



HNB

**GVERNER**

Pursuant to Article 175, paragraph (2) of the Credit Institutions Act (Official Gazette 159/2013, 19/2015, 102/2015, 15/2018, 70/2019, 47/2020 and 146/2020) and Article 43, paragraph (2), item (10) of the Act on the Croatian National Bank (Official Gazette 75/2008, 54/2013 and 47/2020), the Governor of the Croatian National Bank hereby issues the

## **Decision on the method of exercising supervision of credit institutions and imposing supervisory measures**

### **I GENERAL PROVISIONS**

#### **Article 1**

(1) This Decision prescribes in detail:

- 1) the conditions and methods of exercising supervision of credit institutions;
- 2) the procedure of imposing supervisory measures; and
- 3) obligations of credit institutions' bodies in the course of supervision and following supervision.

(2) The provisions of this Decision shall apply to supervision of credit institutions on an individual basis, sub-consolidated basis for a group of credit institutions in the Republic of Croatia and on a consolidated basis when the Croatian National Bank is the consolidating supervisor.

(3) The provisions of this Decision shall apply to supervision of credit institutions with a head office in the Republic of Croatia and their branches providing services outside the Republic of Croatia.

(4) The provisions of this Decision shall also apply, as appropriate, to the supervision exercised by the Croatian National Bank of:

- 1) branches of credit institutions with head offices in other Member State providing services in the Republic of Croatia;
- 2) credit institutions from other Member States in respect of their direct provision of services within the territory of the Republic of Croatia;
- 3) branches of credit institutions with head offices in third countries authorised by the Croatian National Bank to provide services;
- 4) financial holding companies and mixed financial holding companies referred to in Title III.2a of the Credit Institutions Act (Official Gazette 159/2013, 19/2015, 102/2015, 15/2018, 70/2019, 47/2020 and 146/2020);
- 5) persons having close links with a credit institution;
- 6) holders of qualifying holdings of a credit institution; and
- 7) outsourcing service providers.

(5) This Decision shall also apply, as appropriate, to the activities of the Croatian National Bank in case of receipt of a request to carry out an on-site examination to verify the information in accordance with Articles 295 and 298 of the Credit Institutions Act.

(6) This Decision harmonises the procedure for less significant supervised entities with regard to the inclusion of interim or year-end profits in common equity tier 1 capital in accordance with Article 26,

paragraph (2) of Regulation (EU) No 575/2013 with the procedure for significant credit institutions prescribed by Decision (EU) 2015/656 of the European Central Bank of 4 February 2015 on the conditions under which credit institutions are permitted to include interim or year-end profits in Common Equity Tier 1 capital in accordance with Article 26(2) of Regulation (EU) No 575/2013 (ECB/2015/4) (OJ L 107, 25.4.2015).

(7) The terms used in this Decision are defined in the Credit Institutions Act and Regulation (EU) No 575/2013.

## **Article 2**

This Decision transposes into the Croatian legislation Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (Text with EEA relevance) (OJ L 176, 27.6.2013), as last amended by Directive (EU) 2021/338 of the European Parliament and of the Council of 16 February 2021 amending Directive 2014/65/EU as regards information requirements, product governance and position limits, and Directives 2013/36/EU and (EU) 2019/878 as regards their application to investment firms, to help the recovery from the COVID-19 crisis (Text with EEA relevance) (OJ L 26.2.2021).

## **II METHOD OF EXERCISING SUPERVISION**

### **Article 3**

(1) The Croatian National Bank shall exercise supervision of the entities referred to in Article 1 of this Decision in accordance with the provisions of Article 175 of the Credit Institutions Act.

(2) Supervision shall be exercised by persons authorised for supervision in accordance with the provisions of Article 183 of the Credit Institutions Act, as persons authorised by virtue of their employment status and/or as persons authorised by the Governor of the Croatian National Bank.

(3) An off-site examination shall be carried out by collecting reports and information and by analysing these reports and information and shall include issuing opinions, authorisations and approvals and imposing supervisory measures including the determination of the supervisory own funds and liquidity levels and conducting thematic analyses, in-depth and other types of analyses.

(4) For the purposes of the supervision referred to in paragraph (3) of this Article, the Croatian National Bank shall analyse supervisory data to be submitted by credit institutions to the Croatian National Bank, other reports and information submitted by credit institutions to the Croatian National Bank, publicly available non-supervisory data about credit institutions, the report on on-site examination findings and data collected through supervisory queries to credit institutions or meetings with the representatives of credit institutions, their external auditors of financial statements and other supervisors and the representatives of relevant competent authorities in the Republic of Croatia and abroad, as well as from other sources.

(5) An on-site examination shall be supervision carried out by authorised persons led by the head of the on-site examination.

(6) Persons authorised by virtue of their employment status or the authorised persons of the Croatian National Bank, for the purpose of exercising supervision of credit institutions, may request reports and information from the persons referred to in Article 1, paragraphs (3) and (4) of this Decision and carry out

examinations of a part of operation, the review of business books and documentation, if appropriate, on the business premises of these persons.

(7) Members of the supervisory and management board, procurators, other managers and employees of credit institutions and the persons referred to in Article 1, paragraph (4) of this Decision, shall provide the persons authorised by virtue of their employment status or authorised persons carrying out an off-site or on-site examination, at their request, with written answers and, if applicable, supported by relevant documentation.

(8) In addition to the planned scope of an on-site examination, the notification of an on-site examination may contain a list of authorised persons that will prepare and carry out the on-site examination, the period in which the credit institution should provide access to its IT system, the minimum resources the credit institution needs to provide to ensure access to its IT system and other information relevant for the preparation and carrying out of on-site examination and of computer-aided on-site examination.

(9) Should the head of the on-site examination deem it necessary, the scope of the on-site examination may be expanded during the on-site examination, about which the credit institution shall be informed in writing by the head of the on-site examination.

### **III SUPERVISORY DOCUMENTS**

#### **Article 4**

(1) Supervisory documents shall be drawn up based on an off-site or on-site examination.

(2) Following supervision carried out by an off-site examination, if appropriate, the following shall be prepared:

- 1) a letter of recommendations, a decision with supervisory measures or a memorandum of understanding; and
- 2) a report on breaches.

(3) The carrying out of an on-site examination shall result in:

- 1) a draft report on on-site examination findings, which shall be sent to the credit institution accompanied by an invitation to the exit meeting; and
- 2) a report on on-site examination findings, which shall be sent to the credit institution accompanied by an invitation to the closing meeting.

(4) A draft report on on-site examination findings and a report on on-site examination findings shall be prepared, regardless whether any illegalities or deficiencies and weaknesses in the credit institution's operation have been found in the course of the examination.

(5) The report on on-site examination findings shall be signed by the head of the on-site examination.

(6) Where illegalities have been found in the credit institution's operation, persons authorised by virtue of their employment status shall prepare a report on breaches and deliver it to the official person at the Croatian National Bank authorised to initiate the procedure for imposing administrative sanctions.

(7) The report on breaches referred to in paragraph (6) of this Article shall not be delivered to the credit institution.

(8) The report on breaches referred to in paragraph (6) of this Article shall comprise at a minimum the facts or a description of the actions by which the credit institution acted contrary to law or other regulations, the provision of the regulation that has been breached and the time when the breach has been committed.

(9) Except in cases referred to in paragraph (6) of this Article, where supervisory measures referred to in Article 6, paragraph (1) of this Decision are not imposed, persons authorised by virtue of their employment status may prepare a letter of recommendations.

(10) In the letter of recommendations referred to in paragraph (9) of this Article, it may be recommend to credit institutions to undertake actions to eliminate the illegalities, deficiencies or weaknesses identified in their operation.

(11) The letter of recommendations referred to in paragraph (9) of this Article shall be prepared following supervision by an on-site examination or when carrying out supervision by off-site examination, where necessary.

#### **IV DISTRIBUTION OF SUPERVISORY DOCUMENTS**

##### **Article 5**

(1) The following shall be delivered to the management board of a credit institution:

- 1) a draft report on on-site examination findings not later than within five working days before the holding of the exit meeting;
- 2) a report on on-site examination findings;
- 3) a letter of recommendations;
- 4) a draft decision or draft memorandum of understanding with supervisory measures and time limits for their implementation; and
- 5) a decision or memorandum of understanding with supervisory measures and time limits for their implementation.

(2) The management board of the credit institution shall immediately following receipt deliver all the documents referred to in paragraph (1) of this Article to the supervisory board, the internal auditor and the person responsible for compliance of the credit institution.

(3) The management board of the credit institution may give to the Croatian National Bank opinions on the draft report on on-site examination findings in the manner and within the time limit laid down by the Croatian National Bank, which may not be longer than 14 working days from the holding of the exit meeting.

(4) The report on on-site examination findings shall be prepared taking into consideration the opinions of the credit institution referred to in paragraph (3) of this Article.

(5) The management board of the credit institution may give to the Croatian National Bank its opinions on the letter of recommendations in the manner and within the time limit laid down by the Croatian National Bank, which may not be longer than 21 working days from the day of receipt of the letter of recommendations.

(6) The Croatian National Bank shall take into consideration the opinions of the credit institution referred to in paragraph (5) of this Article and, where necessary, modify the letter of recommendations.

(7) The management board of the credit institution may give opinions on the draft memorandum of understanding within 14 working days of the day of receipt of the draft memorandum.

(8) The memorandum of understanding shall be prepared taking into consideration the opinions of the credit institution referred to in paragraph (7) of this Article.

(9) In the cases referred to in Article 11a, paragraph (4) of the Credit Institutions Act, the Croatian National Bank shall issue the documents referred to in paragraph (1) of this Article in accordance with the European Central Bank's special instructions, guidelines, requests and measures.

## **V SUPERVISORY MEASURES**

### **Article 6**

(1) The Croatian National Bank shall impose supervisory measures pursuant to the Credit Institutions Act by means of a decision or a memorandum of understanding.

(2) The supervisory measures referred to in paragraph (1) of this Article that are imposed in the form of a decision shall be imposed to the credit institution in the manner prescribed in Titles XVIII and XXVII of the Credit Institutions Act.

(3) By way of derogation from paragraph (2) of this Article, a decision in the course of an on-site examination shall be issued immediately upon the establishment of the grounds for its adoption if the conditions referred to in Article 221 or Article 323a, paragraph (6) of the Credit Institutions Act are met.

(4) In the cases referred to in Article 11a, paragraph (4) of the Credit Institutions Act, the Croatian National Bank shall adopt decisions in accordance with the European Central Bank's special instructions, guidelines, requests and measures.

(5) The procedure referred to in this Article relating to imposing supervisory measures by a decision shall also apply to the procedure of imposing supervisory measures in the early intervention phase.

### **Article 7**

(1) If the credit institution has no objections to the draft memorandum of understanding, it shall be deemed final and then certified by the signature of the credit institution.

(2) The credit institution shall deliver a signed memorandum of understanding to the Croatian National Bank within five working days of the day of receipt of the final wording of the memorandum.

(3) Following receipt of a signed memorandum of understanding from the credit institution, the memorandum shall be signed by the Vicegovernor of the Croatian National Bank responsible for supervision of credit institutions and the executive director of the organisational unit of the Croatian National Bank responsible for supervision of credit institutions.



(4) If the credit institution fails to deliver a memorandum of understanding signed by all members of the credit institution's management board within the prescribed time limit, it shall be deemed that the memorandum has not been accepted and the Croatian National Bank shall issue a decision to the credit institution imposing measures referred to in the memorandum.

## **VI SUPERVISION OF INTERNAL APPROACHES FOR CALCULATING OWN FUNDS REQUIREMENTS**

### **Article 8**

(1) The Croatian National Bank shall conduct a procedure to assess credit institutions' compliance with the requirements for obtaining prior permission to use internal approaches referred to in Article 3, paragraph (1), item (21) of the Credit Institutions Act as well as for their material extensions or changes.

(2) In accordance with the provisions of Article 188, paragraph (1) of the Credit Institutions Act, the Croatian National Bank shall review on a regular basis, and at least every three years, credit institutions' compliance with the prescribed requirements regarding prior permission to use internal approaches for the calculation of own funds requirements in accordance with Part Three of Regulation (EU) No 575/2013.

(3) In accordance with Article 189 of the Credit Institutions Act, the Croatian National Bank shall conduct supervisory benchmarking of internal approaches for calculating own funds requirements based on the reports referred to in Article 189, paragraph (1) of the Credit Institutions Act. Credit institutions shall submit the reports as a minimum once a year in accordance with the template prescribed by the Commission Implementing Regulation (EU) 2016/2070 of 14 September 2016 laying down implementing technical standards for templates, definitions and IT-solutions to be used by institutions when reporting to the European Banking Authority and to competent authorities in accordance with Article 78(2) of Directive 2013/36/EU of the European Parliament and of the Council.

(4) Should the Croatian National Bank, by subordinate legislation adopted pursuant to Article 189, paragraph (2) of the Credit Institutions Act, prescribe specific portfolios for which own funds requirements are to be calculated, credit institutions shall submit the results of calculations for such portfolios separately from the results of calculations for the benchmark portfolio referred to in paragraph (3) of this Article.

(5) Based on the reports submitted in accordance with paragraphs (3) and (4) of this Article, the Croatian National Bank shall monitor the range of risk weighted exposure amounts or own funds requirements, except own funds requirements for operational risk, where applicable, for exposures or transactions in the benchmark portfolio calculated by means of internal approaches of credit institutions.

(6) Based on the reports submitted in accordance with paragraphs (3) and (4) of this Article, the Croatian National Bank shall assess as a minimum once a year the quality of internal approaches, paying particular attention to:

- 1) those approaches that show significant differences in own funds requirements for the same exposure; and
- 2) the approaches with particularly high or low diversity and a significant and systemic underestimation of own funds requirements.

(7) When the results based on the reports, referred to in paragraphs (3) and (4) of this Article, of a credit institution differ substantially from those of most of its peer credit institutions or when differences in applied



methodologies of calculation lead to various results, the Croatian National Bank shall investigate the reasons for that.

(8) In the cases referred to in Article 11a, paragraph (4) of the Credit Institutions Act, the Croatian National Bank shall exercise supervision of internal models in cooperation with the European Central Bank and shall issue documents referred to in Article 5, paragraph (1) and measures referred to in Article 6 of this Decision in accordance with the European Central Bank's special instructions, guidelines, requests and measures.

## **VII INCLUSION OF INTERIM OR YEAR-END PROFITS IN COMMON EQUITY TIER 1 CAPITAL**

### **Article 9**

(1) Less significant supervised entities intending to include interim or year-end profits in common equity tier 1 capital shall submit to the Croatian National Bank the letter referred to in paragraph (2) of this Article accompanied by the documentation referred to in Articles 10 and 11 of this Decision by the content of which less significant supervised entities shall prove the meeting of conditions referred to in Article 26, paragraph (2) of Regulation (EU) No 575/2013.

(2) The letter referred to in paragraph (1) of this Article shall be submitted on a template attached to and forming an integral part of this Decision.

(3) The Croatian National Bank shall notify less significant supervised entities, within 15 working days from the day of receipt of the letter referred to in paragraph (1) of this Article, whether the submitted documentation contains the data required in accordance with the provisions of paragraph (2) of this Article and Articles 10 and 11 of this Decision, proving the meeting of conditions referred to in Article 26, paragraph (2) of Regulation (EU) No 575/2013.

(4) Less significant supervised entities may include interim or year-end profits in common equity tier 1 capital if they have received the notification referred to in paragraph (3) of this Article from the Croatian National Bank that the submitted documentation contains the data required in accordance with the provisions of paragraph (2) of this Article and Articles 10 and 11 of this Decision proving the meeting of conditions referred to in Article 26, paragraph (2) of Regulation (EU) No 575/2013.

### **Article 10**

(1) It shall be considered that the condition referred to in Article 26, paragraph (2), item (a) of Regulation (EU) No 575/2013 has been met if less significant supervised entities, in addition to the letter referred to in Article 9, paragraph (1) of this Decision, provide a document signed by their external auditors that comply with the requirements laid down in paragraphs (3) or (4) of this Article.

(2) Less significant supervised entities notifying their intention to include interim or year-end profits in common equity tier 1 capital, at various levels of consolidation or on an individual basis, may provide the document referred to in paragraph (1) of this Article at the highest level of consolidation.

(3) In order to prove the existence of year-end profits, less significant supervised entities shall submit an audit report or a comfort letter in which external auditors state that they have not completed the audit and nothing has come to the attention of the auditors that causes them to believe that the final report will include their qualified opinion.

(4) In order to prove the existence of interim profits, less significant supervised entities shall submit an audit report or a review report as defined by the International Standard on Review Engagements 2410 issued by the International Auditing and Assurance Standards Board or a comparable standard applicable in the Republic of Croatia or, provided that the verification carried out by less significant supervised entities consists of an audit report, an external auditors' comfort letter in accordance with paragraph (3) of this Article.

#### **Article 11**

(1) It shall be considered that the condition referred to in Article 26, paragraph (2), item (b) of Regulation (EU) No 575/2013 has been met and less significant supervised entities have demonstrated that any foreseeable charges or dividends have been deducted from the amount of profits and if they have submitted to the Croatian National Bank:

- 1) a declaration that those profits have been recorded in accordance with the principles set out in the applicable accounting framework and that the scope of prudential consolidation is not materially wider than the scope of verification referred to in the external auditors' document referred to in Article 10 of this Decision; and
- 2) a document signed by a member of the management board or a qualified person detailing the main components of those interim or year-end profits, including deductions for any foreseeable charges or dividends.

(2) Where interim or year-end profits are to be included on a consolidated or sub-consolidated basis, the requirements referred to in paragraph (1) of this Article shall be satisfied by the consolidating entity.

(3) The dividends to be deducted from interim or year-end profits shall be the amount formally proposed or formally decided by the management board of the less significant supervised entities with the approval of the supervisory board.

(4) If the formal proposal or decision referred to in paragraph (3) of this Article has not yet been taken by the less significant supervised entity, the dividend to be deducted shall be the highest of the following:

- 1) the maximum dividend calculated in accordance with internal dividend policy;
- 2) the dividend calculated on the basis of the average pay-out ratio over the last three years;
- 3) the dividend calculated on the basis of the previous year's pay-out ratio.

(5) For the purposes of paragraph (1), item (2) of this Article, a qualified person means a person who has been duly authorised by the less significant supervised entity's management board to sign on its behalf.

#### **Article 12**

(1) The provisions of this Title are without prejudice to the right of less significant supervised entities to apply to the Croatian National Bank to issue prior permission for the inclusion of interim or year-end profits in common equity tier 1 capital, about which the Croatian National Bank shall adopt a decision.

(2) Where the Croatian National Bank assesses that the conditions referred to in Article 26, paragraph (2) of Regulation (EU) No 575/2013 are not met, the letter referred to in Article 9, paragraph (1) of this Decision shall be considered to be an application and the Croatian National Bank will reject such an application by a decision.

## VIII OVERSIGHT OF THE IMPLEMENTATION OF OTHER LAWS

### Article 13

The provisions of this Decision regarding supervision shall apply, as appropriate, to the oversight procedure of the application of other laws, performed by the Croatian National Bank in credit institutions, unless otherwise laid down in this Title or another regulation.

### Article 14

The Croatian National Bank shall exercise oversight of the entities referred to in Article 1 of this Decision with regard to the implementation of other laws in the manner referred to in Article 175, paragraph (1) and Article 177, paragraph (4) of the Credit Institutions Act.

### Article 15

(1) Following an on-site examination, the authorised persons shall prepare a report on examination findings, regardless whether any illegalities or deficiencies and weaknesses in the credit institution's operation have been found in the course of the examination.

(2) Following the examination, other than an on-site examination, persons authorised by virtue of their employment status shall prepare a report on examination findings only if the examination of a credit institution's operation has established:

- 1) illegalities in the credit institution's operation, including failure to provide the prescribed reports in a timely and accurate fashion; or
- 2) the existence of grounds for implementing a certain supervisory measure.

(3) The authorised persons shall prepare a report on examination findings within 60 working days of the day of completion of the examination and submit it to the credit institution's management board.

(4) The date of completion of an on-site examination shall be the day of holding the closing meeting with the credit institution's management board at which the credit institution shall be informed about the examination findings.

(5) The closing meeting shall be held after the complete documentation submitted by the credit institution with regard to the subject matter of examination has been reviewed.

(6) The management board of the credit institution shall immediately following receipt deliver a copy of the report on examination findings to the supervisory board, the internal auditor and the person responsible for compliance of the credit institution.

(7) The credit institution shall give opinions on the examination findings referred to in paragraph (3) of this Article within a time limit set by the Croatian National Bank, which may not be longer than 14 working days of the day of receipt of the report.

(8) Should the authorised persons find that the objections raised by the credit institution referred to in paragraph (7) of this Article are justified, they shall prepare an appendix to the report on examination findings, amending the findings in the report.



(9) Should the authorised persons find that the received objections referred to in paragraph (7) of this Article are not justified and that there is insufficient evidence to amend the findings of the on-site examination, they shall, within 15 working days of the day of receipt of the objections, notify the credit institution's management board in writing that the objections are not accepted.

(10) An appendix to the report on examination findings referred to in paragraph (8) of this Article shall be prepared within 15 working days of the day of receipt of the objections that have been accepted and shall be delivered to the credit institution's management board.

(11) Credit institutions shall not be allowed to raise objections to the appendix to the report on examination findings referred to in paragraph (8) of this Article.

(12) Where illegalities have been found in the course of an on-site examination of a credit institution's operation, the authorised person shall specify in detail the facts and describe the actions by which the credit institution, or a responsible person of the credit institution, acted contrary to law and other regulations in the report on examination findings and collect evidence thereof.

(13) For illegalities established by the report on examination findings, the authorised person shall identify in the report the responsible person from the credit institution's management board and/or another responsible person pursuant to the provisions on responsibility of the individual law whose implementation is subject to an examination.

(14) A credit institution raising objections to the report on examination findings referred to in paragraph (7) of this Article, shall also make a statement regarding the responsible persons stated in the report.

(15) If, in the opinion of the credit institution, another person from the management board and/or another responsible person other than the one stated in the report on examination findings is the responsible person, the credit institution shall also document any such claim.

(16) The procedure for issuing the report on examination findings other than an on-site examination shall be carried out in the same way as following an on-site examination.

(17) The report on examination findings shall be signed by an authorised person or a person authorised by virtue of his/her employment status.

(18) By way of derogation from paragraph (13) of this Article, in the cases of supervision of the anti-money laundering and terrorist financing, the responsible persons shall be stated in a separate report as an appendix to the report on examination findings.

(19) The provisions of paragraphs (14) and (15) of this Article shall apply, *mutatis mutandis*, to the report referred to in paragraph (18) of this Article.

(20) If the objections raised by the credit institution regarding the responsible persons stated in the report referred to in paragraph (18) of this Article are justified, the Croatian National Bank shall prepare an appendix to the report, amending the report. In such a case, the provision of paragraph (11) of this Article shall apply *mutatis mutandis*.

(21) The Croatian National Bank shall deliver to the credit institution a statement as regards the objections to the report referred to in paragraph (18) of this Article or an appendix to the report referred to in paragraph (20) of this Article at the same time as submitting the appendix to the report on examination



findings referred to in paragraph (8) of this Article or the written notification referred to in paragraph (9) of this Article.

#### **Article 16**

(1) The Croatian National Bank shall impose oversight or supervisory measures in accordance with Article 177, paragraph (3) of the Credit Institutions Act by means of a decision or a memorandum of understanding.

(2) The decision referred to in paragraph (1) of this Article shall be delivered to a credit institution within 60 days of expiry of the time limit for the credit institution's objections to a report on examination findings or of the delivery of an appendix to the report to the credit institution.

(3) By way of derogation from paragraph (2) of this Article a decision in the course of an on-site examination shall be issued immediately upon the establishment of the grounds for its adoption.

(4) A decision to eliminate illegalities, weaknesses or deficiencies in a credit institution's operation and undertake activities to improve the safety and stability of the credit institution's operation shall be issued by the Governor of the Croatian National Bank.

(5) The decision referred to in paragraph (1) of this Article shall be delivered to the credit institution's management board.

(6) Following receipt of the decision, the management board of the credit institution shall notify the supervisory board, the internal auditor and the person responsible for compliance of the credit institution of the content of the decision without delay.

(7) The Croatian National Bank may conclude a memorandum of understanding with the credit institution in accordance with the provisions of Article 218 of the Credit Institutions Act and the provisions of this Decision.

(8) Following receipt of a signed memorandum of understanding from the credit institution, the memorandum shall be signed by the responsible Vicegovernor and the executive director of the competent organisational unit of the Croatian National Bank.

### **IX TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 17**

(1) On the date of entry into force of this Decision, the Decision on the method of exercising supervision of credit institutions and imposing supervisory measures (Official Gazette 23/2014 and 55/2014) shall cease to have effect.

(2) All supervisory and oversight procedures initiated prior to the entry into force of this Decision shall be completed in accordance with the provisions of the Decision on the method of exercising supervision of credit institutions and imposing supervisory measures (Official Gazette 23/2014 and 55/2014).

#### **Article 18**

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

No.: 169-091/07-21/BV  
Zagreb, 27 July 2021

Governor  
**Boris Vujčić**

## Annex

[Name of the institution]  
[Croatian National Bank, Supervision Department responsible for supervision of the credit institution]  
[Place, date]  
[Institution's reference]

### Inclusion of profits in common equity tier 1 capital

Dear Sir/Madam,

For the purposes of submission of supervisory reporting referred to [regulatory reporting reference date], pursuant to Article 26, paragraph (2) of Regulation (EU) No 575/2013, we hereby notify the intention of [name of the credit institution/group of credit institutions/sub-group of credit institutions] to include in its [individual/sub-consolidated/consolidated] common equity tier 1 capital the net profits resulting from its [interim/annual] financial statements as of [balance sheet date].

The net profits to be included in common equity tier 1 capital have been calculated as follows:

(a) undistributed pre-tax profit	[HRK 0]
(b) taxes	[HRK 0]
(c) other charges imposed by the supervisory authority <sup>i</sup>	[HRK 0]
(d) other foreseeable charges not included in profit and loss statement <sup>ii</sup>	[HRK 0]
(e) total charges (b + c + d)	[HRK 0]
(f) decided or proposed dividend <sup>iii</sup>	[HRK 0/blank]
(g) maximum dividend under internal dividend policy; <sup>iv</sup>	[HRK 0]
(h) dividend according to average pay-out ratio (last three years) <sup>v</sup>	[HRK 0]
(i) dividend according to last year's pay-out ratio	[HRK 0]
(j) dividend to be deducted (max (g, h, i) if (f) is blank; otherwise (f))	[HRK 0]
(k) impact of regulatory restrictions <sup>vi</sup>	[HRK 0]
(l) profit that can be included in common equity tier 1 capital (a – e – j + k)	[HRK 0]

For the purposes of the above, I hereby declare that:

- the figures above are accurate to the best of my knowledge;
- the profits have been verified by persons who are independent of this institution and who are responsible for the auditing of this institution's accounts, as required by Article 26, paragraph (2) of Regulation (EU) No 575/2013 and this Decision. In this regard, I enclose the [audit report/review report/comfort letter] from [auditor's name];
- the profits have been evaluated/recorded in accordance with the principles set out in the applicable accounting framework and that the scope of prudential consolidation is not materially wider than the scope of verification referred to in the external auditor's document referred to in Article 10 of this Decision;
- any foreseeable charge or dividend has been deducted from the amount of the profits, as shown above;
- the amount of dividends to be deducted has been estimated in accordance with the provisions of Article 26, paragraph (2) of Regulation (EU) No 575/2013, the provisions of Articles 2 and 3 of Commission Delegated Regulation (EU) No 241/2014<sup>vii</sup> and the provisions of Articles 9 to 11 of this Decision. In particular, deductible dividends are based on a formal decision/proposal or, if such formal decision/proposal has not been taken, the dividend to be deducted shall be the highest of the following:
  - (i) maximum dividend in accordance with internal dividend policy;
  - (ii) dividend calculated on the basis of the average pay-out ratio over the last three years;
  - (iii) dividend calculated on the basis of the last year's pay-out ratio. If the expected dividend pay-out has been calculated by using a pay-out range instead of a fixed value, the upper end of that range has been used;



— the management body of [name of the credit institution/group of credit institutions/sub-group of credit institutions] commits to make a proposal for distributing dividends that is fully consistent with the above calculation of the net profits.

Yours sincerely,

[Name and position of authorised signatory on behalf of the credit institution]

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<sup>i</sup> Article 3, paragraph (1), item (b) of Commission Delegated Regulation (EU) No 241/2014.

<sup>ii</sup> Article 3, paragraph (2) of Commission Delegated Regulation (EU) No 241/2014.

<sup>iii</sup> Article 2, paragraphs (2) and (10) of Commission Delegated Regulation (EU) No 241/2014. This should only be "0" if there is a formal decision or proposal not to distribute any dividend. If there is no formal proposal or decision the field is left blank.

<sup>iv</sup> Article 2, paragraphs (4) to (6) of Commission Delegated Regulation (EU) No 241/2014.

<sup>v</sup> Article 2, paragraph (7) of Commission Delegated Regulation (EU) No 241/2014.

<sup>vi</sup> Article 2, paragraph (9) of Commission Delegated Regulation No 241/2014.

<sup>vii</sup> Commission Delegated Regulation (EU) No 241/2014 of 7 January 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for Own Funds requirements for institutions (OJ L 74, 14.3.2014).