

# THE CROATIAN PARLIAMENT

3372

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

## DECISION

### PROMULGATING THE ACT ON ELECTRONIC MONEY INSTITUTIONS

I hereby promulgate the Act on Electronic Money Institutions passed by the Croatian Parliament at its session on 26 September 2008.

Class: 011-01/08-01/118

No.: 71-05-03/1-08-2

Zagreb, 2 October 2008

The President of the Republic of Croatia

**Stjepan Mesić, m.p.**

## ACT ON ELECTRONIC MONEY INSTITUTIONS

### I GENERAL PROVISIONS

#### Subject matter

##### Article 1

This Act governs:

- 1) the conditions for the establishment, operation and dissolution of electronic money institutions with registered offices in the Republic of Croatia, as well as their prudential supervision; and
- 2) the conditions under which persons or undertakings with registered offices outside the Republic of Croatia may issue electronic money in the Republic of Croatia.

#### Application of provisions of other acts

##### Article 2

- (1) The Credit Institutions Act shall apply to electronic money institutions in the manner laid down in this Act, together with regulations governing the prevention of money laundering and terrorist financing.

(2) Unless explicitly prescribed in a special law, the rules governing the operation of credit institutions shall not apply to electronic money institutions, with the exception of the rules referred to in paragraph (1) of this Article.

### **Application of the general provisions of the Credit Institutions Act**

#### **Article 3**

The definitions under the heading 'General provisions' of Title I of the Credit Institutions Act shall apply *mutatis mutandis* to electronic money institutions, with the exception of Articles 1, 6 and 11 of that Act.

### **Electronic money institution and electronic money**

#### **Article 4**

(1) 'Electronic money institution' means a credit institution which issues means of payment in the form of electronic money in its own name.

(2) Authorisation of the Croatian National Bank or the waiver referred to in Article 64 of this Act shall be required for the issuance of electronic money.

(3) Credit institutions referred to in Article 2, paragraph (1), first indent of the Credit Institutions Act shall not be deemed institutions referred to in paragraph (1) of this Article.

(4) 'Electronic money' shall mean monetary value as represented by a claim on the issuer of electronic money which is:

- 1) stored on an electronic device;
- 2) issued on receipt of funds of an amount not less in value than the monetary value issued; and
- 3) accepted as means of payment by undertakings other than the issuer.

(5) The receipt of funds from the public in exchange for the issuance of electronic money in an amount exceeding the value of electronic money issued shall constitute the receipt of deposits or other repayable funds within the meaning of Article 4 of the Credit Institutions Act.

(6) The words 'electronic money institution' or derivatives of these words, if contained in the firm name, may be entered in the register of companies or used in legal transactions only by:

- 1) electronic money institutions authorised by the Croatian National Bank;
- 2) electronic money institutions of the Member States which issue electronic money directly or through a branch within the territory of the Republic of Croatia;

- 3) electronic money institutions of third countries which have been authorised by the Croatian National Bank to establish a branch within the territory of the Republic of Croatia;
- 4) members of groups to which institutions referred to in items (1), (2) and (3) of this paragraph belong; and
- 5) representative offices of electronic money institutions of the Member States or third countries which carry out activities within the territory of the Republic of Croatia.

### **Provision of services**

#### **Article 5**

(1) Services related to electronic money shall be:

- 1) the issuance of electronic money;
- 2) financial and non-financial services closely related to the issuance of electronic money, such as the administering of electronic money by the performance of operational and other ancillary functions related to its issuance, and the issuing and administering of other means of payment; and
- 3) the storing of data on the electronic device on behalf of other undertakings or public institutions.

(2) Only credit institutions may issue electronic money.

(3) The issuance of electronic money shall be deemed a mutually recognised service.

### **Ancillary services undertaking**

#### **Article 6**

For the purposes of this Act, 'ancillary services undertaking' means a legal person the principal activity of which is to perform functions related to managing and administering data-processing systems or operational and other ancillary functions related to the issuance and distribution of electronic money, which are ancillary to the principal activity of electronic money institutions.

## **II STATUS PROVISIONS**

### **II.1 APPLICATION OF PROVISIONS OF OTHER ACTS**

#### **Application of the status provisions of the Credit Institutions Act**

##### **Article 7**

The provisions under the heading 'Status provisions' of Title II of the Credit Institutions Act shall apply *mutatis mutandis* to electronic money institutions, with the exception of Articles 28 to 30, 48 and 49 of that Act.

**Application of the provisions of the Companies Act**  
**Article 8**

The provisions of the Companies Act shall apply to electronic money institutions, unless otherwise prescribed in this Act.

**II.2 INITIAL CAPITAL AND SHARES OF AN ELECTRONIC MONEY INSTITUTION**

**Initial capital of an electronic money institution**  
**Article 9**

The initial capital of an electronic money institution shall not be less than HRK 8 million.

**Legal form of electronic money institutions**  
**Article 10**

(1) An electronic money institution may be established as a joint stock company or a limited liability company.

(2) The shares of an electronic money institution established as a joint stock company must be registered and fully paid-up in cash before the institution is entered into the register of companies, and before any increase in the initial capital is entered into the register. The shares of an electronic money institution established as a joint stock company shall be issued in non-material form.

(3) The shares of an electronic money institution established as a limited liability company must be fully paid-up in cash before the institution is entered into the register of companies, and before any increase in the initial capital is entered into the register.

**II.3 MANAGEMENT BOARD AND SUPERVISORY BOARD**

**Management board and supervisory board**  
**Article 11**

(1) The management board of an electronic money institution shall ensure that the electronic money institution operates in compliance with professional rules and standards, this Act, regulations adopted under this Act, and other regulations governing the establishment, operation and dissolution of credit institutions.

(2) An electronic money institution established as a limited liability company shall establish a supervisory board. The provisions of the Credit Institutions Act on

supervisory board members, and on their competence, duties and responsibilities shall apply *mutatis mutandis* to the supervisory board of an electronic money institution.

### **Notification to the supervisory board**

#### **Article 12**

(1) The management board of an electronic money institution shall notify the supervisory board of the electronic money institution in writing and without delay if:

- 1) the liquidity or solvency of the institution is jeopardised;
- 2) reasons for expiry or withdrawal of authorisation or of approval to issue electronic money arise;
- 3) own funds fall below the minimum amount prescribed in Article 31 of this Act;
- 4) the investments of the electronic money institution prescribed in Article 32, paragraph (1) of this Act fall below the amount of financial liabilities related to outstanding electronic money;
- 5) the electronic money institution exceeds the limit on exposures to a single person due to the reduction of its own funds or increases its exposures as a result of circumstances beyond its control; or
- 6) the Croatian National Bank or other supervisory authorities take measures against the electronic money institution within the scope of supervision or oversight.

(2) Members of the management board of an electronic money institution shall notify the supervisory board of the electronic money institution in writing and without delay of:

- their appointment to or removal from the supervisory body of another legal person; and
- legal arrangements on the basis of which management board members or their immediate family members have, directly or indirectly, acquired shares or holdings in a legal person on the basis of which management board members together with their immediate family members have acquired a qualifying holding in that legal person or on the basis of which their holdings have been reduced below the qualifying holding threshold.

(3) The management board of an electronic money institution shall notify the Croatian National Bank without delay of the events referred to in paragraph (1), items (1) to (5) of this Article.

### **III AUTHORISATION TO PROVIDE SERVICES**

#### **Application of the provisions of the Credit Institutions Act governing the provision of services**

#### **Article 13**

The provisions under the heading 'Provision of banking and/or financial services' of Title III of the Credit Institutions Act shall apply *mutatis mutandis* to electronic money institutions, with the exception of Articles 56, 58 to 60, 72, 74, 79, 81, 82, 87 and 91 of that Act.

### **Issuance of electronic money**

#### **Article 14**

(1) Within the territory of the Republic of Croatia, electronic money may be issued only by:

- 1) electronic money institutions with registered offices in the Republic of Croatia that have been authorised by the Croatian National Bank;
- 2) electronic money institutions that have received the waiver referred to in Article 64 of this Act from the Croatian National Bank (hereinafter: electronic money institutions operating under a waiver);
- 3) other credit institutions with registered offices in the Republic of Croatia to which the Croatian National Bank granted approval to issue electronic money within the meaning of Article 5, paragraph (1), item (9) of the Credit Institutions Act;
- 4) credit institutions of other Member States that have established branches within the territory of the Republic of Croatia in accordance with the Credit Institutions Act or have been authorised to directly issue electronic money within the territory of the Republic of Croatia; and
- 5) branches of credit institutions of third countries that have been authorised by the Croatian National Bank to establish a branch within the territory of the Republic of Croatia.

(2) The credit institutions referred to in paragraph (1), item (4) of this Article that have been established as electronic money institutions may not, without the prior approval of the Croatian National Bank, provide services other than the service of issuing electronic money within the territory of the Republic of Croatia.

### **Prohibition on the issuance of electronic money**

#### **Article 15**

Persons or undertakings other than those referred to in Article 14, paragraph (1) of this Act shall be prohibited from issuing electronic money in the Republic of Croatia.

### **Prohibition on carrying out activities and providing services**

#### **Article 16**

An electronic money institution shall not carry out any business activities other than the provision of those services referred to in Article 5, paragraph (1) of this Act for which it has been authorised by the competent authority. In particular it may not provide services the economic substance of which is similar to the granting of any form of credit.

**Authorisation**  
**Article 17**

(1) An electronic money institution shall receive authorisation from the Croatian National Bank.

(2) The authorisation referred to in paragraph (1) of this Article shall include approval to issue electronic money in its own name.

(3) The authorisation referred to in paragraph (1) of this Article may also include authorisation to provide the services referred to in Article 5, paragraph (1), items (2) and (3) of this Act (hereinafter: authorisation to provide other services).

(4) After an electronic money institution obtains authorisation, it may be entered in the register of companies.

**Authorisation to provide other services**  
**Article 18**

(1) An electronic money institution which has its registered office in the Republic of Croatia, or a branch of an electronic money institution of a third country, shall obtain authorisation from the Croatian National Bank to provide other services referred to in Article 5, paragraph (1), items (2) and (3) of this Act before it may enter the services it intends to provide in the register of companies.

(2) The Croatian National Bank shall decide on the authorisation referred to in paragraph (1) of this Article at the same time as it decides on the authorisation of the electronic money institution, unless the application for authorisation to provide other services is submitted after the electronic money institution referred to in paragraph (1) of this Article has been granted authorisation.

**Refusing applications for authorisation**  
**Article 19**

In addition to the cases referred to in Article 65 of the Credit Institutions Act, the Croatian National Bank shall refuse an application for authorisation:

- 1) if the electronic money institution is not organised in accordance with this Act or if the conditions for the operation of electronic money institutions laid down in this Act or regulations adopted under this Act have not been met;
- 2) if the provisions of the Articles of Association of the electronic money institution are contrary to this Act or regulations adopted under this Act;
- 3) if it is evident from the documentation and from other available information that the electronic money institution fails to meet the personnel, organisational and

technical requirements for the provision of the services referred to in Article 5, paragraph (1) of this Act in the manner and scope envisaged in its business plan; or  
4) if it is evident from the application and the accompanying documentation that the electronic money institution fails to meet other requirements for the provision of the services referred to in Article 5, paragraph (1) of this Act, which are covered by the application for authorisation.

### **Reasons for withdrawal of authorisation**

#### **Article 20**

The Croatian National Bank may adopt a decision to withdraw authorisation:

- 1) where any of the reasons referred to in Article 67 of the Credit Institutions Act arise;
- 2) where an electronic money institution fails to maintain the level of own funds in accordance with Article 31 of this Act or fails to meet other operating conditions in accordance with regulations adopted under Article 37 of this Act;
- 3) where an electronic money institution fails to organise its operation in the manner prescribed in Title II of this Act or regulations adopted under this Act;
- 4) where an electronic money institution fails to redeem electronic money when asked by a bearer of electronic money in the manner and under the conditions laid down in the contract; or
- 5) where an electronic money institution is not able to meet its due and payable obligations under the contract.

### **Provision of services in another Member State**

#### **Article 21**

(1) An electronic money institution which has its registered office in the Republic of Croatia may issue electronic money through a branch or directly within the territory of another Member State.

(2) In the case referred to in paragraph (1) of this Article, an electronic money institution may provide other services where so permitted by the regulations of the host Member State and where authorised for the provision of such services by the Croatian National Bank.

### **Provision of services in a third country**

#### **Article 22**

(1) An electronic money institution which has its registered office in the Republic of Croatia may issue electronic money in a third country only through a branch.

(2) Before establishing a branch in a third country, an electronic money institution shall obtain authorisation from the Croatian National Bank.

## **Provision of services by electronic money institutions of other Member States**

### **Article 23**

(1) An electronic money institution of another Member State may establish a branch in the Republic of Croatia and issue electronic money through that branch under the conditions laid down in this Act.

(2) An electronic money institution of another Member State, which is authorised to issue electronic money in the home Member State, may on a temporary basis directly issue electronic money within the territory of the Republic of Croatia under the conditions laid down in this Act.

(3) The provisions of the Credit Institutions Act shall apply *mutatis mutandis* to the establishment procedures for branches of electronic money institutions of other Member States and to the commencement of the issuance of electronic money by electronic money institutions of other Member States.

## **Application of other provisions of this Act and other regulations to electronic money institutions of other Member States**

### **Article 24**

(1) Article 86, paragraph (1) of the Credit Institutions Act and the provisions of this Act relating to consumer protection shall apply *mutatis mutandis* to electronic money institutions of other Member States issuing electronic money directly within the territory of the Republic of Croatia.

(2) In addition to the provisions referred to in paragraph (1) of this Article, Article 86, paragraph (2) of the Credit Institutions Act, and the provisions of this Act and regulations adopted under this Act relating to reports and information required for performing activities within the competence of the Croatian National Bank in the field of monitoring liquidity risk shall apply *mutatis mutandis* to electronic money institutions of other Member States providing mutually recognised services within the territory of the Republic of Croatia through branches.

## **Provision of services through branches of electronic money institutions of third countries**

### **Article 25**

(1) Electronic money institutions of third countries may issue electronic money within the territory of the Republic of Croatia only through branches.

(2) Electronic money institutions of third countries intending to establish branches within the territory of the Republic of Croatia shall obtain authorisation from the Croatian National Bank.

(3) Branches of electronic money institutions of third countries may be entered in the register of companies after obtaining the authorisation referred to in paragraph (2) of this Article.

(4) The provisions of the Credit Institutions Act shall apply *mutatis mutandis* to the establishment procedures and dissolution of branches of electronic money institutions of third countries.

**Application of other provisions of this Act to branches of electronic money institutions of third countries**

**Article 26**

In addition to the provisions applicable under Article 90 of the Credit Institutions Act, the provisions of this Act relating to the following shall apply to branches of electronic money institutions of third countries:

- 1) the management board of an electronic money institution (Articles 11 and 12);
- 2) risk management and capital adequacy (Articles 27 to 35);
- 3) risk management regulations (Article 37);
- 4) public disclosure (Articles 43 to 46);
- 5) internal control systems (Articles 47 to 48);
- 6) supervision of electronic money institutions (Article 51);
- 7) supervisory measures (Articles 53 to 55);
- 8) consumer protection (Articles 58 to 63); and
- 9) penal provisions (Articles 74 to 76).

**IV RISK MANAGEMENT**

**Application of the provisions of the Credit Institutions Act governing risk management**

**Article 27**

The provisions under the heading 'Risk management' of Title IV of the Credit Institutions Act shall apply *mutatis mutandis* to electronic money institutions, with the exception of Articles 96 to 98, 102, 106 to 108, 110, 111, 113, 115 to 118, 120 and 125 of that Act.

**Risk management**

**Article 28**

- (1) For the purpose of hedging market risks, electronic money institutions may use:
- 1) sufficiently liquid interest-rate and foreign-exchange-related items in the form of exchange-traded derivative instruments where they are subject to daily margin requirements; and
  - 2) foreign exchange contracts with an original maturity of 14 calendar days or less.

(2) The use of derivative instruments referred to in paragraph (1) of this Article is permissible only if particular items are effectively hedged against specific market risk.

(3) Electronic money institutions shall establish sound and prudent management, administrative and accounting procedures and adequate internal control mechanisms as prescribed in this Act.

(4) The procedures and mechanisms referred to in paragraph (3) of this Article must respond to the financial and non-financial risks to which the institution is exposed, including operational risks such as technical and procedural risks as well as risks connected to its cooperation with any undertakings performing operational or other ancillary functions related to its business activities.

### **Compliance with requirements on an individual and consolidated basis**

#### **Article 29**

Electronic money institutions shall comply with the provisions of Articles 31, 32 and 33 of this Act on an individual and consolidated basis.

## **V CAPITAL ADEQUACY**

### **Application of the provisions of the Credit Institutions Act governing capital adequacy**

#### **Article 30**

The provisions under the heading 'Capital adequacy' of Title V of the Credit Institutions Act shall not apply to electronic money institutions.

### **Own funds**

#### **Article 31**

(1) In order to ensure safe and stable operations and to be able to meet obligations to their creditors, electronic money institutions shall maintain an adequate level of own funds.

(2) Own funds of electronic money institutions shall consist of original own funds and additional own funds prescribed by the Croatian National Bank.

(3) Own funds of electronic money institutions shall not fall below the minimum amount of initial capital prescribed in Article 9 of this Act.

(4) Electronic money institutions shall have at all times own funds which are equal to or above 2 percent of the higher of:

- 1) the current amount of their financial liabilities related to outstanding electronic money; or
- 2) the average of the preceding six months' total amount of their financial liabilities related to outstanding electronic money.

(5) By way of derogation from paragraph (4) of this Article, where an electronic money institution has not completed a six months' period of business, including the day it starts up, it shall have at all times own funds which are equal to or above 2 percent of the higher of:

- 1) the current amount of its financial liabilities related to outstanding electronic money; or
- 2) the six months' target total amount of its financial liabilities related to outstanding electronic money.

### **Liquidity reserves** **Article 32**

(1) Electronic money institutions shall have investments of an amount no less than their financial liabilities related to outstanding electronic money in highly liquid low risk assets:

- 1) non-risky asset items which are highly liquid; or
- 2) demand deposits held with credit institutions with acceptable ratings; or
- 3) debt securities which are issued by undertakings with acceptable ratings.

(2) Investments referred to in paragraph (1), items (2) and (3) of this Article may not exceed 20 times the own funds of the electronic money institution concerned.

(3) An electronic money institution shall notify the Croatian National Bank without delay if the value of the assets referred to in paragraph (1) of this Article falls below the amount of financial liabilities related to outstanding electronic money.

## **VI LARGE EXPOSURES**

### **Application of the provisions of the Credit Institutions Act governing large exposures** **Article 33**

The provisions under the heading 'Large exposures' of Title VI of the Credit Institutions Act shall apply *mutatis mutandis* to electronic money institutions.

## **VII HOLDINGS IN OTHER ELECTRONIC MONEY INSTITUTIONS AND ANCILLARY SERVICES UNDERTAKINGS**

### **Application of the provisions of the Credit Institutions Act governing holdings in non-financial institutions**

## **Article 34**

The provisions under the heading 'Holdings in non-financial institutions and tangible assets' of Title VII of the Credit Institutions Act shall not apply to electronic money institutions, with the exception of Article 160 of that Act.

### **Limits on holdings**

## **Article 35**

(1) An electronic money institution may neither establish another legal person nor acquire, directly or indirectly, holdings in the capital or the voting rights of another legal person.

(2) The prohibition referred to in paragraph (1) of this Article shall not apply to the establishment or acquisition of holdings in the capital or the voting rights of other electronic money institutions or ancillary services undertakings established by the electronic money institution concerned.

## **VIII RISK MANAGEMENT REGULATIONS**

### **Application of the provisions of the Credit Institutions Act governing risk management**

## **Article 36**

The provisions under the heading 'Risk management regulations' of Title VIII of the Credit Institutions Act shall not apply to electronic money institutions.

### **Risk management regulations**

## **Article 37**

The Croatian National Bank may prescribe in detail:

- 1) regarding the calculation of own funds on an individual or consolidated basis:
  - the characteristics and types of items to be included in the calculation of own funds;
  - the method and scope of inclusion of individual items in the calculation of individual components of own funds;
- 2) the characteristics of individual forms of assets referred to in Article 32, paragraph (1) of this Act;
- 3) regarding risk management rules:
  - general risk management rules;
  - market risk management rules;
  - the method of calculating liquidity positions and liquidity risk management rules;
  - operational risk management rules;
- 4) the method of calculating large exposures, rules on procedures for calculating concentration risk including large exposures, exposures to persons in a special

relationship with the institution and exposures to collateral providers, and exemptions from the limits referred to in Articles 150 and 151 of the Credit Institutions Act;

5) the allocation of reserves for general risks, the method of calculating individual and all open positions and of the largest permitted difference between these positions, and limits determining special conditions for the operation of electronic money institutions;

6) provisions for litigation costs and legal risk; and

7) contents of reports and notifications delivered to the Croatian National Bank and the time limits for and the method of reporting to the Croatian National Bank.

## **IX REPORTING TO THE CROATIAN NATIONAL BANK**

### **Application of the provisions of the Credit Institutions Act governing reporting to the Croatian National Bank**

#### **Article 38**

The provisions under the heading 'Reporting to the Croatian National Bank' of Title IX of the Credit Institutions Act shall apply *mutatis mutandis* to electronic money institutions.

## **X OUTSOURCING OF BUSINESS ACTIVITIES**

### **Application of the provisions of the Credit Institutions Act governing outsourcing of business activities**

#### **Article 39**

The provisions under the heading 'Outsourcing of business activities' of Title X of the Credit Institutions Act shall apply *mutatis mutandis* to electronic money institutions.

## **XI DEPOSIT INSURANCE**

### **Application of the provisions of the Credit Institutions Act governing deposit insurance**

#### **Article 40**

The provisions under the heading 'Deposit insurance' of Title XI of the Credit Institutions Act shall not apply to electronic money institutions.

## **XII BANKING SECRECY**

### **Application of the provisions of the Credit Institutions Act governing banking secrecy**

#### **Article 41**

The provisions under the heading 'Banking secrecy' of Title XII of the Credit Institutions Act shall apply *mutatis mutandis* to electronic money institutions.

### **XIII BUSINESS BOOKS AND FINANCIAL STATEMENTS**

#### **Application of the provisions of the Credit Institutions Act governing business books and financial statements**

##### **Article 42**

The provisions under the heading 'Business books and financial statements' of Title XIII of the Credit Institutions Act shall apply *mutatis mutandis* to electronic money institutions.

### **XIV PUBLIC DISCLOSURE**

#### **Application of the provisions of the Credit Institutions Act governing public disclosure**

##### **Article 43**

The provisions under the heading 'Public disclosure' of Title XIV of the Credit Institutions Act shall not apply to electronic money institutions.

#### **Public disclosure by electronic money institutions**

##### **Article 44**

(1) Electronic money institutions shall publicly disclose, on an individual and consolidated basis, general information on the areas of their operation, in particular regarding:

- 1) risk management objectives and policies;
- 2) persons to which disclosed information relates as well as other information relating to such persons;
- 3) own funds;
- 4) compliance with the requirements prescribed in Articles 9 and 31 of this Act; and
- 5) other areas prescribed by the Croatian National Bank.

(2) The Croatian National Bank may require from an electronic money institution one or more additional public disclosures that have not been listed in paragraph (1) of this Article.

(3) Electronic money institutions shall adopt policies for compliance with public disclosure requirements, for assessing the appropriateness of disclosed information, and for their verification and frequency of disclosure.

#### **Exemptions from public disclosure**

## **Article 45**

(1) Exceptionally, an electronic money institution shall not be required to disclose one or more items of information referred to in Article 44, paragraph (1) of this Act where they are not material. Information shall be regarded as material in public disclosures where its omission or misstatement could change or influence the assessment or economic decision of a user relying on that information for the purpose of making economic decisions.

(2) Exceptionally, an electronic money institution shall not be required to disclose one or more items of information referred to in Article 44, paragraphs (1) and (2) of this Act where they are regarded as confidential or as information whose disclosure could undermine the institution's competitive position or render its investments less valuable.

(3) In the cases referred to in paragraph (2) of this Article, an electronic money institution shall state in its public disclosures the fact that specific items of information are not disclosed, the reason for non-disclosure and publish more general information about the subject matter, except in cases where such information is deemed to be the information referred to in paragraph (2) of this Article.

## **Method of and time limits for public disclosure**

### **Article 46**

(1) An electronic money institution shall publicly disclose on its web site the information referred to in Article 44 of this Act on an annual basis at a minimum.

(2) For the purpose of public disclosure referred to in Article 44 of this Act, an electronic money institution shall verify the validity of information. The verification of the validity of information shall be carried out by the internal audit function.

(3) The Croatian National Bank shall prescribe the content of and time limits for disclosure of the information referred to in Article 44 of this Act.

## **XV INTERNAL CONTROL SYSTEMS**

### **Application of the provisions of the Credit Institutions Act governing internal control systems**

#### **Article 47**

The provisions under the heading 'Internal control systems' of Title XV of the Credit Institutions Act shall apply *mutatis mutandis* to electronic money institutions, with the exception of Article 183, paragraph (2) of that Act.

## **Internal audit**

### **Article 48**

An electronic money institution may entrust the carrying out of internal audits to an audit firm or to one or more persons not employed with the institution in question, provided that at least one of these persons has attained the title of auditor or internal auditor in accordance with the law governing audits or in accordance with the rules and programme of a professional organisation competent for professional education of internal auditors.

## **XVI RELATIONSHIP BETWEEN THE CROATIAN NATIONAL BANK AND EXTERNAL AUDITORS**

### **Application of the provisions of the Credit Institutions Act governing external audit**

#### **Article 49**

The provisions under the heading 'Relationship between the Croatian National Bank and external auditors' of Title XVI of the Credit Institutions Act shall apply *mutatis mutandis* to electronic money institutions.

## **XVII SUPERVISION OF ELECTRONIC MONEY INSTITUTIONS**

### **Application of the provisions of the Credit Institutions Act governing supervision of credit institutions**

#### **Article 50**

The provisions under the heading 'Supervision of credit institutions' of Title XVII of the Credit Institutions Act shall apply *mutatis mutandis* to electronic money institutions, with the exception of Articles 219 and 220 of that Act.

### **Annual supervision fees**

#### **Article 51**

(1) Electronic money institutions with registered offices in the Republic of Croatia and branches of electronic money institutions with registered offices outside the Republic of Croatia shall pay supervision fees to the Croatian National Bank. The Croatian National Bank shall lay down the amount and method of calculating and paying supervision fees.

(2) The basis for the calculation of annual supervision fees charged to electronic money institutions with registered offices in the Republic of Croatia shall be the average of the preceding six months' total amount of their financial liabilities related to outstanding electronic money. The basis for the calculation of annual supervision fees charged to branches of electronic money institutions with registered offices

outside the Republic of Croatia shall be the average of the preceding six months' total amount of their financial liabilities related to outstanding electronic money in respect of their operations in the Republic of Croatia.

## **XVIII COOPERATION WITH COMPETENT AUTHORITIES AND EXCHANGE OF INFORMATION**

### **Application of the provisions of the Credit Institutions Act governing cooperation with competent authorities and exchange of information**

#### **Article 52**

The provisions under the heading 'Cooperation with competent authorities and exchange of information' of Title XVIII of the Credit Institutions Act shall apply *mutatis mutandis* to electronic money institutions, with the exception of Article 227, paragraph (1) of that Act.

## **XIX SUPERVISORY MEASURES**

### **Application of the provisions of the Credit Institutions Act governing supervisory measures**

#### **Article 53**

The provisions under the heading 'Supervisory measures' of Title XIX of the Credit Institutions Act shall apply *mutatis mutandis* to electronic money institutions, with the exception of Articles 236 and 237 of that Act.

### **Types of supervisory measures**

#### **Article 54**

(1) The Croatian National Bank may:

- 1) order the supervisory board to remove a member or members of the management board from office and appoint a new member or members of the management board of an electronic money institution;
- 2) order the management board of an electronic money institution to adopt and ensure the implementation of a plan of measures to ensure the minimum capital required under Articles 9 and 31 of this Act;
- 3) order an electronic money institution to convene a general meeting and propose appropriate steps, such as the increase in capital, removal of a member or members of the supervisory board from office and appointment of a new member or members of the supervisory board;
- 4) temporarily prohibit the electronic money institution from:
  - concluding transactions with individual shareholders, members of the management or supervisory board, procurators, undertakings having close links with the electronic money institution, and persons connected with the electronic money institution;

- carrying out particular or all activities of a certain type, broadening its branch network, or introducing new products, or it may restrict the introduction of new products;
- further issuing electronic money;
- receiving new deposits or other repayable funds from the public;
- distributing dividends or any other form of profit;
- 5) limit increases in the assets of an electronic money institution;
- 6) order the reduction of operating expenses, including restrictions on salaries and other income of members of the management and supervisory board and employees of an electronic money institution;
- 7) order the implementation of measures imposing specific operating conditions on an electronic money institution;
- 8) order the sale of tangible and other assets of an electronic money institution;
- 9) order the shareholders to sell shares of an electronic money institution or order an electronic money institution to sell shares or holdings or to wind-up a subsidiary of the electronic money institution;
- 10) order the management board of an electronic money institution to adopt and implement measures to:
  - change the areas of operation or the structure of services provided by the electronic money institution;
  - limit investments,
  - reduce or limit exposures of the electronic money institution;
  - correctly evaluate on- and off-balance sheet items;
  - improve governance arrangements in accordance with Articles 27 to 33 of this Act;
  - improve the accounting and information systems;
  - improve the internal control and internal audit systems;
- 11) order an electronic money institution to apply a specific provisioning policy or treatment of assets in terms of capital requirement calculation in accordance with Article 31 of this Act;
- 12) order an electronic money institution to reduce the risk inherent in the activities, products and systems of the electronic money institution in its subsequent operations;
- 13) order the supervisory board of an electronic money institution to appoint appropriate committees for specific areas of operation within the competence of the supervisory board;
- 14) impose other measures on an electronic money institution; or
- 15) impose other measures in the course of oversight of the implementation of other laws.

(2) By way of derogation from Article 32, paragraph (1) of this Act, the Croatian National Bank may, for a temporary period only, allow the institution's financial liabilities related to outstanding electronic money to be backed by other forms of assets.

- (3) Other forms of assets referred to in paragraph (2) of this Article shall not exceed the lower of:
- the amount of 5 percent of financial liabilities related to outstanding electronic money; or
  - the institution's total amount of own funds.

**Own funds requirement in excess of the minimum level**  
**Article 55**

(1) The Croatian National Bank shall order an electronic money institution to hold own funds in excess of the minimum level prescribed in this Act if it has been established in the course of supervision that its minimum own funds do not ensure the coverage of all risks and the adequate management of the risks to which the electronic money institution is or might be exposed, and if the electronic money institution has not established and/or does not consistently implement:

- 1) adequate governance arrangements in accordance with the provisions of Article 113 of the Credit Institutions Act and risk management regulations; or
- 2) sound administrative and accounting procedures and adequate internal control systems for identifying and monitoring large exposures.

(2) The Croatian National Bank shall order an electronic money institution to hold own funds in excess of the minimum level referred to in Article 31 of this Act if the Croatian National Bank establishes that it is unlikely that the measures referred to in Article 54 of this Act will improve the risk management system within the specified time limit.

(3) In the decision to order an electronic money institution to hold own funds in excess of the minimum level referred to in Article 31 of this Act, the Croatian National Bank may also impose other measures referred to in Article 54 of this Act.

**XX REORGANISATION, WINDING-UP AND BANKRUPTCY OF  
ELECTRONIC MONEY INSTITUTIONS**

**Application of the provisions of the Credit Institutions Act governing  
reorganisation, winding-up and bankruptcy of credit institutions**  
**Article 56**

The provisions under the headings 'Special administration and special management', 'Winding-up of credit institutions', 'Bankruptcy of credit institutions' and 'Reorganisation measures, winding-up and bankruptcy proceedings with international implications' of Titles XX, XXI, XXII and XXIX of the Credit Institutions Act shall apply *mutatis mutandis* to electronic money institutions.

**XXI SUPERVISION ON A CONSOLIDATED BASIS**

**Application of the provisions of the Credit Institutions Act governing supervision  
on a consolidated basis**

**Article 57**

The provisions under the heading 'Supervision on a consolidated basis' of Title XXIII of the Credit Institutions Act shall apply *mutatis mutandis* to electronic money institutions.

**XXII CONSUMER PROTECTION**

**Application of the provisions of the Credit Institutions Act governing consumer  
protection**

**Article 58**

The provisions under the heading 'Consumer protection' of Title XXIV of the Credit Institutions Act shall apply *mutatis mutandis* to electronic money institutions, with the exception of Articles 305 to 308 of that Act.

**Application of the provisions of this Act governing consumer protection**

**Article 59**

The provisions of this Act governing consumer protection shall apply *mutatis mutandis* to the credit institutions referred to in Article 2, paragraph (1), first indent of the Credit Institutions Act.

**Service contracts and disclosure of general operating conditions**

**Article 60**

(1) An electronic money institution shall conclude a contract with a consumer on the issuance of electronic money or on the provision of a particular service referred to in Article 5 of this Act, in writing and in the Croatian language, and shall deliver at least one copy to the consumer.

(2) In good time before concluding the contract referred to in paragraph (1) of this Article, the electronic money institution shall provide the consumer, on paper or on other durable medium, with all the relevant terms and conditions of the contract which clearly indicate the rights and obligations of the contracting parties. At the consumer's request, the electronic money institution shall provide the consumer with a draft of the contract referred to in paragraph (1) of this Article.

(3) The contract referred to in paragraph (1) of this Article may be concluded by means of an advanced electronic signature, unless a special law or a regulation adopted under that law explicitly requires that paper documents must be personally signed or that signatures must be authenticated.

(4) An electronic money institution shall disclose to consumers its general operating conditions, including information on the conditions for providing services, in a clear, concise and prominent way in the Croatian language and in an appropriate place in its business premises where it provides services to consumers.

(5) In addition to the method of providing information to consumers referred to in paragraph (4) of this Article, an electronic money institution may provide the same information in other appropriate manners.

(6) An electronic money institution shall disclose amendments to its general operating conditions in the manner referred to in paragraphs (4) and (5) of this Article at least fifteen days before their entry into force.

(7) The information referred to in paragraph (4) of this Article related to the issuance of electronic money shall include the following data:

- 1) the period of validity of electronic money;
- 2) the time limit for redemption, redemption fee, minimum threshold for redemption and other conditions of redemption;
- 3) service fees;
- 4) ways to access information on outstanding electronic money; and
- 5) risks associated with the use of electronic money.

### **Redeemability of electronic money**

#### **Article 61**

(1) An electronic money institution shall, when asked by a bearer of electronic money, redeem electronic money at par value in coins and banknotes or by a transfer to an account with a credit institution designated by the bearer.

(2) The redemption process shall not be unduly impeded.

(3) An electronic money institution shall carry out redemption within a period not longer than the period necessary to carry out procedures relating to the prevention of money laundering plus five working days.

(4) Redemption of electronic money shall be carried out in the currency in which it was issued.

(5) The minimum threshold for redemption may not exceed HRK 35.

(6) Upon redemption, an electronic money institution may only charge the consumer a redemption fee which may not exceed outstanding electronic money.

(7) The Croatian National Bank may prescribe in detail the conditions of redemption of electronic money.

## **Content of the contract on the issuance of electronic money**

### **Article 62**

(1) A contract between the issuer of electronic money and the bearer of electronic money shall clearly state the period of validity of electronic money, time limit for redemption, redemption fee, minimum threshold for redemption and other conditions of redemption.

(2) The Croatian National Bank may also prescribe other mandatory elements of contracts on the issuance of electronic money as well as of attachments to these contracts.

## **Consumer notification**

### **Article 63**

(1) An electronic money institution shall notify consumers in an agreed upon manner, and on an annual basis at a minimum, of the amount of their electronic money.

(2) Where variable interest rates have been contracted on the excess over the issued money, an electronic money institution shall notify consumers of interest rate changes, either through the mass media or in another appropriate manner, at least fifteen days before their application.

## **XXIII ELECTRONIC MONEY INSTITUTION OPERATING UNDER A**

### **WAIVER**

#### **Waivers**

### **Article 64**

(1) 'Electronic money institution operating under a waiver' means an electronic money institution which has received a waiver from the Croatian National Bank. The waiver shall include approval to issue electronic money. An electronic money institution operating under a waiver need not obtain authorisation from the Croatian National Bank.

(2) An electronic money institution operating under a waiver may issue electronic money within the territory of the Republic of Croatia only.

(3) An electronic money institution operating under a waiver shall report on its activities, including the total amount of financial liabilities related to outstanding electronic money, to the Croatian National Bank.

(4) The Croatian National Bank shall prescribe the content and method of and time limits for reporting referred to in paragraph (3) of this Article.

**Prohibition on the receipt of funds from the public**  
**Article 65**

An electronic money institution operating under a waiver shall not receive funds from the public in exchange for the issuance of electronic money in an amount exceeding the value of electronic money issued.

**Application of the provisions of this Act and other laws to electronic money institutions operating under a waiver**  
**Article 66**

(1) The following provisions of this Act shall apply to electronic money institutions operating under a waiver:

- Title I 'General provisions' (Articles 1 to 4);
- Title VIII 'Risk management regulations' (Article 37);
- Title XVII 'Supervision of electronic money institutions' (Articles 50 and 51);
- Title XIX 'Supervisory measures' (Article 54);
- Title XXII 'Consumer protection' (Articles 58 to 63);
- Title XXV 'Penal provisions' (Articles 74 and 76); and
- Title XXVI 'Transitional and final provisions'.

(2) The following provisions of the Credit Institutions Act shall apply *mutatis mutandis* to electronic money institutions operating under a waiver:

- Title IV 'Risk management' (Articles 103, 104, 105 and 112);
- Title IX 'Reporting to the Croatian National Bank' (Article 162);
- Title XII 'Banking secrecy', only in the part relating to the issuance of electronic money (Articles 168 to 170);
- Title XIX 'Supervisory measures' (Articles 229 to 235);
- Title XXIV 'Consumer protection' (Articles 304, 309 and 310);
- Title XXVIII 'Decision-making methods and procedures of the Croatian National Bank' (Articles 320 to 330); and
- Title XXX 'Penal provisions' (Articles 360 to 368).

**Conditions for a waiver**  
**Article 67**

(1) An application for the waiver referred to in Article 64 of this Act may only be submitted by an electronic money institution which issues electronic money on an electronic storage device subject to a maximum storage amount of not more than HRK 1,000.00.

(2) The institution referred to in paragraph (1) of this Article must meet one of the following conditions:

- 1) outstanding electronic money of the institution normally does not exceed HRK 40 million and never exceeds HRK 48 million; or
- 2) electronic money issued by the institution is accepted as a means of payment only by subsidiaries of the institution, the parent undertaking of the institution or other subsidiaries of that parent undertaking; or
- 3) electronic money issued by the institution is accepted as payment only by a limited number of undertakings, which can be clearly distinguished by:
  - their location in the same premises or other limited local area; or
  - their close financial or business relationship with the issuing institution, such as a common marketing or distribution scheme.

### **Application for a waiver**

#### **Article 68**

(1) An application for a waiver shall be accompanied by:

- 1) a certificate from the register of companies;
- 2) the Articles of Association in the form of a certified copy of a notarial deed;
- 3) a business plan for the first three years of business, including balance sheets, profit and loss accounts, the types of business planned, the appropriate organisational, technical and personnel structure of the electronic money institution;
- 4) documentation evidencing compliance with the personnel, technical and organisational requirements for issuing electronic money; and
- 5) evidence that the institution meets the conditions for a waiver referred to in Article 67 of this Act.

(2) The Croatian National Bank may request additional documentation that it deems necessary to adopt a decision on a waiver.

### **Refusing applications**

#### **Article 69**

The Croatian National Bank shall refuse applications for a waiver:

- 1) if the applicant fails to demonstrate compliance with the conditions for a waiver referred to in Article 67 of this Act;
- 2) if the exercise of supervision of the operation of the electronic money institution may be made difficult or prevented;
- 3) if it is evident that the electronic money institution is not organised in accordance with this Act or if the conditions for the operation of electronic money institutions laid down in this Act or regulations adopted under this Act have not been met;
- 4) if the provisions of the Articles of Association of the electronic money institution are contrary to this Act or regulations adopted under this Act;
- 5) if it is evident from the documentation and from other available information that the electronic money institution fails to meet the personnel, organisational and technical requirements for issuing electronic money in the manner and scope envisaged in its business plan; or

6) if the applicant thus attempts to evade stricter rules of this Act applied to electronic money institutions which have been authorised in accordance with this Act.

### **Expiry of a waiver**

#### **Article 70**

A waiver shall expire on the date:

- 1) of the adoption of a decision to initiate voluntary winding-up proceedings of an electronic money institution;
- 2) of the opening of bankruptcy proceedings; or
- 3) of delivery to the electronic money institution of a decision to withdraw approval to issue electronic money.

### **Reasons for withdrawal of a waiver**

#### **Article 71**

(1) The Croatian National Bank shall adopt a decision to withdraw a waiver:

- 1) where an electronic money institution does not commence issuing electronic money within 24 months after receiving the waiver;
- 2) where an electronic money institution ceases to issue electronic money for more than a year;
- 3) where an electronic money institution no longer meets the conditions under which approval to issue electronic money was granted; or
- 4) where an electronic money institution received the waiver on the basis of false or inaccurate documentation or false presentation of data relevant for issuing electronic money.

(2) The Croatian National Bank may adopt a decision to withdraw a waiver:

- 1) where an electronic money institution repeatedly fails to meet reporting requirements of the Croatian National Bank in a timely and accurate manner within a three year period;
- 2) where an electronic money institution in any manner whatsoever prevents supervision of the part of its operation relating to the issuance of electronic money;
- 3) where an electronic money institution fails to implement supervisory measures imposed by a decision of the Croatian National Bank;
- 4) where a measure referred to in Article 54, paragraph (1), item (1) of this Act is imposed on an electronic money institution and the supervisory board fails to remove a member or members of the management board from office and appoint new members within the prescribed period;
- 5) where an electronic money institution fails to meet the technical, organisational, personnel and other requirements for issuing electronic money;
- 6) where an electronic money institution fails to redeem electronic money when asked by a bearer of electronic money in the manner and under the conditions laid down in the contract;

- 7) where an electronic money institution is not able to meet its due and payable obligations under the contract; or
- 8) where an electronic money institution fails to organise its operation in the manner prescribed in Articles 27 to 37 of this Act and regulations adopted under this Act.

**Authorisation of electronic money institutions operating under a waiver**  
**Article 72**

- (1) Electronic money institutions operating under a waiver that intend to operate as electronic money institutions defined in Article 14, paragraph (1), item (1) of this Act shall obtain authorisation from the Croatian National Bank.
- (2) The provisions of this Act governing the authorisation procedure shall apply *mutatis mutandis* to the authorisation procedure for electronic money institutions referred to in paragraph (1) of this Article.
- (3) A waiver shall expire on the date of issue of the authorisation referred to in paragraph (1) of this Article.

**XXIV DECISION-MAKING METHODS AND PROCEDURES OF THE  
CROATIAN NATIONAL BANK**

**Application of the provisions of the Credit Institutions Act governing the  
decision-making methods and procedures of the Croatian National Bank**  
**Article 73**

The provisions under the heading 'Decision-making methods and procedures of the Croatian National Bank' of Title XXVIII of the Credit Institutions Act shall apply *mutatis mutandis* to electronic money institutions.

**XXV PENAL PROVISIONS**

**Application of the penal provisions of the Credit Institutions Act**  
**Article 74**

The provisions under the heading 'Penal provisions' of Title XXX of the Credit Institutions Act shall apply *mutatis mutandis* to electronic money institutions.

**Violations by electronic money institutions**  
**Article 75**

- (1) An electronic money institution shall be fined between HRK 100,000.00 and HRK 500,000.00:

- 1) if it breaches the provisions on the management and supervisory board referred to in Articles 11 and 12 of this Act;
- 2) if it carries out activities contrary to Articles 16, 18 and 21 to 26 of this Act;
- 3) if it fails to manage risks in the manner prescribed in Articles 27 to 29 of this Act;
- 4) if it fails to maintain the level of own funds prescribed in Article 31 of this Act;
- 5) if it fails to maintain the level of liquidity reserves prescribed in Article 32 of this Act;
- 6) if it establishes another legal person or acquires, directly or indirectly, holdings in the capital or the voting rights of another legal person contrary to Article 35 of this Act;
- 7) if it fails to comply with risk management regulations adopted under Article 37 of this Act;
- 8) if it fails to comply with the provisions on public disclosure prescribed in Articles 43 to 46 of this Act;
- 9) if it fails to comply with the provisions on internal audit prescribed in Article 48 of this Act; or
- 10) if it fails to comply with the provisions on consumer protection prescribed in Articles 58 to 63 of this Act.

(2) A responsible person of the management board of the electronic money institution shall be fined between HRK 5,000.00 and HRK 20,000.00 for any of the violations referred to in paragraph (1) of this Article.

#### **Violations by electronic money institutions operating under a waiver** **Article 76**

(1) An electronic money institution operating under a waiver shall be fined between HRK 100,000.00 and HRK 500,000.00:

- 1) if it fails to report to the Croatian National Bank in the manner prescribed in Article 64 of this Act and regulations adopted under that Article; and
- 2) if, contrary to Article 65 of this Act, it receives funds from the public in exchange for the issuance of electronic money in an amount exceeding the value of electronic money issued; or
- 3) if it breaches the provisions prescribed in Article 66, paragraph (1) of this Act.

(2) A responsible person of the management board of the electronic money institution operating under a waiver shall be fined between HRK 5,000.00 and HRK 20,000.00 for any of the violations referred to in paragraph (1) of this Article.

#### **Violations by other persons** **Article 77**

(1) A legal person using the words 'electronic money institution' or derivatives of these words contrary to the provisions of Article 4, paragraph (6) of this Act shall be fined between HRK 10,000.00 and HRK 50,000.00.

(2) A responsible person of the legal person that committed the violation referred to in paragraph (1) of this Article shall be fined between HRK 5,000.00 and HRK 20,000.00.

(3) A legal person who issues electronic money contrary to the prohibition referred to in Article 5, paragraph (2) of this Act shall be fined between HRK 100,000.00 and HRK 500,000.00.

(4) A responsible person of the legal person that committed the violation referred to in paragraph (3) of this Article shall be fined between HRK 50,000.00 and HRK 100,000.00.

(5) A natural person who issues electronic money contrary to the prohibition referred to in Article 5, paragraph (2) of this Act shall be fined between HRK 50,000.00 and HRK 100,000.00.

## **XXVI TRANSITIONAL AND FINAL PROVISIONS**

### **Article 78**

Up to the date of accession of the Republic of Croatia to the European Union, the provisions of this Act relating to electronic money institutions of third countries shall apply *mutatis mutandis* to electronic money institutions of the Member States.

### **Regulations of the Croatian National Bank on the establishment, operation and dissolution of electronic money institutions**

#### **Article 79**

The Croatian National Bank shall adopt regulations governing in detail the conditions for the establishment, operation and dissolution of electronic money institutions within six months of the entry into force of this Act.

### **Time limits for compliance with the provisions of this Act**

#### **Article 80**

Electronic money institutions which as of the date of the entry into force of this Act issue electronic money shall adjust their operation to the provisions of this Act by 30 June 2009.

### **Entry into force**

#### **Article 81**

This Act shall be published in the Official Gazette and shall enter into force on 1 January 2009, with the exception of the provisions of Articles 21, 23, 24 and 51 of

this Act, which shall enter into force on the date of accession of the Republic of Croatia to the European Union.

Class: 451-01/08-01/01

Zagreb, 26 September 2008

THE CROATIAN PARLIAMENT  
The President of the Croatian Parliament  
**Luka Bebić**, m.p.