

NATIONAL PAYMENT SYSTEM ACT

I GENERAL PROVISIONS

Article 1

This Act shall regulate the functioning of the national payment system.

Article 2

"Payment system" shall comprise all payments in kuna among the participants in the payment system.

"Payment system" shall also comprise payments in other currencies among the participants in the payment system, as provided by law.

The participants in the payment system shall be defined as domestic business entities and individuals, as well as foreign juridical and natural persons (hereinafter referred to as: participants) pursuant to specific regulations.

Business entities shall be juridical persons, government authorities, government administration bodies, local and district (regional) government units and natural persons undertaking registered activity in accordance with the regulations.

II PERFORMING PAYMENT OPERATIONS

Article 3

Payment operations shall comprise:

1. opening and managing the participants' accounts,
2. keeping the register of participants' accounts,
3. receiving and checking the validity of payment orders,
4. payment order data processing,
5. cash payments and disbursements,
6. book entry of payment transactions in the accounts,
7. sending and receiving payment transactions in interbank payment systems,
8. keeping records of payment queues and other prescribed records,
9. informing the participants - account owners of the balance and changes in their accounts,
10. filing and keeping documents containing payment transaction data.

Article 4

Payment operations referred to in Article 3 of this Act shall be conducted by the Croatian National Bank and banks.

The provisions of this Act regulating the performance of payment operations in a bank shall refer to the performance of these operations in the Croatian National Bank as well.

Notwithstanding the provision set out in paragraph 1 of this Article, the Croatian Post shall conduct cash payment transactions of natural persons in the name and for the account of Hrvatska poštanska banka.

Transactions referred to in paragraph 3 of this Article may be conducted by the Croatian Post for other banks as well.

Article 5

The Croatian National Bank and banks may, on the basis of a contract, entrust another institution with the performance of all or particular payment operations in their name and for their account (hereinafter referred to as: third party).

The Croatian National Bank and the bank entrusting the operations shall be held accountable and shall compensate for damage arising from the operations performed by the third party in their name and for their account.

Article 6

In performing payment operations, a bank is obliged to ensure the application of the laws and other regulations and to ensure the equality of participants, the protection of money owners' interests and the confidentiality of data in accordance with the regulations.

The Croatian National Bank shall supervise the performance of payment operations within the country.

The Croatian National Bank may suspend a bank's right to perform payment operations in the case that the bank does not perform payment operations in compliance with this Act.

III PAYMENT TRANSACTION ACCOUNTS

Opening and Managing the Accounts

Article 7

Payment transaction accounts are transaction accounts that record money receipts, outlays and balances.

This Act shall not regulate household savings accounts.

Article 8

The payment transaction accounts of participants shall be opened and managed by banks.

Banks' accounts, accounts of the Republic of Croatia and other accounts shall be opened and managed by the Croatian National Bank in accordance with the Act on the Croatian National Bank.

Article 9

Banks shall open the accounts for a participant at the participant's request, on the basis of a contractual relationship or regulations.

The account referred to in paragraph 1 of this Article may have a credit balance, representing the participant's claim on the bank, or a debit balance, representing the participant's liability to the bank with which the account was opened.

Types of Accounts

Article 10

The following accounts shall be opened for business entities by a bank:

1. an account for the regular operations of a business entity,
2. accounts for the organizational units of a business entity,
3. accounts for specific purposes.

Accounts for the organizational units of a business entity and accounts for specific purposes are an integral part of the account for the regular operations of a business entity, unless otherwise specified by law or other regulations. These accounts shall be opened by a bank provided that the business entity holds an account for regular operations with that bank.

Article 11

Participants may open accounts with several banks of their choice, unless otherwise provided by law.

A business entity may open only one account for regular operations with a single bank and only one account for each organizational unit.

A business entity may open several accounts for specific purposes with a single bank according to its needs and the regulations.

If a business entity keeps more than one account for regular operations, it is obliged to determine the account against which payment orders for legal obligations and public revenues, payment orders for securities and instruments of collateral, and payment orders based on court rulings and other seizure documents shall be executed, and where records of outstanding payment orders shall be kept.

A bank may not open an account for regular operations for a business entity with registered arrears in the account referred to in the previous paragraph.

The terms and conditions for opening business entities' accounts shall be prescribed by the Croatian National Bank.

Keeping the Register of Accounts

Article 12

A bank shall keep the register of business entities' accounts opened with that bank.

The content of the register of accounts referred to in paragraph 1 of this Article shall be prescribed by the Croatian National Bank.

Article 13

The accounts in the register of business entities' accounts referred to in Article 12, paragraph 1 of this Act shall form the Unified Register of Business Entities' Accounts.

Banks and the Croatian National Bank shall be the users of the data in the Unified Register of Business Entities' Accounts.

The Croatian National Bank shall determine other users of the data in the Unified Register of Business Entities' Accounts and the keeping and the content of the Unified Register of Business Entities' Accounts.

Article 14

Data on transactions and balances in the participants' accounts shall represent a banking secret in accordance with the provisions of the law governing banking operations.

The data referred to in paragraph 1 of this Article may be provided to another participant with the prior consent of the participant to whom the data relate.

Article 15

A business entity shall be obliged to notify the bank with which its account was opened of any change in data which, pursuant to the provisions of this Act, are entered in the register of accounts kept with the bank within 8 days following the date when these changes have occurred.

Closing the Accounts

Article 16

A bank shall close a participant's account under the terms and conditions set out in the contract, on the basis of the law or other regulations.

All accounts for organizational units and accounts for specific purposes opened with the bank shall be closed prior to closing the account for the regular operations of a business entity.

Article 17

A business entity's account for regular operations may not be closed in the case that it is registered with outstanding payment orders for legal obligations and public revenues, payment orders for securities and instruments of collateral and payment orders based on court rulings and other seizure documents, unless the business entity keeps an account for regular operations in another bank.

Notwithstanding paragraph 1 of this Article, an account for regular operations may be closed in accordance with regulations. In this case, the payment orders referred to in paragraph 1 of this Article shall be recorded in the account of the legal successor or sent back to the order issuer.

If a business entity keeps more than one account for regular operations, the outstanding orders referred to in paragraph 1 of this Article that are to be debited to the account that is being closed shall be submitted by the bank to another bank in which the business entity holds an account for regular operations in accordance with Article 11, paragraph 4 of this Act.

IV PAYMENT METHODS AND FORMS

Payment Methods

Article 18

A business entity is obliged to maintain its funds in the accounts kept with banks and to execute all payments across these accounts.

The terms and methods of cash payments may be prescribed by the Croatian National Bank.

Article 19

Payments across the participants' accounts shall be made on the basis of payment orders.

Payment orders may be issued via magnetic media, electronically, on payment order forms and in some other manner agreed between a bank and a participant.

The Croatian National Bank shall prescribe the content of payment orders and the content and usage of payment order forms.

Article 20

Payments against accounts shall be executed in the manner that payers issue a payment order to debit their accounts and to credit the payees' accounts.

Notwithstanding paragraph 1 of this Article, a payment order to credit the payee's account and to debit the payer's account may be issued by:

1. creditors - payees, on the basis of the collection of matured securities and matured instruments of collateral,
2. authorized bodies, on the basis of legal authorization, and
3. the bank in which the payer's account is held, on the basis of court rulings and other seizure documents and legal authorization.

Payment orders for legal obligations and public revenues, securities, instruments of collateral, court rulings and other seizure documents, as well as orders for collection based on the aforementioned, should be debited to the account determined by the payer as the account for the execution of these orders, pursuant to Article 11, paragraph 4 of this Act.

In addition to the payment orders referred to in item 3, paragraph 2 of this Article, a bank may issue a payment order against the payer's account on the basis of the contracted authorizations of the payer.

Article 21

The payment orders referred to in Article 20 of this Act shall be submitted for execution by order issuers to the bank managing the payer's account.

Payment orders shall be submitted no later than at the value date.

Upon the receipt of a payment order, a bank is obliged to determine the identity of the order issuer. The method for identifying the order issuer shall be determined by the bank.

Payment Forms

Article 22

Payments among participants shall comprise cashless and cash payments and clearing.

Cashless Payment

Article 23

Cashless payment is the transfer of funds from the payer's account to the payee's account.

Cash Payment

Article 24

Cash payment is the direct delivery of cash among participants, cash payment into an account and cash disbursement from an account.

Article 25

Cash payment into an account and cash disbursement from an account shall be initiated by payment orders.

An order to pay cash into an account may be submitted to all banks, regardless of where the account that is being credited is held.

An order to disburse cash from an account shall be submitted to the bank that holds the payer's account.

Clearing

Article 26

Clearing is the mutual settlement of monetary claims and liabilities among the participants without the use of money.

Clearing shall be made by compensation, cession, assignment, debt assumption and other forms of offsetting claims against liabilities.

Article 27

A business entity cannot perform clearing in the case that there are registered arrears in its account for regular operations.

V EXECUTION OF PAYMENTS

Article 28

A bank shall execute a payment order at the value date, within the prescribed term, provided that there are funds for covering such order in the payer's account. The value date is the date when the order is to be executed.

Cover for payment shall include the closing balance from the previous day increased by the inflow of funds during the day and funds borrowed on the basis of overdraft facilities, less payments made in the course of the day prior to the moment of determining cover for payment.

Article 29

Payment orders referred to in Article 20, paragraphs 1 and 4 of this Act that cannot be executed at the value date due to a lack of cover for payment in the payer's account may be returned to the issuer by the bank.

Notwithstanding the provision in paragraph 1 of this Article, a bank shall not return payment orders for legal obligations and public revenue. Such orders shall be registered and executed by the bank after the cover for payment has been assured, according to the prescribed payment queue, or, if the payment queue has not been prescribed, according to their chronological order of receipt by the bank.

Payment orders referred to in Article 20, paragraph 2 of this Act that cannot be executed at the value date due to a lack of cover for payment in the payer's account shall be registered and executed by the bank after the cover for payment has been assured, according to the chronological order of receipt, unless otherwise stipulated by law or other regulations, or shall be returned to the order issuers at their request.

A bank shall execute the payment orders referred to in paragraphs 2 and 3 of this Article from the funds in all the kuna and foreign currency accounts that the payer has opened with that bank in accordance with this Act, excluding the funds in the accounts for specific purposes, if this was stipulated by law or other regulations adopted pursuant to law. In the case of insufficient funds for the full execution of a payment order, the bank shall execute the payment order partially.

Article 30

If there are insufficient funds for the execution of the orders referred to in Article 29, paragraphs 2 and 3 of this Act and the payer holds accounts with other banks, the bank managing the account of the payer to be debited by the payment order shall send a request to the other banks on the same day or no later than on the following working day to block the payer's kuna and foreign currency accounts that are being managed with these banks pursuant to this Act.

The other banks are obliged to act at the bank's request referred to in paragraph 1 of this Article and block the payer's accounts that are being managed with these banks

until the bank referred to in paragraph 1 of this Article notifies that the blocking of accounts can be ceased.

On the first working day following the receipt of the bank notification on the blocking of accounts, the payer shall issue an order to transfer the funds from the blocked accounts referred to in paragraph 2 of this Article to their accounts where outstanding payment orders are registered.

The methods and procedures for executing payment orders referred to in this Article shall be prescribed by the Croatian National Bank.

Article 31

In the case that a payment order for legal obligations and public revenues, securities and instruments of collateral, or court rulings and other seizure documents is debited to a payer's account other than that referred to in Article 11, paragraph 4 of this Act, the bank that manages this account shall execute the payment order on the aforementioned basis up to the amount of cover for payment in the payer's accounts maintained with that bank. The bank shall submit for execution outstanding payment orders, court rulings and other seizure documents to the bank which manages the payer's account referred to in paragraph 4 of Article 11 of this Act no later than on the following working day.

The bank which manages the payer's account referred to in Article 11, paragraph 4 of this Act shall execute the received payment orders, court rulings, and other seizure documents in the manner prescribed by Article 20, paragraph 2, item 3 and Articles 29 and 30 of this Act.

Article 32

If the arrears referred to in Article 29, paragraphs 2 and 3 of this Act are registered in a business entity's account at the expiry date of its time deposit contract with a bank, the contract shall not be extended by the bank.

At the expiry date of the time deposit contract, the bank holding the business entity's time deposits referred to in paragraph 1 of this Article shall credit these funds to the participant's account for regular operations referred to in Article 11, paragraph 4 of this Act.

Execution of Payments Across Bank Accounts

Article 33

Payments across the accounts managed by the same bank shall be executed by that bank at the value date.

**Execution of Payments Across the Accounts
Managed by Different Banks**

Article 34

Payment transactions across the accounts managed by different banks shall be executed through the interbank payment systems (hereinafter referred to as: interbank systems).

The payment transactions referred to in paragraph 1 of this Article shall be sent to the interbank systems by the bank managing the payer's account no later than at the value date.

The bank shall register payments in the payer's account or in the payee's account at the date when such payment is settled in the bank's account with the Croatian National Bank.

Article 35

The Croatian National Bank shall send payment transactions made across the accounts maintained with the Croatian National Bank to the interbank systems in compliance with the provisions set forth in Article 34 of this Act.

Article 36

The interbank payment systems referred to in Article 34, paragraph 1 of this Act shall be determined by the Croatian National Bank.

Article 37

The payment referred to in Article 34 of this Act shall be considered final following the settlement in the payer bank account and payee bank account with the Croatian National Bank.

Exceptionally, the payment referred to in Article 34 of this Act shall be considered final prior to the settlement in the payer bank account and payee bank account under terms and conditions prescribed by the Croatian National Bank.

The settlement method and procedure shall be prescribed by the Croatian National Bank.

Article 38

A bank and a participant shall agree upon the time limit for submitting bank statements and changes in the participant's account with the bank.

In the case that the time limit referred to in paragraph 1 of this Article has not been agreed upon, the reports on the balance and changes in participants' accounts shall be

made available by a bank no later than on the working day following the day when a change in the account has occurred.

Provision of Payment System Data and Information

Article 39

A bank shall keep payment orders and other documents on the basis of which changes in the accounts with the bank have been registered for at least 5 years following the end of the year in which the changes in the accounts based on these payment orders or documents were registered.

Data from the register of accounts shall be kept permanently. Documentation on the basis of which an account was opened and closed shall be kept for 5 years following the end of the year in which the account was closed.

Documents and data referred to in paragraphs 1 and 2 of this Article may be kept in the original form or in some other appropriate form.

Article 40

A bank shall provide data and information on conducted payment transactions in the manner prescribed by law and other regulations.

Article 41

If arrears, referred to in Article 29, paragraphs 2 and 3 of this Act, have been registered in the business entity's account for 60 consecutive days, the bank shall notify thereof the Ministry of Finance - Tax Administration.

Within 30 days following the receipt of the notification referred to in paragraph 1 of this Article, the Ministry of Finance - Tax Administration shall propose the initiation of bankruptcy proceedings against the business entity.

Accountability for Executing Payments

Article 42

A bank shall be held accountable and shall compensate for damages:

- in the case that it does not execute a payment order at the value date, and the order was received within the prescribed time limit and contains all the required elements and there is cover for payment in the payer's account,
- in the case that that it fails to make payment according to the prescribed payment queue,
- in the case that it incorrectly debits or credits an account with a bank,

- in the case that it incorrectly processes data from a payment order,
- in the case that it fails to act in accordance with the provisions of Articles 29 through 32 of this Act,
- for detrimental consequences arising from contracted authorizations to third parties to conduct payment transactions.

Article 43

The order issuers shall be held accountable and shall compensate for damages:

- in the case that a payment order does not contain all the prescribed data,
- in the case that a payment order does not contain correct data,
- in the case that a payment order was rejected due to the non-existence of the account referred to in the payment order,
- in the case that a payment order was not executed at the value date due to insufficient funds in their accounts,
- in the case that a payment order was not executed at the value date since it was submitted to the bank following the expiry of the prescribed time limit.

VI SPECIFIC AUTHORIZATIONS IN THE PAYMENT SYSTEM

Article 44

The Croatian National Bank shall prescribe:

- 1) the content of the account number and bank account number;
- 2) the structure of accounts in a bank;
- 3) the terms and methods of opening accounts with a bank and the content of the register of business entities' accounts;
- 4) the manner of keeping and the content of the Unified Register of Business Entities' Accounts and other users of data from the Unified Register of Business Entities' Accounts;
- 5) the content of payment orders and the content and usage of payment order forms;
- 6) the execution of payment orders from the funds in the payers' accounts managed by different banks;
- 7) the interbank systems, the clearing and settlement rules, the operating procedures and the time schedule for clearing and settlement through the interbank systems;
- 8) settlement across banks' accounts with the Croatian National Bank;
- 9) the payment system data and information which are to be provided by banks;
- 10) the methods and procedures for the supervision of the national payment system;
- 11) other matters in the field of the national payment system.

Article 45

The Minister of Finance of the Republic of Croatia shall prescribe the accounts of the Republic of Croatia and other accounts to be opened and managed with the Croatian National Bank.

The Minister of Finance shall prescribe the content of individual elements of payment orders for taxes and other public revenues and the time limits and the manner of execution of these orders.

VII PENALTY PROVISIONS

Article 46

A bank shall commit a violation:

- if it fails to perform payment operations in compliance with Article 6, paragraph 1 of this Act,
- if it opens an account for a business entity contrary to the provisions set out in Article 10 and Article 11, paragraphs 2 and 5 of this Act,
- if it provides data on transactions and balances in participants' accounts contrary to the provisions set out in Article 14 of this Act,
- if it fails to act in compliance with the provisions set out in Article 16, paragraph 2 and Article 17 of this Act when closing a business entity's accounts,
- if it fails to deliver a payment order against a participant's accounts (Article 20, paragraph 2, item 3) on the basis of court rulings and other seizure documents,
- if it fails to execute a payment order in compliance with the provisions set out in Article 28, paragraph 1 and Article 29, paragraphs 2, 3, and 4 of this Act,
- if it fails to send a request to another bank to block an account (Article 30, paragraph 1),
- if it fails to block an account in compliance with Article 30, paragraph 2 of this Act,
- if it fails to act in compliance with the provisions set out in Articles 31, 32, 33 and 34, paragraphs 2 and 3 of this Act,
- if it fails to make bank statements and changes in account available to participants within the time limits prescribed in Article 38 of this Act,
- if it fails to keep documentation and data for the period prescribed in Article 39, paragraphs 1 and 2 of this Act,
- if it fails to provide data and information on conducted payment transactions in the prescribed manner (Article 40),

- if it fails to notify the authorized bodies of registered arrears in a business entity's accounts (Article 41, paragraph 1),
- if it fails to comply with the regulations based on Article 44 of this Act,
- if it opens a foreign currency account for a business entity or if it concludes a time deposit contract with a business entity contrary to Article 48 of this Act.

In the case of a violation referred to in paragraph 1 of this Article, a bank shall be fined from 50,000.00 to 500,000.00 kuna.

In the case of a violation referred to in paragraph 1 of this Article, the responsible person in the bank shall be fined from 5,000.00 to 50,000.00 kuna.

A petition for initiating court proceedings against a bank shall be filed by the Croatian National Bank or other supervisory authority that detected an offence during the supervision and control procedure.

Article 47

A business entity shall commit a violation:

- if it fails to determine the account against which payment orders for legal obligations and public revenues shall be executed, as well as payment orders for securities and instruments of collateral, orders based on court rulings and other seizure documents (Article 11, paragraph 4),
- if it fails to notify a bank of changes in status and other changes (Article 15),
- if it fails to manage its monetary funds in the accounts with a bank and if it fails to make payments against these accounts (Article 18, paragraph 1),
- if it makes payments contrary to the provision set out in Article 27 of this Act,
- if it fails to act in accordance with Article 30, paragraph 3 of this Act,
- if it fails to act in accordance with Article 48 of this Act.

In the case of a violation referred to in paragraph 1 of this Article, a business entity shall be fined from 10,000.00 to 100,000.00 kuna.

In the case of a violation referred to in paragraph 1 of this Article, the responsible person of the business entity shall be fined from 1,000.00 to 10,000.00 kuna.

A petition for initiating court proceedings against a business entity shall be filed by the bank or other supervisory authority that detected an offence during the supervision and control procedure.

VIII TRANSITIONAL AND FINAL PROVISIONS

Article 48

A business entity may open a foreign currency account with a bank in which it keeps a kuna account for regular operations.

A business entity may make time deposits with a bank in which it keeps an account for regular operations.

Article 49

All participants' accounts held with the Institute for Payment Transactions shall be closed on March 29, 2002.

Article 50

The balance in an account referred to in Article 49 of this Act shall be transferred, at the participant's order, to an account with a bank or by cash payment up to the amount of HRK 100,000.00, in the period from February 1 to March 15, 2002.

In the case that a participant fails to act in compliance with paragraph 1 of this Article, the Institute for Payment Transactions shall transfer the balance from the participant's account at the Institute for Payment Transactions to the bank account where the participant's funds are being maintained, in the period from March 18 to March 29, 2002.

If outstanding payment orders for legal obligations and public revenues, payment orders for securities and instruments of collateral, or payment orders based on court rulings and other seizure documents are registered to an account referred to in Article 49 of this Act, and the business entity has an account with a bank, these orders shall be debited to the business entity's account with the bank.

In the case that a business entity does not hold an account with a bank, the Institute for Payment Transactions shall return the payment orders referred to in paragraph 3 of this Article to the order issuers and shall notify thereof the Ministry of Finance - Tax Administration and the competent commercial court.

The Ministry of Finance - Tax Administration shall propose the initiation of bankruptcy proceedings against the business entity within 30 days from the receipt of the notification referred to in paragraph 4 of this Article.

The instruction for the implementation of paragraphs 1 to 4 of this Article shall be issued by the Croatian National Bank.

Article 51

The Croatian National Bank and the Minister of Finance shall, by the power vested in them by this Act, issue their regulations within 30 days from the day this Act enters into force.

Article 52

As of the day of its application, this Act shall supersede the National Payment System Act (official gazette *Narodne novine*, Nos. 27/93 and 97/2000), apart from Chapter VII, Articles 39 to 53, which shall cease to apply on January 1, 2002.

Article 53

This Act shall enter into force on the eighth day following its publication in the official gazette *Narodne novine* and shall be applied as of April 1, 2002, excluding Articles 8, 45, 49 and 50 which shall be applied as of February 1, 2002.