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GVERNER

Pursuant to Article 8, paragraph (19) of the Act on the Resolution of Credit Institutions and Investment Firms (OG 146/2020) and Article 43, paragraph (2), items (10) and (12) of the Act on the Croatian National Bank (OG 75/2008, 54/2013 and 47/2020), the Governor of the Croatian National Bank hereby issues the

**Decision
on the conditions for and the manner of implementing inspection for resolution purposes and
imposing resolution actions**

I GENERAL PROVISIONS

Subject matter

Article 1

This Decision specifies the conditions for and the manner of implementing inspection for resolution purposes and the procedure for imposing actions for the purpose of implementing Titles III, IV and VI of the Act on the Resolution of Credit Institutions and Investment Firms (OG 146/2020, hereinafter: the Act) and the obligations of the entities referred to in Article 2 of this Decision during and after the implementation of these activities.

Scope of application

Article 2

(1) This Decision shall apply to the following entities:

- 1) credit institutions having their head office in the Republic of Croatia;
- 2) financial institutions having their head office in the Republic of Croatia that are subsidiaries of credit institutions or undertakings referred to in item (3) or (4) of this Article and are covered by the supervision of the parent undertakings on a consolidated basis in accordance with Articles 6 to 17 of Regulation (EU) No 575/2013;
- 3) financial holding companies, mixed financial holding companies and mixed-activity holding companies having their head office in the Republic of Croatia, which are a part of a group in which at least one member is a credit institution;
- 4) RC parent financial holding companies, EU parent financial holding companies having their head office in the Republic of Croatia, RC parent mixed financial holding companies and EU parent mixed financial holding companies having their head office in the Republic of Croatia, which are a part of a group in which at least one member of the group is a credit institution; and
- 5) branches of third-country institutions having their head office in the Republic of Croatia.

(2) This Decision shall not apply to the entities referred to in paragraph (1) of this Article against which resolution proceedings have been opened, during the resolution proceedings.

Definitions

Article 3

(1) For the purposes of this Decision, the terms used in this Decision shall have the same meaning as they have in the Act.

(2) The terms used in this Decision that have a gender-specific connotation shall refer to both the male and female genders.

II INSPECTION FOR RESOLUTION PURPOSES

Types of inspections for resolution purposes

Article 4

(1) Inspection for resolution purposes means inspection by the Croatian National Bank of the entities referred to in Article 2 of this Decision for the purpose of exercising the powers referred to in Titles III, IV and VI of the Act.

(2) Inspection for resolution purposes referred to in paragraph (1) of this Article shall be carried out in the form of:

1) off-site inspection for resolution purposes carried out by an ongoing analysis of the collected information referred to in Article 5 of this Decision, or

2) on-site inspection for resolution purposes carried out in business facilities of the entities referred to in Article 2 of this Decision.

Off-site inspection for resolution purposes

Article 5

(1) The information that is the subject of off-site inspection for resolution purposes shall be the reports that the entity referred to in Article 2 of this Decision submits in accordance with Commission Implementing Regulation (EU) 2018/1624 of 23 October 2018 laying down implementing technical standards with regard to procedures and standard forms and templates for the provision of information for the purposes of resolution plans for credit institutions and investment firms pursuant to Directive 2014/59/EU of the European Parliament and of the Council, and repealing Commission Implementing Regulation (EU) 2016/1066 (Text with EEA relevance.) (OJ L 277, 7. 11. 2018) and subordinate legislation of the Croatian National Bank, written correspondence with such entity and any other information, statement or report submitted by such entity on Croatian National Bank request, as well as other publicly available information, reports or notifications pertaining to such entity.

(2) The off-site inspection for resolution purposes shall be carried out by persons authorised by virtue of their employment status.

On-site inspection for resolution purposes

Article 6

(1) The Croatian National Bank shall carry out on-site inspection for resolution purposes whenever it estimates that it is necessary for the purpose of exercising resolution powers, and in particular in the following cases:

- 1) to verify the completeness and accuracy of the reports and information submitted by the entity referred to in Article 2 of this Decision;
- 2) to verify the implementation by the entity referred to in Article 2 of this Decision of the activities to remove significant impediments to resolvability;
- 3) to adopt a decision imposing the entity referred to in Article 2 of this Decision the measures for removing significant impediments to resolvability; or
- 4) to adopt a decision imposing the entity referred to in Article 2 of this Decision the minimum requirement for own funds and eligible liabilities and to verify the compliance with that requirement.

(2) The on-site inspection for the resolution purposes of the entity referred to in Article 2 of this Decision shall be carried out:

- 1) by examining bookkeeping documents, business books and other records and calculations, reports, policies and other internal bylaws and other documentation pertaining to the operation of the entity referred to in Article 2 of this Decision, in original in a paper form or in the form of an electronic record in the medium and format required by the authorised person;
- 2) by obtaining written and oral statements and explanations from the members of the management board, supervisory board and employees of the entity referred to in Article 2 of this Decision.

(3) The on-site inspection for resolution purposes shall be carried out by Croatian National Bank employees based on an authorisation by the Governor of the Croatian National Bank.

(4) The Governor of the Croatian National Bank may use the authorisation referred to in paragraph (3) of this Article to authorise, in addition to Croatian National Bank employees, other persons possessing the professional knowledge to carry out on-site inspection for resolution purposes, in particular certified auditors, audit firms, legal advisers and representatives of the Single Resolution Board.

(5) The authorisation referred to in paragraph (3) of this Article shall determine:

- 1) the subject of the on-site inspection for resolution purposes;
- 2) the date of the beginning of the on-site inspection for resolution purposes;

3) the leader of the on-site inspection for resolution purposes and other persons authorised to carry out on-site inspection.

(6) In the case where persons referred to in paragraph (4) of this Article participate in an on-site inspection for resolution purposes, the leader of the on-site inspection for resolution purposes may only be a Croatian National Bank employee.

Obligations of the entity during on-site inspection for resolution purposes

Article 7

(1) The entity referred to in Article 2 of this Decision shall enable the authorised persons unrestricted access to its business facilities and business books, business documentation and administrative or business records, as well as examination of information and related technologies, to the extent necessary for carrying out a particular on-site inspection for resolution purposes.

(2) Members of the management and supervisory board, procurators, other senior management and employees of the entity referred to in Article 2 of this Decision shall be obligated to provide to the authorised persons, on their request, oral and written replies to all questions related to the subject of the on-site inspection, supporting them with documentation where possible.

(3) Where the entity referred to in Article 2 of this Decision outsources some of the activities to external service providers, it shall be obligated to enable the authorised persons to carry out on-site inspection in the facilities of the service provider to the extent necessary to achieve the objective of the on-site inspection for resolution purposes of that entity.

Notification of an on-site inspection

Article 8

(1) The Croatian National Bank shall deliver to the entity referred to in Article 2 of this Decision a notification of an on-site inspection for resolution purposes no later than ten days prior to its beginning.

(2) The notification referred to in paragraph (4) of this Article shall contain as a minimum, in addition to the subject of inspection, information on the planned beginning and duration of the on-site inspection for resolution purposes, the name of the leader of on-site inspection for resolution purposes and the names of other authorised persons who will carry out the on-site inspection for resolution purposes and the list of documentation and information that have to be supplied as a minimum for preparing and carrying out the on-site inspection for resolution purposes.

(3) By way of derogation from the provision of paragraph (4) of this Article, the authorised person may deliver the notification of an on-site inspection for resolution purposes directly to the entity referred to in Article 2 of this Decision at the latest immediately before the beginning of the on-site inspection for resolution purposes, where a sudden on-site inspection is required.

Report on findings of inspection for resolution purposes

Article 9

(1) Following the completion of an on-site inspection for resolution purposes, the Croatian National Bank shall prepare a report on the actions taken in the context of the on-site inspection for resolution purposes.

(2) The report referred to in paragraph (1) of this Article shall not be considered an administrative act and it shall contain as a minimum:

- 1) the date of the beginning and completion of the on-site inspection for resolution purposes;
- 2) the names of the authorised persons carrying out the on-site inspection for resolution purposes;
- 3) important information on the subject of the on-site inspection for resolution purposes and the contents of the established facts; and
- 4) the contents of the statements and explanations provided by members of the management and supervisory board, procurators, other senior management and the employees of the entity referred to in Article 2 of this Decision, where applicable.

(3) The report referred to in paragraph (1) of this Article shall be signed by the leader of the on-site inspection for resolution purposes.

(4) The Croatian National Bank shall deliver the report referred to in paragraph (1) of this Article to the entity referred to in Article 2 of this Decision that was the subject of on-site inspection for resolution purposes.

(5) In the case of off-site inspection for resolution purposes, the report referred to in paragraph (1) of this Article shall be prepared only if facts are established during that inspection that suggest that misdemeanours referred to in Title XVI of the Act were committed, and it shall be signed by the person authorised by the virtue of their employment status who established such facts.

(6) In the case referred to in paragraph (5) of this Article, the report shall not be delivered to the entity referred to in Article 2 of this Decision.

Independent valuation

Article 10

(1) The Governor may, when the provisions of the Act or Regulation (EU) No 806/2014 require that an independent valuation of the value of assets and liabilities of an entity referred to in Article 2 of this Decision be carried out, authorise a person with a status of an independent valuer with whom the Croatian National Bank or the Single Resolution Board has entered into an agreement to carry out independent valuation, to collect and verify all the necessary information in the facilities of that entity.

(2) In the case referred to in paragraph (1) of this Article, the provisions of this Decision shall not apply, with the exception of Article 7 that shall be applied *mutatis mutandis*.

III IMPOSING ACTIONS

Entity for which the Single Resolution Board is directly responsible

Article 11

(1) The Croatian National Bank shall issue a decision imposing actions on the entity referred to in Article 2 of this Decision for which the Single Resolution Board is directly responsible, based on the decision of the Single Resolution Board and the provision of Article 29, paragraph (1) of Regulation (EU) No 806/2014.

(2) The entity referred to in Article 2 of this Decision shall be deemed to have exercised its right to be heard about all the facts, circumstances and legal issues, needed to resolve administrative matters in a procedure carried out by the Single Resolution Board prior to issuing its decision, and the Croatian National Bank shall not be obligated to provide such entity again this right to be able to issue the decision referred to in paragraph (1) of this Article.

(3) The Croatian National Bank shall submit to the entity referred to in Article 2 of this Decision in addition to the decision referred to in paragraph (1) of this Article, a copy of the Single Resolution Board decision.

Entity for which the Croatian National Bank is directly responsible

Article 12

(1) The Croatian National Bank shall issue a decision imposing actions on the entity referred to in Article 2 of this Decision for which it is directly responsible pursuant to the provision of Article 7, paragraph (3) of Regulation (EU) No 806/2014, after providing such entity with the possibility to submit its comments to the draft decision.

(2) If the Croatian National Bank issues the decision referred to in paragraph (1) based on a joint decision adopted together with the resolution authorities of other European Union member states, the entity referred to in Article 2 of this Decision shall be provided with the possibility of submitting its comments to the draft joint decision.

(3) The Croatian National Bank shall set a time limit for submitting comments to the draft decision referred to in paragraph (1) of this Article or the draft joint decision, which may not be shorter than ten working days.

(4) If the entity referred to in Article 2 of this Decision fails to submit its comments or submits them after the time limit referred to in paragraph (3) of this Article, the entity shall be deemed to have no objections to the draft decision of the Croatian National Bank or the draft joint decision.

Obligations of the entity following the adoption of the decision
Article 13

(1) The chairperson of the management board of the entity referred to in Article 2 of this Decision shall inform other management board members about the contents of the decision at the first next management board meeting and shall submit without delay a copy of the decision to the chairperson of the supervisory board and the internal audit of that entity.

(2) The chairperson of the supervisory board of the entity referred to in Article 2 of this Decision shall inform other supervisory board members about the contents of the decision without delay upon the receipt of the decision.

IV FINAL PROVISIONS

Article 14

(1) This Decision shall enter into force on the eighth day following its publication in the Official Gazette.

(2) On the date of entry into force of this Decision, the Decision on the conditions and manner of implementing activities and the manner of imposing measures to exercise resolution powers (OG 73/2017) shall cease to have effect.

Dec. No.: 114-091/05-21/BV
Zagreb, 5 May 2021

Boris Vujčić
Governor