

THE CROATIAN PARLIAMENT

2244

Pursuant to Article 89 of the Constitution of the Republic of Croatia, I hereby issue the

DECISION
PROMULGATING THE ACT ON AMENDMENTS TO THE ELECTRONIC MONEY ACT

I hereby promulgate the Act on Amendments to the Electronic Money Act passed by the Croatian Parliament at its session on 15 November 2024.

Class: 011-02/24-02/63

No.: 71-10-01/1-24-2

Zagreb, 22 November 2024

The President of the
Republic of Croatia
Zoran Milanović, m.p.

ACT
ON AMENDMENTS TO THE ELECTRONIC MONEY ACT

Article 1

In the Electronic Money Act (Official Gazette 64/2018 and 114/2022), in Article 2, before the words "This Act" a paragraph reference is added which reads "(1)".

In paragraph (1), item (1), the word "and" at the end of the sentence is deleted.

In item (2), the full stop at the end of the sentence is deleted and a semicolon is inserted and after item (2), item 3 is added which reads:

"3) Directive (EU) 2022/2556 of the European Parliament and of the Council of 14 December 2022 amending directives 2009/65/EC, 2009/138/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU, 2014/65/EU, (EU) 2015/2366 and (EU) 2016/2341 as regards digital operational resilience for the financial sector (Text with EEA relevance) (OJ L 333, 27.12.2022) (hereinafter referred to as 'Directive (EU) 2022/2556')."

After paragraph (1), paragraph (2) is added which reads:

"(2) This Act ensures the implementation of Regulation (EU) 2024/886 of the European Parliament and of the Council of 13 March 2024 amending Regulations (EU) No 260/2012 and (EU) 2021/1230 and Directives 98/26/EC and (EU) 2015/2366 as regards instant credit transfers in euro (Text with EEA relevance) (OJ L, 2024/886, 19.3.2024)."

Article 2

In Article 11, paragraph (5) is amended to read:

"(5) An electronic money issuer shall participate in the alternative dispute resolution procedure initiated by the consumer."

Article 3

In Article 17, paragraph (3), item (9) is amended to read:

"9) a description of the applicant's governance arrangements and internal control mechanisms, including administrative, accounting procedures and risk management procedures, as well as rules for the use of the services of information and communication technology (hereinafter referred to as 'ICT') in accordance with Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014, (EU) No 909/2014 and (EU) 2016/1011 (Text with EEA relevance) (OJ L 333, 27.12.2022) (hereinafter referred to as 'Regulation (EU) 2022/2554'), which demonstrate that those governance arrangements and internal control mechanisms are proportionate, appropriate, sound and adequate;"

Item (10) is amended to read:

"10) a description of the procedures in place to monitor, handle and follow up a security incident and security related customer complaints, including an incident reporting mechanism which takes account of the notification obligations laid down in Chapter III of Regulation (EU) No 2022/2554;"

Item (12) is amended to read:

"12) a description of business continuity arrangements, including a clear identification of the critical operations, effective ICT business continuity policy and plans, ICT response and recovery plans and a procedure to regularly test and review the adequacy and efficiency of such plans in accordance with Regulation (EU) 2022/2554;"

Item (14) is amended to read:

"14) a security policy document, including a detailed risk assessment in relation to electronic money issuance and payment services, a description of security control and risk mitigation measures taken to adequately protect electronic money holders and payment service users against the risks identified, including fraud and illegal use of sensitive and personal data; the security control and risk mitigation measures shall describe how they ensure a high level of digital operational resilience in accordance with Chapter II of Regulation (EU) 2022/2554, in particular in relation to technical security and data protection, including for the software and ICT systems used by the applicant or the persons to which it outsources the whole or part of its activities; security controls and risk mitigation measures shall also take into account security measures laid down in the law governing payment operations;"

Article 4

In Article 35, paragraph (1) is amended to read:

"(1) An electronic money institution shall safeguard the funds received from electronic money holders in exchange for the issued electronic money in the amount of outstanding electronic money that has not been redeemed or transferred to another payment service provider:

1) by holding them in a special account with a credit institution established in the Republic of Croatia or another Member State;

2) by holding them with the central bank of a Member State enabling such holding at its discretion;

3) by investing in safe, liquid and low-risk types of assets as prescribed by the subordinate legislation laid down in paragraph (12) of this Article; or

4) by an insurance policy from an insurance company or a comparable guarantee from an insurance company or a credit institution, provided that this insurance company or credit institution does not belong to the same group as the electronic money institution itself."

Paragraph (5) is amended to read:

"(5) The funds referred to in paragraph (1), items (1) and (2) of this Article, the assets referred to in paragraph (1), item (3) of this Article and the funds collected from the insurance or guarantee referred to in paragraph (1), item (4) of this Article in the amount corresponding to an electronic money institution's debt towards electronic money holders referred to in paragraph (1) of this Article shall not be the electronic money institution's assets and shall not be included in its winding-up or bankruptcy assets, nor may they be subject to foreclosure relating to the settlement of claims against the electronic money institution."

Paragraph (10) is amended to read:

"(10) The funds safeguarded in accordance with the subordinate legislation referred to in paragraph (9) of this Article, the assets and funds collected from the insurance or guarantee in accordance with the subordinate legislation referred to in paragraph (9) of this Article in the amount corresponding to an electronic money institution's debt towards payment service users referred to in paragraph (9) of this Article shall not be the electronic money institution's assets and shall not be included in its winding-up or bankruptcy assets, nor may they be subject to foreclosure relating to the settlement of claims against the electronic money institution."

After paragraph (11), paragraph (12) is added which reads:

"(12) The Croatian National Bank shall prescribe by subordinate legislation the scope of and methodology for the calculation of the safeguarded funds referred to in paragraph (1) of this Article, the characteristics of the types of assets referred to in paragraph (1), item (3) of this Article and the characteristics of the insurance policy or comparable guarantee referred to in paragraph (1), item (4) of this Article."

Article 5

In Article 44, paragraph (5), in the introductory sentence, the word "IT" is replaced by the word: "ICT".

Article 6

In Article 70, paragraph (1), item (7) is deleted.
The former items (8) to (11) become items (7) to (10).

Article 7

In Article 101, paragraph (1), item (7) is amended to read:
"7) if contrary to Article 11, paragraph (5) of this Act, it refuses to participate in the alternative dispute resolution procedure."

Article 8

In Article 103, paragraph (1), item (17) is amended to read:
"17) if it fails to safeguard the funds received from electronic money holders in exchange for the issued electronic money in the amount of outstanding electronic money in the manner provided for in Article 35, paragraph (1) of this Act or if it fails to do it in the manner laid down in the subordinate legislation referred to in Article 35, paragraph (12) of this Act;"

Paragraph (3) is amended to read:

"(3) A fine between EUR 2,650.00 and EUR 46,450.00 shall be imposed for any of the misdemeanours referred to in paragraph (1), items (2) to (11), (17) to (21), (23), (24), (26), (27), (31) to (41) and (43) of this Article on a small electronic money institution established in the Republic of Croatia."

In paragraph (5), the number "6,630.00" is replaced by the number "2,650.00".

TRANSITIONAL AND FINAL PROVISION

Article 9

The Croatian National Bank shall adopt the subordinate legislation referred to in Article 4 of this Act within three months of the date of entry into force of this Act.

Article 10

This Act shall be published in the Official Gazette and shall enter into force on 17 January 2025, with the exception of the provision of Article 35, paragraph (1), item (2), amended by Article 4 of this Act, which shall enter into force on 9 April 2025.

Class: 022-02/24-01/101
Zagreb, 15 November 2024

THE CROATIAN PARLIAMENT

The President
of the Croatian Parliament
Gordan Jandroković, m.p.