

# **THE CROATIAN PARLIAMENT**

**3247**

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

## **DECISION**

### **PROMULGATING THE PAYMENT SYSTEM ACT**

I hereby promulgate the Payment System Act, passed by the Croatian Parliament at its session on 23 October 2009.

Class: 011-01/09-01/186

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

Zagreb, 28 October 2009

## **PAYMENT SYSTEM ACT**

## TITLE I GENERAL PROVISIONS

### *Subject matter* Article 1

This Act governs payment services, payment service providers, obligations of payment service providers to inform payment service users about the conditions for the provision of and about provided payment services, as well as other rights and obligations in relation to the provision and use of payment services, transaction accounts and the execution of payment transactions among credit institutions, the establishment, operation and supervision of payment institutions and the establishment, operation and supervision of payment systems.

### *Definitions* Article 2

(1) For the purposes of this Act, the following definitions shall apply:

1) '*Member State*' means a contracting party to the Agreement on the European Economic Area;

2) '*home Member State*' means the Member State in which the registered office of a payment service provider is situated, or, if the payment service provider has, under its national law, no registered office, the Member state in which its head office is situated;

3) '*host Member State*' means the Member State other than the home Member State in which a payment service provider has a branch or an agent, or directly provides payment services;

4) '*third country*' means, until the accession of the Republic of Croatia to the European Union, any foreign country, and after the accession, any non-Member State;

5) '*payer*' means a natural or legal person who holds a payment account and allows a payment order from that account, or, where there is no payment account, a natural or legal person that gives a payment order;

6) '*payee*' means a natural or legal person who is the intended recipient of funds which have been the subject of a payment transaction;

7) '*payment service user*' means a natural or legal person making use of a payment service in the capacity of payer and/or payee;

8) '*consumer*' means a natural person who, in payment service contracts covered by this Act, is acting for purposes other than his/her trade, business or profession;

9) '*value date*' means a reference time used by a payment service provider for the calculation of interest on the funds debited (debit value date) from or credited (credit value date) to a payment account;

10) '*reference exchange rate*' means the exchange rate which is used as the basis for currency conversion and which is made available by the payment service provider or comes from a publicly available source;

11) '*reference interest rate*' means the interest rate which is used as the basis for calculating any interest to be applied and which comes from a publicly available source;

12) '*means of distance communication*' refers to any means which, without the simultaneous physical presence of the payment service provider and the payment service user, may be used for the conclusion of a payment services contract;

13) '*durable medium*' refers to any means which enables the payment service user to store information addressed personally to that user in a way accessible for future reference for a period of time adequate to the purposes of the information, and which allows the unchanged reproduction of the information stored;

14) '*business day*' means a day on which the payer's payment service provider or the payee's payment service provider is open for business in order to enable the execution of a payment transaction;

15) '*payment account*' means any account held by a payment service provider in the name of one or more payment service users which is used for the execution of payment transactions;

16) '*payment transaction*' means the placing, withdrawing or transferring of funds initiated by the payer or by the payee, regardless of any underlying obligations between the payer and the payee;

17) '*funds*' means banknotes and coins, electronic money in terms of the law governing the operation of electronic money institutions, as well as monetary claims against the payment service provider (scriptural money);

18) '*unique identifier*' means a combination of letters, numbers or symbols specified to the payment service user by the payment service provider which is to be provided by the payment service user to identify unambiguously the other payment service user and/or that user's payment account used in a payment transaction;

19) '*payment order*' means any instruction by a payer or payee to their respective payment service providers requesting the execution of a payment transaction;

20) '*direct debit*' means a payment service for debiting a payer's payment account, where a payment transaction is initiated by a payee on the basis of the payer's consent given to the payer's own payment service provider, to the payee, or to the payee's payment service provider;

21) '*money remittance*' means a payment service where funds are received from a payer, without any payment accounts being opened in the name of the payer or the payee, for the purpose of transferring a corresponding amount of funds to the payee or to another payment service provider acting on behalf of the payee, and/or where such funds are received on behalf of and made available to the payee;

22) '*payment instrument*' means any personalised device and/or set of procedures agreed between a payment service user and a payment service provider and used by the payment service user in order to initiate a payment order;

23) '*framework contract*' means a payment service contract which governs the future execution of payment transactions and which may contain the obligation and conditions for setting up a payment account;

24) '*group*' means a group of undertakings which consists of a parent undertaking and its subsidiaries in terms of the provisions of the Accounting Act governing the consolidation of annual financial statements, and undertakings in which the parent undertaking or its subsidiaries have holdings, as well as undertakings linked to each other in the manner that they are managed on a unified basis pursuant to a contract, or the provisions of the Articles of Association or memorandum or deed of establishment, or linked to each other in the manner that the management boards, boards of directors or supervisory boards of those undertakings consist for the major part of the same persons in office during the financial year and until the annual financial statements are drawn up;

25) '*qualifying holding*' means a direct or indirect holding on the basis of which an investor, whether a natural or legal person, acquires 10 percent or more of the capital or of the voting rights of another legal person, or a direct or indirect holding of less than 10 percent of the capital or of the voting rights of another legal person which makes it possible to exercise a significant influence over the management of that legal person;

26) '*outsourcing*' means a contractual agreement by which the performance of certain activities of a payment institution or operational activities of a payment system operator, which would otherwise be performed by them, is entrusted to third parties;

27) '*branch of a payment institution*' means a part of a payment institution without legal personality which carries out directly some or all the transactions carried out by the payment institution, and is located outside the payment institution's registered office or, if the payment institution does not have a registered office, outside the place of its head office; for the purposes of this Act, all branches established in the same Member State by a payment institution having its registered office in another Member State shall be deemed to be one branch;

28) '*agent*' means a natural or legal person acting in the name and for the account of a payment institution in providing payment services for which this institution is authorised;

29) '*payment system*' means a funds transfer system with formal and standardised arrangements and common rules for the processing, clearing and/or settlement of payment transactions;

30) '*national payment transaction*' means a payment transaction the execution of which involves a payer's payment service provider and a payee's payment service provider, or only one payment service provider, which operate in the Republic of Croatia in accordance with Article 5 of this Act;

31) '*international payment transaction*' means a payment transaction the execution of which involves two payment service providers of which one payment service provider (of either the

payer or the payee) operates in the Republic of Croatia in accordance with Article 5 of this Act, whereas the other payment service provider (of either the payer or the payee) operates pursuant to the regulations of a third country;

32) '*cross-border payment transaction*' means a payment transaction the execution of which involves two payment service providers of which one payment service provider (of either the payer or the payee) operates in the Republic of Croatia in accordance with Article 5 of this Act, whereas the other payment service provider (of either the payer or the payee) operates pursuant to the regulations of another Member State;

33) '*systemic risk*' means a risk caused by a disruption in the functioning of a payment system or by the inability of payment system participants to fulfil their obligations related to the functioning of the payment system, which results in the inability of other payment system participants to fulfil their obligations or in threatening the safety of payment operations and the financial system as a whole;

34) '*card payment scheme*' means a set of functions, procedures, rules and devices enabling the holder of a payment card to effect a payment and/or cash withdrawal transaction with a payment service provider;

35) '*payment card*' means a device enabling its holder to make payments for goods and services either at an accepting device or remotely, and/or to access cash and/or other services at an ATM or another self-service device;

36) '*good reputation*' means the reputation of a person who:

- has by his/her former professional work and personal integrity achieved good results and earned respect in the previous working environment;
- has not been convicted by a final judgment of one or more crimes which prevent this person from being appointed member of the management board or executive director, in accordance with the Companies Act, or who has not been convicted by a final judgement of one or more crimes referred to in Article 69 of this Act, or a foreigner who has not been convicted of one or more crimes which by definition correspond to these crimes; and
- is not subject to investigation or criminal proceedings for a crime prosecuted *ex officio*;

37) '*register of payment institutions*' (hereinafter: register) means a register into which a competent authority enters the payment institutions to which it has granted authorisation to provide payment services, and their branches and agents.

(2) For the purposes of this Act, a payment institution shall be deemed to provide payment services within the territory of another Member State directly if it does not provide such services through a branch or agent, and if it, within the territory of this other Member State:

- concludes legal transactions whose subjects are one or more payment services; or
- offers such services to a natural or legal person having its domicile or habitual residence or registered office within the territory of that Member State through an agent or otherwise;

*Payment services*  
Article 3

Payment services shall be the following services provided by payment service providers as their regular occupation or business activity:

1) services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account;

2) services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account;

3) execution of payment transactions, including transfers of funds on a payment account with the user's payment service provider or with another payment service provider:

- execution of direct debits, including one-off direct debits,

- execution of payment transactions through a payment card or a similar device,

- execution of credit transfers, including standing orders;

4) execution of payment transactions where the funds are covered by a credit line for a payment service user:

- execution of direct debits, including one-off direct debits,

- execution of payment transactions through a payment card or a similar device,

- execution of credit transfers, including standing orders;

5) issuing and/or acquiring of payment instruments;

6) money remittance; and

7) execution of payment transactions where the consent of the payer to execute a payment transaction is given by means of any telecommunication, digital or IT device and the payment is made to the telecommunication, IT system or network operator, acting only as an intermediary between the payment service user and the supplier of goods and services.

*Activities not deemed to be payment services*  
Article 4

For the purposes of this Act, the following shall not be deemed to be payment services:

1) payment transactions made exclusively in cash directly from the payer to the payee, without any intermediary intervention;

- 2) payment transactions from the payer to the payee through a commercial agent authorised to negotiate or conclude contracts on the sale or purchase of goods or services on behalf of the payer or the payee;
- 3) professional physical transport of banknotes and coins, including their collection, processing and delivery;
- 4) payment transactions consisting of the non-professional cash collection and delivery within the framework of a non-profit or charitable activity;
- 5) services where cash is provided by the payee to the payer as part of a payment transaction on explicit request by the payment service user just before the execution of the payment transaction through a payment for the purchase of goods or services;
- 6) money exchange business consisting in cash-to-cash operations, where the funds are not held on a payment account;
- 7) payment transactions based on any of the following documents drawn on, or issued to a payment service provider with a view to making funds available to the payee:
  - a) paper cheques in accordance with the Geneva Convention of 19 March 1931 providing a uniform law for cheques;
  - b) paper cheques similar to those referred to in indent a) and governed by the laws of Member States which are not parties to the Geneva Convention of 19 March 1931 providing a uniform law for cheques;
  - c) paper-based drafts in accordance with the Geneva Convention of 7 June 1930 providing a uniform law for bills of exchange and promissory notes;
  - d) paper-based drafts similar to those referred to in indent c) and governed by the laws of Member States which are not parties to the Geneva Convention of 7 June 1930 providing a uniform law for bills of exchange and promissory notes;
  - e) paper-based vouchers;
  - f) paper-based traveller's cheques; or
  - g) paper-based postal money orders as defined by the Universal Postal Union;
- 8) payment transactions carried out within a payment or securities settlement system between settlement agents, central counterparties, clearing houses and/or central banks and other system participants, and payment service providers;
- 9) payment transactions related to securities asset servicing, including dividends, income or other distributions, or related to the redemption or sale of securities assets, carried out by persons referred to in item (8) of this Article, or by investment firms, credit institutions, collective investment undertakings or asset management companies providing investment services, and any other entities allowed to have the custody of financial instruments;

10) services provided by technical service providers who support the provision of payment services, without them entering at any time into possession of the funds to be transferred, including processing and storage of data, trust and privacy protection services, data and entity authentication, information technology and communication network provision, provision and maintenance of terminals and devices used for payment services;

11) services based on instruments that can be used to acquire goods or services only in the premises of the issuer, or only within a limited network of service providers, or for a limited range of goods or services pursuant to a contract between the issuer and the service provider;

12) payment transactions executed by means of any telecommunication, digital or IT device, where the goods or services purchased are delivered to and are to be used through a telecommunication, digital or IT device, provided that the telecommunication, digital or IT operator does not act only as an intermediary between the payment service user and the supplier of the goods and services;

13) payment transactions between payment service providers, their agents or branches for their own account;

14) payment transactions between a parent undertaking and its subsidiary, or between subsidiaries of the same parent undertaking, without any intermediary intervention by a payment service provider other than an undertaking belonging to the same group; and

15) services related to withdrawing cash by means of ATMs owned by third parties acting on behalf of one or more payment card issuers that are not parties to the framework contract with the customer withdrawing money from a payment account, provided that these third parties do not perform other payment services referred to in Article 3 of this Act.

### *Payment service providers*

#### Article 5

(1) Payment services in the Republic of Croatia may be provided by:

1) a credit institution having its registered office in the Republic of Croatia;

2) an electronic money institution having its registered office in the Republic of Croatia;

3) a payment institution having its registered office in the Republic of Croatia;

4) the Croatian National Bank, when not acting in its capacity as monetary authority or other public authority;

5) the Republic of Croatia and a unit of local or regional self-government, when not acting in their capacity as public authorities;

6) a credit institution having its registered office in a Member State;

7) an electronic money institution having its registered office in a Member State;

- 8) a payment institution having its registered office in a Member State;
- 9) a branch of a third-country credit institution having its registered office in the Republic of Croatia;
- 10) a branch of a third-country electronic money institution having its registered office in the Republic of Croatia; and
- 11) the European Central Bank, when not acting in its capacity as monetary authority or other public authority.
- (2) Payment services in the Republic of Croatia may only be rendered by the providers referred to in paragraph (1) of this Article.
- (3) By way of derogation from paragraph (2) of this Article, the Croatian Bank for Reconstruction and Development may provide payment services in accordance with the law governing its status, operations and powers.
- (4) The providers referred to in paragraph (1), items (1), (2), (9) and (10) of this Article may provide payment services only within the limits of the authorisation issued pursuant to laws governing these entities and their operation.
- (5) The rights of the entities referred to in paragraph (1), items (4) (5) and (11) of this Article to provide payment services shall be governed by regulations governing these entities, and their tasks and competences.
- (6) The providers referred to in paragraph (1), item (3) of this Article may provide payment services only within the limits of the authorisation issued pursuant to the provisions of this Act.
- (7) The providers referred to in paragraph (1), items (6), (7) and (8) of this Article may provide payment services within the limits of the authorisation issued by the competent authority of the home Member State in the manner laid down in this Act and other laws governing their operation.

*Application of the provisions of other laws*

Article 6

- (1) The relationships between payment service users that are consumers and payment service providers, not governed by this Act, shall be governed by the provisions of the Consumer Protection Act, with the exception of the provisions of Article 58, Article 59, subparagraphs (1) and (2), Article 60, subparagraphs (2), (3), (6) and (7) and Article 61, subparagraph (1) of the Consumer Protection Act.
- (2) The relationships between payment service providers and payment service users not governed by Titles II and III of this Act shall be governed by the provisions of the law regulating civil obligations.

*Reports on payment services*  
Article 7

(1) The Croatian National Bank may prescribe the submitters of, the content, manner and deadlines for reports on payment services.

(2) The submitters of reports on payment services shall submit reports to the Croatian National Bank in accordance with the provision of paragraph (1) of this Article.

**TITLE II**  
**OBLIGATION TO PROVIDE INFORMATION TO PAYMENT SERVICE USERS**

**Chapter 1**  
**General provisions**

*Application of the provisions of this Title*  
Article 8

(1) This Title shall apply to single payment transactions executed under a single payment transaction contract, and to framework contracts and payment transactions executed under such contracts.

(2) The provisions of this Title shall apply to the relationship between a payment service user that is a consumer and that user's payment service provider. They shall also apply to the relationship between a payment service user that is not a consumer and that user's payment service provider, unless otherwise agreed between the payment service provider and the payment service user that is not a consumer.

(3) The payment service provider may grant more favourable terms to the payment service user than those provided under the provisions of this Title.

(4) The provisions of this Title shall not apply to the Croatian Bank for Reconstruction and Development when it provides payment services pursuant to Article 5, paragraph (3) of this Act.

*Charges for information*  
Article 9

(1) The payment service provider shall not charge the payment service user for the information it is obliged to provide under the provisions of this Title.

(2) The payment service provider and the payment service user may agree on charges for additional or more frequent information, or its transmission by means of communication other than those specified in the framework contract, if the provision of such services is requested by the payment service user.

(3) Where the payment service provider levy the charges referred to in paragraph (2) of this Article, they shall be appropriate and in line with the payment service provider's actual costs.

*Burden of proof*  
Article 10

In case of a dispute, the payment service provider shall prove that it has fulfilled its information obligations towards the payment service user pursuant to the provisions of this Title.

*Information obligation for low-value payment instruments  
and electronic money*  
Article 11

In the case of payment instruments which, according to the provisions of the framework contract, concern only individual payment transactions that do not exceed HRK 225.00, or which either have a spending limit up to a total of HRK 1,125.00 or store funds that never exceed HRK 1,125.00:

1) by way of derogation from Articles 18, 19 and 23 of this Act, the payment service provider shall provide a payer only with information on the main characteristics of the payment service, including the way in which the payment instrument can be used, liability, charges levied and other relevant information needed by the payment service user to take a decision on entering into a contract, as well as an indication of where any other information laid down in Article 18 of this Act is made available to the payment service user in an easily accessible manner;

2) by way of derogation from Article 21 of this Act, the payment service provider and a payment service user may agree that the payment service provider shall not be required to propose changes to the framework contract in the same way as provided for in Article 19, paragraph (1) of this Act;

3) by way of derogation from Articles 24 and 25 of this Act, the payment service provider and the payment service user may agree that, after the execution of a payment transaction, the payment service provider shall provide or make available only a reference enabling the payment service user to identify the payment transaction, its amount and any charges; and in the case of several payment transactions of the same kind made to the same payee, the references and information on the total amount of and charges for those payment transactions; and

4) if a payment instrument is used anonymously, or if the payment service provider is not otherwise technically in a position to provide the information referred to in item (3) of this Article to the payment service user, the payment service provider and the payment service user may agree that the payer shall only be enabled to verify the amount of funds stored on the payment instrument after the execution of the payment transaction.

*Information on charges or reductions*  
Article 12

(1) Where, for the use of a given payment instrument, the payee offers a reduction, the payee shall inform the payer thereof prior to the initiation of the payment transaction.

(2) Where, for the use of a given payment instrument, the payment service provider requests a charge, it shall inform the payment service user thereof prior to the initiation of the payment transaction.

*Transaction currency and currency conversion*  
Article 13

(1) Payments shall be made in the currency agreed in accordance with law.

(2) Where a currency conversion service is offered prior to the initiation of the payment transaction and where that service is offered at the point of sale or by the payee, the party offering that service shall disclose to the payer all charges as well as the exchange rate to be used for currency conversion. The payer must give his consent to such currency conversion service.

**Chapter 2**  
**Single payment transactions**

*Avoiding double information*  
Article 14

When a payment order for a single payment transaction is transmitted to the payment service provider by a payment instrument covered by a framework contract with another payment service provider, the payment service provider shall not be obliged to provide or make available the information which is already given, or which will be given to the payment service user on the basis of a framework contract with another payment service provider.

*Prior general information*  
Article 15

(1) The payment service provider shall, before the payment service user is bound by any offer or single payment transaction contract (regardless of the form or manner of concluding such a contract), provide or make available to the payment service user the following information:

1) the data relating to the payee or payer to be submitted by the payment service user for the correct execution of a payment order, and/or that the payment service user is required to submit to the payment service provider the unique identifier of the payee or payer for that purpose;

2) the maximum execution time for the payment service to be provided;

3) the total amount of charges payable by the payment service user to that user's payment service provider, and a breakdown of the amounts of such charges;

4) the actual or reference exchange rate, if the payment transaction concerned involves currency conversion; and

5) any other information referred to in Article 18 of this Act relating to the payment transaction.

(2) The provision of paragraph (1), item (3) of this Article shall apply to national payment transactions in foreign currency and to international payment transactions only unless otherwise agreed between the payment service provider and its payment service user.

(3) The provision of paragraph (1), item (3) of this Article shall apply to national and cross-border payment transactions in currencies other than the euro or the currency of a Member State and to international payment transactions only unless otherwise agreed between the payment service provider and its payment service user.

(4) The payment service provider shall make available to the payment service user the information referred to in paragraph (1) of this Article:

1) in an easily accessible manner;

2) in easily understandable words and in a clear and comprehensive form in the Croatian language and in any other language agreed between the payment service provider and payment service user; and

3) at the payment service user's request, on paper or another durable medium.

(5) If a single payment service contract has been concluded at the request of the payment service user using a means of distance communication which does not enable the payment service provider to fulfil its obligations under paragraphs (1) and (4) of this Article, the payment service provider shall fulfil these obligations immediately after the execution of the payment transaction.

(6) The obligations referred to in paragraphs (1) and (4) of this Article may also be fulfilled by supplying a copy of a draft single payment service contract or a draft payment order including the information referred to in this Article.

#### *Information for the payer after receipt of the payment order*

##### Article 16

(1) Immediately after receipt of a payment order, the payer's payment service provider shall provide or make available to the payer, in the manner referred to in Article 15, paragraph (4) of this Act, the following information:

1) a reference enabling the payer to identify the payment transaction and, where applicable, any information relating to the payee;

- 2) the amount of the payment transaction in the currency used in the payment order;
- 3) the total amount of charges for the payment transaction payable by the payer and a breakdown of the amounts of such charges;
- 4) where the payment transaction involves currency conversion, the exchange rate used in the payment transaction by the payer's payment service provider, or a reference to the exchange rate used, and the amount of the payment transaction after the currency conversion; and
- 5) the date of receipt of the payment order.

(2) The provision of paragraph (1), item (3) of this Article shall apply to national payment transactions in foreign currency and to international payment transactions only unless otherwise agreed between the payment service provider and the payer.

(3) The provision of paragraph (1) item (3) of this Article shall apply to national and cross-border payment transactions in currencies other than the euro or the currency of a Member State and to international payment transactions only unless otherwise agreed between the payment service provider and the payer.

*Information for a payee after the execution of a payment transaction*  
Article 17

Immediately after the execution of a payment transaction, the payee's payment service provider shall provide or make available to the payee, in the manner referred to in Article 15, paragraph (4) of this Act, the following information:

- 1) a reference enabling the payee to identify the payment transaction, any information transferred with the payment transaction and information relating to the payer according to special regulations;
- 2) the amount of the payment transaction in the currency in which the funds have been made available to the payee;
- 3) the total amount of charges for the payment transaction payable by the payee and a breakdown of the amounts of such charges;
- 4) where the payment transaction involves currency conversion, the exchange rate used in the payment transaction by the payee's payment service provider and the amount of the payment transaction before the currency conversion; and
- 5) the credit value date.

### **Chapter 3**

#### **Framework contracts**

##### *Prior information*

##### Article 18

(1) The payment service provider shall, before the payment service user is bound by any offer or framework contract, provide the payment service user with the following information:

1) on the payment service provider, in particular:

- a) the firm or name of the payment service provider and the address of its head office;
- b) where the service is provided through a branch or an agent in the Republic of Croatia, the firm or name and the address of that branch or agent;
- c) any other address, including electronic mail address, for communication with the payment service provider; and
- d) the particulars of the authority competent for the oversight or supervision of the payment service provider's operation and of the register referred to in Article 116 of this Act, or of any other relevant public register of authorisation of the payment service provider and the registration number or, where such registration number does not exist, of another adequate identifier of the payment service provider;

2) on the use of the payment service, in particular:

- a) a description of the main characteristics of the payment service to be provided;
- b) the data relating to the payee or payer to be provided by the payment service user for the correct execution of a payment order and/or that the payment service user is required to provide the unique identifier of the payee or payer for that purpose;
- c) the form and manner of giving consent to execute a payment transaction and withdrawal of such consent in accordance with Articles 29 and 41 of this Act;
- d) a reference to the point in time of receipt of a payment order pursuant to Article 39 of this Act and the cut-off time, if established by the payment service provider;
- e) the maximum execution time for the payment service to be provided; and
- f) where applicable, the spending limits for payment transactions executed through a specific payment instrument in accordance with Article 30, paragraph (1) of this Act;

3) on charges, interest and exchange rates, in particular:

- a) all charges payable by the payment service user to the payment service provider and a breakdown of the amounts of such charges;

b) where interest and/or exchange rates are used, the interest and/or exchange rates to be applied or, if reference interest and/or exchange rates are to be applied, the method of calculating the actual interest, and the relevant date and index or base for determining such reference interest or exchange rate; and

c) where applicable, the immediate application of changes in reference interest or exchange rate, and the way of notifying the payment service user of the changes in exchange and interest rates in accordance with Article 21, paragraphs (2), (3) and (4) of this Act;

4) on communication, in particular:

a) where applicable, the means of communication, including the technical requirements relating to the payment service user's equipment for the transmission of information or notifications under this Act;

b) the manner in and frequency with which information is to be provided or made available to the payment service user in accordance with the provisions of this Act, including information on the right of the payment service user referred to in Article 24, paragraph (3) and Article 25, paragraph (3) of this Act;

c) the language or languages in which the framework contract will be concluded and communication during this contractual relationship undertaken; and

d) the payment service user's right referred to in Article 20 of this Act;

5) on safeguards and corrective measures, in particular:

a) where applicable, steps that the payment service user is to take in order to keep safe a payment instrument, and the manner of notifying the payment service provider, in accordance with Article 31 of this Act;

b) where applicable, the conditions under which the payment service provider reserves the right to block a payment instrument in accordance with Article 30 of this Act;

c) the liability of the payer in accordance with Article 36 of this Act, including information on the relevant amount;

d) how and within what period of time the payment service user is to notify the payment service provider of any unauthorised or incorrectly executed payment transaction in accordance with Articles 33 and 51 of this Act, as well as the payment service provider's liability for unauthorised payment transactions in accordance with Article 35 of this Act;

e) the liability of the payment service provider for the execution of payment transactions in accordance with Articles 47 and 48 of this Act; and

f) the conditions for refund in accordance with Articles 37 and 38 of this Act;

6) on changes in and termination of the framework contract, in particular:

a) where applicable in accordance with Article 21 paragraph (1) of this Act, information that the payment service user will be deemed to have accepted changes in the conditions of the framework contract, unless the payment service user notifies the payment service provider of not accepting them before the proposed date of their entry into force;

b) the duration of the framework contract; and

c) the right of the payment service user to terminate the framework contract and other conditions for its termination in accordance with Article 21 paragraph (1) and Article 22 of this Act;

7) on redress, in particular:

a) where applicable, any contractual clause on the law applicable to the framework contract and/or on the competent courts for the settlement of disputes arising from the framework contract;

b) complaint and conciliation procedures available to the payment service user in accordance with Title III, Chapter 5 of this Act.

(2) The provision of paragraph (1), item (3) indent (a) of this Article shall apply to national payment transactions in foreign currency and to international payment transactions only unless otherwise agreed between the payment service provider and its payment service user.

(3) The provision of paragraph (1), item (3) indent (a) of this Article shall apply to national and cross-border payment transactions in currencies other than the euro or the currency of a Member State and to international payment transactions only unless otherwise agreed between the payment service provider and its payment service user

### *Manner of providing prior information and conditions*

#### Article 19

(1) The payment service provider shall provide the information referred to in Article 18 of this Act:

1) on paper or on another durable medium;

2) sufficiently in advance, so that the payment service user has enough time to take a decision on entering into a contract; and

3) in easily understandable words, and in a clear and comprehensive form in the Croatian language and in any other language agreed between the payment service provider and payment service user.

(2) If the framework contract has been concluded at the request of the payment service user using a means of distance communication which does not enable the payment service provider to fulfil its obligations under Article 18 of this Act and paragraph (1) of this Article, the payment service provider shall fulfil these obligations immediately after the conclusion of the framework contract.

(3) The payment service provider may also fulfil the obligations referred to in Article 18 of this Act and paragraph (1) of this Article by supplying a copy of the draft framework contract including the information referred to in Article 18 of this Act.

*Accessibility of information and terms of the framework contract*

Article 20

At any time during the contractual relationship, the payment service provider shall, without undue delay, provide the payment service user, on request, with the contractual terms of the framework contract and information referred to in Article 18 of this Act on paper or on another durable medium.

*Changes in the framework contract*

Article 21

(1) The payment service provider shall propose any change in the framework contract and the information referred to in Article 18 of this Act in the same way as provided for in Article 19, paragraph (1) of this Act, and at least two months prior to the proposed date of application of such changes. The payment service provider and the payment service user may agree that the payment service user is to be deemed to have accepted these changes if the payment service user does not notify the payment service provider of not accepting them prior to the proposed date of their entry into force. In this case, the payment service provider shall appropriately notify the payment service user whenever there is a change in the framework contract and shall specify that the payment service user has the right to terminate the framework contract without charge prior to the proposed date of entry into force of the changes.

(2) The payment service provider and the payment service user may agree that changes in the interest or exchange rates based on the reference interest or exchange rates may be applied immediately and without prior notice.

(3) In the case referred to in paragraph (2) of this Article, the payment service provider shall inform the payment service user of any change in the interest rate at the earliest opportunity in the same way as provided for in Article 19, paragraph (1) of this Act, unless the parties have agreed on a specific frequency or different manner in which such notice is to be provided or made available to the payment service user.

(4) Changes in interest or exchange rates which are more favourable to the payment service user may be applied without notice to the payment service user.

(5) Changes in interest or exchange rates used in the execution of payment transactions shall be implemented and calculated in a manner that does not discriminate against payment service users.

*Termination of the framework contract*  
Article 22

- (1) The payment service user may terminate the framework contract at any time, regardless of whether it has been concluded for a fixed or indefinite period, unless a period of notice has been agreed.
- (2) The period of notice referred to in paragraph (1) of this Article may not exceed one month. Where a longer period of notice has been agreed, the one-month period of notice shall apply.
- (3) The payment service provider may levy no charge on the payment service user for the termination of a framework contract concluded for a fixed period exceeding 12 months or for an indefinite period, provided that the contract is terminated after the expiry of 12 months.
- (4) Where the payment service provider has the right to levy a charge for the termination of a contract, the charge must be appropriate and in line with the payment service provider's costs.
- (5) It may be agreed in the framework contract that the payment service provider has the right to terminate the framework contract concluded for an indefinite period by giving at least two months' notice, provided that the notice is given in the same way as provided for in Article 19, paragraph (1) of this Act.
- (6) Where the payment service user is charged for payment services on a periodic basis, in case of termination of the framework contract the payment service provider may only levy a charge proportionate to the duration of the contract.
- (7) Where the payment service user has paid the charge in advance, the payment service provider shall reimburse the part of the charge proportionate to the period between the termination of the contract and the end of the period for which the charge has been paid.

*Information before the execution of an individual payment transaction*  
Article 23

- (1) In the case of an individual payment transaction under a framework contract initiated directly by the payer, the payment service provider shall, at the payer's request for this payment transaction, provide the following information:
  - 1) the maximum execution time; and
  - 2) any charges payable by the payer and a breakdown of the amounts of each charge.
- (2) The provision of paragraph (1), item (2) of this Article shall apply to national payment transactions in foreign currency and to international payment transactions only unless otherwise agreed between the payment service provider and the payer.
- (3) The provision of paragraph (1), item (2) of this Article shall apply to national and cross-border payment transactions in currencies other than the euro or the currency of a Member State and to international payment transactions only unless otherwise agreed between the payment service provider and the payer.

*Information for the payer on an individual payment transaction*  
Article 24

(1) After the amount of an individual payment transaction is debited from the payer's payment account or, where the payer does not use a payment account for that payment transaction, after the receipt of the payment order, the payment service provider shall provide the payer without undue delay, in the same way as provided for in Article 19, paragraph (1) of this Act, with the following information:

1) a reference enabling the payer to identify each payment transaction and, where appropriate, information relating to the payee;

2) the amount of the payment transaction in the currency in which the payer's payment account is debited or in the currency used for the payment order;

3) the total amount of charges for the payment transaction and a breakdown of the amounts of such charges, as well as the interest payable by the payer;

4) where the payment transaction involves currency conversion, the exchange rate used and the amount of the payment transaction after the currency conversion; and

5) the debit value date or the date of receipt of the payment order.

(2) It may be agreed in the framework contract that the information referred to in paragraph (1) of this Article is to be provided or made available periodically, at least once a month and in an agreed manner which allows the payer to store and reproduce information unchanged.

(3) The payment service provider shall, at the payer's request, provide the information referred to in paragraph (1) of this Article on paper once a month free of charge for the payer.

*Information for the payee on individual payment transactions*  
Article 25

(1) After the execution of an individual payment transaction, a payee's payment service provider shall provide the payee, without undue delay, in the same way as provided for in Article 19, paragraph (1) of this Act with the following information:

1) a reference enabling the payee to identify the payment transaction, any information transferred with the payment transaction and information relating to the payer according to special regulations;

2) the amount of the payment transaction in the currency in which the payee's payment account is credited or in which the funds have been made available to the payee;

3) the total amount of charges for the payment transaction and a breakdown of the amounts of such charges, as well as the interest payable by the payee;

4) where the payment transaction involves currency conversion, the exchange rate used in the payment transaction by the payee's payment service provider, and the amount of the payment transaction before the currency conversion; and

5) the credit value date.

(2) It may be agreed in the framework contract that the information referred to in paragraph (1) of this Article is to be provided or made available periodically, at least once a month and in an agreed manner which allows a payee to store and reproduce information unchanged.

(3) The payment service provider shall, at the payee's request, provide the information referred to in paragraph (1) of this Article on paper once a month free of charge for the payee.

### **TITLE III RIGHTS AND OBLIGATIONS IN RELATION TO THE PROVISION AND USE OF PAYMENT SERVICES**

#### **Chapter 1 Common provisions**

##### *General provisions* Article 26

(1) This Title governs the rights and obligations of payment service providers and payment service users.

(2) The payment service provider may grant more favourable terms to the payment service user than those provided under this Title.

(3) The provisions of this Title shall not apply to the Croatian Bank for Reconstruction and Development when it provides payment services pursuant to Article 5, paragraph (3) of this Act.

##### *Charges* Article 27

(1) The payment service provider may charge the payment service user for the fulfilment of its obligations under this Title only in the cases referred to in Article 40, paragraph (3), Article 41, paragraph (5) and Article 48, paragraph (4) of this Act, if such charges have been agreed; and if they are appropriate and in line with the payment service provider's actual costs.

(2) The payment service provider and the payment service user that is not a consumer may agree by contract on the payment of charges other than that provided for in paragraph (1) of this Article.

(3) In the case of a national payment transaction in the official currency of the Republic of Croatia which does not involve any currency conversion, the payee's payment service provider may levy charges for the execution of that payment transaction only on the payee, and the payer's payment service provider may levy charges for the execution of that payment transaction only on the payer.

(4) The provision of paragraph (3) of this Article shall also apply to cross-border payment transactions in the euro or the currency of a Member State which do not involve any currency conversion.

(5) The payment service provider may not prevent the payee from offering the payer a reduction for the use of a given payment instrument.

(6) The payee may not request from the payer any charges for the use of a given payment instrument.

*Derogations for low-value payment instruments and  
electronic money*  
Article 28

(1) In the case of payment instruments which, according to the framework contract, solely concern individual payment transactions not exceeding HRK 225.00, or which either have a spending limit up to a total of HRK 1,125.00 or store funds which do not exceed HRK 1,125.00 at any time, the payment service providers may agree with their payment service users that:

1) Article 31, paragraph (1) item (2), Article 32, paragraph (1) items (3), (4) and (5), as well as Article 36, paragraphs (2) and (3) of this Act shall not apply if the payment instrument concerned does not allow its blocking or the prevention of its further use;

2) Articles 34 and 35, and Article 36, paragraph (1) of this Act shall not apply if the payment instrument is used anonymously, or if the payment service provider is not in a position, for other reasons which are intrinsic to that payment instrument, to prove that a payment transaction was authorised;

3) by way of derogation from Article 40, paragraph (1) of this Act, the payment service provider is not required to notify the payment service user of the refusal of a payment order, if the non-execution is apparent from the context;

4) by way of derogation from Article 41 of this Act, the payer may not revoke a payment order after transmitting the payment order or giving consent to execute the payment transaction to the payee; and

5) by way of derogation from Article 43 of this Act, other execution periods shall apply.

(2) Articles 35 and 36 of this Act shall not apply to electronic money within the meaning of the provisions of the law governing electronic money institutions, if the payer's payment service provider does not have the ability to freeze the payment account or block the payment instrument.

## **Chapter 2** **Authorisation of payment transactions**

### *Consent and withdrawal of consent*

#### Article 29

(1) A payment transaction shall be deemed to be authorised:

1) if the payer has given consent to execute the payment transaction; or

2) if the payer has given consent to execute a series of payment transactions of which that payment transaction is a part.

(2) The consent referred to in paragraph (1) of this Article shall be given in the form agreed between the payer and the payer's payment service provider.

(3) If consent to execute a payment transaction has not been given in the form agreed between the payer and the payer's payment service provider, the payment transaction shall be deemed to be unauthorised.

(4) Consent to execute a payment transaction may also be given before or, if so agreed between the payer and the payer's payment service provider, after the execution of the payment transaction.

(5) The manner of giving consent shall be governed by a contract between the payer and the payer's payment service provider.

(6) The payer may withdraw the consent given no later than the point in time of irrevocability of the payment order referred to in Article 41 of this Act.

(7) The payer may withdraw consent to execute a series of payment transactions at any time, with the effect that any future payment transaction shall be deemed to be unauthorised.

(8) The payment service provider and the payer that is not a consumer may agree by a contract on withdrawing consent in a different manner than that provided for in paragraphs (6) and (7) of this Article.

(9) The form and manner of the withdrawal of consent to execute a payment transaction shall be governed by a contract between the payer and the payer's payment service provider.

### *Limits on the use of payment instruments*

#### Article 30

(1) The payer and the payer's payment service provider may agree on spending limits for payment transactions executed through a payment instrument used for the purposes of giving consent.

(2) It may be agreed in the framework contract that the payment service provider has the right to block a payment instrument for reasons related to:

1) the security of the payment instrument;

2) the suspicion of unauthorised or fraudulent use of the payment instrument; or

3) in the case of a payment instrument with a credit line, a significantly increased risk that the payer may be unable to fulfil the liability to pay.

(3) The payment service provider shall inform the payer, in the manner agreed in the contract, of the intention to block the payment instrument and the reasons for it before the payment instrument is blocked.

(4) Where the payment service provider is unable to inform the payer in accordance with paragraph (3) of this Article, it shall do so immediately after the payment instrument is blocked.

(5) The provisions of paragraphs (3) and (4) of this Article shall not apply if giving such information is contrary to objectively justified security reasons or contrary to law.

(6) The payment service provider shall unblock the payment instrument or replace it with a new one once the reasons for blocking this payment instrument no longer exist.

*Obligations of the payment service user in relation to payment instruments*  
Article 31

(1) The payment service user entitled to use a payment instrument shall:

1) use the payment instrument in accordance with the terms of a framework contract governing the issue and use of that payment instrument; and

2) notify the payment service provider, or the entity specified by the payment service provider, without undue delay of becoming aware of the loss, theft or misappropriation of the payment instrument or of its unauthorised use.

(2) In the case referred to in paragraph (1), item (1) of this Article, the payment service user shall, immediately after receipt of the payment instrument, take all reasonable steps to keep safe the personalised security features of that payment instrument.

*Obligations of the payment service provider in relation to payment instruments*  
Article 32

(1) The payment service provider issuing a payment instrument shall:

1) ensure that the personalised security features of the payment instrument are not accessible to parties other than the payment service user entitled to use that payment instrument;

2) refrain from sending an unsolicited payment instrument, except where a payment instrument already given to the payment service user is to be replaced;

3) ensure that appropriate means are available at all times to enable the receipt of the notification referred to in Article 31, paragraph (1), item (2) of this Act, or the request for unblocking the payment instrument referred to in Article 30, paragraph (6) of this Act;

4) provide the payment service user, upon request submitted within 18 months of the notification referred to in Article 31, paragraph (1), item (2) of this Act, with the appropriate means to prove that it made such notification; and

5) prevent any use of the payment instrument once the notification referred to in Article 31, paragraph (1), item (2) of this Act has been made.

(2) The payment service provider shall bear the risk of sending a payment instrument or any of its personalised security features to the payment service user.

*Notification of unauthorised payment transactions*  
Article 33

(1) If the payment service user fails to notify that user's payment service provider without undue delay on becoming aware of any unauthorised payment transaction, and no later than 13 months of the debit date, the payment service user shall lose the right referred to in this chapter pertaining to the payment service user in the case of executing an unauthorised payment transaction.

(2) The time limit of 13 months referred to in paragraph (1) of this Article shall not apply if the payment service provider has failed to provide or make available to the payment service user the information on the executed payment transaction in accordance with Title II of this Act.

(3) The payment service provider and the payment service user that is not a consumer may agree by contract on a time limit other than that provided for in paragraph 1 of this Article.

*Evidence on authentication and execution of payment transactions*  
Article 34

(1) Where the payment service user denies having authorised an executed payment transaction or claims that the payment transaction was not correctly executed, that user's payment service provider shall prove that the payment transaction was authenticated, accurately recorded and entered in the accounts, and that its execution was not affected by a technical breakdown or some other deficiency.

(2) In terms of paragraph (1) of this Article, authentication means a procedure which allows the payment service provider to verify the use of a specific payment instrument, including its personalised security features.

(3) Where the payment service user denies having authorised an executed payment transaction, the use of a payment instrument recorded by the payment service provider shall in

itself not necessarily be sufficient to prove either that the payer has authorised that payment transaction, or that the payer acted fraudulently or failed, with intent or gross negligence, to fulfil one or more of the obligations referred to in Article 31 of this Act.

(4) The payment service provider and the payment service user that is not a consumer may agree by contract to regulate the burden of proof in a different manner than that provided for in paragraphs 1 and 3 of this Article.

*Payment service provider's liability for unauthorised payment transactions*  
Article 35

(1) Where an unauthorised payment transaction has been executed, the payer's payment service provider shall refund to the payer immediately the amount of the unauthorised payment transaction, and, where the unauthorised payment transaction has been executed from the payment account, restore the debited payment account to the state in which it would have been had the unauthorised payment transaction not taken place.

(2) The payment service provider shall also refund to the payer all the charges levied for the executed unauthorised payment transaction and pay the related interest.

(3) In the case of the execution of an unauthorised payment transaction, the payer shall, in addition to the rights referred to in paragraphs (1) and (2) of this Article, be entitled to the difference up to the full amount of the damage in accordance with general rules governing liability for damage.

*Payer's liability for unauthorised payment transactions*  
Article 36

(1) By way of derogation from Article 35 of this Act, the payer shall be liable for the execution of any unauthorised payment transaction:

1) up to a total of HRK 1,125.00, if such execution resulted from the use of a lost or stolen payment instrument, or from the misappropriation of the payment instrument, where the payer has failed to keep safe the personalised security features of the payment instrument; or

2) in its full amount, if the payer has acted fraudulently or failed, with intent or gross negligence, to fulfil one or more of the obligations referred to in Article 31 of this Act.

(2) By way of derogation from paragraph (1) of this Article, where the execution of the payment transaction resulted from the use of a lost or stolen payment instrument, or from its misappropriation, the payer shall not be liable for unauthorised payment transactions:

1) which have been executed after the payer has notified the payment service provider in accordance with Article 31, paragraph (1) item (2) of this Act; or

2) if the payment service provider has not provided appropriate means for the notification at all times of a lost, stolen or misappropriated payment instrument in accordance with Article 32, paragraph (1), item (3) of this Act.

(3) The provision of paragraph (2) of this Article shall not apply if the payer has acted fraudulently.

(4) The payment service provider and the payer that is not a consumer may agree by contract to regulate the payer's liability in a different manner than that provided for in this Article.

*Refunds for authorised payment transactions initiated by or through a payee*

Article 37

(1) The payer shall be entitled to a refund from the payer's payment service provider of the full amount of an authorised payment transaction initiated by or through a payee which has already been executed, if the following conditions are met:

1) consent to execute a payment transaction, when given, did not specify the exact amount of the payment transaction; and

2) the amount of the payment transaction exceeded the amount the payer could reasonably have expected, taking into account the payer's previous spending pattern, the terms of the framework contract and relevant circumstances of the case.

(2) The payer may not invoke the right referred to in paragraph (1) of this Article if the realisation of the condition referred to in paragraph (1), item (2) of this Article was due to the application of the reference exchange rate agreed with the payer's payment service provider.

(3) For direct debits, the payer and the payer's payment service provider may agree that the payer is entitled to a refund even though the conditions for the refund referred to in paragraph (1) of this Article are not met.

(4) The payer and the payer's payment service provider may agree that the payer has no right to a refund if the following conditions are met:

1) the payer has given consent to execute the payment transaction directly to the payer's payment service provider; and

2) the payment service provider or the payee has provided or made available to the payer in an agreed manner the information on the future payment transaction at least four weeks before the due date.

(5) The payment service provider and the payer that is not a consumer may agree by contract to regulate the entitlement to a refund in a different manner than that provided for in this Article.

*Requests for refunds for authorised payment transactions  
initiated by or through a payee*  
Article 38

- (1) The payer shall lose the entitlement to a refund pursuant to Article 37 of this Act, if the payer fails to submit a request for a refund to the payment service provider within eight weeks of the debit date.
- (2) The payment service provider may require the payer to provide information necessary to establish the fulfilment of the conditions referred to in Article 37, paragraph (1) of this Act.
- (3) Within ten business days of receiving a request for a refund, the payment service provider shall:
  - 1) refund to the payer the full amount of the payment transaction; or
  - 2) provide the payer with justification for refusing the refund, obligatorily indicating the authorities competent for out-of-court complaint and conciliation procedures to which the payer may, in the case of not accepting the justification provided, submit a complaint or a conciliation proposal in accordance with Chapter 5 of this Title.
- (4) The payment service provider may not refuse a refund in the case referred to in Article 37, paragraph (3) of this Act.
- (5) The payment service provider and the payer that is not a consumer may agree by contract to regulate their mutual relationship in a different manner than that provided for in this Article.

**Chapter 3**  
**Execution of payment transactions**

**Section 1**  
**Payment orders and amounts transferred**

*Receipt of payment orders*  
Article 39

- (1) The point in time of receipt of a payment order is the time when the payer's payment service provider receives the payment order transmitted directly by the payer or indirectly by or through the payee. If the point in time of receipt of a payment order is not on a business day for the payer's payment service provider, the payment order shall be deemed to have been received on the next business day.
- (2) The payment service provider may establish a cut-off time near the end of a business day for the receipt of payment orders. If the payer's payment service provider receives a payment order after the established cut-off time, the payment order shall be deemed to have been received on the next business day.

(3) The payment service user initiating a payment order and that user's payment service provider may agree that the execution of the payment order shall commence:

1) on a specific day;

2) at the end of a certain period; or

3) on the day on which the payer has made the necessary funds available to the payer's payment service provider.

(4) In the case referred to in paragraph (3) of this Article, the point in time of receipt of the payment order shall be deemed to be the agreed day to commence the execution of the payment order. Where the agreed day is not a business day for the payment service provider, the point in time of receipt of the payment order shall be deemed to be the next business day.

#### *Refusal of payment orders* Article 40

(1) Where the payment service provider refuses to execute a payment order, it shall, unless otherwise provided for by other regulations, notify the payment service user of:

1) the refusal;

2) the reasons for refusal; and

3) the procedure for correcting any mistakes that led to the refusal.

(2) The payment service provider shall provide or make available the notification referred to in paragraph (1) of this Article in an agreed manner at the earliest opportunity, and in any case, within the time limits referred to in Article 43 of this Act.

(3) It may be agreed in the framework contract that the payment service provider may charge for such a notification if the refusal of the payment order is objectively justified.

(4) Where all the terms set out in the framework contract between the payer and the payer's payment service provider are met, the payer's payment service provider may not refuse to execute an authorised payment order, irrespective of whether the payment order is initiated by the payer or by or through the payee, unless otherwise provided for by other regulations.

(5) A payment order whose execution has been refused shall be deemed not to have been received.

#### *Irrevocability of payment orders* Article 41

(1) The payment service user may not revoke a payment order once it has been received by the payer's payment service provider, except in the cases governed by this Article.

(2) Where a payment transaction is initiated by or through the payee, the payer may not revoke the payment order after transmitting the payment order or giving consent to execute the payment transaction to the payee.

(3) By way of derogation from paragraph (2) of this Article, in the case of a direct debit, the payer may revoke the payment order at the latest by the end of the business day preceding the agreed debit date.

(4) In the case referred to in Article 39, paragraph (3) of this Act, except for payment transactions initiated through the payee, the payment service user may revoke a payment order at the latest by the end of the business day preceding the agreed day of commencement of the payment order execution.

(5) After the time limits specified in paragraphs (1) to (4) of this Article, a payment order may be revoked only if so agreed between the payment service user and that user's payment service provider. In the cases referred to in paragraphs 2 and 3 of this Article, the revocation of a payment order shall also require the payee's consent. It may be agreed in the framework contract that the payment service provider may charge for the revocation of payment orders.

(6) The provisions of this Article shall apply to international payment transactions only unless otherwise agreed between the payment service provider and its payment service user.

(7) The provisions of this Article shall apply to cross-border payment transactions in currencies other than the euro or the currency of a Member State only unless otherwise agreed between the payment service provider and its payment service user.

(8) The payment service provider and the payment service user that is not a consumer may agree by contract to regulate the irrevocability of payment orders in a different manner than that provided for under the provisions of this Article.

*Amounts transferred and received*  
Article 42

(1) The payer's payment service provider, the payee's payment service provider and any intermediaries of the payment service providers shall transfer the full amount of a payment transaction without deducting any charges.

(2) By way of derogation from paragraph (1) of this Article, the payee and the payee's payment service provider may agree that the payment service provider deduct its charges from the amount transferred before crediting it to the payee. In such a case, the full amount of the executed payment transaction and charges levied shall be separated by the payment service provider in the information given to the payee.

(3) The provisions of this Article shall apply to national payment transactions in foreign currency and to international payment transactions only unless otherwise agreed between the payment service provider and its payment service user.

(4) The provisions of this Article shall apply to national and cross-border payment transactions in currencies other than the euro or the currency of a Member State and to

international payment transactions only unless otherwise agreed between the payment service provider and its payment service user.

## **Section 2**

### **Execution time and value date**

#### *Execution of payments between payment service providers*

#### Article 43

(1) The payer's payment service provider shall ensure that, in the case of national payment transactions in the official currency of the Republic of Croatia, the account of the payee's payment service provider is credited with the amount of the payment transaction at the latest by the end of the next business day after the point in time of receipt of the payment order referred to in Article 39 of this Act.

(2) By way of derogation from paragraph (1) of this Article, in the case of national payment transactions in the official currency of the Republic of Croatia, where the payer's payment service provider and the payee's payment service provider are the persons referred to in Article 5, paragraph (1), items (1), (4), (6) and (9) of this Act, the payer's payment service provider shall ensure that the account of the payee's payment service provider is credited with the amount of the payment transaction on the same business day when the payment order is received pursuant to Article 39 of this Act.

(3) In the case of national payment transactions in the currency of a third country, the payer's payment service provider shall ensure that the account of the payee's payment service provider is credited with the amount of the payment transaction within the agreed time limits, and at the latest by the end of the fourth business day after the point in time of receipt of the payment order referred to in Article 39 of this Act.

(4) In the case of international payment transactions, the payer's payment service provider shall ensure that the account of a foreign payment service provider is credited at the latest by the end of the third business day after the point in time of receipt of the payment order referred to in Article 39 of this Act.

(5) In the case of cross-border payment transactions in the euro, including the transactions in the euro which involve conversion from the kuna to the euro, as well as in the case of national payment transactions in the euro until the accession of the Republic of Croatia to the European Monetary Union, and national payment transactions which involve a single conversion between the kuna and the euro, the payer's payment service provider shall ensure that the account of the payee's payment service provider is credited with the amount of the payment transaction at the latest by the end of the next business day after the point in time of receipt of the payment order referred to in Article 39 of this Act.

(6) By way of derogation from paragraph (5) of this Article, until 1 January 2012, the payer and the payer's payment service provider may, for the transactions referred to in paragraph (5) of this Article, agree on the extension of the time limit referred to in paragraph (5) of this Article, but at the latest by the end of the third business day after the point in time of receipt of the payment order referred to in Article 39 of this Act.

(7) The time limit referred to in paragraph (5) of this Article may be extended by one business day for paper-initiated payment transactions.

(8) In the case of cross-border payment transactions in the currencies of Member States other than the euro, and national payment transactions in the currencies of Member States other than the euro or the official currency of the Republic of Croatia, the payer's payment service provider shall ensure that the account of the payee's payment service provider is credited with the amount of the payment transaction within the agreed time limits, but at the latest by the end of the fourth business day after the point in time of receipt of the payment order referred to in Article 39 of this Act.

(9) In the case of cross-border payment transactions in a currency other than the euro or the currencies of Member States, the payer's payment service provider shall ensure that the account of the payment service provider in another country is credited at the latest by the end of the third business day after the point in time of receipt of the payment order referred to in Article 39 of this Act.

(10) The time limits for the execution of payment transactions referred to in this Article shall not apply to payment transactions initiated by or through the payee.

(11) The payee's payment service provider shall transmit a payment order initiated by or through the payee to the payer's payment service provider within the time limits agreed between the payee and the payee's payment service provider, and, in the case of a direct debit, within the time limits enabling settlement on the agreed due date of the payer's liability.

*Execution of payments to the payee*  
Article 44

After receiving the amount of a payment transaction, the payee's payment service provider shall credit the payee's payment account with the value date and make the funds available to the payee or, where the payee does not have a payment account, make the funds available to the payee, in accordance with Article 46 of this Act.

*Cash placed on a payment account*  
Article 45

(1) Where the payment service user that is a consumer places cash on that user's payment account in the currency of that payment account, the payment service provider operating that account shall make the funds available immediately after the point in time of receipt of the cash and shall credit that account with the value date of the day of the point in time of the cash receipt.

(2) Where the payment service user that is not a consumer places cash on that user's payment account in the currency of that payment account, the payment service provider shall make the funds available at the latest on the next business day after the point in time of receipt of the cash and shall credit that account with the value date of that day.

(3) Article 39, paragraphs (1) and (2) of this Act shall apply *mutatis mutandis* to the point in time of receipt referred to in paragraphs (1) and (2) of this Article.

*Value date and availability of funds*  
Article 46

- (1) The credit value date for the payee's payment account may be no later than the business day on which the amount of the payment transaction is credited to the account of the payee's payment service provider.
- (2) The payee's payment service provider shall make the amount of the payment transaction available to the payee immediately after that amount is credited to the account of the payee's payment service provider.
- (3) The provisions of paragraphs (1) and (2) of this Article shall apply to national payment transactions in kuna.
- (4) The provisions of paragraphs (1) and (2) of this Article shall also apply to national, cross-border and international payment transactions in euro or another currency of a Member State.
- (5) For payment transactions not covered by paragraphs (3) and (4) of this Article, the credit value date for the payee's payment account may be no later than the business day on which the payee's payment service provider received the notification of crediting its account.
- (6) In the case referred to in paragraph (5) of this Article, the payee's payment service provider shall make available the amount of the payment transaction to the payee immediately after receiving the notification of crediting its account.
- (7) The debit value date for the payer's payment account may be no earlier than the time when the amount of the payment transaction is debited from that account.

**Section 3**  
**Payment service provider's liability for the non-execution**  
**and incorrect execution of payment transactions**

*Payment service provider's liability for the execution of a payment transaction initiated by the payer*  
Article 47

- (1) The payer's payment service provider shall be liable to the payer for the execution of a payment transaction initiated by the payer, except in the cases referred to in paragraph (3) of this Article, Article 49, paragraphs (2) and (5) and Article 53 of this Act.
- (2) The payer's payment service provider that is liable for the execution of a payment transaction shall, at the payer's request for the refund of the amount of a non-executed or an incorrectly executed payment transaction, without undue delay refund to the payer the amount of that payment transaction and, if the payment is made from a payment account, restore that payment account to the state in which it would have been had the payment transaction not taken place.

(3) Where the payer's payment service provider proves that the payee's payment service provider received the amount of the payment transaction in accordance with Article 43 of this Act and with the payment order, the payee's payment service provider shall be liable to the payee for the execution of the payment transaction.

(4) In the case referred to in paragraph (3) of this Article, the payee's payment service provider shall immediately make available the amount of the payment transaction to the payee and, if the payment is made to the payee's payment account, credit that account with the adequate amount.

(5) In the case of a non-executed or incorrectly executed payment transaction initiated by the payer, the payer's payment service provider shall, at the payer's request and regardless of its liability, take immediate steps to trace the funds and notify the payer of the outcome.

(6) The payer's payment service provider that is liable for the non-execution or incorrect execution of a payment transaction shall also be liable to its user for any charges levied and any interest belonging to the user for the non-executed or incorrectly executed payment transaction.

(7) The provisions of this Article shall apply to national payment transactions in foreign currency and to international payment transactions only unless otherwise agreed between the payment service provider and the payer.

(8) The provisions of this Article shall apply to national and cross-border payment transactions in currencies other than the euro or the currency of a Member State and to international payment transactions only unless otherwise agreed between the payment service provider and the payer.

(9) The payment service provider and the payer that is not a consumer may agree by contract to regulate the liability otherwise than provided for in this Article.

*Payment service provider's liability for the execution of a payment transaction  
initiated by or through the payee*  
Article 48

(1) In the case of a payment transaction initiated by or through the payee, except in the cases referred to in paragraph (3) of this Article, Article 49, paragraphs (2) and (5) and Article 53 of this Act, the payee's payment service provider shall be liable to the payee:

1) for the correct transmission of the payment order to the payer's payment service provider in accordance with Article 43, paragraph (11) of this Act; and

2) for proceeding in accordance with Article 46 of this Act.

(2) Where the payee's payment service provider is liable under paragraph (1), item (1) of this Article, it shall immediately re-transmit the payment order in question to the payer's payment service provider.

(3) Where the payee's payment service provider proves that it has correctly transmitted the payee's payment order to the payer's payment service provider and that it has proceeded in accordance with Article 46 of this Act, the payer's payment service provider shall be liable to the payer for the execution of the payment transaction. In that case the payer's payment service provider shall, at the payer's request for the refund of the amount of a non-executed or incorrectly executed payment transaction, without undue delay refund to the payer the amount of that payment transaction and, if the payment is made from a payment account, restore that payment account to the state in which it would have been had the payment transaction not taken place.

(4) In the case of a non-executed or an incorrectly executed payment transaction initiated by or through the payee, the payee's payment service provider shall, regardless of its liability, at the payee's request, take immediate steps to trace the funds and notify the payee of the outcome.

(5) The payment service provider that is liable for the non-execution or incorrect execution of a payment transaction shall also be liable to its user for any charges that it has levied, and any interest belonging to the user for the non-executed or incorrectly executed payment transaction.

(6) The provisions of this Article shall apply to national payment transactions in foreign currency and to international payment transactions only unless otherwise agreed between the payment service provider and the payee.

(7) The provisions of this Article shall apply to national and cross-border payment transactions in currencies other than the euro or the currency of a Member State and to international payment transactions, only unless otherwise agreed between the payment service provider and the payee.

(8) The payment service provider and the payee that is not a consumer may agree by contract to regulate the liability in a different manner than that provided for in this Article.

*Incorrect unique identifiers*  
Article 49

(1) If a payment order is executed in accordance with the unique identifier, the payment order shall be deemed to have been executed correctly with regard to the payee specified by the unique identifier.

(2) If the unique identifier provided by the payment service user is incorrect, the payment service provider shall not be liable for the non-execution or incorrect execution of a payment transaction in the part relating to the incorrectly provided unique identifier.

(3) The payer's payment service provider shall, regardless of its liability, take reasonable steps to recover the funds involved in that payment transaction.

(4) The payment service provider may charge the payment service user for the recovery, if so agreed in the framework contract.

(5) If the payment service user provides to the payment service provider additional information relating to the payee or the payer, the payment service provider shall be liable only for the execution of payment transactions in accordance with the unique identifier provided by the payment service user.

*Compensation for damage*  
Article 50

In the case of the non-execution or incorrect execution of a payment transaction, the payment service user shall, in addition to the rights pertaining to the payment service user under this Section, be entitled to the difference up to the full amount of the damage in accordance with general rules governing liability for damage arising from a breach of contract.

*Payment service user's rights in the case of an incorrectly executed payment transaction*  
Article 51

(1) In the case of an incorrectly executed payment transaction, including a delayed execution, the payment service user shall be entitled to request from its payment service provider the correct execution of the payment transaction, or the interest for or refund of the incorrectly executed payment transaction in accordance with general rules of the contract law.

(2) The payment service user shall lose the right referred to in paragraph (1) of this Article if it fails to notify its payment service provider without undue delay on becoming aware of any incorrectly executed payment transaction, and no later than 13 months of the debit date, or credit date.

(3) The time limit of 13 months referred to in paragraph (2) of this Article shall not apply if the payment service provider has failed to provide or make available to the payment service user the information on that payment transaction in accordance with Title II of this Act.

(4) The payment service provider and the payment service user that is not a consumer may agree by contract on a time limit other than that provided for in paragraph 2 of this Article.

*Right of recourse*  
Article 52

(1) The payment service provider shall be liable to its payment service user for the execution of a payment transaction even if the liability is attributable to an intermediary or a third party participating in the execution of that payment transaction.

(2) In the case referred to in paragraph (1) of this Article the payment service provider shall be entitled to request from the intermediary or third party the refund of all the amounts paid by that payment service provider to its payment service user in accordance with Articles 47 and 48 of this Act, and compensation for any other damage suffered in accordance with general rules governing liability for damage arising from a breach of contract.

(3) The provisions of this Article shall apply to national payment transactions in foreign currency and international payment transactions only unless otherwise agreed between the payment service provider and its payment service user.

(4) The provisions of this Article shall apply to national and cross-border payment transactions in currencies other than the euro or the currency of a Member State and to international payment transactions only unless otherwise agreed between the payment service provider and its payment service user.

*Exclusion of liability*  
Article 53

The liability governed by Chapters 2 and 3 of this Title shall be excluded in cases of extraordinary and unforeseeable circumstances beyond the control of the party pleading for the application of those circumstances, the consequences of which the party could not have avoided despite having acted with the necessary caution, or in cases where the payment service provider is obliged to apply other regulations.

**Chapter 4**  
**Data protection**

*Data protection*  
Article 54

Payment service providers and payment systems may process personal data placed at their disposal within their activity for the purpose of preventing, investigating and detecting payment frauds. The processing of such data shall be carried out in accordance with the regulations governing personal data protection.

**Chapter 5**  
**Out-of-court complaint procedures and conciliation procedure**

*Complaints to the payment service provider*  
Article 55

(1) Where the payment service user deems that the payment service provider does not comply with the provisions of Titles II and III of this Act, the payment service user may submit a complaint to the payment service provider.

(2) The payment service provider shall send a reply to the complaint referred to in paragraph (1) of this Article to the payment service user no later than seven business days after the day of receiving the complaint.

(3) Where the payment service provider from another Member State provides payment services in the territory of the Republic of Croatia through a branch or an agent, the complaint referred to in paragraph (1) of this Article shall be submitted to the branch or agent.

*Complaints to the competent authorities*  
Article 56

(1) Payment service users and other interested parties, including consumer associations, may submit complaints to the competent authority against the payment service provider referred to in Article 5, paragraph (1), items (1), (2), (3), (9) and (10) of this Act, if they deem that the payment service provider has acted contrary to the provisions of Titles II and III of this Act.

(2) The competent authority referred to in paragraph (1) of this Article shall be the Croatian National Bank.

(3) Upon receipt of the complaint referred to in paragraph (1) of this Article, the Croatian National Bank shall invite the respondent payment service provider to submit its response and the relevant evidence. The payment service provider shall, within the time limit set by the Croatian National Bank, but no longer than seven business days after the day of receiving the invitation, submit its response and the relevant evidence.

(4) Where, in the complaint procedure, the Croatian National Bank establishes that there are reasonable grounds to suspect that the payment service provider has acted contrary to any of the provisions of Titles II and III of this Act and has thus committed a violation, it shall initiate violation proceedings before the Financial Inspectorate of the Republic of Croatia.

(5) The Croatian National Bank shall notify the complainant of its findings.

(6) Where the complainant is a consumer, the Croatian National Bank shall inform the complainant in its notification referred to in paragraph (5) of this Article of the possibility to initiate a conciliation procedure before the authority referred to in Article 57 of this Act.

(7) The provisions of this Article shall also apply to complaints against the payment service providers referred to in Article 5, paragraph (1), items (6), (7) and (8) of this Act which provide payment services in the Republic of Croatia through a branch or an agent.

(8) Complaints against the payment service providers referred to in Article 5, paragraph (1), items (6), (7) and (8) of this Act which provide payment services directly in the Republic of Croatia may be submitted to the Croatian National Bank which will notify the competent authority of the Member State.

(9) The oversight over the application of Article (5), paragraph (2), Article 12, paragraph (1), Article 13, paragraph (2), Article 27, paragraph (6) and Article 65, paragraph (4) of this Act shall be carried out by the State Inspectorate in accordance with its powers defined by law.

*Out-of-court redress*  
Article 57

(1) In all disputes arising between a payment service user that is a consumer and a payment service provider regarding the application of the provisions of this Act, a conciliation proposal may be submitted to the Conciliation Centre of the Croatian Chamber of Economy.

(2) The conciliation before the Conciliation Centre referred to in paragraph (1) of this Article shall be conducted in accordance with the Rules of Conciliation of the Croatian Chamber of Economy.

(3) The Croatian Chamber of Economy shall, with the approval of the Minister of Finance, pass a decision on the costs of conciliation in consumer disputes, determining the amount of fees and rewards and other costs of the conciliation procedure referred to in paragraph (1) of this Article.

(4) The settlement reached in the conciliation procedure at the Centre referred to in paragraph (1) of this Article shall be considered as an enforcement title.

(5) The funds for the costs of the conciliation before the Conciliation Centre referred to in paragraph (1) of this Article shall be provided in the government budget.

#### **TITLE IV TRANSACTION ACCOUNTS AND THE EXECUTION OF PAYMENT TRANSACTIONS AMONG CREDIT INSTITUTIONS**

##### *Transaction account* Article 58

(1) A transaction account is a current account or a giro account operated by any of the following payment service providers:

- 1) a credit institution having its registered office in the Republic of Croatia;
- 2) a branch of a credit institution from another Member State having its registered office in the Republic of Croatia;
- 3) a branch of a third-country credit institution having its registered office in the Republic of Croatia; and
- 4) the Croatian National Bank.

(2) A transaction account is also an account operated by the payment service provider referred to in paragraph (1) of this Article to execute payment transactions on its own behalf.

(3) The Croatian National Bank may prescribe that, in addition to the accounts referred to in paragraphs (1) and (2) of this Article, transaction accounts shall also be other payment accounts operated by the payment service providers referred to in paragraph (1) of this Article.

(4) The Croatian National Bank shall prescribe the manner of opening transaction accounts.

*Data submission for the purposes of keeping the unified register of accounts*  
Article 59

A payment service provider referred to in Article 58, paragraph (1) of this Act shall submit data on opened transaction accounts in accordance with the regulation governing the keeping and contents of the unified register of accounts in the Republic of Croatia.

*Register of transaction accounts*  
Article 60

(1) The payment service provider referred to in Article 58, paragraph (1) of this Act shall keep a register of transaction accounts that it has opened.

(2) The register referred to in paragraph (1) of this Article shall, at a minimum, contain the data which the payment service provider is obliged to submit pursuant to Article 59 of this Act.

(3) The Croatian National Bank may also prescribe additional data to be contained by the register referred to in paragraph (1) of this Article.

*Account number*  
Article 61

(1) An account number shall be the identification number of the payment service provider referred to in Article 58, paragraph (1) of this Act.

(2) The Croatian National Bank shall assign an account number to the payment service provider referred to in Article 58, paragraph (1) of this Act in an authorisation for the provision of payment services.

(3) By way of derogation from paragraph (2) of this Article, the Croatian National Bank shall assign an account number to the payment service provider referred to in Article 58, paragraph (1), item (2) of this Act only at the payment service provider's request.

(4) The Croatian National Bank shall keep records of the account numbers assigned, and shall make this data publicly available on its website.

*Execution of payment transactions among credit institutions*  
Article 62

(1) National payment transactions in the official currency of the Republic of Croatia in which both payment service providers are the persons referred to in Article 58, paragraph (1) of this Act shall be executed through payment systems.

(2) By way of derogation from paragraph (1) of this Article, a payment service provider may execute payment transactions outside a payment system through another payment service provider on the basis of a contract with this other payment service provider.

(3) The payment service provider referred to in Article 58, paragraph (1), items (1) and (3) of this Act shall notify the Croatian National Bank of its intention to conclude the contract referred to in paragraph (2) of this Article at least thirty days prior to the conclusion of the contract, and shall accompany the notification with a detailed description of the payment transaction execution model.

(4) The Croatian National Bank may prescribe the manner of opening the accounts through which the settlement of payment transaction referred to in paragraph (1) of this Article is carried out.

*Transaction accounts at the Croatian National Bank*  
Article 63

The Croatian National Bank shall open and operate transaction accounts of credit institutions, transaction accounts of the Republic of Croatia and other transaction accounts in accordance with the law governing the operation of the Croatian National Bank.

*Payment orders*  
Article 64

The Croatian National Bank may prescribe the essential elements and manner of completion of payment orders for the execution of payment transactions through transaction accounts

**TITLE V**  
**PAYMENT INSTITUTIONS**

**Chapter 1**  
**Status provisions**

*Payment institution and the provision of payment services*  
Article 65

(1) A payment institution having its registered office in the Republic of Croatia shall be a legal person which has been authorised by the Croatian National Bank to provide payment services.

(2) The Croatian National Bank shall grant authorisation to provide one or several payment services referred to in Article 3 of this Act.

(3) Upon receipt of authorisation to provide payment services from the Croatian National Bank, a legal person may enter payment services into the register of companies.

(4) A legal person may not provide payment services before it obtains authorisation referred to in paragraph (2) of this Article and enters the activity of payment service provision into the register of companies.

*Application of the provisions of the Companies Act*  
Article 66

The provisions of the Companies Act shall apply to a payment institution unless otherwise prescribed in this Act.

*Initial capital*  
Article 67

- (1) The initial capital of a payment institution which provides payment services referred to in Article 3, item (6) of this Act shall not be less than HRK 150,000.00.
- (2) The initial capital of a payment institution which provides payment services referred to in Article 3, item (7) of this Act shall not be less than HRK 400,000.00.
- (3) The initial capital of a payment institution which provides any of the payment services referred to in Article 3, items (1) to (5) of this Act shall not be less than HRK 1, 000,000.00.
- (4) The initial capital referred to in paragraphs (1) to (3) of this Article must be paid in in cash.

*Other activities a payment institution may perform*  
Article 68

- Apart from the provision of payment services, a payment institution may also engage in:
- 1) the provision of operational and closely related ancillary services, such as ensuring the execution of payment transactions, provision of currency conversion services required for the execution of payment transactions, provision of safekeeping services and services related to data storage and processing;
  - 2) the operation of a payment system in accordance with Title VI of this Act; or
  - 3) an activity other than the provision of payment services.

**Chapter 2**  
**Provision of payment services**

*Application for authorisation to provide payment services*  
Article 69

- (1) A payment institution shall submit an application for authorisation to provide payment services to the Croatian National Bank.
- (2) The application shall be accompanied with the following:
  - 1) the Articles of Association, deed of establishment or memorandum of the payment institution and, where the applicant is entered into the register of companies, a certificate from

the register of companies in the form of an original or certified copy, not older than ninety days;

2) a programme of operations, setting out in particular the types of payment services for which authorisation is sought, in accordance with Article 3 of this Act;

3) financial statements for the past two business years and a business plan for the next three business years, including a financial statement projection demonstrating the ability of the payment institution to operate in a stable manner on the basis of an appropriate organisational, technical and personnel structure;

4) evidence on the amount of initial capital paid in pursuant to Article 67 of this Act or on the amount of funds earmarked for initial capital of the payment institution to be established;

5) a description of measures taken or intended to be taken to safeguard payment service users' funds in accordance with Article 87 of this Act, including, where applicable, an assessment method for the representative portion of funds assumed to be used for future payment transactions;

6) a clear management framework with well-defined, transparent and consistent lines of powers and responsibilities and the payment institution's internal control mechanism, including administrative, accounting and risk-management procedures which demonstrate that the said management framework and internal control mechanism and procedures are appropriate, adequate, sound and satisfactory;

7) a description of the internal control mechanism put in place by the payment institution in order to comply with the requirements arising from the regulations governing the prevention of money laundering and terrorist financing;

8) a description of the payment institution's organisational structure, including, as appropriate, a description of the intended operation through branches and agents, outsourcing arrangements and its participation in a domestic or international payment system;

9) for the person holding, directly or indirectly, a qualifying holding in the payment institution:

1) where such a person is a legal person:

a) the total nominal amount of shares and the percentage of the initial capital of the payment institution;

b) a certificate from the register of companies or other relevant register, not older than ninety days, in the form of an original or a certified copy;

c) a certificate from the register of shareholders (book of shares) or the book of holdings, in the form of an original or a certified copy;

d) a list of natural persons who are the ultimate shareholders or holders of holdings in the legal person which is the holder of qualifying holdings in the payment institution, containing the following data: the name, address or domicile and other identification data, the total nominal amount of shares and the percentage of the initial capital of the legal person which is the holder of a qualifying holding in the payment institution, and the data referred to in sub-item (2), indents c) and d) of this item;

e) audited financial statements of the holder of a qualifying holding for the past two business years;

f) evidence that no bankruptcy proceedings have been initiated or opened against the property of the holder of a qualifying holding;

2) where such a person is a natural person:

- a) the total nominal amount of shares and the percentage of the initial capital of the payment institution;
  - b) the name, address or domicile and other identification data of the holder of a qualifying holding;
  - c) a curriculum vitae of the holder of a qualifying holding, listing all companies, and their addresses, with which he/she is or has been employed, of which he/she is or has been a member of the management or supervisory boards, or in which he/she is or has been a holder of a qualifying holding;
  - d) evidence that the holder of a qualifying holding has not been convicted by a final judgement of a crime against the values protected by international law, or of any of the following crimes:
    - against the security of a payment system and its operation;
    - relating to the authenticity of documents;
    - relating to breaches of official duty;
    - relating to money laundering;
    - relating to terrorist financing; or
    - of the violations prescribed in this Act.
- 10) for a member of the management board of a payment institution, or executive director of a payment institution having the board of directors:
- a) name, address or domicile and other identification data;
  - b) evidence that he/she has not been convicted by a final judgement of a crime against the values protected by international law, or of any of the following crimes:
    - against the security of a payment system and its operation;
    - relating to the authenticity of documents;
    - relating to breaches of official duty;
    - relating to money laundering;
    - relating to terrorist financing; or
    - of violations prescribed in this Act.
  - c) evidence that this person has not held management positions in an undertaking against which bankruptcy or compulsory winding-up proceedings have been opened;
  - d) a curriculum vitae, listing all companies, and their addresses, with which this person is or has been employed and describing operations under his/her responsibility, and thereby enabling an assessment to be made as to whether he/she possesses the professional qualifications, abilities and experience required for managing payment operations;
- 11) for a member of the management board of a payment institution, or executive director of a payment institution having the board of directors, where this payment institution, apart from providing payment services, performs the activities referred to in Article 68, item (3) of this Act, the documentation referred to in item (10), indents a) to c) of this Article, and for the persons responsible for managing operations related to the provision of payment services in that payment institution, also the documentation referred to in item (10), indent d) of this Article;
- 12) evidence on the appointment of a statutory auditor or audit firm to audit financial statements for the business year for which the application is submitted.
- 13) a list of persons having close links with the payment institution and the description of the manner in which they are linked;
- (3) Exceptionally, the Croatian National Bank shall, on a reasoned request, obtain from the criminal history records the evidence referred to in paragraph (2), item (9), sub-item (2), indent d) and item (10), indent b) of this Article.

(4) In the case of a natural person who is not a citizen of the Republic of Croatia, the evidence referred to in paragraph (2), item (9), sub-item (2), indent d) or paragraph (2), item (10), indent b) of this Article shall be the evidence, not older than three months, related to the crimes which by their definition correspond to the crimes stated therein.

(5) In order to meet the conditions referred to in paragraph (2), items (5), (6) and (8) of this Article, a payment institution shall submit a description of the management framework, internal control mechanism and measures put in place to protect the interests of payment service users and ensure the continuous and sound provision of payment services.

*Granting authorisation to provide payment services*  
Article 70

(1) The Croatian National Bank shall grant authorisation to provide payment services provided that it assesses from the application referred to in Article 69 of this Act and available information that all of the following conditions are met:

- 1) in view of the need to ensure the sound and prudent management of the payment institution, the holder of a qualifying holding is suitable, especially with respect to the financial strength and good reputation;
- 2) the person proposed to be a member of the management board or executive director of the payment institution, where it does not also perform the activities referred to in Article 68, item (3) of this Act, has a good reputation and the skills and experience required for the provision of payment services;
- 3) where the payment institution, apart from the provision of payment services, also performs the activities referred to in Article 68, item (3) of this Act, the person responsible for managing operations related to the provision of payment services has a good reputation and the skills and experience required for the provision of payment services;
- 4) the payment institution is organised in accordance with this Act, that is, the conditions for the operation of a payment institution laid down in this Act or in regulations adopted under this Act are established;
- 5) the provisions of the Articles of Association or any other relevant legal act of the payment institution comply with the provisions of this Act and regulations adopted under this Act;
- 6) where it assesses that, in view of the need to ensure the sound and prudent management of the payment institution, this institution has put in place effective and sound governance arrangements comprising a clear management framework with well-defined, transparent and consistent lines of powers and responsibilities, effective procedures for establishing, managing, monitoring and reporting on all the risks to which the payment institution is or might be exposed, and an adequate internal control mechanism, which includes appropriate administrative and accounting procedures, and that the said governance arrangements, internal control mechanism and administrative and accounting procedures are comprehensive and proportionate to the nature, scope and complexity of the payment services provided; and
- 7) the head office of the payment institution is in the Republic of Croatia.

(2) Prior to granting authorisation to provide payment services, the Croatian National Bank may consult with other competent authorities in order to make a better assessment of the submitted application.

*Additional application for authorisation to provide payment services*

## Article 71

(1) Where a payment institution, after having obtained authorisation referred to in Article 65 of this Act, intends to provide payment services other than those covered by the authorisation, it shall submit an application for authorisation to provide such payment services accompanied with the documentation referred to Article 69, paragraph (2), items (2) to (4) of this Act and an explanation of the impact of the new services on the financial statements, organisational structure, internal control mechanism and system for safeguarding payment service users' funds.

(2) All authorisations a payment institution obtains from the Croatian National Bank in accordance with the application referred to in paragraph (1) of this Article shall be considered as constituting the authorisation referred to in Article 65 of this Act.

### *Refusal of an application for authorisation to provide payment services*

#### Article 72

(1) The Croatian National Bank shall refuse an application for authorisation to provide payment services:

- 1) where it assesses that any of the conditions referred to in Article 70 of this Act is not met;
- 2) where the exercise of supervision of the payment institution's operation pursuant to the provisions of this Act may be made difficult or prevented due to close links between the payment institution and other legal or natural persons;
- 3) where the exercise of supervision of the payment institution's operation pursuant to the provisions of this Act may be made difficult or prevented due to close links between the payment institution and other legal or natural persons having their registered office or domiciles, or habitual residences, in a third country whose regulations prevent the exercise of supervision, or if there are any other reasons preventing the exercise of supervision; or
- 4) where it is evident from the accompanying documentation that the payment institution, apart from the provision of payment services, intends to engage in the activities referred to in Article 68, item (3) of this Act, which impair or might impair the financial stability of the applicant or make difficult the exercise of supervision by the Croatian National Bank, and that this requires the establishment of a separate entity for the provision of payment services.

(2) Close links referred to in paragraph (1), items (2) and (3) of this Article shall be deemed to be close links in terms of the law governing credit institutions.

### *Withdrawal of authorisation to provide payment services*

#### Article 73

(1) The Croatian National Bank shall withdraw authorisation to provide payment services:

- 1) where a payment institution does not commence providing payment services in accordance with authorisation within twelve months after it has been granted;
- 2) where a payment institution submits a written notification to the Croatian National Bank stating that it no longer intends to provide the services for which authorisation has been granted;
- 3) where a payment institution has not provided payment services for more than six months;

- 4) where a payment institution obtains authorisation based on false or inaccurate documentation or false presentation of the data relevant to its operation; or
- 5) where a payment institution no longer meets the conditions under which authorisation has been granted.

- (2) The Croatian National Bank may withdraw authorisation to provide payment services:
- 1) where any of the reasons referred to in Article 72, paragraph (1), items (2) to (4) of this Act arises;
  - 2) where a payment institution threatens the stability of a payment system by continuing to provide payment services;
  - 3) where a payment institution, in any manner whatsoever, prevents the supervision of its operation; or
  - 4) where a payment institution fails to implement supervisory measures imposed by the Croatian National Bank.

*Decision to withdraw authorisation to provide payment services*  
Article 74

- (1) The Croatian National Bank shall submit a decision to withdraw authorisation to provide payment services to a payment institution within three days of the date of its adoption.
- (2) The Croatian National Bank shall submit a decision to withdraw authorisation to provide payment services to the competent commercial court and issue a press release thereon.

*Expiry of authorisation to provide payment services*  
Article 75

- (1) Authorisation to provide payment services shall expire:
  - 1) on the date of the adoption of a decision on the winding-up of a payment institution;
  - 2) on the date of the adoption of a decision on the opening of bankruptcy proceedings against a payment institution;
  - 3) on the date of the removal of a payment institution from the register of companies in the case of a merger, acquisition and division; or
  - 4) on the date of the submission of a decision to withdraw authorisation to provide payment services from a payment institution; or on the date specified in the decision to withdraw authorisation to provide payment services.
- (2) The provisions of this Act shall apply *mutatis mutandis* to a payment institution undergoing winding-up proceedings.
- (3) The Croatian National Bank may prescribe the manner of application of the provisions of this Act in the cases referred to in paragraph (2) of this Article.

*Provision of payment services by payment institutions through agents*  
Article 76

(1) A payment institution having its registered office in the Republic of Croatia may provide payment services through one or several agents. An agent of a payment institution may be a legal or a natural person in accordance with other regulations.

(2) A payment institution which intends to provide payment services through an agent shall obtain a prior decision to enter the agent into the register from the Croatian National Bank.

(3) A payment institution shall accompany an application for entry into the register referred to in paragraph (2) of this Article with the following:

- 1) the agent's firm and registered office, or the agent's name and address;
- 2) a description of the internal control mechanism put in place by the agent to comply with the provisions of the law governing the prevention of money laundering and terrorist financing;
- 3) for a member of the management board or executive director of the agent which is a legal person, or for the agent who is a natural person, the documentation referred to in Article 69, paragraph (2), item (10) of this Act; and
- 4) a list of payment services that it intends to provide through agents.

(4) The Croatian National Bank may take all actions necessary, including requiring documentation, to verify the accuracy of the information submitted.

(5) The Croatian National Bank shall refuse to enter an agent into the register where it establishes, based on the documentation and information referred to in paragraphs (3) and (4) of this Article, that:

- the internal control mechanism put in place to comply with the provisions of the law governing the prevention of money laundering and terrorist financing is inadequate, or
- that a member of the management board or executive director of the agent which is a legal person, or an agent who is a natural person, does not have a good reputation or the skills and experience required for the provision of payment services.

(6) An agent may commence work as of the date a decision to enter the agent into the register is adopted.

(7) The Croatian National Bank shall adopt a decision to remove an agent from the register:

- 1) if a payment institution requests that an agent be removed from the register;
- 2) if bankruptcy proceedings have been opened against the agent;
- 3) where the agent is a legal person, upon its removal from the register of companies in the case of a merger, acquisition or division;
- 4) where the agent is a natural person, upon his/her death;

(8) The Croatian National Bank may adopt a decision to remove an agent from the register:

- 1) if any of the reasons referred to in paragraph (5) of this Article arise; and
- 2) if the reason referred to in Article 79, paragraph (8) of this Act arises.

(9) A payment institution may not provide payment services through an agent:

- 1) as of the date of submission of the decision referred to in paragraph (7), items (1) and (2) of this Article,
- 2) as of the date of adoption of the decision to open bankruptcy proceedings against the agent;

3) as of the date of removal of the agent from the register of companies in the case of a merger, acquisition or division.

*Provision of payment services within the territory of another Member State*

Article 77

A payment institution having its registered office in the Republic of Croatia, may, under the conditions laid down in this Act, provide payment services which it is authorised to provide in the Republic of Croatia within the territory of another Member State, through a branch, an agent or directly.

*Provision of payment services within the territory of another Member State through a branch or directly*

Article 78

(1) A payment institution which intends to provide payment services within the territory of another Member State, through a branch or directly, shall in advance notify the Croatian National Bank thereof, stating the country in which it intends to provide services. This notification shall be considered as an application for entering the branch into the register.

(2) A payment institution shall accompany the notification referred to in paragraph (1) of this Article with the following:

- 1) a list of payment services intended to be provided in the host Member State;
- 2) where the payment services are intended to be provided through a branch, the branch's organisational structure; and
- 3) where the payment services are intended to be provided through a branch, also a list of names and addresses of the persons who are to be responsible for managing the branch's operations and the address of the branch in the host Member State.

(3) The Croatian National Bank shall forward the notification and documentation referred to in paragraph (2) of this Article to the competent authority of the host Member State within a month of their submission, and shall notify the payment institution thereof. If a payment institution intends to provide payment services within the territory of another Member State through a branch, the Croatian National Bank shall enter the branch into the register.

(4) By way of derogation from paragraph (3) of this Article, the Croatian National Bank shall not forward the notification of the intended provision of payment services through a branch in another Member State, and shall refuse to enter the branch into the register, notifying the payment institution thereof, where it assesses that there are reasonable grounds to suspect that this involves an act or attempted act of money laundering or terrorist financing, or that the operation of this payment institution's branch could increase the risk of money laundering or terrorist financing.

(5) A payment institution may commence providing payment services:

(1) through a branch as of the date when the competent authority of the host Member State receives the notification and documentation referred to in paragraph (2) of this Article and when the Croatian National Bank enters the branch into the register;

(2) directly as of the date when the competent authority of the host Member State receives the notification and documentation referred to in paragraph (2) of this Article.

(6) Where a payment institution provides payment services through a branch in another Member State, the Croatian National Bank may adopt a decision to remove the payment institution's branch from the register if notified by the competent authority of the host Member State that there are reasonable grounds to suspect that this involves an act or attempted act of money laundering or terrorist financing, or that the operation of this payment institution's branch could increase the risk of money laundering or terrorist financing.

*Provision of payment services within the territory of another Member State  
through an agent*  
Article 79

(1) A payment institution which intends to provide payment services within the territory of another Member State through an agent shall in advance notify the Croatian National Bank thereof, stating the country in which it intends to provide services. This notification shall be considered as an application for entering the agent into the register.

(2) In addition to the documentation referred to in Article 76, paragraph (3) of this Act, a payment institution shall accompany the notification referred to in paragraph (1) of this Article with the following:

1) a list of payment services intended to be provided through an agent in the host Member State; and

2) where applicable, the agent's organisational structure.

(3) The Croatian National Bank shall forward the notification and documentation referred to in paragraph (2) of this Article to the competent authority of the host Member State within one month of their submission, notify the payment institution thereof and enter the agent into the register.

(4) By way of derogation from paragraph (3) of this Article, the Croatian National Bank shall not forward the notification of the intended provision of payment services through an agent in another Member State, and shall refuse to enter the agent into the register, notifying the payment institution thereof, where it assesses that the internal control mechanism put in place by the agent to comply with the provisions of the law governing the prevention of money laundering and terrorist financing is ineffective or that a member of the management board or executive director of the agent which is a legal person, or the agent who is a natural person, does not have a good reputation or the skills and experience required for the provision of payment services.

(5) A payment institution may commence providing payment services through an agent as of the date when the competent authority of the host Member State receives the notification and documentation referred to in paragraph (2) of this Article and when the Croatian National Bank enters the agent into the register.

(6) The Croatian National Bank may, except for the reasons listed in paragraph (4) of this Article, refuse to enter an agent into the register if the competent authority of the host Member State considers the agent to be inappropriate or if notified by the competent authority that there are reasonable grounds for suspicion of an act or attempted act of money laundering or terrorist financing, or that the engagement of this agent increases the risk of money laundering or terrorist financing.

(7) An agent may commence work as of the date of adopting a decision to enter the agent into the register.

(8) The Croatian National Bank may adopt a decision to remove from the register an agent of a payment institution if notified by the competent authority of the host Member State that there are reasonable grounds for suspicion of an act or attempted act of money laundering or terrorist financing, or that the engagement of this agent increases the risk of money laundering or terrorist financing.

*Provision of payment services within the territory of a third country*  
Article 80

(1) A payment institution having its registered office in the Republic of Croatia may provide payment services in a third country exclusively through a branch.

(2) In order to establish a branch in a third country, a payment institution shall obtain authorisation from the Croatian National Bank (hereinafter: authorisation to establish a branch in a third country).

(3) A payment institution which intends to establish a branch within the territory of a third country shall submit an application for authorisation to establish a branch in a third country, stating the country in which it intends to establish a branch.

(4) A payment institution shall accompany the application referred to in paragraph (3) of this Article with the following:

1) a business plan for the next three business years, which must contain a list of the payment services intended to be provided through the branch, and the branch's management framework;

2) the payment institution's organisational structure;

3) a list of names and addresses of the persons who are to be responsible for managing the branch's operations; and

4) an address in the third country at which the Croatian National Bank will be able to obtain documentation on the branch.

(5) The Croatian National Bank may, within a month of receipt of the application referred to in paragraph (3) of this Article, require additional documentation. In the event that the Croatian National Bank requires additional documentation, the date of receipt of the complete application shall be considered to be the submission date.

(6) The Croatian National Bank shall, at the latest within three months of submission of the complete application, adopt a decision on the application of a payment institution to establish a branch.

(7) The Croatian National Bank shall refuse an application to establish a branch where, based on the available information, it assesses that:

- 1) the payment institution intending to establish a branch does not have an appropriate organisational, technical and personnel structure or financial position that allows it to provide the planned scope of services in a third country;
- 2) in view of that country's regulations or practices relating to their implementation, it is likely that the exercise of supervision in accordance with the provisions of this Act will be made difficult or prevented; or
- 3) the payment institution in this way attempts to evade stricter rules in force in the Republic of Croatia.

(8) Where a payment institution which has been authorised by the Croatian National Bank to establish a branch in a third country intends to establish any more branches in that country, it shall notify the Croatian National Bank thereof. The provisions of paragraphs (2) to (7) of this Article shall not apply to such cases.

(9) Where a payment institution which has been authorised to establish a branch in a third country intends to change any of the information referred to in paragraph (4) of this Article, it shall notify the Croatian National Bank thereof at least one month prior to effecting this change.

(10) The Croatian National Bank may withdraw authorisation to establish a branch in a third country from a payment institution:

- 1) where it is established that the payment institution no longer meets the organisational, technical and personnel requirements relating to the services it provides;
- 2) where the payment institution does not comply with the regulations of the host country in the operation of the branch; or
- 3) where it is evident from the territorial distribution of the provision of services that the payment institution in this way attempts to evade stricter regulations and rules in force in the Republic of Croatia.

(11) The Croatian National Bank shall withdraw authorisation to establish a branch in a third country from a payment institution:

- 1) where the competent authority of the host country has prohibited the payment institution from providing services within its territory;
- 2) where the branch fails to commence its operation within six months of obtaining authorisation;
- 3) where the branch has not performed operations covered by the authorisation for more than six months; or
- 4) where the payment institution obtained authorisation to establish a branch based on false or inaccurate data, which were relevant for obtaining authorisation to establish a branch.

*Provision of payment services by a payment institution from another Member State within the territory of the Republic of Croatia*

Article 81

- (1) A payment institution from another Member State shall be a legal person having the registered office in another Member State which has been authorised by the competent authority to provide payment services.
- (2) A payment institution from another Member State may, under the conditions laid down in this Act, provide the payment services which it provides in its home Member State within the territory of the Republic of Croatia through a branch or an agent.
- (3) A payment institution from another Member State may, under the conditions laid down in this Act, directly provide the payment services which it provides in its home Member State, on the condition that it provides them on a temporary basis.
- (4) For the purposes of paragraph (3) of this Article, a payment institution shall be considered to provide payment services within the territory of the Republic of Croatia on a temporary basis and directly if it does not provide payment services on a regular, frequent or continuous basis.
- (5) The agent referred to in paragraph (2) of this Article may only be a person whose registered office or domicile is in the Republic of Croatia.

*Provision of payment services by a payment institution from another Member State within the territory of the Republic of Croatia through a branch or directly*

Article 82

- (1) A payment institution from another Member State may commence to directly provide payment services within the territory of the Republic of Croatia after the Croatian National Bank has received the notification and documentation relating to the intended provision of payment services within the territory of the Republic of Croatia, referred to in Article 78, paragraph (2) of this Act, from the competent authority of the home Member State.
- (2) A payment institution from another Member State may commence to provide payment services through a branch within the territory of the Republic of Croatia after the Croatian National Bank has received the notification and documentation relating to the intended provision of payment services, referred to in Article 78, paragraph (2) of this Act, from the competent authority of the home Member State and after the branch of the payment institution has been entered into the register kept by the competent authority of the home Member State.
- (3) The Croatian National Bank shall notify the competent authority of the home Member State if there are any reasonable grounds to suspect that the intended establishment of a branch by a payment institution from the Member State involves an act or attempted act of money laundering or terrorist financing, or that the establishment of a branch could increase the risk of money laundering or terrorist financing.

*Provision of payment services by a payment institution from another Member State within the territory of the Republic of Croatia through an agent*

Article 83

(1) A payment institution from another Member State may commence to provide payment services within the territory of the Republic of Croatia through an agent after the Croatian National Bank has received the notification and documentation relating to the intended provision of payment services, referred to in Article 79, paragraph (2) of this Act, from the competent authority of the home Member State and after the agent has been entered into the register kept by the competent authority of the home Member State.

(2) The Croatian National Bank shall notify the competent authority of the home Member State if there are any reasonable grounds to suspect that the intended engagement of an agent by a payment institution from the Member State involves an act or attempted act of money laundering or terrorist financing, or that the engagement of this agent could increase the risk of money laundering or terrorist financing.

*Cooperation of competent authorities in cross-border provision of payment services*

Article 84

(1) The Croatian National Bank and competent authorities of another Member State shall cooperate in the supervision of payment institutions which, directly, through a branch or through an agent, provide payment services within the territory of the Republic of Croatia and that other Member State.

(2) The Croatian National Bank shall cooperate with competent authorities of other Member States and communicate to them the information essential or relevant for the exercise of supervision, and especially the information related to illegalities that have been or are suspected of having been committed. In this regard, the Croatian National Bank shall communicate to another competent authority:

- 1) on its request, all the information relevant for or related to the exercise of supervision by that competent authority; or
- 2) on its own initiative, all the information essential for the exercise of supervision by that competent authority.

(3) The provisions of paragraphs (1) and (2) of this Article shall be without prejudice to the obligations of the Croatian National Bank under the regulations governing the prevention of money laundering and terrorist financing, especially those related to the supervision and control of the application of these regulations.

*Notification of payment service users*

Article 85

(1) A payment institution having its registered office in the Republic of Croatia which provides payment services either through a branch or through an agent shall ensure that the branches and agents acting on its behalf notify payment service users thereof.

(2) A payment institution having its registered office outside the Republic of Croatia which provides payment services within the territory of the Republic of Croatia either through a branch or through an agent shall ensure that the branches and agents acting on its behalf notify payment service users thereof.

### **Chapter 3** **Operation of payment institutions**

#### *Own funds* **Article 86**

(1) In order to ensure its safe and sound operation and be able to meet obligations to creditors, a payment institution shall maintain an adequate level of own funds.

(2) The own funds shall never fall below the initial capital referred to in Article 67 of this Act.

(3) The Croatian National Bank may prescribe the following for the calculation of own funds:

- the own funds calculation methods;
- the minimum amount of own funds;
- the characteristics and types of items included in the calculation of own funds;
- the granting of approval; and
- the method and extent of the inclusion of particular items in the calculation of individual components of own funds.

#### **Safeguarding of payment service users' funds** **Article 87**

(1) A payment institution shall safeguard the funds received from payment service users or through another payment service provider for the execution of payment transactions, in one of the manners prescribed in paragraphs (2) to (4) or paragraph (5) of this Article.

(2) A payment institution shall not commingle the funds of payment service users referred to in paragraph (1) of this Article on whose behalf they are held with the funds of other natural or legal persons.

(3) Where a payment institution holds the funds referred to in paragraph (2) of this Article, and these funds have not been delivered to a payee or transferred to another payment service provider by the end of the business day following the day when the funds were received, the payment institution shall:

- 1) deposit them in a separate account with a credit institution having its registered office in the Republic of Croatia;
- 2) deposit them in a separate account with a credit institution having its registered office in a Member State; or
- 3) invest them in low-risk and highly liquid types of assets, as follows:
  - non-risk, highly liquid assets;
  - sight deposits in a credit institution with an adequate rating; or
  - debt securities issued by an issuer with an adequate rating.

(4) The funds of the payment service users referred to in paragraph (3) of this Article shall not be the property of a payment institution, and shall neither be included in its assets, or winding-up or bankruptcy estate, nor may they be subject to execution relating to claims against the payment institution.

(5) A payment institution shall cover the funds of the payment service users referred to in paragraph (1) of this Article by an insurance policy from an insurance company or a credit institution's guarantee, provided that this insurance company or credit institution does not belong to the same group as the payment institution itself. The contracted insurance policy or guarantee must be payable in the event that the payment institution is unable to meet its financial obligations incurred by the provision of services related to the execution of payment transactions.

(6) Where a payment institution, apart from providing payment services, performs the activity referred to in Article 68, item (3) of this Act and receives funds from a payment service user, of which a portion is to be used for future payment transactions, and the remaining portion for the services which the payment institution provides, other than payment services, it shall safeguard the portion of funds to be used for future payment transactions in the manner referred to in paragraph (3) or (5) of this Article. If that portion is variable or unknown in advance, the payment institution may determine the portion of funds to be used for future payment transactions based on the representative portion assumed to be used for these purposes, provided that such a representative portion can be reasonably estimated on the basis of historical data.

(7) The Croatian National Bank may prescribe in detail the safeguarding of payment service users' funds, including the required characteristics of the asset types referred to in paragraph (3) of this Article.

*Payment institution's accounts*  
Article 88

When a payment institution provides a payment service which includes operating payment accounts, these accounts may be used exclusively for payment transactions.

*Granting of credits and prohibition from accepting deposits*  
Article 89

(1) A payment institution may grant credits in connection with the provision of the payment services referred to in Article 3, items (4), (5) and (7) of this Act only if all the following conditions are met:

- 1) a credit has been granted exclusively as an ancillary service in connection with the execution of a payment transaction;
- 2) a credit which has been granted as an ancillary service in connection with the execution of a payment transaction and executed pursuant to the right to provide payment services within the territory of another Member State is to be paid off within a term no longer than twelve months;

- 3) a credit has not been granted from the funds of payment service users received by the payment institution and held for the execution of payment transactions; and
- 4) the own funds of the payment institution, as assessed by the Croatian National Bank, are at all times appropriate with regard to the total amount of the credit granted.

(2) For the purposes of this Act, funds received by payment institutions from payment service users for the provision of payment services shall not constitute deposits or any other repayable funds within the meaning of the law governing the operation of credit institutions, or electronic money within the meaning of the law governing the operation of electronic money institutions.

### *Business books and financial statements*

#### Article 90

(1) Unless otherwise provided for by this Act, a payment institution shall keep business books, other business documentation and records, evaluate assets and liabilities and prepare and publish annual financial statements in accordance with applicable regulations and professional standards.

(2) A payment institution which provides services referred to in Article 68, item (3) of this Act shall keep separate business books and prepare separate financial statements for payment services.

### *Storing of bookkeeping documents*

#### Article 91

A payment institution shall store bookkeeping documents and other documentation related to this Title in accordance with applicable regulations and professional standards, but for no less than five years.

### *Audit requirements*

#### Article 92

(1) A payment institution shall have the annual financial statements and consolidated financial statements, referred to in Article 90 of this Act, audited for each business year.

(2) A payment institution shall, within fifteen days of receipt of an audit report and at the latest within four months of expiry of the business year to which the annual financial statements relate, submit the following to the Croatian National Bank:

- 1) the audit report on annual financial statements, inclusive of these financial statements; and
- 2) annual and consolidated annual reports, in accordance with the regulations governing the content of such reports.

(3) For the purposes of paragraph (1) of this Article, a business year shall correspond to a calendar year.

(4) The persons carrying out the audit referred to in paragraph (1) of this Article shall without undue delay notify the Croatian National Bank of the following:

- established illegalities or facts and circumstances which could in any way jeopardise continued operation of the payment institution; and
- the circumstances which have led to the withdrawal of authorisation to provide payment services.

(5) The persons carrying out an audit of a payment institution shall notify in writing the Croatian National Bank of any of the facts referred to in paragraph (4) of this Article of which they became aware while auditing the financial statements of an undertaking closely linked with that payment institution.

(6) The submission to the Croatian National Bank of the information referred to in paragraphs (4) and (5) of this Article shall not constitute a violation of the auditor's duty to protect the confidentiality of information under the law governing audit or under the contract.

*Assessment for the purposes of the Croatian National Bank*  
Article 93

(1) The Croatian National Bank may specify in subordinate legislation the payment institutions for which an assessment of the state of the IT system and the adequacy of the IT system management must be a constituent part of the audit report referred to in Article 92 of this Act, the content of such assessment and the grounds on which the Croatian National Bank may refuse such assessment.

(2) The persons carrying out an audit shall, at the request of the Croatian National Bank, provide additional information related to the assessment referred to in paragraph (1) of this Article.

*Outsourcing*  
Article 94

(1) A payment institution may outsource some of its operational activities. It shall notify the Croatian National Bank thereof prior to concluding a contract with an outsourcing service provider.

(2) By way of derogation from paragraph (1) of this Article, where a payment institution intends to outsource materially important operational activities, it shall, within an appropriate time limit and at the latest ninety days prior to concluding a contract with an outsourcing service provider, notify the Croatian National Bank thereof and submit the documentation proving that the conditions referred to in paragraphs (4) to (6) of this Article are met.

(3) Materially important operational activities shall be the activities which, if performed incorrectly or not at all, would significantly impair:

- 1) the legality of the payment institution's operation;
  - 2) its financial stability;
  - 3) the continuity in meeting the conditions based on which it has been granted authorisation;
- or

4) the soundness or continuity of its provision of payment services.

(4) A payment institution shall ensure that the intended outsourcing:

- 1) does not alter the relationship and obligations of the payment institution to its payment service users as defined in this Act;
- 2) does not threaten the legality of the payment institution's operation;
- 3) does not result in transferring the liability from the responsible persons of the payment institution to an outsourcing service provider; and
- 4) does not alter the conditions under which the payment institution has been granted authorisation to provide payment services.

(5) In addition to complying with the requirements referred to in paragraph (4) of this Article, a payment institution shall ensure that the intended outsourcing of materially important operational activities meets the following conditions:

- 1) that it does not impair the quality of the payment institution's internal control mechanism;
- 2) that it does not impair the exercise of supervision by the Croatian National Bank.

(6) A payment institution shall ensure that the Croatian National Bank can carry out on-site examination at the location where the services are provided, that is, at the outsourcing service provider's premises, and it shall ensure access to the outsourcing-related documentation and data possessed by the outsourcing service provider.

(7) If an outsourcing service provider is located within the territory of another Member State, the Croatian National Bank shall, prior to carrying out an on-site examination at the outsourcing service provider's premises, notify thereof the competent authority of the host Member State.

(8) The provisions of Article 84 of this Act shall apply *mutatis mutandis* to the cooperation between the Croatian National Bank and the competent authority of another Member State in exercising supervision over outsourced operational activities

(9) The Croatian National Bank may prescribe in detail the outsourcing of the operational activities of a payment institution.

#### *Liability of a payment institution* Article 95

(1) A payment institution shall be fully liable to third parties for the acts of its employees, agents, branches and outsourcing service providers in connection with the provision of payment services, and for outsourced operational activities.

(2) A payment institution may not exclude or limit the liability referred to in paragraph (1) of this Article.

*Governance arrangements*  
Article 96

(1) A payment institution shall establish and implement effective and sound governance arrangements, proportionate to the nature, scope and complexity of the operations it performs, comprising:

- 1) a clear management framework with well-defined, transparent and consistent lines of powers and responsibilities within the payment institution;
- 2) efficient risk management, in particular as concerns operational risk;
- 3) an appropriate internal control mechanism, which also includes appropriate administrative and accounting procedures.

(2) The Croatian National Bank may prescribe in detail the governance arrangements referred to in paragraph (1) of this Article.

**Chapter 4**  
**Supervision of payment institutions**

*Supervision of payment institutions*  
Article 97

(1) The Croatian National Bank shall exercise supervision of payment institutions.

(2) The supervision referred in paragraph (1) of this Article shall mean the verification of whether a payment institution operates in accordance with the provisions of this Act and regulations adopted under this Act, and in relation to its provision of payment services and its activities in accordance with Article 68, items (1) and (2) of this Act.

(3) In establishing the frequency and intensity of the supervision referred in paragraph (1) of this Article, the Croatian National Bank shall take into account the type, scope and complexity of the activities carried out by a payment institution and the risks it is exposed to in its operation.

(4) Other supervisory authorities may also exercise supervision of the operation of payment institutions in accordance with their powers under law, and within their competence.

(5) Where a different supervisory authority is competent for the supervision of a payment institution, the Croatian National Bank may participate in the supervision of that institution with the respective supervisory authority or may require from that supervisory authority the data and information which would be relevant for the supervision of the payment institution in question.

(6) The Croatian National Bank may prescribe in detail the conditions for and the manner of exercising supervision and imposing measures, and the responsibilities of the payment institution's bodies in the course of and following supervision.

(7) Payment institutions shall pay a supervision fee to the Croatian National Bank, whose calculation basis, amount, calculation and payment methods may be prescribed by the

Croatian National Bank. The criterion for establishing the amount of the fees may be the type of payment services provided by the payment institution, the minimum own funds that the payment institution is required to maintain, the executed transaction volume or the number of agents through which the payment institution provides payment services.

*Manner of exercising supervision of payment institutions*  
Article 98

- (1) The Croatian National Bank shall exercise supervision of payment institutions by:
- 1) collecting and analysing reports and information that payment institutions are required to submit to the Croatian National Bank pursuant to this Act and/or other laws and regulations adopted under these laws, and by ongoing monitoring of their operation;
  - 2) carrying out on-site examinations of payment institutions' operation, their branches, agents and outsourcing service providers; and
  - 3) imposing supervisory measures.
- (2) The supervision referred to in paragraph (1), item (1) of this Article shall be exercised by the employees of the Croatian National Bank.
- (3) The supervision referred to in paragraph (1), item (2) of this Article shall be exercised by the employees of the Croatian National Bank authorised by the Governor of the Croatian National Bank (hereinafter: authorised persons). Exceptionally, the Governor of the Croatian National Bank may authorise other professionally qualified persons to carry out on-site examinations.
- (4) The Croatian National Bank shall submit a notification of an on-site examination to a payment institution at least eight days prior to the beginning of the on-site examination. Exceptionally, authorised persons may submit the notification of an on-site examination no later than the beginning of the on-site examination. The notification shall include the subject of the on-site examination and information on what the payment institution subject to the on-site examination shall prepare for authorised persons for the purpose of carrying out the on-site examination.
- (5) A payment institution shall enable authorised persons to carry out an on-site examination and ensure adequate conditions for undisturbed performance of the on-site examination.
- (6) A payment institution which processes data by computer shall, at the request of authorised persons, ensure the conditions and adequate means of support for the examination of business books and records, and shall submit to authorised persons documentation that provides a complete description of the accounting system's operation.

*On-site examination*  
Article 99

- (1) A payment institution shall enable authorised persons, at their request, to carry out an on-site examination at the registered office of the payment institution and in other localities in which the payment institution or another person with its authorisation carries out activities and operations subject to the supervision of the Croatian National Bank.

(2) A payment institution shall enable authorised persons, at their request, to carry out an examination of business books, business documentation, and administrative or business records, as well as an examination of information and related technologies, to the extent necessary for an examination.

(3) A payment institution shall submit to authorised persons, at their request, computer print-outs, copies of business books, business documentation and administrative or business records, in a paper form or in the form of an electronic record, in the medium and format required by the authorised persons. The payment institution shall provide authorised persons with a standard interface granting access to the database management system used by the payment institution, for the purpose of carrying out a computer-aided examination.

(4) The examination referred to in paragraphs (1) and (2) of this Article shall be carried out by authorised persons during payment institution's working hours. Where necessary because of the scope or nature of the examination, the payment institution shall enable authorised persons to carry out the examination outside its working hours.

*Completion of an examination of a payment institution*  
Article 100

(1) A report on examination findings shall be prepared following an examination of the payment institution's operation.

(2) Exceptionally, a report on examination findings shall not be prepared where the examination has been carried out under Article 98, paragraph (1), item (1) of this Act and where no illegalities or weaknesses and deficiencies in the payment institution's operation have been identified that require the imposition of supervisory measures.

*Supervisory measures*  
Article 101

(1) The objective of the supervisory measures of the Croatian National Bank shall be to take actions at an early stage to improve the safety and stability of payment institutions' operations and to eliminate illegalities established.

(2) Supervisory measures shall be implemented by means of:  
1) a memorandum of understanding, or  
2) a decision.

*Memorandum of understanding*  
Article 102

(1) Following an examination of a payment institution, the Croatian National Bank may conclude a memorandum of understanding with the payment institution if it identifies weaknesses or deficiencies in the payment institution's operation which do not constitute a violation of regulations or if, following the examination, it deems it necessary to give the

payment institution recommendations or guidelines on the basis of which the payment institution is to take actions and procedures to improve its operation.

(2) The Croatian National Bank may propose to a payment institution the conclusion of a memorandum of understanding if:

- 1) the payment institution has begun to eliminate weaknesses or deficiencies in the course of or immediately following the examination;
- 2) the payment institution is ready to commit itself to eliminating the weaknesses or deficiencies within the proposed time limits and in the manner proposed;
- 3) the payment institution's track record with regards to measures, objections and instructions of the Croatian National Bank suggests that the payment institution will completely fulfil the commitments to be taken under the memorandum; or
- 4) the payment institution's track record, and the frequency of weaknesses, deficiencies or illegalities identified its operation, suggest that the payment institution will in its future operation ensure the legality, safety and stability of operation.

(3) A memorandum of understanding shall lay down:

- 1) the time limit for and the manner of eliminating weaknesses or deficiencies in the payment institution's operation; and
- 2) the time limit and the frequency of the payment institution's reporting to the Croatian National Bank on the fulfilment of the commitments taken under the memorandum of understanding.

*Consequences of a failure to fulfil the commitments taken under a memorandum of understanding*  
Article 103

Where a payment institution fails to fulfil the commitments taken under a memorandum of understanding within the time limit and in the manner laid down in the memorandum, the Croatian National Bank shall adopt a decision.

*Decision to impose supervisory measures*  
Article 104

(1) The Croatian National Bank may adopt a decision to impose supervisory measures on a payment institution if in the course of supervision it establishes:

- 1) that by its actions or omission of particular actions the payment institution acted contrary to laws and other regulations;
- 2) weaknesses and deficiencies in the payment institution's operation which do not constitute a violation of regulations; or
- 3) that it is necessary that the payment institution take actions and procedures to improve its operation.

(2) In the decision referred to in paragraph (1) of this Article, the Croatian National Bank shall lay down the time limit within which the payment institution is to implement the measures imposed by the decision.

(3) A payment institution may, no later than fifteen days prior to the expiry of the time limit referred to in paragraph (2) of this Article, apply for an extension of that time limit by a reasoned request. The Croatian National Bank shall decide on the extension at the latest by the expiry of the time limit laid down in the decision.

*Reporting to the Croatian National Bank on the implementation of decisions*  
Article 105

(1) In its decision to impose supervisory measures, the Croatian National Bank may also order the payment institution to report to the Croatian National Bank within a specified time limit on the implementation of the measures imposed.

(2) The payment institution shall report to the Croatian National Bank on the implementation of measures and shall enclose relevant documents and other evidence within the time limit referred in paragraph (1) of this Article.

(3) Where the Croatian National Bank establishes that the measures imposed have not been implemented or have not been implemented within the time limit and in the manner prescribed by the decision, it may adopt a decision to impose a new supervisory measure on the payment institution.

*Types of supervisory measures*  
Article 106

(1) By means of supervisory measures, the Croatian National Bank may:

- 1) order the competent body of the payment institution to remove a member of the management board or an executive director and appoint a new member of the management board or a new executive director;
- 2) temporarily prohibit a payment institution from providing one or more payment services referred to in Article 73, paragraph (2) of this Act;
- 3) remove a payment institution's branch and/or agent from the register;
- 4) order a payment institution to meet the conditions pursuant to which it was granted authorisation to provide payment services; or
- 5) impose other supervisory measures.

(2) The Croatian National Bank shall impose the measure referred to in paragraph (1), item (2) of this Article simultaneously with the imposition of another supervisory measure in the duration of no longer than one year. The Croatian National Bank shall without undue delay notify the competent commercial court of the imposition of this measure.

(3) The Croatian National Bank may order that a separate entity be established for the provision of payment services if the payment institution performs the activities referred to in Article 68, item (3) of this Act which impair or may impair the financial stability of the payment institution or make supervision more difficult.

(4) Where the own funds of a payment institution are lower than the amount required under Article 86, paragraph (2) of this Act, or where the own funds of a payment institution are not

appropriate with regard to the total amount of the credit granted in accordance with Article 89 of this Act, the Croatian National Bank may:

- 1) order a payment institution's management board or executive director to adopt and ensure the implementation of a plan of measures to provide for the minimum own funds required under the regulation adopted pursuant to Article 86, paragraph (3) of this Act;
- 2) order a payment institution's management board or executive director to adopt and ensure the implementation of a plan of measures to provide that the own funds be appropriate with regard to the total amount of the credit granted in accordance with Article 89 of this Act;
- 3) order the competent body of the payment institution to adopt a decision and carry out an increase in the initial capital referred to in Article 67 of this Act; or
- 4) temporarily prohibit the payment institution to distribute dividends or any form of profit.

*Exemptions from the required minimum amount of own funds*  
Article 107

(1) The Croatian National Bank may, based on an evaluation of the risk-management processes, risk loss data base and the internal control mechanism of the payment institution, require or allow the payment institution to hold a minimum amount of own funds which is up to 20 percent higher or lower than the amount calculated in accordance with the regulations adopted pursuant to this Act.

(2) As regards payment institutions which use the method of applying fixed overheads of the preceding year for the calculation of the minimum amount of own funds, the Croatian National Bank may, in the event of a significant change in a payment institution's operation since the preceding year, require or allow the payment institution to maintain a higher or lower amount of own funds.

*On-site examination of payment institutions having their registered offices in the Republic of Croatia and operating in another Member State*  
Article 108

(1) Where a payment institution having its registered office in the Republic of Croatia operates within the territory of another Member State, directly or through a branch or an agent, the Croatian National Bank or persons it has authorised may carry out an on-site examination after notifying in advance the competent authority of the host Member State.

(2) The Croatian National Bank may request the competent authority of the host Member State in which the payment institution provides services to carry out an on-site examination of the operation of that payment institution's branch or agent.

(3) The Croatian National Bank may participate in an on-site examination of a branch or an agent of a payment institution in a Member State regardless of who carries out the on-site examination.

(4) The provisions of paragraphs (1) to (3) of this Article shall also apply in the case when the outsourcing service provider has its registered office in the territory of another Member State.

*On-site examination of payment institutions having their registered offices in another Member State and providing payment services in the Republic of Croatia*

Article 109

(1) Where a payment institution having its registered office in another Member State operates in the territory of the Republic of Croatia, the competent authority of the home Member State may:

1) carry out an on-site examination of the operation of the payment institution, especially its branches or agents, on its own or through persons it has authorised after having notified the Croatian National Bank thereof, or

2) request from the Croatian National Bank or the person authorised by the Croatian National Bank to carry out an on-site examination of the operation of a branch or an agent of the payment institution of that Member State in the territory of the Republic of Croatia.

(2) By way of derogation from paragraph (1) of this Article, the Croatian National Bank may carry out an on-site examination of a branch or an agent of a payment institution of another Member State, in relation to the application of regulations in accordance with Titles II and III of this Act.

(3) The competent authority of the home Member State may participate in an on-site examination of a branch or an agent of a payment institution of that Member State regardless of who carries out the on-site examination.

(4) The provisions of paragraphs (1) and (3) of this Article shall also apply in the case when the outsourcing service provider has its registered office in the territory of the Republic of Croatia.

*Supervision of third-country branches of payment institutions having their registered offices in the Republic of Croatia*

Article 110

The supervision of payment institutions having their registered offices in the Republic of Croatia which provide payment services through a branch in a third-country shall be exercised by the Croatian National Bank.

*Reporting to the Croatian National Bank*

Article 111

(1) A payment institution shall report to the Croatian National Bank in accordance with this Title.

(2) The Croatian National Bank may prescribe the content of the reports and the reporting time limits and manner referred to in paragraph (1) of this Article.

(3) A payment institution shall without undue delay notify the Croatian National Bank of the following:

- 1) all facts to be entered into the register of companies relating to each submitted application for entry of data in the register of companies and to all completed entries of data changes into the register of companies;
- 2) all planned changes of members of the management board, a change of the executive director, or persons responsible for the business relating to the provision of payment services;
- 3) all planned or executed changes of qualified holders of which the management board or the executive director was aware or should have been aware;
- 4) all planned changes in the payment institution's initial capital of 10 percent or more;
- 5) if the payment institution's financial position changes to the extent that its own funds fall below the minimum amount of own funds prescribed in this Act and the regulation adopted pursuant to Article 86, paragraph (3) of this Act;
- 6) if it stops providing some payment services;
- 7) of the intent to stop providing all payment services, if reasons arise for withdrawal of the authorisation referred to in Article 73 of this Act and of the expiry of the authorisation to provide payment services referred to in Article 75 of this Act;
- 8) if it stops providing payment services through an agent;
- 9) all changes to facts on the basis of which the Croatian National Bank entered its agent into the register; and
- 10) changes to the measures taken for safeguarding payment service users' funds, and shall enclose evidence that the measures meet the conditions referred to in paragraph 87 of this Act; and
- 11) all other changes altering the facts on the basis of which the Croatian National Bank has granted its authorisation to provide payment services.

(4) At the request of the Croatian National Bank, a payment institution shall submit reports and information on all matters relevant for the exercise of supervision or performing of other tasks within the competence of the Croatian National Bank.

*Cooperation among the competent authorities of the Republic of Croatia*  
Article 112

(1) The Croatian National Bank and other supervisory authorities in the Republic of Croatia shall, at the request of a supervisory authority, submit to that authority all information on a payment institution necessary for the performance of supervisory tasks, in authorisation or approval procedures, or when deciding on other specific applications or requests within its competence.

(2) The authorities referred to in paragraph (1) of this Article shall notify one another of withdrawal of authorisations, illegalities and irregularities identified in the course of supervision if such findings are relevant for the operation of the other authority.

(3) The submission of the information and notifications referred to in paragraphs (1) and (2) of this Article shall not constitute a violation of the duty to protect the confidentiality of information.

(4) The authority that receives the information and notifications referred to in paragraphs (1) and (2) of this Article shall protect their confidentiality and shall use the confidential information and notifications it has received exclusively for the purpose for which they have

been given, and may not divulge them to third parties without the consent of the competent authority which submitted them.

*Exchange of information between the Croatian National Bank and the competent authorities of Member States*

Article 113

(1) The Croatian National Bank shall cooperate with the competent authorities of other Member States and, where appropriate, with the European Central Bank and the central banks of Member States and other relevant competent authorities in accordance with the legislation of the European Union or national legislation of Member States applicable to payment service providers.

(2) The Croatian National Bank may also exchange information with:

- 1) the authorities of other Member States competent for the authorisation and supervision of payment institutions;
- 2) the European Central Bank and the national central banks of Member States, in their capacity as monetary and supervisory authorities, and, where appropriate, other public authorities responsible for overseeing payment and settlement systems; and
- 3) other relevant authorities designated under the law governing the protection of personal data, the law governing the prevention of money laundering and terrorist financing and other regulations applicable to payment service providers with regard to the processing of personal data as well as prevention of money laundering and terrorist financing.

(3) The submission of the information and notifications referred to in paragraphs (1) and (2) of this Article shall not constitute a violation of the duty to protect the confidentiality of information.

(4) The authority that receives the information and notifications referred to in paragraphs (1) and (2) of this Article shall protect their confidentiality and shall use the confidential information and notifications it has received exclusively for the purpose for which they have been given and may not divulge them to third parties without the agreement of the competent authority which submitted them.

*Cooperation with the competent authorities of third countries*

Article 114

(1) The Croatian National Bank may conclude an agreement with one or more competent third-country authorities for the purpose of exercising supervision of the operation of a branch of a payment institution having its registered office in the Republic of Croatia and operating in the third country.

(2) The Croatian National Bank may submit confidential information to persons from third countries whose position is equal to that of persons referred to in Article 113, paragraph (2) of this Act, if all of the following conditions are met:

- 1) mutual exchange of information has been agreed with such persons;
- 2) persons from a third country are subject to the duty to protect the confidentiality of information in that country;

- 3) the information submitted to persons from a third country is to be used only for the purpose for which it has been given; and
- 4) it is guaranteed that the information received from the competent authorities of a Member State shall be disclosed to third parties only with the express agreement of the authorities which have disclosed the information.

*Notification of the European Commission*  
Article 115

The Croatian National Bank shall notify the European Commission of its competences relating to granting authorisation for the provision of payment services and supervision of payment institutions in accordance with this Act.

**Chapter 5**  
**Register**

*Register of payment institutions*  
Article 116

- (1) The Croatian National Bank shall maintain a register of payment institutions authorised by it to provide payment services, their branches and agents.
- (2) The register shall include, for each entity referred to in paragraph (1) of this Article, a list of payment services which the payment institution is authorised to provide and its registration number. The Croatian National Bank shall update the register on a regular basis.
- (3) The register of payment institutions shall be publicly available and accessible on the website of the Croatian National Bank.
- (4) The Croatian National Bank shall prescribe the manner of keeping the register.

**TITLE VI**  
**PAYMENT SYSTEMS**

**Chapter 1**  
**Establishment and operation of payment systems in the Republic of Croatia**

*Payment systems in the Republic of Croatia*  
Article 117

A payment system in the Republic of Croatia (hereinafter: payment system) is a payment system in which at least one participant is the provider of payment services, authorised to provide payment services by the Croatian National Bank, whose operator is the person referred to in Article 118, paragraph (2) of this Act.

*Payment system operator*  
Article 118

- (1) A payment system shall be operated by a payment system operator.
- (2) A payment system operator may be:
- 1) a payment institution having a registered office in the Republic of Croatia;
  - 2) a credit institution having a registered office in the Republic of Croatia;
  - 3) an electronic money institution having a registered office in the Republic of Croatia;
  - 4) another legal person having its registered office in the Republic of Croatia, established as a joint stock company or as a limited liability company;
  - 5) another legal person having a registered office in the Republic of Croatia which may operate a payment system in accordance with a special law;
  - 6) the Croatian National Bank; and
  - 7) a branch of a legal person from a foreign country having a registered office in the Republic of Croatia.
- (3) A payment system operator may perform other activities apart from operating a payment system, unless otherwise provided for by the act governing such activities.

*Payment system participants*  
Article 119

- (1) A payment system participant may be:
- 1) a payment service provider,
  - 2) the payment system operator,
  - 3) another payment system, and
  - 4) another person in accordance with the rules of operation of that payment system.
- (2) A payment service provider may also participate in a payment system indirectly through another payment service provider.
- (3) The payment service provider referred to in Article 5, paragraph (1), items (1), (2), (3), (9) and (10) shall notify the Croatian National Bank of each payment system in which it participates directly or indirectly, and of the payment system operator, regardless of whether the payment system operates within the territory of the Republic of Croatia or another country.

*Payment systems regulated by Croatian National Bank subordinate legislation*  
Article 120

- (1) The Croatian National Bank shall prescribe the rules of operation of a payment system which it operates.
- (2) The Croatian National Bank may prescribe the rules of operation of payment systems used for the calculation of payment transactions referred in Article 43, paragraph (2) of this Act that are operated by the payment system operator referred to in Article 118, paragraph (2), item (5) of this Act.

*Authorisation for the operation of a payment system*  
Article 121

(1) Authorisation of the Croatian National Bank shall be required for the operation of a payment system.

(2) By way of derogation from paragraph (1) of this Article, authorisation for the operation of a payment system is not required in the following cases:

- 1) where the payment system operator is a payment service provider which operates the payment system that is part of a card payment scheme or a payment system referred to in Article 130, paragraph (2), item (3) of this Act, or
- 2) where the payment system operation has been prescribed by the Croatian National Bank in accordance with Article 120 of this Act.

(3) The payment system referred to in paragraph (1) of this Article may not commence its operation before the Croatian National Bank has issued authorisation for the operation of that payment system.

(4) The payment system operator shall notify the Croatian National Bank of the beginning of operation of the payment system it operates within a time limit of thirty days.

(5) The payment system operator referred in paragraph (2) of this Article shall, together with the notification referred to in paragraph (4) of this Article, submit to the Croatian National Bank the following:

- 1) a certificate from the register of companies in the form of an original or a certified copy, not older than ninety days;
- 2) the rules of operation of a payment system;
- 3) where the payment system operator engages in other activities apart from the operation of a payment system, for persons responsible for the operation of the payment system, the data specified in Article 69, paragraph (2), item (10) of this Act; and
- 4) name, registered office or place of business of each payment system participant.

*Application for authorisation for the operation of a payment system*  
Article 122

(1) A payment system operator shall apply to the Croatian National Bank for authorisation for the operation of the payment system.

(2) The application referred to in paragraph (1) shall be accompanied by:

- 1) the Articles of Association, a deed of establishment or memorandum of the payment system operator, and where the applicant is entered into the register of companies, a certificate from the register of companies in the form of an original or a certified copy, not older than ninety days;
- 2) application for the approval of the rules of operation of a payment system referred in Article 129, paragraph (3) of this Act;

- 3) a description of the IT system by which the payment system operator demonstrates that the respective IT system is appropriate, adequate, sound, and satisfactory with respect to the performance of all functions in accordance with the rules of operation of a payment system;
- 4) a description of the organisational, technical and personnel structure, including the structure of the payment system operator with respect to operating the payment system and, where appropriate, a description of outsourcing arrangements with respect to operating the payment system, as well as a description of its connection with another payment system;
- 5) for management board members or executive directors of the payment system operator or, where the payment system operator engages in other activities apart from the operation of a payment system, for persons responsible for the operation of the payment system, the data specified in Article 69, paragraph (2), item (10) of this Act; and
- 6) name, registered office or place of business of each payment system participant.

(3) Apart from the documents referred to in paragraph (2) of this Article, the Croatian National Bank may, while processing the application, request additional documentation necessary to decide on granting authorisation.

(4) Exceptionally, the Croatian National Bank shall, on a reasoned request, obtain from the criminal history records the evidence as referred to in paragraph (2), item (5) of this Article.

(5) In the case of a natural person who is not a citizen of the Republic of Croatia, the evidence as referred to in paragraph (2), item (5) of this Article shall be evidence, not older than three months, related to the crimes which by their definition correspond to the crimes stated therein.

*Granting authorisation for the operation of a payment system*  
Article 123

(1) The Croatian National Bank shall grant authorisation for the operation of a payment system if the rules of operation of the payment system meet the conditions for approval referred to in Article 129 of this Act and if, on the basis of the application and documentation referred to in Article 122 of this Act and available information, it assesses that the following conditions are met:

- 1) the persons proposed to be members of the management board of the payment system operator or, in the cases where the payment system operator also performs other activities apart from operating a payment system, the persons responsible for operating the payment system have a good reputation and the skills and experience required for operating the payment system;
- 2) the IT system is appropriate, adequate, sound and satisfactory in relation to all functions envisaged by the rules of operation of a payment system; and
- 3) the available documentation or information does not give rise to other reasons which impair or might impair the safety and stability of the payment system operation.

(2) Prior to granting authorisation for the operation of a payment system, the Croatian National Bank may consult with other competent authorities in order to make a better assessment of the submitted application.

*Refusal of an application for authorisation for the operation of a payment system*  
Article 124

The Croatian National Bank shall refuse an application for authorisation for the operation of a payment system if it assesses that any of the conditions referred to in Article 123 of this Act has not been met.

*Withdrawal of authorisation for the operation of a payment system*  
Article 125

(1) The Croatian National Bank shall withdraw authorisation for the operation of a payment system where:

- 1) the payment system does not commence its operation within twelve months of the date of granting the authorisation;
- 2) the payment system operator submits to the Croatian National Bank a notification of the termination of the payment system's operation;
- 3) the payment system has not operated for more than six consecutive months; or
- 4) it has obtained the authorisation based on false or inaccurate documentation or false presentation of data relevant for operating the payment system.

(2) The Croatian National Bank may withdraw authorisation for the operation of a payment system:

- 1) where continued operation of a payment system would jeopardise the stability of payment operations;
- 2) where the conditions based on which the payment system obtained its authorisation are no longer met;
- 3) where a payment system operator, in any manner whatsoever, prevents the supervision of a payment system; or
- 4) where a payment system operator fails to implement supervisory measures imposed by the Croatian National Bank.

*Decision to withdraw authorisation for the operation of a payment system*  
Article 126

(1) The Croatian National Bank shall submit a decision to withdraw authorisation for the operation of a payment system to the payment system operator within three days of the date of its adoption.

(2) The Croatian National Bank shall issue a press release on the withdrawal of authorisation for the operation of a payment system.

*Expiry of authorisation for the operation of a payment system*  
Article 127

Authorisation for the operation of a payment system shall expire:

- 1) on the date of initiating the winding-up of the payment system operator;
- 2) on the date of the adoption of a decision on the opening of bankruptcy proceedings against the payment system operator;

- 3) on the date of the removal of the payment system operator from the register of companies in the case of a merger, acquisition or division; or
- 4) on the date of the submission of the decision to withdraw authorisation of a payment system to the payment system operator or the date stipulated in the decision to withdraw authorisation.

*Establishment of a branch of a legal person having its registered office outside the Republic of Croatia for operating a payment system within the territory of the Republic of Croatia*  
Article 128

Articles 121 to 127 of this Act shall apply *mutatis mutandis* to a legal person having its registered office outside the Republic of Croatia which intends to operate a payment system through a branch in the territory of the Republic of Croatia.

*Rules of operation of a payment system*  
Article 129

- (1) A payment system shall operate in line with the rules of operation of the payment system.
- (2) The rules of operation of a payment system shall govern standardised arrangements and common rules for processing, clearing and/or settlement of payment transactions among the payment system participants.
- (3) The Croatian National Bank shall, at the request of a payment system operator, give its approval for the rules of operation of the payment system.
- (4) By way of derogation from paragraph (3) of this Article, the approval of the Croatian National Bank is not required for the rules of operation of the payment system as referred in Article 121, paragraph (2) of this Act.
- (5) The rules of operation of a payment system shall cover at a minimum:
  - 1) payment system participants by type and a description of their role in the payment system;
  - 2) conditions for participation and termination of participation in the payment system of payment system participants;
  - 3) payment transactions cleared and/or settled in the payment system by type of payment services;
  - 4) basic principles for clearing and/or settlement of payment transactions;
  - 5) the currency or currencies in which the payment system operates;
  - 6) the manner of and conditions for executing payment transactions, their form and content;
  - 7) procedures for providing information to participants on clearing and/or settlement;
  - 8) the manner of protection of data against abuse; and
  - 9) the moment of entry and the moment of irrevocability of a transfer order, and procedures in case of the opening of insolvency proceedings against a participant, for payment systems governed by the provisions of the law governing settlement finality in payment systems.
- (6) The Croatian National Bank shall give its approval for the rules of operation of a payment system where it deems that they cover the elements referred to in paragraph (5) of this Article

and that their application ensures appropriate protection from systemic risk and other possible risks relating to the functioning of the payment system.

(7) The rules of operation of a payment system may not subsequently be amended without prior approval of the Croatian National Bank.

(8) By way of derogation from paragraph (7) of this Article, prior approval shall not be required for amendments to the rules of operation of a payment system in the part referred to in paragraph (5), items (6) to (9) of this Article.

(9) The payment system operator shall enclose to the application referred to in paragraph (3) of this Article the amended rules of operation and the documentation referred to in Article 122, paragraph (2), items (3) and (4) of this Act.

(10) The provisions of Articles 123 and 124 of this Act shall apply *mutatis mutandis* to the procedure of issuing approval for rules of operation of a payment system.

#### *Access to payment systems* Article 130

(1) The rules governing the access of payment service providers to payment systems shall be objective, non-discriminatory and proportionate and shall not inhibit access more than is necessary to safeguard against specific risks such as settlement risk, operational risk and business risk and to protect the financial and operational stability of the payment system. Accordingly, payment systems shall impose on payment service providers or on other payment systems none of the following requirements:

- 1) any restrictive rule on effective participation in other payment systems;
- 2) any rule which discriminates among payment service providers in relation to their rights and obligations; and
- 3) any restriction based on the type of payment service provider.

(2) Paragraph (1) of this Article shall not apply to:

- 1) payment systems operating in accordance with the law governing settlement finality in payment systems;
- 2) payment systems composed exclusively of payment service providers belonging to a group composed of entities linked by capital, where one of the linked entities enjoys effective control over the other linked entities; or
- 3) payment systems in which a sole payment service provider (whether as a single entity or as a group):
  - a) acts or can act as the payment service provider for both the payer and the payee and is exclusively responsible for the management of the system; and
  - b) licenses other payment service providers to participate in the payment system and the latter have no right to negotiate charges between or among themselves in relation to the payment system although they may establish their own pricing in relation to payers and payees.

#### *Responsibilities of payment system operators* Article 131

(1) A payment system operator shall at all times ensure safe and sound functioning of the payment system.

(2) A payment system operator shall, proportionate to the nature, scope and complexity of tasks arising from the rules of operation of the payment system, especially ensure:

1) that the payment system has an appropriate, adequate, sound and satisfactory IT system to perform all functions in accordance with the rules of operation of the payment system and that it has a business continuity plan;

2) organisational structure with well-defined, clear and consistent lines of powers and responsibilities, including a personnel structure; and

3) management of risks to which the payment system is exposed or might be exposed.

(3) The Croatian National Bank may prescribe in detail the conditions to be met by the payment system and duties of the operator referred in this Article.

### *Outsourcing*

#### Article 132

(1) A payment system operator may outsource some activities related to the payment system operation. It shall notify the Croatian National Bank thereof prior to concluding a contract with a service provider.

(2) A payment system operator shall ensure that the intended outsourcing complies with the following conditions:

1) that it does not alter the payment system operator's relationship with and obligations to payment system participants;

2) that it does not threaten the compliance of the payment system's operation with the rules of operation, this Act and subordinate legislation adopted pursuant to this Act; and

3) that it does not impair the exercise of supervision by the Croatian National Bank.

(3) A payment system operator shall be liable for damage caused by outsourcing service providers in connection with the provision of an outsourced activity.

(4) A payment system operator shall ensure that the Croatian National Bank can carry out on-site examination at the location where the services are provided, that is, at the service provider's premises, and it shall ensure access to the outsourcing-related documentation and data possessed by the outsourcing service provider.

(5) The Croatian National Bank may prescribe in detail the conditions for the outsourcing of activities related to the payment system operation.

## **Chapter 2**

### **Supervision of payment systems**

#### *General provisions*

#### Article 133

(1) The supervision of payment systems shall be exercised by the Croatian National Bank.

(2) The supervision referred in paragraph (1) of this Article shall be the verification of whether a payment system operates in accordance with the provisions of this Act and regulations adopted under this Act, whether it functions in a safe and sound manner and whether access to the payment system has been ensured in the manner referred to in Article 130 of this Act;

(3) For the purpose of exercising supervision of payment systems, the Croatian National Bank may formulate principles, recommendations and guidelines for the operation of payment systems.

(4) When carrying out the supervision of payment systems, the Croatian National Bank shall carry out the supervision of payment system operators to the extent pertaining to the operation of a payment system.

*Manner of exercising supervision*  
Article 134

(1) The Articles 97 to 105 of this Act shall apply *mutatis mutandis* to the supervision of payment systems and payment system operators.

(2) In establishing the methodology, frequency and intensity of the supervision of payment systems, the Croatian National Bank shall take into account the nature, scope and complexity of operation of payment systems with respect to the types of participants, payment transactions by type of payment instruments cleared and/or settled, and the risk exposure of payment systems, taking into account in particular the exposure to systemic risk.

*Types of supervisory measures*  
Article 135

The Croatian National Bank may adopt a decision to impose supervisory measures on a payment system operator in order to take action at an early stage to improve the safety and stability of functioning of a payment system and to eliminate established illegalities.

*Reporting to the Croatian National Bank*  
Article 136

(1) A payment system operator shall without undue delay report the following to the Croatian National Bank:

- 1) all facts to be entered into the register of companies relating to each submitted application for entry of data in the register of companies and to all completed entries of data changes into the register of companies;
- 2) in the cases where the payment system operator apart from operating a payment system engages in other activities, all changes of persons responsible for operating the payment system;
- 3) any changes in the elements of the rules of operation of a payment system referred to in Article 129, paragraph (5), items (6) to (9) of this Act;

- 4) of any change in the data on payment system participants and in the data relating to the inclusion of new participants or termination of the participation of former participants in a payment system;
- 5) its intention to cease performing the activity of operating the payment system, if reasons arise for withdrawal of the authorisation of a payment system referred to in Article 125 of this Act or if circumstances arise for expiry of the authorisation of a payment system referred to in Article 127 of this Act; and
- 6) any other changes relating to the conditions for the operation of payment system laid down in this Act or regulations adopted under this Act and/or altering the facts on the basis of which the Croatian National Bank has granted its authorisation.

(2) By way of derogation from paragraph (1) of this Article, the payment system operator referred to in Article 121, paragraph (2) of this Act shall without undue delay report to the Croatian National Bank all facts and circumstances referred to in paragraph (1), items (1), (2), (4) and (5) of this Article and any change in the elements of the rules of operation of a payment system referred to in Article 129, paragraph (5) of this Act.

(3) At the request of the Croatian National Bank, a payment system operator shall submit all data on payment transactions executed through the payment system.

(4) At the request of the Croatian National Bank, a payment system operator shall submit reports, information and data on all matters relevant for the exercise of supervision and other tasks within the competence of the Croatian National Bank.

(5) The Croatian National Bank may prescribe the content of reports, the time limits and the method of reporting.

*Cooperation with competent authorities and exchange of information*  
Article 137

In the supervision of payment systems the Croatian National Bank shall cooperate with other competent authorities in the Republic of Croatia and with competent authorities of other countries.

*Register of payment systems*  
Article 138

(1) The Croatian National Bank shall maintain a register of payment systems in the Republic of Croatia and shall disclose it on its website.

(2) The register of payment systems shall contain at a minimum the following information:

- 1) the name of a payment system,
- 2) the name and registered office of the payment system operator, and
- 3) a list of the payment system participants.

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

*Application of procedural provisions*  
Article 139

(1) Unless otherwise provided for in this Act, the provisions of the General Administrative Procedure Act shall apply to the decision-making procedures of the Croatian National Bank.

(2) It shall not be possible to require restitution in an administrative procedure carried out by the Croatian National Bank.

*Decision-making*  
Article 140

In its procedures, the Croatian National Bank shall decide without an oral discussion.

*Decisions*  
Article 141

Decisions adopted by the Croatian National Bank on matters within its competence must be written and explained. Such decisions shall be final in an administrative procedure. Administrative proceedings may be initiated against Croatian National Bank decisions.

*Amendments to decisions*  
Article 142

(1) In the course of the supervision of a payment institution and a payment system operator, the Croatian National Bank may amend its decision at the request of the party concerned.

(2) At the request of the party concerned, the Croatian National Bank may amend its decision in the cases where, after the granting of authorisation, new circumstances have arisen which influence or may influence the operation of the payment institution or the payment system operator in question.

(3) In the cases referred to in paragraphs (1) and (2) of this Article, the Croatian National Bank shall also take into account all facts and circumstances arising after the adoption of the decision referred to in paragraph (1) of this Article or after the granting of authorisation.

*Liability for damage*  
Article 143

The employees of the Croatian National Bank, members of the Council of the Croatian National Bank and persons authorised by the Croatian National Bank shall not be liable for any damage that may arise in the course of performance of their duties under this Act, the Act

on the Croatian National Bank or regulations adopted under these acts, unless it is proved that they have acted or failed to act intentionally or as a result of gross negligence.

*Time limits*  
Article 144

(1) Within three months of the submission of a complete application, the Croatian National Bank must decide on:

- 1) an application for authorisation to provide payment services;
- 2) an application for authorisation for the operation of a payment system; and
- 3) an application for approval for the rules of operation of a payment system.

(2) Except in the cases referred to in paragraph (1) of this Article, the Croatian National Bank shall decide on all other applications for authorisation within two months of the submission of a complete application, or within three months if it assesses that additional data should be collected.

**TITLE VIII**  
**PENAL PROVISIONS**

*Violations by payment service providers*  
Article 145

(1) The payment service provider referred to in Article 5, paragraph (1) of this Act shall be fined between HRK 20,000.00 and HRK 500,000.00:

- 1) if it levies charges contrary to the prohibition of Article 9, paragraph (1) of this Act;
- 2) if it levies charges that are not appropriate and in line with the actual costs pursuant to the provision of Article 9, paragraph (3) of this Act;
- 3) if it fails, contrary to the provision of Article 12, paragraph (2) of this Act, to inform a payment service user of a charge for the use of a given payment instrument prior to the initiation of a payment transaction;
- 4) if, in the case of a single payment transaction, it fails to provide information in accordance with the provisions of Article 15, paragraphs (1) to (5) of this Act;
- 5) if, after receipt of a payment order, it fails to provide information to the payer in accordance with Article 16 of this Act;
- 6) if, after the execution of a payment transaction, it fails to provide information to the payee in accordance with Article 17 of this Act;
- 7) if, before a payment service user is bound by any offer or framework contract, it fails to provide the payment service user with the information referred to in Article 18 of this Act;
- 8) if it fails to provide a payment service user with the information referred to in Article 18 of this Act in the manner referred to in Article 19, paragraphs (1) and (2) of this Act;
- 9) if it fails to provide a payment user with the terms of the framework contract and information in accordance with Article 20 of this Act;
- 10) if, in the case of changes in the framework contract, interest or exchange rates, it fails to act in accordance with the provisions of Article 21 of this Act;

- 11) if, in the case of termination of the framework contract, it levies a charge contrary to the provisions of Article 22 of this Act or fails to reimburse a charge in accordance with the provisions of Article 22 of this Act;
- 12) if, at the payer's request, it fails to provide information in accordance with Article 23 of this Act prior to the execution of an individual payment transaction;
- 13) if, after having debited the payer's payment account or after having received the payment order, it fails to provide the payer with information in accordance with Article 24 of this Act;
- 14) if, after the execution of an individual payment transaction, it fails to provide the payee with information in accordance with Article 25 of this Act;
- 15) if it charges a payment service user contrary to Article 27 of this Act;
- 16) if it prevents a payee from offering the payer a reduction for the use of a given payment instrument (Article 27, paragraph 5);
- 17) if it fails to inform the payer of the blocking of the payment instrument in accordance with Article 30, paragraphs (3) to (5) of this Act;
- 18) if it fails to unblock the payment instrument or replace it with a new one once the reasons for blocking this payment instrument no longer exist (Article 30, paragraph (6));
- 19) if it, as a payment instrument issuer, acts contrary to the provisions of Article 32 of this Act;
- 20) if, in the case of execution of an unauthorised payment transaction, it fails to act in the manner and within the time limit referred to in Article 35 of this Act;
- 21) if, at the payer's request for a refund for an authorised payment transactions, it fails to act in accordance with Article 38, paragraphs (3) and (4) of this Act;
- 22) if it fails to notify a payment service user of the refusal of a payment order in accordance with the provisions of Article 40 of this Act;
- 23) if it refuses to execute an authorised payment order, contrary to the provision of Article 40, paragraph (4) of this Act;
- 24) if, in executing a payment transaction, it fails to act in accordance with Article 42 of this Act;
- 25) if it fails to execute a payment to another payment service provider within the time limit referred to in Article 43 of this Act;
- 26) if it fails to transmit a payment order to the payer's payment service provider in accordance with Article 43, paragraph (11) of this Act;
- 27) if it fails to execute a payment to its payee in accordance with the provisions of Article 44 and Article 46, paragraphs (1) to (6) of this Act;
- 28) if in the case of placing cash it fails to make the funds available and to credit the account in accordance with the provisions of Article 45 of this Act;
- 29) if it sets the debit value date for the payer's payment account contrary to Article 46, paragraph (7) of this Act;
- 30) if, in the case of an incorrect unique identifier, it fails to take reasonable steps to recover the funds in accordance with Article 49, paragraph (3) of this Act;
- 31) if, in the case of a non-executed or incorrectly executed payment transaction and at the request of the payment service user, it fails to act in accordance with Article 47, paragraph (5) or Article 48, paragraph (4) of this Act;
- 32) if it fails to reply to the complaint of a payment service user within the time limit referred to in Article 55, paragraph (2) of this Act; or
- 33) if, at the invitation of the Croatian National Bank, it fails to submit its response and the necessary evidence within the time limit referred to in the invitation (Article 56, paragraph (3) of this Act);

(2) Exceptionally, the payment service provider referred to in Article 5, paragraph (1) of this Act shall not be considered to have committed any of the violations referred to in paragraph (1) of this Article, if, where so provided for by this Act, it has agreed with the payment service user otherwise than prescribed by this Act.

(3) A responsible person of the management board of the payment service provider referred to in Article 5, paragraph (1), items (1) to (3) of this Act, or, if a payment service provider referred to in Article 5 paragraph (1) items (2) and (3) of this Act apart from providing payment services engages in other activities, a director responsible for payment services, or a natural person responsible for the operation of a branch referred to in Article 5, paragraph (1), items (9) and (10), or a responsible person of the payment service provider referred to in Article 5, paragraph (1), items (4), (5) and (11) shall be fined between HRK 5,000.00 and HRK 50,000.00 for any of the violations referred to in paragraph (1) of this Article.

*Violations committed in the course of providing payment services in another Member State  
through a branch or an agent*  
Article 146

(1) A payment service provider referred to in Article 5, paragraph (1), items (1) to (3) of this Act shall not be fined for any of the violations referred to in Article 145, paragraph (1) of this Act if they have been committed in the territory of another Member State in the course of providing payment services in that Member State through a branch or an agent.

(2) Where any of the violations referred to in Article 145, paragraph (1) of this Act has been committed by the payment service provider referred to in Article 5, paragraph (1), items (6) to (8) that provides payment services in the territory of the Republic of Croatia through a branch or an agent, the branch or the agent shall be fined for the violation referred to in Article 145, paragraph (1) of this Act.

(3) In the case referred to in paragraph (2) of this Article, the director responsible for the operation of the branch or the responsible person of the management board of the legal person's agent shall also be fined in accordance with Article 145, paragraph (3) of this Act.

*Violations while directly providing payment services in another Member State*  
Article 147

(1) A payment service provider referred to in Article 5, paragraph (1), items (1) to (3) of this Act shall be fined for any of the violations referred to in Article 145, paragraph (1) of this Act committed while directly providing payment services in another Member State if the violation is subject to a fine under the law of the Member State where it had been committed.

(2) If the condition referred to in paragraph (1) of this Article is fulfilled, the responsible person of the payment service provider's management board will also be fined for any of the violations referred to in Article 145, paragraph (1) of this Act, or, if the payment service provider referred to in Article 5, paragraph (1), items (2) and (3) of this Act apart from providing payment services engages in other activities, a director responsible for payment services, in accordance with Article 145, paragraph (3) of this Act.

(3) By way of derogation from Article 145, the payment service provider referred to in Article 5, paragraph (1), items (6) to (8) of this Act that has committed any of the violations referred to in Article 145, paragraph (1) of this Act while directly providing payment services in the Republic of Croatia shall not be fined, but instead the Croatian National Bank shall notify the competent authority of the home Member State of the committed violation to initiate appropriate proceedings.

*Violations by payment service providers authorised by the Croatian National Bank*  
Article 148

(1) The payment service provider referred to in Article 5, paragraph (1), items (1), (2), (3), (9) and (10) of this Act shall be fined between HRK 20,000.00 and HRK 500,000.00 for a violation:

1) if it fails to report to the Croatian National Bank in accordance with subordinate legislation adopted under Article 7, paragraph (1) of this Act; and

2) if it fails to notify the Croatian National Bank in accordance with Article 119, paragraph (3) of this Act.

(2) The responsible person of the management board of the payment service provider referred to in Article 5, paragraph (1), items (1) to (3) of this Act, or, if the payment service provider referred to in Article 5, paragraph (1), items (2) and (3) of this Act apart from providing payment services engages in other activities, a director responsible for payment services, or a natural person responsible for the operation of the branch referred to in Article 5, paragraph (1), items (9) and (10) shall be fined between HRK 5,000.00 and 50,000.00 for the violation referred to in paragraph (1) of this Article.

*Violations by other persons*  
Article 149

(1) A legal or natural person shall be fined between HRK 20,000.00 and HRK 500,000.00:

1) if it provides payment services contrary to the provision of Article 5, paragraph (2) of this Act;

2) if, contrary to the provision of Article 12, paragraph (1) of this Act, it fails to inform the payer of a reduction for the use of a given payment instrument prior to the initiation of a payment transaction;

3) if, in the case referred to in Article 13, paragraph (2) of this Act, it fails to disclose to the payer all charges as well as the exchange rate to be used, prior to the currency conversion;

4) if it, as a payee, levies a charge for the use of a given payment instrument (Article 27, paragraph (6)); or

5) if it provides payment services before it obtains authorisation to provide payment services (Article 65, paragraph (4)).

(2) A responsible person of a legal person shall be fined between HRK 5,000.00 and HRK 50,000.00 for any of the violations referred to in paragraph (1) of this Article.

*Violations by credit institutions*

## Article 150

(1) The payment service provider referred to in Article 5, paragraph (1), items (1) and (9) of this Act shall be fined between HRK 20,000.00 and HRK 250,000.00:

- 1) if it acts contrary to subordinate legislation adopted under Article 58, paragraph (4) of this Act;
- 2) if it fails to submit data under the law governing the keeping and the content of the unified register of accounts (Article 59);
- 3) if it fails to keep a register of transaction accounts (Article 60);
- 4) if it fails to notify the Croatian National Bank of its intention to conclude a contract referred to in Article 62, paragraph (2) of this Act or fails to accompany the notification with a detailed description of the payment transaction execution model (Article 62, paragraph (3));
- 5) if it acts contrary to subordinate legislation adopted under Article 62, paragraph (4) of this Act; or
- 6) if a payment order for the execution of payment transactions across transaction accounts does not contain the elements or is not completed in the manner prescribed in subordinate legislation adopted under Article 64 of this Act;

(2) A responsible person of the management board of a credit institution shall be fined between HRK 5,000.00 and HRK 30,000.00 for any of the violations referred to in paragraph (1) of this Article.

(3) A branch of the payment service provider referred to in Article 5, paragraph (1) item (6) of this Act shall be fined between HRK 20,000.00 and HRK 250,000.00 for any of the violations referred to in paragraph (1) of this Article.

(4) A natural person responsible for the operation of a branch of the payment service provider referred to in Article 5, paragraph (1), item (6) of this Act shall be fined between HRK 5,000.00 and HRK 30,000.00 for any of the violations referred to in paragraph (1) of this Article.

## *Violations by payment institutions*

### Article 151

(1) The payment service provider referred to in Article 5, paragraph (1), item (3) of this Act shall be fined between HRK 20,000.00 and HRK 500,000.00:

- 1) if it provides payment services through an agent before the agent has been entered into the register or after the agent has been removed from the register (Article 76);
- 2) if it starts providing payment services in another Member State through a branch contrary to Article 78;
- 3) if it starts providing payment services in another Member State through an agent contrary to Article 79;
- 4) if it establishes a branch in a third country without prior authorisation referred to in Article 80, paragraph (2) of this Act;
- 5) if it fails to notify the Croatian National Bank in accordance with Article 80, paragraph (8) or (9) of this Act;
- 6) if it fails to ensure that a branch or agent acting on its behalf notifies a payment service user thereof (Article 85);

- 7) if its own funds are lower than the amount prescribed in Article 86, paragraph (2) of this Act;
- 8) if it acts contrary to regulations adopted under Article 86, paragraph (3) of this Act;
- 9) if it fails to safeguard the funds which have been received for the execution of payment transactions in accordance with Article 87 of this Act and subordinate legislation adopted under that Article;
- 10) if it uses the payment accounts it operates for purposes other than payment transactions (Article 88);
- 11) if it grants credits connected with the provision of payment services contrary to Article 89, paragraph (1) of this Act;
- 12) if it provides services referred to in Article 68, item (3) of this Act without keeping separate business books and preparing separate financial statements for payment services (Article 90, paragraph (2));
- 13) if it fails to store bookkeeping documents and other documentation in accordance with Article 91 of this Act;
- 14) if it fails to have the financial statements referred to in Article 90 of this Act audited or fails to submit to the Croatian National Bank the reports in accordance with Article 92, paragraphs (1) and (2) of this Act;
- 15) if it acts contrary to subordinate legislation adopted under Article 93, paragraph (1) of this Act;
- 16) if it fails to notify the Croatian National Bank of intended outsourcing in accordance with Article 94, paragraph (1) or (2) of this Act;
- 17) if it outsources its operational activities contrary to the conditions referred to in Article 94, paragraphs (4) to (6) of this Act or contrary to subordinate legislation adopted under paragraph (9) of the same Article of this Act;
- 18) if it fails to establish and implement governance arrangements in the manner laid down in Article 96, paragraph (1) of this Act, or implements it contrary to subordinate legislation adopted under Article 96, paragraph (2) of this Act;
- 19) if it acts contrary to subordinate legislation adopted under Article 97, paragraph (6) of this Act;
- 20) if it fails to enable an authorised person to carry out an on-site examination in the manner and under the conditions prescribed in Article 94, paragraph (6), Article 98 paragraphs (5) and (6) and Article 99 of this Act;
- 21) if it fails to act in accordance with a decision of the Croatian National Bank;
- 22) if it fails to report to the Croatian National Bank in accordance with subordinate legislation adopted under Article 111, paragraph (2) of this Act;
- 23) if it fails to report to the Croatian National Bank on the facts and circumstances referred to in Article 111, paragraphs (3) and (4) of this Act; or
- 24) if it provides payment services outside the limits of the authorisation issued pursuant to the provisions of this Act (Article 5, paragraph (6)).

(2) A responsible person of the management board of the payment service provider referred to in Article 5, paragraph (1), item (3) of this Act, or, if the payment service provider apart from providing payment services engages in other activities, a director responsible for payment services, shall be fined between HRK 5,000.00 and HRK 50,000.00 for any of the violations referred to in paragraph (1) of this Article.

- (1) An audit firm shall be fined between HRK 20,000.00 and HRK 100,000.00:
- 1) if it fails to meet the requirements referred to in Article 92, paragraphs (4) and (5) of this Act; or
  - 2) if it fails to meet the requirement referred to in Article 93, paragraph (2) of this Act;
- (2) A responsible person of the audit firm shall be fined between HRK 2,000.00 and HRK 10,000.00 for any of the violations referred to in paragraph (1) of this Article.
- (3) A statutory auditor shall be fined between HRK 5,000.00 and HRK 10,000.00 for any of the violations referred to in paragraph (1) of this Article.

*Violations by payment system operators*  
Article 153

- (1) The payment system operator referred to in Article 118, paragraph (2), items (1) to (5) of this Act shall be fined between HRK 20,000.00 and HRK 500,000.00:
- 1) if it acts contrary to subordinate legislation adopted under Article 120, paragraph (2) of this Act;
  - 2) if the payment system it operates which requires authorisation of the Croatian National Bank commences its operation before having obtained the authorisation (Article 121, paragraph (3));
  - 3) if it fails to notify the Croatian National Bank of the beginning of operation of the payment system it operates within the time limit referred to in Article 121, paragraph (4) of this Act;
  - 4) if it fails to submit to the Croatian National Bank the documents referred to in Article 121, paragraph (5) of this Act;
  - 5) if it acts contrary to the provisions of Article 129, paragraphs (1) and (7) of this Act;
  - 6) if the rules governing the access of payment service providers to the payment system it operates do not comply with Article 130;
  - 7) if it fails to ensure the functioning of the payment system it operates in the manner prescribed in Article 131, paragraphs (1) and (2) of this Act or in subordinate legislation adopted under Article 131, paragraph (3) of this Act.
  - 8) if it fails to notify the Croatian National Bank of intended outsourcing in accordance with Article 132, paragraph (1) of this Act;
  - 9) if it outsources activities contrary to the conditions referred to in Article 132, paragraph (2) of this Act or contrary to subordinate legislation adopted under paragraph (5) of the same Article of this Act;
  - 10) if it acts contrary to subordinate legislation adopted under Article 97, paragraph (6) of this Act (Article 134);
  - 11) if it fails to enable an authorised person to carry out an on-site examination in the manner and under the conditions prescribed in Article 98, paragraphs (5) and (6), Article 99 and Article 132, paragraph (4) of this Act (Article 134);
  - 12) if it fails to act in accordance with a decision of the Croatian National Bank;
  - 13) if it fails to report to the Croatian National Bank in accordance with Article 136 of this Act or reports to it contrary to subordinate legislation adopted under Article 136, paragraph (5) of this Act; and
  - 14) if it fails to act in accordance with Article 155, paragraphs (5) or (6) of this Act; or
  - 15) if it continues operating the payment system without submitting the application in accordance with Article 155, paragraph (3) of this Act (Article 155, paragraph (8)).

(2) A responsible person of the management board or persons responsible for operating the payment system of the payment system operator shall be fined between HRK 5,000.00 and HRK 50,000.00 for any of the violations referred to in paragraph (1) of this Article.

(3) The payment system operator referred to in Article 118, paragraph (2), item (7) of this Act shall be fined between HRK 20,000.00 and HRK 500,000.00 for any of the violations referred to in paragraph (1) of this Article.

(4) A responsible person of the payment system operator referred to in Article 118, paragraph (2), item (7) of this Act shall be fined between HRK 5,000.00 and HRK 50,000.00 for any of the violations referred to in paragraph (1) of this Article.

*Limitation*  
Article 154

(1) Violation proceedings provided for in this Act may not be initiated after the expiry of three years from the date on which the violation was committed.

(2) Any action taken by the competent authority for the purpose of proceedings relating to the person that committed the violation shall interrupt the limitation period. The limitation period shall restart after each interruption, but the violation proceedings may in no case be initiated following the expiry of twice the limitation period laid down in paragraph (1) of this Article.

**TITLE IX**  
**TRANSITIONAL AND FINAL PROVISIONS**

*Time limits for compliance with the provisions of this Act*  
Article 155

(1) Legal persons, with the exception of credit institutions and electronic money institutions, which as at the date of entry into force of this Act provide payment services, shall submit an application for authorisation to provide payment services within ninety days of the date of entry into force of this Act.

(2) Credit institutions which as at the date of the entry into force of this Act are authorised to provide payment services in accordance with the law governing the operation of credit institutions, shall continue providing payment services referred to in Article 3, items (1) to (6) of this Act and may enter these activities in the register of companies without special approval of the Croatian National Bank.

(3) Legal persons that operate payment systems as at the date of entry into force of this Act shall apply for authorisation for the operation of a payment system by 30 June 2011 at the latest.

(4) The requirement referred to in paragraph (3) of this Article shall not pertain to credit institutions and electronic money institutions that obtained authorisation for the operation of payment systems prior to 1 January 2011.

(5) Credit institutions and electronic money institutions that obtained authorisation for the operation of payment systems from the Croatian National Bank prior to 1 January 2011 shall within the time limit referred to in paragraph (3) of this Article submit an application for approval of the rules of operation of such payment systems.

(6) By way of derogation from paragraph (3) of this Article, payment system operators operating the payment systems referred to in Article 121, paragraph (2) of this Act shall, within thirty days of the date of entry into force of this Act, notify the Croatian National Bank in accordance with Article 121, paragraph (5) of this Act.

(7) Account numbers assigned by the Croatian National Bank prior to the entry into force of this Act shall continue to be used.

(8) Legal persons that fail to act in accordance with the provisions of paragraphs (1) and (3) of this Article shall cease to provide payment services or payment system operating services.

(9) The National Clearing System and Croatian Large Value Payment System shall continue their operation after the entry into force of this Act.

*Provisions of this Act that shall cease to have effect on the date of accession of the Republic of Croatia to the European Union*  
Article 156

Article 15, paragraph (2), Article 16, paragraph (2), Article 18, paragraph (2), Article 23, paragraph (2), Article 42, paragraph (3), Article 47, paragraph (7), Article 48, paragraph (6) and Article 52, paragraph (3) of this Act shall cease to have effect on the date of accession of the Republic of Croatia to the European Union.

*Subordinate legislation of the Croatian National Bank*  
Article 157

The Croatian National Bank shall, within six months of the date of entry into force of this Act, adopt subordinate legislation based on this Act.

*Cessation of effect of the National Payment System Act and regulations adopted under that Act*  
Article 158

The National Payment System Act (Official Gazette 117/2001) and subordinate legislation adopted under that Act shall cease to have effect as of the date of entry into force of this Act, with the exception of:

- 1) the Decision on the Croatian Large Value Payment System and on the Settlement in Bank Accounts Held with the Croatian National Bank (Official Gazette 34/2005, 74/2005 and 18/2009);
  - 2) the Decision on the National Clearing System (Official Gazette 14/2002, 150/2002 and 18/2009);
  - 3) the Decision on the Obligation to Submit the Report on Payment Statistics (Official Gazette 189/2004);
  - 4) the Decision on Payment Orders (Official Gazette 14/2002, 143/2002 and 104/2003);
  - 5) the Decision on the Structure of an Account with a Bank, Bank Account Number, Terms and Methods of Opening an Account with a Bank and the Content of the Register of Business Entities' Accounts with a Bank (Official Gazette 150/2002, 115/2003, 162/2004 and 189/2004);
  - 6) the Decision on the Work Schedule for Settlement/Clearing through the Interbank Payment Systems (Official Gazette 50/2002 and 38/2005); and
  - 7) the Decision on Performing Payment Operations in a Bank Following Merger or Acquisition of Banks (Official Gazette 75/2002);
- which shall apply *mutatis mutandis* until the entry into force of the subordinate legislation referred to in Article 157 of this Act.

*Cessation of effect of some provisions of the Foreign Exchange Act and regulations adopted under that Act*  
Article 159

- (1) Article 32, Article 33, Article 63, paragraph (1), item (13) and Article 64, paragraph (1) item (6) of the Foreign Exchange Act (Official Gazette 96/2003, 140/2005, 132/2006, 150/2008 and 92/2009) and the following subordinate legislation shall cease to have effect on the date of entry into force of this Act:
- 1) the Decision Governing the Conditions for and the Manner of Performing External Payment Operations (Official Gazette 88/2005, 18/2006 and 132/2007) and the Instructions Adopted under this Decision; and
  - 2) the Decision on Collecting Data on External Payment Operations (Official Gazette 136/2005 and 24/2006).
- (2) The Decision on the Generation and Use of International Bank Account Number (IBAN) (Official Gazette 162/2004) shall apply *mutatis mutandis* until the entry into force of the subordinate legislation referred to in Article 157 of this Act.

*Cessation of effect of some provisions of the Consumer Protection Act*  
Article 160

Article 53 and Article 145, paragraph (1), subparagraph (30) of the Consumer Protection Act (Official Gazette 79/2007, 125/2007, 79/2009 and 89/2009) shall cease to have effect on the date of entry into force of this Act.

*Entry into force*  
Article 161

This Act shall be published in the Official Gazette and shall enter into force on 1 January 2011, with the exception of the provisions of Article 5, paragraph (1), items (6) to (8) and (11) and paragraph (7), Article 15, paragraph (3), Article 16, paragraph (3), Article 18, paragraph (3), Article 23, paragraph (3), Article 27, paragraph (4), Article 41, paragraph (7), Article 42, paragraph (4), Article 43, paragraphs (5) to (9), Article 46, paragraph (4), Article 47, paragraph (8), Article 48, paragraph (7), Article 52, paragraph (4), Article 55, paragraph (3), Article 56, paragraph (7) and (8), Article 58, paragraph (1), item (2), Article 61, paragraph (3), Articles 77, 78, 79, 81, 82, 83 and 84, Article 87, paragraph (3), item (2), Article 89, paragraph (1), item (2), Article 94, paragraphs (7) and (8), Article 97, paragraph (7), Articles 108, 109, 113, 115, 146 and 147, Article 150, paragraphs (3) and (4) and Article 151, paragraph (1), items (2) and (3) of this Act, which shall enter into force on the date of accession of the Republic of Croatia to the European Union.

Class: 450-08/09-01/01

Zagreb, 23 October 2009

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