internet or SMS messages.

(2) He shall primarily submit the information pertaining to the general procedures which need to be monitored in case of remote gaming, including the players registration and identification, method of capturing the bets, method and terms of pay-outs, method of protection of personal data of natural persons in accordance with the regulations in force and the deregistration of the players from the remote gaming system.

(3) The authorized officials of the Ministry of Finance shall establish, by means of direct inspection of the operator's premises, whether the procedures submitted with the operator's application match the findings established during the inspection.

(4) The Ministry of Finance can request, at any time and at the expense of the operator, the independent assessment of the compliance of the operator's system.

## VI. SAFETY PRINCIPLES AND PRINCIPLES OF RESPONSIBLE BUSINESS OPERATIONS

### Establishing the Highest Amount and Voluntary Self-exclusion

#### Article 19

- (1) The registered player can, in writing or via e-mail, establish for the operator the highest amount which can be paid during a certain period of time, i.e. establish the highest amount of loss which he can afford during certain period of time. The player can in written form request the exclusion from the game for a defined period of time. The operator shall exclude from the game the player who confirmed his request for self-exclusion within three days.
- (2) The cancellation of the highest amount for game, the ceiling of the loss or self-exclusion can be made in written form or via e-mail by the registered player.
- (3) The information about the bets and winnings paid out shall be available to the players at all times.

#### Article 20

- (1) The operator shall appoint a person in charge of the players' protection standards, i.e. of the players' education and the application and improvement of the players' protection standards.
- (2) The operator shall make available to the players the information on the availability of help in case of excess gaming problems.

## VII TRANSITIONAL AND FINAL PROVISIONS

#### Article 21

This Ordinance shall enter into force on the eighth day of its publication in the "Official Gazette".

Class: 461-01/10-01/2  
Reg.no.: 513-07-21-07/10-01  
Zagreb, January 4, 2010

Vice Prime Minister of the  
Republic of Croatia and Minister  
of Finance

**Ivan Šuker, m.p.**

## **Annex 11: Ordinance on Interactive Online Casino Gaming (July 2010)**

### **Ordinance on Interactive Online Casino Gaming**

*Official Gazette No. 78/10*

In force and in application as of 1<sup>st</sup> July 2010

#### **I. GENERAL PROVISIONS**

##### **Article 1**

This Ordinance shall regulate:

1. Manner and requirements for organising interactive online gaming in casinos,
2. Method of registration and identification of players,
3. Method of dealing with the pay-in and pay-out transactions,
4. Type and rules of games,
5. Software and equipment requirements and system and games certification,
6. Surveillance requirements, safety principles and principles of responsible gaming.

##### **Definitions of terms**

##### **Article 2**

Within the meaning of this Ordinance, the terms shall mean the following:

1. Operation of interactive online gaming in casinos is the operation and administration of gaming where players use or can use the means of electronic communication (the Internet) to perform required actions. Players can play a game individually, in interaction with a system, without a direct representative of the operator.
2. Interactive online games in casinos are games where players play in interaction with a system, which games represent a simulation of those played by players against a casino or one against another on gaming tables with balls, cards or dice, by international rules. When games simulate a game of chance on slot machines, the simulation has to be identical to the expected mode of operation of a real slot machine,
3. Operating system is a computer system or system of computers by means of which the interactive online game is operated and which includes operational systems and software support, all programmes, files or any other content downloaded by players from a web site which they access or use on that web page. Operating systems shall not be altered without prior authorisation of the Ministry of Finance.
4. Registration of players is the collection and storage of information on players based on the agreement concluded in a casino or via the operator's web site,

5. Identification of players is the verification of the accuracy of information on players and their full age via the system of electronic services of the Tax Administration or the electronic payment system by means of verification of the holder of the debit or credit card,
6. Electronic Payment Receipt is an electronic record of payment for a game, marked with player ID number from the player's account in the operator's central system. The operator shall enable the printing of this record on paper,
7. Player's Virtual Account (I-account) is an account assigned by the operator into which players deposit the money they will use to pay for their participation in interactive online casino gaming,
8. Software system is a system composed of electronic, electric or mechanical devices and hardware and software or any other device or object which is used or can be used for the purpose of interactive online casino gaming and which is located in the territory of the Republic of Croatia,
9. Electronic means are electronic transfers of data pertaining to interactive online casino gaming authorised by the Ministry of Finance,
10. Surveillance system is a set of procedures with the purpose of monitoring and controlling the gaming process, including the players' registration, identification, pay-ins, pay-outs, the deregistration of players from the interactive online gaming system, and determining potential irregularities, i.e. actions which are not in compliance with the Act and this Ordinance,
11. Casino room is a place where a real game played interactively online by a player is directly conducted,
12. Activation ticket is a receipt purchased at the operator, denoting an amount that will be transferred to the virtual account of the player who activates the account by entering the activation code on the operator's web page.

## **II. METHOD AND REQUIREMENTS OF ORGANIZING**

### **Right of organising interactive online casino gaming**

#### **Article 3**

- (1) In addition to Hrvatska lutrija, the right of organising interactive online casino gaming shall be granted to companies that pursuant to Article 35, paragraph 1 of the Act and by the decision of the Government of the Republic of Croatia were granted the right to organise games of chance in casinos and that pursuant to Article 29 of the Act contracted their right of organising.
- (2) Only operators who pursuant to Article 62 of the Act are directly connected to the information system of the Ministry of Finance shall have the right to organise interactive online casino games from paragraph 1 of this Article.
- (3) Authorisation for the start-up of organising interactive online casino games shall be issued by the Ministry of Finance after establishing that all requirements prescribed by the Act, this Ordinance and other relevant regulations adopted on the basis of the Act have been met.

#### **Article 4**

- (1) Operation of interactive online casino gaming is the operation and administration of games of chance where players use or can use the means of electronic communication (the Internet) to perform the necessary activities related to casino games.
- (2) Within the meaning of this Ordinance, the Internet is electronic communication resource for the receipt of payments for participation in casino games.
- (3) Games based on software, which for the purpose of determining a random outcome of an event use Random Number Generators (hereinafter: RNG), shall be certified.

#### **Article 5**

- (1) Only operators who at the time of organising interactive online casino gaming have at least one casino opened in the territory of the Republic of Croatia shall have the right to organise interactive online casino gaming.
- (2) Interactive online casino gaming operations shall be registered as a separate casino.

#### **Operator's and Player's Account**

#### **Article 6**

- (1) Operators who capture payments by means of interactive online gaming shall, for mutual transactions with players, use only the special purpose account opened in the Republic of Croatia.
- (2) Winnings shall be paid out only to the player's account registered with the operator.

#### **Authorisation Application**

#### **Article 7**

Companies that pursuant to the Act or by the decision of the Government of the Republic of Croatia were granted the right to organise games of chance in casinos and that contracted their right for organising, shall for the purpose of obtaining the authorisation for organising interactive online casino gaming submit their application and enclose the following documentation:

1. Name and address of the company and personal identification number (PIN),
2. Proof of payment of the annual gaming fee for interactive online casino gaming in accordance with Article 38, paragraph 2 of the Act,
3. Information on program, system, network and data support (software) and equipment,
4. Conclusion of an independent and internationally recognised entity on the testing results for each program, system and every single game (certificate),
5. Rules for every kind of game,
6. Information on the special purpose account for interactive online casino gaming opened at a bank institution registered in the Republic of Croatia,



7. Information on the location at which the gaming equipment will be put in place solely in the territory of the Republic of Croatia,
8. Information on the planned safety measures aimed at protecting personal data of natural persons in accordance with the regulations on the protection of personal data of natural persons currently in force,
9. The address of the web site(s) on which interactive online casino games will be conducted,
10. Copy of the contract concluded with the communication services provider registered for carrying out an economic activity in the territory of the Republic of Croatia,
11. Information on the locations of casinos for which the operator was granted authorisation and the number of employees therein.

### **Operator's Home Page**

#### **Article 8**

Operators who capture payments for interactive online casino gaming shall put on their home web site a link to the site containing the following information:

1. Company name and address,
2. Registration number and class of authorisation for organising interactive online casino gaming, issued by the Ministry of Finance,
3. List of games authorised by the Ministry of Finance,
4. Type and rules of games,
5. Notification banning the participation of persons under 18 years of age,
6. Warning that games of chance may cause addiction and instructions regarding the web site that provides information on professional help related to the prevention of gambling addiction,
7. Statement on the measures of protection of player's personal data.

### **III METHOD OF REGISTRATION AND IDENTIFICATION OF PLAYERS**

#### **Registration of Players**

#### **Article 9**

- (1) Players can be registered on the basis of the agreement concluded with the operator in the casino or by means of the operator's web site. The player shall, for the purpose of registration, provide the following information:
  1. Name and Surname,
  2. Address,

3. Identification number,
  4. Date of birth,
  5. e-mail address,
  6. The preferred user name,
  7. The preferred password compliant with the necessary safety standard,
  8. The number of only one transaction account for the purpose of payouts.
- (2) Players shall notify the operator of any changes of information referred to in paragraph 2 of this Article.

### **Identification of Players**

#### **Article 10**

- (1) Identification of players is a process whereby the truthfulness of players' data and their full age are determined by means of data verification via electronic services of the Tax Administration.
- (2) Players' full age can also be determined via the electronic payment system by verifying the debit or credit card holder.

### **Disclosure of Players' Information**

#### **Article 11**

Information from Article 9, paragraph 2 of this Ordinance shall be confidential and the operator shall not disclose it to third parties unless stipulated by the law.

## **IV PAY-IN AND PAY-OUT TRANSACTIONS**

### **Capturing Payments for Interactive Online Casino Gaming**

#### **Article 12**

- (1) Payments for Interactive Online Casino Gaming can be placed:
  1. by purchasing an activation ticket at the operator,
  2. by debit or credit card and any other electronic payment system,
  3. by standard bank payment (payment order or the Internet payment order).
- (2) Operators shall provide the players with double confirmation of the execution of the intended transaction. Once executed, payment transactions cannot be cancelled.

#### **Article 13**

It shall not be permitted to operators to capture a payment for interactive online casino gaming from players who do not have sufficient funds on their account (I-account) to cover the payment amount.

#### **Article 14**

- (1) Operators shall not use the money paid by players to their account (I-account) for the settlement of other liabilities arising from the operator's business activities.
- (2) Operators shall keep the players' money separate from their own money, in a special account opened solely for the purpose of interactive online casino gaming.

#### **Method of Winnings Payout to Players**

#### **Article 15**

- (1) Winnings from an interactive online casino game shall be paid out to the players:
  1. At the cashier in the operator's casino,
  2. To the player's virtual account (I-account),
  3. By means of electronic money transfer system,
  4. To the registered player's transaction account.
- (2) Winnings from interactive online casino games gained by a player shall automatically be transferred by the operator to the player's virtual account (I-account).

#### **Article 16**

- (1) Operators shall, upon a registered player's written request, immediately and at the latest within three days transfer the money from their virtual account (I-account) to the player's transaction account.
- (2) When there is not a single payment transaction recorded from the player's virtual account (I-account) during a twelve month period, operators shall return the money from that account to the player's transaction account.

### **V TYPES OF GAMES AND RULES**

#### **Article 17**

- (1) For each type of interactive online casino games, the operator shall adopt rules that are in compliance with good business practice and international rules, which shall be applicable after the authorisation of the Ministry of Finance.
- (2) Rules of games of chance shall be written in Croatian, Latin script, and translated into at least two world languages, and they shall always be available to the players on the web site where the interactive online casino games will be organised.

- (3) Operators of interactive online casino games shall have an option to combine a real game and an online game by showing individual games for which they have the authorisation of the Ministry of Finance on their web page in real time, i.e. live (so called casino room).
- (4) Operators shall have the right to award bonuses to players in the form of virtual points, depending on the frequency of playing, amount of deposit, VIP status previously gained by the player and the like.

## **VI SOFTWARE AND EQUIPMENT REQUIREMENTS AND SYSTEM AND GAMES CERTIFICATION**

### **Article 18**

- (1) The certainty of an event of chance shall not be influenced or forced, i.e. shall be controlled by no means other than numeric values obtained in a certified manner and via certified random number generator (RNG) together with the rules of game.
- (2) Random number generator (RNG) and its methodology shall be based on pseudorandom algorithm of number generation. When multiple RNGs are used in a system, their each variation shall be separately evaluated and certified.
- (3) Certification of games and systems shall be performed only by laboratories accredited by the Ministry of Finance.
- (4) Accredited laboratories shall submit certificates of compliance and test reports for games and systems to the Ministry of Finance in written form and in Croatian language.
- (5) Certificates of compliance issued by accredited laboratories for a certain type of game and system shall be valid only if confirmed by the Ministry of Finance.
- (6) The Ministry of Finance shall submit the notice on the confirmed certificates to the manufacturer and legal entities accredited for the performance of technical inspections.
- (7) Certificates of compliance shall contain the name of the accredited laboratory, information on the manufacturer, the subject matter of testing, software, system components, files, certificate number and date of issuance, and the conclusion that the machine or system is in compliance with the Act and Ordinance.

## **VII SURVEILLANCE REQUIREMENTS, SAFETY PRINCIPLES AND PRINCIPLES OF RESPONSIBLE GAMING**

### **Article 19**

- (1) Operators of interactive online casino games shall submit, together with their application for the authorisation for organising interactive online casino games, the written procedures of the surveillance system which they intend to use.
- (2) Operators shall submit information pertaining to general procedures for interactive online casino gaming, including players registration and identification, method of capturing payments for interactive online casino games, method and terms of pay-outs, method of personal data protection for natural persons in accordance with the regulations in force, and the deregistration of players from the interactive online casino gaming system.

- (3) Authorised officials of the Ministry of Finance shall establish, by means of direct inspection at operator's premises, whether the procedures submitted with the operator's application match the findings established during inspection.
- (4) The Ministry of Finance can request, at any time and at the expense of the operator, an independent assessment of the compliance of an operator's system.
- (5) Operators of interactive online casino games shall not be responsible for players' selection of computer equipment, telecommunication services, service of accessing the interactive online games, etc. Operators shall not be responsible for damage or loss suffered by a player due to a mistake of a provider of Internet services or a telecommunication system operator.

### **Establishing the Highest Amount and Voluntary Self-exclusion**

#### **Article 20**

- (1) Registered players can, in writing or via e-mail, establish for the operator the highest amount which can be paid during a certain period of time, i.e. establish the highest amount of loss which they can afford during a certain period of time. Players can in written form demand to be excluded from the game for a defined period of time. Operators shall exclude from the game players who within three days confirm their request for self-exclusion.
- (2) Registered players can cancel the highest amount for game, the ceiling of loss or self-exclusion in writing or via e-mail.
- (3) Information about payments for interactive online casino gaming and winnings paid out shall be available to players at all times.

#### **Article 21**

- (1) Operators shall appoint a person in charge of player protection standards, i.e. of players' education and the application and improvement of player protection standards.
- (2) Operators shall make available to the players information on the availability of help in case of excess gaming problems.

## **VIII TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 22**

This Ordinance shall enter into force on the eighth day of its publication in the "Official Gazette".

## **Annex 12: Ordinance on Lottery Games (July 2010)**

### **Ordinance on Lottery Games**

Official Gazette 78/10

In force and in application as of 1<sup>st</sup> July 2010.

#### **1. GENERAL PROVISIONS**

##### **Article 1**

This Ordinance shall regulate:

1. Physical and technical requirements and the method of capturing payments for lottery games from Article 5, paragraph 1, item 1 of the Act (hereinafter: lottery games),
2. Method of drawing winnings in lottery games,
3. Certification of devices and attestation of technical conformity of devices and equipment used for drawing in lottery games,
4. Safety principles and principles of responsible gaming.

##### **Definitions of Terms**

##### **Article 2**

Within the meaning of this Ordinance, the terms shall mean the following:

1. Lottery games are the games defined as such in Article 5, paragraph 1, item 1 of the Act on Games of Chance,
2. Payment point is a place at which players can play lottery games with the intermediation of an Operator representative,
3. Self-service terminal for accepting payments is a terminal permanently connected with the Operator's system by means of which players can play lottery games without the intermediation of Operator representative,
4. On-line terminal for accepting payments is a terminal permanently connected with the Operator's system by means of which players can play lottery games with the intermediation of Operator representative,
5. Random Number Generator (RNG) is a certified device, designed to generate random, fully independent and unpredictable ranges of numbers or symbols evenly distributed within predefined scales, on the basis of random patterns,
6. Drum is a lottery machine used for the drawing of winning combinations in lottery games in which balls are mixed inside the drum either by means of air pressure or mechanically,
7. Balls are various carriers of images or other labels that are mixed inside the drum and a winning combination in lottery games is provided by the dropping of balls out of the drum,
8. On-line gaming (remote gaming) means the organizing of games of chance via the Internet, text messages or other interactive communication channels by means of which players can play games individually in interaction with the system, without direct representative of the Operator,
9. Registration of players is the collection and storage of information on players based on the agreement concluded at a payment point or via the Operator's website,

10. Identification of players is the verification of the accuracy of information on players and their full age via the system of electronic services of the Tax Administration or the electronic payment system by means of verification of the holder of the debit or credit card,
11. Electronic Payment Receipt is an electronic record of payment for a game, marked with player ID number from the player's account in the Operator's central system. The Operator shall enable the printing of this record on paper.
12. Player's Virtual Account (I-account) is a unique players' account in the gaming system assigned by the Operator on which players' deposits into their virtual accounts shall be registered as well as payments for games, pay-outs of winnings, bonuses, free games and all other financial transactions related to on-line gaming,
13. Deposit to virtual player account is a deposit of money to the player's virtual account available to the player for the purpose of paying the stake for games;
14. Remote gaming equipment is a system composed of electronic, electric or mechanical devices and hardware and software or any other device or object which is used or can be used for the purpose of gaming via the Internet, text messages or any other interactive communication channels and which is located in the territory of the Republic of Croatia,
15. Activation ticket is a receipt purchased at the Operator, denoting the amount that will be transferred to the virtual account of the player who activates the account by entering the activation code on the Operator's website.

### **Right of Conducting Lottery Games**

#### **Article 3**

The Republic of Croatia has the right to organize lottery games in its territory and that right has been transferred to Hrvatska lutrija d.o.o. (hereinafter: Operator).

### **Receipt of Payments for Lottery Games**

#### **Article 4**

- (1) Payments for lottery games can be accepted at payment points of the Operator and their authorized partners (hereinafter: payment points).
- (2) Lottery games can also be paid for outside payment points with the intermediation of on-site agents (on-site sale), by means of self-service terminals, the Internet, phone (text messaging) or any other interactive communication channels.
- (3) The deadline for accepting payments for lottery games organized by the Operator in the entire territory of the Republic of Croatia shall be defined in the rules of individual lottery games.

## **2. PHYSICAL AND TECHNICAL REQUIREMENTS AND METHOD OF ACCEPTING PAYMENTS FOR LOTTERY GAMES**

### **Minimum Technical Requirements**

#### **Article 5**

Payment points for accepting payments for lottery games shall be designed, equipped and staffed so as to enable undisturbed and safe movement of players and employees and undisturbed settlement and deposit of money.

#### **Article 6**

Electrical installations in the premises of payment points and terminals shall be functional and in conformity with the prescribed measures of protection from indirect contact therewith as prescribed in the provisions of relevant regulations.

#### **Article 7**

Requirements prescribed in separate fire protection regulations shall be fulfilled in the premises of lottery games payment points.

### **1 . Receipt of Payment at Payment Points**

#### **Article 8**

- (1) Payment for lottery games can be accepted at payment points of the Operator and their authorized partners, which payment points can be located in buildings or kiosks.
- (2) Exceptionally, a payment point can also be located within the premises in which games of chance are traditionally conducted (casinos, slot-machine clubs, payment points of betting shops).
- (3) Working hours of lottery games payment points shall be defined by the Operator.
- (4) The notice on payment point working hours shall be placed in a conspicuous position.

#### **Article 9**

- (1) Payment points shall be equipped with:
  1. Information system for accepting payments, permanently connected with a central database located at the Operator's seat,
  2. Cashier box to store the money,
  3. Rules of lottery games - available to all players,
  4. Reports on drawing outcomes and winnings,
  5. Fire-fighting device in compliance with fire protection regulations.
- (2) Requirements from paragraph 1, items 1, 3 and 5 of this Article shall be met in order to enable the receipt of payments for lottery games at payments points of the Operator's authorized partners.
- (3) The Operator shall make visible at lottery games payment points a notice on responsible gaming, notice banning the participation of persons under 18 years of age, notice on possible harmfulness of games including the help-line number where players can obtain professional help related to the prevention of gaming addiction.

#### **Article 10**

- (1) For the purpose of accepting payments at payment points, the Operator shall obtain:
  1. Proof of ownership or right of usufruct of business premises where the payments will be accepted (originals or copies certified by a notary public),



2. For electrical installations, proof of conformity with the requirements of the prescribed measures for protection against direct contact and of functionality of protection against indirect contact (not older than one year).
- (2) The payment points of the Operator's authorized partners shall obtain a decision on the compliance with the requirements for their core registered business activity issued by competent authority.

#### **Article 11**

- (1) The Operator shall have a written statement of compliance with the requirements prescribed in Articles 9 and 10, paragraph 1 of this Ordinance.
- (2) The Operator shall submit to the Ministry of Finance a statement of compliance with the requirements referred to in Articles 9 and 10, paragraph 1, the decision from Article 10, paragraph 2 of this Ordinance and a notification on the date of payment acceptance three days prior to the date of payment acceptance at the latest.

### **2 . Payments via Self-Service Terminals**

#### **Article 12**

- (1) Payments for lottery games can be accepted by means of self-service terminals that can be located at payment points of the Operator, in betting shops, catering facilities with the surface of at least 40 m<sup>2</sup>, in casinos and slot-machine clubs premises, shopping centres and other public premises, provided that the payment point has a surface of at least 2 m<sup>2</sup>.
- (2) Lottery games payments made via self-service terminals shall not be accepted within educational, cultural or social care facilities and health institutions.
- (3) Catering facilities shall be allowed to accommodate only one self-service terminal for the lottery games payments.

#### **Article 13**

- (1) Where lottery games payments are accepted via self-service terminals the Operator shall comply with legal provisions banning payments made by minors.
- (2) The legal provision referred to in paragraph 1 of this Article shall be applied by means of registration cards allowing reliable verification of player's maturity.
- (3) The registration card referred to in paragraph 2 of this Article, issued by the Operator after the verification of player's maturity, shall be protected by authorization code (PIN).
- (4) The Operator shall in their internal act submitted to the Ministry of Finance define card issuance and identity verification and prescribe card usage.

#### **Article 14**

- (1) For the purpose of lottery games payments by means of self-service terminals, the Operator shall ensure compliance with the requirements prescribed in Articles 9, 10, 12, paragraph 1 and 3 and Article 13 of this Ordinance and for self-service terminals located in catering facilities or shopping centres, the Operator shall submit proof of compliance with the requirements prescribed in relevant regulations covering the business activity concerned.

- (2) When self-service terminals are used for accepting payments for lottery games, they shall contain the equipment referred to in Article 9, paragraphs 1 and 3 of this Ordinance and shall comply with the requirements listed therein.
- (3) The Operator shall by written statement prove compliance with the requirements referred to in Articles 9, 10, paragraph 1 and Article 12, paragraph 3 and Article 13 of this Ordinance.
- (4) The Operator shall no later than three days prior to the date of payment acceptance via self-service terminals submit to the Ministry of Finance a statement of compliance with the requirements from Articles 9, 10, paragraph 1, Articles 12 and 13 of this Ordinance, proof of compliance with the requirements prescribed in separate regulation referred to in Article 14, paragraph 1 of this Ordinance and a notification on the date of payment acceptance.

### **3 . Lottery Games Payments via the Internet, Text Messages or other Interactive Communication Channels**

#### **Article 15**

- (1) Operation of lottery games by means of the Internet, text messages or any other interactive communication channel is the operation of lottery games where players use the Information Communication Technology to perform the necessary activities related to remote lottery games.
- (2) Each method of receiving lottery games payments referred to in paragraph 1 of this Article shall be registered as a separate payment point in the gaming system.

#### **Article 16**

The Operator who accepts payments by means of the Internet, text messages or any other interactive communication channel shall, for their transactions with players, use only the special purpose account opened in the Republic of Croatia.

### **Operator's Homepage**

#### **Article 17**

The Operator who accepts payments for lottery games by means of the Internet shall put on their homepage a link to the site containing the following information:

1. Company name and address,
2. Registration number and class of authorization for organising lottery games by means of the Internet, issued by the Ministry of Finance
3. Rules of games authorized by the Ministry of Finance,
4. Notice banning the participation of persons less than 18 years of age,
5. Warning that games of chance may cause addiction and instructions regarding the website that provides information on professional help related to the prevention of gambling addiction,
6. Statement on the measures of protection of player's personal data.

#### **Article 18**

Prices of transactions related to lottery games played by text messages shall not exceed the amount approved in regulations covering the operation of prize games.

## **Registration of Players**

### **Article 19**

Players can be registered on the basis of the agreement concluded at payment points or via the Operator's website.

Players shall, for the purpose of registration, provide the following information:

1. Name and Surname,
2. Address,
3. Identification player number from personal identification document,
4. Date of birth,
5. e-mail address for lottery (and other) games played via the Internet,
6. The preferred user name,
7. The preferred password in conformity with the necessary safety standard,
8. Number of a registered mobile phone for lottery (and other) games played via text messages,
9. The number of only one transaction account referred to in Article 24, paragraph 1, item 4 of this Ordinance for the purpose of payouts gained in lottery (and other) games.

## **Identification of Players**

### **Article 20**

- (1) Identification of players is a process whereby the truthfulness of players' data and their full age are determined by means of data verification via electronic services of the Tax Administration or via the electronic payment system by verifying the debit or credit card holder.
- (2) Players shall for maturity verification purposes provide the information from paragraph 1 of this Article during the registration process.

## **Disclosure of Player Information**

### **Article 21**

Information from Article 19, paragraph 2 and Article 20 of this Ordinance shall be confidential and the Operator shall not disclose it to third parties unless stipulated by the law.

## **Pay-in and Pay-out Transactions**

### **Article 22**

Deposits to player virtual account for lottery games played by via the Internet, text messages or any other interactive communication channel can be placed:

1. As cash deposits at payment points of the Operator or their authorized partners,
2. By purchasing an activation ticket,
3. By debit or credit card and any other electronic payment system,
4. By standard bank payment (payment order or Internet payment order)

### **Article 23**

- (1) It shall not be permitted to the Operator to accept payments for games from players who do not have sufficient funds in their account (I-account) to cover the payment amount.
- (2) The Operator shall provide players with double confirmation of the execution of the intended transaction. Once executed, payment transactions cannot be cancelled.

### **Article 24**

- (1) Winnings from lottery games played by means of the Internet, text messages or any other interactive communication channels shall be paid out to the players:
  1. At the payment points of the Operator or their authorized partners,
  2. To the player's virtual account (I-account),
  3. By means of electronic money transfer system,
  4. To the registered player's transaction account.
- (2) Winnings from games played by means of the Internet, text messages or any other interactive communication channel gained by a player shall automatically be transferred by the Operator to the player's virtual account (I-account).

### **Article 25**

- (1) The Operator shall, upon a registered player's written request, immediately and within three days at the latest transfer the money from their virtual account (I-account) to the player's transaction account.
- (2) When there is not a single payment transaction recorded on the player's virtual account (I-account) during a twelve month period, the Operator shall return the money from that account to the player's transaction account.
- (3) Where a player requests for a refund of the money from their virtual account unused for games, the Operator can reduce the amount for manipulation costs that shall not exceed 5% of the amount to be refunded.

## **Application for Authorization**

### **Article 26**

- (1) The Operator shall, for the purpose of obtaining authorization for the operation of lottery games by means of the Internet, text messages or any other interactive communication channel submit their application and other documentation including:

1. Name and address of the company,
  2. Information on program, system, network and data support (software) and equipment,
  3. Information on the special purpose account for lottery games played by means of the Internet, text messages or other interactive communication channels opened at a bank institution registered in the Republic of Croatia,
  4. Information on the location at which lottery games equipment will be put in place,
  5. Information on the communication services provider registered for carrying out economic activity in the territory of the Republic of Croatia,
  6. Information on the planned safety measures aimed at protecting personal data of natural persons in accordance with the regulations on the protection of personal data of natural persons currently in force,
  7. For lottery games played via the Internet, the address of the website on which games will be conducted,
  8. For games operated via text messages, information on phone numbers which will be used for the operations of games.
  9. A copy of the contract concluded with the communication services provider.
- (2) Authorization for accepting payments for lottery games by means of the Internet, text messages or other interactive communication channels shall be issued by the Ministry of Finance after establishing that all requirements prescribed in the Act and this Ordinance have been met.

### **Winnings Receipt**

#### **Article 27**

- (1) The Operator shall, upon the player's request and on player's name, issue a receipt acknowledging their winnings from lottery games. Players can request a receipt of the winnings generated exclusively from the game at the moment of collecting the winnings or by the end of the calendar year in which the winnings were gained, provided that their personal data sufficient for player identification were stored with the Operator. The Operator shall issue the receipt within three days of the request.
- (2) The Operator shall keep records on issued receipts with information about the winners and shall submit it to the Ministry of Finance by the end of January of the current year for the previous year.

### **3. DRAWING WINNINGS IN LOTTERY GAMES**

#### **Article 28**

- (1) In lottery games from Article 5, paragraph 1, item 1 of the Act, the drawing must be public in the presence of three-member commission appointed by the Operator and in the presence of an authorized official of the Ministry of Finance and a notary public. The cost of participation of the authorized official of the Ministry of Finance and the notary public in the drawing of winnings from lottery games shall be borne by the Operator.
- (2) In international games where drawing of numbers or symbols is carried out outside of the Republic of Croatia, the drawing procedure shall be carried out in compliance with the rules of profession and the regulations of the country where it takes place.

- (3) If a drawing is carried out by a Random Number Generator, the presence of the persons from paragraph 1 of this Article is decided upon in an authorization provided by the Ministry of Finance regarding the rules of such game.
- (4) In games where public drawing of winnings must be carried out in the presence of all participants (hall bingo or keno), the drawing shall take place before a commission appointed by the Operator in compliance with the rules of the game.
- (5) The drawing of winnings in lottery games referred to in Article 5, paragraph 2, item 1 of the Act shall be carried out by special devices.

#### **4 . Devices and Equipment for Drawing Winnings in Lottery Games**

##### **Drawing Device – the Drum**

##### **Article 29**

- (1) The drum has a tray for the exposition of all balls prior to their mixing, a container in which the balls are mixed, a tray on which the drawn ball and/or winning combination is placed, a console and other operation control hardware and software.
- (2) The drum is operated by an authorized person of the Operator.
- (3) The balls are mixed inside the drum either mechanically (by means of paddles, air pressure or in other ways).
- (4) The drum must be designed in the following manner:
  - All balls to be used in the draw can be visibly placed onto the tray,
  - The container of the drum inside which the balls are mixed ensures visibility of all balls in the drum during the entire mixing,
  - With the exception of the mixing, it is required to ensure protection from any mechanical impact,
  - All drawn balls, or one drawn ball (if it is to be returned to the drum), must be visibly placed on the tray where the winning combination is placed,
  - The balls must be visible as they pass through all parts of the device, e.g. during the entire draw.
- (5) The drum and the balls shall be stored in a room protected by video surveillance of the Operator which shall be accessed solely by authorized persons of the Operator. Every access to the room shall be recorded.
- (6) In the course of drawing of winnings in lottery games the drum shall be positioned in such a manner so that the entire draw is clearly visible to all members of the commission.

##### **Balls**

##### **Article 30**

- (1) The balls must be made of a resistant material that remains unchanged under the influence of possible changes in temperature during regular use (drawing), they must be deformation resistant and have the following features:
  - Identical dimensions and weight for a single game (with the allowed deviation of  $\pm 2\%$  from the value declared by the manufacturer), identical rupture resistance and identical elasticity,

- Marks imprinted on the outer envelope of the balls, clearly visible during the overall drawing process.
- (2) Prior to their entry into the mixing containment, the balls shall be exposed so that they are clearly visible to the commission, the notary public and the representative of the Ministry of Finance.
- (3) After the draw is completed, every set of balls shall be stored in a container with a lock by authorized person after which the container shall be stored in a secured room protected by the Operator's video-surveillance system. Every access to the room shall be recorded.
- (4) The Operator shall submit to the Ministry of Finance a list of persons authorized to operate the drums and balls and to access the secured room in order to store the drums and balls under video-surveillance.

### **Random Number Generator (RNG)**

#### **Article 31**

- (1) In addition to mechanical devices (drums), a Random Number Generator (RNG) can be also used for the drawing of winnings in lottery games.
- (2) Random Number Generator is a computational device equipped with necessary hardware and software adapted for drawing purposes.

## **2. Drawing of Winnings**

#### **Article 32**

The drawing of numbers or symbols, the determination and pay-outs of winnings in lottery games shall be detailed in a specific regulation adopted by the Operator and applicable upon authorization from the Ministry of Finance.

## **3. Drawing Report**

#### **Article 33**

- (1) Drawing report shall be made in the manner detailed in the regulation of the Operator referred to in Article 14, paragraph 7 of the Act.
- (2) The Operator shall submit the drawing report to the Ministry of Finance within eight days of the day of drawing.

## **4. DEVICE CERTIFICATION AND ATTESTATION OF TECHNICAL CONFORMITY OF DEVICES AND EQUIPMENT FOR DRAWING OF WINNINGS IN LOTTERY GAMES**

### **1. Certification of Devices**

#### **Article 34**

- (1) The Random Number Generator (RNG) must be certified.

- (2) The certification of devices referred to in paragraph 1 of this Article can be carried out only by a laboratory authorized by the Ministry of Finance in accordance with the provisions of the Ordinance on Technical Compliance of Slot-Machines and Gaming Tables.
- (3) During the certification procedure the authorized laboratory from paragraph 2 hereof shall in the course of the inspection of the Random Number Generator (RNG) perform the following:
  1. Verify that the outcomes are statistically independent, unpredictable and evenly distributed within predefined scales in line with the rules of the game,
  2. Various recognized statistical tests,
  3. Verify that RNG patterns are continuously generated and that a pattern available at the moment when it is requested is used in the game, and
  4. Verify that RNG is cryptographically protected.
- (4) The function of Random Number Generator (RNG) shall be based on an algorithm for generating random patterns or hardware cryptographically sufficiently strong at the moment of certification.

## **2. Devices Subject to Technical Inspection**

### **Article 35**

- (1) All devices and equipment shall be subject to technical inspection prior to and during the use thereof, notwithstanding whether they are manufactured in the country or imported.
- (2) The devices referred to in Article 29 and 31 thereof shall be subject to technical inspection when they are first put in use and afterwards once in two years.
- (3) The balls referred to in Article 30 hereof shall be subject to technical inspection when they are first put in use and afterwards once a year.
- (4) The certificate of conformance of a device or equipment for the drawing of winnings in individual lottery games (attestation) shall be issued by legal entity authorized for technical inspection referred to in Article 63, paragraph 1 of the Act provided that technical inspection confirmed that the device or equipment is in conformity with the Act and the Ordinance.
- (5) The certificate of conformance (attestation) shall be issued based on the information obtained during technical inspection and shall be supported by a relevant report. The report on technical inspection shall contain information on authorized employee of the Ministry of Finance who attended technical inspection.

## **3. Application for Technical Inspection**

### **Article 36**

- (1) Technical inspection of devices and equipment referred to in Articles 29, 30 and 31 of this Ordinance shall be performed at the request of the Operator.
- (2) By derogation of the provision of paragraph 1 hereof, the Ministry of Finance can at any time and without specific reason request for a technical inspection. The cost of such technical inspection shall be borne by the Operator.
- (3) In addition to the application from paragraph 1 thereof, the Operator shall at the occasion of the first technical inspection of a device or equipment which is to be first put in use by the Operator submit the following:



1. Proof of ownership or right of usufruct of the device or equipment,
  2. Information on inventory or serial number of the device or equipment,
  3. Manufacturer's declaration including month and year in which the device or equipment was manufactured,
  4. Certificate from Article 37, paragraph 1, item 4 of this Ordinance,
  5. Certificate of conformance for a particular type of device as prescribed in the provision of Article 37, paragraph 1, item 5 hereof,
  6. Technical description of the device and operating instructions,
  7. Manufacturer's guarantee
- (4) The provisions of paragraph 3 hereof shall not apply to devices and equipment that have been already in use.

#### **4. Attestation of Devices and Equipment**

##### **Article 37**

- (1) Certificate from paragraph 3, items 4 and 5 hereof shall apply only to Random Number Generators (RNG).
- (2) Technical inspection shall be carried out to verify the functionality of devices and equipment and shall include the verification of the following:
  1. Conformance of devices and equipment with technical documentation,
  2. Functionality of balls from Article 30 of this Ordinance,
  3. Safety of operations and functions of devices from Article 29 hereof as well as on / off functionality,
  4. Conformity of devices from Article 31 hereof with conformance certificates issued by the laboratory referred to in Article 34, paragraph 2 hereof,
  5. Whether devices from Article 31 hereof have certificate of electronic safety, certificate on radio-frequency disturbances or certificate on electromagnetic conformance.
- (3) During the technical inspection of devices from Article 29 hereof an authorized legal entity shall also verify the following:
  1. Visibility of all balls prior to their entering the drum,
  2. Visibility of balls during their passing through the drum,
  3. That there is no harmful mechanical impact from the outside on the balls mixing inside the drum during the drawing.
- (4) Authorized legal entity shall during the technical inspection of balls also verify:
  1. Visibility of labels on balls and whether the labels are in compliance with the rules of a specific game,
  2. Whether all balls used in a particular draw are of equal dimensions and weight, with the allowed variance from the value declared by the manufacturer.

## **5. SAFETY AND RESPONSIBLE GAMING PRINCIPLES**

### **Establishing the Highest Amount and Voluntary Self-**

#### **Exclusion**

#### **Article 38**

- (1) Registered players from Article 19 hereof can, in writing or via e-mail, establish for the Operator the highest amount which can be paid for a game during a certain period of time. Players can in written form demand to be excluded from the game for a defined period of time. Operators shall exclude from the game those players who within three days confirm their request for self-exclusion.
- (2) Registered players can cancel the highest amount for a game, the loss ceiling or self-exclusion in writing or via e-mail.
- (3) Information about their pay-ins for lottery games and winnings paid out shall be available to players at all times.

#### **Article 39**

- (1) Operators shall appoint a person in charge of player protection standards, i.e. of players' education and the application and improvement of player protection standards.
- (2) Operators shall make available to players information on the availability of help in case of excess gaming problems.

## **6. TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 40**

The Operator shall comply with the provision of Article 29, paragraph 5 and Article 30, paragraph 3 of this Ordinance within one year of the day when this Ordinance comes into force.

#### **Article 41**

This Ordinance shall enter into force on the eighth day of its publication in the Official Gazette.

## **Annex 13: Ordinance on Obtaining License for Work in Casino (July 2010)**

### **Ordinance on Obtaining License for Work in Casino**

**Official Gazette 78/10**

**In force and in application as of 1<sup>st</sup> July 2010.**

#### **GENERAL PROVISIONS**

##### **Article 1**

This Ordinance shall regulate occupational training of employees directly involved in the conduct of games of chance in casinos, method and requirements for obtaining personal functional license for work, as well as members of a commission for license examination and their powers.

##### **Article 2**

(1) Within the meaning of this Ordinance, the positions that require a personal functional license for work in casinos shall be defined in the following manner:

1. Casino manager is an employee who manages and represents the casino, plans, organizes, arranges, coordinates and monitors the work of the casino
2. Assistant casino manager is an employee who manages or handles organising of games of chance at gaming tables or slot machines (assistant casino managers in live casino games, casino slot machine manager, bingo manager)
3. Chief cashier is an employee who organises the safe-keeping and flow of cash, cashless means, chips and securities in the casino, distributes and controls cash at auxiliary cages within the casino, and who on behalf of the operator and for casino purposes makes cash deposits and withdrawals from financial institutions
4. Cashier is an employee who carries out all cashier's tasks in accordance with the instructions and organization of the chief cashier (e.g. main cage cashier, slot machines attendant and bingo attendant)
5. Croupier is an employee who is directly involved in games or the conduct of games in the casino (e.g. croupier from category IV to I according to knowledge and years of experience)
6. Table games inspector is an employee who supervises the employees directly involved in the games or participating in the conduct of games in the casino
7. Internal supervisor is an employee who is in charge of organizing and executing supervision in the casino in terms of the conduct of games of chance (e.g. video-surveillance manager, video-supervisor)
8. Instructor in organizing games is an employee with relevant work experience in the casino. His role is advisory in terms of improving the operations of the casino; he organizes and is involved in the training and evaluation of the above mentioned employees.

(2) The operator shall be allowed to employ an unlicensed person to the position referred to in Article 2, paragraph 1, item 5 hereof in case of increase in the volume of work or for the purpose of organizing a tournament, for a period not exceeding 90 days.

#### **7. OCCUPATIONAL TRAINING AND EDUCATION**

##### **Article 3**

- (1) Occupational training of employees directly involved in the conduct of games of chance in casinos means occupational training of employees for working in casinos and taking the license examination.
- (2) Occupational training of employees for working in casinos shall be provided by the operator independently or in cooperation with an institution authorized for education of adults.
- (3) License examination shall be taken before a commission.

## **8. REQUIREMENTS FOR ISSUING LICENSE FOR WORK**

### **Article 4**

Employees who perform tasks referred to in Article 2, paragraph 1 hereof shall have passed the license examination and shall have the license for work.

### **Article 5**

In addition to the requirements referred to in Article 4 hereof, employees who are directly involved in the conduct of games of chance in casinos, shall also fulfil specific requirements prescribed by an internal regulation of the operator of games of chance.

## **9. LICENSE EXAMINATION, PROCEDURE FOR ISSUING AND REVOKING LICENSE FOR WORK IN CASINO**

### **Article 6**

- (1) An employee hired as an apprentice in a casino at the position from Article 2, paragraph 1 hereof, shall pass the license examination within six months of the date of employment at that position.
- (2) The operator shall submit to the Ministry of Finance the application for their employee's license examination and license for work in the casino.

### **Article 7**

Application for taking the license examination and obtaining the license for work shall contain:

1. Employee's name and surname
2. Employee's date and place of birth
3. Employee's address or usual residence
4. Employee's nationality
5. Employee's professional qualification,
6. Proof that there is no ongoing criminal procedure against the employee. Foreign citizens shall enclose the relevant certificate from the state of their citizenship and the certificate issued in the state of their residence during the last two years prior to submission of request and shall also enclose the work permit issued by the Ministry of the Interior
7. Certificate of occupational training referred to in Article 3, paragraph 2 hereof
8. The position subject to license application, in accordance with Article 2, paragraph 1 hereof.

### **Article 8**

- (1) After having received the application, the Ministry of Finance shall establish if the employee fulfils the conditions for taking the license examination and shall make decision thereof.
- (2) The Ministry of Finance shall assign registration license numbers to all employees who fulfil the conditions for taking the license examination.
- (3) Following the decision of the Ministry of Finance referred to in paragraph 1 herein, the operator shall, within 30 days and no later than 15 days prior to the date established for taking the license examination, provide the Ministry of Finance and the employee with information regarding the place, date and time for taking the license examination.
- (4) The operator shall assume the responsibility of organizing the license examination and ensure facilities where the license examination shall take place. The operator may organize the license examination to be taken once in a three month period.
- (5) Questions contained in the license examination shall be compiled by the Ministry of Finance in line with the rules of profession and in cooperation with the operators.

### **Article 9**

- (1) The commission shall issue the license to the employee who has successfully passed the license examination.
- (2) The license shall contain:
  1. Employee's name and surname
  2. Employee's date and place of birth
  3. Position that the license for work is issued for
  4. Registration license number referred to in Article 8, paragraph 2 hereof
  5. Date of issue
  6. License validity
  7. Members and signature of the examination commission.
- (3) Copies of issued licenses shall be submitted to the Ministry of Finance.

### **Article 10**

- (2) The operator shall issue a card to the license holder, this card shall contain:
  1. Title LICENSE
  2. Photograph
  3. Registration license number referred to in Article 8, paragraph 2 hereof
  4. Sign and logo of the operator
  5. Stamp of the operator and signature of authorized person.
- (3) The operator shall issue a card to the license holder; the layout of this card shall be the following:
  1. Title LICENSE shall be indicated on the right hand side of the card in font size 16
  2. Registration license number shall be indicated below the title LICENSE in font size 14
  3. Photograph of the license holder in a min. 3x2, 5 cm size on the left hand side of the card.
- (4) Powers of the card holder shall be non-transferable.

### **Article 11**

While performing their assignments and tasks in the casino, employees shall carry the card in a visible place.

### **Article 12**

- (1) License shall be valid during the entire period while the license holder is complying with the requirements referred to in Articles 4 and 5 hereof.
- (2) Should the operator establish that the license holder no longer complies with any of the conditions used as grounds for issuing the license in question, the operator shall, within eight days, notify the Ministry of Finance thereof in written form.
- (3) Should the operator have reasonable cause for revoking the license, for instance in case of severe violation of work obligations or in case of some other very important fact, with taking all the circumstances and interests of both parties to the contract in consideration, the operator shall then submit a request for revoking the license to the Ministry of Finance.
- (4) Should the Ministry of Finance establish that the grounds for revoking the license are justified, it shall make a decision to revoke the license. Decision on revoking the license shall be forwarded to all operators of games of chance in the territory of the Republic of Croatia, and the employee who has had his license revoked shall be deleted from the license registry.
- (5) Employee from paragraph 4 herein may re-take the license examination at the request of an operator only once three years have passed since the deletion from the license registry, provided that all the requirements referred to in Article 7 hereof have been met.

### **Article 13**

The operator shall, within a period of 15 days, inform the Ministry of Finance of any change to employee's information which had been stated on the application for taking the license examination and for obtaining the license for work in a casino.

### **Article 14**

Ministry of Finance may at any time require the operator to provide proof for each employee regarding compliance with the requirements from Article 7, item 6 hereof.

## **10. COMMISSION HOLDING LICENSE EXAMINATION**

### **Article 15**

- (1) The Commission that holds the license examination and issues the license shall consist of three members. One member of the Commission shall be the representative of the operator whose employee is taking the license examination; the second member shall be selected among other operators of games of chance in casinos; and the third member shall be the representative of the Ministry of Finance selected among the administrators handling tasks related to the organization of games of chance.
- (2) Members of the Commission representing the operator shall be selected by the Ministry of Finance at the proposal of the operator. The operator shall submit information to the Ministry of Finance on at least two employees with license for work in a casino with five or more years of experience in the most complex tasks in the casino proposing to be members of the Commission.
- (3) The Commission shall have a president who shall be elected by the Commission with a majority of votes. President of the Commission shall be responsible for executing the license examination in accordance with legal regulations. President and members shall have deputies.
- (4) Decisions shall be made with a majority of votes of the Commission members (at least two votes).

### **Article 16**

- (1) Members of the Commission representing the operator shall have the right to remuneration for their work in the Commission as well as the right to compensation for the expenses related to attending the license examination, which costs shall be carried by the operator whose employee is taking the license examination.

(2) Authorised representative of the Ministry of Finance shall have the right to remuneration for their work in the Commission as well as the right to compensation for the expenses related to attending the license examination; the amount of the remuneration shall be established by special decision.

## **11. LICENSE HOLDERS REGISTRY**

### **Article 17**

- (1) License Holders Registry shall be managed by the Ministry of Finance.
- (2) Complete documentation on license holders shall be kept in the facilities of the Ministry of Finance.

### **Article 18**

In addition to the information referred to in Article 7 hereof, License Holders Registry shall contain the following information:

License date of issue

Position

Company name and registered seat of the operator.

## **12. TRANSITIONAL AND FINAL PROVISIONS**

### **Article 19**

- (1) Employees who on the date of entry into force of this Ordinance carry out the tasks referred to in Article 2, paragraph 1 hereof shall have the obligation to successfully take the license examination for the purpose of obtaining the license no later than 1<sup>st</sup> January 2012.
- (2) Members of the Commission referred to in Article 15, paragraph 1 hereof may be only and exclusively casino directors until the point when conditions are met for the proposal of employees pursuant to Article 15, paragraph 2 hereof.

### **Article 20**

- (1) Operators who on the date of entry into force of this Ordinance already possess the right to organize games of chance in casinos, shall have the obligation to, within a period of six months, adopt the internal regulation from Article 5 hereof.
- (2) A Company that submits an application for the granting of the right to organize games of chance in casinos, shall have the obligation to adopt its internal regulation from Article 5 hereof no later than the date of signing of the contract.

### **Article 21**

This Ordinance shall enter into force on the eighth day of its publication in the Official Gazette.

## THE CROATIAN PARLIAMENT

2021

Pursuant to Article 88 of the Constitution of the Republic of Croatia, I hereby issue the

### DECISION

#### PROMULGATING THE CUSTOMS SERVICE ACT

I hereby promulgate the Customs Service Article passed by the Croatian Parliament at its session on 3 July 2009.

Class: 011-01/09-01/126

No.: 71-05-03/1-09-2

Zagreb, 9 July 2009

The President of the Republic of Croatia  
Stjepan Mesić, m. p.

### **Annex 14: Customs Service Act (July 2009)**

## CUSTOMS SERVICE ACT

### GENERAL PROVISIONS

#### Article 1

This Article regulates the tasks of customs service, the organisation of customs service, the authority of customs officers and their labour law status.

#### Article 2

(1) The tasks of customs service shall be discharged by Customs Administration, an administrative organisation within the Ministry of Finances of the Republic of Croatia.

(2) Seat of the Customs Administration is in Zagreb.

(3) The Customs Administration shall have an official sign of circular shape, with the national coat of arms in the centre and with sideways inscription »REPUBLIKA« (=Republic) on the left and »HRVATSKA« (=Croatia) on the right side, that is in its upper part encircled with wreath based on the old Croatian wattle motif, and in the lower part with the horizontally laid plaquette in the colour of national flag having inscription »CARINA« (=customs) in the background.

(4) The official sign referred to in paragraph 3 of this Article shall constitute an integral part of the uniform and other official clothing of customs officers, it is printed on the official identification card and official badge and of the authorised customs officers, and it may also be used for marking the official transport vehicles of the Customs Administration.



## CUSTOMS SERVICE TASKS

### Article 3

The Customs Administration shall fulfil the following tasks:

1. exercises customs control over foreign goods, control over domestic goods placed under procedure for export or stored in free zone and customs warehouse, as well as control over the products subject to special taxes,
2. conducts customs procedures and orders the customs approved procedures or use of goods,
3. establishes elements for calculating the customs duty, special taxes, value added tax and other statutory levies,
4. performs calculation of the customs duty, special taxes, value added tax and other statutory levies,
5. enforces the collection measures of established but still undue customs debt, special tax, value added tax and other levies collected under special regulations,
6. pursues the collection, including distraint for collecting the customs duty, special taxes, value added tax and other levies pursuant to the provisions falling within its competence,
7. exercises the measures of customs control and special taxes control,
8. performs the customs and tax audits with the scope of detecting the acts of offence and criminal acts falling within its competence and within the competence of other authorised bodies who it notifies thereof and files charges with the State Attorney Office or other bodies responsible for instituting and conducting the criminal proceedings,
9. conducts evidence measures conferred by the State Attorney Office under the Criminal Procedure Act,
10. conducts the first instance administrative proceedings,
11. conducts the first instance misdemeanour proceedings for the offences set out in the Customs Act, this Act and other laws where implementation thereof is placed within its competence,
12. in compliance with foreign exchange and other regulations, exercises control of entry into customs territory and removal from the customs territory of domestic and foreign currency of payment,
13. exercises supervision and control of entry, import, export or transit of goods for which special measures have been stipulated with the purpose of safety, protection of health and life of persons, animals and plants, the protection of cultural heritage, protection of national heritage and protection of intellectual property,
14. exercises control of crossing the state border by persons at border crossings determined by the Government of the Republic of Croatia (hereinafter: the Government),
15. collects, records and processes the data on customs procedures, on the amount and the structure of charged and collected customs duty, special taxes, value added tax and other levies paid with the customs duty,
16. collects, records and processes the data necessary for exercising customs control and supervision over the accounting and application of law,

17. monitors the implementation of measures of economic policy in the field of customs system, the system of special taxes, the policy of customs and non-customs protection, and also takes part in producing technical groundwork for the adoption thereof and in drawing up of the acts for implementation thereof,
18. grants approval on the construction, reconstruction, maintenance and fitting out of the border crossings and other customs facilities,
19. cooperates with foreign customs and other services and international organisations,
20. through the operation of Customs training centre, organises basic and specialist training for customs officers as well as professional education and training of civil servants from another state body or institution and also takes part in implementing the national certification exams for customs officers,
21. issues technical and other publications in the field of customs and tax system,
22. performs the tasks placed within its scope of operations by virtue of laws and by-laws regulating the conditions for providing the international forwarding services in connection with customs clearance of goods or regulating the conditions for providing agency services in the customs procedure,
23. discharges tasks of collecting data, control and entering of data - INTRASTAT and forwards those to the Croatian Bureau of Statistics,
24. releases public communications on operations of the services,
25. performs other tasks as well placed within its competence under the customs and other regulations,
26. in compliance with special authorisations, also carries out other tasks falling within the scope of other competent bodies conferred under the competence thereof.

#### INTERNAL ORGANISATION, ADMINISTRATION AND TASKS OF INTERNAL ORGANISATIONAL UNITS

##### Article 4

- (1) The tasks falling within the scope of Customs Administration shall be carried out in the Central Office and the customs houses.
- (2) Central Office shall have its seat in Zagreb. The exercising of internal control of legality of operations and of using and access to the financial and other resources of the Customs Administration shall be organised by the Central Office.
- (3) The customs houses shall be established in business and traffic centres when the structure and flow of commodities in international passenger and commodity trade as well as other economic interests so demand. For carrying out all or certain tasks falling within the scope of customs houses, customs offices shall be established as internal organisational units of the customs house, in or outside the seats of the customs house. Internal organisational units of the customs office are customs districts.
- (4) Owing to specific character of tasks in the Customs Administration, in compliance with international standards on regulating the scope and organisation of customs services, the conditions for systematizing the organisational units of the Central Office of Customs Administration and customs houses may be stipulated which differ from those set out in the provisions on the principles concerning internal organisation of state administration bodies.

(5) The Government passes decisions on establishing, seats, scope and start of operation of the customs house and the decisions on establishing, seats and scope of operations of the customs offices.

(6) The Minister of Finances shall stipulate the commencement of operations of customs office and customs district by means of an administrative decision.

#### Article 5

(1) The Customs Administration shall be managed by the director, who at the same time runs the operations of the Central Office. The Director will be assisted in his work by the deputy director and assistant directors.

(2) Employees of the Customs Administration shall be appointed to the positions of deputy director and assistant director by the Minister of finance upon proposal of the director.

#### Article 6

(1) In case the director is prevented from acting or absent, the deputy director shall carry out all the tasks falling within the scope of the Customs Administration as well as any other tasks conferred thereto by the director.

(2) The deputy director shall report to the director for the work delegated upon him/her.

(3) The assistant directors shall manage the operations of certain internal organisational units of the Central Office and also carry out other tasks falling within the scope of the Customs Administration conferred thereto by the director.

(4) The assistant directors shall report to the director of the Customs Administration for operations of certain organisational unit they run, and are responsible for the legality and efficiency of operations falling within the scope of a respective organisational unit in customs houses.

#### Article 7

(1) Operations of the customs house shall be run by the customs house head who shall be appointed to the said position by the Minister of Finances, and upon proposal of the director.

(2) A head of the customs house shall report to the director of the Customs Administration for lawful and timely performance of the duties falling within the scope of a particular organisational unit of the Central Office of Customs Administration and to assistant directors managing the respective internal organisational unit.

(3) Head of the customs house shall have one or several assistants running the operations of certain internal organisational units of the customs house.

(4) Operations of the customs office shall be run by the customs office head.

(5) Head of a customs office may have one or several assistants.

(6) Operations of a customs unit shall be run by head of the unit.

#### Article 8

Internal order of the Customs Administration, apart from the issues regulated by this Act, shall be regulated by Government Regulation on internal order of the Ministry of Finances.

#### Article 9

Central Office of the Customs Administration:

1. organises and directs operations of the service, monitors the development and achievement of targets, prepares technical groundwork for upgrading the organisation of work and legality of operations of the Customs Administration and organisational units belonging thereto,
2. organises and supervises the operations of customs houses,
3. ensures the conditions and issues instructions for common, lawful, proper, timely and efficient application of customs and other provisions falling within the competence of the service,
4. implements internal control and supervision of legality in proceeding and regular application of regulations in the Customs Administration,
5. prepares and grants approvals to printing houses for printing the official forms and publications within the framework of operations of the Customs Administration,
6. takes account of the keeping and sale of confiscated or other foreign goods disposing therewith in line with customs regulations, or for carrying out such tasks it selects and authorises other legal persons in compliance with the provisions regulating the procedure of sale or destruction under customs supervision,
7. performs the tasks and carries out all the activities related to labour law status of the civil servants and civil service employees,
8. issues decisions and enacts programmes for human resource, professional and technical development of the service, adopts development, organisational and other guidelines for operations of the service,
9. coordinates and supervises the operations of customs houses in performing the property law and human resource activities falling within their scope of operations,
10. prepares technical groundwork for filing the request for providing budget funds for financing the operations and activities of Customs Administration, undertakes measures for safeguarding lawful use of funds it has access to, rationalises the business expenses and prepares technical groundwork for elaborating the cost accounts,
11. monitors the collection of revenue of state budget on account of customs duty, special tax, value added tax and other levies which are pursuant to special regulations charged at customs clearance of goods and undertakes the measures for ensuring their collection.
12. through operations of the Customs centre for training it develops, conducts and organises the programmes for professional training and improving of customs officers as well as the professional education and improving of officers from another state body or institution and takes part in pursuing state certification exams for customs officers,
13. monitors and analyses the results of customs debt collection, tax debt and distraint,
14. conducts reviews, performs verification of registration of customs and tax debt security instruments, and monitors the validity and use of customs and tax debt security instruments,

15. takes part in drafting the plan of budget proposal and plan of expenditures – three-year projections of the budget of Customs Administration in accordance with the activities and capital projects pursuant to the Budget Act and the plan and programme for drafting thereof,
16. conducts the public procurement procedures, prepares tender documentation, and observes the deadlines for delivery and payment,
17. issues approval for physical planning, construction, renewal or improving facilities in the area of free zones and at border crossings,
18. carries out the tasks and activities related to construction, maintenance and modernisation of the facilities of Customs Administration, and also supervises and coordinates the operations of all the participants during construction or reconstruction,
19. pursues realisation of the programme of investment maintenance and also maintains and purchases all equipment for regular operation of all the services of Customs Administration facilities,
20. performs post-clearance audits of declarations and other documents in compliance with customs regulations, the calculation and control of customs duty, special taxes and value added tax at import, and of other levies which are pursuant to special laws charged at customs clearance of goods,
21. implements and upgrades the methods and techniques of preventing and detecting the customs offences and criminal acts related to charging and control of customs duty, special taxes, value added tax and other levies that are pursuant to special regulations charged at customs clearance of goods or in the trade of goods subject to special taxes at home as well as other punishable acts in cases falling within the competence of the service,
22. exercises control of entry, import, export or transit of goods for which special measures are prescribed for the sake of safety, protection of health and life of persons, animals and plants, protection of cultural heritage, protection of national heritage and intellectual property,
23. gives instructions for ascertaining properly the value of goods, the amount of import and export custom duties and special taxes,
24. in customs laboratory carries out chemical and physical, technological and other analyses of samples of goods taken for the sake of proper allocation of goods in the Customs Tariff,
25. gives opinions and publishes binding opinions on classification of goods in combined nomenclature of the Customs Tariff as well as the binding opinions on the origin of goods,
26. conducts analyses of narcotic drugs and other psychotropic substances,
27. in collaboration with authorised institutions performs professional expertises,
28. carries out technical tasks for the Customs tariff committee,
29. provides professional support in implementing the customs regulations and the regulations on special taxes and issues work instructions on the issues falling within the framework of operations of the service,
30. collects, processes and keeps the data falling within the scope of operations of the service,
31. organises and administers the system of processing and transfer of data,

32. collaborates and exchanges the data with international organisations and professional associations in the field of the system of customs and special taxes, customs services of her countries and with competent border bodies of neighbouring countries,
33. collaborates and exchanges data with administrative bodies, other state bodies, public services and business entities in cases related to the field of activity of the service,
34. establishes the first and second instance disciplinary court and conducts disciplinary adjudication process activities in the first and second instance,
35. carries out activities related to publishing of professional editions of the Customs Administration,
36. where prescribed, conducts the administrative proceedings in the first instance,
37. monitors the implementation of customs, tax and other provisions falling within the scope of its operations and is the responsible technical entity for drafting the Customs Act, other customs regulations, laws and ordinances on special taxes, and also collaborates in drafting other laws and regulations applicable in the procedures it conducts,
38. approves the use of customs measures for protecting the intellectual property rights, conducts administrative procedure in implementing the customs measures for protecting the intellectual property right, performs the tasks of supervision, coordination and professional support in conducting the procedures for protecting the intellectual property right falling within the scope of customs houses, keeps the records on requests for undertaking the customs measures for protecting the intellectual property rights, and collects, processes and exchanges the data on violating the intellectual property rights falling within the scope thereof,
39. performs also other tasks set out in this Act or other provisions.

#### Article 10

The customs house carries out the following tasks directly or through its organisational units:

1. approves and controls the implementation of customs-approved treatment and use of goods,
2. charges and collects the customs duty, special taxes, value added tax and other levies due at import, export and transit of goods as well as other levies pursuant to special regulations,
3. decides on payment of more favourable customs duty and exemption from payment of customs duty and special taxes, on deferred payment, reimbursement or remission or post-clearance collection of customs debt, value added tax, special taxes and other levies payable under customs and special regulations,
4. supervises and controls the use of goods that were exempted from payment of customs duty, value added tax, special taxes and other levies payable under customs and special regulations,
5. establishes customs value and classification of goods in combined nomenclature of Customs tariff and establishes the origin of goods in compliance with valid regulations and international agreements,
6. exercises supervision and control of administrative decisions referred to in item 3 of this paragraph as well as of the charging and collection of customs duty, special taxes, value added tax and other levies due under the customs and special regulations,
7. performs post-clearance audits of customs declarations and documents submitted with the declaration,

8. enforces the payment security measures concerning for the established and still undue customs debt, special taxes, value added tax and other levies due under special regulations,
9. enforces the distraint procedure for the purpose of collecting customs debt, special tax, value added tax and other levies due under special regulations,
10. at border crossings determined by the Government, carries out the tasks of state border control,
11. exercises supervision and control of conveying in and out of domestic and foreign currency of payment and prevents and detect the punishable acts related thereto,
12. prevents and detects the customs and tax offences and other punishable acts,
13. exercises internal supervision and control of legality in proceeding and of regular application of provisions in organisational units of the customs house,
14. conducts the misdemeanour proceedings in first instance for offences stipulated in this Act, the Customs Act and other acts insofar as the conducting of misdemeanour proceedings is placed within the scope of operations of the Customs Administration,
15. resolves in cases falling within the competence of Customs Administration in a first instance administrative procedure, insofar as the competence of Central Office has not been stipulated for certain administrative issues,
16. stores and conducts the procedure of sale of confiscated, abandoned and found goods and products,
17. runs the customs warehouse,
18. issues the authorisations for customs warehouses,
19. exercises the tasks of supervision and control of operations of customs warehouses,
20. provides information on the application of customs regulations,
21. collaborates and exchanges data with competent bodies of the Ministry of Internal Affairs, other state and public bodies and organisations as well as with participants in the border traffic as well as with foreign border bodies, so as to ensure that operations at the border are run more efficiently and meeting high standards, as well as with the scope of preventing and detecting the customs and tax offences and punishable acts,
22. cooperates with competent tax and inspection bodies in connection with fulfilling the duties falling with their scope,
23. exercises supervision of operations and activities of international forwarders related to customs clearance of goods or customs brokerage operations in customs procedure,
24. charges and collects special tax on goods in domestic trade subject to charging and collection pursuant to regulations on special taxes,
25. takes samples of goods for the sake of application of regulations falling within the scope of customs services,

26. upon request of the holder of right or *ex officio* undertakes statutory measures related to goods that are the object of customs procedure, and which is reasonably suspected of violating certain intellectual property right,

27. performs other tasks stipulated in this Act and other regulations as well.

#### Article 11

(1) By way of derogation from the provisions of Article 10 of this Act, the enforcement of measures of customs control and exercising customs control of international passenger traffic of lower traffic intensity at airports, sea ports for nautical tourism and other border crossings may be organised within the framework of state administration body responsible for control of crossing of the state border.

(2) The carrying out of tasks referred to in paragraph 1 of this Article shall be determined by the agreement between the Minister of Finances and the Minister of Internal Affairs.

### THE AUTHORITY

#### Article 12

(1) In carrying out the tasks of Customs Administration, the authorised customs officers shall within the framework of position to which they are assigned, hold the authority laid down by this Act and in other legislation.

(2) The status of authorised customs officer shall be acquired by assignment to the position defined as such by the Ordinance on internal order of the Ministry of Finances.

#### Article 13

(1) Authorised customs officers, when fulfilling the duties laid down in this Act and other customs and tax regulations shall respect the dignity, reputation and honour of each person the action is related to, taking account of the protection of by the Constitution of the Republic of Croatia and by law granted human rights and fundamental freedoms as well as respect the provisions of Professional code of ethics.

(2) The use of customs authority must be proportional to the need owing to which it is undertaken.

(3) The use of customs authority must not induce damage exceeding that which would set in had the customs authority not been used.

(4) Among the various customs authorities, the authorized customs officer shall apply the one by means of which he/she achieves its objective leaving minimum damaging consequences and within the shortest period.

(5) The provisions of paragraphs 1, 2, 3 and 4 of this Article shall respectively apply also in cases where the authorised customs officers use the customs authority in relation to legal persons. In the aforementioned cases, the customs officers shall take care in conducting official actions thereof, they disrupt the legal persons' regular activity to the least possible extent.

(6) A person whose rights have been violated by acting of the authorised customs officers may file a complaint with the Central Office of Customs Administration.

(7) The procedure for resolving complaints shall be laid down in the Ordinance by the Minister of Finances upon proposal of the director.



#### Article 14

- (1) The authorised customs officer shall apply the authority at his/her own discretion or by the order of his/her superior.
- (2) The authorised customs officer shall warn the superior insofar as his/her order is contrary to the law and the Constitution of the Republic of Croatia, and shall refuse to execute the order if he/she would thus commit the criminal act. In both cases he/she shall forthwith notify the director of the Customs Administration.

#### Article 15

- (1) In response to invitations by international organisations or on the basis of obligations ensuring from international agreements or other regulations, officers of the Customs Administration may take part in fulfilling the customs and other duties abroad.
- (2) The Minister of finances shall decide on the participation and fulfilling the duties referred to in paragraph 1.
- (3) Authorised customs officers who shall take part in fulfilling the customs and other duties abroad shall be appointed by the director of the Customs Administration.
- (4) The Minister of Finances shall issue written authorisations specifying the scope and duration of the authority as well as the tasks which may be fulfilled by customs officers of another state or international organisation when acting in the Republic of Croatia by virtue of international agreements or other regulations.

#### Article 16

- (1) Authorised customs officer shall be issued the official identification card and official badge bearing the identification number.
- (2) Authorised customs officers shall fulfil customs duties in the official or civilian clothing. Official clothing is the customs uniform or occupational clothing bearing statutory sign of the Customs Administration.
- (3) Customs officer shall be issued the official identification card.
- (4) Transport means used for official purposes may be marked with the sign of Customs Administration and the inscription »Carina«.
- (5) The form of official identification card, the procedure of issuing the official identification card and official badge as well as the manner of marking the transport vehicles with the sign of customs service shall be stipulated in the ordinance of the Minister of Finances on proposal of the director of Customs Administration.
- (6) The Government shall by regulation prescribe the colour and insignia for official clothing.
- (7) The Minister of Finances, upon proposal of the director, shall specify by ordinance the positions where customs officers must wear the official and occupational clothing, the appearance, type, duration and method of use of official and occupational clothing, as well as the tasks that customs officers may fulfil in civilian clothing.

## Article 17

(1) Authorised customs officers who fulfil duties of the service in civilian clothing must prior to undertaking any official action identify themselves using official identification card and the badge.

(2) By way of derogation, the authorised customs officer shall not introduce himself in a manner set out in paragraph 1 of this Act insofar as he/she should estimate that actual circumstances for enforcing customs authority imply that such procedure might jeopardize the achievement of its objective. In such case, the customs officer shall in course of enforcing the customs authority notify of his/her capacity by word »Carina!« (=customs).

(3) As soon as the circumstances referred to in paragraph 2 of this Article cease to exist, the customs officer shall introduce himself in a manner laid down in paragraph 1 of this Article.

## Article 18

(1) When authorised customs officers exercise supervision over enforcement of law and other executive regulations, exercise customs control, control of special taxes, prevent and detect the acts of offences and criminal acts under this Act and other laws, observing in their implementation the regulations on safety of air, maritime, inland waterway, railway and road traffic they shall also have the authority to:

1. follow, stop, inspect and search a vehicles, means of conveyance and goods,
2. check identity of a person,
3. inspect a person,
4. inspect and search business premises, facilities, documentation, as well as examine the authenticity and veracity of documents presented in the customs procedure,
5. temporarily seize the items and documents,
6. temporarily restrict the freedom to move,
7. summon,
8. collect, process, record and use personal and other data,
9. use means of coercion .

(2) Authorised customs officers shall be entitled to use coercive means only if allocated to a position determined as such by the Ordinance on internal order and if they passed the exam in accordance with prescribed training programme.

(3) Authorised customs officers who are appointed as investigators shall be entitled to conduct evidence recovery operations conferred by the State Attorney Office under the Criminal Procedure Act and rules of their profession.

(4) The training programme for authorised customs officers referred to in paragraph 2 of this Article shall be enacted by the Government.

(5) The manner of acting and use of coercive means shall be stipulated in the ordinance by the Minister of Finances on proposal of the director of Customs Administration.

## Article 19

Authorised customs officers, when fulfilling duties referred to under Article 18 of this Act may use technical equipment, detection dogs and official vehicles and crafts with illumination and sound signals in accordance with the road traffic safety and maritime and inland waterway navigational safety regulations.

## Article 20

(1) Authorised customs officers referred to under Article 18, paragraph 2 of this Act shall be entitled to carry firearms and ammunition on the entire customs territory of the Republic of Croatia.

(2) Authorised customs officers referred to under Article 18, paragraph 2 of this Act shall be entitled to carry firearms and ammunition while fulfilling the duties in official customs uniform, and exceptionally in civilian clothing, by the order of the superior, should justified reasons therefor prevail.

(3) The manner of carrying and use of firearms shall be stipulated in the Ordinance by the Minister of Finances.

(4) The type of firearms and ammunition used by authorised customs officers referred to in Article 18, paragraph 2 of this Act shall be stipulated by the Government in the Regulation.

## Article 21

(1) Authorised customs officers shall be entitled to inspect the persons in cross-border traffic and to inspect and search the luggage and other items that such persons carry therewith. Such actions shall also involve the right of checking the identity of persons.

(2) Identity check of a person shall be conducted by consulting his/her passport, personal identity card or other public document containing photograph.

(3) On the occasion of checking the identity of a person, the authorised customs officer shall inform a person of the reasons of identity check thereof.

(4) The actions referred to in paragraph 1 of this Article shall also involve the right to temporarily restrict freedom of movement, pending completion of statutory customs operations, or if the offence perpetrated by violating the customs or tax regulations was committed or attempted, but for no longer than six hours. If there are reasons for temporary restriction of freedom of movement for a period exceeding six hours, competent police department shall be notified without delay.

(5) If the reason of temporary restriction of freedom of movement is the committing or attempt to commit the offence stipulated by other laws or by the criminal act, the competent police department shall be notified without delay.

(6) Authorised customs officers referred to in Article 18, paragraph 2 of this Act shall be entitled to inspect persons, inspect and search the luggage and other items that such persons carry therewith on the entire customs territory of the Republic of Croatia, if there are grounds for suspicion of committing the customs or tax offence or criminal act.

(7) Inspection of a person referred to under paragraph 1 of this Article, shall above all involve the inspection of anything such a person carries on his/her body or along with, whereby it shall be established whether he/she has therewith or thereon the goods which are the object of violation of customs or other regulations the conducting of which falls within the competence of Customs Administration or which are the object of criminal act. The inspection may only be conducted by authorised customs officers of same sex as a person who is subject to inspection, while inspection of a minor may only be conducted in the

presence of his/her parents or tutors, while in their absence or refusal to attend the inspection, in the presence of social care worker.

(8) If there is a justified suspicion that goods which are the object of customs or tax offence pursuant to provisions the implementation of which falls within the competence of Customs Administration, or the object of criminal act, are hidden in body of a person, the carrying out of physical examination shall be entrusted to a physician of the public health service.

(9) If during inspection or search of goods, mean of transport or person, goods are found the trade in which is banned or restricted, and those are unlawfully conveyed into or from the customs territory of the Republic of Croatia, they shall be seized temporarily. The persons with who those have been found shall temporarily be subject to restricted freedom of movement, whereby the competent police department shall be notified immediately thereof.

(10) Should domestic or foreign instruments of payment be found with a person referred to in paragraph 1 of this Article in amounts exceeding those authorised, a procedure shall be undertaken in compliance with the foreign exchange and other regulations.

(11) Authorised customs officer shall issue confirmation of receipt upon temporary confiscation of an item. The receipt shall specify all the characteristics of the temporarily confiscated item which make it differ from other items as well as data on a person from which an item has been confiscated.

(12) The provisions of this Article shall also apply to driving personnel, the crew of transport vehicles, and to other persons subject to enforcement of customs control.

## Article 22

(1) Authorised customs officers, for the purpose of detecting the violations of customs and tax regulations the implementation of which falls within the competence of Customs Administration shall on the entire customs territory of the Republic of Croatia be entitled to the following:

1. follow and arrest any transport and conveyance vehicle,
2. inspect and search anywhere a transport and conveyance vehicle,
3. control the designated use of motor fuel in means of transport, work devices and machinery.

(2) The persons subject to measures referred to in paragraph 1 of this Article shall stop at the place designated by authorised customs officer by showing prescribed signs in a manner and according to procedure prescribed by the ordinance of the Minister of Finances in agreement with the Minister of Internal Affairs. Upon request of the authorised customs officer, he/she must provide all the necessary data and show thereto the goods and products he/she transports or carries.

(3) The inspection of transport or conveyance mean implies sensory inspection of space and items therein.

(4) If at inspection of transport or conveyance vehicle, justified suspicion is ascertained in violating the customs or tax regulations the implementation of which falls within the competence of the Customs Administration, the authorised customs officer shall be entitled to conduct the search of all parts of the transport or conveyance mean, including the items therein, and using the technical aids he/she shall be entitled to dismantle individual parts of a transport and conveyance mean.

(5) Should it be established upon the inspection and dismantling of a transport or conveyance vehicle that there has been no violation of customs or tax regulations the implementation of which falls within the

competence of the Customs Administration, the transport or conveyance vehicle shall be restored to the original state thereof.

#### Article 23

(1) Authorised customs officers, for the sake of detecting violations of customs and other regulations the conducting of which falls within the competence of customs service, shall on the entire customs territory of the Republic of Croatia be entitled to conduct the inspection and search of business premises and other business spaces in which the goods are produced, loaded, unloaded, transhipped or stored.

(2) Business premise within the meaning of paragraph 1 of this Article shall also mean the residential area indicated as registered office of the company or if used as business premises.

(3) The inspection of other premises and spaces may only be exercised on the basis of warrant of the judiciary authority.

#### Article 24

(1) Authorised customs officers shall be entitled to summon the participants in customs procedure and other persons for which it may be presumed to have access to information necessary for carrying out the tasks which fall within the scope of operations of customs service referred to in Articles 3, 9 and 10 of this Act, for the sake of providing oral or written information.

(2) Authorised customs officers shall be entitled to summon the participants in customs and tax procedure and other persons for whom it may be presumed to have access to information with the scope of discovering facts relevant for establishing the criminal liability for acts featuring violation of customs regulations, and other regulations falling within the competence of Customs Administration.

(3) The summon must specify the name, place and address of organisational unit of the Customs Administration, as well as the grounds for and place and time of summoning.

(4) A person who responded to the summons, but refused to give the information shall not be summoned again for the same reason.

#### Article 25

(1) Authorised customs officer referred to in Article 18 of this Act shall warn another person who by his/her conduct, acting or failing to perform certain action may jeopardize his/her safety or the safety of another person or when he/she reasonably expects that such a person could commit or induce another person to commit the offence or criminal act.

(2) Authorised customs officer referred to in Article 18 shall be entitled to issue order so as to:

1. prevent the unlawful or direct attack on customs officers or other persons, who happen to be in the operation area,

2. prevent the committing or attempt to commit the offence or criminal act or prevent the resistance or the fleeing of a person-participant in a customs procedure,

3. prevent the destruction of evidence and traces which might serve as evidence.

(3) The conditions and method of pronouncing the warnings and orders shall be stipulated in the ordinance by the Minister of Finances upon proposal of the director of the Customs Administration.

## Article 26

- (1) Authorised customs officers referred to in Article 18, paragraph 2 of this Act shall be entitled to make use of coercive means under the conditions stipulated in this Act.
- (2) Coercive means within the meaning of this Act are physical force, cuffing devices and firearms.
- (3) Coercive means, except firearms, may be used to rebuff the unlawful attack on the authorized customs officers or other persons who happen to be in the operation area or if there is a grounded suspicion in committing or attempt to commit the customs or tax offence or criminal act, and for preventing the resistance of the fleeing of a person-participant in a customs procedure, should the warning measures or orders not guarantee a success.
- (4) Authorised customs officer referred to in Article 18, paragraph 2 of this Act shall always use the least severe coercive mean which guarantees success.
- (5) A person against who all the conditions for use of coercive means have been fulfilled shall not be warned if presenting the warning would challenge enforcement of the official action.
- (6) Authorised customs officers referred to in Article 18, paragraph 2 of this Act shall be entitled to use coercive means on the entire territory of the Republic of Croatia.

## Article 27

The use of physical force within the meaning of this Act shall be deemed the use of various martial arts skills or procedures similar thereto on a body of another person, the aims of which is rebuffing the attack or suppressing the resistance of a person while inflicting the least harmful effects.

## Article 28

The cuffing devices may be used for the sake of:

1. suppressing resistance of a person or rebuffing the attack directed on the customs officer,
2. preventing the self-injuring or injuring of another person.

## Article 29

- (1) Authorised customs officer referred to in Article 18, paragraph 2 of this Act shall be authorised to use a firearm when not able to protect his/her life or lives of other persons otherwise.
- (2) Prior to use of a firearm, the authorised customs officer shall warn a person against who he/she will use a firearm by shouting »stoj, carina«, followed by another call »stoj, pucat ću«, and immediately prior to use of a firearm, should circumstances allow, he/she must be shooting into the air warn a person of his/her intention to use a firearm as a coercive mean.
- (3) The use of a firearm shall not be authorised should it jeopardize the life of other persons, save when the use of a firearm is the only mean for defence from direct attack or danger.

## Article 30

- (1) The Republic of Croatia shall be liable for damage inflicted to third persons by a customs officer, unless it is proved that he/she proceeded in compliance with the law.

(2) When coercive means are used within the limits of authority, the liability of authorised customs officer who used those shall be excluded.

(3) When criminal proceedings are conducted against the customs officer for use of a coercive mean or other actions in fulfilling the official duty, the Ministry of Finances shall provide thereto free legal aid in such proceedings.

(4) The Ministry of Finances shall also provide free legal aid to a citizen who rendered assistance to customs officer, if criminal proceedings have been instituted against him/her for the action committed in connection with rendering such assistance.

#### Article 31

(1) Authorised customs officers shall examine the documents presented in the customs and tax procedure and the data stated in such documents.

(2) Authorised customs officers shall be entitled to request from a person who is under the law bound to provide the data or fulfil certain obligation, to present thereto within certain deadline and at a designated place any bookkeeping document, contract, business correspondence, records or any other document deemed necessary for exercising customs and tax control.

(3) The documents, data or fulfilling of a certain obligation referred to in paragraph 2 of this Article may be requested from the customs forwarder or agent, tax payer, manufacturer or other person who has directly or indirectly taken part in a deal, but also from any other person holding requested documentation or have access to data or who should be in hold of such documents or data.

(4) In case the business records and statutory accounts are kept on an electronic medium, the authorised customs officers shall be entitled to examine the database of the information system and request the production or delivery of each document or declaration certifying certain datum kept on the electronic medium.

#### Article 32

(1) In exercising the customs and tax control, authorised customs officer shall be entitled to temporarily seize or suspend free use of documents and data carriers referred to in Article 31, paragraphs 2 and 4 of this Act, as well as the items and samples of the items with regard of which the customs procedure is undertaken for a period not exceeding 15 days.

(2) If necessary for the sake of providing evidence, ascertaining of a fault or if a person used such documents, data carriers, items and samples for violating the customs and tax regulations, or if he/she acquired them by violating the customs and tax regulations, he/she shall be entitled to keep those pending completion of the proceedings.

(3) A person may request that the items under suspension referred to in paragraph 1 of this Article be resituated thereto even prior to the expiry of a ban, if he/she proves that those are indispensable thereto for pursuing business operations.

(4) The recovery of items referred to in paragraph 1 of this Article shall be decided upon by an administrative decision within three days from the date of submitting the request.

#### Article 33

(1) The persons referred to in Article 31, paragraph 3 of this Act shall provide to authorised customs officer exercising customs or tax control the access to land property and premises in which the activity, loading, unloading or warehousing of goods is undertaken.

(2) While fulfilling the duties of service, the authorised customs officer shall also be entitled to enter any other facility and area at the airport, railway station, maritime or river port, access the land property where goods are located or might be located, to the land property over which certain facility is installed or could have been installed enabling the conveyance of goods, or another land property possibly accommodating the berthing place for vessels or aircrafts.

(3) In fulfilling the tasks pursuant to paragraph 2 of this Article, the authorised customs officers shall be entitled to use official transport vehicles and other technical equipment.

#### Article 34

(1) Authorised customs officers shall check the compliance of business operations of natural and legal persons with customs, tax and other regulations falling within the competence of Customs Administration, on the basis of business records, accounts and other documents.

(2) In exercising the customs or tax control of legal and natural persons in compliance with customs, tax and other regulations, the implementation of which falls within the competence of Customs Administration, the authorised customs officers shall in order to prevent and detect violations of such regulations inspect the business and other premises used for carrying out the activity as well as other facilities and land properties.

(3) Business premises within the meaning of paragraph 2 of this Article shall also mean the residential area indicated as registered office of the company or if used as business premise.

(4) At inspecting the business premises, facilities and land properties, the authorised customs officer shall be entitled to examine business records, accounts and other documents related to customs goods or products subject to special taxes, and to use technical aids with the scope of inspection and search, or dismantling of the equipment, machinery, devices, goods located in the premise, facility or land property, as well as to ascertain the designated use goods subject to payment of special taxes.

(5) Natural and legal persons to which the measure of post-clearance customs audit applies shall be bound to provide to authorised customs officer the conditions for unhindered work and to make available to him all business records and other documents, or to provide access to data and records kept via an electronic medium.

#### Article 35

(1) If the authorised customs officer in exercising customs and tax control encounters physical resistance or might expect such a resistance, competent police department shall upon his/her request provide assistance thereto in exercising the customs and tax control operations.

(2) State bodies and other public authority holders, who in exercising the tasks falling within their scope establish that customs, tax or other regulations the implementation of which falls within the competence of Customs Administration have been violated, or that such event is likely to take place, shall be obliged to notify their findings without delay to the nearest organisational unit of the Customs Administration.

#### Article 36

(1) The protocols concerning the facts established in inspecting the persons, in inspecting and searching the transport and conveyance vehicles and business premises, examining business records, accounts and other



documents as well as the items and documents seized in course of conducting a customs and tax procedure may be used as legal evidence in the offence or criminal proceedings.

(2) The statements of the participants in course of exercising the customs and tax control may be used as legal evidence in the offence and criminal proceedings if made in compliance with the conditions and in a manner stipulated in the Criminal Procedure Act and the Act on Misdemeanours.

#### Article 37

(1) Authorised customs officers shall in exercising supervision and control with the scope of securing the collection of still undue customs debt as well as of the debt stemming from special taxes, value added tax and other levies be entitled to undertake the measures for securing payment pursuant to the provisions of General Tax Act.

(2) In fulfilling the tasks referred to in paragraph 1 of this Article, the authorised customs officer shall be entitled to inspect and search the business and other premises, facilities and land property used for carrying out the activity, devices, goods, property, items, business records, contracts, price lists and other documents necessary for enforcing the security of payment.

#### Article 38

(1) The security of payment, the enforcement of security of payment and the distraint on public and other levies falling with the competence of Customs Administration shall be implemented in compliance with the General Tax Act, the Distraint Act and other laws.

(2) Customs Administration may also confer the fulfilling of tasks referred to in paragraph 1 of this Article to persons who are in compliance with the law regulating distraint and security or other provision authorised for direct enforcement of distraint and security, insofar as they meet the requirements applicable to collectors under such act.

### DATA COLLECTION, RECORDING, PROCESSING AND PROTECTION

#### Article 39

(1) In order to fulfil the tasks laid down by the law and other provisions, the Customs Administration shall collect personal and other data from the already existing sources of data, directly from a person such data relates to and from other persons who have same knowledge thereof.

(2) If such data are collected from the already existing sources of data or from other persons who have some knowledge thereof, the authorised customs officers shall not be bound to notify persons such data relates to, should performing of certain task thus be prevented or rendered difficult.

(3) If authorised officers for the sake of fulfilling certain duties collect personal and other data from the already existing sources of data, then the bodies, institutions and other entities who under the law and within the scope of their activities have access to original personal data shall be obliged to forward the requested personal and other data on request of the authorised customs officers.

#### Article 40

(1) Customs Administration shall keep the records on personal and other data (hereinafter the records) it collects and consolidates in connection with performing the duties falling within its competence and its special authority, those being:

1. records on customs declarations,
2. records on the customs authorisations issued,
3. records on the holders of authorisations for import and export of certain goods subject to special taxes,
4. records on the payers of special taxes,
5. records on the offence proceedings instituted, the conducting whereof falls within its competence,
6. records the information received and mediated,
7. records on the customs and tax controls,
8. records on the firearms, ammunition and the use of coercive means,
9. records on the charging and collection as well as the distraint of customs and tax debt,
10. records on the submitted general and common security instruments for customs and tax debt,
11. records on transport and conveyance vehicles,
12. records on the authorised customs agents,
13. records on the authorised customs forwarders,
14. records on documents in the procedure of reporting the special tax accounting,
15. other records laid down in customs, tax and other regulations and international treaties.

(2) The records referred to in paragraph 1 of this Article may include personal data on natural persons:

1. personal name (name and surname),
2. data on birth (day, month, year, place, state),
3. sex,
4. dwelling or residence address,
5. personal identification number,
6. citizenship,
7. profession and occupation,
8. personal identification number (passport, personal identification card, driving licence, border pass, etc.).

(3) For legal and natural persons who are tradesmen, the records referred to in paragraph 1 of this Article shall include the following common data:

1. personal identification number,

2. name and registered office (city, street, street number, postal code, state),
3. official telephone and facsimile numbers and e-mail addresses,
4. name and surname as well as birth date and personal identification number of responsible persons,
5. licence number of a vehicle registered in the name of the company used for transport of goods,

(4) The data referred to in paragraphs 2 and 3 of this Article may be obtained directly from the person they refer to or from the register of other state administration bodies.

#### Article 41

(1) Apart from personal and other data, the overall register shall also contain the following data:

1. records on customs declarations: the data entered in customs declarations set out in customs regulations,
2. records on the customs authorisations issued: number, date and issuing entity of the authorisation, type of authorisation, validity of authorisation, non-compliance with conditions ensuing from the authorisation, date and grounds, and duration of withdrawal of authorisation, extending the validity of authorisation,
3. records on special tax payers,
4. records on the offence proceedings instituted the conducting whereof falls within the competence of Customs Administration: data on the offence proceedings instituted the conducting whereof falls within the competence of Customs Administration, data on the measures against violators, dispensed punishments and other sanctions, data on transferring the data to other state bodies competent for taking the measures against violators falling outside the competence of Customs Administration, as well as the data on dispensed punishments and other sanctions,
5. records on the information received and mediated: data on a person the information refers to, on a vehicle, goods and source of information, or a person from which the information was received,
6. records on the customs and tax controls: data on the time and place of control, data on participants in the procedure, data on a vehicle (category, type, licence plate number, ownership), as well the course of control,
7. records on the firearms, ammunition and the use of coercive means, data on the authorised customs officer who signed for the firearm and ammunition, data on the return of a firearm or ammunition; data on the use of coercive means, data on a person against who the coercive means were used, data on the event in which those were used, and evaluation of legality of the use of coercive means,
8. records on the charging and collection as well as distraint of customs and tax debt, the data entered in customs declaration, other administrative acts and special tax accounting related to debt accounting, data of delivery of the act, data which must be kept by Customs Administration for entering the customs and special taxes, data on reimbursement, deferred payment or remission of debt, data on payment of debt by executing security instruments, data entered in the administrative decisions on distraint,
9. records on the submitted security instruments concerning the customs and tax debt: data on the applicant and issuer of security instruments, the guaranteed amount, validity and due date for cashing the security instrument,

10. records on the transport and conveyance vehicles (registration plate number, data on vehicle ownership, data on a vehicle, type of conveyance vehicle and data on ownership of the conveyance vehicle),

11. records on the authorised customs agents: data on the authorisations for conducting agency services in customs procedures issued, a list of persons authorised for signing customs declarations,

12. records on the authorised customs forwarders: data on the holder of authorisation for agency in customs procedures,

13. records on documents concerning special taxes: data entered in the documents prescribed by regulations concerning special taxes.

(2) Interested party shall be entitled to consult its proper data in the records as follows:

1. with reference to Article 40, paragraph 1, points 1, 2, 3, 4, 7, 9, 10, 12, 13, 14 and 15 of this Act, immediately upon making the entry, and for customs and tax controls immediately upon completion of the procedure,

2. with reference to Article 40, paragraph 1, point 5 of this Act, upon final decision following the completion of criminal or offence proceedings, and where not completed, upon statute of limitation for prosecution.

(3) The data must be stored and kept in accordance with customs and other provisions regulating the handling of archival and register materials.

#### Article 42

(1) With the scope of collecting, processing, keeping, mediating, use and storage of data contained in the records referred to in Articles 39 and 40 of this Act, special provisions shall apply regulating the protection of personal data and the data which represent business and other secret.

(2) The mode of use confidential data contained in the records referred to in Articles 39 and 40 of this Act and other protected data of Customs Administration and the mode of protecting such data shall be stipulated by the Minister of Finances in the ordinance.

(3) Collecting of data referred to in Articles 39 and 40 of this Act from the part of other competent bodies, institutions and other legal entities authorised to provide data by virtue of special act as well as the exchange thereof shall be regulated on the basis of special agreement.

### CUSTOMS OFFENCE PROCEDURE

#### Article 43

(1) Customs offences within the meaning of provisions of this Act shall be deemed the offences laid down in this Act, the Customs Act as well as the offences designated as such by other act or if conducting of offence proceedings has been placed within the scope of Customs Administration.

(2) Customs offence proceedings shall be instituted and conducted ex off.

#### Article 44

(1) Customs offence proceedings in the first instance shall be conducted by the Offence Committee of a competent customs house. The customs house may also have various offence committees.

(2) The Offence Committee shall have a president and two members who are authorised customs officers appointed by the Minister of Finances on the proposal of the director.

(3) A persons appointed as president of the Committee shall have passed the bar examination.

(4) The Offence Committee may authorise a member of the Committee to conduct the procedure and issue decisions in course of the proceedings, with the exception of issuing the decision on offence.

(5) High Court of Minor Offences shall in the second instance decide on the appeal against the administrative decisions in the first instance.

#### Article 45

Customs offence proceedings shall be conducted in compliance with the provisions of the Misdemeanour Act unless regulated otherwise by this Act or the Customs Act.

### SPECIAL FEATURES REGARDING THE RIGHTS, OBLIGATIONS, AND LIABILITY OF CUSTOMS OFFICERS

#### Article 46

The regulations on civil servants shall apply to customs officers unless prescribed otherwise by this Act.

#### Article 47

(1) A person fulfilling general requirements for admission into civil service having no barrier for admission into civil service and fulfilling the requirements listed hereinbeow may be recruited into customs service:

1. completed secondary education at minimum,
2. adequate health-related and psychophysical fitness,
3. holding residence in the Republic of Croatia.

(2) The Ordinance on internal order of the Ministry of Finances may also stipulate other special conditions for admission of employees into civil service.

(3) Director of Customs Administrations shall request from authorised services the data relevant for evaluating the presence of security-related barriers for working in the service for a person being recruited in the position of customs officer. Security-related barriers for work in the service are deemed behaviour to date, habits or propensities which imply unreliability for fulfilling the duties or which could have an impact on the legality and autonomy in fulfilling the duties of a customs officer.

(4) A person whose service in the state authority body or legal person holding public authority was terminated by virtue of final decision of competent body owing to severe violation of official duty shall not be recruited for fulfilling the duties in Customs Administration.

#### Article 48

(1) A person that was recruited in Customs Administration shall under criminal and financial liability issue written statement on his/her income scale the income scale of his/her immediate family and written statement that he/she consents to any sort of verification in connection with data stated.

(2) Written statement referred to in paragraph 1 of this Article shall be stored in personal register of the officer.

#### Article 49

(1) Director of Customs Administration may request from authorised services the data relevant for evaluating the security-related barriers for work of the officers employed in the Customs Administration.

(2) Security-related barriers for work in the service are deemed behaviour to date, habits and propensities which imply unreliability for fulfilling the duties or which could have an impact on the legality and autonomy in fulfilling the duties.

#### Article 50

(1) Customs officer shall with the purpose of establishing the psychophysical fitness for fulfilling the duties at the position he/she was assigned to undergo a test of psychophysical fitness by virtue of written order of the director of Customs Administration or head of the Customs house.

(2) The test of psychophysical fitness shall be conducted by competent health-service institution.

#### Article 51

(1) Director of Customs Administration may through the administrative decision deprive the authorised customs officer of the right to fulfil the duties he/she was assigned to in the following cases:

1. where ascertained that he/she used his/her authorisation contrary to this Act and other provisions
2. if final decision of the Disciplinary Court establishes that he/she had committed severe violation of official duty,
3. if pronounced guilty by valid court decision,
4. if he establishes the presence of circumstances referred to in Article 61 of this Act.

(2) The officer referred to in paragraph 1 of this Article shall be withdrawn the official identity card, badge, official uniform and weapon.

(3) The officer referred to in paragraph 1 of this Article may be transferred to another position where equivalent qualifications are prescribed.

(4) If the officer refuses to accept the offered position or if the position corresponding to his qualifications can not be granted thereto with the Customs Administration, and he/she is not willing to accept the position specifying lower qualifications, the civil service shall terminate thereto by expiry of the period of notice.

#### Article 52

(1) For the purpose of the service, customs officer may be transferred to another position in compliance with his/her qualifications, knowledge and competencies within the same or another organisational unit of the Customs Administration, in the same or different work location.

(2) For needs of the service the officer may temporarily be transferred to another position in compliance with his/her qualifications, knowledge and competencies within the same or another organisational unit of

the Customs Administration, in the same or different work location, regardless of whether free position is available.

(3) Transfer to another working location for a period less than six months shall be deemed a temporary transfer.

(4) The officer shall be entitled to lodge an appeal to the Civil service committee against the administrative decision on transfer within eight days from the date of receipt of the administrative decision.

5) The appeal against administrative decision on transfer shall not postpone its enforcement.

#### Article 53

(1) The officer who was temporarily transferred to another work location at a distance exceeding 80 km from the place of his/her residence shall be entitled to:

1. accommodation and organized meals or actual expenses for meals in the amount of 70% of the daily allowance against presentation of the invoice for meals,
2. monthly separation allowance, if he/she provides sustenance for his/her family,
3. paid leave for five working days, for every three months,
4. compensation of travel costs to the place of residence during weakly break, national holidays and non-working days according to the attached public transport ticket,
5. salary earned at former position if more beneficial thereto,
6. remuneration in the amount of average monthly salary in last three months, upon the expiry of three months of temporary transfer.

(2) Should the officer referred to in paragraph 1 of this Article not benefit from the rights referred to in points 1 to 6, he/she shall be entitled to remuneration of actual transport expenses in the amount of public transport daily ticket.

#### Article 54

(1) The officer who was permanently transferred to another work location at a distance exceeding 80 km from the place of his/her residence, apart from the rights referred to in Article 53 of this Act shall be entitled to the following:

1. travel and moving expenses, against the invoice presented,
2. appropriate accommodation for himself/herself and the family, within a year from the date of transfer.

(2) The rights referred to in Article 53 of this Act and paragraph 1 of this Article shall not be vested in an officer transferred on the basis of personal request.

#### Article 55

(1) Authorised customs officers shall be subject to periodical change of work location within the same or different organisational unit of Customs Administration, in accordance with their qualifications, knowledge and competency.

(2) The changes of work locations referred to in paragraph 1 of this Article shall proceed in line with Periodical programme of change work location for customs officers enacted by the director of Customs Administration.

(3) The changes of work locations for customs officers effected in compliance with the provisions of this Article shall not be deemed a transfer within the meaning of provisions of this Act or the provision concerning civil servants.

#### Article 56

(1) For needs of the service, the customs officers shall fulfil the duties in the less beneficial working time as well. The labour in less beneficial working time is the following:

1. work in split shifts,
2. work in multiple shifts,
3. work in sessions,
4. work on Saturdays, Sundays, holidays and other non-working days,
5. work longer than the working hours – overtime work,
6. afternoon and night work, and
7. work in the working premises at certain location or at home.

(2) Work in multiple shifts and work in sessions involves carrying out the activities and tasks in split shifts, on Saturdays and Sundays, on holidays and other non-working days as well as the work in afternoon and night hours, with redistribution within the framework of defined regular monthly or annual working hours schedule.

#### Article 57

(1) Work in multiple shifts implies the work that is alternately carried out in the morning, afternoon or night hours, as well as the work according to special schedule when the work is carried out also in the morning, afternoon or night hours, but is distributed unevenly.

(2) Work in session implies the work carried out for 12 hours, followed by 24 or 48 hour break.

#### Article 58

(1) In line with decision of the director, customs officers shall be in the state of readiness for work outside the working hours.

(2) Customs officer who is assigned the state of readiness to perform work shall be entitled to remuneration in the amount of 15 percent of the hourly wage for regular work in current month for each hour of stand-by.

#### Article 59

Customs officers shall not be the members of the board of directors or supervisory board of the company, the shareholders in the company or individual tradesmen if the Customs Administration exercises control thereon.



## Article 60

(1) Authorised customs officers must under any circumstance ensure unobstructed fulfilling of the following tasks the Customs Administration as well:

1. customs and tax control and inspection of goods, passengers, transport and conveyance vehicles,
2. approving the customs authorised procedure or use of goods as well as the charging and collection of customs duty, special taxes and other statutory levies,
3. control of goods the entry, import or export of which is specially regulated,
4. control of cross border transfer of domestic and foreign instruments of payment in cash,
5. preventing and detecting the offences and criminal acts committed in the customs procedure or in connection with customs clearance of goods,
6. conducting the customs-administrative procedure and customs-offence proceedings in the first instance,
7. approving the authorised procedures and the use of domestic goods subject to collection of special taxes as well as the charging and collection of special taxes for domestic trade in goods for which there is such an obligation under the regulations on special taxes.

(2) The workposts of the authorised customs officers who must provide for unobstructed performing of tasks referred to in paragraph 1 of this Article shall be stipulated in the Ordinance on internal order of the Ministry of Finances.

## Article 61

(1) Authorised customs officers shall be prohibited from carrying out the tasks of post-clearance audit of customs declarations under customs regulations, the audit of charging and collection of customs duty, special taxes and other levies charged and collected at customs clearance of goods and forced collection with legal persons where they are related with the majority owner or member of the board of directors or supervisory board as follows:

- a) consanguineous in direct kinship and in lateral kinship to the fourth degree, in marriage or in laws to the second degree, regardless of whether such marriage has been broken,
- b) as guardian, ward, adoptive child or parent, foster-parent or foster-child.

(2) In the cases referred to in paragraph 1 of this Article, the authorised officer may not fulfil the tasks referred to in paragraph 1 of this Article in relation to natural persons either.

## Article 62

(1) The officers of Customs Administration may not for informal purposes use the information, data or findings they have or that are available thereto fulfilling the tasks of the service.

(2) The officers of Customs Administration may not use and provide information, data or findings for achieving any property or other benefit for themselves or for another person.

(3) The duty to protect the official, business and other secret shall persist even upon the termination of employment in the service.

### Article 63

(1) The customs officers shall be responsible to protect with utmost care their own safety and health at work as well as the safety and health of other persons, should that depend on their routines.

(2) Customs officers who inspect the transport and conveyance vehicles, customs goods and goods subject to special taxes in warehouses and storage spaces, customs officers who fulfil expert and auxiliary tasks in customs laboratory, as well as the employees who fulfil relevant expert and technical tasks shall be entitled to occupational clothing and other protective aids.

(3) The Ordinance on occupational safety regulates the implementation of protection and safety measures during work, mutual obligations and responsible persons at particular levels, and it is adopted by the Minister of Finances on proposal of the director.

### Article 64

In exercising the customs control measures in international trade in public means of transport, the authorised customs officers shall be entitled to free transport by such means at the expense of the carrier, and to remuneration for meals and accommodation, as well as the right to insurance claim available to passengers who paid for carriage by such vehicles.

### Article 65

(1) Customs officers of the Customs Administration, if temporarily prevented from acting as a result of accident at work or occupational illness shall be remunerated in the whole amount of the salary.

(2) Customs officer who was by decision of the competent body declared disable for fulfilling the duty of customs officer owing to disease or injury that set in while discharging the service or in connection with fulfilling the service shall maintain the salary and other rights ensuing from servant employment pending the issuing of valid administrative decision on the right to pension, but no longer than three years from the date of issuing the disability decision.

(3) Customs officer who in fulfilling the duty or in connection with fulfilling the duty dies shall be buried at the place designated by his/her family on the territory of the Republic of Croatia at the expense of the Ministry of Finances, Customs Administration.

(4) The expenses referred to in paragraph 3 of this Article shall be the following:

1. transport costs of the remains to the place of burial,
2. travelling costs for two escorts,
3. funeral costs in the amount of four accounting base salaries.

(5) In the case referred to in paragraph 3 of this Article, the family sustained by deceased customs officer shall be entitled to one-off financial aid in the amount of the last paid net salary of the deceased customs officer multiplied by 12.

(6) In the case of death of customs officer and employee, the family shall be entitled to aid in the amount of the last paid net salary multiplied by three and the funeral costs in the amount of three accounting base salaries.

(7) The customs officer and employee shall be entitled to aid in the case of death of spouse, child or parent, stepfather or stepmother in the amount of one accounting base salary.

## INTERNAL SUPERVISION AND CONTROL

### Article 66

(1) Customs Administration shall exercise internal supervision over the legality of operations and regular application of customs, tax and other regulations with the scope of eliminating the ascertained irregularities and standardization of the working practice.

(2) Customs Administration shall exercise internal control with the scope of detecting, ascertaining and preventing the violations of legality of operations and code of service from the part of customs officers.

(3) The exercising of internal supervision and control shall be laid down in the ordinance enacted by the Minister of Finances on proposal of the director of Customs Administration.

## DISCIPLINARY LIABILITY

### Article 67

(1) Customs officers shall be liable to discipline for violating the official duty in compliance with the provisions of this Act and the Act on Civil Servants.

(2) The violations of official duty may be minor or severe by character.

### Article 68

Minor violation of official duty is deemed, apart from violations set out in the Act on Civil Servants, improper relationship with fellow-workers and the public during office hours.

### Article 69

(1) Severe violations of official duty, apart from violations set out in the Act on Civil Servants, are also deemed the following:

1. fulfilling the tasks incompatible with duties of the Customs Administration officer,
2. obstructing and preventing the authorised customs officers while fulfilling their duties,
3. misuse of official uniform, insignia and weapons in fulfilling or in connection with fulfilling the tasks of the service,
4. counterfeiting, modifying, entering or endorsing the false data in official customs or tax documents,
5. coming to work intoxicated with alcohol or narcotics and consuming alcohol or narcotics while at work,
6. refusing written order to undergo breath-test or refusing written order for expert examination for establishing the presence of alcohol or narcotics in the organism,
7. act featuring customs or tax violation,

8. disrespect or violating the rule on internal order of customs service or code of professional ethics, apart from violations specified in Article 67 of this Act,

9. use of official information, data and knowledge for non-official purposes,

10. failing to undertake due actions in connection with the procedure for establishing liability of the officer and covering up the committed violations of official duty,

11. unbecoming conduct in service,

12. presenting false facts concerning the service,

(2) Presence of alcohol or narcotics which diminish the capacity for work shall be ascertained by breath-test or by medical examination.

(3) The authorization for conducting the breath-test is granted to internal control personnel, the superior, occupational safety professional or the staffer competent and authorised for fulfilling such tasks.

(4) The employees referred to in paragraph 3 of this Article must be trained for conducting the breath-test by the health-service institution.

#### Article 70

(1) The procedure on grounds of minor violation of official duty shall be instituted by decision issued by the director or employee authorised by him therefor at his own initiative or at written proposal of the superior.

(2) The procedure for minor violations of official duty shall be conducted and the decision issued by the director or employee authorised by him therefor.

#### Article 71

(1) The procedure on grounds of severe violation of official duty shall be instituted by the director or employee authorised by him therefor on the date of delivery of the application for instituting the procedure to the competent First-instance disciplinary court.

(2) The disciplinary procedure for severe violations of official duty shall be conducted and the decision issued by the First-instance disciplinary court.

#### Article 72

(1) The First-instance disciplinary court of the Customs Administration shall be established for deciding on severe violations of official duty for all employees of the Customs Administration at the first instance and minor violations of official duty at the second instance with seats in the Central Office of the Customs Administration in Zagreb.

(2) The Second-instance disciplinary court of the Customs Administration for deciding on severe violations of official duty of the Customs Administration employees in the second instance shall be established with seats in the Central Office of Customs Administration in Zagreb.

#### Article 73

The president and members of the First-instance disciplinary court of the Customs Administration and the Second-instance disciplinary court of the Customs Administration are employees of the Ministry of Finances, Customs Administration.

#### Article 74

(1) The First-instance disciplinary court of Customs Administration consists of the president and ten members at minimum, having university degree, of which the president and at least five members are graduate lawyers.

(2) The president and members of the First-instance disciplinary court of Customs Administration shall be appointed by administrative decision of the Minister of Finances on proposal of the director of Customs Administration for a two-year term.

(3) The First-instance disciplinary court of Customs Administration shall decide in the three-member Committee one of which is the president of the Committee who shall be appointed by the president of the First-instance disciplinary court for each individual case.

#### Article 75

(1) The Second-instance disciplinary court of the Customs Administration consists of the president and six members at minimum, having university degree, of which the president and at least three members are graduate lawyers.

(2) The president and members of the Second-instance disciplinary court of Customs Administration shall be appointed by administrative decision of the Minister of Finances on proposal of the director of Customs Administration for a two-year term.

(3) The Second-instance disciplinary court of Customs Administration shall decide through the three-member Committee one of which is the president of the Committee who shall be appointed by the president of the Second-instance disciplinary court for each individual case.

#### Article 76

(1) The secretary of First-instance disciplinary court of the Customs Administration and Second-instance disciplinary court of the Customs Administration shall be appointed by administrative decision of the director of Customs Administration for a two-year term.

(2) The secretary of First-instance and Second-instance disciplinary court is the employee of the Ministry of Finances, Customs Administration having a university degree.

(3) The recording clerks of the First-instance disciplinary court of the Customs Administration and the Second-instance disciplinary court of the Customs Administration shall be appointed by the director of the Customs Administration.

#### Article 77

(1) The presidents, members, secretaries and recording clerks of the First-instance disciplinary court of Customs Administration and the Second-instance disciplinary court of Customs Administration shall be entitled to remuneration for their work.

(2) The remuneration shall be fixed per case completed, separately for president of the committee and for the members and secretary of the First-instance disciplinary court of Customs Administration and the Second-instance disciplinary court of Customs Administration, and for the recording clerks.

(3) The amount of remuneration referred to in paragraphs 1 and 2 of this Article and the criteria for rewarding shall be stipulated in the Ordinance enacted by the Ministry of Finances on proposal of the director.

#### Article 78

(1) Title of the act of the First-instance disciplinary court of the Customs Administration and the Second-instance disciplinary court of Customs Administration shall consist of: the coat of arms of the Republic of Croatia, the title "Republika Hrvatska, Ministarstvo financija, Carinska uprava, Prvostupanjski disciplinski sud Carinske uprave", or "Drugostupanjski disciplinski sud Carinske uprave", reference number of the case, place and date of issue of the act.

(2) Stamp of the First-instance disciplinary court of the Customs Administration and the Second-instance disciplinary court of Customs Administration referred to in paragraph 1 of this Article shall have 38 mm in diameter and shall be composed of the coat of arms of the Republic of Croatia in the centre, and encircling it of the title »Republika Hrvatska, Ministarstvo financija, Carinska uprava" and the name "Prvostupanjski disciplinski sud Carinske uprave", or "Drugostupanjski disciplinski sud Carinske uprave".

#### Article 79

(1) The employee against whom the procedure is conducted and the superior employee who filed the proposal shall have the right to lodge appeal against decision in the procedure on grounds of minor violation of official duty with the First-instance disciplinary court of the Customs Administration within 8 days from the date of receipt of the decision.

(2) The decision on appeal referred to in paragraph 1 of this Article shall be final and enforceable.

#### Article 80

(1) The employee against whom the procedure is conducted, the director of Customs Administration or a person authorised by him therefor shall have the right to lodge appeal against decision of the First-instance disciplinary court of the Customs Administration in the procedure on grounds of severe violation of official duty within 8 days from the date of receipt of the decision.

(2) The decision on appeal referred to in paragraph 1 of this Article shall be final and enforceable.

(3) Administrative dispute may be instituted against the second-instance decision in the procedure on grounds of violation of the official duty.

#### Article 81

(1) Customs officer may be dismissed from service as from the time of instituting criminal proceedings against him before the First-instance disciplinary court of the Customs Administration on grounds of severe violation of official service if further fulfilling of duties by such officer would be detrimental for interests of the service.

(2) It shall be deemed that the officer is dismissed from service while he is held in custody, and administrative decision shall be issued thereon.

## Article 82

- (1) Administrative decision on the dismissal from service shall be issued by the director.
- (2) Complaint against the administrative decision on dismissal from service may be lodged with the First-instance disciplinary court within 8 days from the receipt of the administrative decision.
- (3) The complaint shall not postpone enforcement of the administrative decision.
- (4) The First-instance disciplinary court shall issue decision on the complaint no later than 15 days from the date of receipt of the appeal.
- (5) The decision of the First-instance disciplinary court on the appeal is final and administrative dispute may be instituted against it.

## Article 83

- (1) The customs officer who is dismissed from service shall be withdrawn the official badge, official identification card, weapon and other means given thereto for fulfilling the duties, and during the period of dismissal he shall have a ban on wearing the official uniform.
- (2) Dismissal from service may last pending final decision on the violation of official service.
- (3) Administrative decision by which the customs officer referred to in paragraph 1 of this Article is withdrawn the official badge, official identification card, weapon and other means shall be issued by the director.

## Article 84

Should customs officer after being dismissed join the service in cases stipulated in the Act on Civil Servants, the customs officer shall be assigned to a free position in accordance with the acquired qualifications, work experience and other special professional requirements laid down in the Ordinance on internal order for a particular position to which he/she is assigned.

## VOCATIONAL TRAINING OF CUSTOMS OFFICERS

### Article 85

- (1) Customs officers must permanently complement their professional skills, undergo training and testing of professional competencies organized and conducted by the Customs Administration via the Customs training centre.
- (2) The tasks of professional training and education refer to the following:
  - drawing up and implementation of the programme for permanent vocational training and education of customs officers,
  - drawing up and implementation of the programme for vocational training and education of trainees and employees recruited into customs service,
  - organizing state certification exams for customs officers,
  - organizing courses, seminars and workshops,

– publishing professional publications necessary for operations of the customs service and for professional training of customs officers.

(3) The content, method and standards for vocational training, education and testing of professional competency of employees and trainees shall be stipulated by ordinance enacted by the Minister of Finances on proposal of the director.

#### Article 86

(1) By virtue of an agreement between the Minister of Finances and head of another body, the Ministry of Finances, Customs Administration may refer the authorised customs officer to training or education in another state body or institution in the Republic of Croatia or abroad in accordance with the needs of his/her position.

(2) By virtue of an agreement between the Minister of Finances and head of another body, the employees from another state body or institution may undergo vocational training and education in the Ministry of Finances, Customs Administration, with the purpose of acquiring knowledge falling within the competence and scope of the Ministry of Finances, Customs Administration.

#### Article 87

(1) State certification exam for customs officers consists of the general and special part.

(2) Provisions on the general part of state certification exam for civil servants shall respectively apply in taking the state certification exam for customs officers as well.

### CUSTOMS AWARDS AND PRIZES

#### Article 88

(1) With the purpose of recognizing the results achieved and stimulating work efficiency, customs officers and organisational units of the Customs Administration shall be conferred prizes and awards.

(2) Prizes and awards of the Customs Administration are the following:

- annual prize,
- occasional prize,
- letter of thanks.

(3) The awards and prizes referred to in paragraph 2 of this Article shall as a rule be conferred on occasion of the Customs service day.

(4) State administration bodies, public services and business entities shall be conferred letters of thanks for significant contribution in cooperation with Customs Administration.

(5) The types of awards, the procedure of conferring awards and prize money shall be prescribed in the ordinance enacted by the Minister of Finances on proposal of the director.

### FUNDS FOR OPERATION OF CUSTOMS ADMINISTRATION

#### Article 89



(1) Salary of employees of the Customs Administration shall be established in a manner regulated by provision on civil servants.

(2) By special regulation, the Government shall establish the value of job ranking coefficients for positions, work conditions bonus, as well as the criteria and the maximum amount of bonus for above-average work results for employees of the Customs Administration.

(3) Employees of the Customs Administration shall in accordance with work results be entitled to bonus on the salary on the basis of criteria established by the Minister of Finances.

#### Article 90

(1) Owing to complexity and character of duties as well as special work conditions, authorised customs officers of the Customs Administration shall have each 12 months of effective work spent on such duties computed as 16 or 14 months of service for pension insurance.

(2) The positions referred to in paragraph 1 of this Article where the years of service are computed in extended duration shall be specified by the Government in the Ordinance.

#### Article 91

Customs Administration shall pursuant to needs and available means provide the means for the following:

- equipping and modernisation of operations,
- awarding the employees for their work on projects and for the work in committees,
- awards for the officers and employees on the basis of efficiency in fulfilling the official and position duties,
- occasional gift to children of deceased employees and occasional gift to children of customs officers who live in particularly difficult social circumstances, as per decision of the director,
- financial aid to customs officers for covering the costs of schooling the children with disabilities,
- financial aid to children of deceased customs officers in the amount of expenses for schooling while receiving regular education,
- covering the costs for health-related needs to children of customs officers, surgeries, medical treatment, procuring medication and orthopaedic aids, etc. which are not covered by basic, supplementary and private health insurance,
- particularly difficult social and health-related needs of customs officers and their immediate family living in particularly difficult social conditions or who necessitate such aid owing to severely deteriorated health, as per decision of the director,
- regular preventive medical check-ups of customs officers once a year,
- housing needs of customs officers and employees,
- place of burial for a customs officer who in fulfilling the duty or in connection with fulfilling the duty lost his/her life, if the family does not own one.

## PENAL PROVISIONS

### Article 92

(1) Fine in the amount ranging from HRK 3 000.00 to 10 000.00 shall be imposed on the legal person, and fine in the amount ranging from HRK 1 000.00 to 5 000.00 on the responsible person in the legal person, natural person, natural person who is tradesman and self-employed businessman reproducing or using as a uniform or as proper insignia the uniform and insignia which are in terms of colour, appearance and insignia equivalent or similar to official uniform and insignia of the Customs Administration.

(2) Items manufactured or used contrary to the provision of paragraph 1 of this Article shall be confiscated.

### Article 93

Fine in the amount ranging from HRK 3 000.00 to HRK 15 000.00 shall be imposed on the legal person, and fine in the amount ranging from HRK 1 000.00 to 5.000.00 on the responsible person in the legal person, natural person, natural person who is tradesman and self-employed businessman who:

1. fails to deliver within specified deadline the documents referred to in Article 31, paragraph 2, documents referred to in Article 31, paragraph 4 or financial records and other documents, or prevents access to databases kept by electronic medium referred to in Article 30 , paragraph 4 of this Act.
2. blocks access into business and other premises, other facilities and land property referred to in Article 33 and Article 34, paragraph 2 of this Act to the authorised customs officer,
3. fails to provide and facilitate the conditions for exercising customs control referred to in Article 34, paragraph 5 of this Act.

### Article 94

Fine in the amount ranging from HRK 5 000.00 to 20 000.00 HRK shall be imposed on the legal person, and fine in the amount ranging from HRK 1 000.00 to HRK 10 000 .00 on the responsible person in the legal person, natural person, natural person who is a tradesman and self-employed businessman who:

1. refuses to deliver the documents on the basis of which their identity may be checked or otherwise violates the provision of Article 21, paragraph 2 of this Act,
2. improperly or in a reproaching manner addresses the authorised customs officer in course of his/her official duty or obstructs and prevents him/her in fulfilling his/her duties,
3. fails to stop the transport vehicle in compliance with Article 22, paragraph 2 of this Act.

## TRANSITIONAL AND FINAL PROVISIONS

### Article 95

(1) The Government and the Minister of Finances shall enact executive regulations which they are authorised to enact pursuant to provisions of this Act within six months from the date of entering into force of this Act.

(2) Pending entering into force of the provision referred to in paragraph 1 of this Article, if not contrary to the provisions of this Act, the following provisions shall remain in force:

- Decision on colour and insignia of official uniform of the authorised persons of customs service of the Republic of Croatia (Official Gazette, 54/94 and 61/95),
- Ordinance on official uniforms of employees of the Customs service of the Republic of Croatia (Official Gazette 56/94, 51/95, 38/97 and 41/97),
- Ordinance on the form of official identification card and special marking of authorised officials of Customs Administration of the Republic of Croatia (Official Gazette 21/92 and 40/99),
- Ordinance on the programme and method of vocational training and education of employees of the Ministry of Finances, Customs Administration (Official Gazette 7/07).

(3) Pending adoption of the provision referred to in Article 20, paragraph 3 of this Act, the provisions which regulate the carrying and use of firearms and the programme of training for handling and use of firearms for members of police forces shall apply respectively to the authorised customs officers.

#### Article 96

By the date of entering into force of this Act, Central customs offences committee with the Central Office of Customs Administration which decides on appeals against the first-instance administrative decisions on offences shall proceed with its activity for offence proceedings instituted by 1 October 2002.

#### Article 97

Disciplinary proceedings that shall not be brought to completion by entering of this Act into force shall proceed and be brought to completion in compliance with provisions valid to date.

#### Article 98

By the date of entering of this Act into force, the Customs Service Act shall cease to be valid (Official Gazette 67/01).

#### Article 99

This Act shall enter into force eight days from the date of its publication in the Official Gazette.

Class: 413-01/08-01/03

Zagreb, 3 July 2009

### THE CROATIAN PARLIAMENT

The President  
of the Croatian Parliament  
Luka Bebić, m.p.

## **Annex 15: Payment System Act (October 2009)**

### **THE CROATIAN PARLIAMENT**

3247

Pursuant to Article 88 of the Constitution of the Republic of Croatia, I hereby issue the

#### **DECISION**

#### **PROMULGATING THE PAYMENT SYSTEM ACT**

I hereby promulgate the Payment System Act, passed by the Croatian Parliament at its session on 23 October 2009.

Class: 011-01/09-01/186

No.: 71-05-03/1-09-2

Zagreb, 28 October 2009

### **PAYMENT SYSTEM ACT**

#### **TITLE I GENERAL PROVISIONS**

##### *Subject matter* Article 1

This Act governs payment services, payment service providers, obligations of payment service providers to inform payment service users about the conditions for the provision of and about provided payment services, as well as other rights and obligations in relation to the provision and use of payment services, transaction accounts and the execution of payment transactions among credit institutions, the establishment, operation and supervision of payment institutions and the establishment, operation and supervision of payment systems.

##### *Definitions* Article 2

(1) For the purposes of this Act, the following definitions shall apply:

- 1) '*Member State*' means a contracting party to the Agreement on the European Economic Area;
- 2) '*home Member State*' means the Member State in which the registered office of a payment service provider is situated, or, if the payment service provider has, under its national law, no registered office, the Member state in which its head office is situated;
- 3) '*host Member State*' means the Member State other than the home Member State in which a payment service provider has a branch or an agent, or directly provides payment services;

- 4) '*third country*' means, until the accession of the Republic of Croatia to the European Union, any foreign country, and after the accession, any non-Member State;
- 5) '*payer*' means a natural or legal person who holds a payment account and allows a payment order from that account, or, where there is no payment account, a natural or legal person that gives a payment order;
- 6) '*payee*' means a natural or legal person who is the intended recipient of funds which have been the subject of a payment transaction;
- 7) '*payment service user*' means a natural or legal person making use of a payment service in the capacity of payer and/or payee;
- 8) '*consumer*' means a natural person who, in payment service contracts covered by this Act, is acting for purposes other than his/her trade, business or profession;
- 9) '*value date*' means a reference time used by a payment service provider for the calculation of interest on the funds debited (debit value date) from or credited (credit value date) to a payment account;
- 10) '*reference exchange rate*' means the exchange rate which is used as the basis for currency conversion and which is made available by the payment service provider or comes from a publicly available source;
- 11) '*reference interest rate*' means the interest rate which is used as the basis for calculating any interest to be applied and which comes from a publicly available source;
- 12) '*means of distance communication*' refers to any means which, without the simultaneous physical presence of the payment service provider and the payment service user, may be used for the conclusion of a payment services contract;
- 13) '*durable medium*' refers to any means which enables the payment service user to store information addressed personally to that user in a way accessible for future reference for a period of time adequate to the purposes of the information, and which allows the unchanged reproduction of the information stored;
- 14) '*business day*' means a day on which the payer's payment service provider or the payee's payment service provider is open for business in order to enable the execution of a payment transaction;
- 15) '*payment account*' means any account held by a payment service provider in the name of one or more payment service users which is used for the execution of payment transactions;
- 16) '*payment transaction*' means the placing, withdrawing or transferring of funds initiated by the payer or by the payee, regardless of any underlying obligations between the payer and the payee;
- 17) '*funds*' means banknotes and coins, electronic money in terms of the law governing the operation of electronic money institutions, as well as monetary claims against the payment service provider (scriptural money);
- 18) '*unique identifier*' means a combination of letters, numbers or symbols specified to the payment service user by the payment service provider which is to be provided by the payment service user to identify unambiguously the other payment service user and/or that user's payment account used in a payment transaction;
- 19) '*payment order*' means any instruction by a payer or payee to their respective payment service providers requesting the execution of a payment transaction;

20) '*direct debit*' means a payment service for debiting a payer's payment account, where a payment transaction is initiated by a payee on the basis of the payer's consent given to the payer's own payment service provider, to the payee, or to the payee's payment service provider;

21) '*money remittance*' means a payment service where funds are received from a payer, without any payment accounts being opened in the name of the payer or the payee, for the purpose of transferring a corresponding amount of funds to the payee or to another payment service provider acting on behalf of the payee, and/or where such funds are received on behalf of and made available to the payee;

22) '*payment instrument*' means any personalised device and/or set of procedures agreed between a payment service user and a payment service provider and used by the payment service user in order to initiate a payment order;

23) '*framework contract*' means a payment service contract which governs the future execution of payment transactions and which may contain the obligation and conditions for setting up a payment account;

24) '*group*' means a group of undertakings which consists of a parent undertaking and its subsidiaries in terms of the provisions of the Accounting Act governing the consolidation of annual financial statements, and undertakings in which the parent undertaking or its subsidiaries have holdings, as well as undertakings linked to each other in the manner that they are managed on a unified basis pursuant to a contract, or the provisions of the Articles of Association or memorandum or deed of establishment, or linked to each other in the manner that the management boards, boards of directors or supervisory boards of those undertakings consist for the major part of the same persons in office during the financial year and until the annual financial statements are drawn up;

25) '*qualifying holding*' means a direct or indirect holding on the basis of which an investor, whether a natural or legal person, acquires 10 percent or more of the capital or of the voting rights of another legal person, or a direct or indirect holding of less than 10 percent of the capital or of the voting rights of another legal person which makes it possible to exercise a significant influence over the management of that legal person;

26) '*outsourcing*' means a contractual agreement by which the performance of certain activities of a payment institution or operational activities of a payment system operator, which would otherwise be performed by them, is entrusted to third parties;

27) '*branch of a payment institution*' means a part of a payment institution without legal personality which carries out directly some or all the transactions carried out by the payment institution, and is located outside the payment institution's registered office or, if the payment institution does not have a registered office, outside the place of its head office; for the purposes of this Act, all branches established in the same Member State by a payment institution having its registered office in another Member State shall be deemed to be one branch;

28) '*agent*' means a natural or legal person acting in the name and for the account of a payment institution in providing payment services for which this institution is authorised;

29) '*payment system*' means a funds transfer system with formal and standardised arrangements and common rules for the processing, clearing and/or settlement of payment transactions;

30) '*national payment transaction*' means a payment transaction the execution of which involves a payer's payment service provider and a payee's payment service provider, or only one payment service provider, which operate in the Republic of Croatia in accordance with Article 5 of this Act;

31) '*international payment transaction*' means a payment transaction the execution of which involves two payment service providers of which one payment service provider (of either the payer or the payee)

operates in the Republic of Croatia in accordance with Article 5 of this Act, whereas the other payment service provider (of either the payer or the payee) operates pursuant to the regulations of a third country;

32) '*cross-border payment transaction*' means a payment transaction the execution of which involves two payment service providers of which one payment service provider (of either the payer or the payee) operates in the Republic of Croatia in accordance with Article 5 of this Act, whereas the other payment service provider (of either the payer or the payee) operates pursuant to the regulations of another Member State;

33) '*systemic risk*' means a risk caused by a disruption in the functioning of a payment system or by the inability of payment system participants to fulfil their obligations related to the functioning of the payment system, which results in the inability of other payment system participants to fulfil their obligations or in threatening the safety of payment operations and the financial system as a whole;

34) '*card payment scheme*' means a set of functions, procedures, rules and devices enabling the holder of a payment card to effect a payment and/or cash withdrawal transaction with a payment service provider;

35) '*payment card*' means a device enabling its holder to make payments for goods and services either at an accepting device or remotely, and/or to access cash and/or other services at an ATM or another self-service device;

36) '*good reputation*' means the reputation of a person who:

- has by his/her former professional work and personal integrity achieved good results and earned respect in the previous working environment;
- has not been convicted by a final judgment of one or more crimes which prevent this person from being appointed member of the management board or executive director, in accordance with the Companies Act, or who has not been convicted by a final judgement of one or more crimes referred to in Article 69 of this Act, or a foreigner who has not been convicted of one or more crimes which by definition correspond to these crimes; and
- is not subject to investigation or criminal proceedings for a crime prosecuted *ex officio*;

37) '*register of payment institutions*' (hereinafter: register) means a register into which a competent authority enters the payment institutions to which it has granted authorisation to provide payment services, and their branches and agents.

(2) For the purposes of this Act, a payment institution shall be deemed to provide payment services within the territory of another Member State directly if it does not provide such services through a branch or agent, and if it, within the territory of this other Member State:

- concludes legal transactions whose subjects are one or more payment services; or
- offers such services to a natural or legal person having its domicile or habitual residence or registered office within the territory of that Member State through an agent or otherwise;

### *Payment services*

#### Article 3

Payment services shall be the following services provided by payment service providers as their regular occupation or business activity:

1) services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account;

2) services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account;

3) execution of payment transactions, including transfers of funds on a payment account with the user's payment service provider or with another payment service provider:

- execution of direct debits, including one-off direct debits,
- execution of payment transactions through a payment card or a similar device,
- execution of credit transfers, including standing orders;

4) execution of payment transactions where the funds are covered by a credit line for a payment service user:

- execution of direct debits, including one-off direct debits,
- execution of payment transactions through a payment card or a similar device,
- execution of credit transfers, including standing orders;

5) issuing and/or acquiring of payment instruments;

6) money remittance; and

7) execution of payment transactions where the consent of the payer to execute a payment transaction is given by means of any telecommunication, digital or IT device and the payment is made to the telecommunication, IT system or network operator, acting only as an intermediary between the payment service user and the supplier of goods and services.

*Activities not deemed to be payment services*  
Article 4

For the purposes of this Act, the following shall not be deemed to be payment services:

1) payment transactions made exclusively in cash directly from the payer to the payee, without any intermediary intervention;

2) payment transactions from the payer to the payee through a commercial agent authorised to negotiate or conclude contracts on the sale or purchase of goods or services on behalf of the payer or the payee;

3) professional physical transport of banknotes and coins, including their collection, processing and delivery;

4) payment transactions consisting of the non-professional cash collection and delivery within the framework of a non-profit or charitable activity;

5) services where cash is provided by the payee to the payer as part of a payment transaction on explicit request by the payment service user just before the execution of the payment transaction through a payment for the purchase of goods or services;

6) money exchange business consisting in cash-to-cash operations, where the funds are not held on a payment account;



7) payment transactions based on any of the following documents drawn on, or issued to a payment service provider with a view to making funds available to the payee:

a) paper cheques in accordance with the Geneva Convention of 19 March 1931 providing a uniform law for cheques;

b) paper cheques similar to those referred to in indent a) and governed by the laws of Member States which are not parties to the Geneva Convention of 19 March 1931 providing a uniform law for cheques;

c) paper-based drafts in accordance with the Geneva Convention of 7 June 1930 providing a uniform law for bills of exchange and promissory notes;

d) paper-based drafts similar to those referred to in indent c) and governed by the laws of Member States which are not parties to the Geneva Convention of 7 June 1930 providing a uniform law for bills of exchange and promissory notes;

e) paper-based vouchers;

f) paper-based traveller's cheques; or

g) paper-based postal money orders as defined by the Universal Postal Union;

8) payment transactions carried out within a payment or securities settlement system between settlement agents, central counterparties, clearing houses and/or central banks and other system participants, and payment service providers;

9) payment transactions related to securities asset servicing, including dividends, income or other distributions, or related to the redemption or sale of securities assets, carried out by persons referred to in item (8) of this Article, or by investment firms, credit institutions, collective investment undertakings or asset management companies providing investment services, and any other entities allowed to have the custody of financial instruments;

10) services provided by technical service providers who support the provision of payment services, without them entering at any time into possession of the funds to be transferred, including processing and storage of data, trust and privacy protection services, data and entity authentication, information technology and communication network provision, provision and maintenance of terminals and devices used for payment services;

11) services based on instruments that can be used to acquire goods or services only in the premises of the issuer, or only within a limited network of service providers, or for a limited range of goods or services pursuant to a contract between the issuer and the service provider;

12) payment transactions executed by means of any telecommunication, digital or IT device, where the goods or services purchased are delivered to and are to be used through a telecommunication, digital or IT device, provided that the telecommunication, digital or IT operator does not act only as an intermediary between the payment service user and the supplier of the goods and services;

13) payment transactions between payment service providers, their agents or branches for their own account;

14) payment transactions between a parent undertaking and its subsidiary, or between subsidiaries of the same parent undertaking, without any intermediary intervention by a payment service provider other than an undertaking belonging to the same group; and

15) services related to withdrawing cash by means of ATMs owned by third parties acting on behalf of one or more payment card issuers that are not parties to the framework contract with the customer withdrawing money from a payment account, provided that these third parties do not perform other payment services referred to in Article 3 of this Act.

*Payment service providers*

Article 5

(1) Payment services in the Republic of Croatia may be provided by:

- 1) a credit institution having its registered office in the Republic of Croatia;
- 2) an electronic money institution having its registered office in the Republic of Croatia;
- 3) a payment institution having its registered office in the Republic of Croatia;
- 4) the Croatian National Bank, when not acting in its capacity as monetary authority or other public authority;
- 5) the Republic of Croatia and a unit of local or regional self-government, when not acting in their capacity as public authorities;
- 6) a credit institution having its registered office in a Member State;
- 7) an electronic money institution having its registered office in a Member State;
- 8) a payment institution having its registered office in a Member State;
- 9) a branch of a third-country credit institution having its registered office in the Republic of Croatia;
- 10) a branch of a third-country electronic money institution having its registered office in the Republic of Croatia; and
- 11) the European Central Bank, when not acting in its capacity as monetary authority or other public authority.

(2) Payment services in the Republic of Croatia may only be rendered by the providers referred to in paragraph (1) of this Article.

(3) By way of derogation from paragraph (2) of this Article, the Croatian Bank for Reconstruction and Development may provide payment services in accordance with the law governing its status, operations and powers.

(4) The providers referred to in paragraph (1), items (1), (2), (9) and (10) of this Article may provide payment services only within the limits of the authorisation issued pursuant to laws governing these entities and their operation.

(5) The rights of the entities referred to in paragraph (1), items (4) (5) and (11) of this Article to provide payment services shall be governed by regulations governing these entities, and their tasks and competences.

(6) The providers referred to in paragraph (1), item (3) of this Article may provide payment services only within the limits of the authorisation issued pursuant to the provisions of this Act.

(7) The providers referred to in paragraph (1), items (6), (7) and (8) of this Article may provide payment services within the limits of the authorisation issued by the competent authority of the home Member State in the manner laid down in this Act and other laws governing their operation.

*Application of the provisions of other laws*  
Article 6

(1) The relationships between payment service users that are consumers and payment service providers, not governed by this Act, shall be governed by the provisions of the Consumer Protection Act, with the exception of the provisions of Article 58, Article 59, subparagraphs (1) and (2), Article 60, subparagraphs (2), (3), (6) and (7) and Article 61, subparagraph (1) of the Consumer Protection Act.

(2) The relationships between payment service providers and payment service users not governed by Titles II and III of this Act shall be governed by the provisions of the law regulating civil obligations.

*Reports on payment services*  
Article 7

(1) The Croatian National Bank may prescribe the submitters of, the content, manner and deadlines for reports on payment services.

(2) The submitters of reports on payment services shall submit reports to the Croatian National Bank in accordance with the provision of paragraph (1) of this Article.

**TITLE II**  
**OBLIGATION TO PROVIDE INFORMATION TO PAYMENT SERVICE USERS**

**Chapter 1**  
**General provisions**

*Application of the provisions of this Title*  
Article 8

(1) This Title shall apply to single payment transactions executed under a single payment transaction contract, and to framework contracts and payment transactions executed under such contracts.

(2) The provisions of this Title shall apply to the relationship between a payment service user that is a consumer and that user's payment service provider. They shall also apply to the relationship between a payment service user that is not a consumer and that user's payment service provider, unless otherwise agreed between the payment service provider and the payment service user that is not a consumer.

(3) The payment service provider may grant more favourable terms to the payment service user than those provided under the provisions of this Title.

(4) The provisions of this Title shall not apply to the Croatian Bank for Reconstruction and Development when it provides payment services pursuant to Article 5, paragraph (3) of this Act.

*Charges for information*

## Article 9

- (1) The payment service provider shall not charge the payment service user for the information it is obliged to provide under the provisions of this Title.
- (2) The payment service provider and the payment service user may agree on charges for additional or more frequent information, or its transmission by means of communication other than those specified in the framework contract, if the provision of such services is requested by the payment service user.
- (3) Where the payment service provider levy the charges referred to in paragraph (2) of this Article, they shall be appropriate and in line with the payment service provider's actual costs.

## *Burden of proof* Article 10

In case of a dispute, the payment service provider shall prove that it has fulfilled its information obligations towards the payment service user pursuant to the provisions of this Title.

## *Information obligation for low-value payment instruments and electronic money* Article 11

In the case of payment instruments which, according to the provisions of the framework contract, concern only individual payment transactions that do not exceed HRK 225.00, or which either have a spending limit up to a total of HRK 1,125.00 or store funds that never exceed HRK 1,125.00:

- 1) by way of derogation from Articles 18, 19 and 23 of this Act, the payment service provider shall provide a payer only with information on the main characteristics of the payment service, including the way in which the payment instrument can be used, liability, charges levied and other relevant information needed by the payment service user to take a decision on entering into a contract, as well as an indication of where any other information laid down in Article 18 of this Act is made available to the payment service user in an easily accessible manner;
- 2) by way of derogation from Article 21 of this Act, the payment service provider and a payment service user may agree that the payment service provider shall not be required to propose changes to the framework contract in the same way as provided for in Article 19, paragraph (1) of this Act;
- 3) by way of derogation from Articles 24 and 25 of this Act, the payment service provider and the payment service user may agree that, after the execution of a payment transaction, the payment service provider shall provide or make available only a reference enabling the payment service user to identify the payment transaction, its amount and any charges; and in the case of several payment transactions of the same kind made to the same payee, the references and information on the total amount of and charges for those payment transactions; and
- 4) if a payment instrument is used anonymously, or if the payment service provider is not otherwise technically in a position to provide the information referred to in item (3) of this Article to the payment service user, the payment service provider and the payment service user may agree that the payer shall only be enabled to verify the amount of funds stored on the payment instrument after the execution of the payment transaction.

## *Information on charges or reductions* Article 12

(1) Where, for the use of a given payment instrument, the payee offers a reduction, the payee shall inform the payer thereof prior to the initiation of the payment transaction.

(2) Where, for the use of a given payment instrument, the payment service provider requests a charge, it shall inform the payment service user thereof prior to the initiation of the payment transaction.

#### *Transaction currency and currency conversion*

##### Article 13

(1) Payments shall be made in the currency agreed in accordance with law.

(2) Where a currency conversion service is offered prior to the initiation of the payment transaction and where that service is offered at the point of sale or by the payee, the party offering that service shall disclose to the payer all charges as well as the exchange rate to be used for currency conversion. The payer must give his consent to such currency conversion service.

## **Chapter 2**

### **Single payment transactions**

#### *Avoiding double information*

##### Article 14

When a payment order for a single payment transaction is transmitted to the payment service provider by a payment instrument covered by a framework contract with another payment service provider, the payment service provider shall not be obliged to provide or make available the information which is already given, or which will be given to the payment service user on the basis of a framework contract with another payment service provider.

#### *Prior general information*

##### Article 15

(1) The payment service provider shall, before the payment service user is bound by any offer or single payment transaction contract (regardless of the form or manner of concluding such a contract), provide or make available to the payment service user the following information:

1) the data relating to the payee or payer to be submitted by the payment service user for the correct execution of a payment order, and/or that the payment service user is required to submit to the payment service provider the unique identifier of the payee or payer for that purpose;

2) the maximum execution time for the payment service to be provided;

3) the total amount of charges payable by the payment service user to that user's payment service provider, and a breakdown of the amounts of such charges;

4) the actual or reference exchange rate, if the payment transaction concerned involves currency conversion; and

5) any other information referred to in Article 18 of this Act relating to the payment transaction.

(2) The provision of paragraph (1), item (3) of this Article shall apply to national payment transactions in foreign currency and to international payment transactions only unless otherwise agreed between the payment service provider and its payment service user.

(3) The provision of paragraph (1), item (3) of this Article shall apply to national and cross-border payment transactions in currencies other than the euro or the currency of a Member State and to international payment transactions only unless otherwise agreed between the payment service provider and its payment service user.

(4) The payment service provider shall make available to the payment service user the information referred to in paragraph (1) of this Article:

1) in an easily accessible manner;

2) in easily understandable words and in a clear and comprehensive form in the Croatian language and in any other language agreed between the payment service provider and payment service user; and

3) at the payment service user's request, on paper or another durable medium.

(5) If a single payment service contract has been concluded at the request of the payment service user using a means of distance communication which does not enable the payment service provider to fulfil its obligations under paragraphs (1) and (4) of this Article, the payment service provider shall fulfil these obligations immediately after the execution of the payment transaction.

(6) The obligations referred to in paragraphs (1) and (4) of this Article may also be fulfilled by supplying a copy of a draft single payment service contract or a draft payment order including the information referred to in this Article.

*Information for the payer after receipt of the payment order*  
Article 16

(1) Immediately after receipt of a payment order, the payer's payment service provider shall provide or make available to the payer, in the manner referred to in Article 15, paragraph (4) of this Act, the following information:

1) a reference enabling the payer to identify the payment transaction and, where applicable, any information relating to the payee;

2) the amount of the payment transaction in the currency used in the payment order;

3) the total amount of charges for the payment transaction payable by the payer and a breakdown of the amounts of such charges;

4) where the payment transaction involves currency conversion, the exchange rate used in the payment transaction by the payer's payment service provider, or a reference to the exchange rate used, and the amount of the payment transaction after the currency conversion; and

5) the date of receipt of the payment order.

(2) The provision of paragraph (1), item (3) of this Article shall apply to national payment transactions in foreign currency and to international payment transactions only unless otherwise agreed between the payment service provider and the payer.

(3) The provision of paragraph (1) item (3) of this Article shall apply to national and cross-border payment transactions in currencies other than the euro or the currency of a Member State and to international payment transactions only unless otherwise agreed between the payment service provider and the payer.

*Information for a payee after the execution of a payment transaction*  
Article 17

Immediately after the execution of a payment transaction, the payee's payment service provider shall provide or make available to the payee, in the manner referred to in Article 15, paragraph (4) of this Act, the following information:

- 1) a reference enabling the payee to identify the payment transaction, any information transferred with the payment transaction and information relating to the payer according to special regulations;
- 2) the amount of the payment transaction in the currency in which the funds have been made available to the payee;
- 3) the total amount of charges for the payment transaction payable by the payee and a breakdown of the amounts of such charges;
- 4) where the payment transaction involves currency conversion, the exchange rate used in the payment transaction by the payee's payment service provider and the amount of the payment transaction before the currency conversion; and
- 5) the credit value date.

**Chapter 3**  
**Framework contracts**

*Prior information*  
Article 18

(1) The payment service provider shall, before the payment service user is bound by any offer or framework contract, provide the payment service user with the following information:

- 1) on the payment service provider, in particular:
  - a) the firm or name of the payment service provider and the address of its head office;
  - b) where the service is provided through a branch or an agent in the Republic of Croatia, the firm or name and the address of that branch or agent;
  - c) any other address, including electronic mail address, for communication with the payment service provider; and
  - d) the particulars of the authority competent for the oversight or supervision of the payment service provider's operation and of the register referred to in Article 116 of this Act, or of any other relevant public register of authorisation of the payment service provider and the registration number or, where such registration number does not exist, of another adequate identifier of the payment service provider;

2) on the use of the payment service, in particular:

- a) a description of the main characteristics of the payment service to be provided;
- b) the data relating to the payee or payer to be provided by the payment service user for the correct execution of a payment order and/or that the payment service user is required to provide the unique identifier of the payee or payer for that purpose;
- c) the form and manner of giving consent to execute a payment transaction and withdrawal of such consent in accordance with Articles 29 and 41 of this Act;
- d) a reference to the point in time of receipt of a payment order pursuant to Article 39 of this Act and the cut-off time, if established by the payment service provider;
- e) the maximum execution time for the payment service to be provided; and
- f) where applicable, the spending limits for payment transactions executed through a specific payment instrument in accordance with Article 30, paragraph (1) of this Act;

3) on charges, interest and exchange rates, in particular:

- a) all charges payable by the payment service user to the payment service provider and a breakdown of the amounts of such charges;
- b) where interest and/or exchange rates are used, the interest and/or exchange rates to be applied or, if reference interest and/or exchange rates are to be applied, the method of calculating the actual interest, and the relevant date and index or base for determining such reference interest or exchange rate; and
- c) where applicable, the immediate application of changes in reference interest or exchange rate, and the way of notifying the payment service user of the changes in exchange and interest rates in accordance with Article 21, paragraphs (2), (3) and (4) of this Act;

4) on communication, in particular:

- a) where applicable, the means of communication, including the technical requirements relating to the payment service user's equipment for the transmission of information or notifications under this Act;
- b) the manner in and frequency with which information is to be provided or made available to the payment service user in accordance with the provisions of this Act, including information on the right of the payment service user referred to in Article 24, paragraph (3) and Article 25, paragraph (3) of this Act;
- c) the language or languages in which the framework contract will be concluded and communication during this contractual relationship undertaken; and
- d) the payment service user's right referred to in Article 20 of this Act;

5) on safeguards and corrective measures, in particular:

- a) where applicable, steps that the payment service user is to take in order to keep safe a payment instrument, and the manner of notifying the payment service provider, in accordance with Article 31 of this Act;
- b) where applicable, the conditions under which the payment service provider reserves the right to block a payment instrument in accordance with Article 30 of this Act;



c) the liability of the payer in accordance with Article 36 of this Act, including information on the relevant amount;

d) how and within what period of time the payment service user is to notify the payment service provider of any unauthorised or incorrectly executed payment transaction in accordance with Articles 33 and 51 of this Act, as well as the payment service provider's liability for unauthorised payment transactions in accordance with Article 35 of this Act;

e) the liability of the payment service provider for the execution of payment transactions in accordance with Articles 47 and 48 of this Act; and

f) the conditions for refund in accordance with Articles 37 and 38 of this Act;

6) on changes in and termination of the framework contract, in particular:

a) where applicable in accordance with Article 21 paragraph (1) of this Act, information that the payment service user will be deemed to have accepted changes in the conditions of the framework contract, unless the payment service user notifies the payment service provider of not accepting them before the proposed date of their entry into force;

b) the duration of the framework contract; and

c) the right of the payment service user to terminate the framework contract and other conditions for its termination in accordance with Article 21 paragraph (1) and Article 22 of this Act;

7) on redress, in particular:

a) where applicable, any contractual clause on the law applicable to the framework contract and/or on the competent courts for the settlement of disputes arising from the framework contract;

b) complaint and conciliation procedures available to the payment service user in accordance with Title III, Chapter 5 of this Act.

(2) The provision of paragraph (1), item (3) indent (a) of this Article shall apply to national payment transactions in foreign currency and to international payment transactions only unless otherwise agreed between the payment service provider and its payment service user.

(3) The provision of paragraph (1), item (3) indent (a) of this Article shall apply to national and cross-border payment transactions in currencies other than the euro or the currency of a Member State and to international payment transactions only unless otherwise agreed between the payment service provider and its payment service user

*Manner of providing prior information and conditions*  
Article 19

(1) The payment service provider shall provide the information referred to in Article 18 of this Act:

1) on paper or on another durable medium;

2) sufficiently in advance, so that the payment service user has enough time to take a decision on entering into a contract; and

3) in easily understandable words, and in a clear and comprehensive form in the Croatian language and in any other language agreed between the payment service provider and payment service user.

(2) If the framework contract has been concluded at the request of the payment service user using a means of distance communication which does not enable the payment service provider to fulfil its obligations under Article 18 of this Act and paragraph (1) of this Article, the payment service provider shall fulfil these obligations immediately after the conclusion of the framework contract.

(3) The payment service provider may also fulfil the obligations referred to in Article 18 of this Act and paragraph (1) of this Article by supplying a copy of the draft framework contract including the information referred to in Article 18 of this Act.

*Accessibility of information and terms of the framework contract*  
Article 20

At any time during the contractual relationship, the payment service provider shall, without undue delay, provide the payment service user, on request, with the contractual terms of the framework contract and information referred to in Article 18 of this Act on paper or on another durable medium.

*Changes in the framework contract*  
Article 21

(1) The payment service provider shall propose any change in the framework contract and the information referred to in Article 18 of this Act in the same way as provided for in Article 19, paragraph (1) of this Act, and at least two months prior to the proposed date of application of such changes. The payment service provider and the payment service user may agree that the payment service user is to be deemed to have accepted these changes if the payment service user does not notify the payment service provider of not accepting them prior to the proposed date of their entry into force. In this case, the payment service provider shall appropriately notify the payment service user whenever there is a change in the framework contract and shall specify that the payment service user has the right to terminate the framework contract without charge prior to the proposed date of entry into force of the changes.

(2) The payment service provider and the payment service user may agree that changes in the interest or exchange rates based on the reference interest or exchange rates may be applied immediately and without prior notice.

(3) In the case referred to in paragraph (2) of this Article, the payment service provider shall inform the payment service user of any change in the interest rate at the earliest opportunity in the same way as provided for in Article 19, paragraph (1) of this Act, unless the parties have agreed on a specific frequency or different manner in which such notice is to be provided or made available to the payment service user.

(4) Changes in interest or exchange rates which are more favourable to the payment service user may be applied without notice to the payment service user.

(5) Changes in interest or exchange rates used in the execution of payment transactions shall be implemented and calculated in a manner that does not discriminate against payment service users.

*Termination of the framework contract*  
Article 22

- (1) The payment service user may terminate the framework contract at any time, regardless of whether it has been concluded for a fixed or indefinite period, unless a period of notice has been agreed.
- (2) The period of notice referred to in paragraph (1) of this Article may not exceed one month. Where a longer period of notice has been agreed, the one-month period of notice shall apply.
- (3) The payment service provider may levy no charge on the payment service user for the termination of a framework contract concluded for a fixed period exceeding 12 months or for an indefinite period, provided that the contract is terminated after the expiry of 12 months.
- (4) Where the payment service provider has the right to levy a charge for the termination of a contract, the charge must be appropriate and in line with the payment service provider's costs.
- (5) It may be agreed in the framework contract that the payment service provider has the right to terminate the framework contract concluded for an indefinite period by giving at least two months' notice, provided that the notice is given in the same way as provided for in Article 19, paragraph (1) of this Act.
- (6) Where the payment service user is charged for payment services on a periodic basis, in case of termination of the framework contract the payment service provider may only levy a charge proportionate to the duration of the contract.
- (7) Where the payment service user has paid the charge in advance, the payment service provider shall reimburse the part of the charge proportionate to the period between the termination of the contract and the end of the period for which the charge has been paid.

*Information before the execution of an individual payment transaction*  
Article 23

(1) In the case of an individual payment transaction under a framework contract initiated directly by the payer, the payment service provider shall, at the payer's request for this payment transaction, provide the following information:

- 1) the maximum execution time; and
- 2) any charges payable by the payer and a breakdown of the amounts of each charge.

(2) The provision of paragraph (1), item (2) of this Article shall apply to national payment transactions in foreign currency and to international payment transactions only unless otherwise agreed between the payment service provider and the payer.

(3) The provision of paragraph (1), item (2) of this Article shall apply to national and cross-border payment transactions in currencies other than the euro or the currency of a Member State and to international payment transactions only unless otherwise agreed between the payment service provider and the payer.

*Information for the payer on an individual payment transaction*  
Article 24

(1) After the amount of an individual payment transaction is debited from the payer's payment account or, where the payer does not use a payment account for that payment transaction, after the receipt of the payment order, the payment service provider shall provide the payer without undue delay, in the same way as provided for in Article 19, paragraph (1) of this Act, with the following information:

- 1) a reference enabling the payer to identify each payment transaction and, where appropriate, information relating to the payee;

- 2) the amount of the payment transaction in the currency in which the payer's payment account is debited or in the currency used for the payment order;
- 3) the total amount of charges for the payment transaction and a breakdown of the amounts of such charges, as well as the interest payable by the payer;
- 4) where the payment transaction involves currency conversion, the exchange rate used and the amount of the payment transaction after the currency conversion; and
- 5) the debit value date or the date of receipt of the payment order.

(2) It may be agreed in the framework contract that the information referred to in paragraph (1) of this Article is to be provided or made available periodically, at least once a month and in an agreed manner which allows the payer to store and reproduce information unchanged.

(3) The payment service provider shall, at the payer's request, provide the information referred to in paragraph (1) of this Article on paper once a month free of charge for the payer.

*Information for the payee on individual payment transactions*  
Article 25

(1) After the execution of an individual payment transaction, a payee's payment service provider shall provide the payee, without undue delay, in the same way as provided for in Article 19, paragraph (1) of this Act with the following information:

- 1) a reference enabling the payee to identify the payment transaction, any information transferred with the payment transaction and information relating to the payer according to special regulations;
- 2) the amount of the payment transaction in the currency in which the payee's payment account is credited or in which the funds have been made available to the payee;
- 3) the total amount of charges for the payment transaction and a breakdown of the amounts of such charges, as well as the interest payable by the payee;
- 4) where the payment transaction involves currency conversion, the exchange rate used in the payment transaction by the payee's payment service provider, and the amount of the payment transaction before the currency conversion; and
- 5) the credit value date.

(2) It may be agreed in the framework contract that the information referred to in paragraph (1) of this Article is to be provided or made available periodically, at least once a month and in an agreed manner which allows a payee to store and reproduce information unchanged.

(3) The payment service provider shall, at the payee's request, provide the information referred to in paragraph (1) of this Article on paper once a month free of charge for the payee.

**TITLE III**  
**RIGHTS AND OBLIGATIONS IN RELATION TO THE PROVISION**  
**AND USE OF PAYMENT SERVICES**

## **Chapter 1**

### **Common provisions**

#### *General provisions*

##### Article 26

- (1) This Title governs the rights and obligations of payment service providers and payment service users.
- (2) The payment service provider may grant more favourable terms to the payment service user than those provided under this Title.
- (3) The provisions of this Title shall not apply to the Croatian Bank for Reconstruction and Development when it provides payment services pursuant to Article 5, paragraph (3) of this Act.

#### *Charges*

##### Article 27

- (1) The payment service provider may charge the payment service user for the fulfilment of its obligations under this Title only in the cases referred to in Article 40, paragraph (3), Article 41, paragraph (5) and Article 48, paragraph (4) of this Act, if such charges have been agreed; and if they are appropriate and in line with the payment service provider's actual costs.
- (2) The payment service provider and the payment service user that is not a consumer may agree by contract on the payment of charges other than that provided for in paragraph (1) of this Article.
- (3) In the case of a national payment transaction in the official currency of the Republic of Croatia which does not involve any currency conversion, the payee's payment service provider may levy charges for the execution of that payment transaction only on the payee, and the payer's payment service provider may levy charges for the execution of that payment transaction only on the payer.
- (4) The provision of paragraph (3) of this Article shall also apply to cross-border payment transactions in the euro or the currency of a Member State which do not involve any currency conversion.
- (5) The payment service provider may not prevent the payee from offering the payer a reduction for the use of a given payment instrument.
- (6) The payee may not request from the payer any charges for the use of a given payment instrument.

#### *Derogations for low-value payment instruments and electronic money*

##### Article 28

(1) In the case of payment instruments which, according to the framework contract, solely concern individual payment transactions not exceeding HRK 225.00, or which either have a spending limit up to a total of HRK 1,125.00 or store funds which do not exceed HRK 1,125.00 at any time, the payment service providers may agree with their payment service users that:

- 1) Article 31, paragraph (1) item (2), Article 32, paragraph (1) items (3), (4) and (5), as well as Article 36, paragraphs (2) and (3) of this Act shall not apply if the payment instrument concerned does not allow its blocking or the prevention of its further use;

2) Articles 34 and 35, and Article 36, paragraph (1) of this Act shall not apply if the payment instrument is used anonymously, or if the payment service provider is not in a position, for other reasons which are intrinsic to that payment instrument, to prove that a payment transaction was authorised;

3) by way of derogation from Article 40, paragraph (1) of this Act, the payment service provider is not required to notify the payment service user of the refusal of a payment order, if the non-execution is apparent from the context;

4) by way of derogation from Article 41 of this Act, the payer may not revoke a payment order after transmitting the payment order or giving consent to execute the payment transaction to the payee; and

5) by way of derogation from Article 43 of this Act, other execution periods shall apply.

(2) Articles 35 and 36 of this Act shall not apply to electronic money within the meaning of the provisions of the law governing electronic money institutions, if the payer's payment service provider does not have the ability to freeze the payment account or block the payment instrument.

## **Chapter 2** **Authorisation of payment transactions**

### *Consent and withdrawal of consent* Article 29

(1) A payment transaction shall be deemed to be authorised:

1) if the payer has given consent to execute the payment transaction; or

2) if the payer has given consent to execute a series of payment transactions of which that payment transaction is a part.

(2) The consent referred to in paragraph (1) of this Article shall be given in the form agreed between the payer and the payer's payment service provider.

(3) If consent to execute a payment transaction has not been given in the form agreed between the payer and the payer's payment service provider, the payment transaction shall be deemed to be unauthorised.

(4) Consent to execute a payment transaction may also be given before or, if so agreed between the payer and the payer's payment service provider, after the execution of the payment transaction.

(5) The manner of giving consent shall be governed by a contract between the payer and the payer's payment service provider.

(6) The payer may withdraw the consent given no later than the point in time of irrevocability of the payment order referred to in Article 41 of this Act.

(7) The payer may withdraw consent to execute a series of payment transactions at any time, with the effect that any future payment transaction shall be deemed to be unauthorised.

(8) The payment service provider and the payer that is not a consumer may agree by a contract on withdrawing consent in a different manner than that provided for in paragraphs (6) and (7) of this Article.

(9) The form and manner of the withdrawal of consent to execute a payment transaction shall be governed by a contract between the payer and the payer's payment service provider.

*Limits on the use of payment instruments*  
Article 30

- (1) The payer and the payer's payment service provider may agree on spending limits for payment transactions executed through a payment instrument used for the purposes of giving consent.
- (2) It may be agreed in the framework contract that the payment service provider has the right to block a payment instrument for reasons related to:
- 1) the security of the payment instrument;
  - 2) the suspicion of unauthorised or fraudulent use of the payment instrument; or
  - 3) in the case of a payment instrument with a credit line, a significantly increased risk that the payer may be unable to fulfil the liability to pay.
- (3) The payment service provider shall inform the payer, in the manner agreed in the contract, of the intention to block the payment instrument and the reasons for it before the payment instrument is blocked.
- (4) Where the payment service provider is unable to inform the payer in accordance with paragraph (3) of this Article, it shall do so immediately after the payment instrument is blocked.
- (5) The provisions of paragraphs (3) and (4) of this Article shall not apply if giving such information is contrary to objectively justified security reasons or contrary to law.
- (6) The payment service provider shall unblock the payment instrument or replace it with a new one once the reasons for blocking this payment instrument no longer exist.

*Obligations of the payment service user in relation to payment instruments*  
Article 31

- (1) The payment service user entitled to use a payment instrument shall:
- 1) use the payment instrument in accordance with the terms of a framework contract governing the issue and use of that payment instrument; and
  - 2) notify the payment service provider, or the entity specified by the payment service provider, without undue delay of becoming aware of the loss, theft or misappropriation of the payment instrument or of its unauthorised use.
- (2) In the case referred to in paragraph (1), item (1) of this Article, the payment service user shall, immediately after receipt of the payment instrument, take all reasonable steps to keep safe the personalised security features of that payment instrument.

*Obligations of the payment service provider in relation to payment instruments*  
Article 32

- (1) The payment service provider issuing a payment instrument shall:
- 1) ensure that the personalised security features of the payment instrument are not accessible to parties other than the payment service user entitled to use that payment instrument;

2) refrain from sending an unsolicited payment instrument, except where a payment instrument already given to the payment service user is to be replaced;

3) ensure that appropriate means are available at all times to enable the receipt of the notification referred to in Article 31, paragraph (1), item (2) of this Act, or the request for unblocking the payment instrument referred to in Article 30, paragraph (6) of this Act;

4) provide the payment service user, upon request submitted within 18 months of the notification referred to in Article 31, paragraph (1), item (2) of this Act, with the appropriate means to prove that it made such notification; and

5) prevent any use of the payment instrument once the notification referred to in Article 31, paragraph (1), item (2) of this Act has been made.

(2) The payment service provider shall bear the risk of sending a payment instrument or any of its personalised security features to the payment service user.

#### *Notification of unauthorised payment transactions*

##### Article 33

(1) If the payment service user fails to notify that user's payment service provider without undue delay on becoming aware of any unauthorised payment transaction, and no later than 13 months of the debit date, the payment service user shall lose the right referred to in this chapter pertaining to the payment service user in the case of executing an unauthorised payment transaction.

(2) The time limit of 13 months referred to in paragraph (1) of this Article shall not apply if the payment service provider has failed to provide or make available to the payment service user the information on the executed payment transaction in accordance with Title II of this Act.

(3) The payment service provider and the payment service user that is not a consumer may agree by contract on a time limit other than that provided for in paragraph 1 of this Article.

#### *Evidence on authentication and execution of payment transactions*

##### Article 34

(1) Where the payment service user denies having authorised an executed payment transaction or claims that the payment transaction was not correctly executed, that user's payment service provider shall prove that the payment transaction was authenticated, accurately recorded and entered in the accounts, and that its execution was not affected by a technical breakdown or some other deficiency.

(2) In terms of paragraph (1) of this Article, authentication means a procedure which allows the payment service provider to verify the use of a specific payment instrument, including its personalised security features.

(3) Where the payment service user denies having authorised an executed payment transaction, the use of a payment instrument recorded by the payment service provider shall in itself not necessarily be sufficient to prove either that the payer has authorised that payment transaction, or that the payer acted fraudulently or failed, with intent or gross negligence, to fulfil one or more of the obligations referred to in Article 31 of this Act.

(4) The payment service provider and the payment service user that is not a consumer may agree by contract to regulate the burden of proof in a different manner than that provided for in paragraphs 1 and 3 of this Article.



*Payment service provider's liability for unauthorised payment transactions*  
Article 35

- (1) Where an unauthorised payment transaction has been executed, the payer's payment service provider shall refund to the payer immediately the amount of the unauthorised payment transaction, and, where the unauthorised payment transaction has been executed from the payment account, restore the debited payment account to the state in which it would have been had the unauthorised payment transaction not taken place.
- (2) The payment service provider shall also refund to the payer all the charges levied for the executed unauthorised payment transaction and pay the related interest.
- (3) In the case of the execution of an unauthorised payment transaction, the payer shall, in addition to the rights referred to in paragraphs (1) and (2) of this Article, be entitled to the difference up to the full amount of the damage in accordance with general rules governing liability for damage.

*Payer's liability for unauthorised payment transactions*  
Article 36

- (1) By way of derogation from Article 35 of this Act, the payer shall be liable for the execution of any unauthorised payment transaction:
  - 1) up to a total of HRK 1,125.00, if such execution resulted from the use of a lost or stolen payment instrument, or from the misappropriation of the payment instrument, where the payer has failed to keep safe the personalised security features of the payment instrument; or
  - 2) in its full amount, if the payer has acted fraudulently or failed, with intent or gross negligence, to fulfil one or more of the obligations referred to in Article 31 of this Act.
- (2) By way of derogation from paragraph (1) of this Article, where the execution of the payment transaction resulted from the use of a lost or stolen payment instrument, or from its misappropriation, the payer shall not be liable for unauthorised payment transactions:
  - 1) which have been executed after the payer has notified the payment service provider in accordance with Article 31, paragraph (1) item (2) of this Act; or
  - 2) if the payment service provider has not provided appropriate means for the notification at all times of a lost, stolen or misappropriated payment instrument in accordance with Article 32, paragraph (1), item (3) of this Act.
- (3) The provision of paragraph (2) of this Article shall not apply if the payer has acted fraudulently.
- (4) The payment service provider and the payer that is not a consumer may agree by contract to regulate the payer's liability in a different manner than that provided for in this Article.

*Refunds for authorised payment transactions initiated by or through a payee*  
Article 37

- (1) The payer shall be entitled to a refund from the payer's payment service provider of the full amount of an authorised payment transaction initiated by or through a payee which has already been executed, if the following conditions are met:

1) consent to execute a payment transaction, when given, did not specify the exact amount of the payment transaction; and

2) the amount of the payment transaction exceeded the amount the payer could reasonably have expected, taking into account the payer's previous spending pattern, the terms of the framework contract and relevant circumstances of the case.

(2) The payer may not invoke the right referred to in paragraph (1) of this Article if the realisation of the condition referred to in paragraph (1), item (2) of this Article was due to the application of the reference exchange rate agreed with the payer's payment service provider.

(3) For direct debits, the payer and the payer's payment service provider may agree that the payer is entitled to a refund even though the conditions for the refund referred to in paragraph (1) of this Article are not met.

(4) The payer and the payer's payment service provider may agree that the payer has no right to a refund if the following conditions are met:

1) the payer has given consent to execute the payment transaction directly to the payer's payment service provider; and

2) the payment service provider or the payee has provided or made available to the payer in an agreed manner the information on the future payment transaction at least four weeks before the due date.

(5) The payment service provider and the payer that is not a consumer may agree by contract to regulate the entitlement to a refund in a different manner than that provided for in this Article.

*Requests for refunds for authorised payment transactions  
initiated by or through a payee*  
Article 38

(1) The payer shall lose the entitlement to a refund pursuant to Article 37 of this Act, if the payer fails to submit a request for a refund to the payment service provider within eight weeks of the debit date.

(2) The payment service provider may require the payer to provide information necessary to establish the fulfilment of the conditions referred to in Article 37, paragraph (1) of this Act.

(3) Within ten business days of receiving a request for a refund, the payment service provider shall:

1) refund to the payer the full amount of the payment transaction; or

2) provide the payer with justification for refusing the refund, obligatorily indicating the authorities competent for out-of-court complaint and conciliation procedures to which the payer may, in the case of not accepting the justification provided, submit a complaint or a conciliation proposal in accordance with Chapter 5 of this Title.

(4) The payment service provider may not refuse a refund in the case referred to in Article 37, paragraph (3) of this Act.

(5) The payment service provider and the payer that is not a consumer may agree by contract to regulate their mutual relationship in a different manner than that provided for in this Article.

### **Chapter 3** **Execution of payment transactions**

#### **Section 1** **Payment orders and amounts transferred**

##### *Receipt of payment orders* Article 39

(1) The point in time of receipt of a payment order is the time when the payer's payment service provider receives the payment order transmitted directly by the payer or indirectly by or through the payee. If the point in time of receipt of a payment order is not on a business day for the payer's payment service provider, the payment order shall be deemed to have been received on the next business day.

(2) The payment service provider may establish a cut-off time near the end of a business day for the receipt of payment orders. If the payer's payment service provider receives a payment order after the established cut-off time, the payment order shall be deemed to have been received on the next business day.

(3) The payment service user initiating a payment order and that user's payment service provider may agree that the execution of the payment order shall commence:

1) on a specific day;

2) at the end of a certain period; or

3) on the day on which the payer has made the necessary funds available to the payer's payment service provider.

(4) In the case referred to in paragraph (3) of this Article, the point in time of receipt of the payment order shall be deemed to be the agreed day to commence the execution of the payment order. Where the agreed day is not a business day for the payment service provider, the point in time of receipt of the payment order shall be deemed to be the next business day.

##### *Refusal of payment orders* Article 40

(1) Where the payment service provider refuses to execute a payment order, it shall, unless otherwise provided for by other regulations, notify the payment service user of:

1) the refusal;

2) the reasons for refusal; and

3) the procedure for correcting any mistakes that led to the refusal.

(2) The payment service provider shall provide or make available the notification referred to in paragraph (1) of this Article in an agreed manner at the earliest opportunity, and in any case, within the time limits referred to in Article 43 of this Act.

(3) It may be agreed in the framework contract that the payment service provider may charge for such a notification if the refusal of the payment order is objectively justified.

(4) Where all the terms set out in the framework contract between the payer and the payer's payment service provider are met, the payer's payment service provider may not refuse to execute an authorised payment order, irrespective of whether the payment order is initiated by the payer or by or through the payee, unless otherwise provided for by other regulations.

(5) A payment order whose execution has been refused shall be deemed not to have been received.

#### *Irrevocability of payment orders* Article 41

(1) The payment service user may not revoke a payment order once it has been received by the payer's payment service provider, except in the cases governed by this Article.

(2) Where a payment transaction is initiated by or through the payee, the payer may not revoke the payment order after transmitting the payment order or giving consent to execute the payment transaction to the payee.

(3) By way of derogation from paragraph (2) of this Article, in the case of a direct debit, the payer may revoke the payment order at the latest by the end of the business day preceding the agreed debit date.

(4) In the case referred to in Article 39, paragraph (3) of this Act, except for payment transactions initiated through the payee, the payment service user may revoke a payment order at the latest by the end of the business day preceding the agreed day of commencement of the payment order execution.

(5) After the time limits specified in paragraphs (1) to (4) of this Article, a payment order may be revoked only if so agreed between the payment service user and that user's payment service provider. In the cases referred to in paragraphs 2 and 3 of this Article, the revocation of a payment order shall also require the payee's consent. It may be agreed in the framework contract that the payment service provider may charge for the revocation of payment orders.

(6) The provisions of this Article shall apply to international payment transactions only unless otherwise agreed between the payment service provider and its payment service user.

(7) The provisions of this Article shall apply to cross-border payment transactions in currencies other than the euro or the currency of a Member State only unless otherwise agreed between the payment service provider and its payment service user.

(8) The payment service provider and the payment service user that is not a consumer may agree by contract to regulate the irrevocability of payment orders in a different manner than that provided for under the provisions of this Article.

#### *Amounts transferred and received* Article 42

(1) The payer's payment service provider, the payee's payment service provider and any intermediaries of the payment service providers shall transfer the full amount of a payment transaction without deducting any charges.

(2) By way of derogation from paragraph (1) of this Article, the payee and the payee's payment service provider may agree that the payment service provider deduct its charges from the amount transferred before

crediting it to the payee. In such a case, the full amount of the executed payment transaction and charges levied shall be separated by the payment service provider in the information given to the payee.

(3) The provisions of this Article shall apply to national payment transactions in foreign currency and to international payment transactions only unless otherwise agreed between the payment service provider and its payment service user.

(4) The provisions of this Article shall apply to national and cross-border payment transactions in currencies other than the euro or the currency of a Member State and to international payment transactions only unless otherwise agreed between the payment service provider and its payment service user.

## **Section 2**

### **Execution time and value date**

#### *Execution of payments between payment service providers*

#### Article 43

(1) The payer's payment service provider shall ensure that, in the case of national payment transactions in the official currency of the Republic of Croatia, the account of the payee's payment service provider is credited with the amount of the payment transaction at the latest by the end of the next business day after the point in time of receipt of the payment order referred to in Article 39 of this Act.

(2) By way of derogation from paragraph (1) of this Article, in the case of national payment transactions in the official currency of the Republic of Croatia, where the payer's payment service provider and the payee's payment service provider are the persons referred to in Article 5, paragraph (1), items (1), (4), (6) and (9) of this Act, the payer's payment service provider shall ensure that the account of the payee's payment service provider is credited with the amount of the payment transaction on the same business day when the payment order is received pursuant to Article 39 of this Act.

(3) In the case of national payment transactions in the currency of a third country, the payer's payment service provider shall ensure that the account of the payee's payment service provider is credited with the amount of the payment transaction within the agreed time limits, and at the latest by the end of the fourth business day after the point in time of receipt of the payment order referred to in Article 39 of this Act.

(4) In the case of international payment transactions, the payer's payment service provider shall ensure that the account of a foreign payment service provider is credited at the latest by the end of the third business day after the point in time of receipt of the payment order referred to in Article 39 of this Act.

(5) In the case of cross-border payment transactions in the euro, including the transactions in the euro which involve conversion from the kuna to the euro, as well as in the case of national payment transactions in the euro until the accession of the Republic of Croatia to the European Monetary Union, and national payment transactions which involve a single conversion between the kuna and the euro, the payer's payment service provider shall ensure that the account of the payee's payment service provider is credited with the amount of the payment transaction at the latest by the end of the next business day after the point in time of receipt of the payment order referred to in Article 39 of this Act.

(6) By way of derogation from paragraph (5) of this Article, until 1 January 2012, the payer and the payer's payment service provider may, for the transactions referred to in paragraph (5) of this Article, agree on the extension of the time limit referred to in paragraph (5) of this Article, but at the latest by the end of the third business day after the point in time of receipt of the payment order referred to in Article 39 of this Act.

(7) The time limit referred to in paragraph (5) of this Article may be extended by one business day for paper-initiated payment transactions.

(8) In the case of cross-border payment transactions in the currencies of Member States other than the euro, and national payment transactions in the currencies of Member States other than the euro or the official currency of the Republic of Croatia, the payer's payment service provider shall ensure that the account of the payee's payment service provider is credited with the amount of the payment transaction within the agreed time limits, but at the latest by the end of the fourth business day after the point in time of receipt of the payment order referred to in Article 39 of this Act.

(9) In the case of cross-border payment transactions in a currency other than the euro or the currencies of Member States, the payer's payment service provider shall ensure that the account of the payment service provider in another country is credited at the latest by the end of the third business day after the point in time of receipt of the payment order referred to in Article 39 of this Act.

(10) The time limits for the execution of payment transactions referred to in this Article shall not apply to payment transactions initiated by or through the payee.

(11) The payee's payment service provider shall transmit a payment order initiated by or through the payee to the payer's payment service provider within the time limits agreed between the payee and the payee's payment service provider, and, in the case of a direct debit, within the time limits enabling settlement on the agreed due date of the payer's liability.

*Execution of payments to the payee*  
Article 44

After receiving the amount of a payment transaction, the payee's payment service provider shall credit the payee's payment account with the value date and make the funds available to the payee or, where the payee does not have a payment account, make the funds available to the payee, in accordance with Article 46 of this Act.

*Cash placed on a payment account*  
Article 45

(1) Where the payment service user that is a consumer places cash on that user's payment account in the currency of that payment account, the payment service provider operating that account shall make the funds available immediately after the point in time of receipt of the cash and shall credit that account with the value date of the day of the point in time of the cash receipt.

(2) Where the payment service user that is not a consumer places cash on that user's payment account in the currency of that payment account, the payment service provider shall make the funds available at the latest on the next business day after the point in time of receipt of the cash and shall credit that account with the value date of that day.

(3) Article 39, paragraphs (1) and (2) of this Act shall apply *mutatis mutandis* to the point in time of receipt referred to in paragraphs (1) and (2) of this Article.

*Value date and availability of funds*  
Article 46

(1) The credit value date for the payee's payment account may be no later than the business day on which the amount of the payment transaction is credited to the account of the payee's payment service provider.

(2) The payee's payment service provider shall make the amount of the payment transaction available to the payee immediately after that amount is credited to the account of the payee's payment service provider.

(3) The provisions of paragraphs (1) and (2) of this Article shall apply to national payment transactions in kuna.

(4) The provisions of paragraphs (1) and (2) of this Article shall also apply to national, cross-border and international payment transactions in euro or another currency of a Member State.

(5) For payment transactions not covered by paragraphs (3) and (4) of this Article, the credit value date for the payee's payment account may be no later than the business day on which the payee's payment service provider received the notification of crediting its account.

(6) In the case referred to in paragraph (5) of this Article, the payee's payment service provider shall make available the amount of the payment transaction to the payee immediately after receiving the notification of crediting its account.

(7) The debit value date for the payer's payment account may be no earlier than the time when the amount of the payment transaction is debited from that account.

### **Section 3** **Payment service provider's liability for the non-execution and incorrect execution of payment transactions**

#### *Payment service provider's liability for the execution of a payment transaction initiated by the payer* Article 47

(1) The payer's payment service provider shall be liable to the payer for the execution of a payment transaction initiated by the payer, except in the cases referred to in paragraph (3) of this Article, Article 49, paragraphs (2) and (5) and Article 53 of this Act.

(2) The payer's payment service provider that is liable for the execution of a payment transaction shall, at the payer's request for the refund of the amount of a non-executed or an incorrectly executed payment transaction, without undue delay refund to the payer the amount of that payment transaction and, if the payment is made from a payment account, restore that payment account to the state in which it would have been had the payment transaction not taken place.

(3) Where the payer's payment service provider proves that the payee's payment service provider received the amount of the payment transaction in accordance with Article 43 of this Act and with the payment order, the payee's payment service provider shall be liable to the payee for the execution of the payment transaction.

(4) In the case referred to in paragraph (3) of this Article, the payee's payment service provider shall immediately make available the amount of the payment transaction to the payee and, if the payment is made to the payee's payment account, credit that account with the adequate amount.

(5) In the case of a non-executed or incorrectly executed payment transaction initiated by the payer, the payer's payment service provider shall, at the payer's request and regardless of its liability, take immediate steps to trace the funds and notify the payer of the outcome.

(6) The payer's payment service provider that is liable for the non-execution or incorrect execution of a payment transaction shall also be liable to its user for any charges levied and any interest belonging to the user for the non-executed or incorrectly executed payment transaction.

(7) The provisions of this Article shall apply to national payment transactions in foreign currency and to international payment transactions only unless otherwise agreed between the payment service provider and the payer.

(8) The provisions of this Article shall apply to national and cross-border payment transactions in currencies other than the euro or the currency of a Member State and to international payment transactions only unless otherwise agreed between the payment service provider and the payer.

(9) The payment service provider and the payer that is not a consumer may agree by contract to regulate the liability otherwise than provided for in this Article.

*Payment service provider's liability for the execution of a payment transaction  
initiated by or through the payee*

Article 48

(1) In the case of a payment transaction initiated by or through the payee, except in the cases referred to in paragraph (3) of this Article, Article 49, paragraphs (2) and (5) and Article 53 of this Act, the payee's payment service provider shall be liable to the payee:

1) for the correct transmission of the payment order to the payer's payment service provider in accordance with Article 43, paragraph (11) of this Act; and

2) for proceeding in accordance with Article 46 of this Act.

(2) Where the payee's payment service provider is liable under paragraph (1), item (1) of this Article, it shall immediately re-transmit the payment order in question to the payer's payment service provider.

(3) Where the payee's payment service provider proves that it has correctly transmitted the payee's payment order to the payer's payment service provider and that it has proceeded in accordance with Article 46 of this Act, the payer's payment service provider shall be liable to the payer for the execution of the payment transaction. In that case the payer's payment service provider shall, at the payer's request for the refund of the amount of a non-executed or incorrectly executed payment transaction, without undue delay refund to the payer the amount of that payment transaction and, if the payment is made from a payment account, restore that payment account to the state in which it would have been had the payment transaction not taken place.

(4) In the case of a non-executed or an incorrectly executed payment transaction initiated by or through the payee, the payee's payment service provider shall, regardless of its liability, at the payee's request, take immediate steps to trace the funds and notify the payee of the outcome.

(5) The payment service provider that is liable for the non-execution or incorrect execution of a payment transaction shall also be liable to its user for any charges that it has levied, and any interest belonging to the user for the non-executed or incorrectly executed payment transaction.

(6) The provisions of this Article shall apply to national payment transactions in foreign currency and to international payment transactions only unless otherwise agreed between the payment service provider and the payee.

(7) The provisions of this Article shall apply to national and cross-border payment transactions in currencies other than the euro or the currency of a Member State and to international payment transactions, only unless otherwise agreed between the payment service provider and the payee.

(8) The payment service provider and the payee that is not a consumer may agree by contract to regulate the liability in a different manner than that provided for in this Article.

*Incorrect unique identifiers*



## Article 49

- (1) If a payment order is executed in accordance with the unique identifier, the payment order shall be deemed to have been executed correctly with regard to the payee specified by the unique identifier.
- (2) If the unique identifier provided by the payment service user is incorrect, the payment service provider shall not be liable for the non-execution or incorrect execution of a payment transaction in the part relating to the incorrectly provided unique identifier.
- (3) The payer's payment service provider shall, regardless of its liability, take reasonable steps to recover the funds involved in that payment transaction.
- (4) The payment service provider may charge the payment service user for the recovery, if so agreed in the framework contract.
- (5) If the payment service user provides to the payment service provider additional information relating to the payee or the payer, the payment service provider shall be liable only for the execution of payment transactions in accordance with the unique identifier provided by the payment service user.

## *Compensation for damage* Article 50

In the case of the non-execution or incorrect execution of a payment transaction, the payment service user shall, in addition to the rights pertaining to the payment service user under this Section, be entitled to the difference up to the full amount of the damage in accordance with general rules governing liability for damage arising from a breach of contract.

## *Payment service user's rights in the case of an incorrectly executed payment transaction* Article 51

- (1) In the case of an incorrectly executed payment transaction, including a delayed execution, the payment service user shall be entitled to request from its payment service provider the correct execution of the payment transaction, or the interest for or refund of the incorrectly executed payment transaction in accordance with general rules of the contract law.
- (2) The payment service user shall lose the right referred to in paragraph (1) of this Article if it fails to notify its payment service provider without undue delay on becoming aware of any incorrectly executed payment transaction, and no later than 13 months of the debit date, or credit date.
- (3) The time limit of 13 months referred to in paragraph (2) of this Article shall not apply if the payment service provider has failed to provide or make available to the payment service user the information on that payment transaction in accordance with Title II of this Act.
- (4) The payment service provider and the payment service user that is not a consumer may agree by contract on a time limit other than that provided for in paragraph 2 of this Article.

## *Right of recourse* Article 52

- (1) The payment service provider shall be liable to its payment service user for the execution of a payment transaction even if the liability is attributable to an intermediary or a third party participating in the execution of that payment transaction.

(2) In the case referred to in paragraph (1) of this Article the payment service provider shall be entitled to request from the intermediary or third party the refund of all the amounts paid by that payment service provider to its payment service user in accordance with Articles 47 and 48 of this Act, and compensation for any other damage suffered in accordance with general rules governing liability for damage arising from a breach of contract.

(3) The provisions of this Article shall apply to national payment transactions in foreign currency and international payment transactions only unless otherwise agreed between the payment service provider and its payment service user.

(4) The provisions of this Article shall apply to national and cross-border payment transactions in currencies other than the euro or the currency of a Member State and to international payment transactions only unless otherwise agreed between the payment service provider and its payment service user.

#### *Exclusion of liability*

##### Article 53

The liability governed by Chapters 2 and 3 of this Title shall be excluded in cases of extraordinary and unforeseeable circumstances beyond the control of the party pleading for the application of those circumstances, the consequences of which the party could not have avoided despite having acted with the necessary caution, or in cases where the payment service provider is obliged to apply other regulations.

#### **Chapter 4 Data protection**

##### *Data protection*

##### Article 54

Payment service providers and payment systems may process personal data placed at their disposal within their activity for the purpose of preventing, investigating and detecting payment frauds. The processing of such data shall be carried out in accordance with the regulations governing personal data protection.

#### **Chapter 5 Out-of-court complaint procedures and conciliation procedure**

##### *Complaints to the payment service provider*

##### Article 55

(1) Where the payment service user deems that the payment service provider does not comply with the provisions of Titles II and III of this Act, the payment service user may submit a complaint to the payment service provider.

(2) The payment service provider shall send a reply to the complaint referred to in paragraph (1) of this Article to the payment service user no later than seven business days after the day of receiving the complaint.

(3) Where the payment service provider from another Member State provides payment services in the territory of the Republic of Croatia through a branch or an agent, the complaint referred to in paragraph (1) of this Article shall be submitted to the branch or agent.

*Complaints to the competent authorities*  
Article 56

- (1) Payment service users and other interested parties, including consumer associations, may submit complaints to the competent authority against the payment service provider referred to in Article 5, paragraph (1), items (1), (2), (3), (9) and (10) of this Act, if they deem that the payment service provider has acted contrary to the provisions of Titles II and III of this Act.
- (2) The competent authority referred to in paragraph (1) of this Article shall be the Croatian National Bank.
- (3) Upon receipt of the complaint referred to in paragraph (1) of this Article, the Croatian National Bank shall invite the respondent payment service provider to submit its response and the relevant evidence. The payment service provider shall, within the time limit set by the Croatian National Bank, but no longer than seven business days after the day of receiving the invitation, submit its response and the relevant evidence.
- (4) Where, in the complaint procedure, the Croatian National Bank establishes that there are reasonable grounds to suspect that the payment service provider has acted contrary to any of the provisions of Titles II and III of this Act and has thus committed a violation, it shall initiate violation proceedings before the Financial Inspectorate of the Republic of Croatia.
- (5) The Croatian National Bank shall notify the complainant of its findings.
- (6) Where the complainant is a consumer, the Croatian National Bank shall inform the complainant in its notification referred to in paragraph (5) of this Article of the possibility to initiate a conciliation procedure before the authority referred to in Article 57 of this Act.
- (7) The provisions of this Article shall also apply to complaints against the payment service providers referred to in Article 5, paragraph (1), items (6), (7) and (8) of this Act which provide payment services in the Republic of Croatia through a branch or an agent.
- (8) Complaints against the payment service providers referred to in Article 5, paragraph (1), items (6), (7) and (8) of this Act which provide payment services directly in the Republic of Croatia may be submitted to the Croatian National Bank which will notify the competent authority of the Member State.
- (9) The oversight over the application of Article (5), paragraph (2), Article 12, paragraph (1), Article 13, paragraph (2), Article 27, paragraph (6) and Article 65, paragraph (4) of this Act shall be carried out by the State Inspectorate in accordance with its powers defined by law.

*Out-of-court redress*  
Article 57

- (1) In all disputes arising between a payment service user that is a consumer and a payment service provider regarding the application of the provisions of this Act, a conciliation proposal may be submitted to the Conciliation Centre of the Croatian Chamber of Economy.
- (2) The conciliation before the Conciliation Centre referred to in paragraph (1) of this Article shall be conducted in accordance with the Rules of Conciliation of the Croatian Chamber of Economy.
- (3) The Croatian Chamber of Economy shall, with the approval of the Minister of Finance, pass a decision on the costs of conciliation in consumer disputes, determining the amount of fees and rewards and other costs of the conciliation procedure referred to in paragraph (1) of this Article.

(4) The settlement reached in the conciliation procedure at the Centre referred to in paragraph (1) of this Article shall be considered as an enforcement title.

(5) The funds for the costs of the conciliation before the Conciliation Centre referred to in paragraph (1) of this Article shall be provided in the government budget.

#### **TITLE IV TRANSACTION ACCOUNTS AND THE EXECUTION OF PAYMENT TRANSACTIONS AMONG CREDIT INSTITUTIONS**

##### *Transaction account* Article 58

(1) A transaction account is a current account or a giro account operated by any of the following payment service providers:

- 1) a credit institution having its registered office in the Republic of Croatia;
- 2) a branch of a credit institution from another Member State having its registered office in the Republic of Croatia;
- 3) a branch of a third-country credit institution having its registered office in the Republic of Croatia; and
- 4) the Croatian National Bank.

(2) A transaction account is also an account operated by the payment service provider referred to in paragraph (1) of this Article to execute payment transactions on its own behalf.

(3) The Croatian National Bank may prescribe that, in addition to the accounts referred to in paragraphs (1) and (2) of this Article, transaction accounts shall also be other payment accounts operated by the payment service providers referred to in paragraph (1) of this Article.

(4) The Croatian National Bank shall prescribe the manner of opening transaction accounts.

##### *Data submission for the purposes of keeping the unified register of accounts* Article 59

A payment service provider referred to in Article 58, paragraph (1) of this Act shall submit data on opened transaction accounts in accordance with the regulation governing the keeping and contents of the unified register of accounts in the Republic of Croatia.

##### *Register of transaction accounts* Article 60

(1) The payment service provider referred to in Article 58, paragraph (1) of this Act shall keep a register of transaction accounts that it has opened.

(2) The register referred to in paragraph (1) of this Article shall, at a minimum, contain the data which the payment service provider is obliged to submit pursuant to Article 59 of this Act.

(3) The Croatian National Bank may also prescribe additional data to be contained by the register referred to in paragraph (1) of this Article.

#### *Account number*

##### Article 61

(1) An account number shall be the identification number of the payment service provider referred to in Article 58, paragraph (1) of this Act.

(2) The Croatian National Bank shall assign an account number to the payment service provider referred to in Article 58, paragraph (1) of this Act in an authorisation for the provision of payment services.

(3) By way of derogation from paragraph (2) of this Article, the Croatian National Bank shall assign an account number to the payment service provider referred to in Article 58, paragraph (1), item (2) of this Act only at the payment service provider's request.

(4) The Croatian National Bank shall keep records of the account numbers assigned, and shall make this data publicly available on its website.

#### *Execution of payment transactions among credit institutions*

##### Article 62

(1) National payment transactions in the official currency of the Republic of Croatia in which both payment service providers are the persons referred to in Article 58, paragraph (1) of this Act shall be executed through payment systems.

(2) By way of derogation from paragraph (1) of this Article, a payment service provider may execute payment transactions outside a payment system through another payment service provider on the basis of a contract with this other payment service provider.

(3) The payment service provider referred to in Article 58, paragraph (1), items (1) and (3) of this Act shall notify the Croatian National Bank of its intention to conclude the contract referred to in paragraph (2) of this Article at least thirty days prior to the conclusion of the contract, and shall accompany the notification with a detailed description of the payment transaction execution model.

(4) The Croatian National Bank may prescribe the manner of opening the accounts through which the settlement of payment transaction referred to in paragraph (1) of this Article is carried out.

#### *Transaction accounts at the Croatian National Bank*

##### Article 63

The Croatian National Bank shall open and operate transaction accounts of credit institutions, transaction accounts of the Republic of Croatia and other transaction accounts in accordance with the law governing the operation of the Croatian National Bank.

#### *Payment orders*

##### Article 64

The Croatian National Bank may prescribe the essential elements and manner of completion of payment orders for the execution of payment transactions through transaction accounts

**TITLE V**  
**PAYMENT INSTITUTIONS**

**Chapter 1**  
**Status provisions**

*Payment institution and the provision of payment services*  
Article 65

- (1) A payment institution having its registered office in the Republic of Croatia shall be a legal person which has been authorised by the Croatian National Bank to provide payment services.
- (2) The Croatian National Bank shall grant authorisation to provide one or several payment services referred to in Article 3 of this Act.
- (3) Upon receipt of authorisation to provide payment services from the Croatian National Bank, a legal person may enter payment services into the register of companies.
- (4) A legal person may not provide payment services before it obtains authorisation referred to in paragraph (2) of this Article and enters the activity of payment service provision into the register of companies.

*Application of the provisions of the Companies Act*  
Article 66

The provisions of the Companies Act shall apply to a payment institution unless otherwise prescribed in this Act.

*Initial capital*  
Article 67

- (1) The initial capital of a payment institution which provides payment services referred to in Article 3, item (6) of this Act shall not be less than HRK 150,000.00.
- (2) The initial capital of a payment institution which provides payment services referred to in Article 3, item (7) of this Act shall not be less than HRK 400,000.00.
- (3) The initial capital of a payment institution which provides any of the payment services referred to in Article 3, items (1) to (5) of this Act shall not be less than HRK 1, 000,000.00.
- (4) The initial capital referred to in paragraphs (1) to (3) of this Article must be paid in in cash.

*Other activities a payment institution may perform*  
Article 68

Apart from the provision of payment services, a payment institution may also engage in:

- 1) the provision of operational and closely related ancillary services, such as ensuring the execution of payment transactions, provision of currency conversion services required for the execution of payment transactions, provision of safekeeping services and services related to data storage and processing;
- 2) the operation of a payment system in accordance with Title VI of this Act; or
- 3) an activity other than the provision of payment services.

## **Chapter 2**

### **Provision of payment services**

#### *Application for authorisation to provide payment services*

#### Article 69

(1) A payment institution shall submit an application for authorisation to provide payment services to the Croatian National Bank.

(2) The application shall be accompanied with the following:

- 1) the Articles of Association, deed of establishment or memorandum of the payment institution and, where the applicant is entered into the register of companies, a certificate from the register of companies in the form of an original or certified copy, not older than ninety days;
- 2) a programme of operations, setting out in particular the types of payment services for which authorisation is sought, in accordance with Article 3 of this Act;
- 3) financial statements for the past two business years and a business plan for the next three business years, including a financial statement projection demonstrating the ability of the payment institution to operate in a stable manner on the basis of an appropriate organisational, technical and personnel structure;
- 4) evidence on the amount of initial capital paid in pursuant to Article 67 of this Act or on the amount of funds earmarked for initial capital of the payment institution to be established;
- 5) a description of measures taken or intended to be taken to safeguard payment service users' funds in accordance with Article 87 of this Act, including, where applicable, an assessment method for the representative portion of funds assumed to be used for future payment transactions;
- 6) a clear management framework with well-defined, transparent and consistent lines of powers and responsibilities and the payment institution's internal control mechanism, including administrative, accounting and risk-management procedures which demonstrate that the said management framework and internal control mechanism and procedures are appropriate, adequate, sound and satisfactory;
- 7) a description of the internal control mechanism put in place by the payment institution in order to comply with the requirements arising from the regulations governing the prevention of money laundering and terrorist financing;
- 8) a description of the payment institution's organisational structure, including, as appropriate, a description of the intended operation through branches and agents, outsourcing arrangements and its participation in a domestic or international payment system;
- 9) for the person holding, directly or indirectly, a qualifying holding in the payment institution:

1) where such a person is a legal person:

- a) the total nominal amount of shares and the percentage of the initial capital of the payment institution;
- b) a certificate from the register of companies or other relevant register, not older than ninety days, in the form of an original or a certified copy;
- c) a certificate from the register of shareholders (book of shares) or the book of holdings, in the form of an original or a certified copy;
- d) a list of natural persons who are the ultimate shareholders or holders of holdings in the legal person which is the holder of qualifying holdings in the payment institution, containing the following data: the name, address or domicile and other identification data, the total nominal amount of shares and the percentage of the initial capital of the legal person which is the holder of a qualifying holding in the payment institution, and the data referred to in sub-item (2), indents c) and d) of this item;
- e) audited financial statements of the holder of a qualifying holding for the past two business years;
- f) evidence that no bankruptcy proceedings have been initiated or opened against the property of the holder of a qualifying holding;

2) where such a person is a natural person:

- a) the total nominal amount of shares and the percentage of the initial capital of the payment institution;
- b) the name, address or domicile and other identification data of the holder of a qualifying holding;
- c) a curriculum vitae of the holder of a qualifying holding, listing all companies, and their addresses, with which he/she is or has been employed, of which he/she is or has been a member of the management or supervisory boards, or in which he/she is or has been a holder of a qualifying holding;
- d) evidence that the holder of a qualifying holding has not been convicted by a final judgement of a crime against the values protected by international law, or of any of the following crimes:

- against the security of a payment system and its operation;
- relating to the authenticity of documents;
- relating to breaches of official duty;
- relating to money laundering;
- relating to terrorist financing; or
- of the violations prescribed in this Act.

10) for a member of the management board of a payment institution, or executive director of a payment institution having the board of directors:

- a) name, address or domicile and other identification data;
- b) evidence that he/she has not been convicted by a final judgement of a crime against the values protected by international law, or of any of the following crimes:

- against the security of a payment system and its operation;
- relating to the authenticity of documents;
- relating to breaches of official duty;
- relating to money laundering;
- relating to terrorist financing; or
- of violations prescribed in this Act.

c) evidence that this person has not held management positions in an undertaking against which bankruptcy or compulsory winding-up proceedings have been opened;

d) a curriculum vitae, listing all companies, and their addresses, with which this person is or has been employed and describing operations under his/her responsibility, and thereby enabling an assessment to be made as to whether he/she possesses the professional qualifications, abilities and experience required for managing payment operations;

11) for a member of the management board of a payment institution, or executive director of a payment institution having the board of directors, where this payment institution, apart from providing payment services, performs the activities referred to in Article 68, item (3) of this Act, the documentation referred to in item (10), indents a) to c) of this Article, and for the persons responsible for managing operations related to the provision of payment services in that payment institution, also the documentation referred to in item (10), indent d) of this Article;

12) evidence on the appointment of a statutory auditor or audit firm to audit financial statements for the business year for which the application is submitted.

13) a list of persons having close links with the payment institution and the description of the manner in which they are linked;

(3) Exceptionally, the Croatian National Bank shall, on a reasoned request, obtain from the criminal history records the evidence referred to in paragraph (2), item (9), sub-item (2), indent d) and item (10), indent b) of this Article.

(4) In the case of a natural person who is not a citizen of the Republic of Croatia, the evidence referred to in paragraph (2), item (9), sub-item (2), indent d) or paragraph (2), item (10), indent b) of this Article shall be the evidence, not older than three months, related to the crimes which by their definition correspond to the crimes stated therein.

(5) In order to meet the conditions referred to in paragraph (2), items (5), (6) and (8) of this Article, a payment institution shall submit a description of the management framework, internal control mechanism and measures put in place to protect the interests of payment service users and ensure the continuous and sound provision of payment services.



*Granting authorisation to provide payment services*  
Article 70

(1) The Croatian National Bank shall grant authorisation to provide payment services provided that it assesses from the application referred to in Article 69 of this Act and available information that all of the following conditions are met:

- 1) in view of the need to ensure the sound and prudent management of the payment institution, the holder of a qualifying holding is suitable, especially with respect to the financial strength and good reputation;
- 2) the person proposed to be a member of the management board or executive director of the payment institution, where it does not also perform the activities referred to in Article 68, item (3) of this Act, has a good reputation and the skills and experience required for the provision of payment services;
- 3) where the payment institution, apart from the provision of payment services, also performs the activities referred to in Article 68, item (3) of this Act, the person responsible for managing operations related to the provision of payment services has a good reputation and the skills and experience required for the provision of payment services;
- 4) the payment institution is organised in accordance with this Act, that is, the conditions for the operation of a payment institution laid down in this Act or in regulations adopted under this Act are established;
- 5) the provisions of the Articles of Association or any other relevant legal act of the payment institution comply with the provisions of this Act and regulations adopted under this Act;
- 6) where it assesses that, in view of the need to ensure the sound and prudent management of the payment institution, this institution has put in place effective and sound governance arrangements comprising a clear management framework with well-defined, transparent and consistent lines of powers and responsibilities, effective procedures for establishing, managing, monitoring and reporting on all the risks to which the payment institution is or might be exposed, and an adequate internal control mechanism, which includes appropriate administrative and accounting procedures, and that the said governance arrangements, internal control mechanism and administrative and accounting procedures are comprehensive and proportionate to the nature, scope and complexity of the payment services provided; and
- 7) the head office of the payment institution is in the Republic of Croatia.

(2) Prior to granting authorisation to provide payment services, the Croatian National Bank may consult with other competent authorities in order to make a better assessment of the submitted application.

*Additional application for authorisation to provide payment services*  
Article 71

(1) Where a payment institution, after having obtained authorisation referred to in Article 65 of this Act, intends to provide payment services other than those covered by the authorisation, it shall submit an application for authorisation to provide such payment services accompanied with the documentation referred to Article 69, paragraph (2), items (2) to (4) of this Act and an explanation of the impact of the new services on the financial statements, organisational structure, internal control mechanism and system for safeguarding payment service users' funds.

(2) All authorisations a payment institution obtains from the Croatian National Bank in accordance with the application referred to in paragraph (1) of this Article shall be considered as constituting the authorisation referred to in Article 65 of this Act.

*Refusal of an application for authorisation to provide payment services*  
Article 72

(1) The Croatian National Bank shall refuse an application for authorisation to provide payment services:

- 1) where it assesses that any of the conditions referred to in Article 70 of this Act is not met;

- 2) where the exercise of supervision of the payment institution's operation pursuant to the provisions of this Act may be made difficult or prevented due to close links between the payment institution and other legal or natural persons;
- 3) where the exercise of supervision of the payment institution's operation pursuant to the provisions of this Act may be made difficult or prevented due to close links between the payment institution and other legal or natural persons having their registered office or domiciles, or habitual residences, in a third country whose regulations prevent the exercise of supervision, or if there are any other reasons preventing the exercise of supervision; or
- 4) where it is evident from the accompanying documentation that the payment institution, apart from the provision of payment services, intends to engage in the activities referred to in Article 68, item (3) of this Act, which impair or might impair the financial stability of the applicant or make difficult the exercise of supervision by the Croatian National Bank, and that this requires the establishment of a separate entity for the provision of payment services.

(2) Close links referred to in paragraph (1), items (2) and (3) of this Article shall be deemed to be close links in terms of the law governing credit institutions.

*Withdrawal of authorisation to provide payment services*  
Article 73

- (1) The Croatian National Bank shall withdraw authorisation to provide payment services:
  - 1) where a payment institution does not commence providing payment services in accordance with authorisation within twelve months after it has been granted;
  - 2) where a payment institution submits a written notification to the Croatian National Bank stating that it no longer intends to provide the services for which authorisation has been granted;
  - 3) where a payment institution has not provided payment services for more than six months;
  - 4) where a payment institution obtains authorisation based on false or inaccurate documentation or false presentation of the data relevant to its operation; or
  - 5) where a payment institution no longer meets the conditions under which authorisation has been granted.
- (2) The Croatian National Bank may withdraw authorisation to provide payment services:
  - 1) where any of the reasons referred to in Article 72, paragraph (1), items (2) to (4) of this Act arises;
  - 2) where a payment institution threatens the stability of a payment system by continuing to provide payment services;
  - 3) where a payment institution, in any manner whatsoever, prevents the supervision of its operation; or
  - 4) where a payment institution fails to implement supervisory measures imposed by the Croatian National Bank.

*Decision to withdraw authorisation to provide payment services*  
Article 74

- (1) The Croatian National Bank shall submit a decision to withdraw authorisation to provide payment services to a payment institution within three days of the date of its adoption.
- (2) The Croatian National Bank shall submit a decision to withdraw authorisation to provide payment services to the competent commercial court and issue a press release thereon.

*Expiry of authorisation to provide payment services*  
Article 75

- (1) Authorisation to provide payment services shall expire:
  - 1) on the date of the adoption of a decision on the winding-up of a payment institution;

- 2) on the date of the adoption of a decision on the opening of bankruptcy proceedings against a payment institution;
- 3) on the date of the removal of a payment institution from the register of companies in the case of a merger, acquisition and division; or
- 4) on the date of the submission of a decision to withdraw authorisation to provide payment services from a payment institution; or on the date specified in the decision to withdraw authorisation to provide payment services.

(2) The provisions of this Act shall apply *mutatis mutandis* to a payment institution undergoing winding-up proceedings.

(3) The Croatian National Bank may prescribe the manner of application of the provisions of this Act in the cases referred to in paragraph (2) of this Article.

*Provision of payment services by payment institutions through agents*  
Article 76

(1) A payment institution having its registered office in the Republic of Croatia may provide payment services through one or several agents. An agent of a payment institution may be a legal or a natural person in accordance with other regulations.

(2) A payment institution which intends to provide payment services through an agent shall obtain a prior decision to enter the agent into the register from the Croatian National Bank.

(3) A payment institution shall accompany an application for entry into the register referred to in paragraph (2) of this Article with the following:

- 1) the agent's firm and registered office, or the agent's name and address;
- 2) a description of the internal control mechanism put in place by the agent to comply with the provisions of the law governing the prevention of money laundering and terrorist financing;
- 3) for a member of the management board or executive director of the agent which is a legal person, or for the agent who is a natural person, the documentation referred to in Article 69, paragraph (2), item (10) of this Act; and
- 4) a list of payment services that it intends to provide through agents.

(4) The Croatian National Bank may take all actions necessary, including requiring documentation, to verify the accuracy of the information submitted.

(5) The Croatian National Bank shall refuse to enter an agent into the register where it establishes, based on the documentation and information referred to in paragraphs (3) and (4) of this Article, that:

- the internal control mechanism put in place to comply with the provisions of the law governing the prevention of money laundering and terrorist financing is inadequate, or
- that a member of the management board or executive director of the agent which is a legal person, or an agent who is a natural person, does not have a good reputation or the skills and experience required for the provision of payment services.

(6) An agent may commence work as of the date a decision to enter the agent into the register is adopted.

(7) The Croatian National Bank shall adopt a decision to remove an agent from the register:

- 1) if a payment institution requests that an agent be removed from the register;
- 2) if bankruptcy proceedings have been opened against the agent;

- 3) where the agent is a legal person, upon its removal from the register of companies in the case of a merger, acquisition or division;
- 4) where the agent is a natural person, upon his/her death;

(8) The Croatian National Bank may adopt a decision to remove an agent from the register:

- 1) if any of the reasons referred to in paragraph (5) of this Article arise; and
- 2) if the reason referred to in Article 79, paragraph (8) of this Act arises.

(9) A payment institution may not provide payment services through an agent:

- 1) as of the date of submission of the decision referred to in paragraph (7), items (1) and (2) of this Article,
- 2) as of the date of adoption of the decision to open bankruptcy proceedings against the agent;
- 3) as of the date of removal of the agent from the register of companies in the case of a merger, acquisition or division.

*Provision of payment services within the territory of another Member State*  
Article 77

A payment institution having its registered office in the Republic of Croatia, may, under the conditions laid down in this Act, provide payment services which it is authorised to provide in the Republic of Croatia within the territory of another Member State, through a branch, an agent or directly.

*Provision of payment services within the territory of another Member State  
through a branch or directly*  
Article 78

(1) A payment institution which intends to provide payment services within the territory of another Member State, through a branch or directly, shall in advance notify the Croatian National Bank thereof, stating the country in which it intends to provide services. This notification shall be considered as an application for entering the branch into the register.

(2) A payment institution shall accompany the notification referred to in paragraph (1) of this Article with the following:

- 1) a list of payment services intended to be provided in the host Member State;
- 2) where the payment services are intended to be provided through a branch, the branch's organisational structure; and
- 3) where the payment services are intended to be provided through a branch, also a list of names and addresses of the persons who are to be responsible for managing the branch's operations and the address of the branch in the host Member State.

(3) The Croatian National Bank shall forward the notification and documentation referred to in paragraph (2) of this Article to the competent authority of the host Member State within a month of their submission, and shall notify the payment institution thereof. If a payment institution intends to provide payment services within the territory of another Member State through a branch, the Croatian National Bank shall enter the branch into the register.

(4) By way of derogation from paragraph (3) of this Article, the Croatian National Bank shall not forward the notification of the intended provision of payment services through a branch in another Member State, and shall refuse to enter the branch into the register, notifying the payment institution thereof, where it assesses that there are reasonable grounds to suspect that this involves an act or attempted act of money laundering or terrorist financing, or that the operation of this payment institution's branch could increase the risk of money laundering or terrorist financing.

(5) A payment institution may commence providing payment services:

(1) through a branch as of the date when the competent authority of the host Member State receives the notification and documentation referred to in paragraph (2) of this Article and when the Croatian National Bank enters the branch into the register;

(2) directly as of the date when the competent authority of the host Member State receives the notification and documentation referred to in paragraph (2) of this Article.

(6) Where a payment institution provides payment services through a branch in another Member State, the Croatian National Bank may adopt a decision to remove the payment institution's branch from the register if notified by the competent authority of the host Member State that there are reasonable grounds to suspect that this involves an act or attempted act of money laundering or terrorist financing, or that the operation of this payment institution's branch could increase the risk of money laundering or terrorist financing.

*Provision of payment services within the territory of another Member State  
through an agent*  
Article 79

(1) A payment institution which intends to provide payment services within the territory of another Member State through an agent shall in advance notify the Croatian National Bank thereof, stating the country in which it intends to provide services. This notification shall be considered as an application for entering the agent into the register.

(2) In addition to the documentation referred to in Article 76, paragraph (3) of this Act, a payment institution shall accompany the notification referred to in paragraph (1) of this Article with the following:

- 1) a list of payment services intended to be provided through an agent in the host Member State; and
- 2) where applicable, the agent's organisational structure.

(3) The Croatian National Bank shall forward the notification and documentation referred to in paragraph (2) of this Article to the competent authority of the host Member State within one month of their submission, notify the payment institution thereof and enter the agent into the register.

(4) By way of derogation from paragraph (3) of this Article, the Croatian National Bank shall not forward the notification of the intended provision of payment services through an agent in another Member State, and shall refuse to enter the agent into the register, notifying the payment institution thereof, where it assesses that the internal control mechanism put in place by the agent to comply with the provisions of the law governing the prevention of money laundering and terrorist financing is ineffective or that a member of the management board or executive director of the agent which is a legal person, or the agent who is a natural person, does not have a good reputation or the skills and experience required for the provision of payment services.

(5) A payment institution may commence providing payment services through an agent as of the date when the competent authority of the host Member State receives the notification and documentation referred to in paragraph (2) of this Article and when the Croatian National Bank enters the agent into the register.

(6) The Croatian National Bank may, except for the reasons listed in paragraph (4) of this Article, refuse to enter an agent into the register if the competent authority of the host Member State considers the agent to be inappropriate or if notified by the competent authority that there are reasonable grounds for suspicion of an act or attempted act of money laundering or terrorist financing, or that the engagement of this agent increases the risk of money laundering or terrorist financing.

(7) An agent may commence work as of the date of adopting a decision to enter the agent into the register.

(8) The Croatian National Bank may adopt a decision to remove from the register an agent of

a payment institution if notified by the competent authority of the host Member State that there are reasonable grounds for suspicion of an act or attempted act of money laundering or terrorist financing, or that the engagement of this agent increases the risk of money laundering or terrorist financing.

*Provision of payment services within the territory of a third country*  
Article 80

(1) A payment institution having its registered office in the Republic of Croatia may provide payment services in a third country exclusively through a branch.

(2) In order to establish a branch in a third country, a payment institution shall obtain authorisation from the Croatian National Bank (hereinafter: authorisation to establish a branch in a third country).

(3) A payment institution which intends to establish a branch within the territory of a third country shall submit an application for authorisation to establish a branch in a third country, stating the country in which it intends to establish a branch.

(4) A payment institution shall accompany the application referred to in paragraph (3) of this Article with the following:

- 1) a business plan for the next three business years, which must contain a list of the payment services intended to be provided through the branch, and the branch's management framework;
- 2) the payment institution's organisational structure;
- 3) a list of names and addresses of the persons who are to be responsible for managing the branch's operations; and
- 4) an address in the third country at which the Croatian National Bank will be able to obtain documentation on the branch.

(5) The Croatian National Bank may, within a month of receipt of the application referred to in paragraph (3) of this Article, require additional documentation. In the event that the Croatian National Bank requires additional documentation, the date of receipt of the complete application shall be considered to be the submission date.

(6) The Croatian National Bank shall, at the latest within three months of submission of the complete application, adopt a decision on the application of a payment institution to establish a branch.

(7) The Croatian National Bank shall refuse an application to establish a branch where, based on the available information, it assesses that:

- 1) the payment institution intending to establish a branch does not have an appropriate organisational, technical and personnel structure or financial position that allows it to provide the planned scope of services in a third country;
- 2) in view of that country's regulations or practices relating to their implementation, it is likely that the exercise of supervision in accordance with the provisions of this Act will be made difficult or prevented; or
- 3) the payment institution in this way attempts to evade stricter rules in force in the Republic of Croatia.

(8) Where a payment institution which has been authorised by the Croatian National Bank to establish a branch in a third country intends to establish any more branches in that country, it shall notify the Croatian National Bank thereof. The provisions of paragraphs (2) to (7) of this Article shall not apply to such cases.

(9) Where a payment institution which has been authorised to establish a branch in a third country intends to change any of the information referred to in paragraph (4) of this Article, it shall notify the Croatian National Bank thereof at least one month prior to effecting this change.

(10) The Croatian National Bank may withdraw authorisation to establish a branch in a third country from a payment institution:

- 1) where it is established that the payment institution no longer meets the organisational, technical and personnel requirements relating to the services it provides;
- 2) where the payment institution does not comply with the regulations of the host country in the operation of the branch; or
- 3) where it is evident from the territorial distribution of the provision of services that the payment institution in this way attempts to evade stricter regulations and rules in force in the Republic of Croatia.

(11) The Croatian National Bank shall withdraw authorisation to establish a branch in a third country from a payment institution:

- 1) where the competent authority of the host country has prohibited the payment institution from providing services within its territory;
- 2) where the branch fails to commence its operation within six months of obtaining authorisation;
- 3) where the branch has not performed operations covered by the authorisation for more than six months; or
- 4) where the payment institution obtained authorisation to establish a branch based on false or inaccurate data, which were relevant for obtaining authorisation to establish a branch.

*Provision of payment services by a payment institution from another Member State within the territory of  
the Republic of Croatia*  
Article 81

- (1) A payment institution from another Member State shall be a legal person having the registered office in another Member State which has been authorised by the competent authority to provide payment services.
- (2) A payment institution from another Member State may, under the conditions laid down in this Act, provide the payment services which it provides in its home Member State within the territory of the Republic of Croatia through a branch or an agent.
- (3) A payment institution from another Member State may, under the conditions laid down in this Act, directly provide the payment services which it provides in its home Member State, on the condition that it provides them on a temporary basis.
- (4) For the purposes of paragraph (3) of this Article, a payment institution shall be considered to provide payment services within the territory of the Republic of Croatia on a temporary basis and directly if it does not provide payment services on a regular, frequent or continuous basis.
- (5) The agent referred to in paragraph (2) of this Article may only be a person whose registered office or domicile is in the Republic of Croatia.

*Provision of payment services by a payment institution from another Member State within the territory of  
the Republic of Croatia through a branch or directly*  
Article 82

- (1) A payment institution from another Member State may commence to directly provide payment services within the territory of the Republic of Croatia after the Croatian National Bank has received the notification and documentation relating to the intended provision of payment services within the territory of the Republic of Croatia, referred to in Article 78, paragraph (2) of this Act, from the competent authority of the home Member State.

(2) A payment institution from another Member State may commence to provide payment services through a branch within the territory of the Republic of Croatia after the Croatian National Bank has received the notification and documentation relating to the intended provision of payment services, referred to in Article 78, paragraph (2) of this Act, from the competent authority of the home Member State and after the branch of the payment institution has been entered into the register kept by the competent authority of the home Member State.

(3) The Croatian National Bank shall notify the competent authority of the home Member State if there are any reasonable grounds to suspect that the intended establishment of a branch by a payment institution from the Member State involves an act or attempted act of money laundering or terrorist financing, or that the establishment of a branch could increase the risk of money laundering or terrorist financing.

*Provision of payment services by a payment institution from another Member State within the territory of the Republic of Croatia through an agent*  
Article 83

(1) A payment institution from another Member State may commence to provide payment services within the territory of the Republic of Croatia through an agent after the Croatian National Bank has received the notification and documentation relating to the intended provision of payment services, referred to in Article 79, paragraph (2) of this Act, from the competent authority of the home Member State and after the agent has been entered into the register kept by the competent authority of the home Member State.

(2) The Croatian National Bank shall notify the competent authority of the home Member State if there are any reasonable grounds to suspect that the intended engagement of an agent by a payment institution from the Member State involves an act or attempted act of money laundering or terrorist financing, or that the engagement of this agent could increase the risk of money laundering or terrorist financing.

*Cooperation of competent authorities in cross-border provision of payment services* Article 84

(1) The Croatian National Bank and competent authorities of another Member State shall cooperate in the supervision of payment institutions which, directly, through a branch or through an agent, provide payment services within the territory of the Republic of Croatia and that other Member State.

(2) The Croatian National Bank shall cooperate with competent authorities of other Member States and communicate to them the information essential or relevant for the exercise of supervision, and especially the information related to illegalities that have been or are suspected of having been committed. In this regard, the Croatian National Bank shall communicate to another competent authority:

- 1) on its request, all the information relevant for or related to the exercise of supervision by that competent authority; or
- 2) on its own initiative, all the information essential for the exercise of supervision by that competent authority.

(3) The provisions of paragraphs (1) and (2) of this Article shall be without prejudice to the obligations of the Croatian National Bank under the regulations governing the prevention of money laundering and terrorist financing, especially those related to the supervision and control of the application of these regulations.

*Notification of payment service users*  
Article 85



(1) A payment institution having its registered office in the Republic of Croatia which provides payment services either through a branch or through an agent shall ensure that the branches and agents acting on its behalf notify payment service users thereof.

(2) A payment institution having its registered office outside the Republic of Croatia which provides payment services within the territory of the Republic of Croatia either through a branch or through an agent shall ensure that the branches and agents acting on its behalf notify payment service users thereof.

### **Chapter 3** **Operation of payment institutions**

#### *Own funds* **Article 86**

(1) In order to ensure its safe and sound operation and be able to meet obligations to creditors, a payment institution shall maintain an adequate level of own funds.

(2) The own funds shall never fall below the initial capital referred to in Article 67 of this Act.

(3) The Croatian National Bank may prescribe the following for the calculation of own funds:

- the own funds calculation methods;
- the minimum amount of own funds;
- the characteristics and types of items included in the calculation of own funds;
- the granting of approval; and
- the method and extent of the inclusion of particular items in the calculation of individual components of own funds.

#### **Safeguarding of payment service users' funds** **Article 87**

(1) A payment institution shall safeguard the funds received from payment service users or through another payment service provider for the execution of payment transactions, in one of the manners prescribed in paragraphs (2) to (4) or paragraph (5) of this Article.

(2) A payment institution shall not commingle the funds of payment service users referred to in paragraph (1) of this Article on whose behalf they are held with the funds of other natural or legal persons.

(3) Where a payment institution holds the funds referred to in paragraph (2) of this Article, and these funds have not been delivered to a payee or transferred to another payment service provider by the end of the business day following the day when the funds were received, the payment institution shall:

- 1) deposit them in a separate account with a credit institution having its registered office in the Republic of Croatia;
- 2) deposit them in a separate account with a credit institution having its registered office in a Member State; or
- 3) invest them in low-risk and highly liquid types of assets, as follows:
  - non-risk, highly liquid assets;
  - sight deposits in a credit institution with an adequate rating; or
  - debt securities issued by an issuer with an adequate rating.

(4) The funds of the payment service users referred to in paragraph (3) of this Article shall not be the property of a payment institution, and shall neither be included in its assets, or winding-up or bankruptcy estate, nor may they be subject to execution relating to claims against the payment institution.

(5) A payment institution shall cover the funds of the payment service users referred to in paragraph (1) of this Article by an insurance policy from an insurance company or a credit institution's guarantee, provided that this insurance company or credit institution does not belong to the same group as the payment institution itself. The contracted insurance policy or guarantee must be payable in the event that the payment institution is unable to meet its financial obligations incurred by the provision of services related to the execution of payment transactions.

(6) Where a payment institution, apart from providing payment services, performs the activity referred to in Article 68, item (3) of this Act and receives funds from a payment service user, of which a portion is to be used for future payment transactions, and the remaining portion for the services which the payment institution provides, other than payment services, it shall safeguard the portion of funds to be used for future payment transactions in the manner referred to in paragraph (3) or (5) of this Article. If that portion is variable or unknown in advance, the payment institution may determine the portion of funds to be used for future payment transactions based on the representative portion assumed to be used for these purposes, provided that such a representative portion can be reasonably estimated on the basis of historical data.

(7) The Croatian National Bank may prescribe in detail the safeguarding of payment service users' funds, including the required characteristics of the asset types referred to in paragraph (3) of this Article.

#### *Payment institution's accounts*

##### Article 88

When a payment institution provides a payment service which includes operating payment accounts, these accounts may be used exclusively for payment transactions.

#### *Granting of credits and prohibition from accepting deposits*

##### Article 89

(1) A payment institution may grant credits in connection with the provision of the payment services referred to in Article 3, items (4), (5) and (7) of this Act only if all the following conditions are met:

- 1) a credit has been granted exclusively as an ancillary service in connection with the execution of a payment transaction;
- 2) a credit which has been granted as an ancillary service in connection with the execution of a payment transaction and executed pursuant to the right to provide payment services within the territory of another Member State is to be paid off within a term no longer than twelve months;
- 3) a credit has not been granted from the funds of payment service users received by the payment institution and held for the execution of payment transactions; and
- 4) the own funds of the payment institution, as assessed by the Croatian National Bank, are at all times appropriate with regard to the total amount of the credit granted.

(2) For the purposes of this Act, funds received by payment institutions from payment service users for the provision of payment services shall not constitute deposits or any other repayable funds within the meaning of the law governing the operation of credit institutions, or electronic money within the meaning of the law governing the operation of electronic money institutions.

#### *Business books and financial statements*

##### Article 90

(1) Unless otherwise provided for by this Act, a payment institution shall keep business books, other business documentation and records, evaluate assets and liabilities and prepare and publish annual financial statements in accordance with applicable regulations and professional standards.

(2) A payment institution which provides services referred to in Article 68, item (3) of this Act shall keep separate business books and prepare separate financial statements for payment services.

*Storing of bookkeeping documents*  
Article 91

A payment institution shall store bookkeeping documents and other documentation related to this Title in accordance with applicable regulations and professional standards, but for no less than five years.

*Audit requirements*  
Article 92

(1) A payment institution shall have the annual financial statements and consolidated financial statements, referred to in Article 90 of this Act, audited for each business year.

(2) A payment institution shall, within fifteen days of receipt of an audit report and at the latest within four months of expiry of the business year to which the annual financial statements relate, submit the following to the Croatian National Bank:

1) the audit report on annual financial statements, inclusive of these financial statements; and 2) annual and consolidated annual reports, in accordance with the regulations governing the content of such reports.

(3) For the purposes of paragraph (1) of this Article, a business year shall correspond to a calendar year.

(4) The persons carrying out the audit referred to in paragraph (1) of this Article shall without undue delay notify the Croatian National Bank of the following:

- established illegalities or facts and circumstances which could in any way jeopardise continued operation of the payment institution; and
- the circumstances which have led to the withdrawal of authorisation to provide payment services.

(5) The persons carrying out an audit of a payment institution shall notify in writing the Croatian National Bank of any of the facts referred to in paragraph (4) of this Article of which they became aware while auditing the financial statements of an undertaking closely linked with that payment institution.

(6) The submission to the Croatian National Bank of the information referred to in paragraphs (4) and (5) of this Article shall not constitute a violation of the auditor's duty to protect the confidentiality of information under the law governing audit or under the contract.

*Assessment for the purposes of the Croatian National Bank*  
Article 93

(1) The Croatian National Bank may specify in subordinate legislation the payment institutions for which an assessment of the state of the IT system and the adequacy of the IT system management must be a constituent part of the audit report referred to in Article 92 of this Act, the content of such assessment and the grounds on which the Croatian National Bank may refuse such assessment.

(2) The persons carrying out an audit shall, at the request of the Croatian National Bank, provide additional information related to the assessment referred to in paragraph (1) of this Article.

*Outsourcing*

## Article 94

(1) A payment institution may outsource some of its operational activities. It shall notify the Croatian National Bank thereof prior to concluding a contract with an outsourcing service provider.

(2) By way of derogation from paragraph (1) of this Article, where a payment institution intends to outsource materially important operational activities, it shall, within an appropriate time limit and at the latest ninety days prior to concluding a contract with an outsourcing service provider, notify the Croatian National Bank thereof and submit the documentation proving that the conditions referred to in paragraphs (4) to (6) of this Article are met.

(3) Materially important operational activities shall be the activities which, if performed incorrectly or not at all, would significantly impair:

- 1) the legality of the payment institution's operation;
- 2) its financial stability;
- 3) the continuity in meeting the conditions based on which it has been granted authorisation; or
- 4) the soundness or continuity of its provision of payment services.

(4) A payment institution shall ensure that the intended outsourcing:

- 1) does not alter the relationship and obligations of the payment institution to its payment service users as defined in this Act;
- 2) does not threaten the legality of the payment institution's operation;
- 3) does not result in transferring the liability from the responsible persons of the payment institution to an outsourcing service provider; and
- 4) does not alter the conditions under which the payment institution has been granted authorisation to provide payment services.

(5) In addition to complying with the requirements referred to in paragraph (4) of this Article, a payment institution shall ensure that the intended outsourcing of materially important operational activities meets the following conditions:

- 1) that it does not impair the quality of the payment institution's internal control mechanism;
- 2) that it does not impair the exercise of supervision by the Croatian National Bank.

(6) A payment institution shall ensure that the Croatian National Bank can carry out on-site examination at the location where the services are provided, that is, at the outsourcing service provider's premises, and it shall ensure access to the outsourcing-related documentation and data possessed by the outsourcing service provider.

(7) If an outsourcing service provider is located within the territory of another Member State, the Croatian National Bank shall, prior to carrying out an on-site examination at the outsourcing service provider's premises, notify thereof the competent authority of the host Member State.

(8) The provisions of Article 84 of this Act shall apply *mutatis mutandis* to the cooperation between the Croatian National Bank and the competent authority of another Member State in exercising supervision over outsourced operational activities

(9) The Croatian National Bank may prescribe in detail the outsourcing of the operational activities of a payment institution.

## *Liability of a payment institution* Article 95

(1) A payment institution shall be fully liable to third parties for the acts of its employees, agents, branches and outsourcing service providers in connection with the provision of payment services, and for outsourced operational activities.

(2) A payment institution may not exclude or limit the liability referred to in paragraph (1) of this Article.

*Governance arrangements*  
Article 96

(1) A payment institution shall establish and implement effective and sound governance arrangements, proportionate to the nature, scope and complexity of the operations it performs, comprising:

- 1) a clear management framework with well-defined, transparent and consistent lines of powers and responsibilities within the payment institution;
- 2) efficient risk management, in particular as concerns operational risk;
- 3) an appropriate internal control mechanism, which also includes appropriate administrative and accounting procedures.

(2) The Croatian National Bank may prescribe in detail the governance arrangements referred to in paragraph (1) of this Article.

**Chapter 4**  
**Supervision of payment institutions**

*Supervision of payment institutions*  
Article 97

(1) The Croatian National Bank shall exercise supervision of payment institutions.

(2) The supervision referred in paragraph (1) of this Article shall mean the verification of whether a payment institution operates in accordance with the provisions of this Act and regulations adopted under this Act, and in relation to its provision of payment services and its activities in accordance with Article 68, items (1) and (2) of this Act.

(3) In establishing the frequency and intensity of the supervision referred in paragraph (1) of this Article, the Croatian National Bank shall take into account the type, scope and complexity of the activities carried out by a payment institution and the risks it is exposed to in its operation.

(4) Other supervisory authorities may also exercise supervision of the operation of payment institutions in accordance with their powers under law, and within their competence.

(5) Where a different supervisory authority is competent for the supervision of a payment institution, the Croatian National Bank may participate in the supervision of that institution with the respective supervisory authority or may require from that supervisory authority the data and information which would be relevant for the supervision of the payment institution in question.

(6) The Croatian National Bank may prescribe in detail the conditions for and the manner of exercising supervision and imposing measures, and the responsibilities of the payment institution's bodies in the course of and following supervision.

(7) Payment institutions shall pay a supervision fee to the Croatian National Bank, whose calculation basis, amount, calculation and payment methods may be prescribed by the Croatian National Bank. The criterion for establishing the amount of the fees may be the type of payment services provided by the payment institution, the minimum own funds that the payment institution is required to maintain, the executed transaction volume or the number of agents through which the payment institution provides payment services.

*Manner of exercising supervision of payment institutions*  
Article 98

(1) The Croatian National Bank shall exercise supervision of payment institutions by:

- 1) collecting and analysing reports and information that payment institutions are required to submit to the Croatian National Bank pursuant to this Act and/or other laws and regulations adopted under these laws, and by ongoing monitoring of their operation;
- 2) carrying out on-site examinations of payment institutions' operation, their branches, agents and outsourcing service providers; and
- 3) imposing supervisory measures.

(2) The supervision referred to in paragraph (1), item (1) of this Article shall be exercised by the employees of the Croatian National Bank.

(3) The supervision referred to in paragraph (1), item (2) of this Article shall be exercised by the employees of the Croatian National Bank authorised by the Governor of the Croatian National Bank (hereinafter: authorised persons). Exceptionally, the Governor of the Croatian National Bank may authorise other professionally qualified persons to carry out on-site examinations.

(4) The Croatian National Bank shall submit a notification of an on-site examination to a payment institution at least eight days prior to the beginning of the on-site examination. Exceptionally, authorised persons may submit the notification of an on-site examination no later than the beginning of the on-site examination. The notification shall include the subject of the on-site examination and information on what the payment institution subject to the on-site examination shall prepare for authorised persons for the purpose of carrying out the on-site examination.

(5) A payment institution shall enable authorised persons to carry out an on-site examination and ensure adequate conditions for undisturbed performance of the on-site examination.

(6) A payment institution which processes data by computer shall, at the request of authorised persons, ensure the conditions and adequate means of support for the examination of business books and records, and shall submit to authorised persons documentation that provides a complete description of the accounting system's operation.

*On-site examination*  
Article 99

(1) A payment institution shall enable authorised persons, at their request, to carry out an on-site examination at the registered office of the payment institution and in other localities in which the payment institution or another person with its authorisation carries out activities and operations subject to the supervision of the Croatian National Bank.

(2) A payment institution shall enable authorised persons, at their request, to carry out an examination of business books, business documentation, and administrative or business records, as well as an examination of information and related technologies, to the extent necessary for an examination.

(3) A payment institution shall submit to authorised persons, at their request, computer print-outs, copies of business books, business documentation and administrative or business records, in a paper form or in the form of an electronic record, in the medium and format required by the authorised persons. The payment institution shall provide authorised persons with a standard interface granting access to the database management system used by the payment institution, for the purpose of carrying out a computer-aided examination.

(4) The examination referred to in paragraphs (1) and (2) of this Article shall be carried out by authorised persons during payment institution's working hours. Where necessary because of the scope or nature of the examination, the payment institution shall enable authorised persons to carry out the examination outside its working hours.

#### *Completion of an examination of a payment institution*

##### Article 100

(1) A report on examination findings shall be prepared following an examination of the payment institution's operation.

(2) Exceptionally, a report on examination findings shall not be prepared where the examination has been carried out under Article 98, paragraph (1), item (1) of this Act and where no illegalities or weaknesses and deficiencies in the payment institution's operation have been identified that require the imposition of supervisory measures.

#### *Supervisory measures*

##### Article 101

(1) The objective of the supervisory measures of the Croatian National Bank shall be to take actions at an early stage to improve the safety and stability of payment institutions' operations and to eliminate illegalities established.

(2) Supervisory measures shall be implemented by means of:

- 1) a memorandum of understanding, or
- 2) a decision.

#### *Memorandum of understanding*

##### Article 102

(1) Following an examination of a payment institution, the Croatian National Bank may conclude a memorandum of understanding with the payment institution if it identifies weaknesses or deficiencies in the payment institution's operation which do not constitute a violation of regulations or if, following the examination, it deems it necessary to give the payment institution recommendations or guidelines on the basis of which the payment institution is to take actions and procedures to improve its operation.

(2) The Croatian National Bank may propose to a payment institution the conclusion of a memorandum of understanding if:

- 1) the payment institution has begun to eliminate weaknesses or deficiencies in the course of or immediately following the examination;
- 2) the payment institution is ready to commit itself to eliminating the weaknesses or deficiencies within the proposed time limits and in the manner proposed;

3) the payment institution's track record with regards to measures, objections and instructions of the Croatian National Bank suggests that the payment institution will completely fulfil the commitments to be taken under the memorandum; or

4) the payment institution's track record, and the frequency of weaknesses, deficiencies or illegalities identified its operation, suggest that the payment institution will in its future operation ensure the legality, safety and stability of operation.

(3) A memorandum of understanding shall lay down:

1) the time limit for and the manner of eliminating weaknesses or deficiencies in the payment institution's operation; and

2) the time limit and the frequency of the payment institution's reporting to the Croatian National Bank on the fulfilment of the commitments taken under the memorandum of understanding.

*Consequences of a failure to fulfil the commitments taken under a memorandum of understanding*  
Article 103

Where a payment institution fails to fulfil the commitments taken under a memorandum of understanding within the time limit and in the manner laid down in the memorandum, the Croatian National Bank shall adopt a decision.

*Decision to impose supervisory measures*  
Article 104

(1) The Croatian National Bank may adopt a decision to impose supervisory measures on a payment institution if in the course of supervision it establishes:

1) that by its actions or omission of particular actions the payment institution acted contrary to laws and other regulations;

2) weaknesses and deficiencies in the payment institution's operation which do not constitute a violation of regulations; or

3) that it is necessary that the payment institution take actions and procedures to improve its operation.

(2) In the decision referred to in paragraph (1) of this Article, the Croatian National Bank shall lay down the time limit within which the payment institution is to implement the measures imposed by the decision.

(3) A payment institution may, no later than fifteen days prior to the expiry of the time limit referred to in paragraph (2) of this Article, apply for an extension of that time limit by a reasoned request. The Croatian National Bank shall decide on the extension at the latest by the expiry of the time limit laid down in the decision.

*Reporting to the Croatian National Bank on the implementation of decisions*  
Article 105

(1) In its decision to impose supervisory measures, the Croatian National Bank may also order the payment institution to report to the Croatian National Bank within a specified time limit on the implementation of the measures imposed.

(2) The payment institution shall report to the Croatian National Bank on the implementation of measures and shall enclose relevant documents and other evidence within the time limit referred in paragraph (1) of this Article.



(3) Where the Croatian National Bank establishes that the measures imposed have not been implemented or have not been implemented within the time limit and in the manner prescribed by the decision, it may adopt a decision to impose a new supervisory measure on the payment institution.

*Types of supervisory measures*  
Article 106

(1) By means of supervisory measures, the Croatian National Bank may:

- 1) order the competent body of the payment institution to remove a member of the management board or an executive director and appoint a new member of the management board or a new executive director;
- 2) temporarily prohibit a payment institution from providing one or more payment services referred to in Article 73, paragraph (2) of this Act;
- 3) remove a payment institution's branch and/or agent from the register;
- 4) order a payment institution to meet the conditions pursuant to which it was granted authorisation to provide payment services; or
- 5) impose other supervisory measures.

(2) The Croatian National Bank shall impose the measure referred to in paragraph (1), item (2) of this Article simultaneously with the imposition of another supervisory measure in the duration of no longer than one year. The Croatian National Bank shall without undue delay notify the competent commercial court of the imposition of this measure.

(3) The Croatian National Bank may order that a separate entity be established for the provision of payment services if the payment institution performs the activities referred to in Article 68, item (3) of this Act which impair or may impair the financial stability of the payment institution or make supervision more difficult.

(4) Where the own funds of a payment institution are lower than the amount required under Article 86, paragraph (2) of this Act, or where the own funds of a payment institution are not appropriate with regard to the total amount of the credit granted in accordance with Article 89 of this Act, the Croatian National Bank may:

- 1) order a payment institution's management board or executive director to adopt and ensure the implementation of a plan of measures to provide for the minimum own funds required under the regulation adopted pursuant to Article 86, paragraph (3) of this Act;
- 2) order a payment institution's management board or executive director to adopt and ensure the implementation of a plan of measures to provide that the own funds be appropriate with regard to the total amount of the credit granted in accordance with Article 89 of this Act;
- 3) order the competent body of the payment institution to adopt a decision and carry out an increase in the initial capital referred to in Article 67 of this Act; or
- 4) temporarily prohibit the payment institution to distribute dividends or any form of profit.

*Exemptions from the required minimum amount of own funds*  
Article 107

(1) The Croatian National Bank may, based on an evaluation of the risk-management processes, risk loss data base and the internal control mechanism of the payment institution, require or allow the payment institution to hold a minimum amount of own funds which is up to 20 percent higher or lower than the amount calculated in accordance with the regulations adopted pursuant to this Act.

(2) As regards payment institutions which use the method of applying fixed overheads of the preceding year for the calculation of the minimum amount of own funds, the Croatian National Bank may, in the event of a significant change in a payment institution's operation since the preceding year, require or allow the payment institution to maintain a higher or lower amount of own funds.

*On-site examination of payment institutions having their registered offices in the Republic of Croatia and operating in another Member State*

Article 108

- (1) Where a payment institution having its registered office in the Republic of Croatia operates within the territory of another Member State, directly or through a branch or an agent, the Croatian National Bank or persons it has authorised may carry out an on-site examination after notifying in advance the competent authority of the host Member State.
- (2) The Croatian National Bank may request the competent authority of the host Member State in which the payment institution provides services to carry out an on-site examination of the operation of that payment institution's branch or agent.
- (3) The Croatian National Bank may participate in an on-site examination of a branch or an agent of a payment institution in a Member State regardless of who carries out the on-site examination.
- (4) The provisions of paragraphs (1) to (3) of this Article shall also apply in the case when the outsourcing service provider has its registered office in the territory of another Member State.

*On-site examination of payment institutions having their registered offices in another Member State and providing payment services in the Republic of Croatia*

Article 109

- (1) Where a payment institution having its registered office in another Member State operates in the territory of the Republic of Croatia, the competent authority of the home Member State may:
  - 1) carry out an on-site examination of the operation of the payment institution, especially its branches or agents, on its own or through persons it has authorised after having notified the Croatian National Bank thereof, or
  - 2) request from the Croatian National Bank or the person authorised by the Croatian National Bank to carry out an on-site examination of the operation of a branch or an agent of the payment institution of that Member State in the territory of the Republic of Croatia.
- (2) By way of derogation from paragraph (1) of this Article, the Croatian National Bank may carry out an on-site examination of a branch or an agent of a payment institution of another Member State, in relation to the application of regulations in accordance with Titles II and III of this Act.
- (3) The competent authority of the home Member State may participate in an on-site examination of a branch or an agent of a payment institution of that Member State regardless of who carries out the on-site examination.
- (4) The provisions of paragraphs (1) and (3) of this Article shall also apply in the case when the outsourcing service provider has its registered office in the territory of the Republic of Croatia.

*Supervision of third-country branches of payment institutions having their registered offices in the Republic of Croatia*

Article 110

The supervision of payment institutions having their registered offices in the Republic of Croatia which provide payment services through a branch in a third-country shall be exercised by the Croatian National Bank.

*Reporting to the Croatian National Bank*  
Article 111

- (1) A payment institution shall report to the Croatian National Bank in accordance with this Title.
- (2) The Croatian National Bank may prescribe the content of the reports and the reporting time limits and manner referred to in paragraph (1) of this Article.
- (3) A payment institution shall without undue delay notify the Croatian National Bank of the following:
  - 1) all facts to be entered into the register of companies relating to each submitted application for entry of data in the register of companies and to all completed entries of data changes into the register of companies;
  - 2) all planned changes of members of the management board, a change of the executive director, or persons responsible for the business relating to the provision of payment services;
  - 3) all planned or executed changes of qualified holders of which the management board or the executive director was aware or should have been aware;
  - 4) all planned changes in the payment institution's initial capital of 10 percent or more;
  - 5) if the payment institution's financial position changes to the extent that its own funds fall below the minimum amount of own funds prescribed in this Act and the regulation adopted pursuant to Article 86, paragraph (3) of this Act;
  - 6) if it stops providing some payment services;
  - 7) of the intent to stop providing all payment services, if reasons arise for withdrawal of the authorisation referred to in Article 73 of this Act and of the expiry of the authorisation to provide payment services referred to in Article 75 of this Act;
  - 8) if it stops providing payment services through an agent;
  - 9) all changes to facts on the basis of which the Croatian National Bank entered its agent into the register; and
  - 10) changes to the measures taken for safeguarding payment service users' funds, and shall enclose evidence that the measures meet the conditions referred to in paragraph 87 of this Act; and
  - 11) all other changes altering the facts on the basis of which the Croatian National Bank has granted its authorisation to provide payment services.
- (4) At the request of the Croatian National Bank, a payment institution shall submit reports and information on all matters relevant for the exercise of supervision or performing of other tasks within the competence of the Croatian National Bank.

*Cooperation among the competent authorities of the Republic of Croatia*  
Article 112

- (1) The Croatian National Bank and other supervisory authorities in the Republic of Croatia shall, at the request of a supervisory authority, submit to that authority all information on a payment institution necessary for the performance of supervisory tasks, in authorisation or approval procedures, or when deciding on other specific applications or requests within its competence.
- (2) The authorities referred to in paragraph (1) of this Article shall notify one another of withdrawal of authorisations, illegalities and irregularities identified in the course of supervision if such findings are relevant for the operation of the other authority.
- (3) The submission of the information and notifications referred to in paragraphs (1) and (2) of this Article shall not constitute a violation of the duty to protect the confidentiality of information.
- (4) The authority that receives the information and notifications referred to in paragraphs (1) and (2) of this Article shall protect their confidentiality and shall use the confidential information and notifications it has

received exclusively for the purpose for which they have been given, and may not divulge them to third parties without the consent of the competent authority which submitted them.

*Exchange of information between the Croatian National Bank and the competent authorities of Member States*  
Article 113

(1) The Croatian National Bank shall cooperate with the competent authorities of other Member States and, where appropriate, with the European Central Bank and the central banks of Member States and other relevant competent authorities in accordance with the legislation of the European Union or national legislation of Member States applicable to payment service providers.

(2) The Croatian National Bank may also exchange information with:

- 1) the authorities of other Member States competent for the authorisation and supervision of payment institutions;
- 2) the European Central Bank and the national central banks of Member States, in their capacity as monetary and supervisory authorities, and, where appropriate, other public authorities responsible for overseeing payment and settlement systems; and
- 3) other relevant authorities designated under the law governing the protection of personal data, the law governing the prevention of money laundering and terrorist financing and other regulations applicable to payment service providers with regard to the processing of personal data as well as prevention of money laundering and terrorist financing.

(3) The submission of the information and notifications referred to in paragraphs (1) and (2) of this Article shall not constitute a violation of the duty to protect the confidentiality of information.

(4) The authority that receives the information and notifications referred to in paragraphs (1) and (2) of this Article shall protect their confidentiality and shall use the confidential information and notifications it has received exclusively for the purpose for which they have been given and may not divulge them to third parties without the agreement of the competent authority which submitted them.

*Cooperation with the competent authorities of third countries*  
Article 114

(1) The Croatian National Bank may conclude an agreement with one or more competent third-country authorities for the purpose of exercising supervision of the operation of a branch of a payment institution having its registered office in the Republic of Croatia and operating in the third country.

(2) The Croatian National Bank may submit confidential information to persons from third countries whose position is equal to that of persons referred to in Article 113, paragraph (2) of this Act, if all of the following conditions are met:

- 1) mutual exchange of information has been agreed with such persons;
- 2) persons from a third country are subject to the duty to protect the confidentiality of information in that country;
- 3) the information submitted to persons from a third country is to be used only for the purpose for which it has been given; and
- 4) it is guaranteed that the information received from the competent authorities of a Member State shall be disclosed to third parties only with the express agreement of the authorities which have disclosed the information.

*Notification of the European Commission*  
Article 115

The Croatian National Bank shall notify the European Commission of its competences relating to granting authorisation for the provision of payment services and supervision of payment institutions in accordance with this Act.

## **Chapter 5 Register**

### *Register of payment institutions* Article 116

- (1) The Croatian National Bank shall maintain a register of payment institutions authorised by it to provide payment services, their branches and agents.
- (2) The register shall include, for each entity referred to in paragraph (1) of this Article, a list of payment services which the payment institution is authorised to provide and its registration number. The Croatian National Bank shall update the register on a regular basis.
- (3) The register of payment institutions shall be publicly available and accessible on the website of the Croatian National Bank.
- (4) The Croatian National Bank shall prescribe the manner of keeping the register.

## **TITLE VI PAYMENT SYSTEMS**

### **Chapter 1 Establishment and operation of payment systems in the Republic of Croatia**

#### *Payment systems in the Republic of Croatia* Article 117

A payment system in the Republic of Croatia (hereinafter: payment system) is a payment system in which at least one participant is the provider of payment services, authorised to provide payment services by the Croatian National Bank, whose operator is the person referred to in Article 118, paragraph (2) of this Act.

#### *Payment system operator* Article 118

- (1) A payment system shall be operated by a payment system operator.
- (2) A payment system operator may be:
  - 1) a payment institution having a registered office in the Republic of Croatia;
  - 2) a credit institution having a registered office in the Republic of Croatia;
  - 3) an electronic money institution having a registered office in the Republic of Croatia;
  - 4) another legal person having its registered office in the Republic of Croatia, established as a joint stock company or as a limited liability company;
  - 5) another legal person having a registered office in the Republic of Croatia which may operate a payment system in accordance with a special law;
  - 6) the Croatian National Bank; and
  - 7) a branch of a legal person from a foreign country having a registered office in the Republic of Croatia.

(3) A payment system operator may perform other activities apart from operating a payment system, unless otherwise provided for by the act governing such activities.

*Payment system participants*  
Article 119

(1) A payment system participant may be:

- 1) a payment service provider,
- 2) the payment system operator,
- 3) another payment system, and
- 4) another person in accordance with the rules of operation of that payment system.

(2) A payment service provider may also participate in a payment system indirectly through another payment service provider.

(3) The payment service provider referred to in Article 5, paragraph (1), items (1), (2), (3), (9) and (10) shall notify the Croatian National Bank of each payment system in which it participates directly or indirectly, and of the payment system operator, regardless of whether the payment system operates within the territory of the Republic of Croatia or another country.

*Payment systems regulated by Croatian National Bank subordinate legislation*  
Article 120

(1) The Croatian National Bank shall prescribe the rules of operation of a payment system which it operates.

(2) The Croatian National Bank may prescribe the rules of operation of payment systems used for the calculation of payment transactions referred in Article 43, paragraph (2) of this Act that are operated by the payment system operator referred to in Article 118, paragraph (2), item (5) of this Act.

*Authorisation for the operation of a payment system*  
Article 121

(1) Authorisation of the Croatian National Bank shall be required for the operation of a payment system.

(2) By way of derogation from paragraph (1) of this Article, authorisation for the operation of a payment system is not required in the following cases:

- 1) where the payment system operator is a payment service provider which operates the payment system that is part of a card payment scheme or a payment system referred to in Article 130, paragraph (2), item (3) of this Act, or
- 2) where the payment system operation has been prescribed by the Croatian National Bank in accordance with Article 120 of this Act.

(3) The payment system referred to in paragraph (1) of this Article may not commence its operation before the Croatian National Bank has issued authorisation for the operation of that payment system.

(4) The payment system operator shall notify the Croatian National Bank of the beginning of operation of the payment system it operates within a time limit of thirty days.

(5) The payment system operator referred in paragraph (2) of this Article shall, together with the notification referred to in paragraph (4) of this Article, submit to the Croatian National Bank the following:

- 1) a certificate from the register of companies in the form of an original or a certified copy, not older than ninety days;
- 2) the rules of operation of a payment system;
- 3) where the payment system operator engages in other activities apart from the operation of a payment system, for persons responsible for the operation of the payment system, the data specified in Article 69, paragraph (2), item (10) of this Act; and
- 4) name, registered office or place of business of each payment system participant.

*Application for authorisation for the operation of a payment system*  
Article 122

(1) A payment system operator shall apply to the Croatian National Bank for authorisation for the operation of the payment system.

(2) The application referred to in paragraph (1) shall be accompanied by:

- 1) the Articles of Association, a deed of establishment or memorandum of the payment system operator, and where the applicant is entered into the register of companies, a certificate from the register of companies in the form of an original or a certified copy, not older than ninety days;
- 2) application for the approval of the rules of operation of a payment system referred in Article 129, paragraph (3) of this Act;
- 3) a description of the IT system by which the payment system operator demonstrates that the respective IT system is appropriate, adequate, sound, and satisfactory with respect to the performance of all functions in accordance with the rules of operation of a payment system;
- 4) a description of the organisational, technical and personnel structure, including the structure of the payment system operator with respect to operating the payment system and, where appropriate, a description of outsourcing arrangements with respect to operating the payment system, as well as a description of its connection with another payment system;
- 5) for management board members or executive directors of the payment system operator or, where the payment system operator engages in other activities apart from the operation of a payment system, for persons responsible for the operation of the payment system, the data specified in Article 69, paragraph (2), item (10) of this Act; and
- 6) name, registered office or place of business of each payment system participant.

(3) Apart from the documents referred to in paragraph (2) of this Article, the Croatian National Bank may, while processing the application, request additional documentation necessary to decide on granting authorisation.

(4) Exceptionally, the Croatian National Bank shall, on a reasoned request, obtain from the criminal history records the evidence as referred to in paragraph (2), item (5) of this Article.

(5) In the case of a natural person who is not a citizen of the Republic of Croatia, the evidence as referred to in paragraph (2), item (5) of this Article shall be evidence, not older than three months, related to the crimes which by their definition correspond to the crimes stated therein.

*Granting authorisation for the operation of a payment system*  
Article 123

(1) The Croatian National Bank shall grant authorisation for the operation of a payment system if the rules of operation of the payment system meet the conditions for approval referred to in Article 129 of this Act and if, on the basis of the application and documentation referred to in Article 122 of this Act and available information, it assesses that the following conditions are met:

- 1) the persons proposed to be members of the management board of the payment system operator or, in the cases where the payment system operator also performs other activities apart from operating a payment system, the persons responsible for operating the payment system have a good reputation and the skills and experience required for operating the payment system;
- 2) the IT system is appropriate, adequate, sound and satisfactory in relation to all functions envisaged by the rules of operation of a payment system; and
- 3) the available documentation or information does not give rise to other reasons which impair or might impair the safety and stability of the payment system operation.

(2) Prior to granting authorisation for the operation of a payment system, the Croatian National Bank may consult with other competent authorities in order to make a better assessment of the submitted application.

*Refusal of an application for authorisation for the operation of a payment system*

Article 124

The Croatian National Bank shall refuse an application for authorisation for the operation of a payment system if it assesses that any of the conditions referred to in Article 123 of this Act has not been met.

*Withdrawal of authorisation for the operation of a payment system*

Article 125

(1) The Croatian National Bank shall withdraw authorisation for the operation of a payment system where:

- 1) the payment system does not commence its operation within twelve months of the date of granting the authorisation;
- 2) the payment system operator submits to the Croatian National Bank a notification of the termination of the payment system's operation;
- 3) the payment system has not operated for more than six consecutive months; or
- 4) it has obtained the authorisation based on false or inaccurate documentation or false presentation of data relevant for operating the payment system.

(2) The Croatian National Bank may withdraw authorisation for the operation of a payment system:

- 1) where continued operation of a payment system would jeopardise the stability of payment operations;
- 2) where the conditions based on which the payment system obtained its authorisation are no longer met;
- 3) where a payment system operator, in any manner whatsoever, prevents the supervision of a payment system; or
- 4) where a payment system operator fails to implement supervisory measures imposed by the Croatian National Bank.

*Decision to withdraw authorisation for the operation of a payment system*

Article 126

(1) The Croatian National Bank shall submit a decision to withdraw authorisation for the operation of a payment system to the payment system operator within three days of the date of its adoption.

(2) The Croatian National Bank shall issue a press release on the withdrawal of authorisation for the operation of a payment system.

*Expiry of authorisation for the operation of a payment system*

Article 127

Authorisation for the operation of a payment system shall expire:



- 1) on the date of initiating the winding-up of the payment system operator;
- 2) on the date of the adoption of a decision on the opening of bankruptcy proceedings against the payment system operator;
- 3) on the date of the removal of the payment system operator from the register of companies in the case of a merger, acquisition or division; or
- 4) on the date of the submission of the decision to withdraw authorisation of a payment system to the payment system operator or the date stipulated in the decision to withdraw authorisation.

*Establishment of a branch of a legal person having its registered office outside the Republic of Croatia for operating a payment system within the territory of the Republic of Croatia*  
Article 128

Articles 121 to 127 of this Act shall apply *mutatis mutandis* to a legal person having its registered office outside the Republic of Croatia which intends to operate a payment system through a branch in the territory of the Republic of Croatia.

*Rules of operation of a payment system*  
Article 129

- (1) A payment system shall operate in line with the rules of operation of the payment system.
- (2) The rules of operation of a payment system shall govern standardised arrangements and common rules for processing, clearing and/or settlement of payment transactions among the payment system participants.
- (3) The Croatian National Bank shall, at the request of a payment system operator, give its approval for the rules of operation of the payment system.
- (4) By way of derogation from paragraph (3) of this Article, the approval of the Croatian National Bank is not required for the rules of operation of the payment system as referred in Article 121, paragraph (2) of this Act.
- (5) The rules of operation of a payment system shall cover at a minimum:
  - 1) payment system participants by type and a description of their role in the payment system;
  - 2) conditions for participation and termination of participation in the payment system of payment system participants;
  - 3) payment transactions cleared and/or settled in the payment system by type of payment services;
  - 4) basic principles for clearing and/or settlement of payment transactions;
  - 5) the currency or currencies in which the payment system operates;
  - 6) the manner of and conditions for executing payment transactions, their form and content;
  - 7) procedures for providing information to participants on clearing and/or settlement;
  - 8) the manner of protection of data against abuse; and
  - 9) the moment of entry and the moment of irrevocability of a transfer order, and procedures in case of the opening of insolvency proceedings against a participant, for payment systems governed by the provisions of the law governing settlement finality in payment systems.
- (6) The Croatian National Bank shall give its approval for the rules of operation of a payment system where it deems that they cover the elements referred to in paragraph (5) of this Article and that their application ensures appropriate protection from systemic risk and other possible risks relating to the functioning of the payment system.
- (7) The rules of operation of a payment system may not subsequently be amended without prior approval of the Croatian National Bank.

(8) By way of derogation from paragraph (7) of this Article, prior approval shall not be required for amendments to the rules of operation of a payment system in the part referred to in paragraph (5), items (6) to (9) of this Article.

(9) The payment system operator shall enclose to the application referred to in paragraph (3) of this Article the amended rules of operation and the documentation referred to in Article 122, paragraph (2), items (3) and (4) of this Act.

(10) The provisions of Articles 123 and 124 of this Act shall apply *mutatis mutandis* to the procedure of issuing approval for rules of operation of a payment system.

*Access to payment systems*  
Article 130

(1) The rules governing the access of payment service providers to payment systems shall be objective, non-discriminatory and proportionate and shall not inhibit access more than is necessary to safeguard against specific risks such as settlement risk, operational risk and business risk and to protect the financial and operational stability of the payment system. Accordingly, payment systems shall impose on payment service providers or on other payment systems none of the following requirements:

- 1) any restrictive rule on effective participation in other payment systems;
- 2) any rule which discriminates among payment service providers in relation to their rights and obligations; and
- 3) any restriction based on the type of payment service provider.

(2) Paragraph (1) of this Article shall not apply to:

- 1) payment systems operating in accordance with the law governing settlement finality in payment systems;
- 2) payment systems composed exclusively of payment service providers belonging to a group composed of entities linked by capital, where one of the linked entities enjoys effective control over the other linked entities; or
- 3) payment systems in which a sole payment service provider (whether as a single entity or as a group):
  - a) acts or can act as the payment service provider for both the payer and the payee and is exclusively responsible for the management of the system; and
  - b) licenses other payment service providers to participate in the payment system and the latter have no right to negotiate charges between or among themselves in relation to the payment system although they may establish their own pricing in relation to payers and payees.

*Responsibilities of payment system operators*  
Article 131

(1) A payment system operator shall at all times ensure safe and sound functioning of the payment system.

(2) A payment system operator shall, proportionate to the nature, scope and complexity of tasks arising from the rules of operation of the payment system, especially ensure:

- 1) that the payment system has an appropriate, adequate, sound and satisfactory IT system to perform all functions in accordance with the rules of operation of the payment system and that it has a business continuity plan;
- 2) organisational structure with well-defined, clear and consistent lines of powers and responsibilities, including a personnel structure; and
- 3) management of risks to which the payment system is exposed or might be exposed.

(3) The Croatian National Bank may prescribe in detail the conditions to be met by the payment system and duties of the operator referred in this Article.

*Outsourcing*  
Article 132

- (1) A payment system operator may outsource some activities related to the payment system operation. It shall notify the Croatian National Bank thereof prior to concluding a contract with a service provider.
- (2) A payment system operator shall ensure that the intended outsourcing complies with the following conditions:
  - 1) that it does not alter the payment system operator's relationship with and obligations to payment system participants;
  - 2) that it does not threaten the compliance of the payment system's operation with the rules of operation, this Act and subordinate legislation adopted pursuant to this Act; and
  - 3) that it does not impair the exercise of supervision by the Croatian National Bank.
- (3) A payment system operator shall be liable for damage caused by outsourcing service providers in connection with the provision of an outsourced activity.
- (4) A payment system operator shall ensure that the Croatian National Bank can carry out on-site examination at the location where the services are provided, that is, at the service provider's premises, and it shall ensure access to the outsourcing-related documentation and data possessed by the outsourcing service provider.
- (5) The Croatian National Bank may prescribe in detail the conditions for the outsourcing of activities related to the payment system operation.

**Chapter 2**  
**Supervision of payment systems**

*General provisions*  
Article 133

- (1) The supervision of payment systems shall be exercised by the Croatian National Bank.
- (2) The supervision referred in paragraph (1) of this Article shall be the verification of whether a payment system operates in accordance with the provisions of this Act and regulations adopted under this Act, whether it functions in a safe and sound manner and whether access to the payment system has been ensured in the manner referred to in Article 130 of this Act;
- (3) For the purpose of exercising supervision of payment systems, the Croatian National Bank may formulate principles, recommendations and guidelines for the operation of payment systems.
- (4) When carrying out the supervision of payment systems, the Croatian National Bank shall carry out the supervision of payment system operators to the extent pertaining to the operation of a payment system.

*Manner of exercising supervision*  
Article 134

- (1) The Articles 97 to 105 of this Act shall apply *mutatis mutandis* to the supervision of payment systems and payment system operators.
- (2) In establishing the methodology, frequency and intensity of the supervision of payment systems, the Croatian National Bank shall take into account the nature, scope and complexity of operation of payment systems with respect to the types of participants, payment transactions by type of payment instruments

cleared and/or settled, and the risk exposure of payment systems, taking into account in particular the exposure to systemic risk.

*Types of supervisory measures*

Article 135

The Croatian National Bank may adopt a decision to impose supervisory measures on a payment system operator in order to take action at an early stage to improve the safety and stability of functioning of a payment system and to eliminate established illegalities.

*Reporting to the Croatian National Bank*

Article 136

(1) A payment system operator shall without undue delay report the following to the Croatian National Bank:

1) all facts to be entered into the register of companies relating to each submitted application for entry of data in the register of companies and to all completed entries of data changes into the register of companies;

2) in the cases where the payment system operator apart from operating a payment system engages in other activities, all changes of persons responsible for operating the payment system;

3) any changes in the elements of the rules of operation of a payment system referred to in Article 129, paragraph (5), items (6) to (9) of this Act;

4) of any change in the data on payment system participants and in the data relating to the inclusion of new participants or termination of the participation of former participants in a payment system;

5) its intention to cease performing the activity of operating the payment system, if reasons arise for withdrawal of the authorisation of a payment system referred to in Article 125 of this Act or if circumstances arise for expiry of the authorisation of a payment system referred to in Article 127 of this Act; and

6) any other changes relating to the conditions for the operation of payment system laid down in this Act or regulations adopted under this Act and/or altering the facts on the basis of which the Croatian National Bank has granted its authorisation.

(2) By way of derogation from paragraph (1) of this Article, the payment system operator referred to in Article 121, paragraph (2) of this Act shall without undue delay report to the Croatian National Bank all facts and circumstances referred to in paragraph (1), items (1), (2), (4) and (5) of this Article and any change in the elements of the rules of operation of a payment system referred to in Article 129, paragraph (5) of this Act.

(3) At the request of the Croatian National Bank, a payment system operator shall submit all data on payment transactions executed through the payment system.

(4) At the request of the Croatian National Bank, a payment system operator shall submit reports, information and data on all matters relevant for the exercise of supervision and other tasks within the competence of the Croatian National Bank.

(5) The Croatian National Bank may prescribe the content of reports, the time limits and the method of reporting.

*Cooperation with competent authorities and exchange of information*

Article 137

In the supervision of payment systems the Croatian National Bank shall cooperate with other competent authorities in the Republic of Croatia and with competent authorities of other countries.

*Register of payment systems*  
Article 138

(1) The Croatian National Bank shall maintain a register of payment systems in the Republic of Croatia and shall disclose it on its website.

(2) The register of payment systems shall contain at a minimum the following information:

- 1) the name of a payment system,
- 2) the name and registered office of the payment system operator, and
- 3) a list of the payment system participants.

**13. TITLE VII**

**14. DECISION-MAKING METHODS AND PROCEDURES OF THE CROATIAN NATIONAL BANK**

15. *Application of procedural provisions*

16. Article 139

17.

18. (1) Unless otherwise provided for in this Act, the provisions of the General Administrative Procedure Act shall apply to the decision-making procedures of the Croatian National Bank.

19.

20. (2) It shall not be possible to require restitution in an administrative procedure carried out by the Croatian National Bank.

21.

22.

23. *Decision-making*

24. Article 140

25.

26. In its procedures, the Croatian National Bank shall decide without an oral discussion.

27. *Decisions*
28. Article 141
- 29.
30. Decisions adopted by the Croatian National Bank on matters within its competence must be written and explained. Such decisions shall be final in an administrative procedure. Administrative proceedings may be initiated against Croatian National Bank decisions.
- 31.
- 32.
33. *Amendments to decisions*
34. Article 142
- 35.
36. (1) In the course of the supervision of a payment institution and a payment system operator, the Croatian National Bank may amend its decision at the request of the party concerned.
- 37.
38. (2) At the request of the party concerned, the Croatian National Bank may amend its decision in the cases where, after the granting of authorisation, new circumstances have arisen which influence or may influence the operation of the payment institution or the payment system operator in question.
- 39.
40. (3) In the cases referred to in paragraphs (1) and (2) of this Article, the Croatian National Bank shall also take into account all facts and circumstances arising after the adoption of the decision referred to in paragraph (1) of this Article or after the granting of authorisation.
- 41.
42. *Liability for damage*
43. Article 143
- 44.
45. The employees of the Croatian National Bank, members of the Council of the Croatian National Bank and persons authorised by the Croatian National Bank shall not be liable for any damage that may arise in the course of performance of their duties under this Act, the Act on the Croatian National Bank or regulations adopted under these acts, unless it is proved that they have acted or failed to act intentionally or as a result of gross negligence.
- 46.
47. *Time limits*
48. Article 144
- 49.
50. (1) Within three months of the submission of a complete application, the Croatian National Bank must decide on:
51. 1) an application for authorisation to provide payment services;
52. 2) an application for authorisation for the operation of a payment system; and
- 3) an application for approval for the rules of operation of a payment system.
53. (2) Except in the cases referred to in paragraph (1) of this Article, the Croatian National Bank shall decide on all other applications for authorisation within two months of the submission of a complete application, or within three months if it assesses that additional data should be collected.

## **TITLE VIII PENAL PROVISIONS**

### *Violations by payment service providers* Article 145

(1) The payment service provider referred to in Article 5, paragraph (1) of this Act shall be fined between HRK 20,000.00 and HRK 500,000.00:

- 1) if it levies charges contrary to the prohibition of Article 9, paragraph (1) of this Act;
- 2) if it levies charges that are not appropriate and in line with the actual costs pursuant to the provision of Article 9, paragraph (3) of this Act;
- 3) if it fails, contrary to the provision of Article 12, paragraph (2) of this Act, to inform a payment service user of a charge for the use of a given payment instrument prior to the initiation of a payment transaction;
- 4) if, in the case of a single payment transaction, it fails to provide information in accordance with the provisions of Article 15, paragraphs (1) to (5) of this Act;
- 5) if, after receipt of a payment order, it fails to provide information to the payer in accordance with Article 16 of this Act;
- 6) if, after the execution of a payment transaction, it fails to provide information to the payee in accordance with Article 17 of this Act;
- 7) if, before a payment service user is bound by any offer or framework contract, it fails to provide the payment service user with the information referred to in Article 18 of this Act;
- 8) if it fails to provide a payment service user with the information referred to in Article 18 of this Act in the manner referred to in Article 19, paragraphs (1) and (2) of this Act;
- 9) if it fails to provide a payment user with the terms of the framework contract and information in accordance with Article 20 of this Act;
- 10) if, in the case of changes in the framework contract, interest or exchange rates, it fails to act in accordance with the provisions of Article 21 of this Act;
- 11) if, in the case of termination of the framework contract, it levies a charge contrary to the provisions of Article 22 of this Act or fails to reimburse a charge in accordance with the provisions of Article 22 of this Act;
- 12) if, at the payer's request, it fails to provide information in accordance with Article 23 of this Act prior to the execution of an individual payment transaction;
- 13) if, after having debited the payer's payment account or after having received the payment order, it fails to provide the payer with information in accordance with Article 24 of this Act;
- 14) if, after the execution of an individual payment transaction, it fails to provide the payee with information in accordance with Article 25 of this Act;
- 15) if it charges a payment service user contrary to Article 27 of this Act;
- 16) if it prevents a payee from offering the payer a reduction for the use of a given payment instrument (Article 27, paragraph 5);
- 17) if it fails to inform the payer of the blocking of the payment instrument in accordance with Article 30, paragraphs (3) to (5) of this Act;
- 18) if it fails to unblock the payment instrument or replace it with a new one once the reasons for blocking this payment instrument no longer exist (Article 30, paragraph (6));
- 19) if it, as a payment instrument issuer, acts contrary to the provisions of Article 32 of this Act;
- 20) if, in the case of execution of an unauthorised payment transaction, it fails to act in the manner and within the time limit referred to in Article 35 of this Act;
- 21) if, at the payer's request for a refund for an authorised payment transactions, it fails to act in accordance with Article 38, paragraphs (3) and (4) of this Act;
- 22) if it fails to notify a payment service user of the refusal of a payment order in accordance with the provisions of Article 40 of this Act;
- 23) if it refuses to execute an authorised payment order, contrary to the provision of Article 40, paragraph (4) of this Act;
- 24) if, in executing a payment transaction, it fails to act in accordance with Article 42 of this Act;
- 25) if it fails to execute a payment to another payment service provider within the time limit referred to in Article 43 of this Act;
- 26) if it fails to transmit a payment order to the payer's payment service provider in accordance with Article 43, paragraph (11) of this Act;
- 27) if it fails to execute a payment to its payee in accordance with the provisions of Article 44 and Article 46, paragraphs (1) to (6) of this Act;
- 28) if in the case of placing cash it fails to make the funds available and to credit the account in accordance with the provisions of Article 45 of this Act;

- 29) if it sets the debit value date for the payer's payment account contrary to Article 46, paragraph (7) of this Act;
- 30) if, in the case of an incorrect unique identifier, it fails to take reasonable steps to recover the funds in accordance with Article 49, paragraph (3) of this Act;
- 31) if, in the case of a non-executed or incorrectly executed payment transaction and at the request of the payment service user, it fails to act in accordance with Article 47, paragraph (5) or Article 48, paragraph (4) of this Act;
- 32) if it fails to reply to the complaint of a payment service user within the time limit referred to in Article 55, paragraph (2) of this Act; or
- 33) if, at the invitation of the Croatian National Bank, it fails to submit its response and the necessary evidence within the time limit referred to in the invitation (Article 56, paragraph (3) of this Act);

(2) Exceptionally, the payment service provider referred to in Article 5, paragraph (1) of this Act shall not be considered to have committed any of the violations referred to in paragraph (1) of this Article, if, where so provided for by this Act, it has agreed with the payment service user otherwise than prescribed by this Act.

(3) A responsible person of the management board of the payment service provider referred to in Article 5, paragraph (1), items (1) to (3) of this Act, or, if a payment service provider referred to in Article 5 paragraph (1) items (2) and (3) of this Act apart from providing payment services engages in other activities, a director responsible for payment services, or a natural person responsible for the operation of a branch referred to in Article 5, paragraph (1), items (9) and (10), or a responsible person of the payment service provider referred to in Article 5, paragraph (1), items (4), (5) and (11) shall be fined between HRK 5,000.00 and HRK 50,000.00 for any of the violations referred to in paragraph (1) of this Article.

*Violations committed in the course of providing payment services in another Member State through a branch or an agent*  
Article 146

(1) A payment service provider referred to in Article 5, paragraph (1), items (1) to (3) of this Act shall not be fined for any of the violations referred to in Article 145, paragraph (1) of this Act if they have been committed in the territory of another Member State in the course of providing payment services in that Member State through a branch or an agent.

(2) Where any of the violations referred to in Article 145, paragraph (1) of this Act has been committed by the payment service provider referred to in Article 5, paragraph (1), items (6) to (8) that provides payment services in the territory of the Republic of Croatia through a branch or an agent, the branch or the agent shall be fined for the violation referred to in Article 145, paragraph (1) of this Act.

(3) In the case referred to in paragraph (2) of this Article, the director responsible for the operation of the branch or the responsible person of the management board of the legal person's agent shall also be fined in accordance with Article 145, paragraph (3) of this Act.

*Violations while directly providing payment services in another Member State*  
Article 147

(1) A payment service provider referred to in Article 5, paragraph (1), items (1) to (3) of this Act shall be fined for any of the violations referred to in Article 145, paragraph (1) of this Act committed while directly providing payment services in another Member State if the violation is subject to a fine under the law of the Member State where it had been committed.

(2) If the condition referred to in paragraph (1) of this Article is fulfilled, the responsible person of the payment service provider's management board will also be fined for any of the violations referred to in



Article 145, paragraph (1) of this Act, or, if the payment service provider referred to in Article 5, paragraph (1), items (2) and (3) of this Act apart from providing payment services engages in other activities, a director responsible for payment services, in accordance with Article 145, paragraph (3) of this Act.

(3) By way of derogation from Article 145, the payment service provider referred to in Article 5, paragraph (1), items (6) to (8) of this Act that has committed any of the violations referred to in Article 145, paragraph (1) of this Act while directly providing payment services in the Republic of Croatia shall not be fined, but instead the Croatian National Bank shall notify the competent authority of the home Member State of the committed violation to initiate appropriate proceedings.

*Violations by payment service providers authorised by the Croatian National Bank*  
Article 148

(1) The payment service provider referred to in Article 5, paragraph (1), items (1), (2), (3), (9) and (10) of this Act shall be fined between HRK 20,000.00 and HRK 500,000.00 for a violation:

1) if it fails to report to the Croatian National Bank in accordance with subordinate legislation adopted under Article 7, paragraph (1) of this Act; and

2) if it fails to notify the Croatian National Bank in accordance with Article 119, paragraph (3) of this Act.

(2) The responsible person of the management board of the payment service provider referred to in Article 5, paragraph (1), items (1) to (3) of this Act, or, if the payment service provider referred to in Article 5, paragraph (1), items (2) and (3) of this Act apart from providing payment services engages in other activities, a director responsible for payment services, or a natural person responsible for the operation of the branch referred to in Article 5, paragraph (1), items (9) and (10) shall be fined between HRK 5,000.00 and 50,000.00 for the violation referred to in paragraph (1) of this Article.

*Violations by other persons*  
Article 149

(1) A legal or natural person shall be fined between HRK 20,000.00 and HRK 500,000.00:

- 1) if it provides payment services contrary to the provision of Article 5, paragraph (2) of this Act;
- 2) if, contrary to the provision of Article 12, paragraph (1) of this Act, it fails to inform the payer of a reduction for the use of a given payment instrument prior to the initiation of a payment transaction;
- 3) if, in the case referred to in Article 13, paragraph (2) of this Act, it fails to disclose to the payer all charges as well as the exchange rate to be used, prior to the currency conversion;
- 4) if it, as a payee, levies a charge for the use of a given payment instrument (Article 27, paragraph (6)); or
- 5) if it provides payment services before it obtains authorisation to provide payment services (Article 65, paragraph (4)).

(2) A responsible person of a legal person shall be fined between HRK 5,000.00 and HRK 50,000.00 for any of the violations referred to in paragraph (1) of this Article.

*Violations by credit institutions*  
Article 150

(1) The payment service provider referred to in Article 5, paragraph (1), items (1) and (9) of this Act shall be fined between HRK 20,000.00 and HRK 250,000.00:

- 1) if it acts contrary to subordinate legislation adopted under Article 58, paragraph (4) of this Act;
- 2) if it fails to submit data under the law governing the keeping and the content of the unified register of accounts (Article 59);
- 3) if it fails to keep a register of transaction accounts (Article 60);

- 4) if it fails to notify the Croatian National Bank of its intention to conclude a contract referred to in Article 62, paragraph (2) of this Act or fails to accompany the notification with a detailed description of the payment transaction execution model (Article 62, paragraph (3));
- 5) if it acts contrary to subordinate legislation adopted under Article 62, paragraph (4) of this Act; or
- 6) if a payment order for the execution of payment transactions across transaction accounts does not contain the elements or is not completed in the manner prescribed in subordinate legislation adopted under Article 64 of this Act;

(2) A responsible person of the management board of a credit institution shall be fined between HRK 5,000.00 and HRK 30,000.00 for any of the violations referred to in paragraph (1) of this Article.

(3) A branch of the payment service provider referred to in Article 5, paragraph (1) item (6) of this Act shall be fined between HRK 20,000.00 and HRK 250,000.00 for any of the violations referred to in paragraph (1) of this Article.

(4) A natural person responsible for the operation of a branch of the payment service provider referred to in Article 5, paragraph (1), item (6) of this Act shall be fined between HRK 5,000.00 and HRK 30,000.00 for any of the violations referred to in paragraph (1) of this Article.

#### *Violations by payment institutions* Article 151

(1) The payment service provider referred to in Article 5, paragraph (1), item (3) of this Act shall be fined between HRK 20,000.00 and HRK 500,000.00:

- 1) if it provides payment services through an agent before the agent has been entered into the register or after the agent has been removed from the register (Article 76);
- 2) if it starts providing payment services in another Member State through a branch contrary to Article 78;
- 3) if it starts providing payment services in another Member State through an agent contrary to Article 79;
- 4) if it establishes a branch in a third country without prior authorisation referred to in Article 80, paragraph (2) of this Act;
- 5) if it fails to notify the Croatian National Bank in accordance with Article 80, paragraph (8) or (9) of this Act;
- 6) if it fails to ensure that a branch or agent acting on its behalf notifies a payment service user thereof (Article 85);
- 7) if its own funds are lower than the amount prescribed in Article 86, paragraph (2) of this Act;
- 8) if it acts contrary to regulations adopted under Article 86, paragraph (3) of this Act;
- 9) if it fails to safeguard the funds which have been received for the execution of payment transactions in accordance with Article 87 of this Act and subordinate legislation adopted under that Article;
- 10) if it uses the payment accounts it operates for purposes other than payment transactions (Article 88);
- 11) if it grants credits connected with the provision of payment services contrary to Article 89, paragraph (1) of this Act;
- 12) if it provides services referred to in Article 68, item (3) of this Act without keeping separate business books and preparing separate financial statements for payment services (Article 90, paragraph (2));
- 13) if it fails to store bookkeeping documents and other documentation in accordance with Article 91 of this Act;
- 14) if it fails to have the financial statements referred to in Article 90 of this Act audited or fails to submit to the Croatian National Bank the reports in accordance with Article 92, paragraphs (1) and (2) of this Act;
- 15) if it acts contrary to subordinate legislation adopted under Article 93, paragraph (1) of this Act;
- 16) if it fails to notify the Croatian National Bank of intended outsourcing in accordance with Article 94, paragraph (1) or (2) of this Act;
- 17) if it outsources its operational activities contrary to the conditions referred to in Article 94, paragraphs (4) to (6) of this Act or contrary to subordinate legislation adopted under paragraph (9) of the same Article of this Act;

- 18) if it fails to establish and implement governance arrangements in the manner laid down in Article 96, paragraph (1) of this Act, or implements it contrary to subordinate legislation adopted under Article 96, paragraph (2) of this Act;
- 19) if it acts contrary to subordinate legislation adopted under Article 97, paragraph (6) of this Act;
- 20) if it fails to enable an authorised person to carry out an on-site examination in the manner and under the conditions prescribed in Article 94, paragraph (6), Article 98 paragraphs (5) and (6) and Article 99 of this Act;
- 21) if it fails to act in accordance with a decision of the Croatian National Bank;
- 22) if it fails to report to the Croatian National Bank in accordance with subordinate legislation adopted under Article 111, paragraph (2) of this Act;
- 23) if it fails to report to the Croatian National Bank on the facts and circumstances referred to in Article 111, paragraphs (3) and (4) of this Act; or
- 24) if it provides payment services outside the limits of the authorisation issued pursuant to the provisions of this Act (Article 5, paragraph (6)).

(2) A responsible person of the management board of the payment service provider referred to in Article 5, paragraph (1), item (3) of this Act, or, if the payment service provider apart from providing payment services engages in other activities, a director responsible for payment services, shall be fined between HRK 5,000.00 and HRK 50,000.00 for any of the violations referred to in paragraph (1) of this Article.

*Violations by statutory auditors and audit firms*  
Article 152

- (1) An audit firm shall be fined between HRK 20,000.00 and HRK 100,000.00:
  - 1) if it fails to meet the requirements referred to in Article 92, paragraphs (4) and (5) of this Act; or
  - 2) if it fails to meet the requirement referred to in Article 93, paragraph (2) of this Act;
- (2) A responsible person of the audit firm shall be fined between HRK 2,000.00 and HRK 10,000.00 for any of the violations referred to in paragraph (1) of this Article.
- (3) A statutory auditor shall be fined between HRK 5,000.00 and HRK 10,000.00 for any of the violations referred to in paragraph (1) of this Article.

*Violations by payment system operators*  
Article 153

- (1) The payment system operator referred to in Article 118, paragraph (2), items (1) to (5) of this Act shall be fined between HRK 20,000.00 and HRK 500,000.00:
  - 1) if it acts contrary to subordinate legislation adopted under Article 120, paragraph (2) of this Act;
  - 2) if the payment system it operates which requires authorisation of the Croatian National Bank commences its operation before having obtained the authorisation (Article 121, paragraph (3));
  - 3) if it fails to notify the Croatian National Bank of the beginning of operation of the payment system it operates within the time limit referred to in Article 121, paragraph (4) of this Act;
  - 4) if it fails to submit to the Croatian National Bank the documents referred to in Article 121, paragraph (5) of this Act;
  - 5) if it acts contrary to the provisions of Article 129, paragraphs (1) and (7) of this Act;
  - 6) if the rules governing the access of payment service providers to the payment system it operates do not comply with Article 130;
  - 7) if it fails to ensure the functioning of the payment system it operates in the manner prescribed in Article 131, paragraphs (1) and (2) of this Act or in subordinate legislation adopted under Article 131, paragraph (3) of this Act.
  - 8) if it fails to notify the Croatian National Bank of intended outsourcing in accordance with Article 132, paragraph (1) of this Act;

- 9) if it outsources activities contrary to the conditions referred to in Article 132, paragraph (2) of this Act or contrary to subordinate legislation adopted under paragraph (5) of the same Article of this Act;
- 10) if it acts contrary to subordinate legislation adopted under Article 97, paragraph (6) of this Act (Article 134);
- 11) if it fails to enable an authorised person to carry out an on-site examination in the manner and under the conditions prescribed in Article 98, paragraphs (5) and (6), Article 99 and Article 132, paragraph (4) of this Act (Article 134);
- 12) if it fails to act in accordance with a decision of the Croatian National Bank;
- 13) if it fails to report to the Croatian National Bank in accordance with Article 136 of this Act or reports to it contrary to subordinate legislation adopted under Article 136, paragraph (5) of this Act; and
- 14) if it fails to act in accordance with Article 155, paragraphs (5) or (6) of this Act; or
- 15) if it continues operating the payment system without submitting the application in accordance with Article 155, paragraph (3) of this Act (Article 155, paragraph (8)).

(2) A responsible person of the management board or persons responsible for operating the payment system of the payment system operator shall be fined between HRK 5,000.00 and HRK 50,000.00 for any of the violations referred to in paragraph (1) of this Article.

(3) The payment system operator referred to in Article 118, paragraph (2), item (7) of this Act shall be fined between HRK 20,000.00 and HRK 500,000.00 for any of the violations referred to in paragraph (1) of this Article.

(4) A responsible person of the payment system operator referred to in Article 118, paragraph (2), item (7) of this Act shall be fined between HRK 5,000.00 and HRK 50,000.00 for any of the violations referred to in paragraph (1) of this Article.

*Limitation*  
Article 154

(1) Violation proceedings provided for in this Act may not be initiated after the expiry of three years from the date on which the violation was committed.

(2) Any action taken by the competent authority for the purpose of proceedings relating to the person that committed the violation shall interrupt the limitation period. The limitation period shall restart after each interruption, but the violation proceedings may in no case be initiated following the expiry of twice the limitation period laid down in paragraph (1) of this Article.

**TITLE IX**  
**TRANSITIONAL AND FINAL PROVISIONS**

*Time limits for compliance with the provisions of this Act*  
Article 155

(1) Legal persons, with the exception of credit institutions and electronic money institutions, which as at the date of entry into force of this Act provide payment services, shall submit an application for authorisation to provide payment services within ninety days of the date of entry into force of this Act.

(2) Credit institutions which as at the date of the entry into force of this Act are authorised to provide payment services in accordance with the law governing the operation of credit institutions, shall continue providing payment services referred to in Article 3, items (1) to (6) of this Act and may enter these activities in the register of companies without special approval of the Croatian National Bank.

(3) Legal persons that operate payment systems as at the date of entry into force of this Act shall apply for authorisation for the operation of a payment system by 30 June 2011 at the latest.

(4) The requirement referred to in paragraph (3) of this Article shall not pertain to credit institutions and electronic money institutions that obtained authorisation for the operation of payment systems prior to 1 January 2011.

(5) Credit institutions and electronic money institutions that obtained authorisation for the operation of payment systems from the Croatian National Bank prior to 1 January 2011 shall within the time limit referred to in paragraph (3) of this Article submit an application for approval of the rules of operation of such payment systems.

(6) By way of derogation from paragraph (3) of this Article, payment system operators operating the payment systems referred to in Article 121, paragraph (2) of this Act shall, within thirty days of the date of entry into force of this Act, notify the Croatian National Bank in accordance with Article 121, paragraph (5) of this Act.

(7) Account numbers assigned by the Croatian National Bank prior to the entry into force of this Act shall continue to be used.

(8) Legal persons that fail to act in accordance with the provisions of paragraphs (1) and (3) of this Article shall cease to provide payment services or payment system operating services.

(9) The National Clearing System and Croatian Large Value Payment System shall continue their operation after the entry into force of this Act.

*Provisions of this Act that shall cease to have effect on the date of accession of the Republic of Croatia to the European Union*  
Article 156

Article 15, paragraph (2), Article 16, paragraph (2), Article 18, paragraph (2), Article 23, paragraph (2), Article 42, paragraph (3), Article 47, paragraph (7), Article 48, paragraph (6) and Article 52, paragraph (3) of this Act shall cease to have effect on the date of accession of the Republic of Croatia to the European Union.

*Subordinate legislation of the Croatian National Bank*  
Article 157

The Croatian National Bank shall, within six months of the date of entry into force of this Act, adopt subordinate legislation based on this Act.

*Cessation of effect of the National Payment System Act and regulations adopted under that Act*  
Article 158

The National Payment System Act (Official Gazette 117/2001) and subordinate legislation adopted under that Act shall cease to have effect as of the date of entry into force of this Act, with the exception of:

- 1) the Decision on the Croatian Large Value Payment System and on the Settlement in Bank Accounts Held with the Croatian National Bank (Official Gazette 34/2005, 74/2005 and 18/2009);
- 2) the Decision on the National Clearing System (Official Gazette 14/2002, 150/2002 and 18/2009);
- 3) the Decision on the Obligation to Submit the Report on Payment Statistics (Official Gazette 189/2004);

4) the Decision on Payment Orders (Official Gazette 14/2002, 143/2002 and 104/2003);  
5) the Decision on the Structure of an Account with a Bank, Bank Account Number, Terms and Methods of Opening an Account with a Bank and the Content of the Register of Business Entities' Accounts with a Bank (Official Gazette 150/2002, 115/2003, 162/2004 and 189/2004);  
6) the Decision on the Work Schedule for Settlement/Clearing through the Interbank Payment Systems (Official Gazette 50/2002 and 38/2005); and  
7) the Decision on Performing Payment Operations in a Bank Following Merger or Acquisition of Banks (Official Gazette 75/2002);  
which shall apply *mutatis mutandis* until the entry into force of the subordinate legislation referred to in Article 157 of this Act.

*Cessation of effect of some provisions of the Foreign Exchange Act and regulations adopted under that Act*  
Article 159

(1) Article 32, Article 33, Article 63, paragraph (1), item (13) and Article 64, paragraph (1) item (6) of the Foreign Exchange Act (Official Gazette 96/2003, 140/2005, 132/2006, 150/2008 and 92/2009) and the following subordinate legislation shall cease to have effect on the date of entry into force of this Act:

1) the Decision Governing the Conditions for and the Manner of Performing External Payment Operations (Official Gazette 88/2005, 18/2006 and 132/2007) and the Instructions Adopted under this Decision; and  
2) the Decision on Collecting Data on External Payment Operations (Official Gazette 136/2005 and 24/2006).

(2) The Decision on the Generation and Use of International Bank Account Number (IBAN) (Official Gazette 162/2004) shall apply *mutatis mutandis* until the entry into force of the subordinate legislation referred to in Article 157 of this Act.

*Cessation of effect of some provisions of the Consumer Protection Act*  
Article 160

Article 53 and Article 145, paragraph (1), subparagraph (30) of the Consumer Protection Act (Official Gazette 79/2007, 125/2007, 79/2009 and 89/2009) shall cease to have effect on the date of entry into force of this Act.

*Entry into force*  
Article 161

This Act shall be published in the Official Gazette and shall enter into force on 1 January 2011, with the exception of the provisions of Article 5, paragraph (1), items (6) to (8) and (11) and paragraph (7), Article 15, paragraph (3), Article 16, paragraph (3), Article 18, paragraph (3), Article 23, paragraph (3), Article 27, paragraph (4), Article 41, paragraph (7), Article 42, paragraph (4), Article 43, paragraphs (5) to (9), Article 46, paragraph (4), Article 47, paragraph (8), Article 48, paragraph (7), Article 52, paragraph (4), Article 55, paragraph (3), Article 56, paragraph (7) and (8), Article 58, paragraph (1), item (2), Article 61, paragraph (3), Articles 77, 78, 79, 81, 82, 83 and 84, Article 87, paragraph (3), item (2), Article 89, paragraph (1), item (2), Article 94, paragraphs (7) and (8), Article 97, paragraph (7), Articles 108, 109, 113, 115, 146 and 147, Article 150, paragraphs (3) and (4) and Article 151, paragraph (1), items (2) and (3) of this Act, which shall enter into force on the date of accession of the Republic of Croatia to the European Union.

Class: 450-08/09-01/01  
Zagreb, 23 October 2009

## **Annex 16: Electronic Money Act (November 2010)**

THE CROATIAN PARLIAMENT  
The President of the Croatian Parliament  
Luka Bebić, m.p.

### **THE CROATIAN PARLIAMENT**

**3531**

Pursuant to Article 89 of the Constitution of the Republic of Croatia, I hereby issue the

#### **DECISION**

#### **PROMULGATING THE ELECTRONIC MONEY ACT**

I hereby promulgate the Electronic Money Act, passed by the Croatian Parliament at its session on 26 November 2010.

Class: 011-01/10-01/143

No.: 71-05-03/1-10-2

Zagreb, 3 December 2010

President of the Republic of Croatia

Prof. Ivo Josipović, PhD, m.p.

### **ELECTRONIC MONEY ACT**

#### **TITLE I GENERAL PROVISION**

##### *Subject matter*

##### **Article 1**

This Act governs:

- 1) electronic money and electronic money issuers;
- 2) the issuance and redemption of electronic money;

3) conditions for the establishment, operation and dissolution of electronic money institutions having their registered office in the Republic of Croatia, including electronic money institutions under exemption, and the prudential supervision of their operation; and

4) conditions under which electronic money institutions having their registered office outside the Republic of Croatia may operate in the Republic of Croatia.

## *Definitions*

### Article 2

For the purposes of this Act, the following terms shall have the following meanings:

(1) *»electronic money institution«* means a legal person that has been granted authorisation to issue electronic money;

(2) *»electronic money«* means electronically, including magnetically, stored monetary value representing a claim on the issuer, which is issued upon receipt of funds for the purpose of making payment transactions in terms of the law governing payment transactions, and which is accepted by a natural or legal person other than the electronic money issuer;

(3) *»qualifying holding«* means a direct or indirect holding on the basis of which a natural or legal person acquires 10 percent or more of the capital or voting rights of another legal person, or a direct or indirect holding of less than 10 percent of the capital or of the voting rights of another legal person, which makes it possible to exercise a significant influence over the management of that legal person;

(4) *»indirect holder of a holding«* means an indirect holder of shares, holdings or other rights providing him with a share of the capital or voting rights of a legal person, as provided under the law governing credit institutions.

(5) *»close links«* means close links in terms of the law governing credit institutions;

(6) *»payment services«* means the following services provided by payment service providers as their business activity:

1) services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account;

2) services enabling cash withdrawals from a payment account, as well as all the operations required for operating a payment account;

3) execution of payment transactions, including transfers of funds to a payment account with the user's payment service provider or with another payment service provider:

- execution of direct debits, including one-off direct debits,

- execution of payment transactions through a payment card or a similar device,

- execution of credit transfers, including standing orders;

4) execution of payment transactions where the funds are covered by a credit line for a payment service user:

- execution of direct debits, including one-off direct debits,

- execution of payment transactions through a payment card or a similar device,

- execution of credit transfers, including standing orders;

5) issuing and/or acquiring of payment instruments;

6) money remittance; and



7) execution of payment transactions where the consent of the payer to execute a payment transaction is given by means of any telecommunication, digital or IT device and the payment is made to the telecommunication, IT system or network operator, acting only as an intermediary between the payment service user and the supplier of goods and services.

(7) »*Member State*« means a contracting party to the Agreement on the European Economic Area;

(8) »*home Member State*« means a Member State in which the registered office of an electronic money issuer is situated or, if the electronic money issuer has no registered office under its national law, the Member State in which its head office is situated;

(9) »*host Member State*« means a Member State other than the home Member State, in which an electronic money issuer has a branch, or in which it provides payment services through an agent, or directly issues electronic money and provides payment services;

(10) »*third country*« means, until the accession of the Republic of Croatia to the European Union, any foreign country, and after the accession, any non-Member State;

(11) »*payment account*« means an account as defined in the law governing payment transactions;

(12) »*payment transaction*« means a transaction as defined in the law governing payment transactions

(13) »*business day*« means a day on which an electronic money issuer issues electronic money;

(14) »*consumer*« means a natural person concluding a contract for the issue of electronic money outside the area of his/her business activity or freelance occupation.

### *Monetary value not considered as electronic money*

#### Article 3

For the purposes of this Act, the following shall not be considered as electronic money:

1) monetary value stored on instruments that can be used for the acquisition of goods or services only on the premises of the instrument issuer, or only within a limited network of service providers, or for a limited range of goods or services pursuant to a contract between the instrument issuer and the service provider; or

2) monetary value used for the execution of payment transactions by means of any telecommunication, digital or IT device, where the goods or services purchased are delivered and are to be used through a telecommunication, digital or IT device, provided that the telecommunication, digital or IT operator does not act only as an intermediary between the electronic money holder, who is also a payment service user and the supplier of the goods and services;

### *Electronic money issuer*

#### Article 4

(1) Electronic money issuers in the Republic of Croatia can be the following:

- 1) credit institutions having their registered office in the Republic of Croatia,
- 2) electronic money institutions having their registered office in the Republic of Croatia, including electronic money institutions under exemption;
- 3) The Croatian National Bank, when not acting in its capacity as monetary authority or other public authority;
- 4) The Republic of Croatia or units of local and regional self-government, when acting in their capacity as public authorities;
- 5) credit institutions having their registered office in a Member State;
- 6) electronic money institutions having their registered office in a Member State;
- 7) branches of a third country credit institution having their registered office in the Republic of Croatia;
- 8) branches of a third-country electronic money institution having their registered office in the Republic of Croatia;
- 9) the European Central Bank, when not acting in its capacity as monetary authority or other public authority;

(2) Only the entities referred to in paragraph (1) of this Article may issue electronic money.

(3) The issues referred to in paragraph (1) items 1) and 7) of this Article may issue electronic money and provide payment services only in accordance with the authorisation granted pursuant to the provisions of the law governing their operation.

(4) The issuers referred to in paragraph (1), items 1) and 7) of this Article may issue electronic money and provide payment services only in accordance with the authorization granted pursuant to the provisions of this Act.

(5) The right of the persons referred to in paragraph (1), items 3), 4) and 9) of this Article to issue electronic money shall be subject to the regulations governing these persons, their tasks and competences.

(6) The issuers referred to in paragraph (1), items 5) and 6) of this Article may issue electronic money within the limits of the authorisation granted by the competent authority of the home Member State and in the manner stipulated by this Act and other laws governing their operation.

### *Reports on the issuance of electronic money*

#### Article 5

(1) The Croatian National Bank may, for statistical and supervision purposes, prescribe persons obliged to report on the issuance of electronic money, as well as the content of such reports and the manner of and time limits for their submission.

(2) The persons obliged to report on the issuance of electronic money shall report to the Croatian National Bank in accordance with the regulation referred to in paragraph (1) of this Article.

## TITLE II ISSUANCE AND REDEEMABILITY OF ELECTRONIC MONEY

### *Issuance and redeemability*

#### Article 6

(1) The electronic money issuer shall issue electronic money without delay at par value on the receipt of funds.

(2) The electronic money issuer shall, upon request of the electronic money holder, redeem at any moment the monetary value of the electronic money (electronic money redemption) at par value.

(3) The contract between the electronic money issuer and electronic money holder shall clearly state the conditions for redemption, including any fees relating thereto.

(4) The provisions of the law governing payment transactions in the part relating to changes in and termination of contracts shall apply *mutatis mutandis* to changes in and the termination of the contract between the electronic money issuer and electronic money holder governing the issuance and redemption of electronic money.

(5) The electronic money issuer shall inform the electronic money holder of the conditions referred to in paragraph (3) of this Article before the electronic money holder is bound by any offer or contract for the issuance of electronic money.

(6) The electronic money issuer may charge a fee to the electronic money holder for the redemption of electronic money only if stated in the contract referred to in paragraph (3) of this Article and only in any of the following cases:

1) where the contract provides for a termination date and the electronic money holder terminates the contract before that date;

2) where the electronic money holder requests the redemption of electronic money before the termination of the contract for the issuance of electronic money, except in the case referred to in item 1) of this paragraph; or

3) where the electronic money holder requests the redemption of electronic money after the date of termination of the contract for the issuance of electronic money.

(7) Where the electronic money issuer is entitled to charge a fee for the redemption of electronic money, such fee shall be proportionate and commensurate with the actual costs incurred by the electronic money issuer.

(8) The electronic money holder may request redemption of electronic money in whole or in part, where he/she requests it before the termination of the contract for the issuance of electronic money.

(9) Where the electronic money holder requests redemption on or up to one year after the date of termination of the contract, the total monetary value of the electronic money shall be redeemed.

(10) Where the electronic money holder requests redemption on the date of termination of the contract for the issuance of electronic money, or within one year after the date of termination of the contract from an electronic money institution carrying out one or more of the activities listed in Article 11, paragraph (5), item 4) of this Act, and it is known in advance what proportion of funds is to be used as electronic money, all funds requested by the electronic money holder shall be redeemed

(11) The electronic money issuer and electronic money holder other than a consumer, who accepts electronic money may contractually regulate redemption rights in a way other than stipulated by paragraphs (6) to 10) of this Article.

(12) Paragraph (2), paragraph (6), item 3) and paragraphs (9) and 10 of this Article shall also apply to electronic money issuers whose authorisation to issue electronic money, or authorisation to establish a branch has expired, and to legal successors to the legal person, whose authorisation to issue electronic money has expired due to cessation of operation.

#### *Prohibition of the payment of interest to electronic money holders*

#### Article 7

The electronic money issuer may not pay interest or any other benefit for the holding of the electronic money during a length of time.

### TITLE III

#### OUT-OF-COURT COMPLAINT PROCEDURES AND CONCILIATION PROCEDURE

#### *Complaints to the electronic money issuer*

#### Article 8

(1) Where an electronic money holder deems that an electronic money issuer does not comply with the provisions of Title II of this Act, he/she may submit a complaint to the electronic money issuer.

(2) The electronic money issuer shall send a reply to the electronic money holder no later than ten days after the date of receiving the complaint.

(3) Where an electronic money issuer from any other State issues electronic money in the territory of the Republic of Croatia through a branch, the complaint referred to in paragraph (1) of this Article shall be submitted to the branch.

(4) The provisions of this Article shall also apply to electronic money issuers whose authorisation to issue electronic money or authorisation to establish a branch has expired, and, where the authorisation to issue electronic money has expired due to the dissolution of a legal person, to legal successors to that legal person.

#### *Complaints to the competent authority*

#### Article 9

- (1) Electronic money holders and other legally interested parties, including consumer associations, may file complaints against the electronic money issuer referred to in Article 4, paragraph (1), items 1), 2), 7) and 8) of this Act with a competent authority, where they deem that it has acted contrary to the provisions of Title II this Act.
- (2) The competent authority referred to in paragraph (1) of this Article shall be the Croatian National Bank.
- (3) Upon receipt of the complaint referred to in paragraph (1) of this Article, the Croatian National Bank shall invite the electronic money issuer to whom the complaint relates to submit its statement and the relevant evidence. The electronic money issuer shall, within the time limit set by the Croatian National Bank, but no longer than ten days after the date of receiving the invitation, submit its statement and the relevant evidence.
- (4) Where, in the complaint procedure, the Croatian National Bank establishes that there are grounds to believe that the electronic money issuer has acted contrary to any of the provisions of Title II of this Act and thus committed a violation, it shall initiate violation proceedings.
- (5) The Croatian National Bank shall notify the complainant of its findings.
- (6) Where the complainant is a consumer, the Croatian National Bank shall inform the complainant in its notification referred to in paragraph (5) of this Article of the possibility to initiate a conciliation procedure before the authority referred to in Article 10 of this Act.
- (7) The provisions of this Article shall also apply to complaints against the electronic money issuer referred to in Article 4, paragraph (1), items 5) and 6) of this Act that issues electronic money in the Republic of Croatia through a branch.
- (8) Complaints against any of the electronic money issuers referred to in Article 4, paragraph (1), items 5) and 6) of this Act, that issues electronic money directly in the Republic of Croatia can be filed with the Croatian National Bank, which shall notify the competent authority of the home Member State of the complaint.
- (9) The provisions of this Article shall also apply to the electronic money issuers referred to in Article 4, paragraph (1), items 1), 2) and items 5) through 8) of this Act, whose authorisation to issue electronic money or authorisation to establish a branch has expired, and, where the authorisation to issue electronic money has expired due to the dissolution of a legal person, to legal successors to that legal person.
- (10) The State Inspectorate shall exercise oversight over the application of Article 4, paragraph (2) of this Act in accordance with its competence under law.

### *Out-of-court redress*

#### Article 10

- (1) In all disputes between an electronic money holder that is a consumer and an electronic money issuer arising from the application of the provisions of this Title, a motion for conciliation may be filed with the Conciliation Centre of the Croatian Chamber of Economy.
- (2) The conciliation before the Conciliation Centre referred to in paragraph (1) of this Article shall be conducted in accordance with the Rules of Conciliation of the Croatian Chamber of Economy.
- (3) The Croatian Chamber of Economy shall, with the approval of the Minister of Finance, render a decision on the costs of conciliation in consumer disputes, determining the amount of fees and remuneration and other costs of the conciliation procedure referred to in paragraph (1) of this Article.
- (4) The settlement reached in the conciliation procedure before the Centre referred to in paragraph (1) of this Article shall be considered as an enforcement title.
- (5) The funds for the costs of the conciliation before the Conciliation Centre referred to in paragraph (1) of this Article shall be provided in the government budget.

TITLE IV  
CONDITIONS FOR THE ESTABLISHMENT, OPERATION AND OVERSIGHT OF ELECTRONIC  
MONEY INSTITUTIONS

Chapter 1  
Status provisions

*Electronic money institution and its activities*

Article 11

(1) An electronic money institution having its registered office in the Republic of Croatia shall be a legal person, which has been authorised by the Croatian National Bank to provide payment services.

(2) Based on the authorisation referred to in paragraph (1) of this Article, an electronic money institution may provide payment services that are linked to the issuance of electronic money.

(3) An authorisation to issue electronic money may also contain an authorisation to provide one or several payment services that are not linked to the issuance of electronic money.

(4) Any authorisations to provide payment services that are not linked to the issuance of electronic money, subsequently obtained by an electronic money institution shall be considered as constituent parts of the authorisation referred to in paragraph (1) of this Article.

(5) Apart from the services referred to in paragraphs (1), (2) and (3) of this Article, an electronic money institution may engage in any of the following activities:

1) the provision of operational services and ancillary services that are closely linked to the issuance of electronic money or the provision of payment services for which it has been authorised;

2) the granting of credits related to the provision of the payment services referred to in Article 2, item 6), indents 4), 5) and 7) of this Act, where it has obtained authorisation with respect to these payment services, referred to in paragraph (3) of this Act, and where the conditions laid down in Article 47 of this Act are met;

3) the operation of the payment system as defined in the law governing payment transactions; and

4) any other activity in accordance with law.

(6) A legal person may enter the activity of the issuance of electronic money and provision of payment services that are linked to the issuance of electronic money after having obtained an authorisation from the Croatian National Bank.

(7) A legal persons may commence with the issuance of electronic money after having obtained the authorisation referred to in paragraph (1) of this Article, and after having entered the activity of the issuance of electronic money in the register of companies.

(8) An electronic money institution may commence with the provision of payment services that are not linked to the issuance of electronic money after having obtained the authorisation referred to in paragraph (3) of this Article and after having entered the activity of the provision of payment services in the register of companies.

Chapter 2  
Provision of electronic money issuance and payment services

*Application for authorisation to issue electronic money*

Article 12

(1) A legal person shall specify in the application for authorisation to issue electronic money the payment services it intends to provide, indicating which of these services are not linked to the issuance of electronic money.

(2) The application for authorisation to issue electronic money shall be accompanied with the following:

1) the Articles of Association, deed of establishment or memorandum of the applicant and, where the applicant is entered in the register of companies, a certificate from the register of companies in the form of an original or a certified copy, not older than ninety days;

2) a certificate from the register of shareholders (book of shares) or the book of holdings for the applicant, not older than ninety days, in the form of an original or a certified copy, and the data on all indirect holders of qualifying holdings;

3) a programme of operations relating to the issuance of electronic money and the intended provision of services, setting out in detail the method of issuing electronic money, a detailed description of all the payment services intended to be provided and the manner of their provision, as well as a detailed description of the necessary infrastructure;

4) financial statements for the past two business years and a business plan for the next three business years, including a financial statement projection demonstrating the ability of the applicant to operate in a stable manner on the basis of appropriate organisational, technical and personnel structures, and containing, where appropriate, a projection of outstanding electronic money for the purpose of own funds calculation pursuant to Article 43, paragraph (7) of this Act;

5) where appropriate, the method of estimating the portion of funds allocated for the issuance of electronic money for the purpose of own funds calculation pursuant to Article 43, paragraph (6) of this Act;

6) where appropriate, evidence of the funds allocated for the initial capital of the electronic money institution to be established;

7) a description of measures taken, or intended to be taken to safeguard the funds of an electronic money holder or a payment service user in accordance with Article 48 of this Act, including, where appropriate, the method of estimating the portion of funds allocated for the issuance of electronic money;

8) a description of the management framework with well-defined, transparent and consistent lines of powers and responsibilities, a description of the electronic money institution's internal control mechanism which comprises, at a minimum, the functions of risk control, internal audit and compliance with regulations and standards, including the administrative and accounting procedures and a description of procedures for the identification, management and monitoring of as well as reporting on risks, which show that the above stated management framework, the internal control mechanism and risk management procedures are appropriate, adequate, reliable and satisfactory.

9) a description of the internal control mechanism put in place by the electronic money institution to comply with the regulations governing the prevention of money laundering and terrorist financing;

10) a description of the electronic money institution's organisational structure, including, where appropriate, a description of the intended operation through third natural or legal persons through which the distribution and redemption of electronic money is carried out, as well as a description of outsourcing arrangements and the branch's participation in a domestic or international payment system;

(11) for a person holding, directly or indirectly, a qualifying holding in the electronic money institution:

1) where such a person is a legal person:

a) the total nominal amount of shares or holdings, and percentage, and, for an indirect holder, the percentage of the initial capital of the electronic money institution;

b) a certificate from the register of companies or other relevant register, not older than ninety days, in the form of an original or a certified copy;

c) for a direct holder of a qualifying holding, audited financial statements for the past two business years;

d) for a direct holder of a qualifying holding, evidence that no bankruptcy proceedings have been initiated or opened against its property;

2) where such person is a natural person:

a) the total nominal value of shares or holdings and the percentage of the initial capital of the electronic money institution;

b) the name, address and other identification data of the holder of a qualifying holding;

c) a curriculum vitae of the holder of a qualifying holding, including a list of all companies, and their addresses, with which the holder or a qualifying holding is or has been employed, of which he/she is or has been a member of the management or supervisory boards, or in which he/she is or has been a holder of a qualifying holding;

d) evidence that the holder of a qualifying holding has not been convicted by a final judgement of a crime against the values protected by international law, or of any of the following crimes:

- against the security of a payment system and its operation;
- relating to the authenticity of documents;
- relating to breaches of official duty;
- relating to terrorist financing; or
- the violations prescribed in this Act.

12) for a member of the management board of an electronic money institution, or an executive director of an electronic money institution having the board of directors:

a) the name, address and other identification data;

b) a statement by that person that no safety measures prohibiting the pursuit of the occupation that is included, in full or in part, in the scope of activity of the applicant have been imposed on him/her while this prohibition is in force, as well as evidence that this person has not been convicted by a final judgement of a crime against the values protected by international law, or of any of the following crimes:



- against the security of a payment system and its operation;
- relating to the authenticity of documents;
- relating to breaches of official duty;
- relating to terrorist financing; or
- the violations prescribed in this Act.

c) evidence that this person has not held management positions in an undertaking against which bankruptcy or compulsory winding-up proceedings have been opened;

d) a curriculum vitae, including a list of all companies, and their addresses, with which this person is or has been employed and the description of operations under his/her responsibility, and thereby enabling an assessment to be made as to whether he/she possesses the professional qualifications, abilities and experience required for managing the operations relating to the issuance of electronic money and provision of payment services;

13) for a member of the management board of an electronic money institution, or an executive director of an electronic money institution having the board of directors, who, apart from issuing electronic money, engages in any of the activities referred to in Article 11, paragraph (5), item 4) of this Act, the documentation referred to in item 12), indents a), b) and c) of this paragraph; and for persons responsible for managing the operations relating to the issuance of electronic money and/or provision of payment services, also the documentation referred to in item 12), indent d) of this paragraph;

14) evidence of the appointment of a statutory auditor or an audit firm to audit financial statements for the business year for which the application is submitted; and

15) a list of persons having close links with the electronic money institution and the description of the manner in which they are linked.

(3) Exceptionally, the Croatian National Bank shall, upon reasoned request, obtain from the criminal history records the evidence of no criminal record referred to in paragraph (2), item 12), subitem 2), indent b) of this Article.

(4) In the case of a natural person who is not a citizen of the Republic of Croatia, the evidence referred to in item 11), sub-item 2), indent d), or item 12), indent b) of paragraph (2) of this Article shall be the evidence of no criminal record, not older than three months, relating to the crimes which, by their definition, correspond to the crimes stated therein.

(5) Apart from the documents referred to in paragraph (2) of this Article, the Croatian National Bank may, while processing the application, request additional documentation necessary to decide on granting authorisation, including the information prescribed by the law governing the prevention of money laundering and terrorist financing, collected by the persons subject to that law.

(6) Where an electronic money institution, after having obtained authorisation, intends to provide other payment services that are not linked to the issuance of electronic money and not covered by the authorisation, it shall submit a subsequent application, specifying such payment services and accompany it with the documentation referred to in paragraph (2), items 3) and 4) of this Article, and, where appropriate, the method referred to in paragraph (2), item 5) of this Article and an explanation of the impact of the new payment services on the financial statements, organisational structure, internal control mechanism and funds safeguarding system.

#### *Authorisation to issue electronic money*

#### Article 13

(1) The Croatian National Bank shall grant authorisation to issue electronic money if it assesses from the application referred to in Article 69 of this Act and available information that all of the following conditions are met:

- 1) in view of the need to ensure the sound and prudent management of the electronic money institution, the holder of a qualifying holding is suitable, especially with respect to the financial strength and good reputation;
- 2) the person proposed to be a member of the management board or the executive director of the electronic money institution, where it does not also engage in any of the activities referred to in Article 11, paragraph (5), item 4) of this Act, has a good reputation and the skills and experience required for the issuance of electronic money and provision of payment services;
- 3) where the electronic money institution, apart from issuing electronic money, also engages in any of the activities referred to in Article 11, paragraph (5), item 4) of this Act, the person responsible for managing the operations relating to the issuance of electronic money and provision of payment services has a good reputation and the skills and experience required for the provision of payment services;
- 4) conditions for the operation of the electronic money institutions are provided pursuant to this Act;
- 5) the provisions of the Articles of Association or any other relevant legal act of the electronic money institution comply with the provisions of this Act and regulations adopted under this Act;
- 6) where it assesses that, in view of the need to ensure the sound and prudent management of the electronic money institution, this institution has put in place effective and sound governance arrangements comprising a clear organisational structure with well-defined, transparent and consistent lines of powers and responsibilities, effective procedures for establishing, managing, monitoring and reporting on all the risks to which the electronic money institution is or might be exposed, and an adequate internal control mechanism, which comprises, at a minimum, the functions of risk control, internal audit and compliance with regulations and standards, including appropriate administrative and accounting procedures and that the said governance arrangements, internal control mechanism and administrative and accounting procedures are comprehensive and proportionate to the nature, scope and complexity of the electronic money issuance and payment services it intends to provide; and
- 7) the operations of the electronic money institution are carried out from the territory of the Republic of Croatia.

(2) For the purposes of this Act, a good reputation is the reputation of a person who:

- 1) has by his/her former professional work and personal integrity achieved good results and earned respect in the previous working environment;
- 2) has not been convicted by a final judgment of one or more crimes referred to in Article 12 of this Act, or of a foreigner who has not been convicted of one or more crimes which, by definition, correspond to these crimes; and
- 3) is not subject to investigation or criminal proceedings for a crime prosecuted *ex officio*.

(3) The Croatian National Bank may, prior to granting authorisation to issue electronic money, request the opinions of other competent authorities in order to make a better assessment of the submitted application.

(1) The Croatian National Bank shall refuse an application for authorisation to issue electronic money where it assesses that:

- 1) any of the conditions referred to in Article 13 of this Act is not met;
- 2) the exercise of supervision of the electronic money institution's operation pursuant to the provisions of this Act may be made difficult or prevented due to close links between the electronic money institution and other legal or natural persons;
- 3) the exercise of supervision of the electronic money institution's operation pursuant to the provisions of this Act may be made difficult or prevented due to close links between the electronic money institution and other legal or natural persons having their registered office or domicile, or habitual residence, in a third country whose regulations prevent the exercise of supervision, or if there are any other reasons why the exercise of supervision would be made difficult or prevented; or
- 4) it is necessary to establish a separate entity for the activities of the issuance of electronic money and provision of payment services, because the activities referred to in Article 11, paragraph (5), item 4) of this Act, which the electronic money institution engages in or intends to engage in, apart from the issuance of electronic money and provision of payment services, impair or might impair the financial stability of the applicant, or make difficult or might make difficult the exercise of supervision by the Croatian National Bank.

(2) The provisions of paragraph (1) of this Article shall apply *mutatis mutandis* to the refusal of the application referred to in Article 12, paragraph (6) of this Act.

#### *Withdrawal of authorisation to issue electronic money*

#### Article 15

(1) The Croatian National Bank shall withdraw authorisation to issue electronic money:

- 1) where an electronic money institution does not commence issuing electronic money in accordance with the authorisation within twelve months of its granting;
- 2) where an electronic money institution submits a written notification to the Croatian National Bank stating that it no longer intends to issue electronic money;
- 3) where an electronic money institution has not independently issued electronic money for more than six months;
- 4) where an electronic money institution obtains authorisation on the basis of false or inaccurate documentation or false presentation of the data relevant to this electronic money institution's operation.

(2) The Croatian National Bank may withdraw authorisation to issue electronic money:

- 1) where any of the reasons referred to in Article 14, paragraph (1) of this Act arises;
- 2) where an electronic money institution would threaten the stability of a payment system by continuing to issue electronic money or to provide payment services;

- 3) where an electronic money institution, in any manner whatsoever, prevents the supervision of its operation; or
- 4) where an electronic money institution fails to implement supervisory measures imposed by the Croatian National Bank.

*Decision to withdraw authorisation to issue electronic money*

Article 16

(1) The Croatian National Bank shall without delay submit a decision to withdraw authorisation to issue electronic money to an electronic money institution.

(2) The Croatian National Bank shall submit a decision to withdraw authorisation to issue electronic money to the competent commercial court and issue a press release thereon on its website and in at least one daily newspaper published in the Republic of Croatia.

*Expiry of authorisation to issue electronic money*

Article 17

(1) Authorisation to issue electronic money shall expire:

- 1) on the date of adoption of a decision on the winding-up of an electronic money institution;
- 2) on the date of adoption of a decision on the opening of bankruptcy proceedings against an electronic money institution;
- 3) on the date of dissolution of a legal person, in the cases where no winding-up or bankruptcy proceedings are conducted;
- 4) on the date following the date of receipt of authorisation to provide payment services as a payment institution; or
- 5) on the date of submission of a decision to withdraw authorisation to issue electronic money from an electronic money institution, or on the date specified in the decision to withdraw authorisation to issue electronic money.

(2) The expiry of authorisation to issue electronic money shall result in the expiry of authorisation to provide all payment services.

(3) A legal person whose authorisation to issue electronic money has expired, or, where the authorisation to issue electronic money has expired due to the dissolution of a legal person, a legal successor to that legal person shall continue to safeguard the funds received in exchange for the issued electronic money pursuant to the provisions of Article 48 of this Act with respect to the entire amount of outstanding electronic money until its redemption.

(4) A legal person whose authorisation to issue electronic money has expired, or, where the authorisation to issue electronic money has expired due to the dissolution of a legal person, a legal successor to that legal person shall apply Article 6, paragraph 2, paragraph 6, item 3 and paragraphs (9) and (10) of this Act until the full redemption of outstanding electronic money.

(5) The Croatian National Bank shall be competent for the oversight over the application of paragraphs (3) and (4) of this Article in the manner prescribed in Chapter 4 of this Title, except with respect to a legal person whose authorisation has expired pursuant to paragraph (1), item 2) of this Article.

*Authorisation to issue electronic money granted to payment institutions*

Article 18

(1) A payment institution which intends to issue electronic money shall obtain authorisation to issue electronic money from the Croatian National Bank as an electronic money institution pursuant to this Act.

(2) The authorisation to provide payment services obtained by a payment institution shall expire on the date following the date of obtaining authorisation to issue electronic money.

*Authorisation to provide payment services granted to electronic money institutions*

Article 19

(1) An electronic money institution which no longer intends to issue electronic money, but intends to continue providing payment services specified in the authorisation to issue electronic money that are not linked to the issuance of electronic money shall submit an application for authorisation to provide such payment services as a payment institution to the Croatian National Bank.

(2) In the case of the application referred to in paragraph (1) of this Article, the Croatian National Bank shall carry out the procedure based on the available documentation and data, but it can require additional documentation pursuant to the provisions on the granting of authorisation to provide payment services of the law governing payment transactions.

(3) The Croatian National Bank may refuse the application referred to in paragraph (1) of this Article where it establishes during the application procedure that:

1) circumstances have arisen due to which the exercise of supervision of this institution's operation pursuant to the provisions of the law governing payment transactions may be made difficult or prevented due to close links between that institution and other legal or natural persons;

2) circumstances have arisen due to which the exercise of supervision of this institution's operation pursuant to the provisions of the law governing payment transactions may be made difficult or prevented due to close links between that institution and other legal or natural persons having their registered office or domicile, or habitual residence, in a third country whose regulations prevent the exercise of supervision, or if there are any other reasons why the exercise of supervision would be made difficult or prevented;

3) the electronic money institution has obtained authorisation on the basis of false or inaccurate documentation or false presentation of the data relevant to this electronic money institution's operation;

4) circumstances have arisen due to which this institution no longer meets the conditions for obtaining authorisation to provide payment services that are not linked to the issuance of electronic money;

5) circumstances have arisen due to which this institution would, by continuing to issue electronic money or to provide payment services, threaten the stability of the payment system;

- 6) this institution in any manner whatsoever prevents the supervision of its operation;
  - 7) this institution fails to implement the supervisory measures imposed by the Croatian National Bank; or
  - 8) a separate entity for the provision of payment services should be established, because the activities referred to in Article 11, paragraph (5), item 4) of this Act, which this institution engages in or intends to engage in apart from the provision of payment services, impair or might impair the financial stability of this institution, or make difficult or might make difficult the exercise of supervision by the Croatian National Bank.
- (4) The authorisation to issue electronic money shall expire on the date following the date of obtaining authorisation to provide payment services as a payment institution.
- (5) Where the institution referred to in paragraph (1) of this Article intends to provide other payment services, apart from the payment services covered by the authorisation to issue electronic money that are not linked to the issuance of electronic money, it shall specify them in the application referred to in paragraph (1) of this Article and submit other documentation prescribed by the law governing payment transactions in the case of submitting an additional application for authorisation to provide payment services.
- (6) The procedure for granting authorisation to provide payment services referred to in paragraph 5 of this Article shall be subject to the provisions of the law governing payment transactions.

*Approval to acquire a qualifying holding*

Article 20

- (1) Legal or natural persons, in order to acquire shares or holdings in an electronic money institution on the basis of which they become direct or indirect holders of a qualifying holding in that electronic money institution shall submit an application for prior approval to the Croatian National Bank.
- (2) Holders of qualifying holdings shall submit an application for prior approval for each further direct or indirect acquisition of shares or holdings of an electronic money institution on the basis of which their holdings reach or exceed 20 percent, 30 percent or 50 percent of the capital or of the voting rights of the electronic money institution.
- (3) Persons who have obtained the prior approval referred to in paragraphs (1) and (2) of this Article shall, within 12 months following the adoption of the decision on the prior approval, complete the acquisition of a qualifying holding and the holding referred to in paragraph (2) of this Article, and notify the Croatian National Bank thereof.
- (4) Should persons who have obtained the prior approval referred to in paragraphs (1) and (2) of this Article decide to sell or otherwise dispose of their shares or holdings, so as to reduce their holdings below the threshold for which they obtained prior approval, they shall notify the Croatian National Bank thereof in advance.
- (5) Persons who have obtained the prior approval referred to in paragraphs (1) and (2) of this Article, and who have thereafter sold or otherwise disposed of their shares or holdings and thereby reduced their holdings below the threshold for which they obtained prior approval, shall submit an application to the Croatian National Bank for prior approval to acquire a qualifying holding or the holding referred to in paragraph (2) of this Article if, following the expiry of a period of 12 months of the adoption of the decision on the prior approval, they again intend to acquire a qualifying holding or the holding referred to in paragraph (2) of this Article in the amount for which they obtained prior approval.

(6) Legal persons holding qualifying holdings shall notify the Croatian National Bank of their participation in any mergers, acquisitions or divisions of companies, including any other change in their status within eight days of effecting such changes.

(7) Where a person acquires a qualifying holding, a holding of 20 percent or more, or 30 percent or more, or 50 percent or more of the capital or voting rights by inheritance, or in another case when the person did not know, or should not have known that it would exceed, or would have exceeded the stated percentages as in the case of reducing or increasing the electronic money institution's own funds, the person shall submit an application for such an acquisition within 30 days of the day on which that person became aware or should have become aware of such an acquisition.

(8) The provisions of Articles 21 to 25 of this Act shall apply *mutatis mutandis* to the holder of a qualifying holding referred to in paragraph (7) of this Article.

(9) The obligations imposed by this Article shall not relate to a legal or natural person that acquires a qualifying holding or that is a holder of a qualifying holding in an electronic money institution which, apart from issuing electronic money, engages in any of the activities referred to in Article 11, paragraph (5), item 4) of this Act.

### *Application to acquire a qualifying holding*

#### Article 21

(1) The application for prior approval to acquire a qualifying holding referred to in Article 20, paragraphs (1) and (2) of this Act shall be accompanied with:

1) for an acquirer of a qualifying holding that is a legal person:

a) the total nominal amount of shares or holdings and the percentage, and for an indirect holder, the percentage of the initial capital of the electronic money institution;

b) a certificate from the register of companies or another relevant register, in the form of an original or a certified copy;

c) audited financial statements for the past two business years;

d) evidence that no bankruptcy proceedings have been initiated or opened against the property of the holder of a qualifying holding;

e) evidence on the availability of funds for the acquisition of a qualifying holding and a description of the method and source of financing;

f) explanation of the objectives to be achieved by the acquisition of a qualifying holding;

g) a description of the acquirer's activities in relation to the acquisition, preceding the application;

2) for an acquirer of a qualifying holding that is a natural person:

a) the data and documentation referred to in Article 12, paragraph (2), item 11), subitem 2) of this Act; and

b) the documents set out in item 1), indents e), f) and g) of this paragraph.

(2) The Croatian National Bank shall, upon reasoned request, obtain from the criminal history records the evidence of no criminal record referred to in Article 12, paragraph (2), item 11), subitem 2), indent d) of this Article.

(3) In the case of a natural person who is not a citizen of the Republic of Croatia, the evidence referred to in Article 12, paragraph (2), item 11), sub-item 2), indent d) of this Act shall be evidence of no criminal record, not older than three months, related to the crimes which, by their definition, correspond to the crimes stated therein.

(4) Where a direct or indirect acquisition of shares or holdings in an electronic money institution involves the acquisition of 50 percent or more of the capital or of the voting rights of an electronic money institution, the acquirer shall also enclose the following with the application:

- 1) a business strategy of the electronic money institution in which the qualifying holding is acquired;
- 2) a business plan for the next three business years, including a financial statement projection;
- 3) planned changes in the organisational, management and personnel structures of the electronic money institution;
- 4) a plan of activities regarding the creation of new, or amendments to the existing internal bylaws of the electronic money institution; and
- 5) a plan of activities regarding the changes to the existing information technology or introduction of a new information technology of the electronic money institution.

(5) The Croatian National Bank may, for the purpose of obtaining information necessary to decide on granting prior approval to acquire a qualifying holding, verify the data delivered by the acquirer of a qualifying holding.

(6) Apart from the documents referred to in this Article, the Croatian National Bank may, while deciding on granting prior approval, request additional documentation that it deems necessary to decide on granting approval, including the information prescribed in the law governing the prevention of money laundering and terrorist financing, collected by the persons subject to that law.

#### *Deciding on prior approval to acquire a qualifying holding*

#### Article 22

When deciding on granting prior approval to acquire a qualifying holding, the Croatian National Bank shall appraise the suitability and financial soundness of the acquirer of a qualifying holding according to the following criteria:

- 1) the reputation of the acquirer;
- 2) the reputation, appropriateness of skills and experience of any person who will direct the business of the electronic money institution following the acquisition;
- 3) the financial soundness of the acquirer, in particular with respect to the type of business pursued by the electronic money institution in which a qualifying holding is acquired;



4) the ability of the electronic money institution to comply and continue to comply with the provisions of this Act; and

5) the existence of reasonable grounds to suspect that, in connection with the acquisition concerned, money laundering or terrorist financing is being or has been committed or attempted, or that the acquisition could increase the risk of money laundering or terrorist financing.

*Reasons for refusal of an application to acquire a qualifying holding*

Article 23

The Croatian National Bank shall refuse an application for prior approval to acquire a qualifying holding where it assesses:

1) that the conditions referred to in Article 22 of this Act are not met; or

2) that the acquisition could adversely affect the safety and stability of the electronic money institution's operation,

*Legal effects of an acquisition without prior approval*

Article 24

(1) Where a person acquires a qualifying holding in an electronic money institution or the holding referred to in Article 20, paragraph (2) of this Act without prior approval of the Croatian National Bank, the Croatian National Bank shall adopt a decision ordering that the person should sell the shares or the holding acquired without the necessary approval, and to submit evidence on the sale and data on the buyer.

(2) The Croatian National Bank shall, by means of the decision referred to in paragraph (1) of this Article, set the time limit for the sale which may not be shorter than three months or longer than nine months.

(3) As of the date of receipt of the decision referred to in paragraph (1) of this Article, the acquirer may not exercise any voting rights or the right to dividends or profits arising from shares or from the holding ordered to be sold, and the quorum for taking valid decisions and the necessary majority for taking decisions of the general meeting, or of the electronic money institution's meeting shall be determined in relation to the own funds reduced by the amount of the shares on the basis of which the acquirer cannot exercise any voting rights, or by the amount of the paid-in capital contribution on the basis of which a holding has been acquired on the basis of which the acquirer cannot exercise any voting rights.

(4) Upon request of the Croatian National Bank, the buyer of the shares or holding ordered to be sold shall provide the information, for whose account he/she has acquired the shares or holding.

(5) Where the Croatian National Bank establishes that the buyer has acquired the shares or holding for the account of the acquirer referred to in paragraph (1) of this Article, it shall adopt a decision ordering the sale of the shares or holding which, together with the shares or holding of the acquirer referred to in paragraph (1) of this Article for which no approval of the Croatian National Bank is necessary, exceed the total percentage that can be acquired without such an approval, within the time limit that cannot be shorter than three or longer than nine months.

(6) As of the date of receipt of the decision referred to in paragraph (5) of this Article, the buyer may not exercise any voting rights or the right to dividends or profits arising from shares or from the holding

ordered to be sold, and the quorum for taking valid decisions and the necessary majority for taking decisions of the general meeting, or of the electronic money institution's meeting shall be determined in relation to the own funds reduced by the amount of shares on the basis of which the buyer cannot exercise any voting rights, or by the amount of the paid-in capital contribution on the basis of which a holding has been acquired on the basis of which the acquirer cannot exercise any voting rights.

(7) The decision referred to in paragraphs 1 and 5 of this Act shall be submitted to the electronic money institution.

(8) The electronic money institution shall:

1) ensure that the acquirer referred to in paragraph (1) of this Article or the buyer referred to in paragraph (5) of this Article does not exercise any voting rights or the right to dividends or profits arising from shares or from the holding ordered to be sold, and notify the Croatian National Bank thereof; and

2) from the date of receipt of the decision referred to in paragraph (7) of this Article to the expiry of the prescribed time limits for the sale of shares or of the holding, notify the Croatian National Bank on a monthly basis of any changes of shareholders or the holders of holdings.

#### *Withdrawal of approval to acquire a qualifying holding*

##### Article 25

(1) The Croatian National Bank may withdraw approval to acquire a qualifying holding where:

1) a qualified holder has obtained approval by providing false or inaccurate data which were relevant for taking the decision; or

2) a qualified holder ceases to comply with the conditions referred to in Article 22 of this Act.

(2) In the case referred to in paragraph (1) of this Article the provisions of Article 24 of this Act shall apply *mutatis mutandis*.

#### *Expiry of approval to acquire a qualifying holding*

##### Article 26

(1) If, within the time limit referred to in Article 20, paragraph (3) of this Act, a holder of a qualifying holding does not acquire shares or holdings in an electronic money institution, so as to reach at least 10 percent of the capital or of the voting rights of the electronic money institution, the approval shall expire as a whole.

(2) If, within the time limit referred to in Article 20, paragraph (3) of this Act, a holder of a qualifying holding acquires at least 10 percent of the capital or of the voting rights of the electronic money institution, but does not acquire the approved amount as a whole, the approval shall apply only to the share acquired by the holder, and shall expire with respect to the remainder of the approved amount.

(3) If, within the time limit referred to in Article 34, paragraph (5) of this Act, an acquirer of a qualifying holding has reduced the holding to below the amount for which

prior approval was granted, the approval shall apply to the share exceeding the percentage referred to in Article 20, paragraphs (1) and (2) of this Act, which the holder of a qualifying holding holds on the date of expiry of the time limit.

(4) The Croatian National Bank shall adopt a decision establishing the expiry or partial expiry of the approval pursuant to paragraphs (1) to (3) of this Article.

#### *Operation of an electronic money institution in the Republic of Croatia*

##### Article 27

(1) An electronic money institution having its registered office in the Republic of Croatia may provide payment services, for which it has been authorised, in the Republic of Croatia through one or several agents under the conditions prescribed for a payment institution's agent under the law governing payment transactions.

(2) An electronic money institution having its registered office in the Republic of Croatia may not issue electronic money through an agent.

(3) An electronic money institution having its registered office in the Republic of Croatia may distribute and redeem electronic money in the Republic of Croatia through a third natural or legal person.

#### *Operation of an electronic money institution within the territory of another Member State*

##### Article 28

(1) An electronic money institution having its registered office in the Republic of Croatia may, under the conditions laid down in this Act, issue electronic money and provide payment services, which it is authorised to provide in the Republic of Croatia, within the territory of another Member State through a branch or directly.

(2) An electronic money institution having its registered office in the Republic of Croatia may, under the conditions laid down in this Act, distribute and redeem electronic money, but may not issue electronic money within the territory of another Member State through a third natural or legal person.

(3) An electronic money institution having its registered office in the Republic of Croatia may, under the conditions laid down in the law governing payment transactions, provide payment services, which it is authorised to provide in the Republic of Croatia, within the territory of another Member state through an agent.

#### *Issuance of electronic money and provision of payment services within the territory of another Member State through a branch or directly*

##### Article 29

(1) An electronic money institution which intends to issue electronic money and/or provide payment services that are not linked to the issuance of electronic money within the territory of another Member State, through a branch or directly, shall in advance notify the Croatian National Bank thereof, stating the

country in which it intends to provide the services. The notification of the intention to issue electronic money or provide payment services through a branch shall be considered as an application for entering the branch in the register referred to in Article 75 of this Act.

(2) An electronic money institution shall accompany the notification referred to in paragraph (1) of this Article with the following:

1) a description of the electronic money issuance service and, where appropriate, a list of payment services intended to be provided in the host Member State that are not linked to the issuance of electronic money;

2) where the issuance of electronic money or provision of payment services is intended to be carried out through a branch, the organisational structure of that branch; and

3) where the issuance of electronic money or the provision of payment services is intended to be carried out through a branch, also a list of names and addresses of the persons who are to be responsible for managing the branch's operations, and other information referred to in Article 12, paragraph (2), item 11), subitem 2), indent d) and the address of the branch in the host Member State.

(3) The Croatian National Bank shall forward the notification and documentation referred to in paragraph (2) of this Article to the competent authority of the host Member State within a month of their receipt, and shall notify the electronic money institution thereof. If a payment institution intends to provide payment services within the territory of another Member State through a branch, the Croatian National Bank shall enter the branch in the register referred to in Article 75 of this Act.

(4) By way of derogation from paragraph (3) of this Article, the Croatian National Bank shall not forward the notification of the intended issuance of electronic money and provision of payment services through a branch in another Member State, nor shall it notify thereof the electronic money institution, where it assesses that there are reasonable grounds to suspect that this involves an act, or attempted act of money laundering or terrorist financing, or that the operation of this electronic money institution's branch would or could increase the risk of money laundering or terrorist financing, on which the Croatian National Bank shall adopt a decision.

(5) An electronic money institution may commence issuing electronic money and providing payment services:

1) through a branch, as of the date when the competent authority of the host Member State receives the notification and documentation referred to in paragraph (2) of this Article and when the Croatian National Bank enters the branch in the register referred to in Article 75 of this Act;

(2) directly, as of the date when the competent authority of the host Member State receives the notification and documentation referred to in paragraph (2) of this Article.

(6) The Croatian National Bank may adopt a decision to remove an electronic money institution's branch from the register if notified by the competent authority of the host Member State that there are reasonable grounds to suspect that this involves an act or attempted act of money laundering or terrorist financing, or that the operation of this electronic money institution's branch increases or could increase the risk of money laundering or terrorist financing.

*Distribution and redemption of electronic money within the territory of another Member State*

Article 30

(1) An electronic money institution which intends to distribute and redeem electronic money within the territory of another Member State through a third natural or legal person shall in advance notify the Croatian National Bank thereof, stating the country in which it intends to carry out the distribution and redemption.

(2) The electronic money institution shall accompany the notification referred to in paragraph (1) of this Article with the following:

- 1) the firm and registered office, or the name and address of the natural or legal person through which it intends to carry out the distribution and redemption;
- 2) a description of the distribution intended to be carried out in the host Member State through that person;
- 3) the organisational structure of the person carrying out the distribution and redemption; and
- 4) a list of names and addresses of the persons responsible for the operation of the legal person carrying out the distribution and redemption.

(3) The Croatian National Bank shall forward the notification and documentation referred to in paragraph (2) of this Article to the competent authority of the host Member State within a month of their receipt, and shall notify the electronic money institution thereof.

(4) The electronic money institution may commence distributing and redeeming electronic money through a third person as of the date when the competent authority of the host Member State receives the notification and documentation referred to in paragraph (2) of this Article.

#### *Operation of an electronic money institution within the territory of a third country*

#### Article 31

(1) An electronic money institution having its registered office in the Republic of Croatia may issue electronic money and provide payment services in a third country exclusively through a branch.

(2) In order to establish a branch in a third country, an electronic money institution shall in advance obtain authorisation from the Croatian National Bank (hereinafter: authorisation to establish a branch in a third country).

(3) An electronic money institution, which intends to establish a branch in a third country shall submit an application for authorisation to establish a branch in a third country, stating the country in which it intends to establish a branch and the services it intends to provide.

(4) An electronic money institution shall accompany the application referred to in paragraph (3) of this Article with the following:

- 1) a business plan for the next three business years;
- 2) a programme of operations relating to the branch, including a description of the issuance of electronic money and of the payment services intended to be provided through the branch;
- 3) the branch's management framework;
- 4) the branch's organisational structure;

5) a list of names and addresses of the persons who are to be responsible for managing the branch's operations; and

4) an address in the third country at which the Croatian National Bank will be able to obtain documentation on the branch.

(5) The Croatian National Bank may, within a month of receipt of the application referred to in paragraph (3) of this Article, require additional documentation. Where the Croatian National Bank has required additional documentation, the date of receipt of the complete application shall be considered the submission date.

(6) The Croatian National Bank shall refuse the application to establish a branch where it assesses, based on the available information, that:

1) the electronic money institution intending to establish a branch does not have an appropriate organisational, management and personnel structures or an appropriate financial position that enables the provision of the planned electronic money issuance and payment services in a third country;

2) in view of that country's regulations or practices relating to their implementation, it is likely that the exercise of supervision in accordance with the provisions of this Act will be made difficult or prevented.

(7) Where an electronic money institution which has been authorised by the Croatian National Bank to establish a branch in a third country intends to establish a second or any following branch in that country, it shall notify the Croatian National Bank thereof. The provisions of paragraphs (2), (3) and (4) of this Article shall not apply to such cases.

(8) Where an electronic money institution which has been authorised to establish a branch in a third country intends to change any of the information referred to in paragraph (4), items 1), 2), 3), 4) and 6) of this Article, it shall notify the Croatian National Bank thereof at least one month prior to effecting such a change.

(9) The Croatian National Bank may withdraw authorisation to establish a branch in a third country from an electronic money institution:

1) where it is established that the electronic money institution no longer meets the organisational, technical, managerial and personnel requirements relating to the issuance of electronic money or provision of payment services; or

2) where the electronic money institution does not comply with the regulations of the third country in the operation of the branch.

(10) The Croatian National Bank shall withdraw authorisation to establish a branch in a third country from an electronic money institution:

1) where the competent authority of the third country has prohibited the electronic money institution from issuing electronic money;

2) where the branch does not commence its operation within twelve months of obtaining authorisation;

3) where the branch has not issued electronic money for more than six months; or

4) where the electronic money institution obtained authorisation to establish a branch on the basis of false or inaccurate data, which were relevant for obtaining authorisation to establish a branch.

*Operation of an electronic money institution from another Member State within the territory of the Republic of Croatia*

Article 32

(1) An electronic money institution from another Member State shall be a legal person having its registered office in another Member State which has been authorised by the competent authority to issue electronic money.

(2) An electronic money institution from another Member State may, under the conditions laid down in this Act, issue electronic money and provide the payment services which it is authorised to provide in its home Member State, within the territory of the Republic of Croatia through a branch or an agent.

(3) An electronic money institution from another Member State may also, under the conditions laid down in this Act, directly issue electronic money and provide the payment services which it is authorised to provide in its home Member State, within the territory of the Republic of Croatia, on condition that it provides them on a temporary basis.

(4) For the purposes of paragraph (3) of this Article, an electronic money institution shall be considered to issue electronic money and provide payment services within the territory of the Republic of Croatia on a temporary basis and directly if it does not provide these services on a regular, frequent or continuous basis.

(5) An electronic money institution from another Member State may, under the conditions laid down in this Act, distribute and redeem electronic money, but may not issue electronic money, within the territory of another Member State through a third natural or legal person.

(6) An electronic money institution from another Member State may, under the conditions laid down in the law governing payment transactions, provide payment services that are not linked to the issuance of electronic money but which it is authorised to provide in its home Member State, within the territory of the Republic of Croatia through an agent.

*Issuance of electronic money and provision of payment services by an electronic money institution from another Member State within the territory of the Republic of Croatia through a branch or directly*

Article 33

(1) An electronic money institution from another Member State may commence issuing electronic money and providing payment services directly within the territory of the Republic of Croatia after the Croatian National Bank has received from the competent authority of the home Member State the notification and documentation referred to in Article 29, paragraph (2), item 1) of this Act, relating to the intended issuance of electronic money and provision of payment services within the territory of the Republic of Croatia.

(2) An electronic money institution from another Member State may commence issuing electronic money and providing payment services through a branch within the territory of the Republic of Croatia after the Croatian National Bank has received from the competent authority of the home Member State the notification and documentation referred to in Article 29, paragraph (2) of this Act, relating to the intended issuance of electronic money and provision of payment services, and after the branch of the electronic money institution has been entered in the register kept by the competent authority of the home Member State.

(3) The Croatian National Bank shall notify the competent authority of the home Member State if there are any reasonable grounds to suspect that the intended establishment of a branch by an electronic money institution from the Member State involves an act or attempted act of money laundering or terrorist financing, or that the establishment of a branch could increase the risk of money laundering or terrorist financing.

*Distribution and redemption of electronic money by an electronic money institution from another Member State within the territory of the Republic of Croatia*

Article 34

(1) An electronic money institution from another Member State may, under the conditions laid down in this Act, distribute and redeem electronic money within the territory of the Republic of Croatia through a third natural or legal person.

(2) An electronic money institution from another Member State may commence distributing and redeeming electronic money within the territory of the Republic of Croatia through a third person after the Croatian National Bank has received from the competent authority of the home Member State the notification and documentation referred to in Article 30, paragraph (2) of this Act, relating to the intended distribution and redemption of electronic money.

(3) The natural or legal person referred to in paragraph (1) of this Article can only be a person having its domicile or registered office in the Republic of Croatia.

*Cooperation of competent authorities in the cross-border provision of electronic money issuance and payment services, as well as electronic money distribution and redemption services*

Article 35

(1) The Croatian National Bank and the competent authorities of another Member State shall cooperate in the supervision of electronic money institutions which, directly or through a branch, issue electronic money and provide payment services, or provide payment services through an agent within the territory of the Republic of Croatia or that other Member State.

(2) The Croatian National Bank and the competent authorities of another Member State shall cooperate in the supervision of electronic money institutions which, through a third natural or legal person, distribute and redeem electronic money within the territory of that other Member State.

(3) The Croatian National Bank shall cooperate with the competent authorities of other Member States and communicate to them the information relating to the supervision of an electronic money institution, especially the information related to illegalities committed, or suspected of having been committed. In this regard, the Croatian National Bank shall communicate to another competent authority:

1) upon its request, all the information relating to the exercise of supervision by that competent authority;  
or

2) on its own initiative, all the information essential for the exercise of supervision by that competent authority.



(4) The provisions of this Article shall be without prejudice to the obligations of the Croatian National Bank under the regulations governing the prevention of money laundering and terrorist financing, especially those related to the supervision and control of the application of these regulations.

*Operation of a third-country electronic money institution within the territory of the Republic of Croatia*

Article 36

(1) A third-country electronic money institution may issue electronic money within the territory of the Republic of Croatia only through a branch.

(2) A third-country electronic money institution issuing electronic money within the territory of the Republic of Croatia through a branch may provide payment services that are linked to the issuance of electronic money.

(3) A third-country electronic money institution may not provide payment services that are not linked to the issuance of electronic money.

(4) A third-country electronic money institution intending to establish a branch within the territory of the Republic of Croatia shall obtain authorisation to do so from the Croatian National Bank (hereinafter: authorisation to establish a branch of a third-country electronic money institution).

(5) A branch of a third-country electronic money institution may be entered in the register of companies after obtaining authorisation from the Croatian National Bank.

(6) After granting authorisation to establish a branch of a third-country electronic money institution, the Croatian National Bank shall enter the branch in the register referred to in Article 75 of this Act.

(7) A branch of a third-country electronic money institution, which has obtained the authorisation referred to in paragraph (4) of this Article, may issue electronic money only within the territory of the Republic of Croatia.

(8) A branch of a third-country electronic money institution, which has obtained the authorisation referred to in paragraph (4) of this Article, may, apart from the issuance of electronic money and provision of payment services that are linked to the issuance of electronic money, only engage in the activities referred to in Article 11, paragraph (5) items 1) and 3) of this Act.

*Authorisation to establish a branch of a third- country electronic money institution*

Article 37

(1) A third-country electronic money institution shall specify in the application for authorisation to establish a branch the payment services linked to the issuance of electronic money that it intends to provide through the branch.

(2) The application for authorisation to establish a branch of a third-country electronic money institution shall be accompanied with the following:

- 1) evidence that the third-country electronic money institution has been entered in a relevant register in the country where it has its registered office, not older than 90 days, showing its legal form and the date of entry in the register, its own funds and activities, as well as the persons authorised to represent it and the scope of their powers, where the electronic money institution has been established in a country where the entry in such a register is obligatory.
- 2) the decision of the third-country electronic money institution on establishing a branch;
- 3) a copy of the deed of establishment, memorandum or Articles of Association of the third-country electronic money institution, certified in accordance with the regulations of the country where the electronic money institution has its registered office, not older than 90 days, showing its legal form and the date of entry in the register, its own funds and activities, as well as the persons authorised to represent it and the scope of their powers;
- 4) names and addresses of members of the management and supervisory boards of the third-country electronic money institution;
- 5) for persons who are to be responsible for managing the branch's operations, the documentation referred to in Article 12, paragraph (2) item 12) of this Act;
- 6) evidence on the appointment of a certified auditor or an audit firm to audit the branch's financial statements for the business year for which the application is submitted;
- 7) for persons who are direct or indirect holders of qualifying holdings in the third-country electronic money institution, the documentation referred to in Article 12, paragraph (2) item 11) of this Act;
- 8) audit reports of the third-country electronic money institution for the three preceding business years;
- 9) authorisation to issue electronic money granted by the competent authority of a third country, or a statement by that authority that such authorisation is not required, not older than six months;
- 10) a programme of operations of the branch, including a detailed description of the manner of issuing electronic money and providing payment services linked to the issuance of electronic money, and a detailed description of the infrastructure necessary for the branch's operation.
- 11) a business plan for the next three business years, including financial statement projections for both the third-country electronic money institution and the branch, demonstrating their ability to operate in a stable manner on the basis of appropriate organisational, technical and personnel structures;
- 12) a projection of outstanding electronic money for the purpose of own funds calculation pursuant to Article 43, paragraph (7) of this Act;
- 13) a description of measures taken or intended to be taken to safeguard the electronic money holders' funds in accordance with Article 48 of this Act;
- 14) a list of persons having close links with the electronic money institution and a description of the manner in which they are linked;
- 15) authorisation to establish a branch of the electronic money institution granted by the competent authority of a third-country, or a statement by that authority that such authorisation is not required under the regulations of that third country, not older than six months;
- 16) a statement by the third-country electronic money institution that the branch will

keep all documentation relating to its operation in the Croatian language and store it at the branch's registered office;

17) a description of the branch's organisational structure, including, where appropriate, a description of the intended operation through third natural or legal persons through which the distribution and redemption of electronic money is carried out, as well as a description of outsourcing arrangements and the branch's participation in a domestic or international payment system;

18) for a third-country electronic money institution and a branch, a description of the management framework with well-defined, transparent and consistent lines of powers and responsibilities, a description of the electronic money institution's internal control mechanism which comprises, at a minimum, the functions of risk control, internal audit and compliance with regulations and standards, including the administrative and accounting procedures and a description of procedures for the identification, management and monitoring of, as well as reporting on risks, which show that the above stated management framework, the internal control mechanism and risk management procedures are appropriate, adequate, reliable and satisfactory with respect to the issuance of electronic money and the payment services linked thereto, intended to be provided by the branch; and

19) a description of the internal control mechanism put in place by the branch in order to comply with the requirements arising from the regulations governing the prevention of money laundering and terrorist financing.

(3) In the cases referred to in paragraph (2), items 5) and 7) of this Article, the provisions of Article 12, paragraphs (3) and (4) of this Act shall apply *mutatis mutandis*.

(4) Apart from the documentation referred to in paragraph (2) of this Act, the Croatian National Bank may, while processing the application, request additional documentation that it deems necessary to decide on granting authorisation to establish a branch, including the information prescribed by the law governing the prevention of money laundering and terrorist financing, collected by the persons subject to that law.

(5) The Croatian National Bank shall refuse an application for authorisation to establish a branch of a third-country electronic money institution where it assesses, on the basis of the available data and documentation enclosed with the application for authorisation to establish a branch, that:

1) the third-country electronic money institution and its branch do not meet the financial, managerial, organisational, personnel or technical requirements for operation in accordance with the provisions of this Act; or

2) in view of the need to ensure the sound and prudent management of the electronic money institution and the branch, this institution has not put in place effective and sound governance arrangements comprising a clear organisational structure with well-defined, transparent and consistent lines of powers and responsibilities, effective procedures for the identification, management and monitoring of, as well as reporting on all the risks to which the electronic money institution and the branch are or might be exposed, and does not have an adequate internal control mechanism, which comprises, at a minimum, the functions of risk control, internal audit and compliance with regulations and standards, including appropriate administrative and accounting procedures, or that the said governance arrangements, internal control mechanism and administrative and accounting procedures are not comprehensive and proportionate to the nature, scope and complexity of the electronic money issuance and payment services linked to them that the branch intends to provide;

3) the electronic money institution has not been entered in a relevant register in the country where it has its registered office for at least three years or, where the regulations of that country do not require its entering in a relevant register, has not been established for at least three years;

4) the exercise of supervision of the branch's operation pursuant to the provisions of this Act may be made difficult or prevented due to close links between the electronic money institution and other legal or natural persons;

5) in view of the regulations of the third country in which the electronic money institution has its registered office, or practices relating to their implementation, it is likely that the exercise of supervision in accordance with the provisions of this Act may be made difficult or prevented;

6) the conditions for the operation of the branch pursuant to this Act are not provided;

7) the persons responsible for managing the branch's operations do not meet the conditions laid down in Article 13, paragraph (1), item 2) of this Act;

8) holders of qualifying holdings do not meet the conditions laid down in Article 13, paragraph (1), item 1) of this Act;

9) the third country in which the electronic money institution has its registered office does not have regulations governing the prevention of money laundering and terrorist financing, or that such regulations do not ensure effective oversight over the prevention of money laundering and terrorist financing, or that the electronic money institution or the persons referred to in paragraph (2), items 5) and 7) of this Article are in any way connected with money laundering and terrorist financing, or that there are indications for that;

10) the Croatian National Bank has not concluded an agreement on cooperation in exercising supervision with the competent authority of the third country in which the electronic money institution establishing a branch has its registered office;

11) electronic money institutions having their registered office in the Republic of Croatia are not allowed to establish branches in that third country at least under the same conditions applying to the electronic money institution establishing a branch in the Republic of Croatia;

12) the branch has not put in place an adequate internal control mechanism in order to comply with the requirements arising from the regulations governing the prevention of money laundering and terrorist financing.

13) the third-country electronic money institution has not been granted authorisation to issue electronic money, which it has been obliged to obtain under the regulations of that third country;

14) the third-country electronic money institution has not been granted authorisation to establish a branch, which it has been obliged to obtain under the regulations of that third country; or

15) the third-country electronic money institution's own funds are below the amount prescribed in Article 42 of this Act.

(6), Prior to granting authorisation to establish a branch, the Croatian National Bank shall invite a third-country electronic money institution to deposit the amount of funds in accordance with Article 42 of this Act in the account of a credit institution having its registered office in the Republic of Croatia within the time limit set by the Croatian National Bank. The Croatian National Bank shall refuse an application for authorisation to establish a branch of a third-country electronic money institution where the evidence of the payment made has not been submitted to it within the prescribed time limit. The funds thus paid in shall represent the minimum own funds of the branch.

(7) Where a third-country electronic money institution, after having obtained authorisation to establish a branch of the third-country electronic money institution, intends to provide other payment services that are

linked to the issuance of electronic money, but have not been specified in the application for authorisation to establish a branch, it shall notify the Croatian National Bank of these services and the manner of their provision prior to commencing with the provision thereof.

*Withdrawal of authorisation to establish a branch from a third-country electronic money institution*

Article 38

(1) The Croatian National Bank shall withdraw authorisation to establish a branch from a third-country electronic money institution:

- 1) where the branch does not commence issuing electronic money within six months of granting the authorisation;
- 2) where the branch submits a written notification to the Croatian National Bank stating that it no longer intends to issue electronic money;
- 3) where the branch has not independently issued electronic money for more than six months; or
- 4) where the third-country electronic money institution obtained authorisation to establish a branch on the basis of false or inaccurate data which were relevant for granting the authorisation to establish a branch.

(2) The Croatian National Bank may withdraw authorisation to establish a branch from a third-country electronic money institution:

- 1) where it assesses that any of the reasons referred to in Article 37, paragraph (5) of this Act have arisen;
- 2) where the branch does not operate in accordance with the regulations in force in the Republic of Croatia; or
- 3) where the branch fails to meet its financial obligations in the Republic of Croatia.

*Expiry of authorisation to establish a branch of a third-country electronic money institution*

Article 39

(1) Authorisation to establish a branch of a third-country electronic money institution shall expire on the date:

- 1) of the opening of bankruptcy proceedings against a branch of the third-country electronic money institution;
- 2) of withdrawing the authorisation from the third-country electronic money institution;
- 3) of the opening of bankruptcy, winding up or other similar proceedings against the third-country electronic money institution;
- 4) of removing the activity of the issuance of electronic money from the register of companies or another relevant register in which the third-country electronic money institution has been entered; or

5) of submission of a decision to withdraw authorisation to establish a branch from the third-country electronic money institution.

(2) A branch of a third-country electronic money institution shall notify the Croatian National Bank without delay where the circumstances referred to in paragraph (1), items 2) to 4) of this Article have arisen, and of any change in the status of the third-country electronic money institution.

(3) In the case of expiry of authorisation to establish a branch of a third-country electronic money institution, the provisions of Article 17, paragraphs (3), (4) and (5) of this Act shall apply *mutatis mutandis*.

(4) A branch of a third-country electronic money institution may be removed from the register of companies after it has redeemed the total amount of outstanding electronic money that it had issued.

#### *Application of other provisions of this Act to a branch of a third-country electronic money institution*

#### Article 40

(1) The provisions of Chapters 3 and 4 of this Title shall apply *mutatis mutandis* to a branch of a third-country electronic money institution.

(2) By way of derogation from paragraph (1) of this Article, a branch of a third-country electronic money institution shall, instead of the reporting obligation referred to in Article 70, paragraph (3), item 3) of this Act, without delay notify the Croatian National Bank of any change of the holders of qualifying holdings in a third-country electronic money institution that was known or should have been known to the management board of the third-country electronic money institution or to the person responsible for managing the operations of the branch.

(3) The Croatian National Bank may prescribe in detail the regulations on the establishment and operation of a branch of a third-country electronic money institution, on submitting reports to the Croatian National Bank, the expiry of authorisation to establish such a branch, as well as on the manner of application of the provisions of paragraph (1) of this Article to a branch of a third-country electronic money institution.

#### *Supervision of a branch of a third-country electronic money institution by the competent authority of that third country*

#### Article 41

By way of derogation from Article 56, paragraph (1) of this Act, an on-site examination of operations of a branch of a third-country electronic money institution may also be carried out by the competent authority of the third country provided that:

1) the agreement referred to in Article 73 of this Act has been concluded between the Croatian National Bank and this authority;

2) this authority has requested the Croatian National Bank to carry out an on-site examination for the purposes of that authority; and

3) the Croatian National Bank instructs that authority to carry out the requested on-site examination independently.

Chapter 3  
Operation of electronic money institutions

*Initial capital of electronic money institutions*

Article 42

- (1) The initial capital of an electronic money institution shall amount to at least HRK 2,600,000.00.
- (2) The minimum initial capital referred to in paragraph (1) of this Article shall be paid in in cash.

*Own funds of electronic money institutions*

Article 43

- (1) In order to ensure its safe and stable operation and to meet obligations to their creditors, electronic money institutions shall maintain an adequate level of own funds.
- (2) An electronic money institution's own funds shall never fall below the minimum amount of initial capital prescribed in Article 42, paragraph (1) of this Act.
- (3) An electronic money institution's own funds shall at all times be at least equal to the sum of the amounts obtained by applying paragraphs (4) and (9) of this Article.
- (4) The own funds of an electronic money institution for the activity of issuing electronic money shall amount to at least 2% of the average outstanding electronic money.
- (5) For the purposes of this Act, the average outstanding electronic money shall be the average total amount of financial liabilities of an electronic money issuer related to the electronic money in issue at the end of each calendar day over preceding six calendar months, calculated on the first calendar day of each calendar month and applied for that calendar month.
- (6) Where an electronic money institution, apart from issuing electronic money, also provides payment services that are not linked to the issuance of electronic money, or engages in any other activity referred to in Article 11, paragraph (5), item 4) of this Act, and the amount of outstanding electronic money is unknown in advance, the own funds referred to in paragraph (4) of this Article shall be calculated on the basis of the portion of funds assumed to be used for the issuance of electronic money, which can be reasonably estimated on the basis of historical data.
- (7) Where an electronic money institution has not completed a sufficient period of business to calculate the outstanding electronic money in accordance with paragraphs (5) and (6) of this Article, its own funds requirements shall be calculated on the basis of projected outstanding electronic money evidenced by its business plan.
- (8) The Croatian National Bank may order the correction of the estimated portion of funds assumed to be used for the issuance of electronic money referred to in paragraph (6) of this Article and the correction of

the projected outstanding electronic money evidenced by the business plan referred to in paragraph (7) of this Article, if it assesses that they are unrealistic.

(9) In regard to the provision of payment services that are not linked to the issuance of electronic money, the own funds of an electronic money institution shall be calculated in the manner prescribed by the regulations on payment transactions governing the calculation of payment institutions' own funds.

(10) An electronic money institution may not include in the calculation of own funds the items included in the calculation of other prescribed own funds where:

a) the electronic money institution belongs to the same group as another electronic money institution, a credit institution, a payment institution, an investment company, an asset management company or an insurance and reinsurance undertaking; and

b) the electronic money institution carries out activities other than the issuance of electronic money.

(11) Regarding the calculation of own funds, the Croatian National Bank shall prescribe the characteristics and types of items to be included in the calculation of own funds and the method and extent of inclusion of individual items in the calculation of individual components of own funds, and it may also prescribe the granting of approvals for the extent of inclusion of individual items in the calculation of individual components of own funds, as well as conditions for and the method of estimating and projecting the portion of funds referred to in paragraphs (6) and (7) of this Article.

#### *Issuance of electronic money*

##### Article 44

Electronic money institutions shall without delay exchange all funds received from electronic money holders for electronic money.

#### *Prohibition from accepting deposits*

##### Article 45

(1) An electronic money institution may not accept deposits or any other repayable funds from the public in terms of the law governing the operation of credit institutions.

(2) For the purposes of this Act, funds received by an electronic money institution from an electronic money holder in exchange for electronic money shall not constitute deposits or any other repayable funds from the public in terms of the law governing the operation of credit institutions.

#### *Electronic money institution's accounts*

##### Article 46

When an electronic money institution provides payment services which are not linked to the issuance of electronic money but which include operating payment accounts, these accounts may be used exclusively



for payment transactions; the funds received for that purpose shall not be considered as deposits or any other repayable funds from the public in terms of the law governing the operation of credit institutions.

### *Granting of credits*

#### Article 47

(1) An electronic money institution may grant credits in connection with the provision of the payment services that are not linked to the issuance of electronic money referred to in Article 2, item 6) indents 4), 5) and 7 of this Act, only if all of the following conditions are met:

1) a credit has been granted exclusively as an ancillary service in connection with the execution of a payment transaction;

2) a credit which has been granted as an ancillary service in connection with the execution of a payment transaction and executed pursuant to the right to provide payment services within the territory of another Member State is to be paid off within a period no longer than twelve months;

3) a credit has not been granted from the funds of payment service users received by the payment institution and held for the execution of payment transactions; and

4) the own funds of the electronic money institution, as assessed by the Croatian National Bank, are at all times appropriate with regard to the total amount of the credit granted.

(2) An electronic money institution may not grant credits from the funds received in exchange for the issued electronic money.

### *Safeguarding of electronic money holders' funds*

#### Article 48

(1) An electronic money institution shall safeguard the funds received from electronic money holders in exchange for the issued electronic money in the amount of outstanding electronic money in the manner prescribed in paragraph (5) or (7) of this Article.

(2) The amount of the issued outstanding electronic money shall be calculated at the end of each business day.

(3) Where the funds referred to in paragraph (1) of this Act have not been received in cash, the electronic money institution shall include these funds in the calculation of outstanding electronic money at the end of the business day on which these funds are credited to its payment account, or, if appropriate, at the end of the business day on which these funds are otherwise made available to the electronic money institution. In both cases, these funds are included in the calculation no later than the end of the fifth business day after the issuance of electronic money.

(4) Electronic money institutions shall keep all the funds of electronic money holders received in exchange for the issued electronic money separate from the funds of other natural or legal persons.

(5) An electronic money institution shall:

1) deposit the funds in the amount of the issued outstanding electronic money in a separate account with a credit institution having its registered office in the Republic of Croatia;

2) deposit the funds in the amount of the issued outstanding electronic money in a separate account with a credit institution having its registered office in a Member State; or

3) invest such funds in low-risk types of assets.

(6) The funds of the electronic money holders referred to in paragraph (5) of this Article shall not be included in an electronic money institution's winding-up or bankruptcy estate, nor may they be subject to execution relating to claims against the electronic money institution.

(7) An electronic money institution shall cover the funds in the amount of the issued outstanding electronic money by an insurance policy from an insurance company or a credit institution's guarantee, provided that this insurance company or credit institution does not belong to the same group as the electronic money institution itself. The contracted insurance policy or guarantee must be payable should the electronic money institution be unable to meet its financial obligations arising from the provision of services related to the issuance of electronic money.

(8) Where an electronic money institution receives funds from electronic money holders, of which a portion is to be used for the issuance of electronic money, and the remaining portion for other activities it engages in, other than the issuance of electronic money, it shall safeguard the portion of funds received in exchange for the issued outstanding money in the manner referred to in paragraph (5) or (7) of this Article. If that portion is variable or unknown in advance, the electronic money institution shall safeguard the portion assumed to be used for the issuance of electronic money, provided that such a portion can be reasonably estimated on the basis of historical data.

(9) The Croatian National Bank may order the correction of the estimated portion of funds assumed to be used for the issuance of electronic money referred to in paragraph (8) of this Article if it assesses that this estimate is unrealistic.

(10) An electronic money institution shall safeguard the funds received from payment service users for the execution of payment transactions that are not linked to the issuance of electronic money in accordance with the regulations on payment transactions governing the safeguarding of funds.

(11) The Croatian National Bank shall prescribe the characteristics of the types of assets referred to in paragraph (5) item 3) of this Article.

### *Business books and financial statements*

#### Article 49

(1) Unless otherwise provided for in this Act, an electronic money institution shall keep business books, other business documentation and records, evaluate assets and liabilities and prepare and publish annual financial statements in accordance with applicable regulations and professional standards.

(2) An electronic money institution shall keep business books and prepare financial statements for the electronic money issuance and payment services separate from those for the services referred to in Article 11, paragraph (5), items 1), 3) and 4) of this Act.

(3) The Croatian National Bank may prescribe in detail the manner of keeping business books and content of the reports referred to in paragraph (2) of this Article.

### *Storing of bookkeeping documents*

#### Article 50

An electronic money institution shall store bookkeeping documents and other documentation related to this Title in accordance with applicable regulations and professional standards, but for no less than five years.

### *Audit requirements*

#### Article 51

(1) An electronic money institution shall have the annual financial statements and consolidated financial statements, referred to in Article 49 of this Act, audited for each business year.

(2) An electronic money institution shall, within fifteen days of receipt of an audit report and at the latest within four months of expiry of the business year to which the annual financial statements relate, submit the following to the Croatian National Bank:

- 1) the audit report on annual financial statements, including these financial statements;
- 2) the audit report on consolidated annual financial statements, including these consolidated financial statements, where appropriate; and
- 3) annual and consolidated annual reports, in accordance with the regulations governing the content of such reports.

(3) For the purposes of paragraph (1) of this Article, a business year shall correspond to a calendar year.

(4) The persons carrying out the audit referred to in paragraph (1) of this Article shall without delay, notify the Croatian National Bank of the following:

- 1) established illegalities or facts and circumstances which could in any way jeopardise the continued operation of the electronic money institution; and
- 2) the circumstances which have led to the withdrawal of authorisation to issue electronic money.

(5) The persons carrying out the audit of an electronic money institution shall notify in writing the Croatian National Bank of any of the facts referred to in paragraph (4) of this Article of which they became aware while auditing the financial statements of an undertaking closely linked with that electronic money institution.

(6) The submission to the Croatian National Bank of the information referred to in paragraphs (4) and (5) of this Article shall not constitute a violation of the auditor's duty to protect the confidentiality of information under the law governing audit or under the contract.

*Assessment for the purposes of the Croatian National Bank*

Article 52

(1) The Croatian National Bank may, for its own purposes adopt a decision ordering an electronic money institution to have a special audit carried out, taking into account the size of the electronic money institution or the type, scope or complexity of its activities.

(2) The special audit referred to in paragraph (1) of this Article may relate to providing an assessment by an audit firm of one or more of the following:

1) compliance with the risk management rules;

2) the operations of the risk control function, the compliance function and the internal audit function;

3) the state of the IT system and the adequacy of the IT system management; and

4) the regularity, accuracy and completeness of the reports submitted to the Croatian National Bank.

(3) The assessment referred to in paragraph (2) of this Article shall be descriptive and shall range from 'completely satisfactory' to 'completely unsatisfactory' (completely satisfactory, satisfactory, partly satisfactory, unsatisfactory, and completely unsatisfactory).

(4) The Croatian National Bank may require the audit firm to provide additional information concerning the special audit carried out.

(5) Where the Croatian National Bank establishes that the assessment has not been made in accordance with this Act, subordinate legislation adopted under this Act, the law governing audits and rules of the auditing profession or where, in the course of the supervision of the electronic money institution's operation or in any other way, it establishes that the assessment is not based on true and objective facts, it may:

1) require the auditor to correct or supplement the assessment; or

2) refuse the assessment and require the electronic money institution to obtain an assessment by certified auditors of another audit firm at the expense of the electronic money institution.

(6) The refusal of the assessment referred to in paragraph (2) of this Article shall not result in the refusal of the audit report on the electronic money institution's annual financial statements for that year.

(7) The Croatian National Bank may prescribe in detail the content of the audit for the purposes of the Croatian National Bank.

*Outsourcing*

Article 53

(1) An electronic money institution may outsource some of its operational activities. It shall notify the Croatian National Bank of the intended externalisation prior to concluding a contract with an outsourcing service provider.

(2) By way of derogation from paragraph (1) of this Article, where an electronic money institution intends to outsource materially important operational activities, it shall, within an appropriate time limit prior to concluding a contract with an outsourcing service provider, notify the Croatian National Bank thereof and submit the documentation proving that the conditions referred to in paragraphs (4) of this Article are met.

(3) Materially important operational activities shall be the activities which, if performed incorrectly or not at all, would significantly impair:

- 1) the legality of the electronic money institution's operation;
  - 2) its financial stability;
  - 3) the continuity in meeting the conditions based on which it has been granted authorisation;
- or
- 4) the soundness or continuity of the electronic money issuance and payment services that it provides.

(4) An electronic money institution shall ensure that the intended outsourcing of materially important operational activities does not impair:

- 1) the quality of the electronic money institution's internal control mechanism; and
- 2) the exercise of supervision by the Croatian National Bank.

(5) An electronic money institution shall ensure that the Croatian National Bank can carry out on-site examination at the location where the services are provided, that is, at the outsourcing service provider's premises, and it shall ensure access to the outsourcing-related documentation and data possessed by the outsourcing service provider.

(6) The Croatian National Bank shall adopt a decision prohibiting an electronic money institution from outsourcing its materially important operational activities where it assesses that such outsourcing:

- 1) threatens the legality of the payment institution's operation;
- 2) results in transferring the liability from the responsible persons of the electronic money institution to other persons;
- 3) changes the relationship and obligations of the electronic money institution to the electronic money holders or payment service users, as defined in this Act or the law governing payment transactions; or
- 4) changes the conditions under which the electronic money institution has been granted authorisation to issue electronic money or provide payment services.

(7) The Croatian National Bank may prescribe in detail the outsourcing of an electronic money institution's operational activities.

### *Liability of an electronic money institution*

#### Article 54

(1) An electronic money institution shall be fully liable to third parties for the acts of the agents through which it provides payment services, natural or legal persons through which it carries out the distribution and redemption of electronic money and outsourcing service providers in connection with the issuance of electronic money and provision of payment services.

(2) An electronic money institution may not exclude or limit the liability referred to in paragraph (1) of this Article.

### *Governance arrangements and risk management*

#### Article 55

(1) An electronic money institution shall establish and implement effective and sound governance arrangements, proportionate to the nature, scope and complexity of the operations it performs, comprising:

1) a clear management framework with well-defined, transparent and consistent lines of powers and responsibilities within the electronic money institution;

2) efficient risk management, in particular as concerns operational risk; and

3) an appropriate internal control mechanism, comprising, at a minimum, the functions of risk control, internal audit and compliance with regulations and standards, including the appropriate administrative and accounting procedures.

(2) The Croatian National Bank may prescribe in detail the governance arrangements referred to in paragraph (1) of this Article.

#### Chapter 4

#### Supervision of electronic money institutions

#### *Supervision of electronic money institutions*

#### Article 56

(1) The Croatian National Bank shall exercise supervision of electronic money institutions.

(2) The supervision referred to in paragraph (1) of this Article shall be the verification of whether an electronic money institution operates in accordance with the provisions of this Act and regulations adopted under this Act, as well as of the law governing payment transactions and regulations adopted under that law, with respect to the issuance of electronic money and provision of payment services, as well as its activities referred to in Article 11, paragraph (5), items 1) and 2) of this Act.

(3) Within the supervision referred to in paragraph (1) of this Article, the Croatian National Bank may verify whether the part of an electronic money institution's operations referred to in Article 11, paragraph (5), item 4) of this Act affects or might affect its financial stability, or makes difficult the exercise of supervision.

(4) In establishing the frequency and intensity of the supervision referred in paragraph (1) of this Article, the Croatian National Bank shall take into account the type, scope and complexity of the activities carried out by an electronic money institution and the risks it is exposed to in its operation.

(5) Other supervisory authorities may also exercise supervision of the operation of electronic money institutions in accordance with their powers under law, and within their competence.

(6) Where another supervisory authority is competent for the supervision of an electronic money institution, the Croatian National Bank may participate in the supervision of that institution with the respective supervisory authority, or may require from that supervisory authority the data and information necessary for the supervision of the electronic money institution in question.

(7) The Croatian National Bank may prescribe in detail the conditions for and the manner of exercising supervision and imposing measures, and the responsibilities of the electronic money institution's bodies in the course of and following supervision.

(8) Electronic money institutions shall pay a supervision fee to the Croatian National Bank, whose calculation basis, amount, calculation and payment methods shall be prescribed by the Croatian National Bank. The criterion for determining the amount of the fee may be the type of payment services provided by the electronic money institution, the minimum own funds that the electronic money institution is required to maintain, the volume of issued electronic money, the volume of executed payment transactions, the number of agents through which the electronic money institution provides payment services or the number of third natural or legal persons through which it carries out the distribution and redemption of electronic money, or it may be a combination of two or several of these criteria.

#### *Manner of exercising supervision of electronic money institutions*

#### Article 57

(1) The Croatian National Bank shall exercise supervision of electronic money institutions by:

1) collecting and analysing reports and information that payment institutions are required to submit to the Croatian National Bank pursuant to this Act and other laws, as well as regulations adopted under these laws, and by ongoing monitoring of their operation;

2) carrying out on-site examinations of the operation of electronic money institutions, all their branches, third natural or legal persons through which they carry out the distribution and redemption of electronic money, agents through which they provide payment services and outsourcing service providers; and

3) imposing supervisory measures.

(2) The supervision referred to in paragraph (1), item 1) of this Article shall be exercised by the employees of the Croatian National Bank.

(3) The supervision referred to in paragraph (1), item 2) of this Article shall be exercised by the employees of the Croatian National Bank authorised by the Governor of the Croatian National Bank (hereinafter: authorised persons). Exceptionally, the Governor of the Croatian National Bank may authorise other professionally qualified persons to carry out on-site examinations.

(4) The Croatian National Bank shall submit a notification of an on-site examination to an electronic money institution at least eight days prior to the beginning of the on-site examination. Exceptionally, an authorised person may submit the notification of an on-site examination no later than the day before the beginning of the on-site examination. The notification shall include the subject of the on-site examination and information on what the payment institution subject to the on-site examination shall prepare for authorised persons for carrying out the onsite examination.

(5) An electronic money institution shall enable authorised persons to carry out an on-site examination and ensure adequate conditions for an undisturbed performance of the on-site examination.

(6) An electronic money institution that uses computer data processing shall, upon request of authorised persons, ensure adequate conditions and means for the examination of business books and records, and shall submit to the authorised persons documentation that provides a complete description of the accounting system's operation.

(7) Within the supervision referred to in paragraph (1), items 1) and 2) of this Article., the Croatian National Bank may require from the members of an electronic money institution's management board, or executive directors of that electronic money institution where it has the board of directors, or, where that institution engages in any of the activities referred to in Article 11, paragraph (5), item 4) of this Act, from a person responsible for managing the operations relating to the issuance of electronic money and/or provision of payment services, to prepare a written report on all the issues necessary for exercising the supervision or to submit a statement on these issues within a time limit no shorter than three days.

#### *On-site examination*

#### Article 58

(1) An electronic money institution shall enable authorised persons, upon their request, to carry out an onsite examination at the registered office of the electronic money institution and in other localities in which the electronic money institution or another person with its authorisation carries out operations subject to the supervision of the Croatian National Bank.

(2) An electronic money institution shall enable authorised persons, upon their request, to carry out an examination of business books, business documentation and administrative or business records, as well as an examination of the information technology and related technologies, to the extent necessary for a particular examination.

(3) A payment institution shall submit to authorised persons, upon their request, computer printouts, copies of business books, business documentation and administrative or business records, in a paper form or in the form of an electronic record, on the medium and in the format required by the authorised persons. The electronic money institution shall provide authorised persons with a standard interface enabling access to the database management system used by the electronic money institution, for the purpose of carrying out a computer-aided examination.

(4) The examination of operation referred to in paragraphs (1) and (2) of this Article shall be carried out by authorised persons during the payment institution's working hours. Where necessary because of the scope or nature of the examination, the payment institution shall enable authorised persons to carry out the examination outside its working hours.

#### *Completion of an examination of an electronic money institution*

#### Article 59

(1) A report on examination findings shall be prepared following an examination of the payment institution's operation.

(2) Exceptionally, a report on examination findings shall not be prepared where the examination has been carried out under Article 57, paragraph (1), item 1) of this Act and



where no illegalities or weaknesses and deficiencies in the payment institution's operation have been identified that require the imposition of supervisory measures.

### *Supervisory measures*

#### Article 60

1) The objective of the supervisory measures of the Croatian National Bank shall be to take actions in a timely manner to improve the safety and stability of electronic money institutions' operations and to eliminate illegalities established.

(2) Supervisory measures shall be implemented by means of:

- 1) a memorandum of understanding, or
- 2) a decision.

### *Memorandum of understanding*

#### Article 61

(1) Following an examination, the Croatian National Bank may conclude a memorandum of understanding with the electronic money institution where it identifies weaknesses or deficiencies in the electronic money institution's operation which do not constitute violations of regulations or where, following the examination, it deems it necessary to give the electronic money institution recommendations or guidelines on the basis of which the electronic money institution is to take actions and procedures to improve its operation.

(2) The Croatian National Bank may propose to an electronic money institution the conclusion of a memorandum of understanding if:

- 1) the payment institution has begun eliminating the weaknesses or deficiencies in the course of, or immediately after the examination;
- 2) the electronic money institution is prepared to commit itself to eliminating the weaknesses or deficiencies within the proposed time limits and in the proposed manner;
- 3) the electronic money institution's past behaviour with regard to measures, objections and instructions of the Croatian National Bank suggests that the payment institution will completely fulfil the commitments to be assumed under the memorandum; or
- 4) the electronic money institution's track record, and the frequency of weaknesses, deficiencies or illegalities established in its operation, suggest that the electronic money institution will in its future operation ensure the legality, safety and stability of operation.

(3) A memorandum of understanding shall lay down:

- 1) the time limit for and the manner of eliminating weaknesses or deficiencies in the electronic money institution's operation; and
- 2) the time limit and the frequency of the electronic money institution's reporting to the Croatian National Bank on the fulfilment of the commitments assumed under the memorandum of understanding.

*Consequences of a failure to fulfil the commitments taken  
under a memorandum of understanding*

Article 62

Where an electronic money institution fails to fulfil the commitments assumed under a memorandum of understanding within the time limit and in the manner laid down in the memorandum, the Croatian National Bank shall adopt a decision to impose supervisory measures.

*Decision to impose supervisory measures*

Article 63

(1) The Croatian National Bank may adopt a decision to impose supervisory measures on an electronic money institution where in the course of supervision it establishes:

- 1) that by its actions or a failure to perform certain actions the electronic money institution acted contrary to laws and other regulations;
- 2) weaknesses or deficiencies in the electronic money institution's operation which do not constitute a violation of regulations; or
- 3) that it is necessary that the electronic money institution take actions and procedures to improve its operation.

(2) In the decision referred to in paragraph (1) of this Article, the Croatian National Bank shall lay down the time limit within which the electronic money institution is to implement the measures imposed by the decision.

(3) An electronic money institution may, no later than fifteen days prior to the expiry of the time limit referred to in paragraph (2) of this Article, apply for an extension of that time limit by a reasoned request. The Croatian National Bank shall decide on the extension at the latest by the expiry of the time limit laid down in the decision.

*Reporting to the Croatian National Bank on the enforcement of decisions*

Article 64

(1) In its decision to impose supervisory measures, the Croatian National Bank may also order the electronic money institution to report to the Croatian National Bank within a specified time limit on the implementation of the imposed measures.

(2) The electronic money institution shall, within the time limit referred to in paragraph (1) of this Article, report to the Croatian National Bank on the implementation of the measures and shall enclose relevant evidence.

(3) Where the Croatian National Bank establishes that the measures imposed have not been implemented, or have not been implemented within the time limit and in the manner prescribed by the decision, it may adopt a decision to impose a new supervisory measure on the electronic money institution.

*Types of supervisory measures*

## Article 65

(1) By means of supervisory measures, the Croatian National Bank may:

- 1) order an electronic money institution to remove from office a member of the management board or an executive director, or where the electronic money institution also engages in any of the activities referred to in Article 11, paragraph (5), item 4) of this Act, the persons responsible for managing the operations relating to the issuance of electronic money and/or provision of payment services, and appoint a new member of the management board or an executive director or a person responsible for managing the operations relating to the issuance of electronic money and/or provision of payment services;
- 2) temporarily prohibit an electronic money institution from issuing electronic money or providing one or more payment services in the cases referred to in Article 15, paragraph (2) of this Act;
- 3) temporarily prohibit an electronic money institution from issuing electronic money or providing payment services through a branch or an agent through which it provides payment services;
- 4) prohibit an electronic money institution from issuing electronic money and/or providing payment services through a branch or an agent through which it provides payment services, and remove the branch of the electronic money institution or the agent through which it provides payment services from the register referred to in Article 75 of this Act;
- 5) prohibit an electronic money institution from distributing and/or redeeming electronic money through a third natural or legal person;
- 6) order an electronic money institution to comply with the conditions on the basis of which it has been granted authorisation to issue electronic money; or
- 7) impose other supervisory measures.

(2) The Croatian National Bank shall impose the measure referred to in paragraph (1), item 2) of this Article simultaneously with the imposition of another supervisory measure in the duration of no longer than one year. The Croatian National Bank shall without delay notify the competent commercial court of the imposition of this measure.

(3) The Croatian National Bank may order that a separate entity be established for the issuance of electronic money where the payment institution engages in any of the activities referred to in Article 11, paragraph (5), item 4) of this Act which impair or may impair the financial stability of the electronic money institution or make difficult the exercise of supervision.

(4) Where the own funds of an electronic money institution are lower than the minimum amount of own funds calculated pursuant to Article 43 of this Act, or where the own funds of an electronic money institution are not appropriate with regard to the total amount of the credits granted, the Croatian National Bank may impose one or several of the following measures:

- 1) order an electronic money institution to adopt and ensure the implementation of a plan of measures to provide for the minimum own funds required under the regulation adopted pursuant to Article 43, paragraph (11) of this Act;
- 2) order an electronic money institution to adopt and ensure the implementation of a plan of measures to provide for the minimum own funds appropriate with regard to the credits granted; and
- 3) order an electronic money institution to increase the initial capital referred to in Article 42 of this Act;
- 4) temporarily prohibit the payment institution from distributing dividends or profits;

- 5) temporarily prohibit the granting of credits; or
- 6) temporarily limit the granting of credits.

*Exemptions from the required minimum amount of own funds*

Article 66

(1) The Croatian National Bank may, based on an evaluation of the risk-management processes, risk loss data or the internal control mechanism of the electronic money institution, require the electronic money institution to hold a minimum amount of own funds which is up to 20 percent higher than the sum of the amounts obtained by applying Article 43 of this Act.

(2) The Croatian National Bank may, based on an evaluation of the risk-management processes, risk loss data or the internal control mechanism of the electronic money institution, allow that electronic money institution to hold own funds which is up to 20% lower than the sum of the amounts obtained by applying Article 43 of this Act.

*On-site examination of electronic money institutions having their registered office in the Republic of Croatia and operating in another Member State*

Article 67

(1) Where an electronic money institution having its registered office in the Republic of Croatia operates within the territory of another Member State through a branch, or where it provides payment services through an agent, or where it carries out the distribution and redemption of electronic money through a third natural or legal person, the Croatian National Bank or persons that it has authorised may carry out an on-site examination of their operations after having notified in advance the competent body of the host Member State.

(2) The Croatian National Bank may request the competent authority of the host Member State in which the electronic money institution provides its services to carry out an on-site examination of a branch, a third natural or legal persons through which it carries out the distribution and redemption of electronic money, or of an agent through which it provides payment services.

(3) The Croatian National Bank may participate in the on-site examination of a branch of an electronic money institution, a third natural or legal person through which the distribution and redemption of electronic money is carried out or of an agent through which payment services are provided in a Member State, regardless of who carries out the on-site examination

(4) The provisions of paragraphs (1), (2) and (3) of this Article shall also apply where the outsourcing service provider has its registered office within the territory of another Member State.

*On-site examination of electronic money institutions having their registered office in another Member State which provide electronic money issuance and payment services in the Republic of Croatia*

Article 68

(1) Where an electronic money institution, having its registered office in another Member State, operates in the territory of the Republic of Croatia, the competent authority of the home Member State may:

1) carry out an on-site examination of the operation of the electronic money institution, especially its branches or third natural or legal persons through which it carries out the distribution and redemption of electronic money, or an agent through which it provides payment services, directly or through a person it has authorised, after having notified the Croatian National Bank thereof, or

2) request from the Croatian National Bank, or the person authorised by the Croatian National Bank, to carry out an on-site examination of the operation of a branch of the electronic money institution from that Member State, third natural or legal persons through which the electronic money institution carries out the distribution and redemption of electronic money and an agent through which it provides payment services in the territory of the Republic of Croatia.

(2) By way of derogation from paragraph (1) of this Article, the Croatian National Bank may carry out an on-site examination of a branch of an electronic money institution from another Member State, with respect to the application of the provisions of Titles II and III of this Act and provisions on the obligation to inform payment service users and on the rights and obligations in relation to the provision and use of payment services set out in the law governing payment transactions, as well as an on-site examination of the agent through which the electronic money institution from another Member State provides payment services with respect to the application of the provisions on the obligation to inform payment service users and on the rights and obligations in relation to the provision and use of payment services set out in the law governing payment transactions.

(3) The competent authority of the home Member State may participate in an on-site examination of a branch of an electronic money institution from that Member State, a third natural or legal person through which the electronic money institution carries out the distribution and redemption of electronic money and of an agent through which it provides payment services, regardless of who carries out the on-site examination of their operation.

(4) The provisions of paragraphs (1) and (3) of this Article shall also apply in the case when the outsourcing service provider has its registered office in the territory of the Republic of Croatia.

*Supervision of third-country branches of electronic money institutions having their registered office in the Republic of Croatia*

Article 69

The Croatian National Bank shall exercise supervision of electronic money institutions having their registered office in the Republic of Croatia, which issue electronic money through branches in a third country.

*Reporting to the Croatian National Bank*

Article 70

(1) For the purposes of the supervision of electronic money institutions' operation, the Croatian National Bank may prescribe the reports to be submitted by electronic money institutions, their content, the reporting time limits and the manner of their submission.

(2) The Croatian National Bank may prescribe the time limits for drawing up and/or submitting financial statements regarding the issuance of electronic money and provision of payment services for the purposes of the Croatian National Bank, the form and content of such reports and the manner of their submission.

(3) An electronic money institution shall without delay notify the Croatian National Bank of the following:

1) all facts to be entered in the register of companies, i.e. each application for the change of data and each entry of data changes in the register of companies, accompanied with evidence of such entries;

2) all planned changes of members of the management board, or executive directors, or persons responsible for managing the operations relating to the issuance of electronic money and provision of payment services;

3) all planned or effected changes of qualified holders of which the management board, or the executive director, or the person responsible for managing the operations relating to the issuance of electronic money and provision of payment services was aware or should have been aware;

4) all planned changes in the electronic money institution's initial capital of 10 percent or more;

5) any fall in own funds below the minimum amount of own funds prescribed by this Act;

6) the intention to cease, and cessation of issuing electronic money and/or providing payment services, as well as the emergence of circumstances for withdrawal of the authorisation referred to in Article 15 of this Act and for expiry of the authorisation referred to in Article 17 of this Act;

7) the intention to provide, and commencing to provide new payment services linked to the issuance of electronic money, the characteristics of such services and the manner of their provision;

8) the intention to commence, and commencing to distribute and/or redeem electronic money through a third natural or legal person, and any changes in or cessation of such distribution or redemption;

9) all changes in the facts on the basis of which the Croatian National Bank entered into the register referred to in Article 75 of this Act a branch or an agent through which the electronic money institution provides payment services, including the cessation of providing payment services through a branch or an agent;

10) all intended and effected changes relating to the safeguarding of the funds of electronic money holders and payment service users, accompanied with evidence that the change has been effected;

11) any change of the audit firm carrying out the audit in accordance with Articles 51 and 52 of this Act; and

12) any other changes altering the facts on the basis of which the Croatian National Bank has granted its authorisation to issue electronic money.

(4) Electronic money institutions shall report to the Croatian National Bank in accordance with this Act and regulations adopted under this Act.

(5) Upon request of the Croatian National Bank, an electronic money institution shall submit reports and information on all matters relevant for the exercise of supervision or performance of other tasks within the competence of the Croatian National Bank.

*Cooperation among the competent authorities in the Republic of Croatia*

Article 71

(1) The Croatian National Bank and other supervisory authorities in the Republic of Croatia shall, upon request of a supervisory authority, submit to that authority all information on an electronic money institution necessary for the performance of supervisory tasks in authorisation or approval procedures, or when deciding on other issues within its competence.

(2) The authorities referred to in paragraph (1) of this Article shall notify one another of any withdrawals of authorisations, illegalities and irregularities identified in the course of supervision, if such findings are relevant for the work of the other authority.

(3) The submission of the information and notifications referred to in paragraphs (1) and (2) of this Article shall not constitute a violation of the duty to protect the confidentiality of information.

(4) The authority that receives the information and notifications referred to in paragraphs (1) and (2) of this Article shall protect their confidentiality and may use them exclusively for the purpose for which they have been given, and may make them available to third parties only with the consent of the competent authority which submitted them.

*Exchange of information between the Croatian National Bank and the competent authorities of Member States*

Article 72

(1) The Croatian National Bank shall cooperate with the competent authorities of other Member States and, where appropriate, with the European Central Bank and the central banks of Member States and other relevant competent authorities in accordance with the legislation of the European Union or the national legislations of Member States applicable to electronic money issuers.

(2) The Croatian National Bank may also exchange information with:

1) the authorities of other Member States competent for the authorisation and supervision of electronic money institutions;

2) the European Central Bank and the national central banks of Member States, in their capacity as monetary and supervisory authorities, and, where appropriate, other public authorities responsible for overseeing payment and financial instrument settlement systems; and

3) other authorities of Member States competent for overseeing electronic money institutions with regard to the implementation of the laws governing the protection of personal data and prevention of money laundering and terrorist financing, etc.

(3) The submission of the information and notifications referred to in paragraphs (1) and (2) of this Article shall not constitute a violation of the duty to protect the confidentiality of information.

(4) The authority that receives the information and notifications referred to in paragraphs (1) and (2) of this Article shall protect their confidentiality and may use the confidential information and notifications it has received exclusively for the purpose for which they have

been given, and may make them available to third parties only with the consent of the competent authority which submitted them.

### *Cooperation with the competent authorities of third countries*

#### Article 73

(1) The Croatian National Bank may conclude an agreement with one or more competent authorities of a third country for the purpose of exercising supervision of the operation of a branch of an electronic money institution having its registered office in the Republic of Croatia and operating in a third country, or of a branch of an electronic money institution having its registered office in a third country which intends to issue electronic money in the Republic of Croatia.

(2) The Croatian National Bank may submit confidential information to authorities or persons from third countries whose position is equal to that of the authorities and persons referred to in Article 72, paragraph (2) of this Act, if all of the following conditions are met:

- 1) mutual exchange of information has been agreed with such persons;
- 2) such authorities or persons are subject to the duty to protect the confidentiality of information in that country;
- 3) the information submitted to the authorities or persons in a third country is to be used only for the purpose for which it has been given; and
- 4) it is guaranteed that the information will be disclosed to third parties only with the express consent of the Croatian National Bank, and
- 5) it is guaranteed that the information submitted by the Croatian National Bank to such authorities or persons, which it has received from the competent authorities of a Member State, will be disclosed to third parties only with the express consent of the authority of the Member State which submitted the information.

### *Notification of the European Commission*

#### Article 74

(1) The Croatian National Bank shall notify the European Commission of its competences relating to granting authorisation to issue electronic money and exercise supervision of electronic money institutions in accordance with this Act.

(2) The Croatian National Bank shall notify the European Commission of all authorisations to establish branches with registered offices in the Republic of Croatia granted to third-country electronic money institutions.

(3) The Croatian National Bank shall notify the European Commission of the application of Title V of this Act and on the total amount of outstanding electronic money of electronic money institutions under exemption at the annual level as at 31 December each year.



Chapter 5  
Register

*Registers of electronic money institutions*

Article 75

- (1) The Croatian National Bank shall maintain a register of electronic money institutions which it has authorised to issue electronic money, their branches and agents through which these institutions provide payment services, a register of exempted electronic money institutions which it has authorised, their third-country branches and agents through which these institutions provide payment services in the Republic of Croatia, and a register of branches of third-country electronic money institutions having their registered office in the Republic of Croatia.
- (2) The registers referred to in paragraph (1) of this Article shall contain, for each entity referred to in paragraph (1) of this Article, the electronic money issuance and payment services which it is authorised to provide and its registration number. The Croatian National Bank shall regularly update the registers in accordance with all effected changes.
- (3) The registers referred to in paragraph (1) of this Article shall be publicly available and accessible on the website of the Croatian National Bank.
- (4) The Croatian National Bank shall prescribe the manner of keeping the registers.

TITLE V

ELECTRONIC MONEY INSTITUTIONS UNDER EXEMPTION

*Electronic money institutions under exemption*

Article 76

- (1) An electronic money institution under exemption shall be the electronic money institution which has been authorised by the Croatian National Bank to issue electronic money under the provisions of this Title.
- (2) An electronic money institution under exemption may not issue electronic money in the territory of another Member State.
- (3) An electronic money institution under exemption may, apart from the issuance of electronic money and provision of payment services linked to the issuance of electronic money, only provide operational services and ancillary services that are closely linked to the issuance of electronic money.
- (4) The initial capital of an electronic money institution under exemption shall amount to at least HRK 260.000,00 and shall be paid in in cash.
- (5) The maximum amount of electronic money stored on a payment instrument or in a payment account may not exceed HRK 1,125.00.
- (6) The operations of an electronic money institution under exemption shall be managed from the territory of the Republic of Croatia.

*A condition for granting authorisation to an electronic money institution under exemption*

Article 77

- (1) An additional condition for granting authorisation to issue electronic money pursuant to the provisions of this Title shall be that the average outstanding electronic money does not exceed HRK 3,700,000.00.
- (2) Where the period of business of an applicant for authorisation to issue electronic money under exemption is not sufficiently long to calculate the average outstanding electronic money, the condition referred to in paragraph (1) of this Article shall be assessed on the basis of projected outstanding electronic money evidenced by its business plan.
- (3) The Croatian National Bank may order the correction of the projected outstanding electronic money evidenced by the business plan referred to in paragraph (2) of this Article if it assesses that it is unrealistic.
- (4) If the applicant fails to meet the condition referred to in paragraph (1) of this Article, the Croatian National Bank shall refuse the application by a decision.

*Application of the provisions of this Act relating to electronic money institutions having their registered office in the Republic of Croatia*

Article 78

Unless otherwise prescribed in Articles 76 and 77 of this Act, the provisions of Title IV of this Act, governing the status, provision of electronic money issuance and payment services, operation and supervision of electronic money institutions having their registered office in the Republic of Croatia, when they operate in the territories of the Republic of Croatia and of a third country, shall apply *mutatis mutandis* to electronic money institutions under exemption.

*Transformation of an electronic money institution under exemption to an electronic money institution*

Article 79

- (1) An electronic money institution under exemption, which intends to engage in an activity other than the activities set forth in Article 76, paragraph (3) of this Act, or which intends to increase the amount of outstanding electronic money above the amount referred to in Article 76, paragraph (5) of this Act, or which increases or intends to increase the amount of the average outstanding electronic money above the amount prescribed in Article 77 of this Act shall submit an application to the Croatian National Bank for authorisation to issue electronic money as an electronic money institution.
- (2) Paragraph (1) of this Article shall also apply to an electronic money institution under exemption, which intends to issue electronic money in a Member State.
- (3) An electronic money institution under exemption shall, in case of an increase in the amount of average outstanding electronic money above the amount prescribed in Article 77 of this Act, submit the application referred to in paragraph (1) of this Act within 30 days of such an increase.

(4) The electronic money institution under exemption referred to in paragraph (1) of this Article shall, in the application referred to in paragraphs (1) and (2) of this Article, indicate the reason for its submission and enclose the application with all the data and documentation referred to in Article 12 of this Act.

(5) By way of derogation from paragraph (4) of this Article, an electronic money institution under exemption does not have to submit the data and documentation that have already been submitted to the Croatian National Bank and that are relevant at the time of submitting the application.

(6) With regard to the application referred to in paragraphs (1) and (2) of this Article, the Croatian National Bank shall be authorised to request other documentation pursuant to the provisions of Article 12 of this Act.

(7) The Croatian National Bank may refuse the application referred to in paragraph (1) of this Article where it establishes during the application procedure that:

1) ) circumstances have arisen due to which the exercise of supervision of this institution's operation may be made difficult or prevented due to close links between that institution and other legal or natural persons;

2) circumstances have arisen due to which the exercise of supervision of this institution's operation may be made difficult or prevented due to close links between that institution and other legal or natural persons having their registered office or domicile, or habitual residence, in a third country whose regulations prevent the exercise of supervision, or that there are any other reasons why the exercise of supervision would be made difficult or prevented;

3) the electronic money institution under exemption has obtained authorisation on the basis of false or inaccurate documentation or false presentation of the data relevant to its operation;

4) the electronic money institution under exemption does not meet the conditions for obtaining authorisation to issue electronic money and/or provide payment services as an electronic money institution;

5) circumstances have arisen due to which this institution would, by continuing to issue electronic money or to provide payment services, threaten the stability of the payment system;

6) this institution in any manner whatsoever prevents the supervision of its operation; or

7) this institution fails to implement the supervisory measures imposed by the Croatian National Bank.

(8) Authorisation to issue electronic money under exemption shall expire on the date following the date of obtaining authorisation to issue electronic money as an electronic money institution.

(9) Where, in the case referred to in paragraph (3) of this Article, an electronic money institution under exemption fails to submit the application within the prescribed time limit, the Croatian National Bank shall withdraw authorisation to issue electronic money as an electronic money institution from that institution.

## TITLE VI

### DECISION-MAKING METHODS AND PROCEDURES OF THE CROATIAN NATIONAL BANK

#### *Application of procedural provisions*

#### Article 80

(1) Unless otherwise provided for in this Act, the provisions of the General Administrative

Procedure Act shall apply to the decision-making procedures of the Croatian National Bank.

(2) It shall not be possible to require restitution in an administrative procedure carried out by the Croatian National Bank.

#### *Decision-making*

##### Article 81

In its procedures, the Croatian National Bank shall decide without an oral hearing.

#### *Decisions*

##### Article 82

(1) Decisions adopted by the Croatian National Bank on matters within its competence must be written and explained.

(2) No complaint against the decisions referred to in paragraph (1) of this Article shall be allowed, but administrative proceedings may be initiated against them.

#### *Liability for damage*

##### Article 83

Employees of the Croatian National Bank, members of the Council of the Croatian National Bank or any person authorised by the Croatian National Bank shall not be liable for any damage that may arise in the performance of their duties under this Act, the Act on the Croatian National Bank or regulations adopted under these acts, unless it is proved that they have acted or failed to act intentionally or as a result of gross negligence.

#### *Time limits*

##### Article 84

(1) Within three months of the submission of a complete application, the Croatian National Bank must decide on an application by an electronic money institution for authorisation to issue electronic money, an application by an electronic money institution under exemption for authorisation to issue electronic money, and on an application for authorisation to establish a branch of a third-country electronic money institution.

(2) Except in the case referred to in paragraph (1) of this Article, the Croatian National Bank shall decide on all other applications within two months of the submission of a complete application.

## TITLE VII

### PENAL PROVISIONS

*Violations by electronic money issuers*

Article 85

(1) The electronic money issuer referred to in Article 4, paragraph (1) of this Act, or the legal person referred to in Article 101, paragraph (1) or paragraph (4) of this Act shall be fined between HRK 25,000.00 and HRK 250,000.00:

- 1) if it acts contrary to the regulation adopted under Article 5 of this Act;
- 2) if it acts contrary to Article 8, paragraph (2) of this Act; or
- 3) if it fails, at the invitation of the Croatian National Bank, to submit its statement and the relevant evidence within the time limit specified in the invitation (Article 9, paragraph (3) of this Act).

(2) A responsible person of the electronic money issuer referred to in Article 4, paragraph (1) of this Act, or a responsible person of the legal person referred to in Article 101, paragraph (1) or paragraph (4) of this Act shall also be fined between HRK 3,000.00 and HRK 30,000.00 for any of the violations referred to in paragraph (1) of this Article.

Article 86

(1) The electronic money issuer referred to in Article 4, paragraph (1) of this Act, or the legal person referred to in Article 101, paragraph (1) or paragraph (4) of this Act shall be fined between HRK 50,000.00 and HRK 500,000.00:

- 1) if it issues electronic money or provides payment services contrary to Article 4 of this Act;
- 2) if it agrees by contract on the redeemability of electronic money contrary to Article 6 of this Act;
- 3) if it fails to issue electronic money without delay upon receipt of funds, or if it issues electronic money at a value other than the par value (Article 6, paragraph (1) of this Act);
- 4) if it fails to redeem the monetary value of the electronic money in accordance with Article 6, paragraphs (2), (6), (7), (8), (9) or (10) of this Act;
- 5) if it acts contrary to Article 6, paragraph (5) of this Act; or
- 6) if it acts contrary to Article 7 of this Act.

(2) A responsible person of the electronic money issuer referred to in Article 4, paragraph (1) of this Act, or a responsible person of the legal person referred to in Article 101, paragraph (1) or paragraph (4) of this Act shall also be fined between HRK 6,000.00 and HRK 60,000.00 for any of the violations referred to in paragraph (1) of this Article.

*Violations by electronic money issuers whose authorisation to issue electronic money has expired*

Article 87

(1) The electronic money issuer referred to in Article 4, paragraph (1) of this Act, whose authorisation to issue electronic money or authorisation to establish a branch has expired or, where the authorisation to issue electronic money has expired due to the dissolution of a legal person, a legal successor to that legal person shall be fined between HRK 25,000.00 and HRK 250,000.00:

- 1) if it acts contrary to Article 8, paragraph (2) of this Act; or
- 2) if it fails, at the invitation of the Croatian National Bank, to submit its statement and the relevant evidence within the time limit specified in the invitation (Article 9, paragraph (3) of this Act).

(2) A responsible person of an electronic money issuer whose authorisation to issue electronic money or authorisation to establish a branch has expired, or a responsible person of a legal successor to the legal person whose authorisation has expired due to the dissolution of that legal person shall also be fined between HRK 3,000.00 and HRK 30,000.00 for any of the violations referred to in paragraph (1) of this Article.

#### Article 88

(1) The electronic money issuer referred to in Article 4, paragraph (1) of this Act whose authorisation to issue electronic money or authorisation to establish a branch has expired or, where the authorisation to issue electronic money has expired due to the dissolution of a legal person, a legal successor to that legal person shall be fined between HRK 50,000.00 and HRK 500,000.00:

- 1) if it fails to redeem, upon request of the electronic money holder, without delay and at par value the total monetary value of the electronic money (Article 6, paragraphs (2) and (9) of this Act);
- 2) if it charges a fee to an electronic money holder for the redemption of electronic money, except in the case referred to in Article 6, paragraph (6), item 3) of this Act; or
- 3) if it acts contrary to Article 6, paragraph (10) of this Act.

(2) A responsible person of an electronic money issuer whose authorisation to issue electronic money or authorisation to establish a branch has expired, or a responsible person of a legal successor to the legal person whose authorisation has expired due to the dissolution of that legal person shall also be fined between HRK 6,000.00 and HRK 60,000.00 for any of the violations referred to in paragraph (1) of this Article.

#### *Responsible person*

#### Article 89

The responsible person referred to in Articles 85, 86, 87 and 88 of this Act shall be:

- 1) for the issuer referred to in Article 4, paragraph (1), item 1) of this Act, the responsible person of the issuer's management board;
- 2) for the issuer referred to in Article 4, paragraph (1), item 2) of this Act, the responsible person of the management board or a responsible executive director where the issuer has the board of directors, or, where

the issuer also engages in any of the activities referred to in Article 11, paragraph (5), item 4) of this Act, a person responsible for managing the operations relating to the issuance of electronic money;

3) for the issuer referred to in Article 4, paragraph (1), items 7) and 8) of this Act, a person responsible for managing the branch's operations;

4) for the legal person referred to in Article 101, paragraphs (1) and (4) of this Act, the responsible person of the management board or a responsible executive director, where the legal person has the board of directors; and

5) for a legal successor to a legal person whose authorisation has expired due to that person's dissolution, the responsible person of the management board or a responsible executive director where that legal successor has the board of directors.

#### *Violations in the issuance of electronic money in another Member State through a branch*

##### Article 90

(1) The electronic money issuer referred to in Article 4, paragraph (1), item 1) or 2) of this Act, or the electronic money issuer referred to in Article 4, paragraph (1), item 1) or 2) of this Act whose authorisation to issue electronic money has expired, or, where the authorisation to issue electronic money has expired due to the dissolution of a legal person, a legal successor to that legal person and a responsible person of that issuer, or of the legal successor shall not be fined for any of the violations referred to in Article 85, paragraph (1), Article 86, paragraph (1) and Article 88, paragraph (1) of this Act, where such an act has been committed in the territory of another Member State in the course of issuing electronic money through a branch in that other Member State.

(2) By way of derogation from Articles 85, 86, 87, and 88 of this Act, where the electronic money issuer referred to in Article 4, paragraph (1), item 5) or 6) of this Act, or the electronic money issuer referred to in Article 4, paragraph (1), item 5) or 6) of this Act whose authorisation to issue electronic money has expired, has committed any of the violations referred to in Article 85, paragraph (1), Article 86, paragraph (1), Article 87, paragraph (1) or Article 88, paragraph (1) of this Act while issuing electronic money in the territory of the Republic of Croatia, that issuer's branch shall be fined for the violation.

(3) In the case referred to in paragraph (2) of this Article, the responsible person referred to in Article 85, paragraph (2), Article 86, paragraph (2), Article 87, paragraph (2) and Article 88, paragraph (2) of this Act shall be the person responsible for managing the branch's operations.

#### *Violations while directly issuing electronic money in another Member State*

##### Article 91

(1) The electronic money issuer referred to in Article 4, paragraph (1), item (1) or (3) of this Act or the electronic money issuer referred to in Article 4, paragraph (1), item 1) or 2) of this Act whose authorisation to issue electronic money has expired, or, where the authorisation to issue electronic money has expired due to the dissolution of a legal person, a legal successor to that legal person shall be fined for any of the violations referred to in Article 85, paragraph (1), Article 86, paragraph (1), Article 87, paragraph (1) and Article 88, paragraph (1) of this Act, committed while directly issuing electronic money in another Member State if the violation is also subject to a fine under the law of the Member State where it had been committed.

(2) If the condition referred to in paragraph (1) of this Article is fulfilled, a responsible person of that electronic money issuer or legal successor shall also be fined for any of the violations referred to in Article 85, paragraph (1), Article 86, paragraph (1), Article 87, paragraph (1) and Article 88, paragraph (1) of this Act.

(3) By way of derogation from Articles 85, 86, 87 and 88 of this Act, the electronic money issuer referred to in Article 4, paragraph (1) item 5) or 6) of this Act, or the electronic money issuer referred to in Article 4, paragraph (1), items 5) or 6) of this Act whose authorisation to issue electronic money has expired, and the responsible person of that issuer shall not be fined, where any of the violations referred to in Article 85, paragraph (1), Article 86, paragraph (1), Article 87, paragraph (1) and Article 88, paragraph (1) has been committed while directly issuing electronic money in the Republic of Croatia, but the Croatian National Bank shall instead notify the competent authority of the home Member State of the committed violation for the purpose of initiating appropriate proceedings.

### *Violations by other persons*

#### Article 92

(1) A legal person shall be fined between HRK 25,000.00 to HRK 250,000.00:

- 1) if it acquires shares or holdings in an electronic money institution amounting to less than 50% of the capital or voting rights of that institution contrary to Article 20, paragraph (1) or (2) of this Act;
- 2) if it fails to notify the Croatian National Bank in accordance with Article 20, paragraphs (3), (4) or (6) of this Act; or
- 3) if it fails to submit an application to the Croatian National Bank in accordance with Article 20, paragraph (7) of this Act.

(2) A responsible person of a legal person shall also be fined between HRK 3,000.00 and HRK 30,000.00 for any of the violations referred to in paragraph (1) of this Article.

(3) A natural person shall be fined between HRK 10,000.00 and 50,000.00 for any of the violations referred to in paragraph (1) of this Article.

#### Article 93

(1) A legal person shall be fined between HRK 50,000.00 and 500,000.00:

- 1) if it issues electronic money contrary to the provisions of Article 4, paragraph (2) of this Act;
- 2) if it acquires shares or holdings in an electronic money institution in an amount equal to or higher than 50% of the capital or voting rights of that institution contrary to Article 20, paragraph (1) or (2) of this Act, or if it fails to act in accordance with Article 20, paragraph (5) of this Act;



3) if it fails to act in accordance with the decision of the Croatian National Bank referred to in Article 24, paragraph (1) or (5) of this Act; or

4) if it fails to submit, upon request of the Croatian National Bank, the information referred to in Article 24, paragraph (4) of this Act.

(2) A responsible person of a legal person shall also be fined between HRK 6,000.00 and HRK 60,000.00 for any of the violations referred to in paragraph (1) of this Article.

(3) A natural person shall be fined between HRK 20,000.00 and HRK 100,000.00 for any of the violations referred to in paragraph (1) of this Article.

### *Violations by electronic money institutions*

#### Article 94

(1) An electronic money institution shall be fined between HRK 50,000.00 and HRK 500,000.00:

1) if it provides payment services within or outside the territory of the Republic of Croatia which are not covered by the authorisation granted by the Croatian National Bank;

2) if it acts contrary to Article 24, paragraph (8) of this Act;

3) if it issues electronic money within or outside the territory of the Republic of Croatia through an agent through which it provides payment services or through a third natural or legal person through which it carries out the distribution and redemption of electronic money;

4) if it establishes a branch in another Member State without notifying the Croatian National Bank thereof in advance (Article 29, paragraph (1), or commences issuing electronic money or providing payment services through a branch, contrary to Article 29, paragraph (5), item 1) of this Act;

5) if it commences issuing electronic money or providing payment services directly in another Member State, without notifying the Croatian National Bank of the intention to do so in advance (Article 29, paragraph (1) or if it commences issuing electronic money or providing payment services directly, contrary to Article 29, paragraph (5), item 2) of this Act;

6) if it commences carrying out the distribution or redemption of electronic money in another Member State through a third natural or legal person, without notifying the Croatian National Bank of the intention to do so in advance (Article 30, paragraph (1), or if it commences carrying out the distribution or redemption of electronic money through a third natural or legal person, contrary to Article 30, paragraph (4) of this Act;

7) if it commences providing payment services through an agent in another Member State contrary to the provisions on rendering payment services in the territory of another Member State through an agent, set out in the law governing payment transactions;

8) if it establishes a branch in a third country without obtaining prior authorisation by the Croatian National Bank (Article 31, paragraph (2));

9) if its own funds fall below the minimum amount referred to in Article 42, paragraph (1) of this Act (Article 43, paragraph (2));

- 10) if its own funds fall below the amount calculated pursuant to Article 43 of this Act;
- 11) if, in the calculation of own funds, it acts contrary to Article 43, paragraph (9) of this Act;
- 12) if, in the calculation of own funds, it acts contrary to Article 43, paragraph (10) of this Act;
- 13) if it acts contrary to the regulation adopted under Article 43, paragraph (11) of this Act;
- 14) if it accepts deposits or any other repayable funds from the public (Article 45, paragraph (1));
- 15) if it keeps payment accounts for purposes other than payment transactions (Article 46);
- 16) if it grants credits connected with the issuance of electronic money or provision of payment services that are linked to the issuance of electronic money, or if it grants credits from the funds received in exchange for the issued electronic money;
- 17) if it grants credits connected with the provision of payment services that are not linked to the issuance of electronic money, contrary to Article 47, paragraph (1) of this Act;
- 18) if it fails to safeguard the funds received in exchange for the issued electronic money in accordance with Article 48 of this Act and the regulation adopted under Article 48, paragraph (11) of this Act, or fails to keep them in accordance with Article 48, paragraph (4) of this Act;
- 19) if, with respect to the funds received from payment service users that are not linked to the issuance of electronic money, it fails to act in accordance with Article 48, paragraph (10) of this Act;
- 20) if it acts contrary to Article 49, paragraph (1) or paragraph (2) of this Act, or contrary to the regulation adopted under Article 49, paragraph (3) of this Act;
- 21) if it fails to store bookkeeping documents and other documentation in accordance with Article 50 of this Act;
- 22) if it fails to have the financial statements referred to in Article 49 of this Act (Article 51, paragraph (1) audited, or fails to submit to the Croatian National Bank the reports in accordance with Article 51, paragraph (2) of this Act;
- 23) if it fails to have a special audit carried out in accordance with the regulation adopted under Article 52, paragraph (7) of this Act;
- 24) if, in the case of outsourcing, it fails to act in accordance with Article 53 of this Act or the regulation adopted under Article 53, paragraph (7) of this Act;
- 25) if it fails to establish or implement governance arrangements in the manner laid down in Article 55, paragraph (1), or acts contrary to the regulation adopted under Article 55, paragraph (2) of this Act;
- 26) if it acts contrary to the regulation adopted under Article 56, paragraph (7) of this Act;
- 27) if it fails to enable an on-site examination in the manner and under the conditions referred to in Article 57 or Article 58 of this Act;
- 28) if it fails to act in accordance with the decision of the Croatian National Bank;

29) if it acts contrary to the regulation adopted under Article 70, paragraph (1) or paragraph (2) of this Act, or fails to report to the Croatian National Bank on the circumstances and in the manner laid down in Article 70, paragraph (3) or paragraph (4) of this Act, or fails to submit information upon request of the Croatian National Bank (Article 70, paragraph (5)); or

30) if that institution's operations are not carried out from the territory of the Republic of Croatia.

(2) A responsible person of the management board or a responsible executive director, where the electronic money institution has the board of directors, or, where the electronic money institution also engages in any of the activities referred to in Article 11, paragraph (5), item 4) of this Act, a person responsible for managing the operations relating to the issuance of electronic money shall also be fined between HRK 6,000.00 and HRK 60,000.00 for any of the violations referred to in paragraph (1) of this Article.

#### *Violations by a branch of a third-country electronic money institution*

##### Article 95

(1) A branch of a third-country electronic money institution shall be fined between HRK 50,000.00 and HRK 500,000.00:

1) if it provides payment services that are not linked to the issuance of electronic money (Article 36, paragraph (3));

2) if it issues electronic money outside the Republic of Croatia (Article 36, paragraph (7));

3) if it engages in any of the activities referred to in Article 11, paragraph (5), items 2) and 4) of this Act (Article 36, paragraph 8);

4) if it fails to deposit funds in the minimum amount referred to in Article 42, paragraph (1) of this Act in the account of a credit institution having its registered office in the Republic of Croatia (Article 37, paragraph (6));

5) if it fails to notify the Croatian National Bank of the circumstances in accordance with Article 39, paragraph (2) or Article 40, paragraph (2) of this Act;

6) if it acts contrary to the regulation adopted under Article 40, paragraph (3) of this Act; or

7) if it commits any of the violations referred to in Article 94, paragraph (1), items 9), 10), 12) to 14), 16), 18) and items 20) to 29) of this Act.

(2) A person responsible for managing the branch's operations shall also be fined between HRK 6,000.00 and HRK 60,000.00 for any of the violations referred to in paragraph (1) of this Article.

#### *Violations by electronic money institutions under exemption*

##### Article 96

(1) An electronic money institution under exemption shall be fined between HRK 50,000.00 and HRK 500,000.00:

- 1) if it issues electronic money in the territory of another Member State (Article 76, paragraph (2) of this Act);
- 2) if it engages in any of the activities referred to in Article 11, paragraph (5), items 2), 3) or 4) of this Act, or provides payment services that are not linked to the issuance of electronic money (Article 76, paragraph (3) of this Act);
- 3) if the amount of electronic money stored on a payment instrument or in a payment account exceeds the maximum amount prescribed in Article 76, paragraph (5) of this Act;
- 4) if this institution's operations are not carried out from the territory of the Republic of Croatia (Article 76, paragraph (6) of this Act);
- 5) if it issues electronic money in the territory of the Republic of Croatia or a third country through an agent or a third natural or legal person through which it carries out the distribution and redemption of electronic money;
- 6) if its own funds fall below the minimum amount referred to in Article 76, paragraph (4) of this Act;
- 7) if it keeps payment accounts for purposes other than payment transactions linked to the issuance of electronic money (Article 46); or
- 8) if it commits any of the violations referred to in Article 94, paragraph (1), items 2), 8), 10), 12) to 14), 16), 18) and items 20) to 29) of this Act.

(2) A responsible person of the management board or a responsible executive director of the electronic money institution under exemption, where that institution has the board of directors, shall also be fined between HRK 6,000.00 and HRK 60,000.00 for any of the violations referred to in paragraph (1) of this Article 11.

*Violations by entities whose authorisation to issue electronic money has expired*

Article 97

(1) A legal person whose authorisation to issue electronic money as an electronic money institution has expired, or a legal person whose authorisation to issue electronic money as an electronic money institution under exemption has expired, or a branch of a third-country electronic money institution whose authorisation to establish a branch has expired shall be fined between HRK 50,000.00 and HRK 500,000.00:

- 1) if it fails to continue safeguarding the funds received in exchange for the issued electronic money pursuant to the provisions of Article 48 of this Act with respect to the entire amount of outstanding electronic money until its redemption; or
  - 2) if it fails to act in accordance with the decision of the Croatian National Bank adopted in the course of supervision.
- (2) Where the authorisation of an electronic money institution or an electronic money institution under exemption to issue electronic money has expired due to its dissolution, that institution's legal successor shall be fined for any of the violations referred to in paragraph (1) of this Article.

(3) A responsible person of the management board of the legal person referred to in paragraph (1) or paragraph (2) of this Article, or the responsible executive director of that legal person, where that legal person has the board of directors, shall also be fined between HRK 6,000.00 and HRK 60,000.00 for any of the violations referred to in paragraph (1) of this Article.

*Violations by responsible persons of electronic money institutions, electronic money institutions under exemption and branches of third-country electronic money institutions*

Article 98

A responsible person of the management board of an electronic money institution or an electronic money institution under exemption, or the responsible executive director of that institution where it has the board of directors, or, where that institution also engages in any of the activities referred to in Article 11, paragraph (5), item 4) of this Act, a person responsible for managing the operations linked to the issuance of electronic money, or a person responsible for managing the operations of a branch of a third-country electronic money institution, shall also be fined between HRK 6,000.00 and HRK 60,000.00:

- 1) if it fails to comply with the request of the Croatian National Bank referred to in Article 57, paragraph (7) of this Act; or
- 2) if it fails to comply with the order from the decision of the Croatian National Bank.

*Violations by statutory auditors and audit firms*

Article 99

(1) An audit firm shall be fined between HRK 20,000.00 and HRK 100,000.00 if it fails to meet the requirements referred to in Article 51, paragraph (4) or paragraph (5) of this Act

(2) A statutory auditor shall also be fined between HRK 5,000.00 and 25,000.00 for any violation referred to in paragraph (1) of this Article.

*Limitation*

Article 100

(1) Violation proceedings provided for in this Act may not be initiated after the expiry of three years from the date on which the violation was committed.

(2) The limitation period shall be interrupted by any action taken by the competent authority for the purpose of proceedings against the person that committed the violation. The limitation period shall restart after each interruption, but the violation proceedings may in no case be initiated following the expiry of twice the limitation period laid down in paragraph (1) of this Article.

TITLE VIII  
TRANSITIONAL AND FINAL PROVISIONS

*Compliance with the provisions of this Act*

Article 101

(1) Electronic money institutions which, as at the date of entry into force of this Act, are authorised pursuant to the provisions of the Act on Electronic Money Institutions (Official Gazette, 117/08 and 74/09) shall submit a new application to the Croatian National Bank in accordance with Article 12 of this Act no later than 31 March 2011.

(2) An electronic money institution that submits the application within the time limit referred to in paragraph (1) of this Article shall continue its operation according to the authorisation previously granted, pending the decision of the Croatian National Bank.

(3) The Croatian National Bank shall withdraw authorisation from an electronic money institution that fails to submit the application referred to in paragraph (1) of this Article.

(4) A legal persons other than a credit institution, which, as at the date of entry into force of this Act, issues electronic money and provides payment services but is not authorised pursuant to the provisions of the Act on Electronic Money Institutions (Official Gazette, 117/08 and 74/09) shall submit an application for authorisation to issue electronic money to the Croatian National Bank in accordance with the provisions of this Act no later than 31 March 2011.

(5) A legal person which submits the application within the time limit referred to in paragraph (4) of this Article, shall continue its operation pending the decision of the Croatian National Bank, and, where the Croatian National Bank refuses the application, it shall cease issuing electronic money immediately upon receipt of the decision to refuse the application.

(6) A legal person that fails to submit the application within the time limit referred to in paragraph (4) of this Article shall cease issuing electronic money.

*Procedures initiated prior to entry into force of this Act*

Article 102

(1) All procedures for the authorisation of electronic money institutions, initiated prior to the entry into force of this Act shall be completed in accordance with the provisions of this Act.

(2) The time limit for the adoption of decisions on the applications referred to in paragraph 1 of this Article shall run from the date of entry into force of this Act.

*Subordinate legislation of the Croatian National Bank*

Article 103

The Croatian National Bank shall, within thirty days of the date of entry into force of this Act, adopt subordinate legislation which it is obliged to adopt pursuant to this Act.

*Cessation of effect of the Act on Electronic Money Institutions*

Article 104

As of the date of entry into force of this Act, the Act on Electronic Money Institutions (Official Gazette, 117/08 and 74/09) shall cease to have effect.

*Entry into force*

Article 105

This Act shall be published in the Official Gazette and shall enter into force on 1 January 2011, with the exception of Article 4, paragraph (1), items 5), 6) and 9) and paragraph (6), Article 9, paragraphs (7) and (8), Article 28, Article 29, Article 30, Article 32, Article 33, Article 34, Article 35, Article 47, paragraph (1), item 2), Article 48, paragraph (5), item 2), Article 56, paragraph (8), Article 67, Article 68, Article 72, paragraph Article 73, paragraph (2), item 5), Article 74, Article 76, paragraph (2), Article 79, paragraph (2), Article 90, Article 91, Article 94, paragraph (1), items 4), 5), 6) and 7) and Article 96, paragraph (1), item (1) of this Act, which shall enter into force on the date of accession of the Republic of Croatia to the European Union.

Class: 451-01/10-01/01

Zagreb, 26 November 2010

THE CROATIAN PARLIAMENT  
Speaker of the Croatian Parliament  
**Luka Bebić, m.p.**

## **Annex 17: Act on Amendments to the Foreign Exchange Act (December 2010)**

### **THE CROATIAN PARLIAMENT**

3672

Pursuant to Article 89 of the Constitution of the Republic of Croatia, I hereby issue the

DECISION

PROMULGATING THE ACT ON AMENDMENTS TO THE FOREIGN EXCHANGE ACT

I hereby promulgate the Act on Amendments to the Foreign Exchange Act passed by the Croatian Parliament at its session on 15 December 2010.

Class: 011-01/10-01/159

No.: 71-05-03/1-10-2

Zagreb, 17 December 2010

The President of the Republic of Croatia

**Ivo Josipović**, m.p.

### **ACT**

#### **ON AMENDMENTS TO THE FOREIGN EXCHANGE ACT**

##### Article 1

Paragraph 1 of Article 3 of the Foreign Exchange Act (Official Gazette 96/03, 140/05, 132/06 and 153/09) is amended to read:

"(1) For the purposes of this Act, the term bank shall mean:

- a credit institution under the law governing the operation of credit institutions which is authorised by the Croatian National Bank to conduct operations governed by this Act,
- a branch of a third country credit institution authorised by the Croatian National Bank to establish a branch and authorised to conduct operations governed by this Act,
- a credit institution of a Member State that is authorised under the law governing the operation of credit institutions to conduct operations governed by this Act;
- the Croatian Bank for Reconstruction and Development."

##### Article 2



In Article 15, after the words: "foreign means of payment", the words: "and transfers of foreign currency assets" are added.

### Article 3

The title above Article 34 is amended to read: "Payments and Collections in Domestic Cash, Foreign Cash and Checks".

Article 34 is amended to read:

"The Croatian National Bank shall prescribe the manner in which residents referred to in Article 2, paragraph 1, items 1, 2 and 3 of this Act can withdraw from and deposit foreign cash and checks in a bank account, the time limit until which they shall deposit the foreign cash and checks collected in a bank account and the conditions under which they may keep foreign cash and checks in vaults."

### Article 4

In Article 42, paragraph 4 is amended to read:

"(4) Residents referred to in Article 2, paragraph 1, items 4 and 5 of this Act and natural non-resident persons may also conduct foreign cash purchase and sale transactions and the sale of checks denominated in a foreign currency through authorized exchange offices."

### Article 5

In Article 46, paragraph 1 is amended to read:

"(1) Exchange transactions conducted by authorised exchange offices shall comprise the purchase of foreign cash and checks denominated in a foreign currency and the sale of foreign cash in exchange for kuna cash.

In paragraph 3, item 4, after the words: "legal person", the words "or executive director of a joint stock company that has a management board, procurator" are added, and the wording translated as "history of criminal offence" is replaced by the wording which bears no relevance to the English translation."

### Article 6

In Article 46.a, paragraph 1, item 4, the full stop after the word "certified" is replaced by a coma.

After item 4, item 5 is added which reads:

"5. data proving that the persons referred to in Article 46, paragraph 3, item 4 of this Act have not been convicted abroad for offences meeting the description of criminal offences referred to in Article 46, paragraph 3, item 4 of this Act, not older than three months."

In paragraph 3, the words "no criminal history status" are replaced by words which bear no relevance to the English translation.

After paragraph 3, paragraph 4 is added which reads:

"(4) Any application which is not accompanied by all the necessary documentation referred to in this Article of the Act shall be considered incomplete. The Croatian National Bank shall reject an incomplete application following expiry of the time limit referred to in Article 46.b, paragraph 2 of this Act."

## Article 7

In Article 46.b, paragraph 1, item 3 is amended to read:

"3. if it is established that the applicant is a craftsman or a sole trader or, in case of a legal person, a member of the management board or executive director of a joint stock company that has a management board or procurator or any of the qualified owners referred to in Article 46.a, paragraph 1, item 2 and paragraph 2, item 2 of this Act, who has been convicted with finality of criminal offence against the values protected by international law, payment transactions and operations safety, document authenticity or of criminal offences as defined under this Act, during the period of five years following the verdict's finality, where the time spent serving the term of the sentence shall not be included in the calculation of this five-year period."

In item 4, the full stop after the word: "exchange office", is deleted and the word: "or" is added.

After item 4, item 5 is added which reads:

"5. if winding-up or bankruptcy proceedings have been initiated against the applicant."

## Article 8

In Article 46.c, paragraph 1, item 5, the word "or" is deleted.

In item 6, after the word "programme", the comma is replaced by the word "or".

After item 6, item 7 is added which reads:

"7. if the authorised exchange office fails to submit the requested information and evidence to the Croatian National Bank referred to in Article 46.e, paragraph 3 of this Act, within the time limit set in the authorisation of minimum 30 days."

## Article 9

In Article 46.d, item 2, after the words "on the date when a", the words "winding-up or" are added.

## Article 10

In Article 46.e, paragraph 3 is added which reads:

"(3) The authorised exchange office referred to in Article 46, paragraph 2 of this Act shall supply to the Croatian National Bank on request the information and evidence on the fulfilment of the conditions referred to in Article 46, paragraph 3 of this Act."

## Article 11

Article 51 is amended to read:

"(1) The Croatian National Bank shall prescribe the manner of reporting and collecting data on direct and other equity investments.

(2) Residents shall report to the Croatian National Bank on direct and other equity investments, in the manner and within the time limits determined by a decision of the Croatian National Bank."

## Article 12

Article 52 is amended to read:

"(1) The Croatian National Bank shall prescribe the manner of reporting and collecting data on securities transactions.

(2) Residents shall report to the Croatian National Bank on securities transactions, in the manner and within the time limits determined by a decision of the Croatian National Bank."

## Article 13

In Article 53, paragraph 1, after the words "prescribed by", the words "a decision of" are added.

## Article 14

In Article 57, paragraph 2, the words "foreign exchange inspectors" are replaced by the words "authorised person of the Financial Inspectorate".

## Article 15

In Article 63, item 1 of paragraph 1 is deleted.

Item 14 is amended to read:

"14. who fails to act in accordance with a decision of the Croatian National Bank enacted pursuant to Article 34 of this Act,".

In item 22, the full stop after the word "bank" is replaced by a comma.

After item 22, item 23 is added which reads:

»23. if conducting exchange transactions as an authorised exchange office and that activity is not registered in the court register or the register of crafts and trades."

## Article 16

Article 78 is amended to read:

"(1) As of 1 January 2011, Article 28, paragraph 4, Article 29, Article 39 and Article 63, paragraph 1, item 8.a and 11 of this Act and the Decision on the conditions for issuing approvals for opening foreign exchange accounts abroad (Official Gazette 111/03, 189/04 and 124/06) shall cease to be valid.

(2) As of 1 January 2011, Article 32, Article 33, Article 63, paragraph 1, item 13 and Article 64, paragraph 1, item 6 of this Act as well as the below listed subordinate legislation shall cease to be valid:

– Decision governing the conditions for and the manner of performing external payment operations (Official Gazette 88/05, 18/06 and 132/07),

– Instructions for the implementation of the Decision governing the conditions for and the manner of performing external payment operations (Official Gazette 136/05, 143/05, 37/06, 134/07 and 4/08),

– Instructions for the use of lettered abbreviations and numerical denotations of countries and states and monetary units in non-domestic payment transactions (Official Gazette 75/07, 77/07, 112/07, 95/08, 28/09, 45/09 and 67/09),

– Instructions for the use of collection and payment basis codes in external payment operations (Official Gazette 136/05 and 24/06), and

– Decision on collecting data on external payment operations (Official Gazette 136/05 and 24/06).

(3) As of 1 January 2012, Article 16, Article 30, and Article 64, paragraph 1, item 11 of this Act and the following subordinate legislation shall cease to be valid:

– Decision governing the opening and managing of foreign exchange accounts and foreign exchange savings deposit accounts of residents with a bank (Official Gazette 111/03, 138/03, 176/04 and 122/05), and

– Decision governing the conditions for and the manner of opening and managing non-resident bank accounts (Official Gazette 124/06, 131/06 and 74/07).

(4) As of the date of accession of the Republic of Croatia to the European Union, Article 47, paragraph 4 of this Act shall cease to be valid."

#### *Transitional and final provisions*

##### Article 17

As of the date of entry into force of this Act, the authorisation for the conduct of exchange transactions issued to an authorised exchange office undergoing a winding-up procedure on the day of entry into force of this Act, shall cease to be valid.

##### Article 18

In the entire text of the Foreign Exchange Act (Official Gazette 96/03, 140/05, 132/06 and 153/09), the words "Foreign Exchange Inspectorate" are replaced by the words "Financial Inspectorate", the words "Croatian Securities Exchange Commission" are replaced by the words "Croatian Financial Services Supervisory Agency", the words "Central Depository Agency" are replaced by the words "Central Depository & Clearing Company" and the words "Securities Market Act" are replaced by the words "Capital Market Act" in an appropriate grammatical case.

#### *Entry into force*

##### Article 19

This Act shall be published in the "Official Gazette" and shall enter into force on 1 January 2011.

Class: 440-01/10-01/01  
Zagreb, 15 December 2010

THE CROATIAN PARLIAMENT

The President of the Croatian Parliament  
**Luka Bebić**, m.p.

## **Annex 18: Decision on Payment Orders (January 2011)**

Pursuant to Article 64 of the Payment System Act (Official Gazette 133/2009) and Article 43, paragraph 2, item 9 of the Croatian National Bank Act (Official Gazette 75/2008), the Governor of the Croatian National Bank hereby issues the

### **Decision on payment orders**

#### **I GENERAL PROVISIONS**

##### **Article 1**

(1) This Decision governs the basic data elements and manner of completion of payment orders for the execution of payment transactions through transaction accounts opened with credit institutions.

(2) The credit institutions referred to in paragraph (1) of this Article shall include:

- 1) credit institutions having their registered office in the Republic of Croatia;
- 2) branches of credit institutions from another Member State having their registered office in the Republic of Croatia; and
- 3) branches of third-country credit institutions having their registered office in the Republic of Croatia.

(3) All provisions of this Decision applying to credit institutions shall also apply to the Croatian National Bank.

##### **Article 2**

Payment orders shall be:

- 1) orders to place funds;
- 2) orders to withdraw funds; and
- 3) orders to transfer funds.

#### **II CONTENT OF A PAYMENT ORDER**

##### **Article 3**

(1) An order to place funds shall be a payment order requesting the execution of a payment transaction of depositing (placing) cash.

(2) An order to place funds shall comprise the following data elements:

- 1) the name of the payer;
- 2) the name of the payee;
- 3) the payee's account number;
- 4) the name (identifier) of the payee's credit institution;
- 5) a currency code;
- 6) the amount;
- 7) a payment description;
- 8) a credit authorisation number;
- 9) a submission date;
- 10) authentication;

- 11) a payment description code; and
- 12) a statistical characteristic.

(3) An order to place funds shall comprise, at a minimum, the data elements referred to in items 1), 3), 5), 6) and 9) of paragraph (2) of this Article.

#### **Article 4**

(1) An order to withdraw funds shall be a payment order requesting the execution of a payment transaction of withdrawing (disbursing) cash.

(2) An order to withdraw funds shall comprise the following data elements:

- 1) the name of the payer;
- 2) the payer's account number;
- 3) the name of the payee;
- 4) a currency code;
- 5) the amount;
- 6) a payment description;
- 7) a debit authorisation number;
- 8) a submission date;
- 9) authentication;
- 10) the payee's signature;
- 11) a payment description code; and
- 12) a statistical characteristic.

(3) An order to withdraw funds shall comprise, at a minimum, the data elements referred to in items 2), 3), 4), 5), 8) and 9) of paragraph (2) of this Article:

#### **Article 5**

(1) An order to transfer funds shall be a payment order requesting the execution of a payment transaction of transferring funds.

(2) An order to transfer funds shall comprise the following data elements:

- 1) the name of the payer;
- 2) the payer's account number;
- 3) the name (identifier) of the payer's credit institution;
- 4) the name of the payee;
- 5) the payee's account number;
- 6) the name (identifier) of the payee's credit institution;
- 7) a currency code;
- 8) the amount;
- 9) a payment description;
- 10) the debit authorisation number;
- 11) the credit authorisation number;
- 12) the execution date;
- 13) the submission date;
- 14) authentication;
- 15) a payment description code;
- 16) a statistical characteristic.

(3) An order to transfer funds shall comprise, at a minimum, the data elements referred to in items 1), 5), 7), 8), 12) and 14) of paragraph (2) of this Article:

(4) An order to transfer funds, requesting the execution of a payment transaction of transferring funds from one transaction account to another shall comprise, apart from the data referred to in paragraph (3) of this Article, the data element referred to in item 2) of paragraph (2) of this Article.

### **Article 6**

Payment orders shall be completed in the following manner:

- 1) Name of the payer/payee - the name or abbreviated name of the payer/payee shall be entered; this data element may also contain the address (registered office) and other data;
- 2) Payer's account number – the number of an account shall be entered, in accordance with the decision laying down the manner of opening transaction accounts;
- 3) Payee's account number - the number of an account in accordance with the decision laying down the manner of opening transaction accounts or, in the case of cross-border and international transactions, the number of another account, or another unique identifier of the payee shall be entered.
- 4) Name (identifier) of the payer's credit institution the name of the payer's credit institution and/or BIC of the payer's credit institution according to the international standard ISO 9362 shall be entered.
- 5) Name (identifier) of the payee's credit institution - the name of the payee's credit institution and/or BIC of the payee's credit institution according to the international standard ISO 9362 shall be entered.
- 6) Amount – the amount in figures shall be entered.
- 7) Currency code – a currency code corresponding to the currency in which the payment transaction is executed shall be entered.
- 8) Payment description – a brief description of the payment shall be entered.
- 9) Debit/credit authorisation number – a numerical code according to the regulations or the needs of payment service users shall be entered in order to obtain additional information on the payment transaction.
- 10) Execution date – the date on which the payment order is to be executed shall be entered.
- 11) Submission date – the date on which the payment order is submitted to the credit institution shall be entered;
- 12) Authentication – a payment order shall be authenticated by the payment service user in the manner agreed between the credit institution and the payment service user;
- 13) Payee's signature – the signature of the recipient of funds shall be entered.
- 14) Payment description code – a payment description code assigned by a credit institution shall be entered.
- 15) Statistical characteristic – a prescribed identifier for statistical research purposes shall be entered.

### **Article 7**

Apart from the data elements prescribed in this Decision, a credit institution may, for the purpose of executing payment transactions, lay down additional data elements to be included in a payment order for the purpose of executing a payment transaction.

### III. TRANSITIONAL AND FINAL PROVISIONS

#### Article 8

(1) At the date of entering into force of this Decision, the Decision on payment orders (Official Gazette 14/2002, 143/2002 and 104/2003) shall cease to have effect.

(2) The payment forms issued pursuant to the Decision referred to in paragraph (1) of this Article may continue to be used for the execution of payment transactions through transaction accounts with a credit institution.

#### Article 9

This Decision shall enter into force on the date of its publication in the Official Gazette, with the exception of Article 1, paragraph (2), item 2 that shall enter into force on the date of accession of the Republic of Croatia to the European Union.

No.: 2-020/01-11/ŽR  
Zagreb, 3 January 2011

Croatian National Bank  
Governor  
**Željko Rohatinski**



## **Annex 19: Decision on the Manner of Opening Transaction Accounts (January 2011)**

Pursuant to Article 58, paragraphs (3) and (4), Article 60, paragraph (3) and Article 62, paragraph (4) of the Payment System Act (Official Gazette 133/2009) and Article 43, paragraph 2, item 9 of the Croatian National Bank Act (Official Gazette 75/2008), the Governor of the Croatian National Bank hereby issues the

### **Decision on the manner of opening transaction accounts**

#### **I GENERAL PROVISIONS**

##### **Article 1**

(1) This Decision governs the manner of opening transaction accounts and additional information in the register of transaction accounts with credit institutions.

(2) The credit institutions referred to in paragraph (1) of this Article shall include:

- 1) credit institutions having their registered office in the Republic of Croatia;
- 2) branches of credit institutions from another Member State having their registered office in the Republic of Croatia; and
- 3) branches of third-country credit institutions having their registered office in the Republic of Croatia.

(3) All provisions of this Decision applying to credit institutions shall also apply to the Croatian National Bank.

##### **Article 2**

A transaction account is:

- 1) a current account or a giro account opened and maintained by a credit institution on behalf of one or several payment service users and used for the execution of payment transactions; and
- 2) an account maintained by a credit institution for the purpose of executing payment transactions on its own behalf.

#### **II MANNER OF OPENING TRANSACTION ACCOUNTS**

##### **Article 3**

(1) A credit institution shall open the transaction account referred to in Article 2, item 1) of this Decision on the basis of a framework contract concluded with a payment service user, governing the terms and conditions of opening and maintaining a transaction account or pursuant to regulations.

(2) When opening the transaction account referred to in paragraph (1) of this Article, a credit institution shall establish the identity of the payment service user and carry out other procedures in accordance with the regulation governing the prevention of money laundering and terrorist financing.

(3) When opening a transaction account, a credit institution shall obtain all data required to be provided for that transaction account pursuant to the regulation governing the content of the unified register of accounts in the Republic of Croatia.

#### **Article 4**

A transaction account opened in accordance with the structure laid down in this Decision may be used as a unique identifier in terms of the provisions of the Payment System Act.

#### **Article 5**

(1) A credit institution shall open a transaction account in accordance with the structure comprising seventeen numerical characters. The numerical characters to be used shall be Arabic numerals.

(2) The structure of the transaction account referred to in paragraph (1) of this Article shall consist of two parts, i.e.:

- 1) part one - a credit institution's account number; and
- 2) part two - the number of a transaction account with a credit institution.

#### **Article 6**

(1) Part one of a transaction account shall be the account number assigned by the Croatian National Bank.

(2) A credit institution's account number shall consist of seven numerical characters (n1, n2, n3, n4, n5, n6 and n7), of which:

- 1) the first six numerical characters (n1, n2, n3, n4, n5 and n6) shall represent the credit institution's unique code; and
- 2) the last numerical character (n7) shall be the check number calculated, for the sequence of the first six numerical characters (n1, n2, n3, n4, n5 and n6), pursuant to the Croatian standard HRN ISO/IEC 7064 MOD (11, 10).

(3) A credit institution's account number shall be entered in a sequence without spaces and special signs like hyphens, slashes, periods, etc.

#### **Article 7**

(1) Part two of a transaction account shall be the number of a transaction account with a credit institution.

(2) The transaction account number shall consist of ten numerical characters (n1, n2, n3, n4, n5, n6, n7, n8, n9 and n10).

(3) The first numerical character (n1) in the account number shall represent the transaction account holder, in particular:

- 1) the numerical character "1" - for a transaction account opened by a credit institution on behalf of a payment service user that, in terms of a framework contract or a regulation underlying the opening of the transaction account, acts within the scope of his/her business or other activity or freelance occupation, a public authority body, a government administration body, a unit of local self-government and a unit or regional self-government (hereinafter: a transaction account of a business entity), as well as for accounts maintained by a credit institution with itself for the purpose of executing payment transactions on its own behalf;
- 2) the numerical character "3" - for a transaction account opened by a credit institution on the basis of a framework contract with a natural person who, in terms of this contracts, acts outside the scope of his/her business activity or freelance occupation (hereinafter: a transaction account of a consumer).

(4) The second character (n2) in the transaction account number shall represent the account purpose.

(5) The account purpose codes for the transaction account of a business entity (the transaction account holder designations "1") shall be the following:

- 1) the numerical character "0" - for accounts maintained by the credit institution for the purpose of executing payment transactions on its own behalf;
- 2) the numerical characters "1", "3", "4" and "5" - for business purpose accounts;
- 3) the numerical character "7" - for specific-purpose accounts used to collect joint budget revenues;
- 4) the numerical character "8" - for budgetary accounts;
- 5) the numerical character "9" - for accounts opened on behalf of credit institutions or other payment service providers, through which the payment service providers execute payment transactions, or through which payment transactions executed on behalf of a payment service provider through a payment system are settled;

(6) The account purpose codes for the transaction account of a consumer (the transaction account holder designations "3") shall be the following:

- 1) the numerical character "1" - for a giro account;
- 2) the numerical character "2" - for a current account;
- 3) the numerical character "5" - for a specific-purpose account.

(7) The sequence of seven numerical characters (n3, n5, n6, n7, n8 and n9) in the transaction account number shall be the ordinal number of the transaction account determined by a credit institution.

(8) The last numerical character (n10) in the transaction account number shall be the check number calculated, for the sequence of the first nine numerical characters (n1, n2, n3, n4, n5, n6, n7, n8 and n9) in the transaction account number, pursuant to the Croatian standard HRN ISO/IEC 7064 MOD (11, 10).

(9) The transaction account number shall be entered in a sequence without spaces and special signs like hyphens, slashes, dots, etc.

## **Article 8**

(1) A credit institution shall, for the transaction account referred to in Article 7, paragraph (5), items 2) and 5) and paragraph (6) of this Decision, apart from the data required under the Payment System Act, keep the following information in the register of transaction accounts:

- 1) whether the transaction account has been opened on behalf of one or several payment service users;
- 2) whether the transaction account has been opened on behalf of a resident and/or a non-resident payment service user;
- 3) the country code of the country in which a non-resident payment service user on whose behalf the transaction account has been opened in accordance with the State and Country Code List given in Annex 1 to this Decision;
- 4) a three-letter code of the currency (monetary unit) in which funds are recorded in the transaction account in accordance with the framework contract, pursuant to the List of Currencies and Currency Codes given in Annex 2 to this Decision, or the information that funds can be recorded in that account in several different currencies (a multi-currency account).

(2) A credit institution shall, for the transaction accounts referred to in Article 7, paragraph (5), items 1), 3) and 4) of this Decision, keep the data referred to in paragraph (1), item 4) of this Article in the register of transaction accounts.

## **III IBAN**

## **Article 9**

Transaction accounts used for the execution of international and cross-border payment transactions shall be opened in accordance with the IBAN (International Bank Account Number) structure which complies with ISO 13616, where the BBAN (Basic Bank Account Number) represents the number of a transaction account opened in accordance with Article 5 of this Decision.

#### **Article 10**

(1) A credit institution shall notify the payment service user on whose behalf a transaction account has been opened of the IBAN structure of his/her transaction account and of its BIC.

(2) The BIC (Business Identifier Code) referred to in paragraph (1) of this Article shall be the unique business identifier of a credit institution, determined in accordance with ISO 9362.

#### **Article 11**

(1) When a payee's account set out in an order initiating a cross-border or international payment transaction complies with the international standard of the IBAN structure referred to in Article 9, paragraph (1) of this Decision, a credit institution shall verify the correctness of the structure and accuracy of the check numbers in the IBAN structure of the payee indicated in the payment order.

(2) The IBAN structure of a transaction account in an electronic payment order may contain no empty fields or other characters.

(3) In a paper-based payment order, the IBAN structure of a transaction account shall be entered in the way that each of the four characters is delimited by an empty field.

### **IV MERGERS AND ACQUISITIONS OF CREDIT INSTITUTIONS**

#### **Article 12**

(1) In the case of a merger of two or more credit institutions, the transaction accounts opened by the merged credit institutions on behalf of payment service users may be used for no longer than a year from the completion of the merger.

(2) In the case of an acquisition of one credit institution by another, the transaction accounts opened by the acquired credit institution can be used for no longer than a year from the completion of the acquisition.

### **V TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 13**

(1) As of 1 January 2012, the IBAN structure may also be used for the execution of national payment transactions, and credit institutions may also open transaction accounts pursuant to Article 9 of this Decision in accordance with the IBAN structure for the execution of national payment transactions.

(2) As of 1 January 2013, credit institutions shall open transaction accounts exclusively pursuant to Article 9 of this Decision in accordance with the IBAN structure, and shall use the accounts thus opened for the execution of all payment transactions.

(3) Credit institutions shall bring the structure of transaction accounts opened on behalf of non-residents into line with the provisions of this Decision no later than 30 June 2012.

#### **Article 14**

As of the date of entry into force of this Decision, the Decision on the Structure of an Account with a Bank, Bank Account Number, Terms and Methods of Opening an Account with a Bank and the Content of the Register of Business Entities' Accounts with a Bank (Official Gazette 150/2002, 115/2003, 162/2004, 189/2004 and 141/2009) and the Decision on the Structure and Use of the International Bank Account Number (IBAN) (Official Gazette 162/2004) shall cease to have effect.

#### **Article 15**

This Decision shall enter into force on the date of its publication in the Official Gazette, with the exception of Article 1, paragraph (2), item 2) that shall enter into force on the date of accession of the Republic of Croatia to the European Union.

No.: 1-020/01-11/ŽR  
Zagreb, 3 January 2011

Croatian National Bank  
Governor  
**Željko Rohatinski**

**Annex 20: Guidelines for the analysis and assessment of money laundering and terrorist financing risks for credit institutions and credit unions (July 2009) ®**

Restricted

**Annex 21: Guidelines for the Implementation of the Anti-Money Laundering and Terrorist Financing Act for the Reporting Entities within the Competence of the Croatian Financial Services Supervisory Agency (September 2009) ®**

Restricted

**Annex 22: Guidelines for the Implementation of the Anti Money Laundering and Terrorist Financing Act for Lawyers and Public Notaries (November 2009) ®**

Restricted

**Annex 23: Act on Proceedings for the Confiscation of Pecuniary Benefit Resulting from Criminal Offences and Misdemeanours (December 2010)**

PROVISIONAL TRANSLATION

ACT

ON PROCEEDINGS FOR THE CONFISCATION OF PECUNIARY BENEFIT RESULTING FROM  
CRIMINAL OFFENCES AND MISDEMEANOURS

I INTRODUCTORY PROVISIONS

Article 1

(1) This Act shall regulate:

- a) the procedure of establishing pecuniary benefit resulting from criminal offences,
- b) the procedure of confiscating pecuniary benefit resulting from criminal offences,
- c) the enforcement procedure of a decision on the confiscation of pecuniary benefit resulting from criminal offences,
- d) criminal proceedings regarding confiscated assets and the assets with respect to which a temporary measure has been imposed,
- e) exercise of the rights of the person injured by the criminal offence, and
- f) protection of rights of third parties.

(2) Provisions of other acts regulating the establishment, ensuring confiscation and enforcement of decisions on the confiscation of pecuniary benefits resulting from criminal offences and misdemeanours shall apply only unless otherwise prescribed by this Act.

(3) The court and the bodies which take actions in accordance with this Act, shall take into consideration whether the injured person has laid down property claims. If the injured person has laid down property claims which, with respect to their basis, exclude the confiscation of pecuniary benefit, actions to be taken pursuant to this Act shall only encompass the part of the pecuniary benefit resulting from criminal offences not included in the property claim.

(4) Actions pursuant to this Act shall be taken based on the proposal of the plaintiff.

(5) If establishing the value of pecuniary benefit resulting from criminal offences is linked to disproportionate difficulties or significant procrastination of criminal proceedings, the court may establish the value of the respective benefit at its own discretion.

(6) Unless otherwise prescribed by this Act, provisions of this Act shall apply to misdemeanour proceedings in the corresponding manner.

(7) Ex officio decisions in criminal proceedings pursuant to this Act shall be immediately delivered to the state attorney.

## Article 2

(1) Proceedings pursuant to this Act may be conducted before, during or following the conclusion of criminal proceedings. Unless otherwise prescribed by this Act, the court shall take actions in accordance with criminal proceedings rules.

(2) If criminal proceedings can not be initiated for a criminal offence, because the defendant has died or other circumstances exist which exclude the possibility of criminal prosecution, upon proposal by the state attorney, the injured person as plaintiff or a private plaintiff, the court shall take actions in accordance with Article 6 of this Act, if the probable value of the pecuniary benefit resulting from criminal offences, with respect to which the actions are taken, is at least HRK 5,000.00.

(3) The decision to initiate criminal proceedings as described in paragraph 2 herein shall be reached in a ruling by a single judge from the court which would be competent for the trial in a criminal proceedings. An appeal may be filed against this decision within three days from the date the decision was delivered to the counterparty. A single judge from a court of the higher instance shall decide on the appeal.

(4) In the explanation of the ruling from paragraph 3 herein, the court shall set forth in particular the reasons for which no criminal proceedings may be conducted against the defendant.

(5) In criminal proceedings pursuant to this Act, the defendant and their related person shall have the status of a party.

(6) Provisions from paragraphs 2 - 4 of this Article shall not apply in misdemeanour proceedings.

## II THE MEANING OF SPECIFIC EXPRESSIONS

### Article 3

Specific expressions from this Act shall have the following meaning:

1. Pecuniary benefit resulting from criminal offences, pursuant to this and other Acts, refers to each increase or prevention of the reduction of assets resulting from criminal offences;

2. Assets represent property and rights acquired by the perpetrator of a criminal offence and misdemeanour or their related party, and it refers to all property and rights which can be the object of enforcement, especially real estate and movables, claims, business interests, shares, money, precious metals and jewels in the ownership, possession or under the control of the criminal perpetrator or their related party;

3. A criminal offence is an act as prescribed by the Criminal Code;

4. A defendant is a physical and legal entity as prescribed by the Criminal Procedure Act and the Act on the Liability of Legal Entities for Criminal Acts;

5. An injured person is a physical and legal entity as prescribed by the Criminal Procedure Act;

6. A related party is:

a) a person who encourages and assists in the perpetration of the criminal offence,

b) a legal successor of the perpetrator and participant in the criminal offence and

c) another physical or legal entity, whom the court determined, as prescribed by this Act, to have been transferred property or rights representing pecuniary benefit and not to be in good faith related to such acquisition of the respective property or rights;

7. The plaintiff is a state attorney or other competent plaintiff, unless otherwise prescribed by this Act;

8. A counterparty is the defendant and their related person;

9. An opposing party and enforcement debtor is the defendant and their related person;

10. The proponent to ensure and bailiff is the plaintiff;

11. A third person is a person claiming, in regards to property which is the subject of criminal proceedings in accordance with this Act, to have rights preventing its application and requesting that the insurance or enforcement be pronounced illicit;

12. The Office is the Central Office for State Property Management or another body appointed by law for the management of state property.

(2) The terms from paragraph 1 of this Article shall also apply to misdemeanour proceedings in the corresponding manner.

### III COURT PROCEEDINGS

#### Article 4

(1) Pecuniary benefit resulting from criminal offences is established by the court by means of a verdict. The pronouncement of the ruling in the part related to the establishment and confiscation of pecuniary benefit resulting from criminal offences shall be explained.

(2) The plaintiff and the counterparty shall have the right to appeal the ruling from paragraph 1 of this Article. A court of higher instance shall rule on the appeal.

#### Article 5

(1) In addition to contents prescribed by law, in the ruling by means of which the defendant is proclaimed guilty of a criminal offence, the court:

a) shall establish which property or rights represents pecuniary benefit resulting from criminal offences and their monetary equivalent,

b) shall establish that the property or rights have passed into the ownership or have become property of the Republic of Croatia,

c) shall order the counterparty to submit specific property or transfer specific rights to the Republic of Croatia, unless they have already been transferred to the Republic of Croatia based on the provision from point b) of this Article, or to pay their monetary equivalent within 15 days from the date the verdict entered into force.

d) shall determine that rights in favour of the Republic of Croatia are entered in the public registers managed by courts and other bodies.



(2) Unless otherwise prescribed by law, in the verdict by means of which the defendant is acquitted from the charges for criminal offences, or the charges have been dropped except in the case from Article 6 of this Act, the proposal for the confiscation of pecuniary benefit resulting from criminal offences shall be rejected. The court shall also proceed in the above described manner if the defendant has not been acquitted from criminal charges, but the pecuniary benefit is completely covered by the awarded property claim.

(3) The court conducting criminal proceedings has exclusively territorial jurisdiction for reaching the verdict from paragraph 1 of this Article.

#### Article 6

(1) After the entry into force of the ruling from Article 2, paragraph 3 of this Act, by means of which it decided to conduct the proceedings, the court shall hold a hearing at which the counterparty shall be questioned and other evidence presented. Should it establish that the defendant has perpetrated a criminal offence and acquired pecuniary benefit, the court shall reach the verdict by means of which:

a) it establishes that the defendant has committed a criminal offence,

b) it establishes that by the criminal offence from item a) pecuniary benefit has been acquired as described in Article 3, paragraph 1, point 1 of this Act, and which property or rights represent pecuniary benefit resulting from this offence and its monetary equivalent,

c) it establishes that the property or rights have passed into the ownership, or have become the property of the Republic of Croatia,

d) it orders the counterparty to submit specific property or transfer specific rights to the Republic of Croatia, unless they have already been transferred to the Republic of Croatia based on the provision from item c) of this Article, or to pay their monetary equivalent within 15 days from the date the verdict entered into force.

e) it determines that the rights in favour of the Republic of Croatia are entered in the public registers managed by courts and other bodies.

(2) The proposal from Article 2 paragraph 2 of this Act may be filed until the expiry of the statute of limitation for initiating criminal proceedings as prescribed by the Criminal Code, for an offence from paragraph 1 point a) of this Article. The statute of limitation for filing proposals and conducting criminal proceedings in accordance with this Act may not take effect before the expiry of the period of five years, calculated from the date the criminal offence was committed.

(3) By filing the proposal from Article 2 paragraph 2 of this Act, the course of the statute of limitation is interrupted.

(4) Should the court not establish that the defendant has committed a criminal offence and acquired pecuniary benefit, or the pecuniary benefit is completely covered by the awarded property claim, the court shall proceed in accordance with the provision from Article 5 paragraph 2 of this Act.

(5) If the court has established that objects have been acquired by a criminal offence, which are to be confiscated pursuant to the Act, it shall pass a ruling on the confiscation of the respective objects. Unless otherwise prescribed by law, the ruling shall be passed by the court at which proceedings were conducted when proceedings were concluded or terminated. An appeal may be filed against this ruling. A panel of judges from a court of higher instance shall decide on the appeal.

(6) Proceedings in accordance with paragraph 1 of this Article are conducted in accordance with criminal proceedings rules. A single judge from the court which would be competent for conducting criminal

proceedings shall be exclusively competent for reaching the verdict and ruling from paragraphs 1 and 5 of this Article.

#### Article 7

If criminal proceedings have been terminated before the indictment has been confirmed or during criminal proceedings, and there is probability that pecuniary benefit has been acquired through criminal offences, criminal proceedings pursuant to this Act shall be continued upon proposal by the plaintiff.

#### Article 8

(1) If legal consequences of initiating bankruptcy proceedings have taken effect, this shall in no way influence provisions of this Act with respect to jurisdiction.

(2) The Republic of Croatia is:

a) a differential creditor related to the enforcement of monetary claims from decisions reached in accordance with provisions of this Act, which have been insured in accordance with Articles 11 to 16 of this Act, unless the respective insurance has been established on property or rights entered into a public register,

b) semifinal lender regarding objects which are its property, based on provisions of Article 5, paragraph 1 and Article 6, paragraph 1 of this Act.

#### Article 9

(1) Unless otherwise prescribed by law, government bodies, banks and other legal and physical entities shall, upon order of the court, deliver the information related to the establishment of facts necessary for reaching the decisions stipulated by this Act.

(2) When necessary, the court shall order the government bodies and entities from paragraph 1 of this Article to file reports related to the establishment of facts necessary for reaching decisions as described by this Act.

(3) In the order described in paragraphs 1 and 2 of this Article, the court shall define a deadline for delivering the information or filing reports.

(4) For failure to follow the order within the specified period or incomplete execution of the order, the court may, by means of a ruling, sentence a legal entity to a fine in the amount of up to HRK 500,000.00, and a physical entity or a responsible person within a legal entity or government body to a fine in the amount of up to HRK 50,000.00, and if they do not act in accordance with the order even after the described event, they may be sentenced to prison until the fulfilment of the order, for a maximum term of one month.

(5) An appeal against the ruling as described in paragraph 4 of this Article shall not affect its enforcement.

(6) The defendant and their related party can not be punished for failure to fulfil the order from paragraph 1 of this Article.

#### Article 10

The funds invested into the preparation, perpetration, participation in or covering up of a criminal offence may not be calculated as expenses of the pecuniary benefit resulting from criminal offences.

## IV INSURANCE OF THE PECUNIARY BENEFIT CONFISCATION

### Article 11

(1) For the purpose of insuring the confiscation of pecuniary benefit resulting from criminal offences, the proponent to insure is authorised to propose insurance by means of any temporary measure for achieving this purpose before and after initiating criminal proceedings or proceedings from Article 6 of this Act, in particular:

a) by means of prohibiting the confiscation and taxing of real estate or real rights entered on the real estate, with the annotation of the ban entered in the land register, by confiscation of the real estate and entrusting the Office with its keeping and management,

b) by prohibiting the opposing party to confiscate or tax movables, by confiscating this property and entrusting the Office with its keeping,

c) by confiscating and depositing cash and securities and handing them over to the Office,

d) by prohibiting the debtor of the opposing party to voluntarily fulfil their obligation towards the opposing party and by prohibiting the opposing party to receive the fulfilment of the respective obligation, i.e. to access their claims,

e) by order to the bank to withhold the payment of the monetary amount from the account for which a temporary measure has been imposed, to the opposing party or a third party, based on an order by the opposing party,

f) by prohibiting the confiscation and taxing of shares, stakes or business interests, with annotation of the prohibition in the book of shares, stakes or business interests, and upon necessity, also in the public register, by prohibiting the exercise of or access to rights based on such shares, stakes or business interests, by entrusting the Office with the management of stakes, shares or business interests, by appointment of a temporary management for the company,

g) by prohibiting the debtor of the opposing party to submit property, transfer a right or perform another non-monetary action towards the opposing party.

(2) The court from Article 5 paragraph 3, and Article 6 paragraph 6 of this Act shall decide on the proposal for insurance from paragraph 1 of this Article. The ruling needs to contain the term for which the temporary measure has been imposed.

(3) Until charges are brought, the investigating judge shall decide on the proposal from paragraph 1 of this Article, the indictment council shall decide on the proposal after the charges have been brought until their confirmation, and following the confirmation of charges or establishment of the hearing based on a private suit, the court at which the hearing is to be held shall decide on the proposal.

(4) Until proceedings described in Article 6 of this Act have been initiated, the investigating judge shall decide on the proposal from paragraph 1 of this Article, and after they have been initiated, the court at which the hearing is to be held shall decide on the proposal.

(5) An appeal shall be allowed against the ruling from paragraph 2 of this Article within 3 days from its date of delivery. The appeal shall not affect the ruling enforcement. A single judge from a court of the higher instance shall decide on the appeal.

(6) A court or another body appointed by a special law shall be competent for the ruling enforcement.

(7) The ruling from paragraph 2 of this Article shall be immediately delivered to the court or another body competent for its enforcement, at the latest on the next working day following the day on which the ruling has been passed.

(8) The enforcement procedure of the ruling from paragraph 2 of this Article shall be urgent.

#### Article 12

(1) In the procedure of insurance by means of a temporary measure pursuant to this Act, it shall be presumed that risk exists that the claim of the Republic of Croatia related to the confiscation of pecuniary benefit resulting from criminal offences will not be enforceable, or that the enforcement will be made more difficult if the temporary measure is not imposed.

(2) The insurance can also be established before the opposing party obtained the opportunity to respond to the proponent's proposal to ensure.

#### Article 13

(1) If it is necessary to enter the temporary measure into a public register (land register, ship register, aircraft register, register of court and notary insurance etc.), the court decision shall also contain the order for entering the temporary measure into a public register.

(2) The proponent to insure is a party to the procedure of entry of the temporary measure into a public register from paragraph 1 of this Article.

(3) No fees shall be paid in the procedure from paragraph 1 of this Article.

#### Article 14

The legal transaction, by means of which the opposing party disposes of the property or right which is the object of insurance, shall have no legal effect once the temporary measure has been imposed.

#### Article 15

(1) If the proposal from Article 11, paragraph 1 of this Act has been filed before proceedings have been initiated, the insurance by means of a temporary measure shall be abolished unless charges have been confirmed, the hearing appointed based on a private suit or the proposal from Article 2, paragraph 2 of this Act has been filed, within the period of two years from the date on which the measure has been imposed.

(2) The temporary measure can be abolished or replaced by another measure before expiry of the period for which it has been imposed or before expiry of the term from paragraph 1 of this Article, if the court, upon proposal of the opposing party, establishes that it is unnecessary or that the insurance can be achieved by means of another temporary measure, or if the opposing or third party deposits bail. The bail is always deposited in cash, and exceptionally in property or rights which, according to evaluation by the court, can be monetized within a short period.

(3) If the temporary measure is imposed for a period shorter than the term from paragraph 1 of this Article or the term from Article 16 paragraph 1 of this Act, the opposing party may propose an extension of the temporary measure term.

(4) Provisions of Article 11, paragraphs 2 to 8 of this Act shall apply to the procedure of abolition, extension, replacement or imposition of an additional temporary measure.

## Article 16

(1) Insurance by means of a temporary measure may be valid for a maximum of 60 days after the court has delivered information to the proponent to ensure that the verdict from Article 5, paragraph 1 and Article 6, paragraph 1 of this Act has entered into force.

(2) If the verdict from Article 5, paragraph 3 and Article 6, paragraph 1 of this Act was contested by an appeal, the term from paragraph 1 of this Article shall be calculated from the day when the proponent to ensure has received a decision by the court of second instance, by means of which it has been confirmed.

## Article 17

(1) The Republic of Croatia is liable for damages arising from the temporary measure imposed for the purpose of confiscating pecuniary benefit resulting from criminal offences.

(2) By way of derogation from paragraph 1 of this Article, if the proposal for the imposition of a temporary measure has been filed by the injured person as plaintiff or a private plaintiff, the injured person or private plaintiff is liable for the damages arising from the temporary measure.

(3) The opposing party may file a lawsuit for the compensation of damages at the competent court, within one year starting from the entry into force of the verdict by means of which the defendant has been acquitted or charges have been dropped, or by means of which the proposal for passing the verdict from Article 6 of this Act has been rejected. In the case from paragraph 1 of this Article, the opposing party may file a lawsuit within 30 days from the day they have been informed that the state attorney had refused their request for a peaceful settlement of the dispute, or from the day when the term in which the state attorney was to reach a decision on the respective request has expired.

## V PROTECTION OF THE RIGHTS OF THIRD PARTIES

### Article 18

(1) The party from Article 3, paragraph 1, item 11 of this Act has the right to file a complaint until the ruling on the enforcement has been passed, and to demand withdrawal of the temporary measure.

(2) The court which has passed the ruling on the insurance by means of a temporary measure shall decide on the complaint from paragraph 1 of this Article. An appeal may be filed against this ruling within three days from the date of its delivery. An appeal shall not prevent the enforcement of the insurance, as specified by this Act. A single judge from a court of the higher instance shall decide on the appeal.

(3) If a third party proves their right by means of a public document or if the existence of such a right can be established based on the rules on legal presumptions, the appeal shall detain the enforcement of the ruling on insurance by means of a temporary measure.

## VI ENFORCEMENT

### Article 19

(1) Unless otherwise prescribed by this Act, enforcement for the purpose of confiscating pecuniary benefit resulting from criminal offences shall be established and carried out based on a special law.

(2) The municipal court with territorial jurisdiction which passed the verdict from Article 5, paragraph 1 and Article 6, paragraph 1 of this Act shall be exclusively competent for passing the ruling on establishing

enforcement based on the verdict, by means of which pecuniary benefit resulting from criminal offences and misdemeanours is confiscated, and passing other rulings in the course of these criminal proceedings.

(3) The court or body determined by a special law shall be competent for carrying out enforcement based on the ruling from paragraph 2.

(4) If the court from paragraph 2 of this Article is not competent for carrying out enforcement, the rulings from paragraph 2 of this Article shall be delivered to the court or the body competent for carrying out enforcement immediately, and by the latest on the first working day after they have been passed.

## VII PROCEDURE WITH TEMPORARILY CONFISCATED PROPERTY AND CONFISCATED PROPERTY

### Article 20

(1) Temporarily confiscated monetary funds, submitted property and transferred rights shall be managed by the Office.

(2) The Office shall keep records on temporarily confiscated monetary funds, submitted property and transferred rights.

(3) The minister competent for justice, upon consent of the minister competent for finance, shall adopt the ordinance on keeping the records from paragraph 2 of this Article.

### Article 21

(1) The Office may reach the decision on the sale of temporarily confiscated movables without previously issuing a public tender:

a) if their keeping is dangerous, or

b) if there is immediate danger from their deterioration or significant loss of value.

(2) The Office may reach the decision to rent or lease temporarily confiscated objects in accordance with their purpose.

(3) The Republic of Croatia is liable for damages on property from paragraph 2 of this Article caused by rent or lease, in accordance with the general rules on liability for damages.

(4) The Office shall submit the funds obtained through the sale, rent or lease from paragraphs 1 and 2 of this Article to the opposing party within 15 days from the entry into force of the verdict from Articles 5 and 6 of this Act, by means of which the request by the plaintiff was rejected.

(5) The counterparty may file a complaint against the decision of the Office from paragraphs 1 and 2 of this Article within 48 days from its delivery. The court from Article 5, paragraph 3 and Article 6, paragraph 6 of this Act shall decide on the complaint. No appeal against the decision by the court shall be permitted.

### Article 22

(1) The Office shall manage and dispose of the property confiscated pursuant to this Act, and in accordance with a special regulation.

(2) Money confiscated in accordance with provisions of this Act and funds obtained through the sale of the property confiscated, in accordance with this Act shall be paid to the state budget.

## VIII RIGHTS OF INJURED PERSONS

### Article 23

(1) If a property claim has been filed during criminal proceedings, completely or partly adjudicated by the court, or if there is an enforcement decision by the court in a lawsuit, by means of which the request by the injured person related to the criminal offence has been completely or partly accepted, enforcement according to this Act may be established only to the extent to which it will not make the complete settlement of injured persons impossible.

(2) If enforcement has been established contrary to the provision of paragraph 1 of this Article, the injured person in the enforcement procedure for the settlement of claims by the Republic of Croatia, in accordance with provisions of this Act, shall have the status of a third party, demanding that the enforcement be pronounced completely or partially illicit.

### Article 24

(1) The Republic of Croatia shall settle the claims of the injured person based on the property claim, only to the amount of the material benefit confiscated in criminal proceedings, pursuant to this Act.

(2) If the injured person has been directed to file a lawsuit or if a lawsuit filed by the injured person who has not filed a property claim is in progress, they shall be authorised to propose a temporary measure within three months from the day they have been informed that the enforcement has been carried out, for the purpose of insuring their claim, with the Republic of Croatia as the opposing party.

(3) The court from Article 19, paragraph 2 of this Act with territorial jurisdiction shall be exclusively competent for passing the ruling on the proposal of the injured person from paragraph 2 of this Article, in criminal proceedings in which provisions of Articles 11 to 17 of this Act shall apply accordingly.

(4) The ruling from paragraph 3 of this Article shall be delivered to the Office, and to parties who have the right to appeal, in accordance with Article 11, paragraph 5 of this Act.

### Article 25

Upon proposal of the injured person, the court shall alter or withdraw a temporary measure imposed for the purpose of insuring the confiscation of pecuniary benefit resulting from criminal offences, should this be necessary for insuring the property claim.

## IX RECOGNITION AND ENFORCEMENT OF FOREIGN DECISIONS

### Article 26

(1) Decisions by foreign bodies, by means of which temporary or similar measures have been imposed regardless of their name, related to the insurance of the confiscation of pecuniary benefit resulting from criminal offences, shall be recognised and enforced on the territory of the Republic of Croatia, in accordance with the international contract.

(2) If no international contract has been concluded with the respective country, the decision by a foreign body shall be recognised:

- if it is not contradictory to the public order of the Republic of Croatia,
- if it has not been made impossible for the opposing party, especially by failure of delivery, to participate in proceedings from which such a decision has arisen,
- if reciprocity exists.

#### Article 27

(1) Decisions by foreign bodies, by means of which pecuniary benefit resulting from criminal offences was confiscated from the defendant or related parties, shall be recognised and enforced in the territory of the Republic of Croatia, in accordance with the international contract.

(2) If no international contract has been concluded with the respective country, the decision by a foreign body shall be recognised:

- if it is not contradictory to the public order of the Republic of Croatia,
- if it has not been made impossible for the party which the confiscation refers to, especially by failure of delivery, to participate in proceedings from which such a decision has arisen,
- if reciprocity exists.

### X SPECIAL CASES OF CONFISCATION

#### Article 28

(1) Unless otherwise prescribed by law or ordered by the state attorney, objects which were intended or used for the perpetration of a criminal offence or have been created by its perpetration, shall be temporarily confiscated by the police and submitted to the Office. The state attorney shall immediately be informed about this matter, unless the actions are being conducted based on his/her order.

(2) If temporary confiscation has been performed based on the provision of paragraph 1 of this Article, the court which would be competent for passing the ruling on a temporary insurance measure, in accordance with the provision of Article 11, paragraph 4 of this Act, shall rule on the complaint of a third party.

(3) In cases from paragraphs 1 and 2 of this Article, the provisions of Article 18 of this Act shall apply to third parties.

### XI AUTHORITY

#### Article 29

(1) The authority exercised by the state attorney, in accordance with this Act, shall also be exercised by the injured person as plaintiff and a private plaintiff, with the exception of rights and duties exercised by the state attorney as a judicial body.

(2) The authority exercised by the state attorney, in accordance with this Act, shall also be exercised by authorised plaintiffs in accordance with the Misdemeanour Act, with the exception of rights and duties exercised by the state attorney as a judicial body.

(3) In misdemeanour proceedings, decisions shall be reached by the body conducting the misdemeanour proceedings.



(4) The High Misdemeanour Court of the Republic of Croatia shall decide on an appeal against the decision by the body conducting misdemeanour proceedings, reached in accordance with this Act.

## XII TRANSITIONAL AND FINAL PROVISIONS

### Article 30

From the date the Republic of Croatia has become a full member of the European Union, provisions of Articles 26 and 27 of this Act shall not apply to European Union Member States.

### Article 31

(1) Proceedings in cases of ensuring confiscation and reaching decisions on the confiscation of pecuniary benefit resulting from criminal offences, in which a first-instance ruling has been reached before the entry into force of this Act, shall continue based on provisions of the regulations which had been in force at the time when the respective criminal proceedings were initiated.

(2) Provisions of this Act shall apply, if on the day of the entry into force of this Act no decision on ensuring the confiscation or on confiscation of pecuniary benefit resulting from criminal offences, has been reached, or if the first-instance ruling from paragraph 1 of this Article has been annulled and the case returned to the court of first instance for a retrial.

### Article 32

The enforcement of valid decisions on the confiscation of pecuniary benefit resulting from criminal offences, reached according to regulations which had been in force before this Act entered into force, shall be carried out in accordance with the regulations which had been valid before its entry into force.

### Article 33

The competent minister shall pass the regulation from Article 20, paragraph 3 of this Act within three months from the entry into force of this Act.

### Article 34

(1) This Act shall apply to criminal proceedings for criminal offences from Article 21 of the Act on the Office for Combating Corruption and Organised Crime (Official Gazette 76/09 and 116/10), unless otherwise prescribed by the respective Act.

(2) On the day of entry into force of this Act, in the Act on the Office for Combating Corruption and Organised Crime (Official Gazette 76/09 and 116/10), provisions of Article 50, paragraph 3; Article 51, items 3 and 5 – 7; Article 52, paragraph 1, paragraph 3 - second sentence, and paragraph 4; Article 53, paragraphs 3 and 4; Article 54, paragraph 2; Article 55, paragraph 1, item 4, and paragraphs 2 – 5; Article 56, paragraph 1, item 5 and paragraph 5; Article 57, paragraphs 6 and 7; Article 58 and Article 60, paragraph 1 shall become invalid.

### Article 35

This Act shall enter into force on the eighth day from the date of its publishing in the Official Gazette.

## **Annex 24: Decision on the establishment of a Standing Coordination Group for Monitoring the Implementation of International Restrictive Measures and for Monitoring and Coordinating the Application of the Restrictive Measures (July 2009)**

GOVERNMENT OF THE REPUBLIC OF CROATIA

Pursuant to Article 5 of the Act on International Restrictive Measures (Official Gazette 139/2008), the Government of the Republic of Croatia, at its session on 16 July 2009 adopted the following

### **DECISION**

#### **on the establishment of a Standing Coordination Group for Monitoring the Implementation of International Restrictive Measures and for Monitoring and Coordinating the Application of the Restrictive Measures**

##### **I**

A Standing Coordination Group for Monitoring the Implementation of International Restrictive Measures and for Monitoring and Coordinating the Application of the Restrictive Measures referred to in the Act on International Restrictive Measures (hereinafter: Standing Coordination Group) is hereby established.

##### **II**

The Standing Coordination Group:

- has the role of monitoring and coordinating the application of the restrictive measures referred to in the Act on International Restrictive Measures;
- with a view to efficient proposing of monitoring and coordination of the application of the restrictive measures referred to in the Act on International Restrictive Measures, may process Database data on restrictive measures, natural and legal persons and other entities to which the restrictive measures apply, that will be set up by virtue of a special decision of the Government of the Republic of Croatia;
- based on the Database, coordinates the application of the restrictive measures;
- is authorised to demand from the competent government bodies, within the sphere of its competence, that the measures for the implementation of the measures determined in indent 1 of this item be taken.

##### **III**

The Members of the Standing Coordination Group shall include:

- a representative of the Ministry of Foreign Affairs and European Integration, as the Chairperson
- two representatives of the Ministry of Foreign Affairs and European Integration
- a representative of the Ministry of Interior
- a representative of the Ministry of Defense
- a representative of the Ministry of Justice
- a representative of the Ministry of Finance

- a representative of the Ministry of the Economy, Labour and Entrepreneurship
- a representative of the Sea, Transport and Infrastructure
- a representative of the State Attorney's Office
- a representative of the Croatian National Bank.

The responsibility for the appointment to the Standing Coordination Group and removal from the Standing Coordination Group of the representatives and their deputies shall lie with the heads of the bodies referred to in paragraph 1 of this item.

The President of the Standing Coordination Group may, where necessary, include in the work of the Standing Coordination Group representatives of other competent bodies.

#### IV

The Ministry of Foreign Affairs and European Integration shall be responsible for the coordination activities of the Standing Coordination Group.

#### V

The Decision on the establishment of the Inter-Departmental Working Group for the Implementation and Monitoring of the Act on International Restrictive Measures and appointment of the members thereto, class: 022-03/05/02/12, register number: 5030102-05-01 of 24 February 2005 and class: 022-03/06-02/32, register number: 5030106-06-1 of 14 September 2006 shall cease to have effect by virtue of the entry into force of this Decision.

#### VI

This Decision shall enter into force on the day of its adoption.

Class: 018-02/09-02/04

Reg.no.: 5030104-09-1

Zagreb, 16 July 2009

PRESIDENT

Jadranka Kosor

**Annex 25: Decision on the implementation of measures imposed by resolutions 1267 (1999), 1333 (2000), 1363 (2001), 1373 (2001), 1390 (2002), 1452 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008) and 1904 (2009) of the un Security Council regarding sanctions against the members of the Al-Qaida organization, Usama bin Laden and the Taliban and other individuals, groups, undertakings and entities associated with them (July 2010)**

GOVERNMENT OF THE REPUBLIC OF CROATIA

Pursuant to Article 4 of the Act on International Restrictive Measures (Official Gazette 139/2008), the Government of the Republic of Croatia, at its session on 1 July 2010, adopted the following

DECISION

ON THE IMPLEMENTATION OF MEASURES IMPOSED BY RESOLUTIONS 1267 (1999), 1333 (2000), 1363 (2001), 1373 (2001), 1390 (2002), 1452 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008) AND 1904 (2009) OF THE UN SECURITY COUNCIL REGARDING SANCTIONS AGAINST THE MEMBERS OF THE AL-QAIDA ORGANIZATION, USAMA BIN LADEN AND THE TALIBAN AND OTHER INDIVIDUALS, GROUPS, UNDERTAKINGS AND ENTITIES ASSOCIATED WITH THEM

I

Under this Decision, the measures imposed by the UN Security Council resolutions 1267 (1999), 1333 (2000), 1363 (2001), 1373 (2001), 1390 (2002), 1452 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1699 (2006), 1735 (2006), 1822 (2008), 1904 (2009) are implemented, relating also to the list of natural and legal persons subject to the sanction measures set out in resolutions 1267 (1999) and 1333 (2000), which is annexed to this Decision and represents its constituent part, thus transposing the EU Common Position 2001/931/CFSP, 2004/309/CFSP, 2005/427/CFSP, 2006/380/CFSP and 2009/486/CFSP into the legislation of the Republic of Croatia.

II

The Republic of Croatia shall freeze without delay all the funds and other financial assets or economic resources of persons, groups, undertakings and entities, as referred to in the list created pursuant to resolutions 1267 (1999) and 1333 (2000) (hereinafter: the Consolidated List), including funds derived from property owned or controlled directly or indirectly by them or by persons acting on their behalf or at their directions and ensure that neither these nor any other funds or other financial assets or economic resources are made available, directly or indirectly, for such persons' benefit, by the nationals of the Republic of Croatia or by persons within its territory.

III

The aforementioned measures shall not apply to assets, funds and economic resources for which the Republic of Croatia has established the following:

(a) that they are necessary for satisfying the basic needs, including payments of basic costs of living, rent or mortgage, medications and medical treatment, tax, insurance premiums and costs of public utility services, or exclusively for paying the appropriate professional fees or for compensation of costs incurred in relation to the provision of legal services or fees or costs of services related to regular keeping and maintaining of frozen funds or other financial assets or economic resources, after the competent country (countries) have submitted to the UN Security Council Committee concerning the members of the Al-Qaida organisation, Usama bin Laden and the Taliban and other individuals, groups, undertakings or entities associated with

them, established pursuant to resolution 1267 (1999) of the UN Security Council (hereinafter: the Committee), a notification of its intention to grant access, where this is appropriate, to these funds, other financial assets or economic resources, unless the Committee has reached a negative decision within two working days following the receipt such notification.

(b) that they are necessary for covering extraordinary expenses, under the condition that the Republic of Croatia has informed the Committee of such a decision and the latter has approved this Decision.

#### IV

The entry into or transit through the territory of the Republic of Croatia shall be forbidden for Usama bin Laden, members of the Al-Quaida organisation, the Taliban and other individuals, groups, undertakings and entities associated with them included on the Consolidated List created by the Committee.

The measures imposed by this item shall not oblige the Republic of Croatia to deny entry or require the departure from the territory of the Republic of Croatia of its own nationals, and they shall not apply where entry or transit through the territory of the Republic of Croatia is necessary for the fulfilment of a judicial process or where the Committee determines, on a case-by-case basis, that entry of transit is justified.

#### V

Direct or indirect supply, sale or transfer shall be forbidden for natural and legal to the individuals, groups, undertakings and entities indicated on the Consolidated List from the territory of the Republic of Croatia or by the nationals of the Republic of Croatia, or using the Republic of Croatia's flag vessels or aircrafts, of arms and related material of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned, and technical advice, assistance or training related to military activities.

#### VI

Acts or activities indicating that an individual, group, undertaking or entity is associated with Al-Quaida, Usama bin Laden or the Taliban shall include:

(a) participating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of;

(b) supplying, selling or transferring arms and related material to;

(c) recruiting for; or

(d) otherwise supporting acts or activities of Al-Quaida, Usama bin Laden or the Taliban, or any cell, affiliate, splinter group or derivative thereof;

The means of financing or support include but are not limited to the use of proceeds derived from illicit cultivation, production and trafficking of narcotic drugs originating particularly in Afghanistan, and their precursors.

#### VII

Upon the receipt of the notification from the UN Secretary-General that an individual, who is a national of the Republic of Croatia, or entities within the territory of the Republic of Croatia, will be included in the Consolidated List, the Republic of Croatia shall notify or inform them in a timely manner of the fact that they are designated for listing, and shall enclose with the notification a copy of a part of the statement of

case that may be publicly disclosed, all the information on the reasons for listing that are available on the Committee's website, description of the effects of designation, as provided in the relevant resolutions, the Committee's procedures for considering delisting requests and the provisions of resolution 1452 (2002) regarding available exemptions, and shall notify the Committee thereof.

#### VIII

In its implementation of the measures set out in items II, III, IV, V, VI and VII of this Decision, the Republic of Croatia shall ensure that fraudulent, counterfeit, stolen and lost passports and other travel documents are invalidated and removed from circulation as soon as practicable and shall share information of those documents with other Member States through INTERPOL database. In that regard, the Republic of Croatia will share with the private sector information in its national database related to fraudulent, counterfeit, stolen and lost identity or travel documents pertaining to its jurisdiction, and if a listed party is found to be using a false identity including to secure credit or fraudulent travel documents, it will provide the Committee with information in this regard.

#### IX

The Standing Coordination Group for Monitoring the Implementation of International Restrictive Measures and for Monitoring and Coordinating the Application of the Restrictive Measures (hereinafter: the Standing Coordination Group) shall be responsible for monitoring and coordinating the implementation and for reporting on this Decision.

The state administrative bodies responsible for the application of international restrictive measures shall supply the information on the measures taken to the Standing Coordination Group, which shall in turn report on those measures to the Government of the Republic of Croatia and prepare reports for the UN Security Council.

#### X

The Ministry of Foreign Affairs and European Integration shall be responsible for keeping an updated list of restrictive measures referred to in Resolutions 1267 (1999), 1333 (2000), 1363 (2001), 1373 (2001), 1390 (2002), 1452 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1699 (2006), 1735 (2006), 1822 (2008), 1904 (2009) and shall, in accordance with the Act on International Restrictive Measures, report to the competent bodies.

#### XI

The competent bodies shall be responsible for the implementation of the measures referred to this Decision.

#### XII

The Annex referred to in item I of this Decision shall not be published in the Official Gazette.

#### XIII

This Decision shall enter into force on the day of its publication in the Official Gazette.

Class: 004-01/10-04/03  
Reg. no.: 5030105-10-1  
Zagreb, 1 July 2010

PRESIDENT  
Jadranka Kosor, m.p.

## **Annex 26: Ordinance on Conditions and Content of Application for Issuing Approval for Performing Functions of a Member of the Management Board of the Investment Firm (January 2009)**

Pursuant to the provisions of the Article 21, paragraph 12, of the Capital Market Act (Official Gazette 88/08, 146/08), the Management Board of the Croatian Financial Services Supervisory Agency issued at its session on 15 January 2009

### **ORDINANCE ON CONDITIONS AND CONTENT OF APPLICATION FOR ISSUING APPROVAL FOR PERFORMING FUNCTIONS OF A MEMBER OF THE MANAGEMENT BOARD OF THE INVESTMENT FIRM**

#### **GENERAL PROVISIONS**

##### **Article 1**

This Ordinance regulates the conditions the members of the management board of the investment firm must fulfill, content of application for issuing approval for performing functions of the management board, documents accompanying the application and contents of these documents.

##### **Article 2**

Terms used in this Ordinance have the following meaning:

- 1 Agency-Croatian Financial Services Supervisory Agency
- 2 Act-Capital Markets Act
- 3 Investment firm-legal person whose regular occupation or business is the provision of one or more investment services and/or the performance of one or more investment activities on a professional basis

#### **CONDITIONS FOR PERFORMING THE FUNCTIONS OF A MEMBER OF THE MANAGEMENT BOARD**

##### **Article 3**

(1) Candidate for a member of the management board of the stock exchange shall have good repute, appropriate professional qualifications and experience for conducting business activities of the investment firm with the caution of a good expert.

(2) While conducting the assessment process for granting approval for performing the functions of a member of the management board, the Agency shall consider all the elements that may have the impact on assessment whether candidate meets the criteria, with the aim to protect and preserve confidence in the activities of the investment firm in all the circumstances.

##### **Article 4**

### **Caution of the good expert**

- (1) Member of the management board conducts the business activities of the investment firm with caution of the good expert if he/she applies appropriate internal control, risk management and implements the corporate government's principles in investment firm, as well as if he/she:
- a) has autonomy, independence and professional responsibility,
  - b) has appropriate professional knowledge,
  - c) has appropriate organizational culture and management methods,
  - d) appropriately manages personal conflicts of interest,
  - e) appropriately manages manner of determining salaries and other incentives

### **Article 5**

#### **Good repute**

- (1) It shall be considered that person with a good repute is the one who has complete working ability, whose assets are not under open bankruptcy proceedings and who is not guilty under final verdict for criminal offences against values protected by international law or for the following criminal offences:

- financial instrument market abuse,
- concealing money obtained in an illegal manner;
- financing terrorism;
- against property, where the criminal proceedings are started by official duty,
- against safety of the payment system and transactions;
- against justice;
- against the credibility of the documents;
- against the official duty;

⌋ (2) It shall be considered that person has no good repute if he/she is guilty under final verdict and punished by imprisonment in last 5 years or who is guilty under final verdict and fined in last three years for other criminal offence done with the purpose of obtaining gain.

⌋ (3) While assessing whether person has good repute or not, the previous results made by professional work and personal integrity of the person shall be taken into account, as well as respect gained in the environment where his/her previous work was aimed at.

⌋ (4) While assessing whether person has good repute or not, it shall also be taken into account whether the investigation against this person is in progress, or whether criminal proceedings concerning criminal offence where the proceedings are initiated by official duty against this person is in progress.

### **Article 6**

#### **Professional qualifications**

⌋ (1) A person has professional qualifications if he/she has the adequate education level and ability to manage the activities of the investment firm.

⌋ (2) Adequate education level for a member of the management board of the stock exchange is pre-graduate and graduate level in scientific study or integrated pre-graduate and graduate scientific study or specialized graduate professional study.

⌋ (3) A person has the ability to perform duties of a member of the management board if he/she meets the following criteria:



referred to, as member of the management board, in the Company Act,  
who is not member of the supervisory board of the investment firm or credit institution with the head office in the Republic of Croatia,  
person who is not a member of the board or procurator of any other company,  
who did not held a managerial position in the investment firm, credit institution or other company against whose the bankruptcy proceedings were instituted, where the decision on compulsory wind-up was brought or the working licence was revoked,

it can be assumed that, on the basis of previous business activities, he/she will perform the activities of the member of the management board in lawful and conscientious manner.

▫ (4) Exceptionally from the provisions of the paragraph 3, point 2 of this Article, a member of the supervisory board subordinated to the investment firm to whose management board is being nominated, may also be nominated as a member of the management board of the investment firm.

▫ (5) Exceptionally from the provisions of the paragraph 3, point 4 of this Article, person who held a managerial position in the investment firm, credit institution or other company against whose the bankruptcy proceedings were opened, where the decision on compulsory wind-up was brought or the working licence was revoked, may be nominated as the member of the management board of the stock exchange, if the Agency shall assess that her/his practice did not have an impact on the occurrences referred to in the paragraph 3, point 4 of this Article.

## **Article 7**

### **Experience**

It shall be considered that person has the adequate experience for managing the investment firm if she/has has the general knowledge on the investment firm's activity area, and:

- at least three years in holding managerial positions in investment firm or credit institution, or
- five years of experience in holding managerial positions comparable to the activities of investment firm or other comparable activities, or
- at least six years of experience in the investment firm or other industrial sector, in the positions where the person had the opportunity to become familiar with the operations on financial markets.

## **APPLICATION FOR APPROVAL FOR PERFORMING THE FUNCTIONS OF A MEMBER OF THE MANAGEMENT BOARD AND ACCOMPANYING DOCUMENTS**

### **Article 8**

Application for approval for performing the functions of a member of the management board shall be submitted by members or shareholders of the investment firm, or supervisory board of the investment firm, for the mandate which may not exceed 5 years.

### **Article 9**

(1) In addition to the application referred to in Article 8 of this Ordinance the following documents are attached in original or a copy verified by a public notary:

- 1 citizenship certificate and identity card, or passport for foreign citizen,
- 2 proof of education,
- 3 curriculum vitae with detailed information on education and work experience

- 4 employment booklet, or for foreign citizens a corresponding document proving work experience with the previous employers,
  - 5 proof of former work experience at present/former employers (companies where the applicant was employed, time period, job description),
  - 6 work contract on a full-time basis, or pre-contract or statement of intent, referring to the position the approval is sought,
  - 7 excerpt from the statement on work position structures referring to the position the approval is sought,
  - 8 for foreign citizen: work permit and statement issued by the Ministry of Interior on residence or habitual home in the Republic of Croatia,
  - 9 in case where all the applicants for members of the management board are foreign citizens, at least one of them must have a certificate of the Croatian proficiency level, issued by the competent authority
10. proof of good repute, issued by the competent authority in the Republic of Croatia, and for foreign citizens proof issued by the competent authority of the country of their citizenship (not older than 6 months)
  11. statement that applicant was not a member of the board in the investment firm, credit institution or other company against whose the bankruptcy proceedings were instituted or whose working licence was revoked
  12. statement that applicant is not a member of the board or procurator of other investment firm,
  13. statement that applicant is not a member of the supervisory board of the investment firm or credit institution with head office in the Republic of Croatia
- 1 programme of conducting the business activities of the investment firm, made in accordance with the provisions of Article 11 of this Ordinance,
  - 2 proof that administrative charges and fees are paid
  - 3 other documents at the Agency's request.

(2) Documents referred to in paragraph 1 shall not be returned.

## **Article 10**

Questionnaire for the applicant for a member of the management board

- ¶ (1) Along with the application, an applicant shall also submit "Questionnaire for the applicant for a member of the management board of the investment firm" (ISUID form), which is an integral part of this Ordinance.
- ¶ (2) The form referred to in paragraph 1 must be electronically printed and fully completed, in an orderly and legible manner and without subsequent corrections.
- ¶ (3) The form referred to in paragraph 1 shall be signed by the applicant for the member of the management board, and signature shall be verified by a public notary.

## **Article 11**

Programme of conducting the business activities of the investment firm

- (1) Programme of conducting the business activities of the investment firm shall include the following:
  - 1 description of basic assumptions considered while preparing programme,
  - 2 basic information on investment firm, including information on investment activities it provides and activities and performs, financial instruments it trades with, and markets where it is active,
  3. description of environment where the investment firm is active and its position in regards to the sector where it is active at and concerning

competition (it is desirable to note strengths and weaknesses concerning comparable groups),  
3 detailed description of planned activities in the mandate period (preferably planned dynamics of  
realisation), and reference to significant changes related to the current situation,  
4 financial plan with the detailed description of all planned activities for projected periods. Integral  
parts of the financial plan are projections of financial statements and capital adequacy of investment firm  
for the mandate period, as follows:

- in a form of business and financial reports of investment firms as regulated by Ordinance on structure  
and content of annual financial reports of investment firms,
  - in a form of reports on capital adequacy of investment firms and capital requirements for specific  
risks as regulated by Ordinance on reporting of capital adequacy of investment firms,
  - in a form of reports on exposures of the investment firm to a person or a group of related persons  
as regulated by Ordinance on reporting on capital adequacy of investment firms.
- 1 corporate governance plan, implementation of internal procedure and policies of investment firm,  
2 detailed description of activities which shall be used as support to planned basic activities, with the  
aim of recognizing, monitoring and managing all risks which may arise from the activities, and description  
of all activities which shall benefit the current situation at the investment firm,  
3 marking off authorities among the management board members, with changes related to the  
current situation,  
4 conclusion shall include all of the above.

(2) While preparing the Programme of conducting the business activities of the investment firm, applicant  
for the management board shall primarily be concerned with strategic business plan of the investment firm  
presented by the president of the management board, and adopted by the supervisory board. This shall  
serve as the basis for the candidate for the management board to further elaborate those issues from this  
frame, which are important for fulfillment and effects of the planned activities within his/her scope of  
future activities and responsibilities.

## **Article 12**

Successfully presented programme referred to in Article 11 of this Ordinance is a condition for granting  
approval to perform activities of the member of the management board.

## **FINAL PROVISIONS**

### **Article 13**

This Ordinance shall enter into force on the eighth day after the day of its publication in the Official  
Gazette.

Class:011-02/09-04/4 Reg. No.:  
326-01-09-1 Zagreb, 15 January  
2009

PRESIDENT OF THE MANAGEMENT BOARD  
Ante Samodol

**(ISUID form)**

## **QUESTIONNAIRE FOR THE APPLICANT FOR A MEMBER OF THE MANAGEMENT BOARD OF THE INVESTMENT FIRM**

### **• Instruction**

The form must be electronically printed and fully completed, in an orderly and legible manner and without subsequent corrections.

### **• The terms used in this application:**

Applicant-natural person submitting an application Agency-Croatian Financial Services Supervisory Agency Act-Capital Market Act

### **1. Personal information about the applicant:**

Name:

Surname/ Maiden surname:

Date and place of birth:

Citizenship:

Address (city, street):

### **2. Data on the investment firm (hereinafter referred to as: firm) in which you apply for the position o a member of the management board:**

Name of the firm:

Head office address:

Personal identification number (Register number of the firm):

Function you apply for:

### **3. Data on the firm you are currently employed in:**

Name of the firm:

Head office address:

Activities you perform/ position you hold:

**4. Do you have holdings or any other financial relationships (loans, etc.) with the firm?**

YES NO If YES, please provide details:

**5. Are you a member of the management board, supervisory board or a procurator, i.e. do you participate in any other way in the creation and implementation of the business policy of another company or institution?**

YES

NO

If YES, please provide the following details:

Name of the firm:

Address:

Personal identification number (Register number of the firm):

Function you perform:

**6. Are you the owner, a co-owner or do you have any other financial interest in another company?**

YES

NO

If YES, please provide the following details:

Name of the company:

Head office address:

Type of relationship:

**7. Have the investment firms or other companies or financial institutions in which you held managerial positions (as the chairperson, a member of the management or supervisory board, procurator) or in any other way participated in the creation and implementation of business policy encountered financial difficulties that resulted in the initiation of financial rehabilitation or bankruptcy proceedings against those companies or financial institutions?**

YES

NO

If YES, please provide the following details:

Name of the company:

Head office address:

Personal identification number (Register number of the firm):

Function you performed:

**8. Have you been a member of the management or supervisory board or a procurator of a company against which bankruptcy proceedings were instituted, or whose operating licence was revoked?**

YES

NO

If YES, please provide the following details:

Name of the company:

Head office address:

Personal identification number (Register number of the firm):

Function you performed:

**9. Have the competent state authorities ever identified operational irregularities or reported a violation of acts regulating operations of investment fund management companies, other financial institutions or a violation of the Companies Act in the investment firms or other financial institutions in which you held managerial positions (as the chairperson, a member of the management or supervisory board, procurator, etc.) or in any other way participated in the creation and implementation of business policy (as a broker, investment advisor etc.)?**

YES

NO

If YES, please provide the following details:

Name of the company:

Head office address:

Personal identification number (Register number of the firm):

Function you performed:

Supervisory body:

Measures taken:

**10. Have the competent supervisory bodies ever revoked the operating licence from an investment firm or other financial institution in which you held managerial positions (as the chairperson, a member of the management or supervisory board, procurator, etc.) or in any other way participated in the creation and implementation of business policy?**

YES

NO

If YES, please provide the following details:

Name of the company:

Head office address:

Personal identification number (Register number of the firm):

Function you performed:

Supervisory body:

**11. Has an indictment that became final ever been preferred against you?**

Have you been sentenced by a final judgment for criminal offences of:

-financial instrument market abuse,  
-against property, where the criminal proceedings are started by

official duty, -against safety of the payment system and transactions; -against justice; -against the credibility of the documents; -against the official duty; -concealing money obtained in an illegal manner; -financing terrorism;

or has a security measure been pronounced, prohibiting you from performing activities that are partly or fully included in business activities of authorized firm?

YES NO If the answer to any of the questions is YES, please attach a separate document to this Questionnaire providing a detailed explanation of the answer.

**12. Have the competent bodies responsible for the supervision of authorized firms or other financial institutions ever assessed your professional competence and personal integrity, i.e. have you ever been refused or revoked the approval to hold a managerial position or perform activities in the said area of operations?**

YES

NO

If YES, please provide the following details:

Supervisory body:

Decision:

**13. Do you believe that there are any other facts or circumstances that could, by reasonable judgment, be considered important for the assessment of your suitability for holding the position of a member of the firm's management board (e.g. facts or circumstances related to your professional qualifications, possible financial difficulties or conflict of interests)?**

YES NO If YES, please specify:

## SIGNING PAGE

With my signature on this Questionnaire, certified by a public notary, I confirm that all the answers to the questions from this Questionnaire are true, complete and given to the best of my knowledge, and that I did not withhold any information which might influence the decision of the Agency. I undertake to promptly inform the Agency of any changes that might have a major effect on granting approval for the appointment.

Place and date: \_\_\_\_\_

Name and surname of the applicant: \_\_\_\_\_

Applicant's signature: \_\_\_\_\_

Note: Information obtained through this Questionnaire are strictly confidential, and shall be available only to the Agency for the purpose of adopting decisions on granting approval for members of the management board of the investment firm.

### **Annex 27: Ordinance on List of Documents Required for the Assessment of the Application for Granting Approval for Acquisition of a Qualifying Holding (January 2009)**

Pursuant to the provisions of the Article 50, paragraph 4 of the Capital Market Act (Official Gazette 88/08, 146/08), the Management Board of the Croatian Financial Services Supervisory Agency issued at its session on 7 January 2009

#### **ORDINANCE ON LIST OF DOCUMENTS REQUIRED FOR THE ASSESSMENT OF THE APPLICATION FOR GRANTING APPROVAL FOR ACQUISITION OF A QUALIFYING HOLDING**

##### **Article 1**

(1) Ordinance on list of documents required for the assessment of the application for granting approval for acquiring a qualifying holding regulates the list of documents required to be submitted along with the application to acquire qualifying holdings in the investment firm for the purpose of assessing the adequacy of acquiring the qualifying holding.

(2) Provisions of this Ordinance shall also apply to the acquiring of the qualifying holding in stock exchange and central clearing depository company.

##### **Article 2**

Terms used in this Ordinance have the following meaning:

- 1 **Agency** is Croatian Financial Services Supervisory Agency;
- 2 **Act** is Capital Markets Act (Official Gazette 88/08, 146/08);



### **Article 3**

Each person which intends to acquire the qualifying holding (hereinafter referred to as: proposed acquirer), has to enclose the documents in accordance with the provisions of this Ordinance, along with the application for granting the approval for acquiring a qualifying holding.

#### Article 4

(1) The following shall be enclosed along with the application for granting approval for acquiring a qualifying holding:

1. when proposed acquirer is legal person:

a) excerpt from court or other corresponding register, in original or certified copy,

b) statute of the proposed acquirer, i.e. other act where its organizational structure is evident,

c) excerpt from register of shareholder or book of shares, in original or certified copy, d) list of natural persons which are ultimate shareholders or owners of business units of the proposed acquirer where the following information are listed: name and surname, address i.e. residence and other identification data, total nominal amount of shares and percentage of initial capital of the proposed acquirer, as well as date referred to in paragraph 1, point 2, subpoints b and c of this Article;

e) list of persons managing the firm's business activities,

f) list of persons which are, within the meaning of the Act, closely related to the proposed acquirer, as well as description of the relationship, g) list of persons which, along with the proposed acquirer, form the group

of related persons,

h) financial reports for three last business years,

i) audit opinion on financial report for last business year, in case proposed

acquirer is obliged regarding the audit of financial report,

j) financial reports for the current year, in case more than 9 months have passed since the last annual financial report, k) proof of secured assets for acquiring a qualifying holding and

description of method, i.e. source of financing,

l) description of the investment strategy and managing qualifying holdings in financial and credit institutions where the following is eminent: -total nominal amount of shares and percentage of initial capital

intended to acquire, -acquirer's ability to further increase the financial sources, -business ethics of acquirer, -risk management system, -sources of investment of own funds, -proposed acquirer's

financial capacity m) description of activities regarding acquiring prior to the submitting of application; n) proof of good repute or adequate information on whether acquirer or person referred to in subpoints e, f and g is not finally convicted for the criminal offence against values protected by international law, and for some of the following criminal offences:

- financial instruments market abuse,
- concealing money obtained in an illegal manner,
- financing terrorism
- against property, where the criminal proceedings are started  
by official duty,
- against safety of the payment system and transactions,
- against justice,
- against the credibility of the documents,
- against the official duty,
- doing with the purpose of obtaining gain

o) proof that bankruptcy proceedings concerning the property of proposed acquirer are neither opened nor initiated,

p) opinion or approval of the competent authority from the member state or third country on proposed acquiring, where applicable,

r) proof that the administrative charges and fee are paid.

2. when proposed acquirer is natural person:

a) appropriately filled in form from the ordinance issued pursuant to the provisions of Article 21, paragraph 12 of the Act;

b) certified copy of identity card or passport;

c) proposed acquirer's curriculum vitae including list of all the firms and their addresses where he/she was or is still employed, member of the management board or supervisory board, as well as those where he/she had or still has qualifying holdings;

d) proof of good repute or adequate information that acquirer is not finally convicted for the criminal offence against values protected by international law, and for some of the following criminal offences:

- financial instruments market abuse;
- concealing money obtained in an illegal manner;
- financing terrorism;
- against property, where the criminal proceedings are started  
by official duty;
- against safety of the payment system and transactions;
- against justice;
- against the credibility of the documents;

- against the official duty;
- doing with the purpose of obtaining gain.
- e) documents referred to in point 1 e), f), j), k) and l),

f) proof that the administrative charges and fee are paid.

- (2) In case proposed acquirer is natural person, Agency may, for the purpose of assessment during the process of granting approval for acquiring a qualifying holding, invite him/her to hold a presentation in the Agency's office.

#### **Article 4**

- (1) in case proposed acquirer is financial holding, the following shall be submitted along with the documents referred to in Article 4 of this Ordinance: -documents showing that organizational structure, processes and system within the group are consistent and integrated in a manner that undisturbed preparation of all data and information important for supervision of the company on individual and consolidated basis is enabled.

#### **Article 5**

- ▮ (1) If proposed acquirer is superior person in the group, it shall submit documents referred to in paragraph 1, points g. to i. of the Article 2 of this Ordinance made on consolidated basis, along with the documents referred to in Article 2.
- ▮ (2) If acquiring a qualifying holding enables significant influence or control over business activities within the meaning of the Act, proposed acquirer shall enclose the following along with the application and documents referred to in Article 2 of this Ordinance:
  - a) business strategy of the company where a qualifying holding is acquired;
  - b) business plan for three following business years which includes balance sheet and profit and loss account;
  - c) planned changes in organizational and management structure and human resources;
  - d) plan of activities concerning drafting new or amending existing internal documents.

#### **Article 6**

Along with the documents referred to in this Ordinance, Agency may, during the process of reviewing application also require other documents considered needed for bringing decision on granting approval, including information regulated by the act regulating prevention of money laundry and terrorism financing, and which are collected by obliged entities under this Act.

#### **Article 7**

This Ordinance shall enter into force at the eighth day of publishing in Official Gazette.

Cl.: 011-02/09-04/7 Reg.

No.: 326-01-09-1 Zagreb, 7

January 2009

President of the Management Board

Ante Samodol

**Annex 28: Excerpt from provisions of the Act on Amendments of Insurance Act (July 2009)**

Provisions of ACT ON AMENDMENTS TO THE INSURANCE ACT (Official Gazette 82/09)

**TRANSITIONAL AND FINAL PROVISIONS**

**Article 144**

The Legislation Committee of the Croatian Parliament shall be authorised to define and produce the consolidated version of the Insurance Act.

**Insurance and reinsurance agents**

**Article 145**

(1) The insurance brokerage company possessing, on the day of entry into force of this Act, authorisation to pursue insurance brokerage business shall be deemed to be in possession of authorisation to pursue insurance and reinsurance business.

(2) The person possessing, on the day of entry into force of this Act, authorisation to pursue insurance brokerage business shall be deemed to be in possession of authorisation to pursue insurance and reinsurance business.

**Adoption of regulations**

**Article 146**

(1) The supervisory authority shall adopt regulations on the basis of powers conferred upon it under this Act within 6 months from the day of entry into force of this Act.

(3) Until the day of the entry into force of the regulations referred to in paragraph 1 of this Article, subordinate legislation adopted under the Insurance Act (Official Gazette 151/05 and 87/08) shall apply, provided they are not in contravention of this Act.

**CROATIAN PARLIAMENT**

Pursuant to Article 89 of the Constitution of the Republic of Croatia, I hereby pass the following

**DECISION**

**PROMULGATING THE ACT ON  
AMENDMENTS TO THE MANDATORY AND  
VOLUNTARY PENSION FUNDS ACT**

I hereby promulgate the Act on Amendments to the Mandatory and Voluntary Pension Funds Act, passed by the Croatian Parliament at its session on 22 October 2010.

Class: 011-01/10-01/104  
No: 71-05-03/1-10-2  
Zagreb, 27 October 2010

President of the Republic of  
Croatia Prof. Ivo  
Josipović, PhD, m.p.

**Annex 29: Act on Amendments to the Mandatory and Voluntary Pension Funds Act  
(October 2010)**

**ACT ON AMENDMENTS TO THE  
MANDATORY AND VOLUNTARY PENSION  
FUNDS ACT**

Article 1

In the Mandatory and Voluntary Pension Funds Act (Official Gazette 49/99, 63/00, 103/03, 177/04 and 71/07), in Article 2, paragraph 1 is amended to read:

“(1) In this Act, the following terms shall have the following meanings:

- 1 *Pension company* – means a mandatory or a voluntary pension company,
- 2 *Mandatory pension company* – means a joint-stock company or a limited liability company which manages a mandatory pension fund,
- 3 *Voluntary pension company* – means a joint-stock company or a limited liability company which manages a voluntary pension fund,
- 4 *Pension fund* – means a mandatory or a voluntary pension fund,
- 5 *Mandatory fund* – means a mandatory pension fund established and managed by a mandatory pension company,
- 6 *Voluntary fund* – means a voluntary pension fund established and managed by a voluntary pension company, which may be an open-end pension fund and a closed-end pension fund,
- 6 *Fund member* – means an insured person registered with a mandatory fund or a person who

has joined a voluntary fund under a contract concluded with it,

7 *Beneficiary*-means a person receiving retirement benefits,

8 *Individual account* – means an account opened in the name of a fund member in a selected pension fund, on which paid-in contributions and all changes in the personal assets of the fund member during the period of individual capitalised savings are recorded,

9 *Temporary account* – means an account established for the transfer of amounts derived from non-matched payments and from payments which, after the matching process, cannot be transferred to mandatory funds

10 *Transfer of account* – means a transfer of assets belonging to a fund member from one fund to another,

11 *Informative prospectus* – means the statement of a pension company with complete, accurate and objective information on the pension fund and the pension company managing the fund, based on which a potential fund member is able to make a decision on the membership in the pension fund.

12 *Voluntary pension scheme* – means a statement of an insurer by which it assumes the obligation to provide to voluntary fund members pensions and other kinds of pension benefits arising from voluntary pension insurance; such a statement shall contain information on the procedure for determining pension benefit payment, frequency and duration of the payment, as well as other information on the pension scheme relevant to an individual when making a decision on joining a voluntary pension scheme,

13 *Sponsor of a closed-end pension fund* – means a legal or a natural person, including trade unions and employers, as well as associations of self-employed persons, participating in any way in the establishment of a closed-end pension fund (a sponsored fund) and in the payment of contributions to the closed-end pension fund on behalf of fund members,

14 *Pension scheme* – means a contract stipulating which retirement benefits are granted and under which conditions,

15 *Biometrical risks* – mean all risks linked to death, disability and longevity,

16 *To withdraw* – means to transfer the funds from the personal account of a member for the purpose of paying pension benefits,

17 with respect to a legal or natural person pursuant to this Act (hereinafter referred to as: “entity”), a related person means:

-a stockholder or a group of stockholders who hold more than 10% of issued shares and voting rights, or equity shares, and who, even if holding a smaller percentage, can influence, directly or indirectly, decisions made by such an entity, up to the third degree of relatedness in the vertical chain of ownership of shares, equity shares or voting rights,

-any entity with the exception of the Republic of Croatia in which the first entity holds, directly or indirectly, more than 10% of issued shares and voting rights, or equity shares, or who, even if holding a smaller percentage, can influence, directly or indirectly, decisions made by such an entity, up to the third degree of relatedness in the vertical chain of ownership of shares, equity shares or voting rights,

-any other entity in which a stockholder or a shareholder, whether directly or indirectly, holds more than 10% of shares and voting rights, or equity shares, if at the same time that stockholder or shareholder holds also, whether directly or indirectly, more than 10% of shares and voting rights, or equity shares, in the first entity, up to the third degree of relatedness based in the vertical chain of ownership of shares, equity shares or voting rights,

-any natural person or persons who may, directly or indirectly, influence decisions of the entity,

-any member of the management, the supervisory board or another body of an entity which makes decisions and exercises supervision,

-with respect to any person listed above, a spouse or a relative up to the second-degree relative inclusive,

1 the term "relatedness" referred to in item 18 of this Article means relatedness between the first and the second entity, then relatedness between the second and the third entity, and relatedness between the third and the fourth entity. Relatedness between the fourth and any further entity shall not be regarded as a person related with the first entity.

2 *Custodian bank* – means a bank to which a pension company has entrusted assets of a pension fund and with which it concluded a custodial agreement,

3 *Custodian* – means a legal person to which a voluntary pension company has entrusted assets of a closed-end pension fund and with which it concluded a custodial agreement, authorised for the provision of custodial services according to regulations stipulating the establishment and business operations of credit institutions or regulations stipulating the establishment and business operations of investment firms; or a legal person conducting activities of a depositary in accordance with regulations stipulating the establishment and business operations of investment fund management companies and investment funds,

4 *Guarantee deposit* – means an amount on a separate account opened with a custodian bank where a pension company must hold one million HRK for every 10,000 members over fifty thousand members of a mandatory pension fund,

5 *Member State* – means a Member State of the European Union,

6 *Home Member State* -means the Member State in which the voluntary pension company has its registered office and its main administration or, if it does not have a registered office, its main administration,

7 *Host Member State* -means the Member State whose social and labour law relevant to the field of occupational pension schemes is applicable to the relationship between the sponsoring undertaking and members,

8 *Voluntary pension company in another Member State* – means an institution, irrespective of its legal form, which is authorised by the competent supervisory body of that Member State, and operates on the basis of collection of pension contributions and is independent from the company of the sponsoring employer or associations of self-employed persons,

9 *Closed-end pension fund in another Member State* – means a closed-end pension fund established by the sponsoring undertaking located in that Member State,

10 *Closed-end pension fund with defined benefits* – means a closed-end pension fund where the payment of pension benefits is guaranteed if the establishment of such type of fund is allowed according to the regulations of the host Member State, and the fund is managed by a voluntary pension company from the Republic of Croatia for the sponsoring undertaking located in another Member State,

11 *Agency* – means the Croatian Financial Services Supervisory Agency,

12 *Competent authority* – means the national authority of the Member State designated to carry out the supervision of activities related to provision of services of occupational pension insurance, under the legislation of that Member State.”

## Article 2

In Article 6, paragraphs 4 and 5 are deleted.

## Article 3

After Article 6, Articles 6a, 6b, 6c, 6d and 6e are added which read:

### “Article 6a

¶ (1) A voluntary pension company may manage a closed-end pension fund in another Member State, of which the Agency shall keep a record.



□ (2) The voluntary pension company shall notify the Agency of its intention to accept sponsorship of the closed-end pension fund by an undertaking from a different Member State.

□ (3) In addition to the notification referred to in paragraph 2 of this Article, the voluntary pension company shall provide the following information on the sponsoring undertaking from a different Member State:

-full name of the sponsoring undertaking,

-its registered office and

-the main characteristics of the pension scheme to be operated for the sponsoring undertaking.

□ (4) The Agency shall, within 3 months from the day of receiving the notification and information referred to in paragraphs 2 and 3 of this Article, and unless it has reason to doubt that the administrative structure or the financial situation of the institution or the good repute and professional qualifications or experience of the persons running the voluntary pension company are compatible with the operations proposed in the host Member State, communicate that information to the competent authority of the host Member State and inform the voluntary pension company accordingly.

□ (5) Before the voluntary pension company starts to operate a closed-end pension fund in another Member State, the competent authority of the host Member State shall, within two months of receiving the information referred to in paragraph 4 of this Article, inform the Agency of the requirements of social and labour law relevant to the field of occupational pensions under which the closed-end pension fund sponsored by an undertaking in the host Member State must be managed and any rules referring to investment limitations and obligations to inform its members. The Agency shall communicate this information to the voluntary pension company.

□ (6) On receiving the communication referred to in paragraph 5 of this Article, or if no communication is received from the Agency on expiry of the period provided for in paragraph 5 of this Article, the voluntary pension company may start to manage the closed-end pension fund sponsored by an undertaking in the host Member State in accordance with the host Member State's requirements of social and labour law relating to pension schemes and any rules relevant in the case of managing closed-end funds in the host Member State.

□ (7) The voluntary pension company managing a closed-end pension fund sponsored by an undertaking located in another Member State shall also be subject, in respect of the corresponding members, to any information requirements imposed by the competent authorities of the host Member State on voluntary pension companies located in that Member State.

□ (8) The competent authority of the host Member State shall inform the Agency of any significant change in provisions and regulations referred to in paragraph 5 of this Article which may affect the characteristics and functioning of the closed-end pension fund in that Member State.

□ (9) The voluntary pension company which manages a closed-end pension fund in another Member State shall be subject to ongoing supervision by the competent authority of the host Member State as to the compliance of its activities with the host Member State's requirements of labour and social law relevant to the field of occupational pension schemes referred to in paragraphs 5 and 7 of this Article. Should this supervision bring irregularities to light, the competent authorities of the host Member State shall inform the Agency immediately. The Agency shall, in coordination with the competent authorities of the host Member State, take the necessary measures to ensure that the voluntary pension company puts a stop to the detected breach of social and labour law related to pension schemes.

□ (10) If, despite the measures referred to in paragraph 9 of this Article taken by the Agency or because appropriate measures are lacking, the voluntary pension company persists in breaching the applicable provisions of the host Member State's requirements of social and labour law relevant to the field of occupational pension schemes, the competent authority of the host Member State may, after informing the Agency, take appropriate measures to prevent or penalise further irregularities, including, insofar as is strictly necessary, preventing the voluntary pension company from operating in the host Member State for the sponsoring undertaking.

□ Article 6b

□ (1) A closed-end pension fund established for the purposes of sponsoring undertakings located in the Republic of Croatia may be managed by the voluntary pension company from another Member State authorised by the competent authority of that Member State and must act in line with social and labour legislation of the Republic of Croatia, including collective bargaining agreements.

□ (2) The competent authority of the home Member State shall notify the Agency of the intention of the voluntary pension company from that Member State to accept sponsorship from the sponsoring undertaking located within the territory of the Republic of Croatia.

□ (3) Before the voluntary pension company from another Member State starts to manage a closed-end pension fund for a sponsoring undertaking located in the Republic of Croatia, the Agency shall, within two months of receiving the information referred to in paragraph 2 of this Article, inform the competent authority of the home Member State of the requirements of social and labour law and any rules relevant to the field of occupational pensions under which closed-end pension funds in the Republic of Croatia must be operated, particularly of provisions on investment limitations referred to in Article 69d, and on informing members referred to in Article 114c of this Act.

□ (4) The voluntary pension company from another Member State managing a closed-end pension fund sponsored by an undertaking located in the Republic of Croatia shall provide members of the fund with all information in accordance with the provisions of this Act.

□ (5) The Agency shall notify the competent authority of the home Member State of any significant change in the provisions and rules referred to in paragraph 3 of this Article, which may affect the characteristics and functioning of the closed-end pension fund sponsored by an undertaking located in the Republic of Croatia.

□ (6) The voluntary pension company from another Member State which manages a closed-end pension fund for the sponsoring undertaking located in the Republic of Croatia shall be subject to ongoing supervision by the Agency as to the compliance of its activities with the requirements of labour and social law relevant to the field of occupational pension schemes in the Republic of Croatia. Should this supervision bring irregularities to light, the Agency shall inform the competent authority of the home Member State. The Agency shall, in coordination with the competent authorities of the home Member State, take the necessary measures to ensure that the voluntary pension company puts a stop to the detected breach of social and labour law relevant to the field of occupational pension schemes in the Republic of Croatia.

□ (7) If, despite the measures referred to in paragraph 6 of this Article taken by the competent authority of the home Member State or because appropriate measures are lacking, the voluntary pension company from another Member State persists in breaching the applicable provisions of the social and labour law relevant to the field of occupational pension schemes in the Republic of Croatia, the Agency shall, after informing the competent authority of the home Member State, take appropriate measures to prevent or penalise further irregularities, including, insofar as is strictly necessary, preventing the voluntary pension company from another Member State from operating.

Article 6c

The Agency shall cooperate with competent authorities of Member States with the purpose of exchange of information and experience in the field of social and labour legislation with a view to developing best practices in this sphere, and by so doing, preventing distortions of competition and creating the conditions required for unproblematic membership in closed-end pension funds in Member States.

Article 6d

Where the sponsoring undertaking of a closed-end pension fund with defined benefits guarantees the

payment of the retirement benefits, it is committed to regular financing.

#### Article 6e

¶ (1) Besides the voluntary pension company from another Member State, the management of the closed-end voluntary pension funds may be provided by investment managers established in another Member State and duly authorised for this activity, in accordance with provisions of the Member State which regulate the establishment and business operations of companies managing open-end investment funds with a public offering, investment companies, credit institutions and life insurance companies.

¶ (2) The provisions of this Act applicable to voluntary pension companies from other Member States shall also be applicable to investment managers referred to in paragraph 1 of this Article.”

#### Article 4

In Article 14, paragraph 4 is amended to read:

“(4) A member of the management or supervisory board of a pension company shall be a person who meets the requirements referred to in the Companies Act, who possesses relevant professional qualifications and expert knowledge needed for managing a pension company and experience in managing companies of comparable size and type of business.”

After paragraph 4, new paragraphs 5, 6 and 7 are added which read:

“(5) Only a person who has obtained approval of the Agency for exercising the function of a member of the management or supervisory board may be appointed as a member of the management or supervisory board of a pension company.

¶ (6) The Agency shall adopt an ordinance prescribing the terms and conditions to be met by members of the management or supervisory board of a pension company, the contents of the application for issuing approval, documentation to be submitted along with the application and the contents of the said documentation.

¶ (7) The pension company shall not be obliged to appoint an employee of the pension company for the position of a member of the supervisory board.”

In the former paragraph 5, which becomes paragraph 8, the words: “required training and” are deleted, and the words: “pension funds” are replaced by two other Croatian words again translated as: “pension funds”.

The former paragraph 6, which becomes paragraph 9, is amended to read: “(9) The Agency shall organise the educational programme and the examination for the certified pension fund manager. The contents and duration of the educational programme, requirements for taking the examination, examination procedure, licensing requirements and validity of the certified pension fund manager’s licence shall be prescribed in an ordinance adopted by the Agency.”

The former paragraph 7 becomes paragraph 10.

In the former paragraph 8, which becomes paragraph 11, the words: “licences” is replaced by the word: “licence”.

The former paragraphs 9 to 11 become paragraphs 12 to

#### 14. Article 5

In Article 15, paragraph 2, indent 3, before the word: “market”, the word “securities” is replaced by the word “capital”.

#### Article 6

In Article 17, item 1, after the word “items”, the numbers: “1 and 2” are replaced by the numbers: “1, 2 and 8”.

#### Article 7

After Article 31, Article 31a is added which reads:

##### “Article 31a

□ (1) The Agency shall withdraw the operating licence of the voluntary pension company in case of breaching the applicable provisions of the social and labour law relevant to the field of occupational pension schemes of the host Member State.

□ (2) The Agency may prohibit the free disposal of assets of the closed-end pension fund held by a custodian located within the territory of the Republic of Croatia at the request of the competent authority of the home Member State.”

#### Article 8

In Article 35, paragraph 2, the sentence: “The Central Register of Insured Persons shall, within the deadlines determined by the Agency, issue to pension fund members a document with data on their fund share, containing the number of accounting units on the personal account, as specified in Chapter VI of this Act.” is deleted.

After paragraph 2, paragraphs 3 and 4 are added which read:

“(3) The Central Register of Insured Persons shall, within the deadlines determined by the Agency, issue to pension fund members a document with data on their fund share, containing the number of accounting units on the personal account, as specified in Chapter VI of this Act.

(4) The voluntary pension company shall once a year issue to pension fund members a document with data on their fund share, containing the number of accounting units on the personal account and the value of the accounting unit on the reporting date.”

#### Article 9

In Article 69a, paragraph 4, after the word: “Agency”, the words: “with the consent of the Government of the Republic of Croatia” are deleted.

#### Article 10

In Article 69b, paragraph 4 is added which reads:

“(4) By way of derogation from paragraph 3 of this Article, assets of a closed-end pension fund with defined benefits shall be invested in a way so as to provide for their currency alignment with the pension fund’s liabilities, and not more than 30% of the assets covering technical provisions of the closed-end pension fund with defined benefits may be invested in assets denominated in currencies other than those in which the liabilities of the fund are expressed.”

#### Article 11

In Article 69c, after paragraph 1, a new paragraph 2 is added which reads:

“(2) When investing pension fund assets, exposure to a single counterparty on the basis of derivative financial instruments concluded with that single person may not be higher than:

- 1 10% of pension fund assets, if it is a bank which has its registered office in the Republic of Croatia, Member State or an OECD member country.
- 2 5% of pension fund assets, if it is another legal person.”

The former paragraph 2 becomes paragraph 3.

#### Article 12

After Article 69c, Article 69d is added which reads:

#### “Article 69d

(1) By way of derogation from the provisions of Article 69a, paragraph 2 of this Act, investments of the closed-end pension fund’s assets may not exceed the following restrictions:

- 1 in shares or other securities treated as shares and corporate bonds admitted to trading on regulated securities markets, up to 70% of the closed-end pension fund’s assets
- 2 by way of derogation from point 1 of this paragraph, in shares or other securities treated as shares and corporate bonds admitted to trading on regulated markets, up to 70% of the assets covering technical provisions of closed-end pension funds with defined benefits
- 3 up to 5% of assets of closed-end pension funds may be invested in units and securities of open-end investment funds issued by the same undertaking and up to 10% of these assets may be invested in shares issued by undertakings belonging to a single group
- 4 up to 10% of assets of closed-end pension funds may be invested in shares, bonds and other securities not admitted to trading on a regulated market, besides units in open-end investment fund, such investments must in any event be kept to prudent levels.

(2) The following restrictions also apply to investments of assets of closed-end pension funds managed by voluntary pension funds from other Member States for sponsoring undertakings located in the Republic of Croatia, apart from limitations referred to in paragraph 1 point 3 of this Article and Article 69b paragraphs 3 and 4 of this Act:

- 1 at least 70% of the assets of closed-end pension funds shall be invested in shares or other securities treated as shares and debt securities admitted to trading on regulated markets
- 2 up to 30% of assets of closed-end pension funds may be invested in shares or securities treated as shares and debt securities not admitted to trading on a regulated financial market.

- (3) Closed-end pension fund assets may be invested in risk capital markets.
- (4) Assets of closed-end pension funds sponsored by a number of undertakings, when invested in these sponsoring undertakings, shall be made prudently, taking into account the need for proper diversification.
- (5) The Agency may lay down additional criteria and limitations on investments of closed-end pension fund assets.”

#### Article 13

In Article 72, after paragraph 1, paragraph 2 is added which reads:

“(2) The provisions referred to in paragraph 1 point 1 of this Article shall not apply to closed-end pension fund assets.”

#### Article 14

In Article 74, paragraph 1, point 3, after the words: “granting”, the word: “credits” is replaced by the word: “loans”, after the word: “guarantees” the words: “from pension fund assets” are added; while the words: “referred to in item 1 of this Article” are deleted.

#### Article 15

In Article 75, paragraph 1, after the word: “approval”, the words: “and to whom the Agency has granted a licence to perform such activities” are replaced by the words: “of the competent authority”.

#### Article 16

In Chapter X, in the title, after the words: “CUSTODIAN BANK” the words: “AND THE CUSTODIAN OF THE CLOSED-END PENSION FUND”

#### Article 17

In Article 79, paragraph 3 is deleted.

The former paragraph 4 becomes paragraph 3.

#### Article 18

After Article 85, Article 85a is added which reads:

#### “Article 85a

- (1) By way of derogation from the provisions of Article 79, paragraphs 1 and 2 of this Act, the voluntary pension company managing a closed-end pension fund may choose a custodian whose registered office is in another Member State.
- (2) The custodian established in another Member State has to be dully authorised by the competent authority of that Member State for performing custodial services in accordance with regulations of that Member State stipulating establishment and operating of credit institutions or regulations stipulating establishment and operating of investment firms, or services provided by a depositary in accordance with regulations stipulating establishment and operating of investment fund management companies and investment funds.”

## Article 19

In Article 93, a new paragraph 4 is added which reads:

“(4) In addition to the decision referred to in paragraph 2 of this Article, the Agency may, during supervision of the pension company, also order measures needed in order for the pension company to operate in accordance with the provisions of this Act and regulations adopted on the basis thereof, and in the interest of protecting assets of pension fund members.

The former paragraph 4, which becomes paragraph 5, after the word: “law”, the words: “director of the Agency” are replaced by the words: “the Agency”, and after the words “authorised by”, the words “him/her” are replaced by the words: “the Agency”.

The former paragraph 5 becomes paragraph 6.

## Article 20

In Article 106, paragraph 2, after the words: “referred to in Article 109, paragraph 1”, the words: “and Article 111a, paragraph 4” are added.

## Article 21

After Article 106, Article 106a is added which reads:

### “Article 106a

¶ (1) A voluntary pension fund member who meets the requirement referred to in Article 106, paragraph 1, and who, upon the expiry of the period referred to in Article 109, paragraph 1, and Article 111a, paragraph 4 of this Act, has accrued on his personal account less than 10,000.00 HRK, may be paid the total amount of the accrued funds by the voluntary pension company.

¶ (2) The voluntary pension company shall make the payment referred to in paragraph 1 of this Article as a full lump-sum payment at a written request of the member.

¶ (3) In the case of the payment referred to in paragraphs 1 and 2 of this Article, the voluntary pension company shall not have the right to charge the exit fee.”

## Article 22

In Article 111a, paragraph 2, the word: “insured” is deleted. In paragraph 4, after the words: “established by”, the words: “concluding a membership contract” are added.

## Article 23

In Article 114c, paragraph 2 is amended to read: “(2) The pension company managing a closed-end pension fund shall, at the request of the members and beneficiaries:

- 1 deliver annual financial reports of the pension company and closed-end pension fund,
- 2 deliver a written statement of investment policy principles referred to in Article 68a of this Act,
- 3 provide detailed information on the fund portfolio, risk exposure and costs related to investments,
- 4 provide detailed information on the arrangements relating to the transfer of pension rights in the event of termination of the employment.”

After paragraph 2, new paragraphs 3, 4, 5 and 6 are added which read:

“(3) The pension company managing a closed-end pension fund with defined benefits shall provide its members, at their request, in addition to the information referred to in paragraph 2 of this Article, with detailed information on:

- 1 the target level of retirement benefits
- 2 the level of benefits in case of cessation of employment.

¶ (4) The pension company managing a closed-end pension fund shall provide its members with information on the pension fund and pension company once a year.

¶ (5) The pension company managing a closed-end pension fund with defined benefits shall once a year provide its members, in addition to the information referred to in paragraph 4 of this Article, with information on the current level of financing of their future benefits.

¶ (6) The pension company managing a closed-end pension fund shall provide beneficiaries on retirement appropriate information on the benefits which are due and the corresponding payment options.”

In the former paragraph 3, which becomes paragraph 7, the words: “The undertaking sponsoring the closed-end pension fund and the pension company referred to in paragraph 1 of this Article” are replaced by the words: “The pension company managing a closed-end pension fund or the undertaking sponsoring the closed-end pension fund”.

In the former paragraph 4, which becomes paragraph 8, the number: “3” is replaced by the number: “7”.

The former paragraph 5 becomes paragraph 9.

#### Article 24

After Article 114c, Articles 114d, 114e and 114f are added which read:

#### “Article 114d

¶ (1) The pension company managing a closed-end pension fund with defined benefits shall ensure an adequate amount of liabilities (technical provisions) corresponding, at any time, to the financial commitments which arise out of their existing membership contracts.

¶ (2) The pension company managing a closed-end pension fund with defined benefits, where it provides cover against biometric risks and/or guarantees either an investment performance or a given level of benefits, shall ensure the establishment of sufficient technical provisions.

¶ (3) Technical provisions of closed-end pension funds with defined benefits shall be calculated every year by the pension company.

¶ (4) By way of derogation from paragraph 3 of this Article, the management company may calculate for the closed-end pension fund with defined benefits technical provisions once every three years if it provides fund members and/or the Agency with the report of adjustments for the same three



year period which shall reflect the adjusted development of the technical provisions and changes in risks covered.

□ (5) The calculation of the technical provisions shall be executed and certified by a certified actuary according to the following principles:

1 the minimum amount of the technical provisions shall be calculated by a sufficiently prudent actuarial valuation, taking account of all commitments for benefits and for contributions in accordance with the pension arrangements. Technical provisions shall be sufficient both for pensions and benefits already in payment to beneficiaries to continue to be paid and shall reflect the commitments which arise out of members' accrued pension rights. The economic and actuarial assumptions chosen for the valuation of the liabilities shall also be chosen prudently taking in account an appropriate margin for adverse deviation,

2 the maximum rates of interest used shall be chosen prudently and determined by taking into account: -the yield on the corresponding assets held by the closed-end pension fund with defined benefits and the future investment returns and/or -the market yields of high-quality or government bonds,

3 the biometric tables used for the calculation of technical provisions shall be based on prudent principles, having regard to the main characteristics of the group of members and the pension schemes, in particular the expected changes in the relevant risks,

4 the method and basis of calculation of technical provisions shall in general remain constant from one financial year to another. However, discontinuities may be justified by a change of legal, demographic or economic circumstances underlying the assumptions.

(6) The Agency may lay down additional criteria for the calculation of technical provisions for closed-end pension funds with defined benefits.

#### Article 114e

□ (1) The pension company managing a closed-end pension fund with defined benefits shall ensure that it has at all times sufficient and appropriate assets to cover the technical provisions referred to in Article 114d of this Act.

□ (2) Assets held to cover the technical provisions shall be invested in a manner appropriate to the nature and duration of the expected future retirement benefits.

□ (3) The pension company shall adopt a concrete and realisable recovery plan for the closed-end pension fund with defined benefits which does not meet the requirements referred to in paragraph 1 of this Act, to ensure that the requirements are met again.

□ (4) The recovery plan referred to in paragraph 3 of this Article shall be subject to the following conditions:

1 it shall ensure the amount of assets required to cover fully the technical provisions in due time,

2 it shall be subject to approval by the Agency and shall be made available to members,

3 in drawing up the plan, account shall be taken of the specific situation of the closed-end pension fund with defined benefits (the asset/liability structure, risk profile, liquidity plan, the age profile of the members entitled to receive retirement benefits, start-up schemes and schemes changing from non-funding or partial funding to full funding),

4 in the event of incapacity of the closed-end pension fund with defined benefits to continue its operations, during the period when it fails to meet the requirements referred to in paragraph 1 of this Article, the pension company shall inform the Agency and shall establish a procedure in order to transfer the assets and the corresponding liabilities to another pension company.

(5) The pension company shall disclose to the Agency the procedure referred to in paragraph 4, point 4 of this Article, and a general outline of the procedure shall be made available to members in accordance with the principle of confidentiality.

#### Article 114f

□ (1) In the case where a closed-end pension fund with defined benefits provides cover against biometric risk, or guarantees a given investment performance or a given level of benefits, the pension company managing that fund shall ensure that the fund holds on a permanent basis additional assets

above the technical provisions referred to in Article 114d of this Act to serve as a buffer.

¶ (2) The amount of capital referred to in paragraph 1 of this Article shall reflect the type of risk and asset base of the closed-end pension fund with defined benefits, it shall be free of all foreseeable liabilities and serve as a safety capital to absorb discrepancies between the anticipated and the actual expenses and profits.

¶ (3) For the purposes of calculating the minimum amount of capital referred to in paragraph 1 of this Article, the provisions of the regulations governing the establishment and business operations of insurance and reinsurance companies, related to the calculation of the capital of the insurance company carrying out life insurance business, shall apply.

¶ (4) The Agency may lay down additional requirements relating to capital of the closed-end pension fund with defined benefits."

#### Article 25

In Article 116, paragraph 4, the number: "25%" is replaced by the number: "15%".

After paragraph 4, paragraphs 5 and 6 are added which read:

"(5) Supervision of legal determination and use of financial incentives shall be exercised by the Ministry of Finance.

(6) The voluntary pension company shall provide access for the Ministry of Finance to business books and operational records, provide it with all information and notifications needed for the purpose of verifying applications for obtaining government financial incentives and registering government financial incentives on the accounts of members of voluntary pension funds managed by that company, as well as all other information needed for supervision of legal determination and use of financial incentives."

#### Article 26

In Article 119, paragraph 2, the words: "unique citizen identification number (JMBG)" are replaced by the words: "personal identification number (OIB)".

#### Article 27

In Article 122, paragraph 1, after point 16, new points 17 and 18 are added which read:

"17. it fails to establish an adequate level of technical provisions in accordance with Article 114d of this Act,

18. it does not hold capital and additional assets in accordance with Article 114f of this Act,"

The former points 17 to 21 become points 19 to 23.

#### Article 28

The Agency shall, within three months of the entry into force of this Act, adopt ordinances referred to in Article 4 of this Act.

#### Article 29

Financial incentives from the State Budget for payments into voluntary pension funds for the year 2010 shall be approved according to the rate referred to in Article 25 of this Act.

#### Article 30

This Act shall enter into force on the eighth day after the day of its publication in the Official Gazette, except for the provisions of Articles 6a, 6b, 6c, 6d and 6e from Article 3 of this Act, the provision of Article 31a from Article 7 of this Act, the provision of Article 69b, paragraph 4 from Article 10 of this Act, the provision of Article 69d from Article 12 of this Act, the provision of Article 72, paragraph 2 from Article 13 of this Act, the provision of Article 85a from Article 18 of this Act, the provision of Article 114c, paragraphs 3 and 5 from Article 23 of this Act, the provisions of Articles 114d, 114e and 114f from Article 24 of this Act, which shall enter into force at the date of the accession of the Republic of Croatia to the European Union.

Class: 402-09/10-01/02  
Zagreb, 22 October 2010

#### CROATIAN PARLIAMENT

President of the Croatian Parliament  
Luka Bebić, m.p.

## **Annex 30: Ordinance on the requirements to be met by members of the management and supervisory board of a pension company (January 2011)**

Pursuant to the provisions of Article 15, point 1 of the Act on the Croatian Financial Services Supervisory Agency (Official Gazette 140/05), Article 14 paragraph 6 of the Mandatory and Voluntary Pension Funds Act (Official Gazette 49/99, 63/00, 103/03, 177/04, 71/07 and 124/10) and Articles 4 and 28 of the Act on the Amendments to the Mandatory and Voluntary Pension Funds Act (Official Gazette 124/10), the Management Board of the Croatian Financial Services Supervisory Agency issued at its session on 13 January 2011 the following

### **ORDINANCE ON THE REQUIREMENTS TO BE MET BY MEMBERS OF THE MANAGEMENT AND SUPERVISORY BOARD OF A PENSION COMPANY, AND ON THE CONTENTS OF THE APPLICATION AND DOCUMENTATION ACCOMPANYING THE APPLICATION FOR THE ISSUANCE OF APPROVAL TO EXERCISE THE FUNCTION OF A MEMBER OF THE MANAGEMENT AND SUPERVISORY BOARD OF A PENSION COMPANY**

#### **GENERAL PROVISIONS**

##### **Article 1**

This Ordinance shall regulate the requirements to be met by members of the management and supervisory board of a pension company, the contents of the application for the issuance of approval to exercise the function of a member of the management and supervisory board of a pension company, and documentation accompanying the application, as well as the contents of the documentation.

##### **Article 2**

The terms used in this Ordinance shall have the following meaning:

- 1) Agency -Croatian Financial Services Supervisory Agency;
- 2) Act -Mandatory and Voluntary Pension Funds Act;
- 3) Pension company – mandatory pension company and voluntary pension company.

#### **REQUIREMENTS FOR A MEMBER OF THE MANAGEMENT BOARD OF A PENSION COMPANY**

##### **Article 3**

A member of the management board of a pension company may be a person who meets the following criteria:

- meets the criteria for a member of the management board pursuant to the Companies Act, -has adequate professional qualifications and professional knowledge needed for managing a pension company, experience in managing companies of similar size and type of business,
- has passed the examination for a certified pension fund manager or any other internationally recognized professional examination in the field of investment management approved by the Agency,
- has a valid licence of a certified pension fund manager,
- has good repute,
- no circumstances referred to in Article 15 paragraphs 1 and 2 and Article 122 paragraph 6 of the Act occurred.

## REQUIREMENTS FOR A MEMBER OF THE SUPERVISORY BOARD OF A PENSION COMPANY

### Article 4

A member of the supervisory board of a pension company may be a person who meets the following criteria:

- meets the criteria for a member of the supervisory board pursuant to the Companies Act,
- has adequate professional qualifications and professional knowledge needed for managing a pension company, experience in managing companies of similar size and type of business,
- has good repute,
- no circumstances from Article 15 paragraph 1 and 2 of the Act occurred.

### Article 5

When adopting a decision on the application for the issuance of approval to exercise the function of a member of the management and supervisory board, the Agency shall take into account all the elements which affect the decision about whether a person meets the set requirements, with the goal to ensure the functioning of the pension company in all circumstances and to protect members of pension funds managed by the said pension company.

### Article 6

#### *Professional qualifications and knowledge*

(1) Professional qualifications and knowledge for exercising the function of a member of the management or supervisory board shall be deemed to be possessed by a person who has an appropriate level of education.

(2) An appropriate level education shall mean one of the following educational levels:

- a) undergraduate and graduate university level,
- b) integrated undergraduate and graduate university level,
- c) specialist graduate professional level,
- d) professional undergraduate level lasting at least 4 years, upon which a higher university education degree is obtained,
- e) university undergraduate level, upon which a higher university education degree is obtained.

(3) The provisions referred to in paragraph 2, indents d) and e) of this Article shall apply for persons who completed their education in accordance with the regulations in force before the Act on Scientific Activity and Higher Education (Official Gazette 123/03) entered into force and who have a right to use an appropriate academic or professional title or academic degree determined by the Act on Academic and Professional Titles and Academic Degree, pursuant to Article 120, paragraph 2 of the Act on Scientific Activity and Higher Education.

### Article 7

#### *Good repute*

(1) A person having good repute shall be deemed to be a person: a) with complete business ability b) who is an individual trader or craftsman, provided that no bankruptcy proceedings, pursuant to the Bankruptcy Act, have been initiated or completed over his/her property, c) who has never managed business operations of a company against which bankruptcy proceedings have been initiated, a compulsory winding-up order has

been issued, or who has had his/her operating licence revoked, unless the Agency has determined that the person has not contributed to such circumstances through his/her actions or failure to act, d) who has not been validly sentenced for criminal offences prescribed by the Securities Market Act and the Act on Criminal Offences Against the Capital Market, e) whose approval or licence to conduct certain business operations pursuant to regulations falling within the scope of the Agency or the Croatian National Bank has not been revoked due to non-compliance with relevant regulations, f) against who no investigation has been initiated, i.e. against who no criminal proceedings have been initiated for a criminal offence for which he/she is prosecuted by virtue of the office, g) who has not been validly sentenced for the following criminal offences:

- fraud;
- criminal offence against values protected by international law;
- criminal offence against property, where criminal proceedings are initiated by virtue of the office;
- criminal offence against the safety of payment system and business operations;
- criminal offence against the administration of justice;
- criminal offence against the authenticity of documents;
- criminal offence against official duty;
- criminal offences referred to in the Securities Market Act;
- criminal offences referred to in the Act on Criminal Offences Against the Capital Market;
- criminal offences referred to in the Companies Act.

(2) While assessing a person's good repute, the following shall especially be taken into account:

- previous professional activities and personal integrity of the person,
- supervisory measures and reports to authorised bodies, if any, taken or made by the Agency due to established violations and irregularities in the course of that person's business operations,
- whether any investigation has been initiated, or whether any criminal proceedings have been initiated for a criminal offence for which the person is prosecuted by virtue of the office.

#### Article 8

##### *Experience in managing companies of similar size and type of business*

Experience in managing pension companies of similar size and type of business needed for exercising the function of a member of the management or supervisory board shall comprise the period of:

- two years of working experience in the management of a pension company, investment fund management company, insurance company, pension insurance company, investment company, credit institution, leasing company or housing savings bank or
- six years of working experience in running business comparable to the business of a pension company.

#### APPLICATION FOR THE ISSUANCE OF APPROVAL TO A CANDIDATE TO EXERCISE THE FUNCTION OF A MEMBER OF THE MANAGEMENT BOARD OF A PENSION COMPANY

#### Article 9

The application for the issuance of approval to a candidate to exercise the function of a member of the management board shall be submitted to the Agency on Form 1, which is an integral part of this Ordinance.

#### Article 10

(1) Along with the application referred to in Article 9 of this Ordinance, the following original documents or copies certified by a public notary shall be attached:

- 1 citizenship certificate and a copy of the identity card, or a copy of the passport for foreign citizens,
- 2 certificate of the completion of an adequate educational level;
- 3 curriculum vitae, with detailed information on education and work experience,
- 4 employment record, or for foreign citizens, an equivalent document testifying to the length of service with the current employer,
- 5 certificate from the employer providing data on the person's work experience (name of the company, working period, description of activities and responsibilities), related to the provisions of Article 8 of this Ordinance,
- 6 full-time work contract, precontract or letter of intent, related to the position for which the consent is requested,
- 7 work permit for a foreign citizen and a certificate of permanent residence or habitual abode in the Republic of Croatia from the Ministry of Interior,
- 8 in the case where all candidates for a member of the management board are foreign citizens, at least one member shall have a Croatian language knowledge certificate issued by the competent body,
- 9 proof of good repute issued by the competent body of the Republic of Croatia , i.e. for foreign citizens proof from the competent body of the country of origin ( not older than 6 months),
10. statement from the candidate testifying that:  
-all the criteria for a member of the management board referred to in the Companies Act have

been met, -no circumstances referred to in Article 15 paragraphs 1 and 2 and Article 122 point 6 of the Voluntary and Mandatory Pension Funds Act occurred. The statement shall be signed by the candidate, and the candidate's signature shall be certified by a public notary,

- 10 statement from the candidate testifying that the candidate accepts membership in the management board of the pension company, with the candidate's signature certified by a public notary,
- 11 questionnaire for the candidate for a member of the management board of the pension company (Form 3), which is an integral part of this Ordinance, with a signature certified by a public notary,
- 12 proof that the administrative charges and fees have been paid,
- 13 other documents at the request of the Agency.

(2) For foreign documents referred to in paragraph 1 of this Article, the following shall also be submitted:

- Croatian translation of the (verified, where appropriate) documents, by a certified court interpreter, in its original or copy certified pursuant to law and international regulations (Apostille – The Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents)
- document testifying to the recognition of the university degree for the purpose of employment, issued by an authorised body in the Republic of Croatia.

(3) The documentation referred to in paragraph 1 of this Article shall not be returned.

#### APPLICATION FOR THE ISSUANCE OF APPROVAL TO A CANDIDATE TO EXERCISING THE FUNCTION OF A MEMBER OF THE SUPERVISORY BOARD OF A PENSION COMPANY

##### Article 11

The application for the issuance of approval to a candidate to exercise the function of a member of the supervisory board shall be submitted to the Agency on Form 2, which is an integral part of this

Ordinance.

## Article 12

(1) Along with the application referred to in Article 11 of this Ordinance, the following original documents or copies certified by a public notary shall be attached:

1 Citizenship certificate and a copy of the identity card, or a copy of the passport for foreign citizens,

2 certificate of the completion of an adequate educational level,

3 curriculum vitae, detailed information on education and work experience,

4 employment record, or for foreign citizens, an equivalent document testifying to the length of service with the current employer,

5 certificate from the employer providing data on the person's work experience (name of the company, working period, description of activities and responsibilities), related to the provisions of Article 8 of this Ordinance,

6 in the case where all candidates for a member of the management board are foreign citizens, at least one member shall have a Croatian language knowledge certificate issued by the competent body,

7 proof of good repute issued by the competent body of the Republic of Croatia, i.e. for foreign citizens proof from the competent body of the country of origin (not older than 6 months),

8. Statement from the candidate testifying that:

-all the criteria for a member of the supervisory board referred to in the Companies Act have been met,

-no circumstances referred to in Article 15 paragraphs 1 and 2 of the Voluntary and Mandatory Pension Funds Act occurred. The statement shall be signed by the candidate, and the candidate's signature shall be certified by a public notary,

8 statement from the candidate testifying that the candidate accepts membership in the supervisory board of the pension company, with the candidate's signature certified by a public notary,

9 questionnaire for the candidate for a member of the supervisory board of the pension company (Form 3), which is an integral part of this Ordinance, with a signature certified by a public notary,

10 proof that the administrative charges and fees have been paid,

11 other documents at the request of the Agency.

(2) For foreign documents referred to in paragraph 1 of this Article, the following shall also be submitted:

-Croatian translation of the (verified, where appropriate) documents, by a certified court interpreter, in its original or copy certified pursuant to law and international regulations (Apostille – The Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents)

-document testifying to the recognition of the university degree for the purpose of employment, issued by an authorised body in the Republic of Croatia.

(3) The documentation referred to in paragraph 1 of this Article shall not be returned.

## FINAL PROVISIONS

### Article 13

This Ordinance shall enter into force on the eighth day after the day of its publication in the Official Gazette.

Class: 011-02/11-04/1

Reg. No: 326-01-11-1

Zagreb, 13 January 2011

**Member of the Management Board**



**Form 1**

APPLICATION FOR THE ISSUANCE OF APPROVAL TO A CANDIDATE TO EXERCISE  
THE FUNCTION OF A MEMBER OF THE MANAGEMENT BOARD OF A PENSION  
COMPANY

*Instruction*

The application shall be filled in completely and printed electronically, legible and without subsequent corrections.

*Definition of terms in this application:*

Applicant – the person/company submitting the application

Agency – Croatian Financial Services Supervisory Agency

List the companies the applicant has worked/works at, and the activities he/she has carried out/carries out:

<b>APPLICANT DATA:</b>
Company/Name and surname:
Head office/Residence:
OIB – Personal identification no.:
Phone:
Fax:
E-mail:
Website:
<b>PERSONAL DATA ON THE CANDIDATE FOR THE MANAGEMENT BOARD MEMBER OF THE PENSION COMPANY:</b>
Name:
Surname (and maiden name):
Date and place of birth:
Residence address (city and street):
OIB – Personal identification no.:
<b>IDENTITY CARD INFORMATION:</b>
ID number:
Date of issue:
Place of issue:
<b>PASSPORT INFORMATION (for foreign citizens):</b>
Passport number:
Date of issue:
Place and country of issue:
Certified pension fund manager's licence (number and year of issue/renewal):

<b>EMPLOYMENT DATA</b>
Company and its head office:
OIB – Personal identification no. of the company:
Function of the applicant at the company:
Phone:
Fax:
E-mail
Website:

	Period	Companies the applicant has worked/works at	Activities
1.			

The signatory to this application declares and confirms with his/her signature that the above specified information is truthful and accurate.

Name and surname/Company (applicant):
Name and surname, signature:
1.:

Seal: Date:

**Form 2****APPLICATION FOR THE ISSUANCE OF APPROVAL TO A CANDIDATE TO EXERCISE  
THE FUNCTION OF A MEMBER OF THE SUPERVISORY BOARD OF A PENSION  
COMPANY***Instruction*

The application shall be filled in completely and printed electronically, legible and without subsequent corrections.

*Definition of terms in this application:*

Applicant – the person/company submitting the application

Agency – Croatian Financial Services Supervisory Agency

List the companies the applicant has worked/works at, and the activities he/she has carried out/carries out:

<b>APPLICANT DATA:</b>
Company/Name and surname:
Head office/Residence:
OIB – Personal identification no.:
Phone:
Fax:
E-mail:
Website:
<b>PERSONAL DATA ON THE CANDIDATE FOR THE SUPERVISORY BOARD MEMBER OF THE PENSION COMPANY:</b>
Name:
Surname (and maiden name):
Date and place of birth:
Residence address (city and street):
OIB – Personal identification no.:
<b>IDENTITY CARD INFORMATION:</b>
ID number:
Date of issue:
Place of issue:
<b>PASSPORT INFORMATION (for foreign citizens):</b>
Passport number:
Date of issue:
Place and country of issue:
<b>CONTACT DATA:</b>

Phone:
E-mail:
<b>EMPLOYMENT DATA</b>
Company and its head office:
OIB – Personal identification no. of the company:
Function of the applicant at the company:
Phone:
Fax:
E-mail
Website:

	Period	Company the applicant has worked/works at	Activities
1.			

The signatory to this application declares that all the above specified data is truthful and accurate

Name and surname/Company (applicant):
Name and surname, signature:
1.:

Seal: Date:

**Form 3****QUESTIONNAIRE FOR THE CANDIDATE FOR A MEMBER OF THE MANAGEMENT BOARD/SUPERVISORY BOARD OF A PENSION COMPANY***Instruction*

The application shall be filled in completely and printed electronically, legible and without subsequent corrections.

*Definition of terms in this questionnaire:*

Agency – Croatian Financial Services Supervisory Agency

1 Candidate's personal data:

Name:

Surname/Maiden name:

Date and place of birth:

Residence (city and street):

2 Data on the pension company at which you are applying for a member of the management /supervisory board:

Company name:

Head office:

Function you are applying for:

3 Data on the company you are currently employed at:

Company name:

Head office:

Function you are currently performing:

4 Have you been punished in the last 5 (five) years for committing criminal offences and misdemeanours which include:

	YES	NO
a. counterfeiting of money		
b. counterfeiting of securities		
c. counterfeiting of value tokens		
č. manufacturing, supplying, possessing, selling or providing of instruments of forgery		
ć. forgery of trademarks, measures and weights		
d. concealing illegally acquired money , i.e. money laundering		
dž. violating equality in performing economic activities		
đ. preference of creditors		
e. causing bankruptcy or malpractice in bankruptcy proceedings		
f. malpractice in mandatory settlement or bankruptcy or malpractice in bankruptcy proceedings		
g. deceiving buyers		
h. infringement of industrial property rights and unauthorised use of another's company name		
i. evasion of tax and other levies		

j. violation of the obligation to keep business books		
k. causing damage to the creditors		
l. preference of creditors		
lj. creating a monopolistic position in the market		
m. unfair competition in foreign trade operations		
n. illicit trade in gold		
nj. negligent conduct of economic business activities		
o. abuse of powers in economic business activities		
p. fraud in economic business activities		
r. conclusion of a disadvantageous contract		
s. receiving a bribe in economic business activities		
š. offering a bribe in economic business activities		
t. disclosure and unauthorised procurement of a business secret		
u. illicit manufacturing		
v. illicit trade		
z. avoiding customs control		
ž. forgery of a document		
a.a. forgery of an official document		
a.b. special cases of forgery of a document		
a.c. manufacturing, supplying, possessing, selling or providing means of forging documents		
a.č. certification of untrue content		
a.ć. illegal disclosure and procurement of a business or manufacturer's secret		
a.d. frauds		
a.dž. criminal offences against the administration of justice		
a.ñ. criminal offence against official duty		
a.e. criminal offences against property, where criminal proceedings are initiated by virtue of the office		
a.f. criminal offences , where criminal proceedings are initiated by virtue of the office		
a.g. preparing criminal offences against values protected by international law: international terrorism, endangered safety of persons under international protection, taking hostages, misuse of nuclear materials, hijacking airplanes or vessels		
a.h. assistance to the perpetrator following the perpetration of criminal offences against values protected by international law: international terrorism, endangering safety of persons		
under international protection, taking hostages, misuse of nuclear materials, hijacking airplanes or vessels		
a.i. misdemeanours referred to in the Securities Market Act		

a.j. criminal offences referred to in the Securities Market Act		
a.k. criminal offences referred to in the Act on Criminal Offences against the Capital Market		
a.l. misdemeanours referred to in the Capital Market Act		
a.lj. criminal offences referred to in the Companies Act		
a.m. misdemeanours referred to in the Mandatory and Voluntary Pension Funds Act		
a.n. misdemeanours referred to in the Investment Funds Act		
a.nj. Are there any circumstances referred to in Article 15, paragraph 1 of the Mandatory and Voluntary Pension Funds Act?		

*If your answer to any of these questions is "YES", please provide a detailed explanation:*

1 Dou you own any holdings in the establisher and/or pension company or do you have any other financial relationships (loans, etc.) with the establisher or owner of a holding pension company?

YES

NO

If your answer is YES, please specify:

2 Are you a member of the management board, supervisory board, or a procurator, i.e., do you participate in any other way in the creation and implementation of the business policy of another company or institution?

YES

NO

If your answer is YES, please specify:

Company name:

Address:

Function you are performing:

7. Are you the owner, a co-owner, or do you have any other financial interest in another pension company or any other company?

YES

NO

If your answer is YES, please specify:

Company name:

Address:

Type of relationship:

8. Have the pension companies or other companies or financial institutions in which you held managerial positions (as the chairperson, a member of the management or supervisory board, procurator or in any other way participated in the creation and implementation of business

policy) encountered financial difficulties that resulted in the initiation of financial rehabilitation or bankruptcy proceedings against those companies or financial institutions?

YES

NO

If your answer is YES, please specify:

Company name:

Address:

Function you performed:

3 Have you been a member of the management or supervisory board or a procurator of a

pension company or another company against which bankruptcy proceedings were instituted, or whose operating licence was revoked?

YES

NO

If your answer is YES, please specify:

Company name:

Address:

Function you performed:

□ 10. Have the competent state authorities ever identified operational irregularities or reported a violation of laws regulating the operation of pension companies, or other financial institutions or a violation of the Companies Act in the pension companies or other financial institutions in which you held managerial positions (as the chairperson, a member of the management or supervisory board, procurator, or in any other way participated in the creation and implementation of business policy)?

□ YES

NO

If your answer is YES, please specify:

Company name:

Address:

Function you performed:

Supervisory body:

Measures taken:

4 Have the competent supervisory bodies ever revoked the operating licence from the pension company, another company or another financial institution in which you held managerial positions (as the chairperson, a member of the management or supervisory board, procurator, or in any other way participated in the creation and implementation of business policy)?

YES

NO

If your answer is YES, please specify:

Company name:

Address:

Function you performed:

Supervisory body:

□ 12. Have you ever been prohibited from performing duties partly or fully including business activities of a pension company?

□ YES NO If your answer to any of the questions is YES, please attach a separate document to this Questionnaire providing a detailed explanation of the answer.

5 Have the competent bodies responsible for supervision of pension companies or other financial institutions ever assessed your professional competence and personal integrity, i.e. have you ever been refused or revoked approval to hold a managerial position or perform activities in the said area of operations?

YES

NO

If your answer to any of the questions is YES, please specify:

Supervisory body:

Decision:

6 Do you believe that there are any other facts or circumstances that could, by reasonable judgment, be considered important for the assessment of your suitability for holding the



position of a member of the pension company's management/supervisory board (e.g. facts or circumstances related to your professional qualifications, possible financial difficulties or conflicts of interest)?

YES

NO

If your answer is YES, please specify them:

**SIGNATORY PAGE**

The signatory to this Questionnaire declares that he/she has read the full text of this application form, understood it completely, provided all the above specified data in accordance with his/her personal and professional knowledge and information he/she has at their disposal, and guarantees their accuracy, completeness and truthfulness under criminal and financial liability provisions. The signatory also declares that he/she did not withhold any information which might influence the decision of the Agency and undertakes to promptly inform the Agency of any changes that might have a major effect on granting approval for the appointment.

The signatory of this Questionnaire declares that he/she is acquainted with the fact that provision of untrue data represents a criminal offence.

The applicant' signature on this Questionnaire shall be certified by a public notary.

Place and date:

Name and surname:

Signature of the candidate applying for a member of the management/supervisory board: