

Pursuant to Article 100, paragraph (7) and Article 104, paragraph (3) of the Payment System Act (Official Gazette 66/2018) and Article 43, paragraph (2), item (9) of the Act on the Croatian National Bank (Official Gazette 75/2008 and 54/2013), the Governor of the Croatian National Bank hereby issues the

Decision on safeguarding the payment service users' funds

I GENERAL PROVISIONS

Article 1

(1) This Decision governs:

- 1) the scope of and methodology for the calculation of funds received from payment service users for the purpose of safeguarding the funds;
- 2) the required characteristics of the forms of assets in which the funds received from payment service users are to be invested for the purpose of safeguarding the funds;
- 3) the characteristics of the insurance policy or comparable guarantee to insure the funds received from payment service users for the purpose of safeguarding the funds;
- 4) accounting data that the payment institution shall report separately in the audited annual financial statements.

(2) This Decision shall apply to:

- 1) payment institutions established in the Republic of Croatia, which have been authorised by the Croatian National Bank to provide one or more payment services referred to in Article 4, items (1) to (6) of the Payment System Act;
- 2) small electronic money institutions established in the Republic of Croatia;
- 3) electronic money institutions established in the Republic of Croatia, which have been authorised by the Croatian National Bank to provide one or more payment services referred to in Article 4, items (1) to (6) of the Payment System Act, which are not linked to the issuance of electronic money;
- 4) small electronic money institutions established in the Republic of Croatia, which have been authorised by the Croatian National Bank to provide one or more payment services referred to in Article 4, items (3) to (6) of the Payment System Act, which are not linked to the issuance of electronic money.

Article 2

This Decision transposes the following act of the European Union into the legal system of the Republic of Croatia: Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (Text with EEA relevance)(OJ L 337, 23.12.2015) (hereinafter referred to as 'Directive (EU) 2015/2366').

Article 3

For the purposes of this Decision, the following definitions shall apply:

- 1) "Member State" and "third country" means the countries defined in Article 3, paragraph (1), items (5) and (59) of the Payment System Act.
- 2) "International organisations" means:
 1. the European Union
 2. the International Monetary Fund
 3. the Bank for International Settlements
 4. the European Financial Stability Facility and
 5. the European Stability Mechanism
 6. an international financial institution established by two or more Member States, which has the purpose to mobilise funding and provide financial assistance to the benefit of its members that are experiencing or threatened by severe financing problems;
- 3) "Multilateral development banks" means:
 1. the International Bank for Reconstruction and Development
 2. the International Finance Corporation
 3. the Inter-American Development Bank
 4. the Asian Development Bank
 5. the African Development Bank
 6. the Council of Europe Development Bank
 7. the Nordic Investment Bank
 8. the Caribbean Development Bank
 9. the European Bank for Reconstruction and Development
 10. the European Investment Bank
 11. the European Investment Fund
 12. the Multilateral Investment Guarantee Agency
 13. the International Finance Facility for Immunisation
 14. the Islamic Development Bank.
- 4) "Local and regional self-government" includes units of local and regional self-government. In the Republic of Croatia, the units of local and regional self-government include counties, including the City of Zagreb, cities and municipalities. With regard to the units of local and regional self-government

outside the Republic of Croatia, this category includes religious communities, which are entitled to raise taxes.

- 5) "Institution" means a payment institution, a small payment institution, an electronic money institution and a small electronic money institution referred to in Article 1, paragraph (2) of this Decision.
- 6) "Credit institution" means a credit institution as defined in Article 4, paragraph (1), item (1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012.
- 7) "Investment company" means a legal entity as defined in the Capital Market Act.
- 8) "Undertaking for Collective Investment in Transferable Securities (UCITS)" means an entity as defined in the Capital Market Act.

II SCOPE OF AND METHODOLOGY FOR THE CALCULATION OF RECEIVED FUNDS

Article 4

- (1) An institution shall safeguard the funds received for the execution of payment transactions from payment service users directly or through another payment service provider, 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.
- (2) Where an institution executes a payment transaction for a payer and/or payee, which has been initiated through a payee, the calculation of funds the institution has received for the execution of payment transactions in accordance with paragraph (1) of this Article, shall be determined as the difference between the total amount of inflows from payment services and the total amount of outflows for payment services.
- (3) For the purposes of calculation of the difference referred to in paragraph (2) of this Article, the total amount of inflows from payment services shall be the amount of funds received by the institution from payment service users directly or through another payment service provider for the execution of the payment transaction, and the total amount of executed outflows for payment services shall be the amount of funds delivered or transferred to a payee or another payment service provider for the execution of the payment transaction. Funds received/delivered for the purpose of the collection of interest, fees, commissions and similar shall not be deemed to be funds within the meaning of this Article.
- (4) The difference referred to in paragraph (2) of this Article shall be calculated with each inflow from payment services and each outflow for payment services.
- (5) The institution shall report the accounting data proving compliance with the provisions of paragraphs (1) and (2) of this Article separately in the audited annual financial statements.
- (6) Paragraph (5) of this Article shall not apply to small payment institutions and small electronic money institutions.

III CHARACTERISTICS AND TYPES OF ASSETS IN WHICH FUNDS ARE TO BE INVESTED

Article 5

- (1) An institution may only invest the funds received from payment service users in low-risk and high-liquidity types of assets.

(2) The assets referred to in paragraph (1) of this Article shall include:

- 1) debt securities issued or guaranteed by the Republic of Croatia, the Croatian National Bank, a Member State or the central bank of a Member State, denominated in the currency of the Republic of Croatia or the currency of another Member State;
- 2) debt securities issued or guaranteed by any of the international organisations referred to in Article 3, item (2) of this Decision or by any of the multilateral development banks referred to in Article 3, item (3) of this Decision;
- 3) debt securities issued or guaranteed by a credit institution, an investment company or a company, which have been assessed by an external credit rating assessment institution approved by the European Securities and Markets Authority (ESMA) as corresponding to the credit quality steps 1, 2 or 3; and
- 4) units in UCITS which only invest in the assets referred to in items 1 to 3 of this paragraph.

IV CHARACTERISTICS OF THE INSURANCE POLICY OR A COMPARABLE GUARANTEE TO INSURE THE FUNDS RECEIVED FROM PAYMENT SERVICE USERS

Article 6

(1) An institution may insure the funds received from payment service users by the insurance policy of an insurance company or a comparable guarantee from an insurance company or a credit institution, provided that such an insurance policy or a comparable guarantee:

- 1) has not been issued by an insurance company or a credit institution belonging to the same group as the institution;
- 2) does not have any franchises, deductibles or thresholds that would prejudice the disbursement to payees or to another payment service provider;
- 3) covers specifically determined countries in which the institution is providing or intends to provide a payment service.

V TRANSITIONAL AND FINAL PROVISIONS

Article 7

On the date of the entry into force of this Decision, the Decision on safeguarding the payment service users' funds (Official Gazette 3/2011) shall cease to have effect.

Article 8

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

No.: 249-020/08-18/BV

Zagreb, 8 August 2018

Croatian National Bank
Governor
Boris Vujčić