

THE CROATIAN PARLIAMENT

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

DECISION

PROMULGATING THE ACT ON THE RESOLUTION OF CREDIT INSTITUTIONS AND INVESTMENT FIRMS

I hereby promulgate the Act on the Resolution of Credit Institutions and Investment Firms passed by the Croatian Parliament at its session on 6 February 2015.

Class: 011-01/15-01/05

No.: 71-05-03/1-15-2

Zagreb, 11 February 2015

The President of the Republic of
Croatia
Ivo Josipović, m. p.

THE ACT ON THE RESOLUTION OF CREDIT INSTITUTIONS AND INVESTMENT FIRMS

I GENERAL PROVISIONS

Subject matter

Article 1

This Act governs:

- the rules, procedures and tools for the resolution of entities referred to in Article 3 of this Act;
- the powers and tasks of resolution authorities and competent authorities; and
- the establishment, financing and use of the funds of the resolution fund, and the management thereof.

Compliance with the regulations of the European Union

Article 2

This Act transposes into the legal system of the Republic of Croatia Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012 of the European Parliament and of the Council (Text with EEA relevance) (OJ L EU 173, 12. 6. 2014, hereinafter referred to as 'Directive 2014/59/EU').

Entities subject to this Act

Article 3

This Act shall apply to the following entities:

- 1) institutions with head offices in the Republic of Croatia;
- 2) financial institutions with head offices in the Republic of Croatia when the financial institution is a subsidiary of a credit institution or investment firm referred to in item (3) or (4) of this paragraph and is covered by the supervision of the parent undertaking 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;
- 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; and
- 5) branches of third-country institutions with head offices in the Republic of Croatia.

Terms and definitions

Article 4

(1) The following short titles shall be used in this Act to refer to the following European Union regulations:

- 1) Regulation (EU) No 575/2013 to refer to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (Text with EEA relevance) (OJ L 176, 27. 6. 2013);
- 2) Council Regulation (EU) No 1024/2013 to refer to Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29. 10. 2013);
- 3) Regulation (EU) No 648/2012 to refer to Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (Text with EEA relevance) (OJ L 201, 27. 2. 2013);
- 4) Regulation (EU) No 1093/2010 to refer to Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing an European Supervisory Authority

(European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15. 12. 2010);

5) Directive 2013/36/EU to refer to 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 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);

6) Directive 2014/49/EU to refer to Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (Text with EEA relevance) (OJ L 173, 12. 6. 2014);

7) Directive 2009/65/EC to refer to Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (Text with EEA relevance) (OJ L 302, 17. 11. 2009);

8) Directive 2002/47/EC to refer to Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements (OJ L 168, 27. 6. 2002);

9) Directive 98/26/EC to refer to Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (OJ L 166, 11. 6. 1998);

10) Directive 97/9/EC to refer to Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997 on investor-compensation schemes (OJ L 84, 26. 3. 1997);

11) Directive 2014/65/EU to refer to Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (Text with EEA relevance) (OJ L 173, 12. 6. 2014);

12) Council Directive 2001/23/EC to refer to Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses (OJ L 82, 22. 3. 2001);

13) Commission Recommendation 2003/361/EC to refer to Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (Text with EEA relevance) (OJ L 124, 20. 5. 2003).

(2) The terms used in this Act shall have the following meaning:

1) '*resolution*' means the application of a resolution tool or a tool referred to in Article 56, paragraph (8) of this Act in order to achieve at least one of the resolution objectives referred to in Article 6 of this Act;

2) '*credit institution*' shall have the meaning as defined in Article 4, paragraph (1), item (1) of Regulation (EU) No 575/2013, not including, in the Republic of Croatia, credit unions and the Croatian Bank for Reconstruction and Development and, in other Member States, entities not subject to prudential requirements;

3) '*investment firm*' shall have the meaning as defined in Article 4, paragraph (1), item (2) of Regulation (EU) No 575/2013 and shall be subject to the initial capital requirement of EUR 730 000,

and in the Republic of Croatia it means an investment firm meeting the requirements referred to in Article 35 of the Capital Market Act;

4) '*financial institution*' shall have the meaning as defined in Article 4, paragraph (1), item (26) of Regulation (EU) No 575/2013;

5) '*subsidiary*' shall have the meaning as defined in Article 4, paragraph (1), item (16) of Regulation (EU) No 575/2013;

6) '*parent undertaking*' shall have the meaning as defined in Article 4, paragraph (1), item (15), sub-item (a) of Regulation (EU) No 575/2013;

7) '*consolidated basis*' shall have the meaning as defined in Article 4, paragraph (1), item (47) of Regulation (EU) No 575/2013;

8) '*institutional protection scheme*' shall have the meaning as defined in Article 113, paragraph (7) of Regulation (EU) No 575/2013;

9) '*financial holding company*' shall have the meaning as defined in Article 4, paragraph (1), item (20) of Regulation (EU) No 575/2013;

10) '*mixed financial holding company*' shall have the meaning as defined in Article 4, paragraph (1), item (21) of Regulation (EU) No 575/2013;

11) '*mixed-activity holding company*' shall have the meaning as defined in Article 4, paragraph (1), item (22) of Regulation (EU) No 575/2013;

12) '*RC parent financial holding company*' shall have the meaning as defined in Article 4, paragraph (1), item (30) of Regulation (EU) No 575/2013;

13) '*EU parent financial holding company*' shall have the meaning as defined in Article 4, paragraph (1), item (31) of Regulation (EU) No 575/2013;

14) '*RC parent mixed financial holding company*' shall have the meaning as defined in Article 4, paragraph (1), item (32) of Regulation (EU) No 575/2013;

15) '*EU parent mixed financial holding company*' shall have the meaning as defined in Article 4, paragraph (1), item (33) of Regulation (EU) No 575/2013;

16) '*resolution objectives*' shall have the meaning as defined in Article 6 of this Act;

17) '*branch*' shall have the meaning as defined in Article 4, paragraph (1), item (17) of Regulation (EU) No 575/2013;

18) '*resolution authority*' means an authority competent to apply resolution tools and exercise resolution powers, and in the Republic of Croatia it shall have the meaning as defined in Article 8 of this Act;

19) '*resolution tool*' shall have the meaning as defined in Article 56, paragraph (1) of this Act;

20) '*resolution power*' shall have the meaning as defined in Title X of this Act;

21) '*competent authority*' shall have the meaning as defined in Article 4, paragraph (1), item (40) of Regulation (EU) No 575/2013 including the European Central Bank with regard to specific tasks conferred on it by Council Regulation (EU) No 1024/2013, and in the Republic of Croatia the competent authority for credit institutions is the Croatian National Bank in accordance with Article 11 of the Credit Institutions Act (hereinafter referred to as 'the Croatian National Bank as the competent authority'), while the competent authority for investment firms is the Croatian Financial Services Supervisory Agency in accordance with Article 3 of the Capital Market Act (hereinafter referred to as 'the Croatian Financial Services Supervisory Agency as the competent authority');

22) '*competent ministry*' means the finance ministry or other ministries of the Member States which are responsible for economic, financial and budgetary decisions at the national level according to national competencies and which have been designated to exercise the functions of the competent ministry by a Member State, and in the Republic of Croatia this is the Ministry of Finance;

23) '*institution*' means a credit institution or an investment firm;

24) '*management body*' means a management body or bodies, which are appointed in accordance with national law, which are empowered to set the institution's strategy, objectives and overall direction, and which oversee and monitor management decision-making, and include the persons who effectively direct the business of the institution, and in the Republic of Croatia this includes the management board, the supervisory board or the board of directors of the institution;

25) '*senior management*' means those natural persons who exercise executive functions within an institution and who are responsible, and accountable to the management body, for the day-to-day management of the institution, and in the Republic of Croatia it shall have the meaning as defined in Article 4, item (53) of the Credit Institutions Act and Article 4, item (36) of the Capital Market Act;

26) '*group*' means a parent undertaking and its subsidiaries viewed together;

27) '*cross-border group*' means a group having members of the group in more than one Member State;

28) '*extraordinary public financial support*' means State aid within the meaning of Article 107, paragraph (1) of the Treaty on the Functioning of the European Union (hereinafter referred to as 'the TFEU'), or any other public financial support at supra-national level, which, if provided for at national level, would constitute State aid, that is provided in order to preserve or restore the viability, liquidity or solvency of an institution or entity referred to in Article 3, item (2), (3) or (4) of this Act or of a group of which such an institution or entity forms part;

29) '*emergency liquidity assistance*' means the provision of liquidity by a central bank, or any other assistance that may lead to an increase in central bank liquidity assistance, to a solvent institution, or group of solvent institutions, that is facing temporary liquidity problems, without such an operation being part of monetary policy;

30) '*systemic crisis*' means a disruption in the financial system with the potential to have serious negative consequences for the internal market and the real economy. All types of financial intermediaries, markets and infrastructure may be potentially systemically important to some degree;

31) '*member of the group*' means a legal person that is part of a group;

32) '*significant branch*' means a branch that has been designated as significant pursuant to a prescribed procedure, and in the Republic of Croatia it shall have the meaning as defined in Article 203 or 204 of the Credit Institutions Act or Articles 275c to 275e of the Capital Markets Act;

33) '*critical functions*' means activities, services or operations the discontinuance of which is likely in one or more Member States to lead to the disruption of services that are essential to the real economy or to disrupt financial stability due to the size, market share, external and internal interconnectedness, complexity or cross-border activities of an institution or group, with particular regard to the substitutability of those activities, services or operations;

34) '*core business lines*' means business lines and associated services which represent material sources of revenue, profit or franchise value for an institution or for a group of which an institution forms part;

35) '*consolidating supervisor*' shall have the meaning as defined in Article 4, paragraph (1), item (41) of Regulation (EU) No 575/2013;

36) '*own funds*' shall have the meaning as defined in Article 4, paragraph (1), item (118) of Regulation (EU) No 575/2013;

37) '*conditions for resolution*' shall have the meaning as defined in Article 28, paragraphs (1) and (4) of this Act;

38) '*resolution action*' means the decision to place an institution or entity referred to in Article 3, items (2), (3) and (4) of this Act under resolution in accordance with Title IV of this Act, the application of resolution tools in accordance with Title IX of this Act, or the exercise of one or more resolution powers in accordance with Title X of this Act;

39) '*resolution plan*' means a resolution plan for an institution drawn up in accordance with Article 13 of this Act;

40) '*group resolution*' means:

a) the taking of resolution action at the level of a parent undertaking or of an institution subject to consolidated supervision; or

b) the coordination of the application of resolution tools and the exercise of resolution powers by resolution authorities in relation to the members of the group that meet the conditions for resolution;

41) '*group resolution plan*' means a plan for group resolution drawn up in accordance with Articles 16 to 20 of this Act;

42) '*group-level resolution authority*' means the resolution authority in the Member State in which the consolidating supervisor is situated;

43) '*group resolution scheme*' means a plan for group resolution drawn up in accordance with Article 30 or 31 of this Act;

44) '*resolution college*' means a college established in accordance with Title XI of this Act to carry out the tasks referred to in Title XI of this Act;

45) '*normal insolvency proceedings*' means collective insolvency proceedings which entail the partial or total divestment of a debtor and the appointment of a liquidator or a trustee in bankruptcy normally applicable to institutions under national law and either specific to those institutions or generally applicable to any natural or legal person, in the Republic of Croatia it means bankruptcy proceedings or compulsory winding-up (hereinafter referred to as 'bankruptcy');

46) '*debt instruments*' referred to in Article 83, paragraph (3), items (g) and (h) of this Act means bonds and other forms of transferable debt, instruments creating or acknowledging a debt, and instruments giving rights to acquire debt instruments;

47) '*RC parent institution*' shall have the meaning as defined in Article 4, paragraph (1), item (28) of Regulation (EU) No 575/2013;

48) '*EU parent institution*' shall have the meaning as defined in Article 4, paragraph (1), item (29) of Regulation (EU) No 575/2013;

49) '*own funds requirements*' shall have the meaning as defined in Articles 92 to 98 of Regulation (EU) No 575/2013;

50) '*supervisory college*' means a supervisory college established by the consolidating supervisor, and in the Republic of Croatia it means the college of supervisors as defined in Article 283 of the Credit Institutions Act and the supervisory college as defined in Article 269a of the Capital Market Act;

51) '*European Union State aid framework*' shall have the meaning as defined in Articles 107, 108 and 109 TFEU and regulations and all EU acts, including communications and notices made or adopted in accordance with Article 108, paragraph (4) or Article 109 TFEU;

52) '*termination*' means the realisation of assets of an institution or entity referred to in Article 3, item (2), (3) or (4) of this Act;

53) '*asset separation tool*' means the mechanism for effecting a transfer by a resolution authority of assets, rights or liabilities of an institution under resolution to an asset management vehicle in accordance with Title IX.4 of this Act;

54) '*asset management vehicle*' means a legal person that meets the requirements referred to in Article 64, paragraphs (3) and (4) of this Act;

55) '*bail-in tool*' means the mechanism by which a resolution authority in accordance with Title IX.5 of this Act effects a write down and conversion of liabilities of an institution under resolution;

56) '*sale of business tool*' means the mechanism by which a resolution authority in accordance with Title IX.2 of this Act effects a transfer of shares or other instruments of ownership issued by an institution under resolution, or assets, rights or liabilities of an institution under resolution to a buyer that is not a bridge institution;

57) '*bridge institution*' means a legal person that meets the requirements specified in Article 59 of this Act;

58) '*bridge institution tool*' means the mechanism for transferring shares or other instruments of ownership issued by an institution under resolution or assets, rights or liabilities of an institution under resolution to a bridge institution, in accordance with Title IX.3 of this Act;

59) '*instruments of ownership*' means shares, other instruments that confer ownership, instruments that are convertible into or give the right to acquire shares or other instruments of ownership, and instruments representing interests in shares or other instruments of ownership;

60) '*shareholder*' means shareholders or holders of other instruments of ownership;

61) '*transfer powers*' means the powers as defined in Article 83, paragraph (3), item (c) or (d) of this Act to transfer shares, other instruments of ownership, debt instruments, assets, rights or liabilities, or any combination of those items from an institution under resolution to a recipient;

62) '*central counterparty*' shall have the meaning as defined in Article 2, paragraph (1) of Regulation (EU) No 648/2012;

63) '*derivative*' shall have the meaning as defined in Article 2, paragraph (5) of Regulation (EU) No 648/2012;

64) '*write-down and conversion powers*' shall have the meaning as defined in Title VI of this Act and Article 83, paragraph (3), items (e) to (i) and paragraph (4), items (a) and (b) of this Act;

65) '*secured liability*' means a liability where the right of the creditor to payment or other form of performance is secured by a charge, pledge or lien, or collateral arrangements including liabilities arising from repurchase transactions and other title transfer collateral arrangements;

66) '*common equity tier 1 instruments*' means capital instruments that meet the conditions specified in Article 28, paragraphs (1) to (4), Article 29, paragraphs (1) to (5) or Article 31, paragraph (1) of Regulation (EU) No 575/2013;

67) '*additional tier 1 instruments*' means capital instruments that meet the conditions specified in Article 52, paragraph (1) of Regulation (EU) No 575/2013;

68) '*eligible liabilities*' means the liabilities and capital instruments of an institution or entity referred to in Article 3, item (2), (3) or (4) of this Act that do not qualify as common equity tier 1, additional tier 1 or tier 2 instruments and are not excluded from the scope of the bail-in tool in accordance with Article 66, paragraph (2) of this Act;

69) '*deposit guarantee scheme*' means a deposit guarantee scheme introduced and officially recognised by a Member State, and in the Republic of Croatia it means the deposit guarantee scheme as defined in the law governing deposit insurance;

70) '*tier 2 instruments*' means capital instruments or subordinated loans that meet the conditions specified in Article 63 of Regulation (EU) No 575/2013;

71) '*relevant capital instruments*' for the purposes of Title IX.5 and Title VI of this Act means additional tier 1 instruments and tier 2 instruments;

72) '*conversion rate*' means the rate at which a single instrument of a specific class or a specified unit of value of eligible liability is converted into the nominal value of shares or other instruments of ownership;

73) '*affected creditor*' means a creditor whose claim relates to a liability that is reduced or converted to shares or other instruments of ownership by the exercise of the write down or conversion power pursuant to the use of the bail-in tool;

74) '*affected holder*' means a holder of shares or other instruments of ownership whose instruments of ownership are cancelled by means of the power referred to in Article 83, paragraph (4), item (a) of this Act;

75) '*appropriate authority*' means authority of the Member State that is responsible under the national law of that Member State for establishing the conditions for write down or conversion of relevant

capital instruments, and in the Republic of Croatia it means the Croatian National Bank or the Croatian Financial Services Supervisory Agency;

76) '*relevant parent institution*' means an RC parent institution, an EU parent institution, a financial holding company, a mixed financial holding company, a mixed-activity holding company, an RC parent financial holding company, an EU parent financial holding company, an RC parent mixed-activity holding company, or an EU parent mixed-activity holding company, in relation to which the bail-in tool is applied;

77) '*recipient*' means the entity to which shares, other instruments of ownership, debt instruments, assets, rights or liabilities, or any combination of those items are transferred from an institution under resolution;

78) '*working day*' means a day other than a Saturday, a Sunday or a public holiday in the Member State concerned;

79) '*termination right*' means a right to terminate a contract, a right to accelerate, close out, set-off or net obligations or any similar provision that suspends, modifies or extinguishes an obligation of a party to the contract or a provision that prevents an obligation under the contract from arising that would otherwise arise;

80) '*institution under resolution*' means an institution, a financial institution, a financial holding company, a mixed financial holding company, a mixed-activity holding company, an RC parent financial holding company, an EU parent financial holding company, an RC parent mixed financial holding company, or an EU parent mixed-activity holding company, in respect of which a resolution action is taken;

81) '*EU subsidiary*' means an institution which has its head office in the Republic of Croatia or another Member State and which is a subsidiary of a third-country institution or a third-country parent undertaking;

82) '*EU parent undertaking*' means an EU parent institution, an EU parent financial holding company or an EU parent mixed financial holding company;

83) '*third-country institution*' means an entity, the head office of which is in a third country, that would, if it had its head office in the European Union, be covered by the definition of an institution;

84) '*third-country parent undertaking*' means a parent undertaking, a parent financial holding company or a parent mixed financial holding company, the head office of which is in a third country;

85) '*third-country resolution proceedings*' means an action under the law of a third country to manage the failure of a third-country institution or a third-country parent undertaking that is comparable, in terms of objectives and anticipated results, to resolution actions under this Act;

86) '*EU branch*' means a branch of a third-country institution with a head office in the Republic of Croatia or another Member State;

87) '*relevant third-country authority*' means a third-country authority responsible for carrying out functions comparable to those of resolution authorities or competent authorities in accordance with this Act or Directive 2014/59/EU;

88) '*group financing arrangement*' means the financing arrangement or arrangements of the Member State of the group-level resolution authority;

89) '*back-to-back transaction*' means a transaction entered into between two members of the group for the purpose of transferring, in whole or in part, the risk generated by another transaction entered into between one of those members of the group and a third party;

90) '*intra-group guarantee*' means a contract by which one member of the group guarantees the obligations of another member of the group to a third party;

91) '*covered deposits*' means the part of eligible deposits that does not exceed the coverage level, and in the Republic of Croatia as defined in the law governing deposit insurance;

92) '*eligible deposits*' means deposits which are eligible for insurance, that is, which are not excluded from repayment by the deposit guarantee schemes, and in the Republic of Croatia it means deposit eligible for insurance as defined in the regulations governing deposit insurance;

93) '*covered bonds*' means bonds which meet the conditions specified for covered bonds, which are issued by a credit institution which has its head office in a Member State and is subject by law to special public supervision designed to protect bond-holders. In the Republic of Croatia, 'covered bonds' shall have the meaning as defined in the law governing the establishment and the operation of investment funds with a public offering;

94) '*title transfer financial collateral arrangement*' means an arrangement, including repurchase agreements, under which, a collateral provider transfers full ownership of financial collateral to a collateral taker for the purpose of securing or otherwise covering the performance of relevant financial obligations, and in the Republic of Croatia as defined in the law governing financial collateral;

95) '*netting agreement*' means an agreement under which a number of claims or obligations can be converted into a single net claim, including close-out netting arrangements under which, on the occurrence of an enforcement event (however or wherever defined) the obligations of the parties are accelerated so as to become immediately due or are terminated, and in either case are converted into or replaced by a single net claim, including:

– '*close-out netting provisions*' which means a provision of a financial collateral arrangement, or of an arrangement of which a financial collateral arrangement forms part, or, in the absence of any such provision, any statutory rule by which, on the occurrence of an enforcement event whether through the operation of netting or set-off or otherwise:

i. the obligations of the parties are accelerated so as to be immediately due and expressed as an obligation to pay an amount representing their estimated current value, or are terminated and replaced by an obligation to pay such an amount; and/or

ii. an account is taken of what is due from each party to the other in respect of such obligations, and a net sum equal to the balance of the account is payable by the party from whom the larger amount is due to the other party; and

– '*netting*' means the conversion into one net claim or one net obligation of claims and obligations resulting from transfer orders which a participant or other participants either issue to, or receive from one or more other participants with the result that only a net claim can be demanded or a net obligation be owed,

and in the Republic of Croatia including 'netting' as defined in the law governing financial collateral and 'settlement' as defined in the law governing settlement finality in payment and financial instruments settlement systems;

96) '*set-off agreement*' means an agreement under which two or more claims or obligations owed between the institution under resolution and a counterparty can be set off against each other;

97) '*financial contracts*' includes the following contracts and arrangements:

a) securities contracts, including;

- contracts for the purchase, sale or loan of a security, a group or index of securities;
- options on a security or group or index of securities;
- repurchase or reverse repurchase transactions on any such security, group or index;

b) commodities contracts, including:

- contracts for the purchase, sale or loan of a commodity or group or index of commodities for future delivery;
- options on a commodity or group or index of commodities;
- repurchase or reverse repurchase transactions on any such commodity, group or index;

c) futures and forwards contracts, including contracts (other than a commodities contract) for the purchase, sale or transfer of a commodity or property of any other description, service, right or interest for a specified price at a future date;

d) swap agreements, including:

- swaps and options relating to interest rates, spot or other foreign exchange agreements, currency, an equity index or equity, a debt index or debt, commodity indexes or commodities, weather, emissions or inflation;
- total return, credit spread or credit swaps;
- any arrangements or transactions that are similar to an agreement referred to in the first or second indent of this sub-item which is subject of recurrent dealing in the swaps or derivatives markets;

e) inter-bank borrowing agreements where the term of the borrowing is three months or less;

f) master agreements for any of the contracts or agreements referred to in sub-item (a) to (e) of this item.

98) '*crisis prevention measure*' means the exercise of powers to direct removal of deficiencies or impediments to recoverability in accordance with the regulations governing the operation of credit institutions or investment firms, the exercise of powers to address or remove impediments to resolvability in accordance with Article 21, 22 or 23 of this Act, the application of an early intervention measure in accordance with regulations governing the operation of credit institutions or investment firms or the exercise of the write down or conversion powers in accordance with Title VI of this Act;

99) '*crisis management measure*' means a resolution action or the appointment of a resolution administration in accordance with Articles 44 and 45 of this Act or persons responsible for drawing up

the reorganisation plan in accordance with Article 74 of this Act or Article 93, paragraphs (1) and (2) of this Act;

100) '*recovery capacity*' means the capability of an institution to restore its financial position following a significant deterioration;

101) '*depositor*' means the holder or, in the case of a joint account, each of the holders, of a deposit, and in the Republic of Croatia as defined in the law governing deposit insurance;

102) '*investor*' means any person who has entrusted money or instruments to an investment firm in connection with investment business, and in the Republic of Croatia as defined in the law governing the capital market;

103) '*designated national macroprudential authority*' means the authority entrusted with the conduct of macroprudential policy referred to in Recommendation B1 of the Recommendation of the European Systemic Risk Board of 22 December 2011 on the macroprudential mandate of national authorities (ESRB/2011/3), and in the Republic of Croatia the Financial Stability Council;

104) '*micro, small and medium-sized enterprises*' means micro, small and medium-sized enterprises as defined with regard to the annual turnover criterion referred to in Article 2, paragraph (1) of the Annex to Commission Recommendation 2003/361/EC;

105) '*regulated market*' means a multilateral system operated and/or managed by a market operator, which brings together or facilitates the bringing together of multiple third-party buying and selling interests in financial instruments – in the system and in accordance with its non-discretionary rules – in a way that results in a contract, in respect of the financial instruments admitted to trading under its rules and/or systems, and which is authorised and functions regularly, and in the Republic of Croatia as defined in the law governing the capital market;

106) '*sub-consolidated basis*' shall have the meaning as defined in Article 4, paragraph (1), item (49) of Regulation (EU) No 575/2013;

107) '*management information system*' is a total of technological infrastructure, organisation, human resources and procedures for the collection, processing, generating, storage, transmission, representation and distribution of information and the disposal thereof. The information system can also be defined as an interaction between information technology, data and data processing procedures and the people collecting and using these data;

108) '*EU group of institutions*' means a group the parent undertaking of which is an EU parent undertaking;

109) '*RC group of institutions*' means a group the parent undertaking of which is an RC parent undertaking;

110) '*client funds and client assets*' means client funds and client assets held, administered or managed by an institution in the name and for the account of the client;

111) '*operator of a system*' means an entity responsible for the functioning of the system. The operator of the system may also act as a settlement agent, a central counterparty or a clearing house as defined in the law governing settlement finality in payment and financial instruments settlement systems;

112) *'infringed protected value'* means maintaining financial system stability and protecting client assets and property, which is, for the purposes of minor offence and other court proceedings and in order to achieve the purpose of punishment, expressed as net income in the business year preceding the year when the offence was committed, and is disclosed in the register of annual financial statements kept with the Financial Agency. Exceptionally, if a minor offence has been committed by a subsidiary of a parent undertaking in the Republic of Croatia, the relevant net income shall be determined based on consolidated annual financial statements of the ultimate parent undertaking in the Republic of Croatia.

General principles relating to the application of this Act

Article 5

(1) When establishing and exercising the powers under this Act and when using the different tools at their disposal in relation to the entities referred to in Article 3 of this Act, and subject to specific provisions, resolution authorities and competent authorities shall take account of the nature, scope and complexity of their activities, their shareholding structure, their legal form, their risk profile, their size and legal status, their interconnectedness to other institutions and to the financial system in general, as well as whether it exercises any investment services or activities from the positive regulations transposing Directive 2014/65/EU to be adopted within the time limits specified in that Directive.

(2) The regulations governing the operation of credit institutions shall apply to credit institutions subject to the exercise of resolution powers by resolution authorities, unless otherwise prescribed in this Act.

(3) The regulations governing the capital market shall apply to investment firms subject to the exercise of resolution powers by resolution authorities, unless otherwise prescribed in this Act.

(4) The provisions of regulations governing the operation of companies shall apply to institutions subject to the exercise of resolution powers by resolution authorities, unless otherwise prescribed in this Act.

II RESOLUTION OBJECTIVES AND PRINCIPLES AND RESOLUTION AUTHORITIES

Resolution objectives

Article 6

(1) When applying the resolution tools and exercising the resolution powers, resolution authorities shall have regard to the resolution objectives, and choose the tools and powers that best achieve the objectives that are relevant in the circumstances of the case.

(2) The resolution objectives referred to in paragraph (1) are:

1) to ensure the continuity of critical functions;

2) to avoid a significant adverse effect on the financial stability, in particular by preventing contagion to the financial system, including to market infrastructure, and by maintaining market discipline;

3) to protect public funds by minimising reliance on extraordinary public financial support;

4) to protect depositors covered by deposit insurance and investors covered by investor-compensation schemes; and

5) to protect client funds and client assets.

(3) When pursuing the resolution objectives referred to in paragraph (2) of this Article, the resolution authority shall seek to minimise the cost of resolution and avoid destruction of value unless necessary to achieve the resolution objectives.

(4) The resolution authority shall take into account all resolution objectives and balance them as appropriate to the nature and circumstances of each case, whereby all resolution objectives shall be of equal significance.

General principles governing resolution

Article 7

(1) When applying the resolution tools and exercising the resolution powers, resolution authorities shall ensure that the resolution action is taken in accordance with the following principles:

1) the shareholders of the institution under resolution bear first losses;

2) creditors of the institution under resolution bear losses after the shareholders in accordance with the order of priority of their claims in accordance with the law governing bankruptcy proceedings;

3) management body and senior management of the institution under resolution are replaced, except in those cases where the retention of the management body and senior management is necessary for the achievement of the resolution objectives;

4) management body and senior management of the institution under resolution shall provide all necessary assistance for the achievement of the resolution objectives;

5) natural and legal persons are made liable, subject to the provisions of applicable regulations under civil or criminal law for their responsibility for the failure of the institution;

6) except where otherwise prescribed in this Act, creditors who fall within the same class in the case of the opening of bankruptcy proceedings are treated in an equitable manner;

7) no creditor shall incur greater losses than would have been incurred if bankruptcy proceedings had been opened against an institution or entity referred to in Article 3, item (2), (3) or (4) of this Act in accordance with the safeguards of Title XII of this Act;

8) covered deposits are fully protected, as well as the claims of investors protected by investor-protection schemes in accordance with the law governing the capital market; and

9) resolution action is taken in accordance with the safeguards of Title XII of this Act.

(2) Where an institution is a member of the group the resolution authorities shall, without prejudice to the achievement of resolution objectives, apply resolution tools and exercise resolution powers in a way that minimises the impact on other members of the group and on the group as a whole and minimises the adverse effects on financial stability in the European Union and its Member States, in particular, in the countries where the group operates.

(3) The application of the resolution tools and the exercise of the resolution powers shall be subject to the European Union State aid framework, where applicable.

(4) Where the sale of business tool, the bridge institution tool or the asset separation tool is applied to an institution or entity referred to in Article 3, item (2), (3) or (4) of this Act, the rights of employees transferred to new employers may be reduced.

(5) When applying the resolution tools and exercising the resolution powers, resolution authorities shall inform and consult employee representatives where appropriate.

(6) Resolution authorities shall apply resolution tools and exercise resolution powers without prejudice to the participation of employee representatives in management bodies as provided for in special regulations.

Resolution authorities and competent ministries

Article 8

(1) Resolution authorities that are empowered to apply the resolution tools and exercise the resolution powers in the Republic of Croatia, in accordance with the division of powers as provided for in this Act are as follows:

a) the Croatian National Bank as the resolution authority for credit institutions and groups of credit institutions (hereinafter referred to as 'the Croatian National Bank');

b) the Croatian Financial Services Supervisory Agency as the resolution authority for investment firms, groups of investment firms and financial institutions within its competence (hereinafter referred to as 'the Croatian Financial Services Supervisory Agency'); and

c) the State Agency for Deposit Insurance and Bank Resolution for credit institutions, groups of credit institutions, investment firms, groups of investment firms and financial institutions.

(2) The authorities referred to in paragraph (1) of this Article shall, each within the scope of activities and competences under this Act, cooperate closely in the preparation, planning and application of decisions in accordance with this Act.

(3) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall ensure operational and functional independence to avoid conflicts of interest between the resolution powers exercised by that authority in accordance with the provisions of this Act and supervisory or oversight functions exercised in accordance with the provisions of Regulation (EU) No 575/2013 and regulations governing the operation of credit institutions or investment firms, and other functions exercised in accordance with the provisions of other regulations.

(4) The State Agency for Deposit Insurance and Bank Resolution shall ensure operational and functional independence to avoid conflicts of interests between the resolution powers it exercises in accordance with the provisions of this Act and other functions it exercises in accordance with the provisions of regulations governing deposit insurance and other regulations.

(5) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall ensure that the employees carrying out resolution activities in accordance with the provisions of this Act are structurally and functionally separated from the employees carrying out activities in accordance with the provisions of Regulation (EU) No 575/2013 and regulations governing the operation of credit

institutions or investment firms or with regard to other functions it exercises in accordance with the provisions of other regulations and subject to separate reporting lines.

(6) The State Agency for Deposit Insurance and Bank Resolution shall ensure that the employees carrying out resolution activities in accordance with the provisions of this Act are structurally and functionally separated from the employees carrying out activities with regard to other powers it exercises in accordance with the provisions of this Act and other functions it exercises in accordance with the regulation governing deposit insurance and other regulations.

(7) The employees of the Croatian National Bank or the Croatian Financial Services Supervisory Agency carrying out the resolution activities in accordance with the provisions of this Act and employees carrying out supervision or oversight shall cooperate closely in the preparation, planning and application of decisions in accordance with this Act.

(8) The Ministry of Finance shall be the competent ministry for exercising the activities within the framework of this Act.

(9) The authorities referred to in paragraph (1) of this Article shall notify the Ministry of Finance of the decisions adopted in accordance with the provisions of this Act and shall, in accordance with the provisions of this Act, obtain its prior consent.

(10) The authorities referred to in paragraph (1) of this Article shall make public in a summary form any relevant internal rules applied in the carrying out of activities pursuant to this Act, especially regarding professional secrecy and information exchanges between the different organisational areas.

(11) The information referred to in paragraph (10) of this Article shall be updated on a regular basis and disclosed at the website of authorities referred to in paragraph (1) of this Article.

(12) For the purposes of this Act, the Croatian National Banks shall be the authority cooperating directly and coordinating the efforts of resolution authorities referred to in paragraph (1) of this Article with the relevant authorities of other Member States.

(13) The Ministry of Finance shall notify the European Commission of the resolution authorities in the Republic of Croatia, including a detailed explanation of the reasons for multiple resolution authorities, a description of their powers, as well as of the competence of the Croatian National Bank referred to in paragraph (12) of this Act. The Croatian National Bank shall deliver the information to the European Banking Authority.

(14) The Croatian National Bank, the Croatian Financial Services Supervisory Agency, the State Agency for Deposit Insurance and Bank Resolution and the Ministry of Finance may, in order to facilitate and implement this Act, conclude a written agreement to further regulate mutual cooperation and the exchange of information.

(15) The Croatian National Bank, the Croatian Financial Services Supervisory Agency and the State Agency for Deposit Insurance and Bank Resolution shall be empowered to refer the matter to the European Banking Authority in accordance with Article 19, paragraph (3) of Regulation (EU) No 1093/2010 or request its assistance in the reaching of a joint decision in accordance with Article 31, item (c) of Regulation (EU) No 1093/2010.

(16) For the purpose of exercising the powers referred to in Title III and Title V of this Act, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall be empowered to:

a) collect and verify the necessary information in the facilities of the entities referred to in Article 3 of this Act or based on the report delivered by the entity referred to in Article 3 of this Act;

b) impose measures against the entities referred to in Article 3 of this Act for the purpose of implementing this Act.

(17) The oversight referred to in paragraph (16) of this Article shall be exercised by the employees of the Croatian National Bank or of the Croatian Financial Services Supervisory Agency. The Croatian National Bank or the Croatian Financial Services Supervisory Agency may authorise other persons to carry out specific expert activities referred to in paragraph (16) of this Article.

(18) No complaint shall be allowed against the decisions adopted by the Croatian National Bank or the Croatian Financial Services Supervisory Agency in the exercise of their powers, but an appeal can be lodged with the competent administrative court. The lodging of an appeal shall not postpone its execution. The entities referred to in Article 3 of this Act shall take measures in the manner and within the time limits imposed in the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency.

(19) The entities referred to in Article 3 of this Act shall at the request of the Croatian National Bank or the Croatian Financial Services Supervisory Agency submit reports and information on all issues relevant to the implementation of this Act and enable the collection and verification of information in the facilities of the entities the manner referred to in paragraph (16), item (a) of this Article.

(20) The Croatian National Bank shall adopt subordinate legislation to further regulate the conditions for and the manner of implementing activities and the manner of imposing measures referred to in paragraph (16) of this Article and the obligations of the entities referred to in Article 3 of this Act during and after the implementation of activities carried out by the Croatian National Bank. The Croatian Financial Services Supervisory Agency shall adopt an implementing regulation to further regulate the conditions for and the manner of implementing activities and the manner of imposing measures referred to in paragraph (16) of this Article, and the obligations of the entities referred to in Article 3 of this Act during and after the implementation of activities carried out by the Croatian Financial Services Supervisory Agency.

(21) The resolution authority referred to in this Article shall be empowered within the framework of the powers granted in this Act to adopt subordinate legislation or an implementing regulation to implement implementing and regulatory technical standards and promote convergence with the guidelines and recommendations issued by the European Banking Authority in accordance with Article 16 of Regulation (EU) No 1093/2010.

Liability for damage

Article 9

The Croatian National Bank, the Croatian Financial Services Supervisory Agency, the State Agency for Deposit Insurance and Bank Resolution and the Ministry of Finance, their employees or any persons authorised by them shall not be liable for damage that may arise in the course of performance of their duties under this Act or regulations adopted in accordance with Directive 2014/59/EU, unless it is proven that they acted or failed to act intentionally or as a result of gross negligence.

III RESOLUTION PLANS

Assessment of the feasibility of bankruptcy and resolvability for an RC institution which is not a part of a group and for an EU group of institutions which is not a cross-

border group, for which the group-level resolution authority is the Croatian National Bank or the Croatian Financial Services Supervisory Agency

Article 10

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall, for the purpose of drawing up and updating the resolution plan referred to in Article 13 of this Act, assess the feasibility of bankruptcy proceedings or the resolvability for each institution having its head office in the Republic of Croatia which is not a part of a group and for an EU group of institutions which is not a cross-border group, for which the group-level resolution authority is the Croatian National Bank or the Croatian Financial Services Supervisory Agency.

(2) The bankruptcy proceedings or resolution shall be deemed possible, if bankruptcy is feasible and credible or if resolution is feasible and credible which, in order to avoid any adverse effect on the financial system of the Republic of Croatia, another Member State or the European Union as a whole and with a view to ensuring the continuity of critical functions carried out by that institution, would be carried out by the State Agency for Deposit Insurance and Bank Resolution by applying any of the resolution tools and powers provided for in this Act, without the assumption of any of the following:

a) any extraordinary public financial support besides the use of the funds of the resolution fund referred to in Article 114 of this Act;

b) any central bank emergency liquidity assistance; or

c) any central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms.

(3) Prior to the assessment referred to in paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall consult the resolution authority of another Member State in which the significant branch of the institution is located insofar as is relevant to the branch.

(4) When carrying out the assessment referred to in paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall consider at least the following:

1) the extent to which the institution is able to map core business lines and critical functions to legal persons;

2) the extent to which legal and corporate structures are aligned with core business lines and critical functions;

3) the extent to which it is provided for the necessary number of employees, infrastructure, funding, liquidity and capital to support and maintain the core business lines and critical functions;

4) the extent to which the institution has service agreements in place, the extent to which they are feasible, and the extent to which the service agreements that the institution is party to are enforceable in the event of resolution of the institution;

5) the extent to which the governance structure of the institution is adequate for managing and ensuring compliance of the service agreements with the institution's policies;

- 6) the extent to which the institution has a process for transitioning the services provided under service level agreements to third parties in the event of the separation of critical functions or of core business lines;
- 7) the extent to which there are contingency plans and measures in place to ensure continuity in access to payment and settlement systems;
- 8) the capacity of the management information system of the institution to provide access to accurate and complete information relating to core business lines and critical functions for the purpose of facilitating urgent decision-making linked to resolution;
- 9) the capacity of the management information system of the institution to provide the information essential for the effective resolution of the institution at all times even under rapidly changing conditions;
- 10) the extent to which the institution has tested its management information systems under stress scenarios, as defined by the Croatian National Bank or the Croatian Financial Services Supervisory Agency, and test results;
- 11) the extent to which the institution can ensure the continuity of its management information systems both for the affected institution and the new legal person in the case that the critical functions and core business lines are separated from the rest of the functions and business lines;
- 12) the extent to which the institution has established adequate processes to ensure that it provides updated and complete information to identify creditors, including information necessary to identify depositors and the amounts covered by the deposit insurance schemes, as well as information on the claims protected by investor compensation schemes in accordance with the law governing the capital market;
- 13) the amount and type of eligible liabilities of the institution;
- 14) whether third-country authorities have the resolution tools necessary to support resolution actions taken by the resolution authority of the Member State, and the scope for coordinated action between the Member State and third-country authorities.
- 15) the feasibility of using resolution tools in such a way which meets the resolution objectives, given the tools available and the institution's structure;
- 16) the credibility of using resolution tools in such a way which meets the resolution objectives, given the possible impacts on creditors, counterparties, customers and employees and possible actions that third-country authorities may take;
- 17) the extent to which the resolution of the institution could have a significant direct or indirect adverse effect on the financial system, market confidence or the economy and the extent to which this impact can be adequately evaluated;
- 18) the extent to which the application of resolution tools and powers can contain the contagion of adverse effects to other institutions or to the financial markets; and
- 19) the extent to which the resolution of the institution could have a significant effect on the operation of payment and settlement systems.

(5) The assessment of the feasibility of bankruptcy or the resolvability of an EU group of institutions, the group-level resolution authority of which is the Croatian National Bank or the Croatian Financial Services Supervisory Agency for a group which is not a cross-border group shall, in addition to the circumstances referred to in paragraph (4) of this Article, include the assessment of the circumstances referred to in Article 11, paragraph (5) of this Act.

(6) By way of derogation from paragraph (4) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may simplify the assessment of the feasibility of bankruptcy proceedings or of the resolvability by not assessing all listed elements where bankruptcy proceedings or resolution of the institution would not have, due to the nature, scope and complexity of its activities, its shareholding structure, its risk profile, size, legal form and status, its interconnectedness to other institutions or to the financial system in general, a negative effect on financial markets, on other institutions or funding conditions.

(7) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall without delay notify the European Banking Authority of each case when they assess that bankruptcy proceedings of an institution are not feasible or that the institution is not resolvable.

Assessment of the resolvability of an EU group of institutions where the Croatian National Bank or the Croatian Financial Services Supervisory Agency is the group-level resolution authority

Article 11

(1) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency is the group-level resolution authority, it shall assess the feasibility of bankruptcy proceedings of the EU group of institutions or its resolvability for the purpose of drawing up or updating the resolution plan referred to in Article 14 of this Act together with the resolution authorities of subsidiaries. The decision on the assessment for a cross-border group of institutions shall be adopted in accordance with the decision-making procedure referred to in Article 19 of this Act.

(2) When carrying out the assessment referred to in paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall consult the competent authorities of subsidiaries and resolution authorities of other Member States where significant branches of members of the group are located insofar as is relevant to the branch.

(3) The assessment referred to in paragraph (1) of this Article for a cross-border group shall be taken into consideration by the resolution colleges.

(4) The bankruptcy proceedings or resolution of an EU group of institutions shall be deemed possible, if bankruptcy proceedings are feasible and credible or if resolution is feasible and credible which, in order to avoid any adverse effect on the financial system of the Republic of Croatia, another Member State or the European Union as a whole and with a view to ensuring the continuity of critical functions carried out by those institutions, would be carried out by resolution authorities by applying any of the resolution tools and powers, without the assumption of any of the following:

a) any extraordinary public financial support besides the use of the funds of the resolution fund referred to in Article 114 of this Act;

b) any central bank emergency liquidity assistance; or

c) any central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms.

(5) The assessment referred to in paragraph (1) of this Article shall consider at least the circumstances listed in Article 10, paragraph (4) of this Act, and the following:

1) where the group uses intra-group guarantees, the extent to which those transactions are performed at market conditions and the risk management systems concerning those guarantees are effective and sound;

2) where the group concluded back-to-back transaction agreements, the extent to which those transactions are concluded at market conditions and the risk management systems concerning those transactions are effective and sound;

3) the extent to which guarantees or transactions referred to on items (1) and (2) of this paragraph may increase the risk of contagion of adverse effects across the group;

4) the extent to which the legal structure of the group inhibits the application of the resolution tools as a result of the number of legal persons, the complexity of the group structure or the difficulty in mapping business lines to legal persons;

5) where the assessment involves a mixed-activity holding company, the extent to which the resolution of a member of the group that is an institution or a financial institution could have a negative impact on the non-financial part of the group;

6) the arrangements and means through which resolution is facilitated in the cases of groups that have subsidiaries in territories under different jurisdictions; and

7) the extent to which the group structure allows the resolution of the whole group or one or more of its members without causing a significant direct or indirect adverse effect on the financial system, market confidence or the economy and with a view to maximising the value of the group as a whole.

(6) By way of derogation from paragraph (5) of this Article, the resolution authorities referred to in paragraph (1) of this Article may simplify the assessment of the feasibility of bankruptcy proceedings or of the resolvability of an institution or an EU group of institutions by not assessing all listed elements where bankruptcy proceedings or resolution of the institution would not have, due to the nature, scope and complexity of its activities, its shareholding structure, its risk profile, size, legal form and status, its interconnectedness to other institutions or to the financial system in general, a negative effect on financial markets, on other institutions or funding conditions.

Assessment of the resolvability of an EU group of institutions where the Croatian National Bank or the Croatian Financial Services Supervisory Agency is not the group-level resolution authority

Article 12

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall assess the feasibility of bankruptcy proceedings or the resolvability of each institution having its head office in the Republic of Croatia or of an RC group of institutions which is part of an EU group of institutions, the group-level resolution authority of which is not the Croatian National Bank or the Croatian Financial Services Supervisory Agency.

(2) For the purpose of drawing up and updating the group resolution plan referred to in Article 20 of this Act, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall assess the resolvability of an EU group of institutions together with the group-level resolution authority and other resolution authorities of subsidiaries. The decision on the assessment for a cross-

border group of institutions shall be adopted in accordance with the decision-making procedure referred to in Article 20 of this Act.

(3) When carrying out the assessment referred to in paragraph (2) of this Article, resolution authorities shall consult the competent authorities of subsidiaries and resolution authorities of other Member States where significant branches of members of the EU group of institutions are located insofar as is relevant to the branch.

(4) The assessment referred to in paragraph (2) of this Article shall be taken into consideration by the resolution college.

(5) Bankruptcy proceedings or resolution of an EU group of institutions shall be deemed possible, if bankruptcy proceedings are feasible and credible or if resolution is feasible and credible which, in order to avoid any adverse effect on the financial system of the country where the head offices of a group of institutions are located, another Member State or the European Union as a whole and with a view to ensuring the continuity of critical functions carried out by that institution, would be carried out by resolution authorities by applying any of the resolution tools and powers, without the assumption of any of the following:

a) any extraordinary public financial support besides the use of the funds of the resolution fund referred to in Article 114 of this Act;

b) any central bank emergency liquidity assistance; or

c) any central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms.

(6) When carrying out the assessment referred to in paragraph (2) of this Article, the resolution authorities shall consider at least the circumstances listed in Article 10, paragraph (4) and Article 11, paragraph (5) of this Act.

(7) By way of derogation from paragraph (6) of this Article, the resolution authorities referred to in paragraph (2) of this Article may simplify the assessment of the feasibility of bankruptcy proceedings or of the resolvability of an EU group of institutions by not assessing all listed elements where bankruptcy proceedings or resolution of the group would not have, due to the nature, scope and complexity of its business, its shareholding structure, its legal form, its risk profile, size, legal form and status, its interconnectedness to other institutions or to the financial system in general, a negative effect on financial markets, on other institutions or funding conditions.

Resolution plan for an RC institution that is not part of a group and of an EU group of institutions which is not a cross-border group

Article 13

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall draw up a draft resolution plan for:

1) each institution having its head office in the Republic of Croatia which is not part of a group; and

2) an EU group of institutions which is not a cross-border group, for which it is the group-level resolution authority.

(2) When drawing up the draft resolution plan, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall take into consideration relevant scenarios including idiosyncratic or macroeconomic events and shall not assume any of the following:

a) any extraordinary public financial support besides the use of the funds of the resolution fund referred to in Article 114 of this Act;

b) any emergency liquidity assistance of the Croatian National Bank; or

c) any liquidity assistance of the Croatian National Bank provided under non-standard collateralisation, tenor and interest rate terms.

(3) Prior to drawing up of the draft resolution plan referred to in paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall consult the resolution authorities of other countries in which the significant branch of the institution is located insofar as is relevant to the branch.

(4) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall submit the draft resolution plan referred to in paragraph (1) of this Article to the Ministry of Finance and the State Agency for Deposit Insurance and Bank Resolution for opinion and set the time limit for delivering the opinion which may not be shorter than one month. When drawing up the resolution plan the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall take account of the opinion of the Ministry of Finance and the State Agency for Deposit Insurance and Bank Resolution.

(5) After the Ministry of Finance or the State Agency for Deposit Insurance and Bank Resolution gives its opinion or after the expiry of the time limit referred to in paragraph (4) of this Article, the Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency shall adopt the resolution plan.

(6) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall without delay deliver the adopted resolution plan referred to in paragraph (5) of this Article to the State Agency for Deposit Insurance and Bank Resolution, while a summary of the key elements of the resolution plan shall be delivered to the relevant institution.

(7) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall review the resolution plan, and where appropriate update it, at least annually and after any material changes to the legal or organisational structure of the institution or to its business or its financial position that could have a material effect on the effectiveness of the plan or otherwise necessitates its revision. The procedure referred to in this Article shall apply to the revision of the resolution plan.

Content of resolution plans

Article 14

(1) The resolution plan referred to in Article 13 of this Act shall set out resolution strategies and options for applying the resolution tools and exercising the resolution powers, as well as other resolution actions that the State Agency for Deposit Insurance and Bank Resolution may take after adopting a decision to open resolution.

(2) A draft resolution plan shall include, quantified whenever appropriate and possible:

1) a summary of the key elements of the plan;

- 2) a summary of the material changes to the institution that have occurred after the adoption of the latest resolution plan;
 - 3) a demonstration of how critical functions and core business lines could be legally and economically separated from other functions and business lines so as to ensure continuity upon the opening of the resolution proceedings against the institution;
 - 4) an estimation of the timeframe for executing each material part of the plan;
 - 5) results of the assessment referred to in Article 10 of this Act and its detailed description;
 - 6) a description of the processes for determining the value and marketability of the critical functions, core business lines and assets of the institution;
 - 7) a detailed description of the arrangements for ensuring that the information required by the Croatian National Bank or the Croatian Financial Services Supervisory Agency to draw up and update resolution plans, and required by the State Agency for Deposit Insurance and Bank Resolution to apply the resolution plan, are accurate and up to date;
 - 8) a description of how the resolution strategies could be financed without the assumption of any of the following:
 - any extraordinary public financial support besides the use of the funds of the resolution fund referred to in Article 114 of this Act;
 - any emergency liquidity assistance of the Croatian National Bank; or
 - any liquidity assistance of the Croatian National Bank provided under non-standard collateralisation, tenor and interest rate terms;
 - 9) a detailed description of different resolution strategies that could be applied to different possible scenarios, as well as an assessment of time limits for their implementation;
 - 10) a description of critical interdependencies;
 - 11) a description of options for preserving access to payment and clearing systems and other infrastructures and an assessment of the portability of client positions;
 - 12) an analysis of the impact of the plan on the employees of the institution, including an assessment of any associated costs, and a description of envisaged procedures to consult employees during the resolution proceedings, taking into account the dialogue with social partners where applicable;
 - 13) a plan for communicating with the media and the public;
 - 14) a description of essential procedures and systems for maintaining the continuous functioning of the institution's operational processes; and
 - 15) where applicable, an opinion expressed by the institution in relation to the resolution plan.
- (3) The resolution plan referred to in Article 13, paragraph (5) of this Act shall, in addition to that referred to in paragraph (2) of this Article, contain the following:

1) a description of any measures required pursuant to the assessment referred to in Article 10 of this Act to address or remove impediments to resolvability identified as a result of the assessment carried out in accordance with Article 10 of this Act;

2) the minimum requirement for own funds and eligible liabilities referred to in Article 25 of this Act and the time limit to meet that requirement, where applicable; and

3) the minimum requirement for own funds and contractual bail-in instruments referred to in Article 25, paragraph (9) of this Act and the time limit to meet that requirement, where applicable.

(4) By way of derogation from paragraph (2) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may simplify the content of the resolution plan of the institution where bankruptcy proceedings or resolution of the institution would not have, due to the nature, scope and complexity of its activities, its shareholding structure, its risk profile, size, its legal form and status, its interconnectedness to other institutions or to the financial system in general, a negative effect on financial markets, on other institutions or funding conditions.

Information for the purpose of resolution plans

Article 15

(1) At the request of the Croatian National Bank or the Croatian Financial Services Supervisory Agency, institutions shall:

1) deliver any information necessary to draw up, revise or implement resolution plans; and

2) cooperate and, where necessary, assist in the drawing up and updating of resolution plans;

(2) Institutions shall notify the Croatian National Bank or the Croatian Financial Services Supervisory Agency of any change to the legal or organisational structure, to the business or to the financial position of the group or any other change which could require a change to the plan, especially if it could have a material effect on the effectiveness of the plan.

(3) Institutions or entities referred to in Article 3, item (2), (3) or (4) of this Act shall prepare and on a regular basis update a list of all financial contracts to which it is a party.

(4) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may further regulate the content, and the manner of maintaining and updating the financial contracts referred to in paragraph (3) of this Article.

(5) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may further regulate the content of the reports, the time limits for and the method of reporting on information necessary to draw up or revise the resolution plans referred to in paragraph (1), item (1) of this Article.

(6) By way of derogation from paragraphs (1) to (3) of this Article, an RC parent institution shall meet the requirements referred to in this Article for all members of its RC group of institutions.

Resolution plan for an EU group of institutions where the Croatian National Bank or the Croatian Financial Services Supervisory Agency is the group-level resolution authority

Article 16

(1) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency is the group-level resolution authority, it shall draw up a resolution plan for an EU group of institutions together with the resolution authorities of subsidiaries.

(2) Prior to drawing up of the resolution plan for an EU group of institutions, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall consult the resolution authority of the country where the significant branch of the member of the group is located insofar as is relevant to the branch.

(3) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall draw up the resolution plan for an EU group of institutions on the basis of all information available to it, and in particular the information obtained pursuant to Article 15 of this Act.

Resolution plan for an EU group of institutions where the Croatian National Bank or the Croatian Financial Services Supervisory Agency is not the group-level resolution authority

Article 17

(1) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency is not the group-level resolution authority, it shall cooperate with the group-level resolution authority and resolution authorities of other members of the group in drawing up a resolution plan for an EU group of institutions.

(2) Prior to drawing up of the resolution plan, the resolution authorities shall consult the resolution authorities of the countries where significant branches of the institutions that are members of that group operate insofar as is relevant to the branch.

Content of group resolution plans

Article 18

(1) The group resolution plan referred to in Articles 16 and 17 of this Act shall include a plan for resolution of the group the parent institution of which is an EU parent institution, in one of the following ways:

- 1) resolution through resolution at the level of the EU parent institution; or
- 2) resolution of parts of the group or individual members of the group.

(2) The group resolution plan shall contain measures for the resolution of:

- 1) the EU parent undertaking;
- 2) the subsidiaries that are part of the group, having their head office in the European Union;
- 3) the entities referred to in Article (3), items (3) and (4) of this Act; and
- 4) the subsidiaries that are part of the group, having their head office outside the European Union in accordance with Title XI of this Act.

(3) The group resolution plan shall:

1) set out the resolution actions to be taken in relation to members of the group, including resolution actions to be taken in relation to the entities referred to in Article 3, items (3) and (4) of this Act, the parent undertaking and subsidiary institutions and coordinated resolution actions in relation to subsidiary institutions, taking into account the scenarios referred to in Article 13, paragraph (2) of this Act;

2) examine the extent to which the resolution tools and powers could be applied and exercised in a coordinated way to members of the group having their head office in the European Union, including measures to facilitate the purchase by a third party of the group as a whole, or separate business lines or functions performed by one or more members of the group, and identify any potential impediments to a coordinated resolution;

3) set out appropriate arrangements for cooperation and coordination with the relevant authorities of third countries in which the member of the group has its head office and their implications for the resolution of the group;

4) set out measures, including the legal and economic separation of particular functions or business lines, that are necessary to facilitate group resolution when conditions for resolution are met; and

5) set out the ways for financing resolution actions and, where the use of the funds of the resolution fund is envisaged, set out principles for sharing financing responsibilities among different Member States.

(4) The ways for financing group resolution actions referred to in paragraph (3), item (5) of this Article shall be set out on the basis of equitable and balanced criteria and shall take into account the impact on the financial stability in all Member States where the head offices of members of the group are located.

(5) The ways for financing group resolution actions referred to in paragraph (3), item (5) of this Article shall not assume any of the following:

1) any extraordinary public financial support besides the use of the funds of the resolution fund referred to in Article 114 of this Act or resolution financing arrangements of other Member States;

2) any central bank emergency liquidity assistance;

3) central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms.

(6) The group resolution plan shall contain the results of the assessment referred to in Article 11 or 12 of this Act and their detailed explanation.

(7) The group resolution plan shall not have a disproportionate impact on any Member State.

Adoption of a resolution plan for an EU cross-border group of institutions where the Croatian National Bank or the Croatian Financial Services Supervisory Agency is the group-level resolution authority

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall, provided that the confidentiality requirements referred to in Article 98 of this Act are in place, deliver the information to:

1) the European Banking Authority;

2) the resolution authorities competent for the resolution of subsidiaries;

3) the resolution authorities of countries where the head offices of significant branches are located insofar as is relevant to that branch;

4) competent authorities participating in the colleges of supervisors or competent authorities for that group; and

5) resolution authorities of the Member States where the head offices of entities referred to in Article 3, items (3) and (4) of this Act are located.

(2) The information referred to in paragraph (1) of this Article shall include at a minimum all information that is relevant to these authorities. The information provided to the European Banking Authority shall include all information that is relevant to its role in relation to the drawing up, adoption and implementation of group resolution plans. In the case of information relating to subsidiaries having their head office in third countries, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall not be obliged to deliver that information without the prior consent of the relevant third-country supervisory authority or resolution authority.

(3) Prior to its adoption, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall deliver the draft group resolution plan to the Ministry of Finance and the State Agency for Deposit Insurance and Bank Resolution for opinion in the manner set out in Article 13 of this Act.

(4) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall, acting jointly with the resolution authorities referred to in paragraph (1) of this Article, in resolution colleges and after consulting the relevant competent authorities, including the competent authorities of the Member States where the head offices of significant branches are located, adopt and revise group resolution plans. The Croatian National Bank or the Croatian Financial Services Supervisory Agency may, where necessary, provided that the confidentiality requirements referred to in Article 98 of this Act are in place, involve in the drawing up and revision of group resolution plans for a cross-border group the third-country resolution authorities of the country where the head offices of subsidiary undertakings, financial holding companies or significant branches are located in accordance with the law governing the operation of credit institutions or the law governing the capital market.

(5) Group resolution plans shall be reviewed, and where appropriate updated, at least annually and after any material changes to the legal or organisational structure of the group or any member of the group, to their business or financial position that could have a material effect on the effectiveness of the plan or otherwise necessitates its revision. The procedure referred to in this Article shall apply to the revision of the resolution plan.

(6) The Croatian National Bank or the Croatian Financial Services Supervisory Agency and the resolution authorities of subsidiaries shall adopt group resolution plans in the form of a joint decision. The joint decision, which may include all or some members of the group, shall be reached within four months of the transmission of information referred to in paragraph (2) of this Article. The joint decision must be fully reasoned.

(7) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may request assistance of the European Banking Authority in reaching a joint decision on the group resolution plan in accordance with Article 31, item (c) of Regulation (EU) No 1093/2010.

(8) If the joint decision referred to in paragraph (6) of this Article is not reached within four months of the transmission by the Croatian National Bank or the Croatian Financial Services Supervisory Agency of the information referred to in paragraph (2) of this Article to the resolution authorities of the Member States where the head offices of other members of the group are located, the Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency shall, acting on its own, after obtaining the opinion of the Ministry of Finance and the State Agency for Deposit Insurance and Bank Resolution, adopt the group resolution plan, taking into account the expressed views and reservations of these resolution authorities. The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall deliver a summary of the key elements of the group resolution plan to the EU parent institution having its head office in the Republic of Croatia.

(9) By way of derogation from paragraph (8) of this Article, if, at the end of the four-month period of the transmission by the Croatian National Bank or the Croatian Financial Services Supervisory Agency of the information referred to in paragraph (2) of this Article to the resolution authorities of the Member States where the head offices of other members of the group are located and prior to the reaching of a joint decision, the Croatian National Bank or the Croatian Financial Services Supervisory Agency or any resolution authority of the other Member States where the head offices of other members of the group are located refers the matter to the European Banking Authority and requests its assistance, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall defer the adoption of the resolution plan.

(10) In the case referred to in paragraph (9) of this Article, if the European Banking Authority reaches a decision within one month, the Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency shall adopt the resolution plan in conformity with that decision. The four-month period shall be deemed to be the conciliation period within the meaning of Regulation (EU) No 1093/2010. If the European Banking Authority does not reach a decision within one month, the Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency shall, acting on its own, after obtaining the opinion of the Ministry of Finance and the State Agency for Deposit Insurance and Bank Resolution, adopt the group resolution plan for a cross-border group.

(11) By way of derogation from paragraph (9) of this Article, the European Banking Authority may, at the request of a resolution authority, assist the resolution authorities in reaching a joint decision in accordance with Article 19, paragraph (3) of Regulation (EU) No 1093/2010 unless any resolution authority concerned deems that the decision under disagreement may in any way impinge on its Member State's fiscal responsibilities.

(12) Where the joint decision referred to in paragraph (6) of this Article is reached and where in the case referred to in paragraph (11) of this Article a resolution authority deems that the reason for their disagreement regarding the group resolution plans is the negative impact on the fiscal responsibility of that Member State, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall reassess the group resolution plan, including the minimum requirements for own funds and eligible liabilities.

(13) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall without delay deliver the resolution plan adopted in accordance with this Article to the State Agency for Deposit Insurance and Bank Resolution.

Adoption of a resolution plan for an EU cross-border group of institutions where the Croatian National Bank or the Croatian Financial Services Supervisory Agency is not the group-level resolution authority

Article 20

(1) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency is not the group-level resolution authority, it shall, acting jointly with the group-level resolution authority and resolution authorities of the members of the group, in resolution colleges and after consulting the relevant competent authorities, including the competent authorities of the Member State where the head offices of significant branches are located, participate in the reaching of a joint decision on the group resolution plan and its revisions.

(2) Group resolution plans shall be reviewed, and where appropriate updated, at least annually, and after any material changes to the legal or organisational structure of the group or any member of the group, to their business or financial position that could have a material effect on the effectiveness of the plan or otherwise necessitates its revision.

(3) Prior to its adoption, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall deliver the part of the cross-border group resolution plan relating to institutions in the Republic of Croatia to the Ministry of Finance and the State Agency for Deposit Insurance and Bank Resolution for opinion in the manner set out in Article 13 of this Act complying with the time limits set to reach a joint decision.

(4) The Croatian National Bank or the Croatian Financial Services Supervisory Agency, the group-level resolution authority and resolution authorities of subsidiary undertakings shall adopt group resolution plans in the form of a joint decision. The joint decision, which may include all or some members of the group, shall be reached within four months of the day when the Croatian National Bank or the Croatian Financial Services Agency received the information referred to in Article 19, paragraph (2) of this Act from the group-level resolution authority. The joint decision must be fully reasoned.

(5) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may request assistance of the European Banking Authority in reaching a joint decision on the group resolution plan in accordance with Article 31, item (c) of Regulation (EU) No 1093/2010.

(6) If the joint decision referred to in paragraph (4) of this Article is not reached within four months of receipt by the Croatian National Bank or the Croatian Financial Services Supervisory Agency of the information referred to in Article 19, paragraph (2) of this Act from the group-level resolution authority, the Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency shall, acting on its own and taking into account the expressed views and reservations of these resolution authorities and after obtaining the opinion of the Ministry of Finance and the State Agency for Deposit Insurance and Bank Resolution, adopt the resolution plan for the member of the group within its competence in the manner referred to in Article 13 of this Act, and notify all members of the resolution college of its decision. The decision must be fully reasoned, setting out the reasons for disagreement with the proposed group resolution plan.

(7) By way of derogation from paragraph (6) of this Article, if, within four months of receipt by the Croatian National Bank or the Croatian Financial Services Supervisory Agency of the information referred to in Article 19, paragraph (2) of this Act from the group-level resolution authority and prior to the reaching of a joint decision, the Croatian National Bank or the Croatian Financial Services Supervisory Agency or any resolution authority of other Member States where the head offices of other members of the group are located refers the matter to the European Banking Authority and

requests its assistance, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall defer the adoption of the resolution plan for the member of the group within its competence.

(8) In the case referred to in paragraph (7) of this Article, if the European Banking Authority reaches a decision within one month, the Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency shall adopt a decision in conformity with that decision. The four-month period shall be deemed to be the conciliation period within the meaning of Regulation (EU) No 1093/2010. If the European Banking Authority does not reach a decision within one month, the Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency shall, after obtaining the opinion of the Ministry of Finance and the State Agency for Deposit Insurance and Bank Resolution, adopt the resolution plan for the member of the group within its competence in the manner referred to in Article 13 of this Act.

(9) By way of derogation from paragraph (7) of this Article, the European Banking Authority may, at the request of a resolution authority, assist the resolution authorities in reaching a joint decision in accordance with Article 19, paragraph (3) of Regulation (EU) No 1093/2010 unless any resolution authority concerned deems that the decision under disagreement may in any way impinge on its Member State's fiscal responsibilities.

(10) Where the joint decision referred to in paragraph (4) of this Article is reached and the Croatian National Bank or the Croatian Financial Services Supervisory Agency deems that the group resolution plan has a negative impact on the fiscal responsibility of the Republic of Croatia, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may request the group-level resolution authority to reassess the group resolution plan, including the minimum requirements for own funds and eligible liabilities.

(11) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall without delay deliver the resolution plan adopted in accordance with this Article to the State Agency for Deposit Insurance and Bank Resolution.

Powers to address or remove impediments to the implementation of bankruptcy proceedings or to the resolvability of institutions for an RC institution which is not part of a group or an EU group of institutions which is not a cross-border group of institutions

Article 21

(1) Where the Croatian National Bank or the Croatian Financial Services Agency, pursuant to an assessment of the feasibility of bankruptcy proceedings or the resolvability of an RC institution which is not a part of the group or an EU group of institutions which is not a cross-border group in accordance with Article 10 of this Act, determines that there are substantive impediments to the implementation of bankruptcy proceedings or to resolvability, it shall notify the institution or the RC parent institution thereof and request the RC parent institution to deliver a proposal of measures to address or remove the said impediments containing time limits for their implementation that are proportionate to the need to remove impediments.

(2) In the case referred to in paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall without delay notify the resolution authority of the country where the head office of the significant branch is located that there are substantive impediments to the implementation of bankruptcy proceedings or to the resolvability of the institution or group.

(3) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency assesses that measures to address or remove the substantive impediments to the implementation of bankruptcy proceedings or to the resolvability proposed by the institution are effective, it shall without delay notify the institution thereof. After receiving the notification from the Croatian National Bank or the Croatian Financial Services Supervisory Agency the institution shall implement the proposed measures within the proposed timeframe.

(4) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency, taking into account the threat to financial stability and the effect of the proposed measures on the business of the institution, its stability and its ability to contribute to the economy, assesses that measures to address or remove the substantive impediments to the implementation of bankruptcy proceedings or to the resolvability proposed by the institution are not effective, it shall adopt a decision to:

1) require the institution to revise group financial support agreements (hereinafter referred to as 'the support agreement') or review the reasons for the absence thereof, or draw up service agreements, whether with members of the group or with third parties, to cover the provision of critical functions;

2) impose on the institution its maximum individual or aggregate exposures;

3) impose on the institution or on a member of the group additional information requirements relevant for resolution purposes;

4) require the institution to divest specific assets;

5) require the institution to limit or cease specific existing or proposed activities;

6) restrict or prevent the institution or a member of the group in the development of new or existing business lines or products;

7) require changes to legal or operational structures of the institution or any member of the group, either directly or indirectly under its control, so as to reduce complexity in order to ensure that critical functions may be legally and operationally separated from other functions through the application of the resolution tools;

8) require the institution or the parent undertaking to set up an RC parent financial holding company or an EU parent financial holding company;

9) require the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act to assume eligible liabilities to meet the requirements of Article 25 of this Act;

10) require the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act to take other steps to meet the minimum requirement for own funds and eligible liabilities referred to in Article 25 of this Act, including steps to attempt to renegotiate any eligible liability, additional tier 1 instrument or tier 2 instrument it has issued, with a view to ensuring that any decision of the resolution authority to write down or convert that liability or relevant instrument into capital would be effected in accordance with the applicable law governing that liability or instrument; or

11) where the institution is the subsidiary of a mixed-activity holding company, require that the mixed-activity holding company sets up a separate financial holding company to control the institution, if necessary in order to facilitate the resolution of the institution and to avoid the application of the resolution tools and powers referred to in Title X of this Act which could have an adverse effect on the non-financial part of the group.

(5) Where the resolution plan envisages the application of the bail-in instruments for the purpose of exercising the powers referred to in Article 83, paragraph (3), items (e) and (f) of this Act in relation to the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act or any of its subsidiaries, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may, where it deems it necessary, require the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act to hold the sufficient amount of authorised share capital or of other common equity tier 1 instruments in order to ensure the issuing of the sufficient number of new shares or other instruments of ownership in case of the conversion of liabilities into common equity tier 1 instruments.

(6) In the case referred to in paragraph (5) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall verify whether the authorised share capital or other common equity tier 1 instrument is sufficient to cover the sum of the amounts referred to in Article 70, paragraph (4), items (b) and (c) of this Act.

(7) In the case referred to in paragraph (5) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall in the decision referred to in paragraph (4) of this Article impose measures ensuring that there are no impediments to the conversion of liabilities to shares or other instruments of ownership in the provisions of their Articles of Association or other instruments of incorporation of the institutions or entities referred to in Article 3, item (2), (3) or (4) of this Act.

(8) In the decision referred to in paragraph (4) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall demonstrate how the measures proposed by the institution would not be effective and how the measures it imposed are proportionate in removing impediments.

(9) Within one month of receipt of the decision imposing measures referred to in paragraph (4) of this Article, the institution shall deliver to the Croatian National Bank or the Croatian Financial Services Supervisory Agency a plan to comply with the imposed measures.

(10) Prior to imposing measures referred to in paragraph (4) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may consult the Financial Stability Council and shall duly consider the potential effect of those measures on the institution, on the market for financial services, on the financial stability in other Member States and the European Union as a whole.

(11) In the case of establishing impediments to the feasibility of bankruptcy proceedings or to resolvability in accordance with this Article, the procedure for adopting resolution plans referred to in Article 13 of this Act shall be deferred until the delivery of the notification referred to in paragraph (3) of this Article or until the imposition of measures referred to in paragraph (4) of this Article.

(12) For the purpose of resolution of an institution or group by applying bail-in instruments, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may employ the measures referred to in paragraph (4) of this Article to limit the institution's placements in eligible liabilities or the receipt of eligible liabilities from other institutions, except intra-group placements.

Powers to address or remove impediments to the implementation of bankruptcy proceedings or to the resolvability of an EU cross-border group of institutions where the Croatian National Bank or the Croatian Financial Services Supervisory Agency is the group-level resolution authority

(1) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency is the group-level resolution authority, it shall, together with the resolution authorities of subsidiaries and after consulting the members of the supervisory college and the resolution authorities of the countries where significant branches of the members of that group operate, insofar as is relevant to that branch, consider the assessment referred to in Article 11 of this Act within the resolution college and reach a joint decision to impose measures referred to in Article 21, paragraphs (4), (5) and (6) of this Act in relation to all institutions that are part of the cross-border group.

(2) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall, in accordance with Article 25, paragraph (1) of Regulation (EU) No 1093/2010 and in cooperation with the European Banking Authority, after consulting the supervisory college, prepare and submit a report including:

1) an analysis of substantive impediments to the effective application of the resolution tools and the exercising of the resolution powers in relation to the cross-border group;

2) an analysis of the impact on the business model of the members of the group; and

3) recommendations of proportionate and targeted measures that are necessary and appropriate to remove those impediments.

(3) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall deliver the report referred to in paragraph (2) of this Article to the EU parent undertaking and the resolution authorities of subsidiaries in other Member States, and the resolution authorities of the countries where significant branches of the parent undertaking or subsidiaries having their head office in the Republic of Croatia operate.

(4) The EU parent undertaking referred to in paragraph (3) of this Article shall deliver the report referred to in paragraph (2) of this Article to all members of the group.

(5) Within four months of receipt of the report referred to in paragraph (2) of this Article, the EU parent undertaking referred to in paragraph (3) of this Article may submit observations and propose alternative measures to remove the impediments identified in the report.

(6) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall communicate any measure proposed by the EU parent undertaking referred to in paragraph (3) of this Article to the European Banking Authority, the resolution authorities of subsidiaries and resolution authorities of the countries where the significant branch operates insofar as is relevant to that branch.

(7) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall, together with the resolution authorities of subsidiaries and after consulting the members of the supervisory college and the resolution authorities of the countries where significant branches of the members of that group operate, reach a joint decision within the resolution college regarding the identification of the substantive impediments to the implementation of bankruptcy proceedings or to resolvability, and if necessary, the assessment of the measures proposed by the EU parent undertaking and the measures required by the authorities in order to address or remove the impediments, which shall take into account the potential impact of the measures in all the Member States where the group operates.

(8) The joint decision referred to in paragraph (7) of this Article shall be reached within four months of submission of any observations by the EU parent undertaking or at the expiry of the time limit referred to in paragraph (5) of this Article in the absence of an observation.

(9) If the joint decision referred to in paragraph (7) of this Article is not reached within the time limit referred to in paragraph (8) of this Article, the Council of the Croatian National Bank or the Board of

the Croatian Financial Services Supervisory Agency shall reach its own decision on the appropriate measures referred to in Article 21, paragraph (4) of this Act to be taken by the EU parent undertaking referred to in paragraph (3) of this Article on an a consolidated basis or measures to be taken by the member of the group having its head office in the Republic of Croatia.

(10) By way of derogation from paragraph (9) of this Article, if, at the end of the four-month period of submission by the Croatian National Bank or the Croatian Financial Services Supervisory Agency of the report referred to in paragraph (2) of this Article and prior to the reaching of a joint decision, the Croatian National Bank or the Croatian Financial Services Supervisory Agency or any resolution authority of other Member States where the head offices of other members of the group are located refers the matter to the European Banking Authority and requests its assistance, the Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency shall defer the reaching of the decision to impose measures to remove impediments on a consolidated basis or for the member of the group within its competence.

(11) In the case referred to in paragraph (10) of this Article, if the European Banking Authority reaches a decision within one month, the Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency shall reach a decision in conformity with that decision. The four-month period shall be deemed to be the conciliation period within the meaning of Regulation (EU) No 1093/2010. If the European Banking Authority does not reach a decision within one month, the Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency shall reach its own decision to impose measures on a consolidated basis or for the member of the group within its competence.

(12) The joint decision referred to in paragraph (7) of this Article shall be binding for the Croatian National Bank or the Croatian Financial Services Supervisory Agency. The Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency shall reach a decision in conformity with that decision.

(13) By way of derogation from paragraphs (10) and (11) of this Article, in the absence of a joint decision to impose measures referred to in Article 21, paragraph (4), item (7), (8) or (11) of this Act, the European Banking Authority may, at the request of the resolution authority, assist the resolution authorities in reaching a joint decision in accordance with Article 19, paragraph (3) of Regulation (EU) No 1093/2010.

Powers to address or remove impediments to the implementation of bankruptcy proceedings or to the resolvability of an EU cross-border group of institutions where the Croatian National Bank or the Croatian Financial Services Supervisory Agency is not the group-level resolution authority

Article 23

(1) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency is not the group-level resolution authority, it shall, together with the group-level resolution authority, the resolution authorities of subsidiaries and after consulting the members of the supervisory college and the resolution authorities of the countries where significant branches of the members of that group operate, insofar as is relevant to that branch, within the resolution college consider the assessment referred to in Article 12 of this Act within the resolution college and participate in the reaching of a joint decision to impose measures referred to in Article 23, paragraphs (4), (5) and (6) of this Act in relation to all institutions that are part of the cross-border group.

(2) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall deliver the report on the analysis of substantive impediments to the effective application of the resolution

tools and the exercising of the resolution powers received from the group-level resolution authority, which contains the proposed measures necessary to remove these impediments, to the subsidiary within its competence, the head office of which is in the Republic of Croatia within its competence.

(3) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall, together with the group-level resolution authority, the resolution authorities of subsidiaries and after consulting the members of the supervisory college and the resolution authorities of the countries where significant branches of the members of that group operate, reach a joint decision within the resolution college regarding the identification of the substantive impediments to the implementation of bankruptcy proceedings or to resolvability, and if necessary, the assessment of the measures proposed by the EU parent undertaking and the measures required by the authorities in order to address or remove the impediments, which shall take into account the potential impact of the measures in all the Member States where the group operates.

(4) The joint decision referred to in paragraph (3) of this Article shall be reached within four months of submission of any observations by the EU parent undertaking or at the expiry of the four-month time limit to submit an observation in the absence of an observation.

(5) If the joint decision referred to in paragraph (3) of this Article is not reached within the time limit referred to in paragraph (4) of this Article, the Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency shall, where it deems it necessary, reach its own decision on the appropriate measures referred to in Article 21, paragraph (4) of this Act to be taken by the member of the group having its head office in the Republic of Croatia.

(6) By way of derogation from paragraph (5) of this Article, if, at the end of the four-month period of receipt by the Croatian National Bank or the Croatian Financial Services Supervisory Agency of the report of the group-level resolution authority and prior to the reaching of a joint decision, the Croatian National Bank or the Croatian Financial Services Supervisory Agency, or any resolution authority of other Member States where the head offices of other members of the group are located, refers the matter to the European Banking Authority and requests its assistance, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall defer the reaching of the decision to impose measures for the member of the group within its competence.

(7) In the case referred to in paragraph (6) of this Article, if the European Banking Authority reaches a decision within one month, the Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency shall reach a decision in conformity with that decision. The four-month period shall be deemed to be the conciliation period within the meaning of Regulation (EU) No 1093/2010. If the European Banking Authority does not reach a decision within one month, the Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency shall, where it deems it necessary, reach its own decision to impose measures for the member of the group within its competence.

(8) The joint decision referred to in paragraph (3) of this Article shall be binding for the Croatian National Bank or the Croatian Financial Services Supervisory Agency. The Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency shall reach a decision in conformity with that decision.

(9) By way of derogation from paragraphs (6) and (7) of this Article, in the absence of a joint decision to impose measures referred to in Article 21, paragraph (4), item (7), (8) or (11) of this Act, the European Banking Authority may, at the request of the resolution authority, assist the resolution authorities in reaching a joint decision in accordance with Article 19, paragraph (3) of Regulation (EU) No 1093/2010.

Minimum requirement for own funds and eligible liabilities

Article 24

(1) The minimum requirement for own funds and eligible liabilities (hereinafter referred to as 'the minimum requirement') shall be calculated as the amount of own funds and eligible liabilities expressed as a percentage of own funds of the institution and other total liabilities not included in own funds.

(2) Eligible liabilities shall be included in the calculation of the minimum requirement only if they satisfy the following conditions:

a) the instrument is issued and fully paid up;

b) the liability is not owed to, secured by or guaranteed by the institution itself;

c) the purchase of the instrument was not funded directly or indirectly by the institution;

d) the liability has a remaining maturity of at least one year and where a liability confers upon its holder a right to early reimbursement, the maturity of that liability shall be the first date when such a right arises;

e) the liability does not arise from a derivative; and

f) the liability does not belong to the third or fourth level of higher priority.

(3) When calculating other total liabilities referred to in paragraph (1) of this Article, derivative liabilities shall be included on the basis that full recognition is given to counterparty netting rights and that derivative liabilities are determined in their net amounts.

(4) When calculating the minimum requirement the institution may not in eligible liabilities include liabilities arising from civil obligations governed by third-country law, where according to the national law of that third country the decision of the resolution authority in the Republic of Croatia to write down or convert that liability is not enforceable, having regard to the terms of the contract governing the liability, international agreements on the recognition of resolution proceedings and other relevant matters. The Croatian National Bank or the Croatian Financial Services Supervisory Agency may request from the institution to prove the enforceability of the decisions referred to in this paragraph under the law of that third country.

Minimum requirement for institutions which are not part of the group and an EU group of institutions which is not a cross-border group

Article 25

(1) The Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency shall determine the minimum requirement for institutions that are not part of the group and an EU group of institutions the competent group-level resolution authority of which is the Croatian National Bank or the Croatian Financial Services Supervisory Agency for a group, which is not a cross-border group.

(2) The minimum requirement shall be determined on the basis of the following criteria:

a) the need to ensure that the institution can be resolved by the application of the resolution tools including, where appropriate, the bail-in tool, in a way that meets the resolution objectives;

b) the need to ensure, in appropriate cases, that the institution has sufficient eligible liabilities to ensure that, if the bail-in tool were to be applied, losses could be absorbed and the common equity tier 1 ratio of the institution could be restored to a level necessary to enable it to continue to comply with the conditions for authorisation arising from the regulation governing the operation of credit institutions or investment firms and to sustain sufficient market confidence in the institution or entity;

c) the need to ensure that, if the resolution plan anticipates that certain classes of eligible liabilities might be excluded from bail-in under Article 67, paragraph (1), item (a) of this Act or that certain classes of eligible liabilities might be transferred to a recipient in full under a partial transfer, that the institution has sufficient other eligible liabilities to ensure that losses could be absorbed and the common equity tier 1 ratio of the institution could be restored to a level necessary to enable it to continue to comply with the conditions for authorisation arising from the regulation governing the operation of credit institutions or investment firms;

d) the size, the business model, the funding model and the risk profile of the institution;

e) the extent to which the deposit guarantee scheme could contribute to the financing of resolution in accordance with Article 123 of this Act; and

f) the extent to which the failure of the institution would have adverse effects on financial stability, including, due to its interconnectedness with other institutions or with the rest of the financial system through contagion to other institutions.

(3) In addition to the criteria specified in paragraph (2) of this Article, the Croatian National Bank shall adopt subordinate legislation to further regulate additional criteria on the basis of which the minimum requirement is determined. The Croatian Financial Services Supervisory Agency shall adopt an implementing regulation, to further regulate additional criteria on the basis of which the minimum requirement is determined in addition to the criteria specified in paragraph (2) of this Article.

(4) Institutions shall comply with the minimum requirement determined in this Article on an individual basis.

(5) By way of derogation from paragraph (4) of this Article, the Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency may fully waive the application of the minimum requirement on an individual basis to the subsidiary institution of the institution having its head office in the Republic of Croatia, where all of the following conditions are met:

a) both the institution and its parent undertaking are subject to authorisation and supervision in the Republic of Croatia;

b) the institution is included in the supervision or oversight of the parent institution on a consolidated basis;

c) the institution belongs to an RC group of institutions the parent undertaking of which meets the minimum requirement on a consolidated basis in the Republic of Croatia;

d) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities to the institution by its parent undertaking;

e) the parent undertaking satisfies the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority regarding the prudent management of the institution and has declared via a certified statement, with the consent of the competent authority, that it guarantees the commitments entered into by that institution, or that the risks in the institution are of no significance;

f) the risk evaluation, measurement and control procedures of the parent undertaking cover the institution;

g) the parent undertaking holds more than 50% of the voting rights attached to shares in the capital of the institution or has the right to appoint or remove the majority of the members of the management body of the institution; and

h) the Croatian National Bank or the Croatian Financial Services Supervisory Agency has fully waived the application of the capital requirements on an individual basis to the institution in accordance with Article 7, paragraph (1) of Regulation (EU) No 575/2013.

(6) The EU parent institution having its head office in the Republic of Croatia or the institution having its head office in the Republic of Croatia, which is the subsidiary undertaking of a parent financial holding company, parent mixed-activity holding company or parent mixed financial holding company in such a way that pursuant to the regulations governing the operation of credit institutions or investment firms it must meet the capital requirement for that group of institutions, the group-level resolution authority of which is the Croatian National Bank or the Croatian Financial Services Supervisory Agency, on a consolidated basis, shall at all times comply with the minimum requirement determined in this Article and on a consolidated basis for its group.

(7) By way of derogation from paragraph (6) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may fully waive the application of the minimum requirement on an individual basis to the institution referred to in paragraph (6) of this Article if it has fully waived the application of capital requirements on an individual level to that institution in accordance with Article 7, paragraph (3) of Regulation (EU) No 575/2013.

(8) The Croatian National Bank or the Croatian Financial Services Supervisor Agency may require from the entity referred to in Article 3, item (2), (3) or (4) of this Article to apply the minimum requirement determined in this Article.

(9) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may request in the decision referred to in paragraphs (1) and (6) of this Article that the minimum requirement be partially met on an individual or on a consolidated basis through instruments for which the institution contracted the following terms:

a) when bail-in tools are applied to that institution, the instrument shall be written down or converted to shares or other instruments of ownership before other eligible instruments are written down or converted; and

b) in the event that bankruptcy proceedings are opened against the institution, it ranks below other eligible liabilities and cannot be repaid until other eligible liabilities outstanding at the time have been settled.

(10) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall verify that institutions or a group of institutions meet the minimum requirement referred to in this Article and where relevant that institutions or a group of institutions meet the requirement referred to in paragraph (9) of this Article.

(11) The decision on the minimum requirement shall be reached in parallel with the drawing up and revision of the resolution plan and shall constitute its integral part.

(12) The Croatian National Bank shall inform the European Banking Authority of the minimum requirement and where relevant the requirement referred to in paragraph (9) of this Article that are set for each individual institution. The Croatian Financial Services Supervisory Agency shall, for the

purpose of informing the European Banking Authority, deliver to the Croatian National Bank information on decisions on the minimum requirement it reached in relation to investment firms.

Minimum requirement for an EU group of institutions where the Croatian National Bank or the Croatian Financial Services Supervisory Agency is the group-level resolution authority

Article 26

(1) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency is the group-level resolution authority, it shall draw up a proposal of the minimum requirement on a consolidated basis based on the criteria referred to in Article 25, paragraph (2) of this Act and based on the possibility that a subsidiary having its head office in a third country is to be resolved separately according to the resolution plan.

(2) For the purpose of reaching a joint decision on the minimum requirement on a consolidated basis, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall deliver the proposal referred to in paragraph (1) of this Article to the resolution authorities of the Member States where the head offices of subsidiaries are located.

(3) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall cooperate with the resolution authorities of the Member States where the head offices of subsidiaries are located in order to reach a joint decision on the level of the minimum requirement applied on a consolidated basis.

(4) The joint decision shall be reached within four months of delivery of the proposal referred to in paragraph (2) of this Article. The decision must be written and fully reasoned. The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall deliver this decision to the EU parent undertaking of which it is the group-level resolution authority.

(5) Where the joint decision referred to in paragraph (4) of this Article is reached, the Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency shall, in conformity with that decision, issue a decision ordering the EU parent undertaking of which it is the group-level resolution authority to maintain the minimum requirement on a consolidated basis.

(6) If the joint decision referred to in paragraph (4) of this Article is not reached within four months, the Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency shall adopt its own decision referred to in paragraph (3) of this Article taking into consideration the assessment of subsidiaries carried out by the resolution authorities of the Member States where the head offices of subsidiaries are located.

(7) By way of derogation from paragraph (6) of this Article, if, within four months of delivery of the proposal and prior to reaching a joint decision, the Croatian National Bank or the Croatian Financial Services Supervisory Agency, or any resolution authority of another Member State where the head office of a subsidiary is located refers the matter to the European Banking Authority and requests its assistance in accordance with Article 19, paragraph (3) of Regulation (EU) No 1093/2010, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall defer its decision on the minimum requirement on a consolidated basis.

(8) In the case referred to in paragraph (7) of this Article, if the European Banking Authority reaches a decision within one month, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall reach a decision in conformity with that decision. The four-month period shall be

deemed to be the conciliation period within the meaning of Regulation (EU) No 1093/2010. If the European Banking Authority does not reach a decision within one month, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall reach its own decision referred to in paragraph (3) of this Article.

(9) The decision on the minimum requirement applied on a consolidated basis that has been reached in accordance with this Article shall be reviewed and where relevant updated on a regular basis.

(10) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall reach a decision on the minimum requirement on an individual basis for EU parent undertakings and subsidiaries having their head office in the Republic of Croatia that are part of EU groups having regard to:

a) the criteria specified in Article 25, paragraph (2) of this Act, in particular the size, business model and risk profile of the subsidiary, including its own funds; and

b) the minimum requirement on a consolidated basis that has been set for the group pursuant to paragraphs (3) to (8) of this Article.

(11) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall participate in the reaching of a joint decision on the minimum requirement to be applied to each respective subsidiary in other Member States on an individual basis.

(12) The joint decision referred to in paragraph (11) of this Article shall be reached within four months of delivery by the resolution authorities to the Croatian National Bank or the Croatian Financial Services Supervisory Agency of the proposal of the minimum requirement for individual members of the group.

(13) Within four months of delivery of the proposal of the minimum requirement for individual members of the group and prior to reaching a joint decision, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may refer the matter to the European Banking Authority and request its assistance in accordance with Article 19 of Regulation (EU) No 1093/2010. The matter shall not be referred to the European Banking Authority where the minimum requirement proposed by the resolution authority of the subsidiary is set within one percentage point of the consolidated level. The four-month period shall be deemed to be the conciliation period within the meaning of Regulation (EU) No 1093/2010.

(14) The decision on the minimum requirement for individual group members that has been reached in accordance with this Article shall be reviewed and where relevant updated on a regular basis.

(15) By way of derogation from paragraph (10) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may fully waive the application of the minimum requirement on an individual basis to the EU parent undertaking for which it is the group-level resolution authority and which complies with the minimum requirement on a consolidated basis if it has fully waived the application of capital requirements on an individual basis to the parent undertaking in accordance with Article 7, paragraph (3) of Regulation (EU) No 575/2013.

(16) By way of derogation from paragraph (10) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may fully waive the application of the minimum requirement on an individual basis to the subsidiary having its head office in the Republic of Croatia, where all of the following criteria are met:

a) both the institution and its parent undertaking are subject to authorisation and supervision in the Republic of Croatia;

- b) the institution is included in the supervision or oversight of the parent institution on a consolidated basis;
- c) the institution belongs to the group of institutions the parent undertaking of which meets the minimum requirement on a consolidated basis;
- d) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities to the institution by its parent undertaking;
- e) the parent undertaking satisfies the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority regarding the prudent management of the institution and has declared via a certified statement, with the consent of the competent authority, that it guarantees the commitments entered into by that institution, or that the risks in the institution are of no significance;
- f) the risk evaluation, measurement and control procedures of the parent undertaking cover the institution;
- g) the parent undertaking holds more than 50% of the voting rights attached to shares in the capital of the institution or has the right to appoint or remove the majority of the members of the management body of the institution; and
- h) the Croatian National Bank or the Croatian Financial Services Supervisory Agency has fully waived the application of the capital requirement on an individual basis to the institution in accordance with Article 7, paragraph (3) of Regulation (EU) No 575/2013.

(17) The decision referred to in this Article may provide that the minimum requirement on a consolidated or on an individual basis is partially met through instruments regulated pursuant to the provisions of Article 25, paragraph (9) of this Act.

Minimum requirement for an EU group of institutions where the Croatian National Bank or the Croatian Financial Services Supervisory Agency is not the EU group-level resolution authority

Article 27

- (1) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency is not the EU group-level resolution authority, it shall participate in the reaching of a joint decision on the minimum requirement to be applied on a consolidated basis.
- (2) Within four months of delivery of the proposal of the group-level resolution authority of the minimum requirement to be applied on a consolidated basis and prior to reaching a joint decision, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may refer the matter to the European Banking Authority and request its assistance in accordance with Article 19, paragraph (3) of Regulation (EU) No 1093/2010. The four-month period shall be deemed to be the conciliation period within the meaning of Regulation (EU) No 1093/2010.
- (3) The joint decision referred to in paragraph (1) of this Article, the own decision of the group-level resolution authority reached in the absence of a joint decision or the decision of the group-level resolution authority reached in conformity with the decision of the European Banking Authority shall be binding on the Croatian National Bank or the Croatian Financial Services Supervisory Agency.

(4) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall draw up a proposal of the minimum requirement on an individual basis for subsidiaries having their head office in the Republic of Croatia that are part of EU groups having regard to:

a) the criteria listed in Article 25, paragraph (2) of this Act, in particular the size, business model and risk profile of the subsidiary, including its own funds; and

b) the minimum requirement on a consolidated basis that has been set for the group pursuant to paragraphs (1) and (2) of this Article.

(5) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall draw up a proposal of the minimum requirement on a sub-consolidated basis for an RC group that is a part of an EU group.

(6) For the purpose of reaching a joint decision on the minimum requirement on an individual basis for a subsidiary having its head office in the Republic of Croatia or for an RC group of institutions, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall deliver the proposal referred to in paragraph (4) or (5) of this Article to the group-level resolution authority.

(7) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall participate in the reaching of a joint decision on the minimum requirement for subsidiaries having their head office in the Republic of Croatia or for an RC group of institutions.

(8) The joint decision on the minimum requirement for subsidiaries having their head office in the Republic of Croatia or for an RC group of institutions must be fully reasoned and the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall deliver the decision to the RC parent undertaking and the subsidiary concerned. The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall, in conformity with that decision order the RC parent undertaking or subsidiaries having their head office in the Republic of Croatia that are subject to the decision to maintain the minimum requirement on an individual or sub-consolidated basis.

(9) Where the joint decision referred to in paragraph (8) of this Article is not reached within four months of delivery of the proposal referred to in paragraph (4) or (5) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall reach its own decision on the minimum requirement for an RC group of institutions or subsidiaries having their head office in the Republic of Croatia, taking into account the expressed views and reservations of the group-level resolution authority.

(10) By way of derogation from paragraph (9) of this Article, if, within four months of delivery of the proposal referred to in paragraph (4) or (5) of this Article and prior to reaching a joint decision, the group-level resolution authority refers the matter to the European Banking Authority and requests its assistance in accordance with Article 19 of Regulation (EU) No 1093/2010, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall defer the reaching of its own decision.

(11) In the case referred to in paragraph (10) of this Article, if the European Banking Authority reaches a decision within one month, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall reach a decision in conformity with that decision. The four-month period shall be deemed to be the conciliation period within the meaning of Regulation (EU) No 1093/2010. If the European Banking Authority does not reach a decision within one month, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall reach its own decision on the minimum requirement for an RC group of institutions or subsidiaries having their head office in the Republic of Croatia.

(12) The decision on the minimum requirement that has been reached in accordance with this Article shall be reviewed and where relevant updated on a regular basis.

(13) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may fully waive the application of the minimum requirement on an individual basis to subsidiaries having their head office in the Republic of Croatia, where all of the following criteria are met:

a) both the undertaking and its parent undertaking are subject to authorisation and supervision in the Republic of Croatia;

b) the undertaking is included in the supervision or oversight of the parent institution on a consolidated basis;

c) the undertaking belongs to an RC group of institutions the RC parent undertaking of which that is not an EU parent institution meets the minimum requirement on a sub-consolidated basis;

d) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities to the subsidiary by its parent undertaking;

e) the parent undertaking satisfies the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority regarding the prudent management of the institution and has declared via a certified statement, with the consent of the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority, that it guarantees the commitments entered into by the subsidiary, or the risks in the subsidiary are of no significance;

f) the risk evaluation, measurement and control procedures of the parent undertaking cover the subsidiary;

g) the parent undertaking holds more than 50% of the voting rights attached to shares in the capital of the subsidiary or has the right to appoint or remove the majority of the members of the management body of the subsidiary; and

h) the Croatian National Bank or the Croatian Financial Services Supervisory Agency has fully waived the application of the capital requirements on an individual basis to the subsidiary in accordance with Article 7, paragraph (1) of Regulation (EU) No 575/2013.

(14) The decision referred to in this Article may provide that the minimum requirement on a consolidated or sub-consolidated basis or on an individual basis is partially met through instruments regulated pursuant to the provisions of Article 25, paragraph (9) of this Act.

IV DECIDING ON RESOLUTION OR BANKRUPTCY

Conditions for resolution or bankruptcy

Article 28

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority shall determine that the institution is failing or is likely to fail where one or more of the following circumstances occurs:

1) there are reasons for annulment or revocation of authorisation of the institution or there are objective elements indicating that reasons for annulment or revocation of authorisation will arise in the

near future, including elements indicating that the institution has incurred or is likely to incur losses that will deplete all or a significant amount of its own funds;

2) the assets of the institution are or there are objective elements to support a determination that the assets of the institution will, in the near future, be less than its liabilities;

3) the institution is or there are objective elements indicating that the institution will, in the near future, be unable to pay its liabilities as they fall due; or

4) extraordinary public financial support is required except when, in order to remedy a serious disturbance in the economy and preserve financial stability, the extraordinary public financial support takes any of the following forms:

– a state guarantee to back liquidity support provided by the Croatian National Bank according to its terms and conditions;

– a state guarantee of newly issued liabilities of the institution; or

– an investment in own funds or purchase of capital instruments at market prices and on market terms, where at the time the public support is granted neither the elements referred to in items (1), (2) and (3) of this paragraph nor the circumstances referred to in Article 37, paragraph (1) of this Act are present.

(2) The extraordinary public financial support referred to in paragraph (1) item (4) of this Article must meet the following conditions:

– it shall be confined to the support to a solvent institution granted in accordance with the European Union State aid framework;

– the measures applied are of temporary nature and shall be proportionate to remedy the consequences of a serious financial disruption; and

– the measures applied shall not be used to offset losses that the institution has incurred or is likely to incur in the near future.

(3) The extraordinary public financial support referred to in paragraph (1), item (4) of this Article which shall be provided in the form of investments in own funds or purchase of capital instruments pertains to investments necessary to address own funds shortfall established in the stress tests, asset quality reviews or equivalent exercises conducted at the national level, the European Union level or at the level of the Single Supervisory Mechanism by the European Central Bank, the European Banking Authority or the Croatian Financial Services Supervisory Agency.

(4) The Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency shall adopt a decision on the submission of a request to open resolution proceedings against an institution where it determined that all of the following conditions are met:

1) the institution is failing or is likely to fail;

2) it is not reasonable to expect that any alternative private sector measures, including by an institutional protection scheme, or supervisory action in the early intervention phase, or the write down or conversion of relevant capital instruments in accordance with Title VI of this Act would prevent the failure of the institution within a reasonable timeframe; and

3) the resolution plan determined that resolution is in the public interest.

(5) The decision shall include the explanation of how the conditions referred to in paragraph (4) of this Article are met and shall be accompanied by the valuation report referred to in Article 35 of this Act.

(6) For the institution for which it determines in accordance with paragraph (1) of this Article that it is failing or is likely to fail the Croatian National Bank or the Croatian Financial Services Supervisory Agency may submit a request to open bankruptcy proceedings to the competent court or adopt a decision to initiate compulsory winding-up where the resolution plan established that resolution is not necessary in the public interest and proposed that in case the conditions referred to in paragraph (1) of this Article are met the institution is not to be resolved and bankruptcy or compulsory winding-up proceedings are to be initiated against it. The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall without delay notify the State Agency for Deposit Insurance and Bank Resolution on the submission of a request to open bankruptcy proceedings against the institution.

(7) For the purpose of paragraph (4) of this Article, it shall be deemed that resolution is in the public interest where it is necessary for the achievement of and is proportionate to one or more of the resolution objectives specified in Article 6 of this Act and where bankruptcy proceedings or compulsory winding-up proceedings would not meet those resolution objectives to the same extent.

(8) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall without delay notify the State Agency for Deposit Insurance and Bank Resolution, the Ministry of Finance and the competent authorities of each branch of the institution in other Member States and the resolution authority in that Member States, the group-level resolution authority, the consolidating supervisor, the Financial Stability Council and the European Systemic Risk Board of the decision referred to in paragraph (4) of this Article.

Deciding on resolution of an RC institution that is not a part of the group and of an EU group of institutions that is not a cross-border group

Article 29

(1) The State Agency for Deposit Insurance and Bank Resolution shall decide on the request referred to in Article 28, paragraph (4) of this Act within three working days.

(2) Where the State Agency for Deposit Insurance and Bank Resolution adopts a decision to open resolution proceedings, this decision shall include:

- the reasons for opening resolution proceedings;
- the explanation of how the criteria for resolution are met, including the results of the valuation;
- the resolution action that the State Agency for Deposit Insurance and Bank Resolution intends to take;
- the appointment of a resolution administration; and
- the date, hour and minute of the opening of resolution proceedings.

(3) Where the State Agency for Deposit Insurance and Bank Resolution refuses the request to open resolution proceedings referred to in Article 28, paragraph (4) of this Act it shall immediately notify the Croatian National Bank or the Croatian Financial Services Supervisory Agency thereof which shall act in accordance with the regulation governing the operation of credit institutions or investment firms.

(4) Where several entities of the same group that is not a cross-border group meet the conditions for resolution or bankruptcy, the State Agency for Deposit Insurance and Bank Resolution may adopt one decision which will cover all members of the group that meet the conditions for resolution and appoint the same resolution administration to these entities.

(5) When selecting the resolution action the State Agency for Deposit Insurance and Bank Resolution shall take into account and follow the actions provided for in the resolution plan which has been adopted for the institution or group in question, unless it considers, taking into account the circumstances of the case, that the resolution objectives will be achieved more effectively by taking actions which are not provided for in the resolution plan.

(6) The State Agency for Deposit Insurance and Bank Resolution shall without delay deliver the decision to open resolution proceedings referred to in paragraph (1) of this Article to the institution concerned, the Ministry of Finance, the Croatian National Bank, the Croatian Financial Services Supervisory Agency, the competent authority of each branch of the institution in other countries, the group-level resolution authority, the consolidating supervisor, the Financial Stability Council, the European Banking Authority, the European Systemic Risk Board, the European Commission, the European Central Bank, the European Securities and Markets Authority, the European Insurance and Occupational Pensions Authority and the operators of the systems in which it participates.

(7) The prior adoption of supervisory action in the early intervention phase in accordance with the regulations governing the operation of credit institutions and investment firms is not a condition for resolution.

(8) On the date of adoption of the decision to open resolution proceedings against a credit institution all supervisory measures imposed on the institution shall cease to have effect.

Deciding on resolution where the State Agency for Deposit Insurance and Bank Resolution is the group-level resolution authority for an EU group of institutions

Article 30

(1) Where the State Agency for Deposit Insurance and Bank Resolution is the group-level resolution authority for an EU group of institutions, it shall, upon receipt of the notification from another competent authority for the group containing the information:

a) that the subsidiary meets the conditions for opening of resolution or bankruptcy proceedings; and

b) on the resolution action that it intends to take in relation to the undertaking or the intention to initiate bankruptcy proceedings against the undertaking;

after consulting the other members of the resolution college, assess the impact of proposed resolution actions or of initiating bankruptcy proceedings on the group and on the members of the group in other Member States, and, in particular, whether the resolution actions or bankruptcy proceedings would make it likely that the conditions for resolution would be met in relation to other members of the group.

(2) Where the State Agency for Deposit Insurance and Bank Resolution assesses that the proposed resolution action or implementation of bankruptcy proceedings would not make it likely that the conditions for implementation of resolution or bankruptcy proceedings are met in relation to other members of the group, it shall without delay, and no later than 24 hours after receiving the notification referred to in paragraph (1) of this Article, notify the members of the resolution college thereof.

(3) Where the State Agency for Deposit Insurance and Bank Resolution assesses that the proposed resolution action or implementation of bankruptcy proceedings would make it likely that the conditions for implementation of resolution or bankruptcy proceedings are met in relation to other members of the group, it shall, no later than 24 hours after receiving the notification referred to in paragraph (1) of this Article, draw up a group resolution scheme and deliver it to the members of the resolution college.

(4) Exceptionally, the 24-hour time limit referred to in paragraph (2) or (3) of this Article may be extended with prior approval of the resolution authority which made the notification referred to in paragraph (1) of this Article.

(5) The group resolution scheme referred to in paragraph (3) of this Article shall:

a) take into account and follow the group resolution plan adopted in accordance with Article 19 of this Act, unless resolution authorities assess, taking into account the circumstances of the case, that resolution objectives will be achieved more effectively by taking actions which are not provided for in the resolution plan;

b) outline the resolution actions that should be taken by the relevant resolution authorities in relation to the EU parent undertaking or members of the group with the aim of meeting the resolution objectives and principles referred to in Articles 6 and 7 of this Act;

c) specify how those resolution actions should be coordinated;

d) establish a financing plan which is based on the group resolution plan, principles for sharing responsibility for financing in the manner referred to in Article 18, paragraph (3), item (5) of this Act and the general principles of mutualisation determined in accordance with Article 122 of this Act.

(6) Where the State Agency for Deposit Insurance and Bank Resolution intends to adopt a decision on the resolution of the EU parent undertaking within its competence, it shall without delay notify the members of the resolution college thereof. The notification shall contain the information referred to in paragraph (1), items (a) and (b) of this Article.

(7) In the case referred to in paragraph (6) of this Article, the State Agency for Deposit Insurance and Bank Resolution may propose resolution actions referred to in paragraph (1), item (b) of this Article in the form of a group resolution scheme referred to in paragraph (5) of this Article where:

a) resolution actions at parent level lead to the conditions for resolution being met in relation to a member of the group in other Member States;

b) resolution actions at parent level only are not sufficient or are not likely to provide an optimum outcome;

c) according to the assessment of the competent resolution authority one or more subsidiaries meet the conditions for resolution or opening of bankruptcy proceedings; or

d) resolution actions at parent level will benefit other members of the group thus justifying the adoption of the group resolution scheme.

(8) In the case referred to in paragraph (6) of this Article, where the State Agency for Deposit Insurance and Bank Resolution, after consulting other members of the resolution college, assesses that the group resolution scheme is not necessary, the State Agency for Deposit Insurance and Bank Resolution shall reach, in accordance with Article 29 of this Act, its own decision in relation to the

parent undertaking of which it is the resolution authority and notify other members of the resolution college thereof.

(9) When taking the decision referred to in paragraph (8) of this Article, the State Agency for Deposit Insurance and Bank Resolution shall take into account:

a) the coordination of the decision with the group resolution plan adopted in accordance with Article 19 of this Act unless it assesses taking into account the circumstances of the case, that resolution objectives will be achieved more effectively by taking actions which are not provided for in the resolution plan; and

b) the financial stability of the Member States concerned.

(10) The group resolution scheme referred to in paragraphs (3) and (7) of this Article shall be adopted by the resolution authorities, which agree with the scheme for their members of the group, within the resolution college by a joint decision. The State Agency for Deposit Insurance and Bank Resolution shall participate in the reaching of a joint decision on the group resolution scheme.

(11) The State Agency for Deposit Insurance and Bank Resolution may request assistance of the European Banking Authority in reaching a joint decision on the group resolution scheme in accordance with Article 31, item (c) of Regulation (EU) No 1093/2010.

(12) The State Agency for Deposit Insurance and Bank Resolution shall reach, in accordance with Article 29 of this Act, a decision in relation to the member of the group of which it is the resolution authority.

(13) Having due regard to the urgency of the situation all actions in accordance with this Article shall be performed without delay.

(14) In the absence of a joint decision on the group resolution scheme, the State Agency for Deposit Insurance and Bank Resolution shall cooperate closely within the resolution college with a view to achieving, to the extent possible, a coordinated resolution strategy for all members of the group for which it has been established that they are failing or are likely to fail.

(15) The State Agency for Deposit Insurance and Bank Resolution shall inform the members of the resolution college regularly and fully about the resolution actions and their progress in accordance with this Article.

Deciding on resolution where the State Agency for Deposit Insurance and Bank Resolution is not the group-level resolution authority for an EU group of institutions

Article 31

(1) Where the State Agency for Deposit Insurance and Bank Resolution is not the group-level resolution authority for an EU group of institutions, it shall, prior to reaching a decision referred to in Article 29, paragraph (1) of this Act in relation to a subsidiary of an EU group of institutions having its head office in the Republic of Croatia, without delay notify the group-level resolution authority, the consolidating supervisor, if different, and the other members of the resolution college of the group in question:

a) that the subsidiary meets the conditions referred to in Article 28, paragraph (4) of this Act; and

b) of the resolution action it intends to take in relation to the undertaking.

(2) By way of derogation from Article 29, paragraph (1) of this Act, where the State Agency for Deposit Insurance and Bank Resolution is not the group-level resolution authority for an EU group of institutions it shall defer the adoption of its decision to open resolution proceedings against a subsidiary of an EU group of institutions having its head office in the Republic of Croatia and shall await the notification from the group-level resolution authority referred to in paragraph (3) of this Article, no later than 24 hours after receiving the notification referred to in paragraph (1) of this Article or until the adoption of the joint decision referred to in paragraph (8) of this Article. Exceptionally, the 24-hour time limit may be extended with prior consent of the State Agency for Deposit Insurance and Bank Resolution.

(3) Where the group-level resolution authority, after consulting other members of the resolution college, assesses that the opening of resolution proceedings or the action referred to in paragraph (1) of this Article would not impact any other member of the group in another Member State in such a way so as to meet the conditions for initiating resolution, and where it notified the State Agency for Deposit Insurance and Bank Resolution thereof, the State Agency for Deposit Insurance and Bank Resolution shall adopt a decision referred to in Article 29, paragraph (1) of this Act.

(4) Where the group-level resolution authority, after consulting other members of the resolution college, assesses that the opening of resolution proceedings or the action referred to in paragraph (1) of this Article would impact one or more members of the group in another Member State in such a way that they meet the conditions for opening resolution proceedings and where within 24 hours of receipt of the notification referred to in paragraph (1) of this Article it proposes a group resolution scheme and submits it to the resolution college, the State Agency for Deposit Insurance and Bank Resolution shall participate in the adoption of a joint decision on the group resolution scheme.

(5) The State Agency for Deposit Insurance and Bank Resolution may request assistance of the European Banking Authority in reaching a joint decision on the group resolution scheme in accordance with Article 31, item (c) of Regulation (EU) No 1093/2010.

(6) Where the State Agency for Deposit Insurance and Bank Resolution disagrees with the group resolution scheme referred to in paragraph (4) of this Article or for reasons of financial stability it intends to take different measures, it shall, in accordance with Article 29 of this Act, reach its own decision in relation to the member of the group of which it is the resolution authority and deliver it to the group-level resolution authority and other resolution authorities participating in the reaching of a joint decision on the group resolution scheme. The decision shall be accompanied by the explanation of the reasons for disagreement with the group resolution scheme or actions proposed by it.

(7) When setting out the reasons for disagreement referred to in paragraph (6) of this Article, the State Agency for Deposit Insurance and Bank Resolution shall take into account the adopted group resolution plan referred to in Article 20 of this Act and the potential impact on the financial stability of other Member States or on members of the group in other Member States.

(8) Where the State Agency for Deposit Insurance and Bank Resolution agrees with the group resolution scheme referred to in paragraph (4) of this Article, it shall together with the group-level resolution authority and the resolution authorities of other members of the group reach a joint decision on the group resolution scheme for that group. The State Agency for Deposit Insurance and Bank Resolution shall, in accordance with Article 29 of this Act, reach a decision in conformity with that decision in relation to the member of the group for which it is the resolution authority.

(9) Having due regard to the urgency of the situation all actions in accordance with this Article shall be performed without delay.

(10) In the case referred to in paragraph (6) of this Article, the State Agency for Deposit Insurance and Bank Resolution shall cooperate closely within the resolution college with a view to achieving, to the

extent possible, a coordinated resolution strategy for all members of the group for which it has been established that they are failing or are likely to fail.

(11) The State Agency for Deposit Insurance and Bank Resolution shall inform the members of the resolution college regularly and fully about the resolution actions and their progress in accordance with this Article.

Public disclosure and delivery of decisions in the resolution proceedings

Article 32

(1) The State Agency for Deposit Insurance and Bank Resolution shall publish on its website the decision to open resolution proceedings and all subsequent decisions implementing the decision to open resolution proceedings. Exceptionally, the publication may contain only the key elements of the decision, in particular, where the decision in question refers to natural persons or small and medium-sized enterprises.

(2) The Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority shall publish on its website the decision to open resolution proceedings.

(3) The institution shall publish on its website the decision to open resolution proceedings and all subsequent decisions implementing the decision to open resolution proceedings. Where shares, other instruments of ownership or debt instruments of the institution under resolution are admitted to trading on a stock exchange, the institution shall notify the stock exchange in question. The stock exchange shall publish the information in accordance with its rules.

(4) Where the decision to open resolution proceedings or subsequent decisions implementing the decision to open resolution proceedings provide for a suspension or restriction referred to in Article 90, 91 or 92 of this Act, the conditions and the time limits relating to the suspension or restriction shall be disclosed in the publication referred to in paragraph (1) of this Article. The State Agency for Deposit Insurance and Bank Resolution shall without delay deliver to the Croatian National Bank, the Croatian Financial Services Supervisory Agency, the Financial Agency and the Central Depository and Clearing Company the decisions referred to in Article 90, 91 or 92 of this Act which shall act upon them as of the moment of delivery.

(5) Where shares, other instruments of ownership or debt instruments of the institution under resolution are not admitted to trading on a stock exchange, the publication referred to in paragraph (1) of this Article shall be the delivery of the decision to open resolution proceedings to the holders of these instruments.

(6) The State Agency for Deposit Insurance and Bank Resolution shall without delay deliver to the institution under resolution all decisions it adopted for the purpose of implementing the decision to open resolution proceedings and the institution under resolution shall without delay notify thereof the persons the decision pertains to in the part relevant to them.

(7) The legal effects of the decisions referred to in paragraph (6) of this Article shall come into force on the day of its adoption and the right to legal remedy referred to in Article 33 of this Act shall apply.

Right to challenge a decision to open resolution proceedings

Article 33

(1) No complaint shall be allowed against the decision to open resolution proceedings referred to in Article 29, paragraph (1) of this Act or all decisions adopted by the State Agency for Deposit Insurance and Bank Resolution for the purpose of implementing the decision to open resolution proceedings, but natural or legal persons whose rights or legal interests are infringed upon by the adoption of such decision may lodge an appeal with the competent administrative court within 30 days of the delivery of the decision in question.

(2) The time limit for persons to whom the decision to open resolution proceedings referred to in Article 29, paragraph (1) of this Act is delivered via public disclosure shall start to run at the end of the eight-day period of the date of the public disclosure referred to in Article 32, paragraph (1) of this Act.

(3) The lodging of the appeal referred to in paragraph (1) of this Article shall not postpone the execution of the decision to open resolution proceedings or of other decisions adopted by the State Agency for Deposit Insurance and Bank Resolution in order to implement the decision to open resolution proceedings and the administrative court may not issue a temporary measure of stay of execution.

(4) The competent administrative court shall decide on the appeal referred to in paragraph (1) of this Article under an emergency procedure and at the latest within 30 days of its receipt.

(5) When deciding on the appeal, the competent administrative court shall make use of the detailed and comprehensive assessment of the institution's financial position carried out by the State Agency for Deposit Insurance and Bank Resolution, the Croatian National Bank or the Croatian Financial Services Supervisory Agency.

(6) Where the administrative court adopts a decision by which it, in whole or in part, declares the decision on resolution or another individual decision adopted pursuant to that decision annulled or null and void, the effects of such decision shall remain in force until a new decision is reached to replace the decision that has been annulled or declared null and void, and the State Agency for Deposit Insurance and Bank Resolution may upon receipt of the decision from the administrative court adopt measures aimed at mitigating the damage that would arise from further implementation of the decision annulled or declared null and void.

(7) The compensation for damages referred to in paragraph (6) of this Article shall be covered from the resolution fund.

Conditions for resolution with regard to financial institutions and holding companies

Article 34

(1) When the conditions for resolution referred to in Article 28, paragraphs (1) and (4) of this Act are met with regard to both the financial institution referred to in Article 3, item (2) of this Act and with regard to its parent undertaking subject to consolidated supervision, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may propose to the State Agency for Deposit Insurance and Bank Resolution to adopt the decision to open resolution proceedings against the financial institution.

(2) When the conditions for resolution referred to in Article 28, paragraphs (1) and (4) of this Act are met with regard to both the entity referred to in Article 3, item (3) or (4) of this Act and with regard to one or more subsidiary institutions, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may propose to the State Agency for Deposit Insurance and Bank Resolution to adopt the decision to open resolution proceedings against that entity. Where the subsidiary institution has its head office in a third country and the third-country authority has determined that it meets the

conditions for resolution under the law of that third country, the State Agency for Deposit Insurance and Bank Resolution may adopt a decision to open resolution proceedings against the entity whose subsidiary it is.

(3) Where the subsidiary institutions of a mixed-activity holding company are held directly or indirectly by an intermediate financial holding company, the State Agency for Deposit Insurance and Bank Resolution may for the purpose of resolution actions within a group of institutions adopt a decision to open resolution proceedings against the intermediate financial holding company.

(4) In accordance with paragraph (3) of this Article, when the entity referred to in Article 3, item (3) or (4) of this Act does not meet the conditions specified in Article 28, paragraphs (1) and (4) of this Article, the State Agency for Deposit Insurance and Bank Resolution may adopt a decision to open resolution proceedings against the entity if the following conditions are met:

– one or more of subsidiary institutions of the entity meet the conditions specified in Article 28, paragraphs (1) and (4) of this Act;

– the assets and liabilities of subsidiary institutions of the entity are such that their failure threatens the group as a whole; and

– the resolution action with regard to the entity referred to in Article 3, item (3) or (4) of this Act is necessary for the resolution of such subsidiary institutions or for the resolution of the group as a whole.

(5) In the case referred to in paragraphs (2) and (4) of this Article, when assessing whether the conditions referred to in Article 28, paragraphs (1) and (4) of this Act are met with regard to one or more subsidiary institutions, the resolution authorities may decide to disregard any intra-group capital or loss transfers between the entities, including the exercising of the power to write down or convert relevant capital instruments.

V VALUATION

Valuation

Article 35

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall, prior to submitting the request referred to in Article 28, paragraph (4) of this Act or prior to exercising the power to write down or convert relevant capital instruments, ensure that an independent valuation of the assets and liabilities of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act is carried out. The valuation shall be carried out by a person independent from any public authority, resolution authority and the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act (hereinafter referred to as 'independent valuer'). The valuation shall be fair, prudent and realistic.

(2) The objective of the valuation referred to in paragraph (1) shall be to assess the value of assets and liabilities of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act which meets the conditions referred to in Article 28, paragraphs (1) and (4) of this Act.

(3) The purposes of the valuation referred to in paragraph (1) of this Article shall be:

1) to inform the determination of whether the conditions for resolution or the conditions for the write down or conversion of capital instruments are met;

2) if the conditions for resolution are met, to inform the decision on the appropriate resolution action to be taken in relation to the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act;

3) when the power to write down or convert relevant capital instruments is exercised, to inform the decision on the extent of the cancellation or dilution of shares or other instruments of ownership, and the amount of the write down or conversion of relevant capital instruments, or conversion to common equity tier 1 instruments;

4) when the bail-in tool is applied, to inform the decision on the amount of the write down or conversion of eligible liabilities;

5) when the bridge institution tool or asset separation tool is applied, to inform the decision on the assets, rights, liabilities or shares or other instruments of ownership to be transferred in order to adopt a decision on the value of any consideration to be paid to the institution under resolution or, as the case may be, to shareholders;

6) when the sale of business tool is applied, to inform the decision on the assets, rights, liabilities or shares or other instruments of ownership to be transferred and to inform the State Agency for Deposit Insurance and Bank Resolution of what constitutes commercial terms for the purposes of Article 57 of this Act;

7) to ensure that any losses on the assets of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act are fully recognised at the moment the resolution tools are applied or the power to write down or convert relevant capital instruments is exercised.

(4) The independent valuer carrying out the valuation referred to in paragraph (1) of this Article, shall base the valuation on prudent assumptions, including as to rates of default and severity of losses and other conditions referred to in this Article and regulations governing valuation for this purpose.

(5) The valuation referred to in paragraph (1) of this Article, unless it is State aid in accordance with the European Union State aid framework, shall not assume any potential future provision of extraordinary public financial support or central bank emergency liquidity assistance or any central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms to the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act when undertaking resolution action or exercising the power to write down or convert relevant capital instruments.

(6) The valuation referred to in paragraph (1) of this Article shall, regardless of the resolution tool applied, take account of the fact that:

a) the resolution authority and any resolution fund acting in accordance with Article 116 of this Act may recover any reasonable and properly incurred expenses from the institution under resolution in accordance with Article 56, paragraph (5) of this Act; and

b) the resolution fund may charge interest or fees in relation to any loans or guarantees provided to the institution in accordance with Article 116 of this Act.

(7) The valuation report referred to in paragraph (1) of this Article shall contain information from accounting books and records of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act, in particular:

1) an updated balance sheet and a report on the financial position;

2) an analysis and an estimate of the accounting value of the assets;

3) the list of outstanding on balance sheet and off balance sheet liabilities with an indication of the respective credits and priority levels in accordance with the regulations governing bankruptcy proceedings against institutions; and

4) other information relevant for valuation.

(8) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may for the purpose of adopting the decision referred to in paragraph (3), item (5) or (6) of this Article request from the independent valuer to complement the information referred to in paragraph (7), item (2) of this Article by an analysis and estimate of the value of assets and liabilities of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act.

(9) The valuation referred to in paragraph (1) of this Article must contain information on the priority levels of individual claims in accordance with the regulations governing bankruptcy proceedings against the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act and an estimate of the outcome for each shareholder or creditor of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act in cases where bankruptcy proceedings against the institution or entity are implemented. The estimate of the outcome shall not affect the application of the principle referred to in Article 108 of this Act under which no creditor would receive worse treatment relative to the treatment the creditor would have received in bankruptcy proceedings.

(10) Where the circumstances of the case require due urgency which renders it impossible to carry out an independent valuation in the manner referred to in paragraphs (7) and (9) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall ensure that a provisional valuation of the assets and liabilities of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act is carried out by the independent valuer.

(11) By way of derogation from paragraph (1) of this Article, where an independent valuation is not possible, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may carry out its own provisional valuation of the assets and liabilities of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act.

(12) The provisional valuation referred to in paragraph (10) or (11) of this Article shall be carried out in accordance with paragraph (2) of this Article to the extent possible and practicable in accordance with paragraphs (1), (7) and (9) of this Article. The provisional valuation shall include an estimate of a buffer for additional losses, with appropriate justification.

(13) Based on the definitive valuation carried out pursuant to paragraph (1) of this Article or based on the provisional valuation referred to in paragraph (10) or (11) of this Article, the State Agency for Deposit Insurance and Bank Resolution may take resolution action and write down or convert relevant capital instruments, including taking control of an institution or entity referred to in Article 3, item (2), (3) or (4) of this Act against which resolution proceedings have been opened, while the Croatian National Bank or the Croatian Financial Services Agency may write down or convert relevant capital instruments.

(14) The valuation referred to in paragraph (13) of this Article shall be an integral part of the decision to open resolution proceedings or exercise a resolution power, or the decision to exercise the write down or conversion power of relevant capital instruments.

(15) An appeal may not be lodged with the administrative court against the valuation referred to in paragraph (13) of this Article, but it can be contested by an appeal against the decision referred to in paragraph (14) of this Article in accordance with Article 33 of this Act

Ex-post valuation

Article 36

(1) Where the provisional valuation was carried out by an independent valuer in accordance with Article 35, paragraph (10) of this Act or where the provisional valuation was carried out by the Croatian National Bank or the Croatian Financial Services Supervisory Agency in accordance with Article 35, paragraph (11) of this Act and the decision to open resolution proceedings against the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act was adopted on the basis of that valuation, the State Agency for Deposit Insurance and Bank Resolution shall, as soon as practicable, ensure that an *ex-post* valuation of the assets and liabilities of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act is carried out by the independent valuer.

(2) Where the provisional valuation was carried out by an independent valuer in accordance with Article 35, paragraph (10) of this Act or where the provisional valuation was carried out by the Croatian National Bank or the Croatian Financial Services Supervisory Agency in accordance with Article 35, paragraph (11) of this Act and no decision to open resolution proceedings against the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act was adopted but capital instruments were written down or converted, the Croatian National Bank shall, as soon as practicable, ensure that an *ex-post* valuation of the assets and liabilities of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act is carried out by the independent valuer.

(3) The *ex-post* valuation referred to in paragraphs (1) and (2) of this Article may be carried out simultaneously with the valuation referred to in Article 107 of this Act and by the same independent valuer but the two shall be two distinct valuations.

(4) The *ex-post* valuation referred to in paragraphs (1) and (2) must:

a) ensure that any losses by which the assets of the institution or the entity referred to in Article 3, item (2), (3) or (4) of this Act are identified and are fully recognised in their business books; and

b) inform the decision referred to in paragraph (5) of this Article to write back creditors' claims or to increase the value of the consideration paid.

(5) Where the decision to open resolution proceedings against the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act was adopted and the *ex-post* valuation's estimate referred to in this Article of the net asset value of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act was higher than the provisional valuation's estimate of the net asset value of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act that was carried out pursuant to Article 35 of this Act, the State Agency for Deposit Insurance and Bank Resolution may:

1) increase the value of the claims of creditors or holders of relevant capital instruments which have been written down under the bail-in tool or by the exercise of powers referred to in Title VIII of this Act; or

2) instruct a bridge institution or asset management vehicle to make a further payment of consideration in respect of the assets, rights, liabilities to the institution under resolution, or as the case may be, in respect of the shares or instruments of ownership to shareholders.

(6) Where no decision to open resolution proceedings against the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act was adopted, and the Croatian National Bank or the Croatian Financial Services Supervisory Agency wrote down or converted relevant capital instruments and the *ex-post* valuation's estimate referred to in this Article of the net asset value of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act was higher than the provisional valuation's estimate of the net asset value of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act that was carried out pursuant to Article 35 of this Act, the Croatian National Bank or the

Croatian Financial Services may increase the value of the claims of creditors or holders of shares, or of other capital instruments which have been written down.

VI WRITE DOWN OR CONVERSION OF RELEVANT CAPITAL INSTRUMENTS

Write down or conversion of relevant capital instruments

Article 37

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may write down or convert the relevant capital instruments into common equity tier 1 instruments when one or more of the following circumstances apply:

1) unless the write down or conversion power is exercised in relation to relevant capital instruments the institution will no longer be viable;

2) a joint decision was reached in accordance with Article 31, paragraphs (4) and (6) of this Act determining that the institution will no longer be viable unless the write down or conversion power is exercised in relation to relevant capital instruments in the case of capital instruments issued by a subsidiary having its head office in the Republic of Croatia that are recognised for the purposes of meeting own funds requirements by the subsidiary also on a consolidated basis;

3) the group will no longer be viable unless the write down or conversion power is exercised in relation to relevant capital instruments in the case of capital instruments issued at the level of the parent undertaking having its head office in the Republic of Croatia that are recognised for the purposes of meeting own funds requirements on an individual basis at the level of the parent undertaking or on a consolidated basis at group level of institutions whose parent undertaking it is; or

4) extraordinary public financial support is required by the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act.

(2) In accordance with paragraph (1) of this Article, an institution, a group of institutions or an entity referred to in Article 3, item (2), (3) or (4) of this Act shall be deemed to be no longer viable unless the write down or conversion power is exercised in relation to relevant capital instruments if the conditions referred to in items (1) and (3) of this paragraph are met in relation to an individual institution or if the conditions referred to in items (2) and (3) of this paragraph are met in relation to the group:

1) the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority determined, in accordance with Article 28, paragraph (1) of this Act, that the institution or the entity referred to in Article 3, item (2), (3) or (4) of this Act is failing or is likely to fail;

2) the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority for the group determined that the group infringes or there are objective elements to support a determination that the group, in the near future, will infringe its consolidated prudential requirements and elements to support a determination that the group has incurred or is likely to incur losses that will deplete all or a significant amount of its own funds to the extent that would justify supervisory or oversight measures; or

3) having regard to timing and other relevant circumstances, there is no reasonable prospect that any alternative action, including private sector measures or supervisory measures, including the

supervisory measures in the early intervention phase, regardless whether taken together with resolution actions or not, would prevent the failure of the institution, group or entity referred to in Article 3, item (2), (3) or (4) of this Act within a reasonable timeframe.

(3) Before determining the existence of the circumstances referred to in paragraph (1), item (2) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall act in accordance with Article 40 of this Act in the part relating to notification and reporting.

(4) Where the relevant capital instruments are used for the purposes of meeting own funds requirements of the institution having its head office in the Republic of Croatia on an individual basis in accordance with Article 92 of Regulation (EU) No 575/2013, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall determine the existence of the circumstances referred to in paragraph (1) of this Article.

(5) Where the relevant capital instruments are issued by the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act having its head office in the Republic of Croatia which is a subsidiary of an EU parent undertaking and the instruments are used for the purpose of meeting own funds requirements on an individual and on a consolidated basis:

1) the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall determine the existence of circumstances referred to in paragraph (1), item (1) of this Article;

2) the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall participate in reaching a joint decision to determine the existence of circumstances referred to in paragraph (1), item (2) of this Article.

(6) Where the relevant capital instruments are issued by the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act which is an EU parent undertaking having its head office in the Republic of Croatia and the instruments are used for the purpose of meeting own fund requirements on an individual and on a consolidated basis, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall determine the existence of circumstances referred to in paragraph (1), item (3) of this Article.

(7) In the case of a write down or conversion of relevant capital instruments referred to in paragraph (1), item (2) of this Article, the value of capital instruments issued by a subsidiary having its head office in the Republic of Croatia that are recognised for the purposes of meeting own funds requirements on a consolidated basis shall not be written down to a greater extent or converted on worse terms than equally ranked capital instruments at the level of the parent undertaking which have been written down or converted.

Exercise of write down or conversion powers in relation to relevant capital instruments

Article 38

(1) Before exercising the power to write down or convert the relevant capital instruments, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall ensure that a valuation of assets and liabilities of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act is carried out in accordance with Article 35 of this Act.

(2) The valuation referred to in paragraph (1) of this Article shall form the basis of the calculation of the write-down to be applied to the relevant capital instruments in order to absorb losses and the level

of conversion to be applied to the relevant capital instruments in order to recapitalise the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act.

(3) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall exercise the write down or conversion power in accordance with the priority of claims under the regulation governing the bankruptcy of institutions, in the following way:

1) the losses determined by the valuation referred to in Article 35 of this Act shall be covered first by reducing the common equity tier 1 items to the extent required and the extent of their capacity in the manner referred to in Article 41, paragraphs (1) and (2) of this Act;

2) the losses determined by the valuation referred to in Article 35 of this Act that are not covered in accordance with item (1) of this paragraph shall be covered by writing down the principal amount of additional tier 1 instruments and converting these instruments into regular capital instruments to the extent required and the extent of their capacity in order to achieve the resolution objectives referred to in Article 6 of this Act;

3) the losses determined by the valuation referred to in Article 35 of this Act that are not covered in accordance with items (1) and (2) of this paragraph shall be covered by writing down the principal amount of tier 2 instruments and converting these instruments into regular capital instruments to the extent required and the extent of their capacity in order to achieve the resolution objectives referred to in Article 6 of this Act.

(4) Where the principal amount of relevant capital instruments has been written down in accordance with paragraph (3) of this Article, this shall have the following effects:

1) the reduction shall be permanent, subject to any write up in accordance with the reimbursement mechanism referred to in Article 36, paragraph (6) or Article 69, paragraph (4) of this Act;

2) the holder of the relevant capital instrument shall have no rights in connection with that amount of the instrument which has been written down or converted except for:

– the right to interest and other claims arising from the instrument accrued as at the date of the write down or conversion of the relevant instrument;

– the right to appeal to the competent administrative court which shall *mutatis mutandis* be subject to the provisions of Article 33 of this Act; and

– the rights referred to in paragraphs (5) and (6) of this Article.

(5) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may request from the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act to issue new common equity tier 1 instruments to the holders of the relevant capital instruments the value of which has been written down for the purpose of converting these instruments in accordance with paragraph (3) of this Article.

(6) Relevant capital instruments may only be converted into common equity tier 1 instruments where the following conditions are met:

1) those common equity tier 1 instruments are issued by the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act or by a parent undertaking of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act with prior approval of the Croatian National Bank or the

Croatian Financial Services Supervisory Agency or, where relevant, of the resolution authority of the parent undertaking;

2) those common equity tier 1 instruments are issued prior to the issuance of shares or other instruments of ownership by the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act for the purposes of the provision of state support through investments in own funds;

3) those common equity tier 1 instruments are awarded and transferred without delay following the exercise of the write down or conversion powers in relation to the relevant capital instruments;

4) the conversion rate that determines the number of common equity tier 1 instruments that are provided in respect of each relevant capital instrument complies with the principles referred to in Article 42 of this Act and the regulation adopted in accordance with this Act.

(7) For the purposes of the provision of common equity tier 1 instruments in accordance with paragraph (2) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may require the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act to obtain all necessary prior approvals for the issuance of the relevant number of common equity tier 1 instruments.

Actions of the Croatian National Bank or the Croatian Financial Services Supervisory Agency

Article 39

(1) A decision to write down or convert relevant capital instruments shall be adopted by the Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency.

(2) The decision referred to in paragraph (1) of this Article shall contain:

1) the amount of loss by which all reserves and retained profit of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act are reduced;

2) a decision to reduce the share capital of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act;

3) a decision to write down the principal amount of relevant capital instruments not included in item (2) of this paragraph; or

4) a decision to increase the share capital.

(3) The decision to reduce the share capital referred to in paragraph (2), item (2) of this Article may be adopted as a decision on the simplified share capital reduction specifying the exact amount by which the share capital is to be reduced, the amount of the share capital after the reduction, the objective of the reduction of the share capital and the manner in which the share capital will be reduced or as a decision to reduce the share capital by cancelling shares specifying the amount of the share capital relating to the cancelled shares and the share capital after the reduction.

(4) Where the amount of loss exceeds the amount of the share capital, a decision shall be reached to reduce the principal amount of the relevant capital instruments referred to in paragraph (2), item (3) of this Article.

(5) The decision to increase the share capital referred to in paragraph (2), item (4) of this Article shall contain the amount by which the share capital will be increased, the nominal share value, their class and the amount of their issue, that is, the amount of new capital contributions, the rights invested, the persons who are investing them and the number of shares to be so acquired.

(6) The share capital shall be deemed to be reduced or increased as at the date of the adoption of the decision referred to in paragraph (1) of this Article. The entry in the register of companies has a declaratory effect.

(7) Upon the adoption of the decision to increase the share capital referred to in paragraph (1) of this Article, new shares shall be deemed transferred to the holder of the relevant capital instruments being converted, whereby shares or contributions are paid in and the increase in the share capital is executed.

(8) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall, at the latest on the next working day of its adoption, submit the decision referred to in paragraph (1) of this Article to the registration court to apply for the entry of the decision to reduce or the decision to increase the share capital and register the reduction or increase in the share capital.

(9) The registration court shall without delay decide on the application for entry referred to in paragraph (8) of this Article, regardless of the order in which other cases have been brought before the court, effect the entry in the register of companies and publicly disclose it.

(10) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall, at the latest on the next working day of its adoption, deliver the decision referred to in paragraph (1) of this Article to the Central Depository and Clearing Company which shall without delay effect the entry.

(11) Pursuant to the decision referred to in paragraph (1) of this Article, the registration court shall enter amendments to the Articles of Association of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act in the part relating to the amount of the share capital, the number of issued shares and their nominal value.

(12) In order to issue new shares pursuant to the decision to increase the share capital, referred to in paragraph (6) of this Article, the institutions or entities referred to in Article 3, paragraph (2), (3) or (4) of this Act shall not be required to issue or publish a prospectus or obtain approval from the Croatian National Bank or the Croatian Financial Services Supervisory Agency, and the holders of shares in relation to which the reduction of the share capital was carried out shall not have subscription priority.

(13) The provisions of this Article shall apply *mutatis mutandis* to the exercise of the write down or conversion powers in relation to the relevant capital instruments with regard to limited liability companies.

Write down and conversion of relevant capital instruments in relation to cross-border groups

Article 40

(1) Before adopting a decision on existence of the circumstances referred to in Article 37, paragraph (1) of this Act in relation to an institution having its head office in the Republic of Croatia which is a subsidiary of an EU parent undertaking having its head office in another Member State that issues relevant capital instruments that are recognised for the purposes of meeting own funds requirements on an individual or on a consolidated basis, the Croatian National Bank or the Croatian Financial Services Agency shall:

1) without delay notify the consolidating supervisor and the appropriate authority in that Member State of the existence of the circumstances referred to in Article 37, paragraph (1) of this Act;

2) without delay notify the competent and the appropriate authorities of each institution or entity referred to in Article 3, item (2), (3) or (4) of this Act that issued the capital instruments in relation to which write down or conversion power is to be executed of the existence of the circumstances referred to in Article 37, paragraph (1), item (2) of this Act if such circumstances are determined.

(2) When determining the existence of the circumstances referred to in Article 37, paragraph (1), items (2), (3) and (4) of this Act in relation to the institution which is a member of an EU group, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall take into account the potential impact of this decision in all the Member States where the institution or group operates.

(3) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall enclose with the notification referred to in paragraph (1) of this Article an explanation of the reasons why it is considering making the determination of these circumstances.

(4) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall consult with the authorities referred to in paragraph (1) of this Article and after the consultation assess the following:

a) whether an alternative measure to the write down or conversion of relevant capital instruments in accordance with Article 37, paragraph (1) of this Act is available;

b) if such an alternative measure is available, whether it can be applied; and

c) if such an alternative measure could feasibly be applied, whether there is a realistic prospect that it would address, in an adequate timeframe, the circumstances referred to in Article 37, paragraph (1) of this Act, that would otherwise need to be determined.

(5) The alternative measures referred to in paragraph (4) of this Article mean:

– supervisory measures in the early intervention phase and other supervisory or oversight measures specified in the regulations governing the operation of credit institutions and investment firms; or

– a transfer of funds or capital instruments from the parent undertaking.

(6) Where, pursuant to paragraph (4) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency, after consulting the authorities referred to in paragraph (1) of this Article, assesses that one or more alternative measures that are available can feasibly be applied and would deliver the outcome referred to in paragraph (4), item (c) of this Article, it shall ensure the application of these measures.

(7) Where, in the case referred to in paragraph (1), item (a) of this Article and pursuant to paragraph (4) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency, after consulting the authorities referred to in paragraph (1) of this Article, assesses that the alternative measure that would deliver the outcome referred to in paragraph (4), item (c) of this Article is not available, it shall determine the existence of the circumstances referred to in Article 37, paragraph (1) of this Act.

(8) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency decides to determine the existence of the circumstances referred to in Article 37, paragraph (1), item (2) of this

Act, it shall without delay notify the appropriate authorities of the Member States in which the head offices of the affected subsidiaries are located.

(9) The decision referred to in paragraph (6) of this Article shall be adopted in the form of a joint decision in accordance with Article 30, paragraphs (2) and (3) of this Act. In the absence of a joint decision, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall not be able to determine the existence of the circumstances referred to in Article 37, paragraph (1), item (2) of this Act.

(10) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall without delay implement a decision to write down or convert relevant capital instruments adopted in accordance with this Article.

(11) When the Croatian National Bank or the Croatian Financial Services Supervisory Agency receives the notification that the appropriate authority of another Member State considers the existence of the circumstances referred to in Article 37, paragraph (1), item (2) of this Act, it shall participate in the reaching of a joint decision on the existence of these circumstances.

Treatment of shareholders in relation to write down and conversion of relevant capital instruments

Article 41

(1) When writing down or converting the relevant capital instruments the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall, in respect of shareholders, have the power to take the following actions:

1) carry out simplified share capital reduction or cancel existing shares or other instruments of ownership;

2) provided that, in accordance with the valuation carried out pursuant to Article 35 of this Act, the institution under resolution has a positive net value, dilute the existing shareholder structure by converting the relevant capital instruments issued by the institution in accordance with the power referred to in Article 37, paragraph (1) of this Act to common equity tier 1 instruments.

(2) The dilution referred to in paragraph (1), item (2) of this Article shall be carried out at the conversion rate that severely dilutes the existing shareholder structure.

(3) The actions referred to in paragraph (1) of this Article shall also be taken in respect of shareholders that are owners of common equity tier 1 instruments that were issued or conferred:

1) pursuant to conversion of debt instruments to shares or other instruments of ownership in accordance with contractual terms of the original debt instruments on the occurrence of an event that preceded or occurred at the same time with the adoption of the decision to open resolution proceedings; and

2) pursuant to the conversion of relevant capital instruments to common equity tier 1 instruments in accordance with Article 38 of this Act.

(4) When deciding which action to take in accordance with paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall take into account:

1) whether the valuation was carried out in accordance with Article 35 of this Act;

2) the amount by which, in accordance with its assessment, common equity tier 1 items must be reduced and relevant capital instruments must be written down or converted in accordance with Article 38, paragraph (3) of this Act; and

3) the aggregate amount it assessed in the way referred to in Article 69 of this Act.

(5) Where the conversion of relevant capital instruments would result in the acquisition of or increase in a qualifying holding in an institution, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall, in a timely manner, carry out the decision-making procedure regarding prior approval to acquire a qualifying holding in accordance with the regulations governing the operation of credit institutions or the regulations governing the capital market that does not delay the conversion of relevant capital instruments or prevent resolution action from achieving its objectives.

(6) In the case referred to in paragraph (5) of this Article the decision-making procedure regarding prior approval to acquire a qualifying holding shall be carried out *ex officio* by the Croatian National Bank or the Croatian Financial Services Supervisory Agency.

(7) If the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority has not completed the decision-making procedure regarding prior approval to acquire a qualifying holding on the date of the commencement of the conversion of relevant capital instruments or refuses to grant approval to acquire a qualifying holding, all acquisitions or increases in a qualifying holding by an acquirer resulting from the conversion of relevant capital instruments shall be subject to the provisions of Article 57, paragraphs (17) to (22) of this Act. The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall have the voting and other management rights arising from those instruments of ownership. The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall have no obligation to exercise such right and shall have no liability if it refrained from exercising such right during resolution.

Conversion rate

Article 42

(1) When acting in accordance with Article 37, paragraph (1) of this Act, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may apply a different conversion rate to different classes of relevant capital instruments and liabilities in accordance with one or both of the principles referred to in paragraphs (2) and (3) of this Article.

(2) The conversion rate shall represent appropriate compensation to the affected creditor for any loss incurred due to the write down or conversion referred to in paragraph (1) of this Article.

(3) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency applies different conversion rates in accordance with paragraph (1) of this Article, the conversion rate applicable to liabilities that are classified into higher priority claims in bankruptcy proceedings and have seniority in settlement, shall be higher than the conversion rate applicable to liabilities classified into lower priority claims.

(4) The Croatian National Bank shall adopt subordinate legislation to further regulate the conditions for determining conversion rates. The Croatian Financial Services Supervisory Agency shall adopt an implementing regulation to further regulate the conditions for determining conversion rates.

VII RESOLUTION

Notification requirement

Article 43

(1) The institution or entity referred to in Article 3, item (2), (3) or (4) of this Act shall immediately notify the Croatian National Bank or the Croatian Financial Services Agency where it deems that it meets any of the conditions referred to in Article 28, paragraphs (1) and (4) of this Act.

(2) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall without delay deliver the notification referred to in paragraph (1) of this Article, as well as the notification of any actions imposed.

Resolution administration

Article 44

(1) The appointment of a resolution administration shall have legal effects as at the moment specified in the dispositive part of the decision to open resolution proceedings.

(2) The resolution administration shall have at least two members, one of which shall be appointed the chairperson of the resolution administration. Only persons who possess adequate knowledge, skills and experience required to direct the business of an institution and who meet the criteria laid down for members of the management board pursuant to the provisions of the law governing the operation of companies may be appointed as members of the resolution administration.

(3) The provisions regarding the conditions for appointment of and prior approval for members of the management board of an institution as provided for in regulations governing the operation of credit institutions or investment firms shall not apply to the appointment of the resolution administration.

Duties of a resolution administration

Article 45

(1) The resolution administration shall take all measures that are necessary to achieve resolution objectives referred to in Article 6 of this Act and implement resolution actions in accordance with the decision to open resolution proceedings. Those measures may include an increase of capital, reorganisation of the ownership structure of the institution or takeover of its assets, rights or liabilities by institutions that are financially and organisationally sound in accordance with the selected resolution tool.

(2) The duties referred to in paragraph (1) of this Article, insofar as they are different, shall override any other duties that arise in accordance with the rules or internal bylaws of the institution.

(3) The duties referred to in paragraph (2) of this Article that arise in accordance with other rules or internal bylaws shall be exercised by the resolution administration immediately after the reasons for which their exercise jeopardised or could have jeopardised the exercise of the duties referred to in paragraph (1) of this Article cease to exist.

Appointment of a resolution administration

Article 46

(1) The resolution administration shall be appointed by the decision to open resolution proceedings and the State Agency for Deposit Insurance and Bank Resolution may by means of the same decision appoint assistants to the resolution administration to carry out assistant, administrative and technical

work ordered by the resolution administration. Assistants to a resolution administration shall not be members of the resolution administration.

(2) The decision to open resolution proceedings shall, in the part appointing the resolution administration, contain the following:

- the appointment of the chairperson and members of the resolution administration;
- the appointment of assistants to the resolution administration;
- the determination of the duration of the term of office of the resolution administration;
- the determination of the content and time limits for the submission of reports to the State Agency for Deposit Insurance and Bank Resolution on the economic and financial position of the institution and measures taken by the resolution administration in the conduct of its duties, at regular intervals set by the State Agency for Deposit Insurance and Bank Resolution and at the beginning and at the end of its term of office.

(3) The resolution administration and its assistants shall be appointed for a period not exceeding 12 months. The State Agency for Deposit Insurance and Bank Resolution may, on an exceptional basis, renew this period for a period not longer than 12 months, where it determines that conditions for appointment of the resolution administration continue to be met.

Rights and responsibilities of a resolution administration

Article 47

(1) During the term of office of the resolution administration, the State Agency for Deposit Insurance and Bank Resolution shall remove from office appointed members or assistants of the resolution administration who fail to perform their duties or fail to perform their duties in a satisfactory manner, as well as for other justified reasons. In such cases, the State Agency for Deposit Insurance and Bank Resolution shall appoint a new member or assistant to the resolution administration whose term of office may not exceed the original term of office of the resolution administration.

(2) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority determined in the course of supervision or oversight that a member of the resolution administration does not meet the criteria for appointment or does not ensure the legal operation of the institution, it shall without delay notify the State Agency for Deposit Insurance and Bank Resolution in order to enable it to take actions in accordance with paragraph (1) of this Article.

(3) The rights and responsibilities of the members of the resolution administration shall begin on the date of the adoption of the decision to open resolution proceedings regardless of the entry in the register of companies.

(4) Members of the resolution administration shall represent the institution under resolution individually and independently.

(5) Members and assistants of the resolution administration shall have the right to receive remuneration for their work to be paid by the institution under resolution or where this is not possible by the State Agency for Deposit Insurance and Bank Resolution from the resolution fund.

(6) The term of office of a resolution administration shall be terminated on the date:

- of delivery of the decision on the completion of resolution proceedings;
- of expiry of the period to which it was appointed;
- of the adoption of the decision to open bankruptcy proceedings; or
- of delivery of the decision to appoint a liquidator.

(7) The term of office of assistants to the resolution administration shall be terminated on the date of termination of the term of office of the resolution administration.

Entry in the register of companies and publication of the decision to appoint a resolution administration

Article 48

(1) A decision to appoint a resolution administration shall be entered in the register of companies. At the same time, the list of persons in the register of companies that are authorised to represent the institution under resolution shall also be changed accordingly.

(2) An application for entry of the data referred to in paragraph (1) of this Article shall be submitted by the resolution administration within three working days of the adoption of the decision to open resolution proceedings. This decision shall be enclosed with the application.

Legal effects of the appointment of a resolution administration

Article 49

(1) On the date of the adoption of the decision to open resolution proceedings all powers of former members of the institution's management and supervisory board and of its general meeting shall cease.

(2) All powers of the management board or executive directors of the board of directors of the institution under resolution shall be exercised by the resolution administration. All powers of the supervisory board or non-executive directors of the board of directors and of the general meeting of the institution under resolution shall be exercised by the State Agency for Deposit Insurance and Bank Resolution. In such a case it shall not be subject to the provisions regarding the conditions for appointment of and prior approval for members of the supervisory board of institutions in the manner provided for in the regulations governing the operation of credit institutions or investment firms.

(3) On the date of the adoption of a decision to open resolution proceedings all contracts pursuant to which former management board members were employed with the institution shall be terminated.

(4) In the case referred to in paragraph (3) of this Article, former management board members shall not be entitled to the payment of severance pay and variable remuneration, regardless of whether such right was contracted with the institution or arose from another institution bylaw and any contractual provisions on such entitlement shall be null and void.

Orders and instructions to a resolution administration

Article 50

(1) The State Agency for Deposit Insurance and Bank Resolution shall be empowered to issue written orders and instructions to the resolution administration.

(2) The resolution administration shall act on the orders and instructions of the State Agency for Deposit Insurance and Bank Resolution and regularly notify it of the execution of orders and instructions, in particular of the economic and financial situation of the institution and of the measures it has taken in the conduct of its duties, within the timeframe determined in the decision to open resolution proceedings.

(3) The resolution administration shall without delay notify the State Agency for Deposit Insurance and Bank Resolution of all circumstances which might have a negative effect on the achievement of resolution objectives referred to in Article 6 of this Act and implementation of resolution actions in accordance with the decision to open resolution proceedings.

Liability for damage

Article 51

(1) Liability for damage caused by the resolution administration or its assistants in the course of performance of their duties within the framework of this Act shall exist only if the damage has been caused intentionally or as a result of gross negligence.

(2) The State Agency for Deposit Insurance and Bank Resolution shall be responsible for the damage referred to in paragraph (1) of this Article.

Duty to cooperate on the part of former management board members and employees of the institution

Article 52

(1) Former members of the institution's management board and other authorised persons with special powers and responsibilities shall provide the resolution administration and its assistants immediate access to all business and other documentation of the institution and prepare a report on the transfer of operations to the resolution administration.

(2) Former members of the institution's management board shall provide the resolution administration or its individual members with all explanations and additional reports on the institution's operation.

(3) All employees of the institution shall be required to cooperate with the resolution administration and its assistants.

(4) Members of the resolution administration shall have the right to dismiss persons who hinder their work and, as circumstances may require, request the assistance of the competent body of the Ministry of the Interior.

Appointment of a group resolution administration

Article 53

(1) Where it is necessary to appoint a resolution administration to a member of a cross-border group, the State Agency for Deposit Insurance and Bank Resolution shall appoint a resolution administration or participate, together with other resolution authorities within the resolution college, in the discussion

regarding the appointment of the same resolution administration for all the members of the group in order to facilitate solutions redressing the financial soundness of the entities concerned.

(2) Where it is necessary to appoint a resolution administration to a member of a group that is not a cross-border group, the State Agency for Deposit Insurance and Bank Resolution may appoint the same resolution administration for some or for all the members of the group under resolution in order to facilitate solutions redressing the financial soundness of the entities concerned.

Trustee in bankruptcy

Article 54

Where bankruptcy proceedings are opened against one member of the group, the State Agency for Deposit Insurance and Bank Resolution may appoint the trustee in bankruptcy of that member of the group as a member of the resolution administration of another member of the group under resolution.

VIII WRITE DOWN AND CONVERSION OF CAPITAL INSTRUMENTS IN RESOLUTION PROCEEDINGS

Write down and conversion of capital instruments by the State Agency for Deposit Insurance and Bank Resolution

Article 55

(1) Where the decision to open resolution proceedings against the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act was adopted, the State Agency for Deposit Insurance and Bank Resolution shall, prior to implementing resolution actions that would result in losses being borne by creditors or their claims being converted, write down or convert relevant capital instruments in the manner referred to in Title VI of this Act, where this has not been done to the extent necessary by the Croatian National Bank or the Croatian Financial Services Supervisory Agency.

(2) For the purpose of converting relevant capital instruments or for the purpose of the necessary increase in the share capital of the institution under resolution, the State Agency for Deposit Insurance and Bank Resolution may reach a decision requiring the institution under resolution to issue new instruments of ownership and empower the resolution administration to implement this decision.

IX RESOLUTION TOOLS

IX.1 GENERAL PROVISIONS

General principles of resolution tools

Article 56

(1) The State Agency for Deposit Insurance and Bank Resolution shall apply one or more resolution tools to institutions under resolution:

- a) the sale of business tool;
- b) the bridge institution tool;

c) the asset separation tool; and

d) the bail-in tool.

(2) The State Agency for Deposit Insurance and Bank Resolution shall apply the resolution tools individually or in combination with other resolution tools.

(3) By way of derogation from paragraph (2) of this Article, the State Agency for Deposit Insurance and Bank Resolution shall apply the asset separation tool only together with another resolution tool.

(4) The resolution tools referred to in paragraph (1), item (a) or (b) of this Article shall be used to transfer assets, rights or liabilities of the institution under resolution. In case of a partial transfer, the State Agency for Deposit Insurance and Bank Resolution shall, at the latest by the adoption of the decision on the completion of resolution proceedings, submit a request to open bankruptcy proceedings against the residual institution. For the purpose of achieving resolution objectives and in accordance with the principles of resolution referred to in Article 7 of this Act, the trustee in bankruptcy shall carry out bankruptcy proceedings within a reasonable timeframe and in the manner enabling the recipient to continue carrying out the transferred activities or services in accordance with Article 85 of this Act.

(5) The State Agency for Deposit Insurance and Bank Resolution, the Croatian National Bank or the Croatian Financial Services Supervisory Agency, the Ministry of Finance and the resolution fund referred to in Article 114 of this Act shall be entitled to the recovery of any reasonable expenses in relation to the use of the resolution tools or powers or government financial stabilisation tools in one or more of the following ways:

1) as a deduction from any consideration paid by a recipient to the institution under resolution or shareholders;

2) from the institution under resolution as a preferred creditor; or

3) from any proceeds generated as a result of the termination of the status of a bridge institution, or the winding up or bankruptcy of a bridge institution or the asset management vehicle, as a preferred creditor in the manner in which the rights of creditors entitled to separate settlement are regulated in accordance with the law governing bankruptcy proceedings.

(6) By way of derogation from the provisions of the law governing bankruptcy proceedings, where bankruptcy proceedings have been opened against an institution under resolution, the legal acts of the transfer of title, rights or liabilities from the institution under resolution to another entity by virtue of the application of a resolution tool or exercise of a resolution power or use of a government financial stabilisation tool may not be challenged or declared null and void.

(7) Where resolution proceedings are opened against the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act, the State Agency for Deposit Insurance and Bank Resolution may apply additional tools and powers that are consistent with the resolution objectives and the general principles referred to in Article 6 and 7 of this Act, provided that the application of those additional powers does not pose obstacles to effective resolution of the cross-border group.

(8) The State Agency for Deposit Insurance and Bank Resolution may seek funding from alternative financing sources through the use of government financial stabilisation tools referred to in Title IX.6 of this Act, exceptionally in the situation of a systemic crisis and when both of the following conditions are met:

- the shareholders and the holders of relevant capital instruments and eligible liabilities contributed to the coverage of losses and recapitalisation through write down, conversion or otherwise, in the amount equal to an amount not less than 8% of total liabilities, including own funds of the institution under resolution, in accordance with the calculation at the time when the resolution action was taken pursuant to the valuation carried out in accordance with Article 35 of this Act; and
- a prior and final approval for the state aid was obtained under the European Union State aid framework.

(9) When applying the resolution tools, the provisions of the regulations governing the operation of companies shall not apply in the part relating to:

- audit requirements in relation to contributions in objects and rights, as well as special conditions for the increase in the share capital by contributions in objects and rights without the audit of that increase in the share capital;
- the obligation to convene the general meeting in the case of loss, over-indebtedness or inability to pay;
- the obligation of the general meeting to adopt a decision to increase or reduce the share capital and the disclosure of such decision;
- the authorised share capital;
- the approval of the shareholders of each class of shares conferring the right to vote in relation to the decision of the general meeting to increase or reduce the share capital of the company;
- the right of priority of the existing shareholders in relation to the acquisition of new shares of the institution under resolution;
- the protection of creditors in relation to the reduction of the share capital;
- the cancellation of shares;
- the cross-border mergers and acquisitions;
- the convening of the general meeting, participation and voting of shareholders of the undertakings whose shares are listed in the regulated market and mergers and acquisitions of joint stock companies; and
- provisions in any way whatsoever contrary to the resolution objectives.

(10) When applying the resolution tools, the provisions of regulations governing financial collateral shall not apply in the part relating to:

- collection arising from financial collateral;
- the right of use of the financial collateral;
- the recognition of title transfer financial collateral arrangements; and
- the provisions concerning early termination.

(11) When applying the resolution tools, the provisions of the regulation governing the takeover of joint stock companies shall not apply in the part relating to mandatory takeover bids.

(12) When applying the resolution tools, the competent registration court shall without delay enter the decisions of the resolution authority.

(13) Unless otherwise prescribed in this Act, for the duration of the resolution proceedings shareholders shall have no rights arising from shares or other instruments of ownership of the institution under resolution.

(14) The Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority may allow the institution under resolution not to meet one or more requirements arising from the regulations governing the operation of credit institutions or investment firms for a certain period of time.

(15) After the grounds for opening resolution proceedings cease to exist or after all necessary resolution action has been taken, the State Agency for Deposit Insurance and Bank Resolution shall, after consulting the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority, adopt a decision on the completion of the resolution proceedings.

IX.2 SALE OF BUSINESS TOOL

Sale of business tool

Article 57

(1) The sale of business tool is carried out through the sale of, except to a bridge institution, and some other buyer:

a) the assets, rights or liabilities of the institution under resolution in whole or in part; or

b) shares or other instruments of ownership issued by the institution under resolution.

(2) Where the decision on the resolution specifies that resolution is to be carried out by means of the sale of the assets, rights or liabilities of the institution under resolution in whole or in part, the State Agency for Deposit Insurance and Bank Resolution shall reach a decision to sell individual parts or total assets, rights or liabilities of the institution under resolution and shall empower the resolution administration to effect the sale.

(3) Where the decision on the resolution specifies that resolution is to be carried out by means of the sale of shares or other instruments of ownership issued by the institution under resolution, the State Agency for Deposit Insurance and Bank Resolution shall reach a decision to sell these instruments of ownership to a particular buyer.

(4) The sale referred to in paragraph (1) of this Article shall not be subject to the approval of the shareholders of the institution under resolution, its creditors or other third parties.

(5) The State Agency for Deposit Insurance and Bank Resolution shall without delay deliver the decision on the sale referred to in paragraph (2) or (3) of this Article to the institution under resolution and to the Croatian National Bank or the Croatian Financial Services Supervisory Agency.

(6) The institution under resolution shall without delay notify thereof the persons the decision pertains to in the part relevant to them.

(7) The acquirer who acquired the instruments of ownership of the institution under resolution shall have all property rights arising from such instruments of ownership, while voting and other management rights arising from shares shall be subject to paragraph (20) of this Act.

(8) The procedural requirements specified in paragraphs (15) to (22) of this Article and in Article 33 of this Act shall apply to the sale procedure referred to in paragraph (1) of this Article, while procedural requirements of regulations governing the operation of companies and the capital market shall not apply in the part which would be contrary to this Article and the purpose of the sale of business tool.

(9) The sale referred to in paragraph (2) and (3) of this Article shall be carried out on commercial terms, having regard to the circumstances of the case and in accordance with the European State aid framework.

(10) In accordance with paragraph (9) of this Article, the State Agency for Deposit Insurance and Bank Resolution shall, having regard to the circumstances of the case, take all reasonable steps to obtain the best possible terms of the sale, starting from the valuation conducted in accordance with Article 35 of this Act, or, where applicable, in accordance with Article 36 of this Act.

(11) The State Agency for Deposit Insurance and Bank Resolution shall pay out the amount obtained through sale, reduced by the consideration specified under Article 56, paragraph (5) of this Act to:

a) the shareholders, where the sale of their shares or other instruments of ownership has been effected which have been transferred from shareholders to the buyer during resolution; and

b) the institution under resolution, where the sale of assets, rights or liabilities of the institution under resolution in whole or in part has been effected by the transfer from the institution under resolution to the buyer.

(12) The State Agency for Deposit Insurance and Bank Resolution may effect the sale referred to in paragraph (2) or (3) of this Article more than once.

(13) After effecting the sale referred to in paragraph (2) or (3) of this Article, the State Agency for Deposit Insurance and Bank Resolution may reach a decision and conclude a contract with the buyer by which the buyer transfers the assets, rights and/or liabilities back to the institution under resolution, or transfers the shares or other instruments of ownership back to the shareholders, and the institution under resolution or shareholders shall be obliged to take back any such assets, rights or liabilities, or shares or other instruments of ownership.

(14) In the case of the sale referred to in paragraph (2) of this Article of the assets, rights or liabilities of the institution under resolution, the buyer shall have all appropriate authorisations to carry out the business that is the subject of the sale.

(15) In the case of the sale referred to in paragraph (3) of this Article and in the case of subscription of newly issued shares or other instruments of ownership of the institution under resolution, the buyer of a qualifying holding shall at the moment of sale or subscription have the approval to acquire a qualifying holding in accordance with the regulations governing the operation of credit institutions and regulations governing the operation of investment firms. The Croatian National Bank or the Croatian Financial Services Supervisory Agency as a competent authority shall decide on the application to acquire a qualifying holding within 15 days of submission of a valid application.

(16) By way of derogation from paragraph (15) of this Article, in order to avoid delays in the sale or prevention of the resolution action from achieving the relevant resolution objectives, the State Agency for Deposit Insurance and Bank Resolution may effect the sale before the expiry of the time limit for deciding on the application referred to in paragraph (15) of this Article, and the Croatian National

Bank or the Croatian Financial Services Supervisory Agency as the competent authority shall decide on the application to acquire a qualifying holding at a later time.

(17) In the case referred to in paragraph (15) of this Article, where the buyer acquired a qualifying holding in accordance with paragraph (16) of this Article, the sales contract shall have legal effects and a transfer of ownership may be effected. The buyer that acquired shares or other instruments of ownership of the institution under resolution shall have all property rights arising from these instruments of ownership. The State Agency for Deposit insurance and Bank Resolution shall have the voting and other management rights arising from these instruments of ownership. The State Agency for Deposit insurance and Bank Resolution shall have no obligation to exercise such right and shall have no liability if it refrained from exercising such right during resolution.

(18) In the case referred to in paragraph (15) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority shall not undertake actions for the acquisition without approval that are provided for in the regulations governing the operations of credit institutions and investment firms nor file an indictment.

(19) Upon the completion of the decision-making procedure regarding prior approval to acquire a qualifying holding, the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority shall without delay deliver the decision to the applicant and the State Agency for Deposit Insurance and Bank Resolution.

(20) Upon obtaining the approval to acquire a qualifying holding, or where this is not necessary, upon the adoption of the decision on the sale, the voting rights arising from these instruments of ownership shall be transferred from the State Agency for Deposit Insurance and Bank Resolution to the acquirer. Upon obtaining the decision referred to in paragraph (19) of this Article, or where this is not necessary, upon the adoption of the decision on the sale, the State Agency for Deposit Insurance and Bank Resolution shall order the resolution administration to convene the general meeting of the institution under resolution for the purpose of appointing a supervisory board of the institution under resolution. The credit institution under resolution shall submit an application for appointment of the members of the supervisory board to the Croatian National Bank as the competent authority.

(21) In the case referred to in paragraph (15) of this Article, where the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority refuses the application for approval to acquire a qualifying holding, the voting and other management rights arising from these shares or other instruments of ownership shall continue to be held by the State Agency for Deposit Insurance and Bank Resolution, which may order the sale of the shares or other instruments of ownership for which the acquirer failed to obtain the necessary approval within the set time limit or effect the sale of these instruments of ownership and notify thereof the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority.

(22) Where the acquirer, within the period set in the order by the State Agency for Deposit Insurance and Bank Resolution, fails to sell the shares or other instruments of ownership, the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority shall, with the approval of the State Agency for Deposit Insurance and Bank Resolution, take measures provided for the acquisition without approval that are provided for in the regulations governing the operation of credit institutions or the regulations governing the operation of investment firms and file an indictment.

(23) Transfers arising from the sale of business tool shall be subject to safeguards in accordance with the provisions of Title XII of this Act.

(24) The rights necessary for the direct provision of services or establishment of a branch in another Member State in relation to the transferred assets, rights or liabilities shall be transferred from the

institution under resolution to the buyer. The buyer shall be considered to be the legal successor of the institution under resolution in respect of the transferred assets, rights or liabilities. The buyer shall step in the place of the institution under resolution with regard to all procedures in which the institution under resolution participated in respect of the transferred assets, rights and liabilities irrespective of the consent of the counterparty.

(25) In applying paragraph (14) of this Article, the buyer may continue to exercise the rights of membership and access to payment and settlement systems, stock exchange, investor compensation scheme or deposit guarantee scheme of the institution under resolution, provided that it meets the participation criteria for participation in such systems. Access cannot be denied on the ground that the buyer does not possess a rating from a credit rating agency, or that rating is not commensurate to the rating levels required to be granted access to such systems.

(26) By way of derogation from paragraph (25) of this Article, where the buyer does not meet the membership or participation criteria for a payment or settlement system, stock exchange, investor compensation scheme or deposit guarantee scheme, the State Agency for Deposit Insurance and Bank Resolution, the Croatian National Bank or the Croatian Financial Services Supervisory Agency depending on their competence may grant that the rights referred to in paragraph (25) of this Article are exercised for such a period of time as specified, not exceeding 24 months from the sale of assets, rights and liabilities of the institution under resolution. This time limit may be extended at the request of the buyer.

(27) The shareholders or creditors of the institution under resolution and other third parties whose assets, rights or liabilities are not sold by means of the sale of business tool shall not have any rights over or in relation to the assets, rights or liabilities, except the right to safeguards referred to in Title XII of this Act.

Procedural requirements in relation to the sale of business tool

Article 58

(1) The sale of assets, rights or liabilities, shares or other instruments of ownership of the institution under resolution shall be carried out by the State Agency for Deposit Insurance and Bank Resolution. Pools of rights, assets and liabilities may be sold separately.

(2) The sale referred to in paragraph (1) of this Article shall be carried out in accordance with the following criteria:

1) transparency, to the extent possible, and no misrepresentation of the assets, rights, liabilities, shares or other instruments of ownership of the institution under resolution, having regard to the need to maintain financial stability;

2) no discrimination between potential buyers;

3) avoidance of any conflict of interest;

4) urgency of the resolution proceedings; and

5) acting as a prudent businessperson.

(3) The State Agency for Deposit Insurance and Bank Resolution may strive to effect the sale to a certain category of buyers or arrange the sale directly with a particular buyer, which shall not

constitute a breach of the principle of no discrimination between potential buyers referred to in paragraph (2), item (2) of this Article.

(4) In order to ensure financial stability, any disclosure of the information on the sale of the institution under resolution and negotiations with potential buyers prior to the sale may be delayed in the manner provided for in Article 17, paragraph (4) or (5) of Regulation (EU) No 596/2014 for a period required to plan and carry out the resolution of the institution.

(5) The State Agency for Deposit Insurance and Bank Resolution may carry out the sale without public disclosure when it determines that such disclosure would undermine or make it difficult to meet one or more of the resolution objectives and in particular if the following conditions are met:

1) it considers that there is a material threat to financial stability arising from the likely failure of the institution under resolution; and

2) it considers that public disclosure would be likely to undermine the effectiveness of the sale or achieving the resolution objective referred to in Article 6, paragraph (2), item (2) of this Act.

(6) The State Agency for Deposit Insurance and Bank Resolution shall further regulate in an implementing regulation:

– procedural requirements to be applied to the sale; and

– facts and circumstances that pose a material threat to financial stability and the elements relating to the effectiveness of the sale of business tool referred to in paragraph (5) of this Article.

IX.3 BRIDGE INSTITUTION TOOL

Bridge institution tool

Article 59

(1) The bridge institution tool is effected through the transfer of:

1) shares or other instruments of ownership issued by one or more institutions under resolution;

2) assets, rights or liabilities of one or more institutions under resolution in whole or in part to a bridge institution.

(2) Where the decision on the resolution specifies that resolution is to be carried out by means of the bridge institution tool through the transfer of shares or other instruments of ownership issued by one or more institutions under resolution, the State Agency for Deposit Insurance and Bank Resolution shall reach a decision to establish a bridge institution through the transfer of the instruments of ownership of the institution under resolution. The bridge institution shall be a legal person and shall be considered an institution under resolution.

(3) Where the decision on the resolution specifies that resolution is to be carried out by means of the bridge institution tool through the transfer of the assets, rights or liabilities of the institution under resolution in whole or in part to the bridge institution, the State Agency for Deposit Insurance and Bank Resolution shall reach a decision to divide the institution under resolution by establishing a bridge institution with the assets, rights and liabilities of the institution under resolution and empower the resolution administration to effect the transfer to the bridge institution established for this purpose. The bridge institution shall be a legal person and shall be considered an institution under resolution.

(4) The transfer referred to in paragraph (1) of this Article shall not require the consent of the shareholders of the institution under resolution or any third party or compliance with any procedural requirements of the laws governing the operation of companies or the capital market in the part governing the division of corporations of capital and the purpose of the bridge institution. The transfer referred to in paragraph (1) of this Article shall be subject to legal remedy in the manner referred to in Article 33 of this Act.

(5) The bridge credit institution referred to in paragraph (3) of this Article shall be established as a joint stock company whose shares or other instruments of ownership shall be wholly or partially subscribed by the State Agency for Deposit Insurance and Bank Resolution. A bridge investment firm shall be established as a limited liability company or a joint stock company whose shares or other instruments of ownership shall be wholly subscribed by the State Agency for Deposit Insurance and Bank Resolution.

(6) The bridge institution referred to in paragraph (2) of this Article shall be established as a company within a group which is established as a limited liability company or a joint stock company whose shares or other instruments of ownership shall be wholly or partially subscribed by the State Agency for Deposit Insurance and Bank Resolution.

(7) The State Agency for Deposit Insurance and Bank Resolution shall without delay deliver the decision referred to in paragraph (2) or (3) of this Article to the institution under resolution and the Croatian National Bank or the Croatian Financial Services Supervisory Agency and the Central Depository and Clearing Company.

(8) The bridge institution shall without delay notify the persons the decision pertains to in the part relevant to them of the decision referred to in paragraph (2) or (3) of this Act.

(9) The Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority shall at the request of the State Agency for Deposit Insurance and Bank Resolution issue a provisional authorisation at least for the provision of services transferred to the bridge institution and in it specify the time limit in which the bridge institution is not obliged to comply with the statutory requirements for authorisation.

(10) The State Agency for Deposit Insurance and Bank Resolution shall, within 24 hours of reaching the decision to establish a bridge institution at the latest, submit an application for entry of the establishment of the bridge institution in the register of companies. The registration court shall decide on the entry of all data from the application submitted by the State Agency for Deposit Insurance and Bank Resolution under an emergency procedure, and the entry procedure may not take longer than 24 hours from submission of the application.

(11) The resolution administration appointed in the decision to open resolution proceedings shall have the power of the management board of the bridge institution. The powers of the supervisory board or non-executive directors of the board of directors of the institution under resolution and of the general meeting of the bridge institution shall be exercised by the State Agency for Deposit Insurance and Bank Resolution. The resolution administration shall, within the time limit set by the State Agency for Deposit Insurance and Bank Resolution and subject to its approval, adopt the strategy and risk profile of the bridge institution and shall without delay deliver it to the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority.

(12) The decision referred to in paragraph (2) or (3) of this Article shall contain the decision on the issuance of shares or other instruments of ownership of the bridge institution. Pursuant to this decision the State Agency for Deposit Insurance and Bank Resolution shall empower the resolution administration to carry out the issue. The capital of the bridge institution shall be subscribed by the State Agency for Deposit Insurance and Bank Resolution and it shall be created by:

- a) a transfer of surplus of assets over liabilities; or
- b) a payment from the resolution fund.

(13) The provisions regarding the application to acquire a qualifying holding of the regulation governing the operation of credit institutions or the regulation governing the operation of investment firms shall not apply to the subscription of capital by the State Agency for Deposit Insurance and Bank Resolution.

(14) The State Agency for Deposit Insurance and Bank Resolution shall adopt the Articles of Association or a deed of establishment or a memorandum.

(15) By way of derogation from the regulation governing the operation of companies and the regulation governing the application for entry in the register of companies, the State Agency for Deposit Insurance and Bank Resolution shall enclose with the application for entry:

- the decision to open resolution proceedings referred to in Article 29 of this Act;
- the decision to divide the institution under resolution by establishing a bridge institution referred to in paragraph (3) of this Article or a decision to establish a bridge institution through the transfer of shares or other instruments of ownership of the institution under resolution referred to in paragraph (2) of this Article;
- provisional authorisation of the Croatian National Bank or the Croatian Financial Services Supervisory Agency for the provision of services to be transferred to the bridge institution; and
- the Articles of Association or a deed of establishment or a memorandum.

Application of the bridge institution tool

Article 60

(1) Where the procedure in accordance with Article 65, paragraph (1), item (b) of this Act is carried out as part of the application of the bridge institution tool, the State Agency for Deposit Insurance and Bank Resolution shall continue to control the bridge institution.

(2) When applying the bridge institution tool the total value of liabilities transferred to the bridge institution shall not exceed the total value of the rights and assets transferred from the institution under resolution or rights and assets provided by other sources.

(3) The State Agency for Deposit Insurance and Bank Resolution shall pay out the amount obtained through the sale of the bridge institution, reduced by the consideration specified under Article 56, paragraph (5) of this Act to:

- a) the shareholders of the institution under resolution, where the bridge institution has been established by the transfer of their shares or other instruments of ownership;
- b) the institution under resolution, where the bridge institution has been established through the transfer, in whole or in part, of the assets, rights or liabilities of the institution under resolution.

(4) The State Agency for Deposit Insurance and Bank Resolution may effect the transfer referred to in Article 59, paragraph (1) of this Act more than once.

(5) After establishing the bridge institution the State Agency for Deposit Insurance and Bank Resolution may adopt a supplement to the decision referred to in Article 59, paragraph (2) or (3) of this Act by which it:

a) transfers the rights, assets or liabilities back from the bridge institution to the institution under resolution, or the shares or other instruments of ownership back to the shareholders of the institution under resolution, and the institution under resolution or the shareholders of the institution under resolution shall be obliged to take back any such assets, rights or liabilities, or shares or other instruments of ownership, provided that the conditions referred to in paragraph (6) of this Article are met;

b) transfers shares or other instruments of ownership, or assets, rights or liabilities from the bridge institution to a third party.

(6) The supplement of the decision referred to in paragraph (5), item (a) of this Article may be adopted provided that at least one of the following conditions is met:

a) such a possibility is stated expressly in the decision referred to in Article 59, paragraph (2) or (3) of this Act;

b) the specific shares or other instruments of ownership, assets, rights or liabilities do not meet the conditions or fall within the classes of shares or other instruments of ownership, assets, rights or liabilities specified in the contract by which the transfer was made.

(7) The transfer back referred to in paragraph (5), item (a) of this Article may be made at any moment until the adoption of the decision on the completion of resolution proceedings and shall comply with the conditions referred to in paragraph (6) of this Article and other conditions specified in the decision establishing the bridge institution or all supplements to such decision.

(8) The transfer between the institution under resolution or shareholders of the institution under resolution on the one hand, and the bridge institution on the other, shall be subject to safeguards referred to in Title XII of this Act.

(9) The rights necessary for the direct provision of services or establishment of a branch in another Member State in relation to the transferred assets, rights or liabilities shall be transferred from the institution under resolution to the bridge institution. The bridge institution shall be considered to be the legal successor of the institution under resolution in respect of the transferred assets, rights or liabilities. The bridge institution shall step in the place of the institution under resolution with regard to all procedures in which the institution under resolution participated in respect of the transferred assets, rights and liabilities irrespective of the consent of the counterparty.

(10) The bridge institution referred to in Article 59, paragraph (2) or (3) of this Act may continue to exercise the rights of membership and access to payment and settlement systems, stock exchange, investor compensation scheme or deposit guarantee scheme of the institution under resolution, provided that it meets the participation criteria for participation in such systems. Access cannot be denied on the ground that the bridge institution does not possess a rating from a credit rating agency, or that rating is not commensurate to the rating levels required to be granted access to such systems.

(11) By way of derogation from paragraph (10) of this Article, where the institution under resolution does not meet the membership or participation criteria for a payment or settlement system, stock exchange, investor compensation scheme or deposit guarantee scheme, the State Agency for Deposit Insurance and Bank Resolution, the Croatian National Bank or the Croatian Financial Services Supervisory Agency within the framework of its competence may grant that the rights referred to in paragraph (10) of this Article are exercised for such a period of time as specified, not exceeding 24

months of reaching the decision to establish a bridge institution. This time limit may be extended at the request of the bridge institution.

(12) The shareholders or creditors of the institution under resolution and other third parties whose assets, rights or liabilities are not transferred to the bridge institution shall not have any rights over or in relation to the transferred assets, rights or liabilities, except the right to safeguards referred to in Title XII of this Act.

(13) The bridge institution and the senior management shall have no liability to shareholders or creditors of the institution under resolution or to the creditors of the bridge institution for acts and omissions in the discharge of their duties unless the damage is a result of gross negligence or gross breach of work duties.

(14) The liability for damage caused by the resolution administration in the course of performance of its duty of the management board of the bridge institution or by assistants to the resolution administration caused in the course of performance of their activities shall exist only if the damage has been caused intentionally or as a result of gross negligence. The State Agency for Deposit Insurance and Bank Resolution shall be responsible for the damage.

Operation of a bridge institution

Article 61

(1) When established the bridge institution must meet the requirements referred to in Regulation (EU) No 575/2013 and the regulations governing the operation of credit institutions or the regulations governing the operation of investment firms and shall be subject to supervision or oversight in accordance with these regulations.

(2) By way of derogation from paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority may, at the request of the bridge institution, allow the bridge institution to meet some of the requirements referred to in paragraph (1) of this Article within a particular time limit.

(3) The bridge institution shall operate in accordance with the European Union State aid framework and the State Agency for Deposit Institution and Bank Resolution may specify restrictions on its operations accordingly.

(4) The resolution administration shall manage the bridge institution in the manner which ensures the continuity of critical functions with a view to sell the bridge institution or the bridge entity referred to in Article 3, paragraph (1), item (2), (3) or (4) of this Act, their assets, rights or liabilities in accordance with the conditions referred to in Article 62 of this Act and the time limits referred to in Article 63 of this Act subject to the European Union legal framework and regulations governing the protection of free market competition.

Sale of a bridge institution

Article 62

The State Agency for Deposit Insurance and Bank Resolution shall effect the sale of the bridge institution or its assets, rights or liabilities under market conditions and in accordance with the European Union State aid framework, subject to the following principles:

a) transparency and, to the extent possible, no misrepresentation of the assets, rights, liabilities; and

b) no discrimination between potential buyers.

Termination of a bridge institution

Article 63

(1) The State Agency for Deposit Insurance and Bank Resolution shall reach a decision on the termination of the status of a bridge institution as an institution under resolution where the bridge institution no longer meets the conditions referred to in Article 59, paragraphs (2), (3), (5) and (6) of this Act.

(2) The State Agency for Deposit Insurance and Bank Resolution shall reach a decision on the termination of the bridge institution in the following cases:

a) where it sells the assets, rights or liabilities, or the majority thereof; or

b) where its assets are fully paid up and its liabilities are completely discharged.

(3) The bridge institution shall cease to exist in the following cases:

a) if the bridge institution merges with another undertaking, as at the date of the entry in the register of companies of a new undertaking; or

b) if the bridge institution is merged by acquisition with another undertaking, as at the date of the entry in the register of companies of the recipient undertaking.

(4) If none of the circumstances referred to in paragraph (1), (2) or (3) of this Article have occurred, the State Agency for Deposit Insurance and Bank Resolution shall reach a decision on the termination of the status of a bridge institution at the latest two years of the latest decision on transfer from or to the bridge institution.

(5) The State Agency for Deposit Insurance and Bank Resolution may extend the period referred to in paragraph (4) of this Article by one or more additional one-year periods where such an extension:

a) supports the occurrence of the circumstances referred to in paragraph (1), (2) or (3) of this Article; or

b) ensures the continuity of critical functions of the bridge institution.

(6) The decision referred to in paragraph (5) of this Article must be fully reasoned and contain a detailed assessment of the situation, including market conditions and reasons for the extension.

(7) In the case referred to in paragraphs (2) and (4) of this Article, the State Agency for Deposit Insurance and Bank Resolution shall without delay initiate the winding-up proceedings of the bridge institution or submit a request to open bankruptcy proceedings.

(8) The amount remaining after the winding up or bankruptcy of the bridge institution referred to in paragraph (7) of this Article shall be paid to the State Agency for Deposit Insurance and Bank Resolution which shall, reduced by the consideration specified under Article 56, paragraph (5) of this Act, credit the amount to the shareholders of the bridge institution.

(9) Where the bridge institution is used for the transfer of assets and liabilities of more than one institution under resolution, the obligation referred to in paragraph (7) of this Article shall refer to the

assets and liabilities transferred from each of the institutions under resolution and not to the bridge institution itself.

IX.4 ASSET SEPARATION TOOL

Asset separation tool

Article 64

(1) Where the decision on the resolution specifies that resolution is to be carried out also by means of the asset separation tool, the State Agency for Deposit Insurance and Bank Resolution shall reach a decision on the transfer of assets, rights or liabilities of the institution under resolution or of the bridge institution to one or more asset management vehicles.

(2) The transfer referred to in paragraph (1) of this Article shall not require the consent of the shareholders of the institution under resolution or any third party or compliance with any procedural requirements of the law governing the operation of companies or the capital market that are contrary to this Article. The transfer referred to in paragraph (1) of this Article shall be subject to the right to legal remedy referred to in Article 33 of this Act.

(3) The asset management vehicle shall be a legal person established by the State Agency for Deposit Insurance and Bank Resolution for the purpose of receiving some or all of the assets, rights and liabilities of one or more institutions under resolution or a bridge institution. The start up capital of the asset management vehicle may be paid in by the State Agency for Deposit Insurance and Bank Resolution from the resolution fund.

(4) The asset management vehicle is wholly or partially owned by the State Agency for Deposit Insurance and Bank Resolution and is controlled by it.

(5) The asset management vehicle manages the assets and rights transferred to it with the due diligence of a prudent businessperson with a view to maximising their value through sale or winding-up, or bankruptcy.

(6) Depending on the asset management vehicle's ownership structure, the State Agency for Deposit Insurance and Bank Resolution either adopts or approves its instruments of incorporation.

(7) Depending on the asset management vehicle's ownership structure, the State Agency for Deposit Insurance and Bank Resolution either appoints or approves the vehicle's management body.

(8) The State Agency for Deposit Insurance and Bank Resolution approves the remuneration of members of the asset management vehicle's management body and determines their duties, rights and responsibilities and the strategy and risk profile of the asset management vehicle.

(9) The State Agency for Deposit Insurance and Bank Resolution shall reach a decision referred to in paragraph (1) of this Article only if:

a) the situation of the particular market for those assets is of such a nature that the sale of such assets within the framework of winding-up or bankruptcy proceedings would have an adverse effect on one or more financial markets;

b) such a transfer is necessary to ensure the proper functioning of the institution under resolution or bridge institution; or

c) such a transfer is necessary to maximise liquidation proceeds.

(10) When applying the asset separation tool, the State Agency for Deposit Insurance and Bank Resolution shall, based on the valuation carried out in accordance with Article 35 of this Act, determine the consideration for which assets, rights and liabilities are transferred to the asset management vehicle in accordance with the European Union State aid framework. This provision does not prevent the consideration having nominal or negative value.

(11) The asset management vehicle in respect of the assets, rights or liabilities acquired directly from the institution under resolution shall pay to the State Agency for Deposit Insurance and Bank Resolution consideration which, reduced by the amount specified in Article 56, paragraph (5) of this Act, is paid to the institution under resolution. The consideration may be paid in the form of debt issued by the asset management vehicle.

(12) Where the asset separation tool is used together with the bridge institution tool, the asset management vehicle may, subsequent to the application of the bridge institution tool, acquire assets, rights or liabilities from the bridge institution. The consideration referred to in paragraph (11) of this Article shall be paid to the bridge institution.

(13) When using this tool, the State Agency for Deposit Insurance and Bank Resolution may reach more than one decision on the transfer of assets, rights or liabilities from the institution under resolution to one or more asset management vehicles, or decisions on the transfer of assets, rights or liabilities back from one or more asset management vehicles to the institution under resolution under the conditions referred to in paragraph (14) of this Article. The institution under resolution shall be obliged to take back any such assets, rights or liabilities specified in such decision.

(14) The State Agency for Deposit Insurance and Bank Resolution may reach a decision on the transfer back of assets, rights or liabilities from the asset management vehicle to the institution under resolution in one of the following circumstances:

a) such a possibility of the transfer back is stated expressly in the contract by which the transfer of assets, rights or liabilities was made; or

b) the specific rights, assets or liabilities do not fall within the classes of, or meet the conditions for transfer of, rights, assets or liabilities specified in the contract by which the transfer was made.

(15) In the cases referred to in paragraph (14) of this Article, the transfer back may be made within any period and shall comply with any other conditions stated in the contract by which the transfer was made.

(16) The shareholders or creditors of the institution under resolution and other third parties whose assets, rights or liabilities are not transferred to the asset management vehicle shall not have any rights over or in relation to the transferred assets, rights or liabilities, except the right to safeguards referred to in Title XII of this Act.

(17) The asset management vehicle, the management board and the senior management of the asset management vehicle shall have no liability to shareholders or creditors of the institution under resolution or to the creditors of the bridge institution for acts and omissions in the discharge of their duties unless the damage is a result of gross negligence or gross breach of work duties.

(18) The asset management vehicle shall step in the place of the institution under resolution or of the bridge institution with regard to all procedures in which the institution under resolution or the bridge institution participated in respect of the transferred assets, rights and liabilities irrespective of the consent of the counterparty. The asset management vehicle shall be considered to be the legal

successor of the institution under resolution or the bridge institution in respect of the transferred assets, rights or liabilities.

(19) The State Agency for Deposit Insurance and Bank Resolution shall adopt an implementing regulation to further regulate the conditions referred to in paragraph (9), item (a) of this Article.

IX.5 BAIL-IN TOOL

Bail-in tool

Article 65

(1) Where the decision on the resolution specifies that resolution is to be carried out by means of the bail-in tool, the State Agency for Deposit Insurance and Bank Resolution shall specify in this decision that it is to be implemented by:

a) an increase in the share capital of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act to the extent sufficient to restore its ability to comply with the conditions for authorisation and to continue to carry out the activities for which it is authorised and to sustain market confidence; or

b) to convert claims or debt instruments to shares or other instruments of ownership or to reduce the principal amount of claims or debt instruments that are transferred:

– to a bridge institution with a view to providing capital for that bridge institution; or

– by applying the sale of business tool or the asset separation tool.

(2) The State Agency for Deposit Insurance and Bank Resolution shall reach the decision referred to in paragraph (1), item (a) of this Article, if there is a reasonable prospect that the application of that tool, together with other measures, including measures implemented in accordance with the business reorganisation plan referred to in Article 74 of this Act will restore the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act to financial soundness and long-term viability.

(3) Where the State Agency for Deposit Insurance and Bank Resolution does not reach the decision referred to in paragraph (1), item (a) of this Article, it shall reach the decision referred to in paragraph (1), item (b) of this Article.

(4) When applying the bail-in tool to the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act their legal form may be changed.

Eligible liabilities

Article 66

(1) The bail-in tool shall be applied to all liabilities of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act.

(2) By way of derogation from paragraph (1) of this Article, the State Agency for Deposit Insurance and Bank Resolution may not write down or convert:

a) deposits covered in accordance with the regulation governing deposit insurance;

b) secured liabilities, in the part covered by insurance, including covered bonds and liabilities in the form of financial instruments used for hedging against risk which form an integral part of the cover pool and which are secured in a way similar to covered bonds. The State Agency for Deposit Insurance and Bank Resolution shall ensure that all assets used as a covered bond cover pool remain unaffected, segregated and with enough funding to cover such liabilities;

c) liabilities that arise by virtue of the management by the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act of client assets or client money, including client assets or client money managed by asset management companies in accordance with the law governing the operation of open-ended investment funds or alternative investment funds, provided that such client assets do not enter the bankruptcy estate of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act, should the institution or entity be subject to bankruptcy proceedings;

d) liabilities secured by virtue of a fiduciary relationship between the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act as fiduciary and another person as beneficiary, provided that such a beneficiary is protected under the law governing the bankruptcy proceedings or under civil law;

e) liabilities to institutions, excluding liabilities to members of the same group, with an original maturity of less than seven days;

f) liabilities with a remaining maturity of less than seven days, owed to systems for the settlement of transfer orders or operators of these systems or their participants in accordance with the regulations governing settlement finality in payment and financial instruments settlement systems, arising from the participation in such a system;

g) a liability to any one of the following:

– an employee, in relation to all remuneration, except for the variable component of remuneration that is not regulated by a collective bargaining agreement and variable remuneration of employees who have a significant influence on the risk profile of the institution in accordance with the regulations governing the operation of credit institutions and the capital market;

– a creditor, pursuant to the contract on the provision of goods or services to the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act, that are critical to the daily functioning of operations, including IT services, utilities and the rental, servicing and upkeep of premises;

– tax authorities and authorities competent for health insurance pension insurance and other benefits under the umbrella of social insurance, provided that such liabilities are preferred in accordance with the law governing bankruptcy proceedings; and

– deposit guarantee schemes based on contributions due in accordance with the regulations governing insurance of deposits with credit institutions.

Exclusion or partial exclusion of eligible liabilities

Article 67

(1) By way of derogation from Article 66 of this Act, the State Agency for Deposit Insurance and Bank Resolution may exclude or partially exclude certain liabilities from the application of the bail-in tool where:

a) it is not possible to write down or convert the liability within a reasonable time notwithstanding the good faith efforts of the State Agency for Deposit Insurance and Bank Resolution;

- b) the exclusion is necessary to achieve the continuity of critical functions and core business lines;
- c) the exclusion is necessary to avoid giving rise to contagion of adverse effects to the financial system, in particular as regards deposits which are eligible for insurance in accordance with the regulations governing deposit insurance in excess of the amount of coverage, which would severely disrupt the functioning of financial markets, including of financial market infrastructures, in a manner that could cause a serious disruption in the economy of the Republic of Croatia or the economy of the European Union; or
- d) the application of the bail-in tool to those liabilities would result in higher losses borne by other creditors.

(2) Where the State Agency for Deposit Insurance and Bank Resolution decides to exclude or partially exclude an eligible liability in accordance with paragraph (1) of this Article, the level of write down or conversion applied to other eligible liabilities may be increased to take account of such exclusions, provided that the level of write down and conversion applied to other eligible liabilities complies with the principle referred to in Article 7, paragraph (1), item (7) of this Act.

(3) When reaching the decision referred to in paragraph (1) of this Article, the State Agency for Deposit Insurance and Bank Resolution shall take into account:

- a) the principle that losses are first to be absorbed by the shareholders and then creditors of the institution under resolution in accordance with the order of priority of settlement provided for in the law governing bankruptcy proceedings;
- b) the ability of the institution under resolution to absorb the losses it would sustain in case of the exclusion of liabilities; and
- c) the need to ensure appropriate funding for the resolution.

(4) Prior to reaching the decision referred to in paragraph (1) of this Article, the State Agency for Deposit Insurance and Bank Resolution shall notify the European Commission thereof.

Use of the resolution fund where eligible liabilities are excluded or partially excluded

Article 68

(1) Where the State Agency for Deposit Insurance and Bank Resolution decides to exclude or partially exclude eligible liabilities in accordance with Article 67 of this Act and the losses have not been passed on fully to other creditors in accordance with Article 67, paragraph (2) of this Act, the resolution fund may be used to cover the difference in order to:

- a) absorb any losses which have not been passed on fully to other creditors in order for the net value of the institution under resolution to be zero in accordance with Article 69, paragraph (1), item (a) of this Act; or
- b) purchase shares or other instrument of ownership or other capital instruments in the institution under resolution in order to increase the own funds of the institution in accordance with Article 69, paragraph (1), item (b) of this Act.

(2) The State Agency for Deposit Insurance and Bank Resolution may use the resolution fund for the purposes referred to in paragraph (1) of this Article:

a) where shareholders and other creditors, through write down, conversion or otherwise, participated in the loss absorption and the increase of the share capital in the amount not less than 8% of the total liabilities, including own funds items of the institution under resolution, measured at the time of resolution action in accordance with the valuation referred to in Article 35 of this Act; and

b) up to the amount of 5% of the total liabilities of the institution under resolution, including own funds items of the institution under resolution, measured at the time of resolution action in accordance with the valuation referred to in Article 35 of this Act.

(3) The sources of funds of the resolution fund used in accordance with paragraph (1) of this Article are:

a) *ex-ante* contributions in accordance with Article 115, paragraph (1) and Article 118 of this Act;

b) *ex-post* contributions which cannot exceed the amount that can be raised through *ex-post* contribution within three years in accordance with Article 115, paragraph (1), item (b) and Article 119 of this Act; and

c) the amounts raised from alternative financing sources in accordance with Article 120 of this Act, where the contributions referred to in items (a) and (b) of this paragraph are insufficient.

(4) In extraordinary circumstances, the State Agency for Deposit Insurance and Bank Resolution may seek further funding from alternative financing sources referred to in paragraph (3), item (c) of this Article, where all of the following conditions are met:

a) the amount of the funds used from the resolution fund has reached the 5% limit specified in paragraph (2), item (b) of this Article; and

b) all unsecured liabilities, other than eligible deposits, that are non-preferred liabilities under the law governing bankruptcy proceedings, have been written down in or converted to capital instruments in full.

(5) Where the conditions referred to in paragraph (4), items (a) and (b) of this Article are met, the State Agency for Deposit Insurance and Bank Resolution may subsequently contribute the funds from the resolution fund to the institution under resolution and in the case where the funds which have been raised through *ex-ante* contributions have not yet been fully used.

(6) By way of derogation from paragraph (2), item (a) of this Article, the State Agency for Deposit Insurance and Bank Resolution may for the purpose of paragraph (1) of this Article make a contribution from the funds of the resolution fund to the institution under resolution provided that:

a) the persons referred to in paragraph (2), item (a) of this Article contributed to the loss absorption and the increase in the share capital in the amount not less than 20% of the risk weighted assets of the institution under resolution;

b) the resolution fund has at its disposal an amount which is higher than 3% of covered deposits of all credit institutions authorised by the Croatian National Bank; and

c) according to the valuation referred to in Article 35 of this Act, the assets of the institution under resolution on a consolidated basis are below the kuna equivalent of EUR 900 billion.

(7) The decision of the State Agency for Deposit Insurance and Bank Resolution on the use of funds from the resolution fund in the case of the exclusion referred to in Article 67 of this Act is enforceable

where the European Commission has not, within 24 hours of receipt of the notification referred to in Article 61, paragraph (4) of this Act, prohibited or required amendments to the decision.

(8) The time limit referred to in paragraph (7) of this Article may be extended only if the State Agency for Deposit Insurance and Bank Resolution agrees with the extension.

Assessment of amount of bail-in

Article 69

(1) When applying the bail-in tool, the State Agency for Deposit Insurance and Bank Resolution shall determine on the basis of a valuation in accordance with Article 35 of this Act, where relevant:

a) the amount by which eligible liabilities must be written down in order to ensure that the asset value of the institution under resolution is equal to the value of its liabilities; and

b) the amount by which eligible liabilities must be converted into shares or other types of instruments of ownership in order to ensure the required common equity tier 1 capital ratio of the institution under resolution or the bridge institution.

(2) When determining the amount referred to in paragraph (1) of this Article, the State Agency for Deposit Insurance and Bank Resolution shall take into account:

– any contribution of capital by the resolution fund in accordance with Article 116, paragraph (1), item (d) of this Act;

– the amount of capital required by the institution under resolution or the bridge institution to enable it to continue to meet for the next 12 months, the conditions for authorisation in accordance with the regulations governing the operation of credit institutions or investment firms; and

– the capital required to sustain sufficient market confidence.

(3) Where the State Agency for Deposit Insurance and Bank Resolution intends to use the asset separation tool referred to in Article 64 of this Act, when determining the amount referred to in paragraph (1), item (a) of this Article it shall take into account the estimate of the capital needs of the asset management vehicle.

(4) Where the State Agency for Deposit Insurance and Bank Resolution, by applying the bail-in tool in accordance with Article 65, paragraph (1) of this Article, wrote down liabilities in part or in full, and where, in accordance with Title VI of this Act capital instruments have been written down, and the level of write down based on the preliminary valuation referred to in Article 35 of this Act exceeds requirements when assessed against the *ex-post* valuation referred to in Article 36 of this Act, the State Agency for Deposit Insurance and Bank Resolution may write up the amount of liabilities and subsequently the value of capital instruments in order to reimburse the creditors and shareholders to the extent necessary.

(5) The State Agency for Deposit Insurance and Bank Resolution shall ensure that the *ex-post* valuation is based on information about the assets and liabilities of the institution under resolution that is up to date and comprehensive to the extent possible.

Treatment of shareholders in bail-in or write down or conversion of capital instruments

Article 70

(1) When applying the bail-in tool in accordance with Article 65, paragraph (1) of this Act the State Agency for Deposit Insurance and Bank Resolution shall in respect of shareholders:

a) carry out a simplified share capital reduction and cancellation of the existing shares or other instruments of ownership or transfer the existing shares or other instruments of ownership to creditors of the institution under resolution; or

b) provided that, in accordance with the valuation carried out under Article 35 of this Act, the assets of the institution under resolution exceed its liabilities, dilute the existing shareholder structure by converting them into common equity tier 1 instruments:

– relevant capital instruments issued by the institution in accordance with the power referred to in Article 37, paragraph (1) of this Act;

– eligible liabilities of the institution under resolution in accordance with Article 83, paragraph (3), item (f) of this Act.

(2) The dilution referred to in paragraph (1), item (b) of this Article shall be carried out at the conversion rate that severely dilutes the existing shareholder structure.

(3) The actions referred to in paragraph (1) of this Article shall also be taken in respect of shareholders that are holders of common equity tier 1 instruments that were issued or conferred:

a) pursuant to conversion of debt instruments to shares or other instruments of ownership in accordance with contractual terms of the original debt instruments on the occurrence of an event that preceded or occurred at the same time as the adoption of the decision to open resolution proceedings; and

b) pursuant to the conversion of relevant capital instruments to common equity tier 1 instruments in accordance with Article 38 of this Act.

(4) When deciding which action to take in accordance with paragraph (1) of this Article, the State Agency for Deposit Insurance and Bank Resolution shall take into account:

a) the valuation carried out in accordance with Article 35 of this Act;

b) the amount by which, in accordance with its assessment, common equity tier 1 items must be reduced and relevant capital instruments must be written down or converted in accordance with Article 38 of this Act; and

c) the aggregate amount assessed in accordance with Article 69 of this Act.

(5) Where the conversion of relevant capital instruments would result in the acquisition of or increase in a qualifying holding in an institution, the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority shall carry out the decision-making procedure regarding prior approval to acquire a qualifying holding in accordance with the regulations governing the operation of credit institutions and investment firms in a timely manner that does not delay the application of the bail-in tool or prevent resolution action from achieving its relevant objectives.

(6) The State Agency for Deposit Insurance and Bank Resolution shall notify new holders of qualifying holdings on the requirement to submit the application to open the decision-making

procedure regarding prior approval to acquire a qualifying holding in the cases referred to in paragraph (5) of this Article and the consequences that would otherwise be suffered in accordance with Article 57 of this Act.

(7) If the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority has not completed the decision-making procedure regarding prior approval to acquire a qualifying holding on the date of the application of the bail-in tool or refuses to grant approval to acquire a qualifying holding, all acquisitions or increases in a qualifying holding by an acquirer resulting from the application of the bail-in tool shall be subject to the provisions of Article 57 of this Act.

Sequence of write down and conversion

Article 71

(1) When applying the bail-in tool, the State Agency for Deposit Insurance and Bank Resolution may write down or exercise the conversion of the instrument or liabilities that are not excluded pursuant to Articles 66 and 67 of this Act, in the following manner:

a) firstly reduce common equity tier 1 items in accordance with Article 38 of this Act, to the extent required and to the extent of their capacity;

b) then reduce the principal amount of additional tier 1 instruments to the extent required and to the extent of their capacity and in accordance with the characteristics of the instruments, where the total reduction in accordance with item (a) of this paragraph is less than the sum of the amounts referred to in Article 70, paragraph (4), items (b) and (c) of this Act;

c) then reduce the principal amount of tier 2 instruments to the extent required and to the extent of their capacity and in accordance with the characteristic of the instruments, where the total reduction in accordance with items (a) and (b) of this paragraph is less than the sum of the amounts referred to in Article 70, paragraph (4), items (b) and (c) of this Act;

d) then reduce the principal amount of subordinated debt that is not additional tier 1 or tier 2 capital to the extent required and to the extent of their capacity, in accordance with the hierarchy of settlement in bankruptcy proceedings, so as to in conjunction with the write down in accordance with items (a), (b) and (c) of this paragraph produce the sum of the amounts referred to in Article 70, paragraph (4), items (b) and (c) of this Act, where the total reduction in accordance with items (a), (b) and (c) of this paragraph is less than the sum of the amounts referred to in Article 70, paragraph (4), items (b) and (c) of this Act;

e) then reduce the principal amount or outstanding amount of eligible liabilities to the extent required and to the extent of their capacity in accordance with the hierarchy of claims in bankruptcy proceedings, including the ranking of deposits in bankruptcy proceedings in accordance with Article 274 of the Credit Institutions Act, except where a different allocation of loss absorption is provided for in Article 67 of this Act, so as to in conjunction with the write down in accordance with items (a), (b) and (c) of this paragraph produce the sum of the amounts referred to in Article 70, paragraph (4), items (b) and (c) of this Act, where the total reduction in accordance with items (a), (b), (c) and (d) of this paragraph is less than the sum of the amounts referred to in Article 70, paragraph (4), items (b) and (c) of this Act.

(2) When applying the write down or conversion, the State Agency for Deposit Insurance and Bank Resolution shall allocate the losses referred to in Article 70, paragraph (4), items (b) and (c) of this Act equally between shares or other instruments of ownership and eligible liabilities of the same rank, except where a different allocation of losses arises from the application of Article 67 of this Act.

(3) The provisions of paragraph (2) of this Article shall not prevent the State Agency for Deposit Insurance and Bank Resolution from applying a more favourable treatment to liabilities which have been excluded from bail-in in accordance with Article 67 of this Act than to eligible liabilities which are of the same rank in bankruptcy proceedings.

(4) Before applying paragraph (1) of this Article, the State Agency for Deposit Insurance and Bank Resolution shall reduce or convert the principal amount of instruments referred to in paragraph (1), items (b), (c) and (d) of this Article when those instruments contain the following provision:

a) that the principal amount of the instrument is to be reduced on the occurrence of any event that refers to the financial position, solvency or levels of own funds of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act;

b) that provides for the conversion of the instruments to instruments of ownership on the occurrence of any such event.

(5) Where after applying the reduction referred to in paragraph (4), item (a) of this Article, the residual amount of that principal is higher than zero, the State Agency for Deposit Insurance and Bank Resolution may apply the write down or conversion of the residual amount of the principal in accordance with paragraph (1) of this Article.

(6) Where the State Agency for Deposit Insurance and Bank Resolution reaches a decision on the write down or conversion to common equity tier 1 instruments, the conversion of one class of liabilities shall not be possible while a class of liabilities that is subordinated to that class remains substantially unconverted into common equity tier 1 instruments or not written down, unless otherwise permitted under Articles 66 and 67 of this Act.

(7) The State Agency for Deposit Insurance and Bank Resolution shall adopt an implementing regulation to transpose the guidelines of the European Banking Authority adopted pursuant to Article 48, paragraph (6) of Directive 2014/59/EU into the Croatian legislation.

Derivatives

Article 72

(1) The State Agency for Deposit Insurance and Bank Resolution shall write down and convert the liabilities arising from derivative contracts after netting.

(2) The State Agency for Deposit Insurance and Bank Resolution shall be empowered to terminate and close out a derivative contract as at the date of the decision to open resolution proceedings.

(3) By way of derogation from paragraph (2) of this Article, the State Agency for Deposit Insurance and Bank Resolution shall not terminate and close out a derivative contract provided that the liability arising from the derivative contract is excluded from the application of the bail-in tool in accordance with Article 67 of this Act.

(4) Where derivative contracts are subject to a netting agreement, the State Agency for Deposit Insurance and Bank Resolution or an independent valuer in accordance with Article 35 of this Act shall determine the liability arising from those transactions on a net basis in accordance with the terms of the agreement.

(5) The State Agency for Deposit Insurance and Bank Resolution shall determine the value of liabilities arising from derivatives in accordance with the following:

- a) appropriate methodologies for determining the value of classes of derivatives, including transaction that are subject to netting agreements;
- b) principles for establishing the relevant point in time at which the value of a derivative should be established; and
- c) appropriate methodologies for comparing the destruction in value that would arise from the close out and bail-in of derivatives with the amount of losses that would be borne by counterparties in the derivatives contract that are included in the bail-in.

Conversion rate

Article 73

- (1) When acting in accordance with Title VIII of this Act and Article 83, paragraph (3), item (f) of this Act, the State Agency for Deposit Insurance and Bank Resolution may apply a different conversion rate to different classes of capital instruments and liabilities in accordance with one or both of the principles referred to in paragraphs (2) and (3) of this Article.
- (2) The conversion rate shall represent appropriate compensation to the affected creditor for any loss incurred due to the write down and conversion referred to in paragraph (1) of this Article.
- (3) Where the State Agency for Deposit Insurance and Bank Resolution applies different conversion rates in accordance with paragraph (1) of this Article, the conversion rate applicable to liabilities that have seniority in the hierarchy of claims in bankruptcy proceedings, shall be higher than the conversion rate applicable to liabilities classified into other priority claims.
- (4) The State Agency for Deposit Insurance and Bank Resolution shall adopt an implementing regulation to further regulate the conditions for determining conversion rates.

Recovery and reorganisation measures to accompany bail-in

Article 74

- (1) The institution or entity referred to in Article 3, item (2), (3) or (4) of this Act that is subject to the application of the bail-in tool in order to increase the share capital in accordance with Article 65, paragraph (1), item (a) of this Act shall, within 30 days of the opening of the bail-in proceedings, draw up a business reorganisation plan in accordance with Article 75 of this Act and deliver it to the State Agency for Deposit Insurance and Bank Resolution.
- (2) Where the bail-in proceedings provide for state aid, the plan referred to in paragraph (1) of this Article must be compatible with the restructuring plan submitted to the European Commission.
- (3) By way of derogation from paragraph (1) of this Article, where it deems it necessary for the achievement of the resolution objectives, the State Agency for Deposit Insurance and Bank Resolution may, at the request of the resolution administration in exceptional circumstances, extend the time limit referred to in paragraph (1) of this Article up to a maximum of 60 days of the opening of the bail-in proceedings.
- (4) By way of derogation from paragraph (3) of this Article, where the bail-in proceedings provide for state aid, the State Agency for Deposit Insurance and Bank Resolution may extend the time limit referred to in paragraph (1) of this Article up to a maximum of 60 days of the opening of the bail-in

proceedings or up to the time limit set in accordance with the European Union State aid framework, whichever is shorter.

Group business reorganisation plan

Article 75

(1) Where the bail-in tool is, for the purpose of increasing the share capital in accordance with Article 65, paragraph (1), item (a) of this Act, applied to two or more members of the group, the EU parent institution for which the State Agency for Deposit Insurance and Bank Resolution is the group-level resolution authority will draw up the business reorganisation plan which covers all of the members of the group in the manner specified for drawing up and adopting recovery plans as provided for in regulations governing the operation of credit institutions or investment firms and deliver it to the State Agency for Deposit Insurance and Bank Resolution.

(2) The State Agency for Deposit Insurance and Bank Resolution shall deliver the business reorganisation plan referred to in paragraph (1) of this Article to other resolution authorities of the Member States where the head offices of the members of the group are located and to the European Banking Authority.

Content of reorganisation plans

Article 76

(1) The business reorganisation plan shall contain measures aiming to restore the long-term viability of the institution or entity referred to in Article 3, item (2), (3) of (4) of this Act or parts of its business within a reasonable timescale. Those measures shall be based on realistic assumptions as to the economic and financial market conditions under which the institution or entity referred to in Article 3, item (2), (3) of (4) of this Act will operate.

(2) The business reorganisation plan shall take account, *inter alia*, of the current state and future prospects of the financial markets, reflecting best-case and worst-case assumptions, including a combination of events allowing the identification of the main vulnerabilities of the institution under resolution. Assumptions shall be compared with appropriate sector-wide benchmarks.

(3) A business reorganisation plan shall include at least the following:

a) a detailed diagnosis of the factors, problems and circumstances that led to the conclusion that the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act is failing or is likely to fail; and

b) activities that the institution under resolution will undertake to restore its long-term viability and a timetable for the implementation of those activities.

(4) Activities referred to in paragraph (3), item (b) of this Article may include:

a) the reorganisation of the operation of the institution under resolution;

b) changes to the organisational structure, operational systems and infrastructure of the institution under resolution;

c) the withdrawal from providing loss-making services;

- d) the restructuring of existing activities with a view to increasing competitiveness;
- e) the sale of assets or business lines; or
- f) other activity that restores long-term viability of operation.

Assessment of the business reorganisation plan

Article 77

(1) Upon receipt of the business reorganisation plan, the State Agency for Deposit Insurance and Bank Resolution shall without delay deliver it to the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority.

(2) The State Agency for Deposit Insurance and Bank Resolution and the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority shall assess whether the implementation of the plan would restore the long-term viability of the operation of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act.

(3) The State Agency for Deposit Insurance and Bank Resolution shall approve the business reorganisation plan within 30 days of receipt where it assesses that the plan will achieve the objective specified in paragraph (2) of this Article and where it obtained prior approval of the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority in relation to the plan.

(4) Where the State Agency for Deposit Insurance and Bank Resolution or the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority assesses that the plan will not achieve the objective referred to in paragraph (2) of this Article, the State Agency for Deposit Insurance and Bank Resolution shall notify the resolution administration of established deficiencies and order it to draw up and deliver an amended plan addressing the established deficiencies within a period not longer than 15 working days.

(5) The State Agency for Deposit Insurance and Bank Resolution shall within 15 working days of delivery of the amended plan assess whether the established deficiencies have been removed and notify the resolution administration thereof. Where the State Agency for Deposit Insurance and Bank Resolution assess that the established deficiencies have been removed, it shall carry out the plan approval procedure referred to in this Article and notify the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority of the approval of the plan.

(6) Where the State Agency for Deposit Insurance and Bank Resolution assess that the established deficiencies have not been removed, it shall order the resolution administration to implement further amendments in accordance with paragraph (4) of this Article.

(7) The resolution administration shall implement the approved resolution plan and shall at least on a quarterly basis or upon request notify the State Agency for Deposit Insurance and Bank Resolution or the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority on the progress in the implementation of the plan.

(8) Where the State Agency for Deposit Insurance and Bank Resolution with prior approval of the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority decides that it is necessary to amend the approved plan in order to achieve the objective referred to in paragraph (2) of this Article, it shall order the resolution administration to draw up and deliver the amended plan in the manner specified in paragraphs (3) to (7) of this Article.

(9) The State Agency for Deposit Insurance and Bank Resolution shall adopt an implementing regulation to further regulate the criteria for approving reorganisation plans.

Effects of bail-in

Article 78

(1) The decision of the State Agency for Deposit Insurance and Bank Resolution to exercise the powers referred to in Title VIII of this Act and Article 83, items e) to i) of this Act shall have legal effects as of the date specified in the dispositive part.

(2) The State Agency for Deposit Insurance and Bank Resolution shall implement or submit the application for the implementation of the procedure for exercising the powers referred to in Title VIII and Article 83, paragraph (3), items (e) to (i) of this Act, including:

a) the amendment of all relevant registers;

b) the temporary suspension of trading, removal from trading or delisting of shares or debt instruments in the regulated market;

c) the listing of new shares in the regulated market;

d) the relisting of debt instruments which have been written down in the regulated market, without the requirement for the issuing of a prospectus in accordance with the law regulating the capital market.

(3) All authorities or persons who receive the application referred to in paragraph (2) of this Article from the State Agency for Deposit Insurance and Bank Resolution shall act upon it without delay.

(4) Where the State Agency for Deposit Insurance and Bank Resolution reduces to zero the principal amount of or outstanding amount payable of a liability by means of the power referred to in Article 83, paragraph (3), item (e) of this Act, that liability and any claims arising in relation to it that are not accrued at the time when the power is exercised shall be treated as discharged. The creditor shall not be entitled to require the requirement to be met in any subsequent proceedings in relation to the institution under resolution or its legal successor, including winding-up and bankruptcy proceedings.

(5) Where the State Agency for Deposit Insurance and Bank Resolution reduces in part the principal amount of or outstanding amount payable of a liability by means of the power referred to in Article 83, paragraph (3), item (e) of this Act, that liability shall be considered to be discharged to the extent of the amount reduced, the terms of the instruments or contracts that created the original liability shall continue to apply in relation to the principal amount reduced in this way and accessory claims and any further modification of the terms that the State Agency for Deposit Insurance and Bank Resolution might make by means of the power referred to in Article 83, paragraph (3), item (h) of this Act.

(6) The decision referred to in paragraph (1) of this Article shall contain:

1) the amount of loss by which all reserves and retained profit of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act are reduced;

2) a decision to reduce the share capital of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act;

3) a decision to reduce the principal amount of the relevant capital instruments not included in item (2) of this paragraph; or

4) a decision to increase the share capital.

(7) The decision to reduce the share capital referred to in paragraph (6), item (2) of this Article may be adopted as a decision on the simplified share capital reduction specifying the exact amount by which the share capital is to be reduced, the amount of the share capital after the reduction, the objective of the reduction of the share capital and the manner in which the share capital will be reduced or as a decision to reduce the share capital by cancelling shares specifying the amount of the share capital relating to the cancelled shares and the share capital after the reduction.

(8) Where the amount of loss exceeds the amount of the share capital, a decision shall be reached to reduce the principal amount of the relevant capital instruments referred to in paragraph (6), item (3) of this Article.

(9) The decision to increase the share capital referred to in paragraph (6), item (4) of this Article shall contain the amount by which the share capital will be increased, the nominal amount of shares, their class and the amount of their issue, that is, the amount of new capital contributions, the rights invested, the persons who are investing them and the number of shares to be so acquired.

(10) The share capital shall be deemed to be reduced or increased as at the date specified in the dispositive part of the decision referred to in paragraph (1) of this Article. The entry in the register of companies shall have a declaratory effect.

(11) Upon the adoption of the decision to increase the share capital referred to in paragraph (1) of this Article, new shares shall be deemed transferred to the holder of the relevant capital instruments being converted, whereby shares or contributions are paid in and the increase in the share capital is executed.

(12) The State Agency for Deposit Insurance and Bank Resolution shall, at the latest on the next working day of its adoption, submit the decision referred to in paragraph (1) of this Article to the registration court to apply for the entry of the decision to reduce or the decision to increase the share capital and register the reduction or increase in the share capital.

(13) The registration court shall without delay decide on the application for entry referred to in paragraph (12) of this Article, regardless of the order in which other cases have been brought before the court, effect the entry in the register of companies and publicly disclose it.

(14) The State Agency for Deposit Insurance and Bank Resolution shall, at the latest on the next working day of its adoption, deliver the decision referred to in paragraph (1) of this Article to the Central Depository and Clearing Company which shall without delay effect the entry.

(15) Pursuant to the decision referred to in paragraph (1) of this Article, the registration court shall enter amendments to the Articles of Association of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act in the part relating to the amount of the share capital, the number of issued shares and their nominal value.

(16) In order to issue new shares pursuant to the decision to increase the share capital referred to in paragraph (10) of this Article, the institutions or entities referred to in Article 3, item (2), (3) or (4) of this Act shall not be required to issue or publish a prospectus or obtain approval from the Croatian National Bank or the Croatian Financial Services Supervisory Agency as competent authorities, and the holders of shares in relation to which the reduction of the share capital was carried out shall not have subscription priority.

(17) The provisions of this Article shall apply *mutatis mutandis* to the exercise of the write-down or conversion powers in relation to limited liability companies.

Contractual recognition of bail-in in relation to liabilities governed by the law of a third country

Article 79

(1) The institution or entity referred to in Article 3, item (2), (3) or (4) of this Act shall ensure that contracts include a provision by which the liability arising from that contractual relationship may be subject to write-down or conversion and that creditors or counterparties agree to the reduction of the principal or outstanding amount due, conversion or cancellation of that liability in case of bail-in.

(2) Paragraph (1) of this Article shall be applied to all liabilities that:

a) are not excluded under Article 66, paragraph (2) of this Act;

b) are not a part of deposits referred to in Article 274, paragraph (4) of the Credit Institutions Act subject to deposit insurance but exceeding the amount of coverage;

c) are governed by the law of a third country; and

d) have arisen after the entry into force of this Act.

(3) Exceptionally, paragraph (1) of this Article shall not apply where the Croatian National Bank or the Croatian Financial Services Supervisory Agency assesses that the liabilities referred to in paragraph (2) of this Article may be written down or converted pursuant to the law of the third country or pursuant to a binding agreement concluded with that third country.

(4) For the purpose of the assessment referred to in paragraph (3) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may require institutions or entities referred to in Article 3, item (2), (3) or (4) of this Act to provide it with a legal opinion relating to the enforceability of the provision referred to in paragraph (1) of this Article under the law of the third country.

(5) Regardless of whether the contract includes the provision referred to in this Article, the State Agency for Deposit Insurance and Bank Resolution may write down or convert that liability.

IX.6 GOVERNMENT FINANCIAL STABILISATION TOOLS

Government financial stabilisation tools

Article 80

(1) The government financial stabilisation tools shall be used for the purpose of participating in the resolution of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act, including by intervening directly in order to avoid their winding-up or bankruptcy, with a view to meeting the objectives for resolution referred to in Article 6, paragraph (2) of this Act.

(2) The government financial stabilisation tools shall be used exceptionally, as a last resort, after having assessed and exploited the other resolution tools to the maximum extent practicable in order to maintain financial stability.

(3) The decision to open resolution proceedings referred to in Article 29 of this Act or its subsequent amendments shall provide for a government financial stabilisation tool only where:

a) the Ministry of Finance or the State Agency for Deposit Insurance and Bank Resolution, after consulting the Croatian National Bank or the Croatian Financial Services Supervisory Agency, determine that the application of other resolution tools would not suffice to avoid significant adverse effects on the financial stability;

b) the Ministry of Finance or the State Agency for Deposit Insurance and Bank Resolution determine that the application of other resolution action would not suffice to protect the public interest, where extraordinary liquidity assistance from the Croatian National Bank has been previously given to the credit institution; or

c) in respect of the temporary public ownership tool, the Ministry of Finance, after consulting the Croatian National Bank or the Croatian Financial Services Supervisory Agency and the State Agency for Deposit Insurance and Bank Resolution, determines that the application of other resolution action would not suffice to protect the public interest, where the equity support has previously been given to the institution in accordance with Article 81 of this Act.

(4) Where the conditions referred to in paragraphs (2) and (3) of this Article and Article 56, paragraph (8) of this Act are met, and prior to reaching a decision to use government financial stabilisation tools which is the integral part of the decision to open resolution proceedings, the Ministry of Finance shall, in accordance with the European Union State aid framework and the rules governing state aid to the financial sector and in cooperation with the institution under resolution as the beneficiary of the state aid report it to the European Commission for the purpose of obtaining its approval.

(5) After obtaining the approval, the Ministry of Finance shall ensure and oversee the application of extraordinary public financial support through the use of government financial stabilisation tools referred to in paragraph (8) of this Article.

(6) When using financial stabilisation tools, the Ministry of Finance shall act in accordance with the European Union State aid framework and the rules governing state aid to the financial sector.

(7) For the purpose of applying government financial stabilisation tools, the Ministry of Finance shall have all resolution powers referred to in Title X of this Act required to apply the government financial stabilisation tools referred to in Title IX of this Act.

(8) The government financial stabilisation tools shall be:

- the public equity support tool referred to in Article 81 of this Act;
- the temporary public ownership tool referred to in Article 82 of this Act

Public equity support tool

Article 81

(1) In accordance with the provisions governing the operation of companies, the Ministry of Finance, in the name of the Republic of Croatia, participates in the increase of the share capital of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act by paying in:

- common equity tier 1 instruments; or
- additional tier 1 instruments; or
- tier 2 instruments.

(2) To the extent permitted by the shareholding of the Republic of Croatia in the institution under resolution that is subject to the instrument referred to in paragraph (1) of this Article, the Ministry of Finance shall ensure that it is managed with the due diligence of a prudent businessperson.

(3) Where the instrument referred to in paragraph (1) of this Article has been applied, the Ministry of Finance shall ensure that the holding of the Republic of Croatia in the institution under resolution is sold as soon as commercial and financial circumstances allow.

Temporary public ownership tool

Article 82

(1) The Ministry of Finance may take the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act into temporary public ownership.

(2) In the case referred to in paragraph (1) of this Article, the Ministry of Finance shall issue one or more transfer orders for the transfer of shares to the Central Depository and Clearing Company. The Central Depository and Clearing Company shall execute the order without delay.

(3) The transfer referred to in paragraph (2) of this Article may be executed to an undertaking wholly owned by the Republic of Croatia or a nominee of the Ministry of Finance.

(4) The Ministry of finance shall ensure that the institution under resolution that is subject to the instrument referred to in paragraph (1) of this Article is managed with the due diligence of a prudent businessperson.

(5) Where the instrument referred to in paragraph (1) of this Article has been applied, the Ministry of Finance shall ensure that the transferred holding is sold as soon as commercial and financial circumstances allow.

X RESOLUTION POWERS

General resolution powers

Article 83

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall be empowered to request any information required for updating and supplementing information provided in the resolution plans and use the powers referred to in Article 8, paragraph (16) of this Act for that purpose.

(2) The State Agency for Deposit Insurance and Bank Resolution shall be empowered by the Croatian National Bank or the Croatian Financial Services Supervisory Agency, or directly by the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act that meets the conditions for resolution to seek information required for deciding on and preparing the resolution action.

(3) The State Agency for Deposit Insurance and Bank Resolution shall be empowered to:

a) apply the resolution tools to the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act that meets the conditions for resolution;

b) take control of an institution under resolution and exercise all the rights and powers conferred upon the shareholders and through a resolution administration execute the powers of the management board of the institution under resolution;

c) transfer instruments of ownership issued by the institution under resolution;

d) transfer rights, assets or liabilities of the institution under resolution to another person with the approval of that person;

e) partly or in full reduce the principal amount of or outstanding amount due in respect of eligible liabilities of the institution under resolution;

f) convert eligible liabilities of the institution under resolution into ordinary shares or other instruments of ownership of the institution under resolution, its parent undertaking or a bridge institution to which assets, rights or liabilities of the institution under resolution are transferred;

g) withdraw and cancel debt instruments issued by the institution under resolution except for secured liabilities referred to in Article 66, paragraph (2) of this Act;

h) amend or alter the maturity of debt instruments issued by the institution under resolution and other eligible liabilities, or the interest rate payable on the basis of these instruments and other eligible liabilities, the date on which the interest becomes payable and suspending payment for a temporary period, except for payments arising from secured liabilities referred to in Article 66, paragraph (2) of this Act;

i) close out and terminate financial contracts or derivatives contracts for the purposes of applying Article 72 of this Act;

j) remove or replace the management body or senior management of the institution under resolution; and

k) require from the Croatian National Bank or the Croatian Financial Services Supervisory Agency to assess the acquirer of a qualifying holding within the shortest period possible.

(4) The State Agency for Deposit Insurance and Bank Resolution, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall be empowered to:

a) reduce the nominal amount of instruments of ownership of the institution under resolution or cancel them;

b) require the institution under resolution or its parent undertaking to issue new shares or other instruments of ownership, including preference shares and convertible bonds;

c) when applying the resolution tools or exercising the resolution powers, not be subject to any approvals or consents by any person, including public law bodies, shareholders or creditors of the institution subject to the exercise of these powers, unless otherwise provided for in this Act; and

d) when applying the resolution tools or exercising the resolution powers, not be subject to any requirement to publish any public notice or prospectus or to deliver or submit any document with any authority, unless otherwise provided for in this Act, especially in Article 28, paragraph (8) and Article 32 of this Act or any notification requirements under the European Union State aid framework.

(5) The powers referred to in paragraph (4) of this Article shall be executed irrespective of any restriction on, or requirement for consent for, transfer of the financial instruments, rights, assets or liabilities that might otherwise apply to such transfers.

(6) Where any of the resolution powers referred to in paragraphs (1) to (4) of this Article is not applicable to an entity referred to in Article 3 of this Act as a result of its specific legal form, powers shall be exercised which achieve the similar effect.

(7) When exercising their resolution powers referred to in paragraph (6) of this Article to natural and legal persons affected by them, including shareholders, creditors and other counterparties, the safeguards provided for in this Act shall be applied or those that deliver the same effect.

Ancillary resolution powers

Article 84

(1) When carrying out resolution and in order to achieve one or more of the resolution objectives, the State Agency for Deposit Insurance and Bank Resolution shall be empowered to:

a) provide for a transfer to take effect free from any additional liability or right affecting the financial instruments, rights, assets or liabilities transferred in accordance with Article 111 of this Act. For that purpose, any right of set-off under the provisions of this act shall not be considered to be an additional liability or right;

b) remove rights to acquire further instruments of ownership;

c) require the relevant authority to discontinue trading or suspend from trading on a regulated market or the official listing of financial instruments;

d) provide for the recipient undertaking to be treated as if it were the institution under resolution for the purposes of any rights, obligations or actions taken subject to Articles 57 and 59 of this Act, including any rights or obligations relating to the participation in the market;

e) require the institution under resolution or the recipient undertaking to provide each other with information and assistance; and

f) cancel or modify the terms of a contract to which the institution under resolution is a party or ensure that the recipient undertaking steps in its place as a party.

(2) For the purpose of continuity of the business transferred, the State Agency for Deposit Insurance and Bank Resolution shall have the power to ensure to the recipient undertaking:

a) the continuity of contracts entered into by the institution under resolution, so that the recipient undertaking assumes the rights and liabilities relating to any financial instrument, right, asset or liability and steps into the place of the institution under resolution as a party in all relevant contracts; and

b) to step in the place of the institution under resolution as a party in any legal proceedings relating to any financial instrument, right, asset or liability that has been transferred irrespective of the consent of the counterparty.

(3) The powers referred to in paragraph (1), item (d) and paragraph (2), item (b) of this Article shall not affect the following:

a) the right of an employee of the institution under resolution to terminate a contract of employment; and

b) the right of a party to a contract under the contract, including the right to terminate a contract, in accordance with Articles 90, 91 and 92 of this Act, where so contracted in case of an act or omission by the institution under resolution prior to the relevant transfer or by the recipient undertaking after the relevant transfer.

Power to require the provision of services and facilities

Article 85

(1) The State Agency for Deposit Insurance and Bank Resolution may require from the institution under resolution, or any of the members of the same group, to continue providing any services or facilities and equipment that are necessary to enable a recipient undertaking to operate effectively the business transferred to it.

(2) Where bankruptcy proceedings have been opened against the institution under resolution or against the member of that group, the State Agency for Deposit Insurance and Bank Resolution may require from the trustee in bankruptcy to continue providing any services or facilities and equipment that are necessary to the recipient undertaking to operate effectively the business transferred to it.

(3) The State Agency for Deposit Insurance and Bank Resolution may act in accordance with paragraph (1) of this Article in relation to members of the group having their head office in the Republic of Croatia where so requested by the resolution authority of another Member State.

(4) The provision of services or facilities in accordance with paragraphs (1), (2) and (3) of this Article shall not include any form of financial support.

(5) The services and facilities referred to in paragraphs (1), (2) and (3) shall be provided:

a) under the terms of the agreement on the provision of services or facilities in force immediately before the resolution action was taken and for the duration of that agreement; or

b) where there is no agreement on the provision of services or facilities, or where the agreement has expired, on reasonable terms.

(6) The State Agency for Deposit Insurance and Bank Resolution shall adopt an implementing regulation to further regulate the minimum list of services, facilities and equipment referred to in paragraph (1) of this Article.

Crisis management or crisis prevention powers of the resolution authority of another Member State in the territory of the Republic of Croatia

Article 86

(1) Where the resolution authority of another Member State exercises the power to transfer instruments of ownership, assets, rights or liabilities that includes assets that are located in the territory of the Republic of Croatia or rights and liabilities subject to the law of the Republic of Croatia, the transfer shall have effect in and comply with the regulations of the Republic of Croatia.

(2) Where the resolution authority of another Member State intends to or exercises the power to transfer instruments of ownership, assets, rights or liabilities in the territory of the Republic of Croatia,

the authorities of the Republic of Croatia shall enable the transfer to the recipient undertaking in accordance with the regulations of the Republic of Croatia.

(3) Shareholders, creditors and third parties that are affected by the transfer of instruments of ownership, assets, rights or liabilities referred to in paragraph (1) of this Article shall not be entitled to prevent, challenge or set aside the transfer under any regulation of the Republic of Croatia.

(4) Where the resolution authority of another Member State exercises the write-down or conversion powers in relation to capital instruments in the manner referred to in Title VI of this Act, and to eligible liabilities or relevant capital instruments of the institution under resolution, the write-down or conversion powers shall also apply to the following:

a) instruments or liabilities that are subject to the law of the Republic of Croatia;

b) liabilities owed to creditors from the Republic of Croatia.

(5) The reduction of the principal amount of liabilities or capital instruments or conversion of liabilities or capital instruments referred to in paragraph (4) of this Article shall be carried out in accordance with the write-down or conversion powers of the resolution authority of another Member State.

(6) Creditors that are affected by the exercise of the write-down or conversion powers referred to in paragraph (4) of this Article, shall not be entitled to challenge the write down or conversion under any regulation of the Republic of Croatia.

(7) Where the resolution authority of another Member State exercises the power of transferring, in whole or in part, or the power of write down or conversion of capital instruments, assets, rights and liabilities, in whole or in part, in the territory of the Republic of Croatia, the right to legal remedy and safeguards shall be exercised in the Member State where the head office of that resolution authority is located and in accordance with the law of that Member State.

Crisis management or crisis prevention powers of the resolution authority of the Republic of Croatia

Article 87

(1) Where the resolution authority of the Republic of Croatia exercises the write-down or conversion powers in relation to capital instruments in accordance with Title VI or Title VIII of this Act, and to eligible liabilities or relevant capital instruments of the institution under resolution, the power of write down or conversion of capital instruments shall also apply to the following:

a) instruments or liabilities that are subject to regulations of other Member States;

b) liabilities owed to creditors from other Member States.

(2) The reduction of the principal amount of liabilities or capital instruments or conversion of liabilities or capital instruments referred to in paragraph (1) of this Article shall be carried out in accordance with the write-down or conversion powers of the resolution authority of the Republic of Croatia.

(3) Where the resolution authority of the Republic of Croatia exercises the power of transferring, in whole or in part, or the power of write down or conversion of the relevant capital instruments to

instruments and creditors of another Member State, the right to legal remedy and safeguards shall be exercised in accordance with this Act.

Resolution powers in respect of assets, rights, liabilities, and other instruments of ownership located in third countries

Article 88

(1) The resolution authorities of the Republic of Croatia shall be empowered to, in cases in which resolution action involves action taken in respect of assets located in a third country or instruments of ownership, rights or liabilities subject to the law of a third country, require that:

a) the resolution administration or the person managing the institution and the recipient take all necessary steps to ensure that the transfer, write down, conversion or action becomes effective;

b) the resolution administration or the person managing the institution holds the shares or other instruments of ownership, assets or rights or discharges the liabilities on behalf of the recipient until the transfer, write down, conversion or action becomes effective;

c) the reasonable expenses incurred by the recipient in carrying out any action referred to in items (a) and (b) of this paragraph are met in the manner referred to in Article 56, paragraph (5) of this Act.

(2) Where the resolution authority of the Republic of Croatia assesses that, in spite of all the necessary steps referred to in paragraph (1) of this Article taken by the resolution administration or the person managing the institution and the receiver, the effectiveness is low, it shall not proceed with the transfer, write down, conversion or other action in relation to assets located in a third country, shares or other instruments of ownership, rights or liabilities subject to the law of a third country. If it has already requested the transfer, write down, conversion or action, that order shall be suspended.

Exclusion of certain contractual terms in resolution

Article 89

(1) In respect of the contractual obligations of the institution subject to the application of crisis prevention measures or crisis management measures in accordance with this Act, the application of these measures, including the occurrence of any event directly linked to the application of such measures, shall not, per se, be deemed to be an enforcement of financial collateral arrangement in accordance with the regulations governing financial collateral or ground for bankruptcy in accordance with the regulations governing bankruptcy proceedings, provided that substantive obligations under the contract, including payment and delivery obligations and the acquisition, use and the provision of collateral, continue to be performed.

(2) Paragraph (1) of this Article shall also be applied to contracts entered into by:

a) a subsidiary referred to in paragraph (1) of this Article, the obligations under which are guaranteed or otherwise supported by the institution or any member of the group;

b) any member of the group to which the institution referred to in paragraph (1) of this Article belongs, which includes cross-default provisions.

(3) Where the third country resolution proceedings are recognised in accordance with Article 101 of this Act or when the resolution authority of the Republic of Croatia so decides, such proceedings shall be deemed to be a crisis management measure in accordance with this Article.

(4) Where the substantive obligations under the contract, or delivery, acquisition, use and the provision of collateral continue to be performed, the application of a crisis prevention measure or a crisis management measure, including the occurrence of any event directly linked to the application of such measures shall not make it possible for anyone to:

a) exercise termination, suspension, modification, netting or set-off rights in relation to the agreement, including:

– contractual obligations of the subsidiary referred to in paragraph (1) of this Article, where the obligations are guaranteed or otherwise supported by the institution or any member of the group;

– contractual obligations of any member of the group to which the institution referred to in paragraph (1) of this Article belongs, which includes cross-default provisions;

b) obtain possession, exercise control or enforce any security over any property of the institution referred to in paragraph (1) of this Article, including the contractual obligations of any member of the group to which the institution referred to in paragraph (1) of this Article belongs, which includes cross-default provisions;

c) affect any contractual rights of the institution referred to in paragraph (1) of this Article, including contractual obligations of any member of the group to which the institution referred to in paragraph (1) of this Article belongs, which includes cross-default provisions.

(5) The provisions of this Article shall not affect the right of a person to take the action referred to in paragraph (4) of this Article where that right arises by virtue of an event other than the crisis prevention measure, the crisis management measure or the occurrence of any event directly linked to the application of these measures.

(6) A suspension or restriction referred to in Article 90, 91 or 92 of this Act shall not constitute non-performance of a contractual obligation for the purposes of paragraphs (1), (2) and (3) of this Article.

(7) The provisions of this Article shall be considered to be overriding mandatory provisions within the meaning of Article 9 of Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I).

Power to suspend payment or obligations

Article 90

(1) The State Agency for Deposit Insurance and Bank Resolution may reach a decision on suspension of any payment or delivery of obligations pursuant to any contract to which an institution under resolution is a party and immediately publish it in the manner referred to in Article 32 of this Act.

(2) The State Agency for Deposit Insurance and Bank Resolution shall in the dispositive part of the decision referred to in paragraph (1) of this Article and in its publication pursuant to Article 32 of this Act specify the day, the hour and the minute when the suspension enters into force.

(3) The decision on suspension referred to in paragraph (1) of this Article may be an integral part of the decision to open resolution proceedings referred to in Article 29 of this Act.

(4) The suspension referred to in paragraph (1) of this Article shall be applied as of the moment specified in the dispositive part of the decision on suspension and shall last until midnight of the next working day counting from the day specified in the dispositive part of the decision on suspension.

(5) Where a payment or delivery obligation is due during the suspension period, the payment or delivery obligation shall be due immediately upon expiry of the suspension period.

(6) Where payment or delivery obligations of the institution under resolution under a contract are suspended in accordance with paragraph (1) of this Article, the payment or delivery obligations of counterparties under that contract shall be suspended for the same period of time.

(7) By way of derogation from paragraph (1) of this Article the decision on suspension shall not apply to:

a) deposits insured in accordance with the regulation governing deposit insurance;

b) payment and delivery obligations owed to systems or operators of systems specified in the regulation governing settlement finality, central counterparties and central banks; and

c) claims of clients subject to investor compensation schemes in the manner specified in the regulation governing the capital market.

(8) When reaching the decision referred to in paragraph (1) of this Article the State Agency for Deposit Insurance and Bank Resolution shall have regard to the impact the exercise of that power might have on the orderly functioning of financial markets.

Power to suspend the enforcement of execution

Article 91

(1) The State Agency for Deposit Insurance and Bank Resolution may reach a decision on suspension of the enforcement of execution over the assets of the institution under resolution by the creditors of the institution and immediately publish it in the manner referred to in Article 32 of this Act.

(2) The State Agency for Deposit Insurance and Bank Resolution shall in the dispositive part of the decision referred to in paragraph (1) of this Article and in its publication pursuant to Article 32 of this Act specify the day, the hour and the minute when the suspension referred to in paragraph (1) of this Article enters into force.

(3) The decision on suspension referred to in paragraph (1) of this Article may be an integral part of the decision to open resolution proceedings referred to in Article 29 of this Act.

(4) The suspension referred to in paragraph (1) of this Article shall be applied as of the moment specified in the dispositive part of the decision on suspension and shall last until midnight of the next working day counting from the day specified in the dispositive part of the decision on suspension.

(5) By way of derogation from paragraph (1) of this Article, the decision on suspension shall not apply to systems or operators of systems referred to in the regulation governing settlement finality, central counterparties, and central banks over assets of the institution under resolution received by them as collateral.

(6) In the case referred to in Article 112 of this Act, the State Agency for Deposit Insurance and Bank Resolution shall, when reaching decisions referred to in paragraph (1) of this Act, take account that the restrictions specified in paragraph (1) of this Article are consistent for all members of the group subject to a resolution action.

(7) When reaching the decision referred to in paragraph (1) of this Article, the State Agency for Deposit Insurance and Bank Resolution shall have regard to the impact the exercise of that power might have on the orderly functioning of financial markets.

Power to temporarily suspend termination rights

Article 92

(1) Provided that the contractual obligations continue to be performed, except where the power to suspend payment or obligations referred to in Article 90 of this Act has been exercised, including payments and the provision of collateral, the State Agency for Deposit Insurance and Bank Resolution may reach a decision on the temporary suspension of termination rights of the counterparty to a contract with the institution under resolution and immediately publish it in the manner referred to in Article 32 of this Act.

(2) The State Agency for Deposit Insurance and Bank Resolution shall in the dispositive part of the decision referred to in paragraph (1) of this Article and in its publication pursuant to Article 32 of this Act specify the day, the hour and the minute when the suspension enters into force.

(3) The decision on suspension referred to in paragraph (1) of this Article may be an integral part of the decision to open resolution proceedings referred to in Article 29 of this Act.

(4) The suspension referred to in paragraph (1) of this Article shall be applied as of the moment specified in the dispositive part of the decision on suspension and shall last until midnight of the next working day counting from the day specified in the dispositive part of the decision on suspension.

(5) The power referred to in paragraph (1) of this Article may also pertain to contractual relations entered into by a counterparty with a subsidiary of the institution under resolution where:

a) the contractual obligations are guaranteed or otherwise supported by the institution under resolution;

b) the termination right under the contract is based solely on the insolvency or financial condition of the institution under resolution; and

c) in the case of a transfer power that has been or may be exercised in relation to the institution under resolution, either all the assets and liabilities of the subsidiary relating to that contract have been or may be transferred to and assumed by the recipient or the State Agency for Deposit Insurance and Bank resolution guarantees in any other way for such obligations.

(6) The suspension referred to in paragraph (5) of this Article shall be applied as of the moment specified in the dispositive part of the decision on suspension and shall last until midnight of the next working day counting from the day specified in the dispositive part of the decision on suspension.

(7) By way of derogation from paragraphs (1) and (5) of this Article the decision on suspension is not applied to systems and operators of systems referred to in the regulation governing settlement finality, central counterparties and central banks.

(8) By way of derogation from paragraphs (1) to (7) of this Article, a party may terminate a contract before the expiry of the suspension period referred to in paragraph (1) or (5) of this Article, where it receives notice from the State Agency for Deposit Insurance and Bank Resolution that the rights and liabilities covered by the contract shall not be transferred to the recipient, written down or converted when applying the bail-in tool in accordance with Article 65, paragraph (1), item (a) of this Act.

(9) The termination right under a contract referred to in paragraphs (1) and (5) of this Article may be exercised on the expiry of the suspension period in the following way:

a) where the rights and liabilities covered by the contract have been transferred to the recipient, a counterparty may terminate the contract only on the occurrence of the conditions for termination of the contract in respect of the recipient;

b) where the rights and liabilities covered by the contract remain with the institution under resolution and the State Agency for Deposit Insurance and Bank Resolution has not applied the bail-in tool in accordance with Article 65, paragraph (1), item (a) of this Act to that contract, a counterparty may terminate the contract if after the expiry of the suspension period the conditions for termination of the contract arise.

(10) When reaching the decision referred to in paragraphs (1) and (5) of this Article, the State Agency for Deposit Insurance and Bank Resolution shall have regard to the impact the exercise of that power might have on the orderly functioning of financial markets.

(11) Upon the request of the Croatian National Bank or the Croatian Financial Services Supervisory Agency and the State Agency for Deposit Insurance and Bank Resolution, a trade repository shall make the necessary information available to them to enable them to fulfil their respective responsibilities in accordance with Article 81 of Regulation (EU) No 648/2012.

Exercise of the resolution powers

Article 93

(1) When taking a resolution action, the State Agency for Deposit Insurance and Bank Resolution may exercise control over the institution under resolution, so as to:

a) operate the institution under resolution with all the powers of its shareholders and management body;

b) manage and dispose of the assets and property of the institution under resolution;

(2) The State Agency for Deposit Insurance and Bank Resolution shall exercise control referred to in paragraph (1) of this Article through a resolution administration.

(3) When reaching the decision on the exercise of the power referred to in paragraph (1) of this Article, the State Agency for Deposit Insurance and Bank Resolution shall take into account whether it is appropriate to exercise the power, having regard to the objectives and general principles of resolution, the specific circumstances of the institution under resolution and the need to facilitate the effective resolution of cross-border groups.

XI CROSS-BORDER GROUP RESOLUTION AND DUTY TO PROTECT THE CONFIDENTIALITY OF INFORMATION

General principles regarding decision-making involving more than one Member State

Article 94

When reaching decisions or taking action in accordance with this Act which may have an impact in one or more other Member States, the Ministry of Finance, the Croatian National Bank, the Croatian

Financial Services Supervisory Agency and the State Agency for Deposit Insurance and Bank Resolution shall have regard to the following general principles:

- a) the efficacy of decision-making and of keeping resolution costs as low as possible when taking resolution action;
- b) that decisions are reached and action taken in a timely manner, having regard to due urgency;
- c) mutual cooperation in order to ensure that decisions are reached and action is taken in a coordinated and efficient manner;
- d) clear definition of the roles and responsibilities of relevant authorities within each Member State;
- e) that due consideration is given to the interests of individual Member States where EU parent undertakings have their head office, in particular the impact of any decision or action or inaction on the financial stability, financial resources, resolution fund, deposit guarantee scheme or investor compensation scheme of those Member States;
- f) that due consideration is given to the interests of each Member State where a subsidiary has a head office, in particular the impact of any decision or action or inaction on the financial stability, financial resources, resolution fund, deposit guarantee scheme or investor compensation scheme of those Member States;
- g) that due consideration is given to the interests of each Member State where significant branches are located, in particular the impact of any decision or action or inaction on the financial stability of those Member States;
- h) that due consideration is given to the objectives of balancing the interests of the Member States involved and of avoiding unfairly prejudicing or unfairly protecting the interests of particular Member States, including avoiding unfair burden allocation across Member States;
- i) that any obligation under this Act to consult an authority before any decision or action is taken implies at least that such an obligation to consult that authority on those elements of the proposed decision or action which have or which are likely to have:
 - an effect on the EU parent undertaking, the subsidiary or the branch; and
 - an impact on the stability of the Member State where the EU parent undertaking, the subsidiary or the branch has its head office;
- j) that resolution authorities, when taking resolution actions, take into account and follow the resolution plans referred to in Articles 19 and 20 of this Act unless the resolution authorities assess, taking into account the circumstances of the case, that the resolution objectives will be achieved more effectively by taking actions which are not provided for in the resolution plans;
- k) transparency whenever a proposed decision or action is likely to have implications on the financial stability, fiscal resources, resolution fund, deposit guarantee scheme or investor compensation scheme of any relevant Member State; and
- l) recognition that coordination and cooperation are most likely to achieve a result which lowers the overall cost of resolution.

Resolution college when the Croatian National Bank or the Croatian Financial Services Supervisory Agency is the group-level resolution authority

Article 95

(1) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency is the group-level resolution authority, it shall establish a resolution college to carry out the tasks referred to in Articles 11, 16, 18, 22, 26, 30 of this Act, and, where appropriate, to ensure cooperation and coordination with third-country resolution authorities.

(2) The members of the college referred to in paragraph (1) of this Article shall perform the following tasks in the resolution college:

- a) exchange information relevant for drawing up group resolution plans, for the application to groups of preparatory and preventive powers and for group resolution;
- b) draw up group resolution plans in accordance with Article 16 or 18 of this Act;
- c) assess the resolvability of groups in accordance with Article 11 of this Act;
- d) decide on exercising powers to remove impediments to the resolvability of groups in accordance with Article 22 of this Act;
- e) decide on the need to establish a group resolution scheme as provided for in Article 30 of this Act;
- f) decide on the group resolution scheme proposed in accordance with Article 30 of this Act;
- g) coordinate plans for communicating with the media and the public in relation to group resolution strategies and schemes;
- h) coordinate the use of financial arrangements;
- i) set the minimum requirements for groups at consolidated level and the level of individual group members in accordance with Article 26 of this Act;
- j) discuss any issues relating to cross-border group resolution.

(3) The members of the resolution college referred to in paragraph (1) of this Article shall be:

- a) the Croatian National Bank or the Croatian Financial Services Supervisory Agency;
- b) the State Agency for Deposit Insurance and Bank Resolution;
- c) the Ministry of Finance;
- d) the resolution authorities of each Member State in which a subsidiary covered by consolidated supervision has its head office;
- e) the resolution authorities of Member States in which the parent financial holding or parent mixed financial holding company which is the parent undertaking of one or more group members has its head office;

- f) the resolution authorities of Member States in which significant branches are located;
- g) the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the consolidating supervisor;
- h) the competent authorities of the Member States where the resolution authority is a member of the resolution college;
- i) the representatives of central banks of the Member States where the members of the group are located, if the competent authorities of these Member States are not central banks and where the competent authorities of these Member States have so decided;
- j) the competent ministries of the Member States where the members of the group are located, which are not at the same time the resolution authorities of these Member States;
- k) the authorities responsible for deposit guarantee schemes of other Member States, where the resolution authority of the Member State is a member of the resolution college;
- l) the European Banking Authority, subject to paragraph (5) of this Article.

(4) Where a member of the group having its head office in the European Union has a subsidiary institution or a significant branch in a third country, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may, where it deems that the duty to protect the confidentiality of information is equivalent to the duty to protect the confidentiality of information referred to in Article 105 of this Act, at their request allow the third-country resolution authority to participate in the resolution college as an observer.

(5) The European Banking Authority shall participate in the resolution college in order to promote the efficiency, effectiveness and consistent functioning of resolution colleges but shall not have any voting rights.

(6) The resolution college shall be chaired by the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the group-level resolution authority. In that capacity it shall:

- a) establish written arrangements and procedures for the functioning of the resolution college, after consulting the other members of the resolution college;
- b) coordinate all activities of the resolution college;
- c) convene and chair the meetings of the resolution college;
- d) notify the members of the resolution college of the time and venue of the meetings and of the main issues to be discussed at the meetings and of the activities to be considered;
- e) decide which authorities referred to in paragraphs (3) and (4) of this Article shall attend the meetings or participate in particular activities, taking into account the relevance of the issue to be discussed for those authorities, in particular the potential impact on financial stability in the Member States concerned;
- f) keep all of the members of the college informed, in a timely manner, of the decisions and conclusions of those meetings.

(7) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall closely cooperate with the members of the resolution college. By way of derogation from paragraph (6), item (e) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall invite the resolution authority to the meetings of the resolution college whenever joint decisions or issues relating to the member of the group having its head office in their Member State are to be discussed.

(8) By way of derogation from paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the group-level resolution authority is not obliged to establish a resolution college if other groups or colleges perform the same functions and carry out the same tasks specified in this Article and comply with all the conditions and procedures, including those covering membership and participation in resolution colleges, established in this Article and in Article 98 of this Act. In such cases, all references to resolution colleges in this Act shall be understood as reference to those groups or colleges.

Resolution college when the Croatian National Bank or the Croatian Financial Services Supervisory Agency is not the group-level resolution authority

Article 96

Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency is not the group-level resolution authority, it shall, together with the State Agency for Deposit Insurance and Bank Resolution, the Ministry of Finance and other members of the resolution college, participate in the work of the resolution college with a view to:

- a) exchange information relevant for drawing up group resolution plans, for the application to groups of preparatory and preventive powers and for group resolution;
- b) draw up group resolution plans in accordance with Article 17 or 20 of this Act;
- c) assess the resolvability of groups in accordance with Article 12 of this Act;
- d) decide on exercising powers to remove impediments to the resolvability of groups in accordance with Article 23 of this Act;
- e) decide on the need to establish a group resolution scheme as provided for in Article 31 of this Act;
- f) decide on the group resolution scheme proposed in accordance with Article 31 of this Act;
- g) coordinate plans for communicating with the media and the public in relation to group resolution strategies and schemes;
- h) coordinate the use of financial arrangements;
- i) set the minimum requirements for groups at consolidated level and the level of individual group members in accordance with Article 27 of this Act;
- j) discuss any issues relating to cross-border group resolution.

European resolution colleges

Article 97

(1) Where a third-country institution or third-country parent undertaking has subsidiaries with head offices in the Republic of Croatia and one or more other Member States or where the third-country institution or the third-country parent undertaking has two or more branches in the European Union and the branch in the Republic of Croatia is considered significant, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall establish a European resolution college with the resolution authorities of other Member States in which those subsidiaries have significant branches and shall chair the college. The members of the European resolution college shall nominate the chair supervisory authority among themselves.

(2) The European resolution college shall be established for the purpose of performing the functions and carrying out the tasks specified in Article 95 or 96 of this Act with respect to the subsidiary institutions and, in so far as those tasks are relevant, to the branches referred to in paragraph (1) of this Article.

(3) By way of derogation from paragraph (1) of this Article, where the parent undertaking of a subsidiary in the Republic of Croatia subsidiary is a financial holding company or where this holding company has significant branches in the Republic of Croatia and where it complies with the regulations governing the operation of credit institutions or investment firms, the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the consolidating supervisor shall chair the European resolution college.

(4) By way of derogation from paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency and the relevant resolution authorities are not obliged to establish a European resolution college if other groups or colleges, including the resolution college established pursuant to Article 95 or 96 of this Act, perform the same functions and carry out the same tasks specified in this Article and comply with all the conditions and procedures, including those covering membership and exchange of information in resolution colleges in accordance with this Article and Article 99 of this Act. In such cases, all references to the resolution college in this Act shall be understood as reference to those groups or colleges.

(5) With the exception of the provisions of this Article, the provisions of Article 95 or 96 of this Act shall apply *mutatis mutandis* to the work of the European resolution college.

Duty to protect the confidentiality of information

Article 98

(1) All information of which they become aware in the course of their work within the framework of this Act shall be protected as confidential by:

a) the employees of the resolution authorities in the Republic of Croatia and the Member States, and the employees of the Ministry of Finance;

b) the employees of the competent authorities of Member States and third countries and of the European Banking Authority to whom confidential information has been delivered;

c) the employees of the competent ministries of Member States and third countries to whom confidential information has been delivered;

d) the members of the resolution administration;

e) the potential acquirers of instruments of ownership, assets, rights and liabilities of the institution under resolution that received confidential information from the competent or resolution authorities regardless of whether the transfer was finalised or not;

f) the employees of audit firms, legal and professional advisors, valuers and other experts that received confidential information from the competent authorities, competent ministries or potential acquirers referred to in item (e) of this paragraph;

g) the employees of authorities which administer deposit guarantee schemes;

h) the employees of authorities which administer investor compensation schemes;

i) the employees of authorities in charge of the resolution fund;

j) the employees of central banks and other authorities involved in the process of resolution planning and implementation in accordance with this Act;

k) the employees of bridge institutions or asset management vehicles; and

l) any other persons who provide or have provided services directly or indirectly, permanently or occasionally to persons referred to in items (a) to (k) of this paragraph.

(2) The duty to protect the confidentiality of information referred to in paragraph (1) of this Article shall cover the period before, during and after their appointment or employment to the post referred to in paragraph (1) of this Article.

(3) With a view to ensuring that the confidentiality requirements specified in paragraphs (1) and (4) of this Article are complied with, the authorities referred to in paragraph (1), items (a), (b), (c), (g), (h), (j) and (k) of this Article shall adopt and implement internal rules to secure the confidentiality of information referred to in paragraph (1) of this Article.

(4) The persons referred to in paragraph (1) of this Article shall be prohibited from disclosing confidential information received during the course of their professional activities from a competent authority or resolution authority to any person or authority unless it is in summary or collective form such that the individual institutions or entities referred to in Article 3, item (2), (3) or (4) of this Act cannot be identified or with the express prior consent of the resolution authority, institution or entity referred to in Article 3, item (2), (3) or (4) of this Act which provided the information.

(5) The authorities referred to in paragraph (1) of this Article shall carry out an assessment of the effects of disclosing confidential information, in order to assess the impact that such disclosure might have on the public interest as regards financial, monetary or economic policy, on the commercial interests of natural and legal persons and on the purpose of oversight, investigations and audits. The assessment procedure shall include an assessment of each individual effect of disclosure of the contents and details of resolution plans and the result of any assessment carried under this Act.

(6) By way of derogation from paragraphs (1) to (5) of this Article, confidential information may be exchanged by:

a) the persons referred to in paragraph (1) of this Article within each authority;

b) the employees of resolution authorities and competent authorities with the employees of resolution authorities and competent authorities of Member States, competent ministries, central banks, deposit guarantee schemes, judicial and other authorities competent for the implementation of the bankruptcy

or winding-up proceedings, the European Banking Authority, in accordance with Article 105 of this Act and third-country authorities that carry out equivalent functions to resolution authorities or to a potential acquirer.

(7) The provisions of this Article shall not include the disclosure of information for the purpose of legal proceedings in criminal or civil cases.

(8) The method of disclosing confidential information referred to in paragraph (1) of this Article in summary or collective form shall be specified in an ordinance by the Minister of Finance.

Information exchange

Article 99

(1) Resolution authorities and competent authorities shall provide one another on request with all the information relevant for the exercise of the other authorities' tasks in accordance with this Act, complying with the requirements on the duty to protect the confidentiality of information referred to in Article 98 of this Act.

(2) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency is the group-level resolution authority, it shall coordinate the flow of all relevant information between resolution authorities. In particular, it shall provide the resolution authorities of other Member States with all the relevant information in a timely manner with a view to facilitating the exercise of the tasks referred to in Article 95, paragraph (2), items (b) to (i) of this Act.

(3) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency is requested to provide information received from the third-country resolution authorities, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may divulge such information only with the express agreement of the authority which has provided the information.

(4) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall exchange information with the Ministry of Finance where this is provided for in this Act, where this Act provides for prior approval or consent of the Ministry of Finance and as regards decisions and activities which may have implications for public funds.

(5) The State Agency for Deposit Insurance and Bank Resolution, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may, in order to facilitate the implementation of this Act, conclude written agreements among themselves and with the relevant authorities of other Member States and third countries regulating mutual cooperation and the exchange of information in more detail.

Agreements with third countries

Article 100

(1) The Republic of Croatia may enter into bilateral agreements with a third country for the purpose of information exchange in relation to resolution planning regarding institutions, financial institutions, parent undertakings and third-country institutions, in the following situations:

a) where a third-country parent undertaking has a subsidiary institution or a significant branch in the Republic of Croatia;

b) where a parent undertaking having its head office in the Republic of Croatia has a subsidiary institution in a third country;

c) where an institution having its head office in the Republic of Croatia has a branch in a third country.

(2) The agreement referred to in paragraph (1) of this Article shall, in particular, seek to ensure the establishment of processes and arrangements between resolution authorities of the Republic of Croatia and the third countries for cooperation in carrying out some or all of the tasks and exercising some or all of the powers referred to in Article 97 of this Act. The agreement shall not contain provisions in relation to individual institutions, financial institutions, parent undertakings or third-country institutions.

(3) The agreement referred to in paragraph (1) of this Article may be entered into until the entry into force of the international agreement concluded by the European Commission in accordance with Article 218 TFEU, with one or more third countries regarding the means of cooperation between the resolution authorities and the relevant third-country authorities.

Recognition and enforcement of third-country resolution proceedings

Article 101

(1) This Article shall apply in respect of third-country resolution proceedings unless and until an international agreement as referred to in Article 100, paragraph (1) or (3) of this Act enters into force. This Article shall also apply in respect of third-country resolution proceedings following the entry into force of the international agreement referred to in Article 100, paragraph (1) or (3) of this Act where the recognition and enforcement of third-country resolution proceedings is not covered by this agreement.

(2) Where a European resolution college is established in accordance with Article 97 of this Act in which resolution authorities of the Republic of Croatia are participants, it shall reach a joint decision on whether to recognise, except in the cases provided for in Article 102 of this Act, third-country resolution proceedings relating to a third-country institution or a parent undertaking that:

a) has subsidiaries or significant branches in two or more Member States; or

b) has assets, rights or liabilities in two or more Member States or that are subject to the law of those Member States.

(3) Where the joint decision on the recognition of the third-country resolution proceedings is reached, the resolution authorities of the Republic of Croatia shall enable the enforcement of the recognised third-country resolution proceedings in accordance with the national law.

(4) Where the joint decision on the recognition of the third-country resolution proceedings is not reached, the State Agency for Deposit Insurance and Bank Resolution, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall reach their own decision on whether to recognise and enforce, except in the cases provided for in Article 102 of this Act, third-country resolution proceedings relating to a third-country institution or a third-country parent undertaking, which have effect in the Republic of Croatia.

(5) When reaching the decision referred to in paragraph (4) of this Act, the State Agency for Deposit Insurance and Bank Resolution, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall give due consideration to the interests of each individual Member State where the third-country institution or parent undertaking operates, and in particular to the potential

impact of the recognition and enforcement of the third-country resolution proceedings on the other members of the group and the financial stability in those Member States.

(6) The resolution authorities of the Republic of Croatia shall be empowered to:

a) exercise the resolution powers in relation to:

– assets of a third-country institution or parent undertaking that are located in the Republic of Croatia or are subject to the law of the Republic of Croatia;

– rights or liabilities of a third-country institution that are booked in the balance sheet of the branch in the Republic of Croatia or are subject to the law of the Republic of Croatia, or where claims in relation to such rights and liabilities are enforceable in the Republic of Croatia;

b) perfect or require another person to perfect a transfer of shares or other instruments of ownership in a subsidiary in the Republic of Croatia;

c) exercise the powers referred to in Article 90, 91 or 92 of this Article in relation to the rights of any party to a contract with an entity referred to in paragraph (2) of this Article, where such powers are necessary in order to enforce third-country resolution proceedings; and

d) revoke any contractual right to terminate, seek fulfilment or accelerate contracts, or affect the contractual rights of entities referred to in paragraph (2) of this Article and other members of the group, where such a right arises from resolution action taken in respect of the third-country institution or third-country parent undertaking referred to in paragraph (2) of this Article, whether by the third-country resolution authority or otherwise pursuant to legal or regulatory requirements connected to resolution arrangements in that country, provided that the substantive obligations under the contract, including payment and delivery obligations and the provision of collateral, continue to be performed.

(7) Where the relevant third-country authority determines that an institution having its head office in that third country meets the conditions for resolution under the law of that third country, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may, when this is in the public interest, take resolution action and exercise any resolution power referred to in this Act. The provisions of Article 89 of this Act shall apply in such cases.

(8) The recognition and enforcement of third-country resolution proceedings shall be without prejudice to any regular insolvency proceedings in accordance with the regulations governing insolvency proceedings.

Right to refuse recognition or enforcement of third-country resolution proceedings

Article 102

The State Agency for Deposit Insurance and Bank Resolution, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may, after consulting other resolution authorities, where a European resolution college is established in accordance with Article 97 of this Act, refuse to recognise or to enforce third-country resolution proceedings in accordance with Article 101 of this Act if it considers:

a) that third-country resolution proceedings would have adverse effects on financial stability in the Republic of Croatia or that the proceedings would have adverse effects on the financial stability in another Member State;

- b) that independent resolution action in accordance with Article 103 of this Act in relation to an EU branch is necessary to achieve one or more of the resolution objectives;
- c) that creditors, including in particular depositors located or payable in the Republic of Croatia, would not receive the same treatment as third-country creditors with similar legal rights under the third-country home resolution proceedings;
- d) that recognition or enforcement of the third-country resolution proceedings would have material fiscal implications for the Republic of Croatia; or
- e) that the effects of such recognition or enforcement would be contrary to national regulations.

Resolution of branches belonging to EU cross-border group of institutions

Article 103

(1) The State Agency for Deposit Insurance and Bank Resolution, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall be empowered to act in relation to EU branches regardless of whether they are subject or not subject to third-country resolution proceedings in the event of the circumstances specified in Article 102 of this Act.

(2) The State Agency for Deposit Insurance and Bank Resolution, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may exercise the powers referred to in paragraph (1) of this Article where they consider that action is necessary to protect the public interest and where one of the following conditions is met:

a) the EU branch no longer meets, or is likely not to meet, the conditions imposed by national law for its authorisation and operation within that Member State and there is no prospect that any private sector, supervisory or relevant third-country action would restore the branch to compliance or prevent its failure in a reasonable timeframe;

b) the third-country institution is, in the opinion of the State Agency for Deposit Insurance and Bank Resolution, the Croatian National Bank or the Croatian Financial Services Supervisory Agency, unable or unwilling, or is likely to be unable, to pay its obligations to domestic creditors or obligations that have been created or booked through the branch, as they fall due and the State Agency for Deposit Insurance and Bank Resolution, the Croatian National Bank or the Croatian Financial Services Supervisory Agency is satisfied that no third-country resolution proceedings or bankruptcy proceedings have been or will be initiated in relation to that third-country institution in a reasonable timeframe;

c) the relevant third-country authority has opened resolution proceedings in relation to the third-country institution, or has notified the State Agency for Deposit Insurance and Bank Resolution, the Croatian National Bank or the Croatian Financial Services Supervisory Agency of its intention to open such a proceeding.

(3) When the State Agency for Deposit Insurance and Bank Resolution, the Croatian National Bank or the Croatian Financial Services Supervisory Agency takes an independent action in relation to an EU branch, it shall have regard to the resolution objectives and take the action in accordance with the following principles and requirements, insofar as they are relevant:

a) the principles referred to in Article 7 of this Act;

b) the requirements relating to the application of the resolution tools referred to in this Act.

Cooperation with the competent authorities of third countries

Article 104

(1) The provisions of this Article shall apply until the entry into force of an international agreement with a third country in accordance with Article 100, paragraph (1) of this Act, as well as following the entry into force of an international agreement in accordance with Article 100, paragraph (1) of this Act to the extent that the subject matter of this Article is not covered by that agreement.

(2) The competent authorities or resolution authorities shall, where necessary, conclude non-binding cooperation agreements in accordance with the framework agreement of the European Banking Authority with the relevant third-country authorities.

(3) The provisions of this Article shall not affect bilateral or multilateral agreements concluded by competent authorities with third countries in accordance with Article 33 of Regulation (EU) No 1093/2010.

(4) The cooperation agreements concluded between resolution authorities and third countries in accordance with the provision of this Article may include provisions on:

- a) the exchange of information necessary for the preparation and maintenance of resolution plans;
- b) the consultation and cooperation in the development of resolution plans, including principles for the exercise of powers in accordance with Articles 101 and 103 of this Act and similar powers in accordance with the law of the relevant third countries;
- c) the exchange of information necessary for the application of resolution tools and exercise of resolution powers and similar powers that may be exercised by the relevant third-country authorities;
- d) early warning to or consultation of parties to the cooperation agreement before taking any significant action in accordance with the provisions of this Act or relevant third-country law affecting the institution or group to which the agreement relates;
- e) the coordination of public communication in the case of joint resolution actions;
- f) procedures and arrangements for the exchange of information and cooperation in accordance with the provisions of items (a) to (e) of this paragraph, including, where appropriate, through the establishment and operation of crisis management groups.

(5) The competent authority shall notify the European Banking Authority of any cooperation agreement that resolution authorities and competent authorities concluded in accordance with this Article.

Exchange of confidential information

Article 105

(1) The State Agency for Deposit Insurance and Bank Resolution, the Croatian National Bank, the Croatian Financial Services Supervisory Agency and the Ministry of Finance shall exchange confidential information, including recovery plans, with relevant third-country authorities only if the following conditions are met:

a) those third-country authorities are subject to requirements and standards of professional secrecy at least considered to be equivalent, in the opinion of all the authorities concerned, to those specified in Article 98 of this Act. The exchange of information relating to personal data shall be exercised in accordance with the provisions of the regulations governing the protection of personal data and in accordance with the applicable EU regulations relating to the protection of personal data;

b) the information is necessary for the performance of their resolution functions by the relevant authorities of third countries whose law is comparable to the provisions of this Act and is, in accordance with the provisions of item (a) of this paragraph, not used for other purposes.

(2) The State Agency for Deposit Insurance and Bank Resolution, the Croatian National Bank, the Croatian Financial Services Supervisory Agency and the Ministry of Finance shall disclose confidential information received from other Member States to the relevant third-country authorities only if the following conditions are met:

a) the relevant authority of the Member State where the information originated agrees to that disclosure;

b) the information is disclosed only for the purposes permitted by the originating authority.

(3) For the purposes of this Article, information is deemed to be confidential if it is subject to confidentiality requirements under the applicable EU law.

XII SAFEGUARDS

Treatment of shareholders and creditors in the case of partial transfers and application of the bail-in tool

Article 106

(1) Where the State Agency for Deposit Insurance and Bank Resolution, by applying one or more resolution tools, transfers only parts of the rights, assets and liabilities of the institution under resolution, it shall, by applying Article 108 of this Act, ensure that shareholders and those creditors whose claims have not been transferred receive in satisfaction of their claims at least as much as what they would have received if bankruptcy proceedings have been carried out against the institution under resolution at the time when the decision referred to in Article 29 of this Act was adopted.

(2) Where the State Agency for Deposit Insurance and Bank Resolution applies the bail-in tool, it shall, by applying Article 108 of this Act, ensure that shareholders and creditors whose claims have been written down or converted to common equity tier 1 instruments do not incur greater losses than they would have incurred if bankruptcy proceedings have been carried out against the institution under resolution at the time when the decision referred to in Article 29 of this Act was adopted.

Effects of difference in treatment

Article 107

(1) After carrying out the transfer of a part of the rights, assets and liabilities of the institution under resolution or applying the bail-in tool, the State Agency for Deposit Insurance and Bank Resolution shall without delay, for the purpose of applying Article 106 of this Act and other provisions of this Act, ensure that a valuation is carried out by an independent valuer, which shall be distinct from the valuation referred to in Article 35 of this Act, and which shall determine the following:

a) the effect that bankruptcy proceedings would have had on shareholders and creditors, or on the relevant deposit guarantee scheme if it had been carried out at the time when the decision referred to in Article 29 of this Act was adopted;

b) the effect that the resolution of the institution would have on shareholders and creditors; and

c) if there is any difference between the effects referred to in items (a) and (b) of this paragraph.

(2) The independent valuer shall carry out the valuation based on the following assumptions:

a) that bankruptcy proceedings had been initiated against the institution under resolution at the time when the decision referred to in Article 29 of this Act was adopted;

b) that resolution action had not been effected; and

c) no extraordinary public financial support has been provided to the institution under resolution.

Safeguards for shareholders and creditors

Article 108

(1) Where the valuation carried out in accordance with Article 107 of this Act determines that any shareholder or creditor referred to in Article 106 of this Act or the deposit guarantee scheme in accordance with Article 123, paragraph (1) of this Act has incurred greater losses than it would have incurred if bankruptcy proceedings had been carried out against the institution under resolution at the time when the decision referred to in Article 29 of this Act was adopted, the shareholder, the creditor or the deposit guarantee scheme shall be entitled to the payment of the difference from the resolution fund.

(2) The State Agency for Deposit Insurance and Bank Resolution shall adopt an implementing regulation to further regulate the payment of the difference referred to in paragraph (1) of this Article.

Safeguards for counterparties in partial transfers

Article 109

(1) Where the State Agency for Deposit Insurance and Bank Resolution effects only a partial transfer of the assets, rights or liabilities of the institution under resolution to another entity or, when it in the exercise of a resolution tool, effects only a partial transfer of the assets, rights or liabilities of the institution under resolution from a bridge institution or asset management vehicle to another person and when it exercises the powers referred to in Article 84, paragraph (1), item (f) of this Act the following arrangements and counterparties to the arrangements shall be protected:

a) security arrangements under which a person has by way of security an actual or contingent interest in the assets or rights that are subject to transfer, irrespective of whether that interest is secured by specific assets or rights or by way of a floating charge or similar arrangement;

b) title transfer financial collateral arrangement under which collateral to secure or cover the performance of specified obligation by a transfer of full ownership of assets from the collateral provider to the collateral taker in case of default by the collateral provider;

c) set-off agreements under which two or more claims or obligations owed between the institution under resolution and a counterparty can be set off against each other;

d) netting agreements;

e) covered bonds;

f) structural finance arrangements, including securitisations and instruments used for hedging purposes which form an integral part of the cover pool and which according to the applicable regulations are secured in a way similar to the covered bonds, on the basis of which a party to the arrangement, agent, nominee or holder acquires and holds a security.

(2) The form of protection of the arrangement referred to in paragraph (1) of this Article is specified in Articles 110 to 113 of this Act and is subject to the restrictions referred to in Articles 89, 90, 91 and 92 of this Act.

(3) The provisions of paragraphs (1) and (2) of this Article shall be applied irrespective of the number of parties involved in the arrangements and of whether:

a) the legal arrangements are created by contracts, through transfer of title as collateral or by other means, or arise by operation of law;

b) the legal arrangements are in whole or in part subject to the law of another Member State or of a third-country.

Protection for financial collateral arrangements, set-off and netting agreements

Article 110

(1) The State Agency for Deposit Insurance and Bank Resolution may not, by applying ancillary resolution powers, effect a partial transfer of rights and liabilities nor modify or terminate rights and liabilities that are protected under a title transfer financial collateral arrangement, a set-off agreement or a netting agreement concluded between the institution under resolution and another person.

(2) For the purpose of applying paragraph (1) of this Article, it shall be deemed that rights and obligations are protected under such an agreement or arrangement where the parties to it are entitled to set-off or net those rights and liabilities.

(3) By way of derogation from paragraph (1) of this Article, the State Agency for Deposit Insurance and Bank Resolution may:

a) transfer covered deposits which are part of any of the arrangements mentioned in paragraph (1) of this Article without transferring other assets, rights or liabilities that are part of the same arrangement; or

b) transfer, modify or liquidate such assets, rights or liabilities without transferring the covered deposits.

Protection for security arrangements

Article 111

(1) For the purpose of protection for liabilities secured under security arrangements, the State Agency for Deposit Insurance and Bank Resolution may not:

- a) transfer assets against which the liability is secured unless the liability and benefit of the security are also transferred;
- b) transfer secured liabilities unless the benefit of the security is also transferred;
- c) transfer the benefit of the security unless the secured liability is also transferred;
- d) modify or terminate a security arrangement by applying ancillary resolution powers, where the effect of that modification or termination is that the liability ceases to be secured.

(2) By way of derogation from paragraph (1) of this Article, the State Agency for Deposit Insurance and Bank Resolution may:

- a) transfer covered deposits which are part of any of the arrangements mentioned in paragraph (1) of this Article without transferring other assets, rights or liabilities that are part of the same arrangement; or
- b) transfer, modify or liquidate such assets, rights or liabilities without transferring the covered deposits.

Protection for structured finance arrangements and covered bonds

Article 112

(1) In order to ensure the protection for structured finance arrangements, including arrangements referred to in Article 109, paragraph (1), items (e) and (f) of this Act, the State Agency for Deposit Insurance and Bank Resolution may not, by applying ancillary resolution powers, effect a partial transfer of rights and liabilities nor modify or terminate rights and liabilities that are an integral part of the structured finance arrangement, including arrangements referred to in Article 109, paragraph (1), items (e) and (f) of this Act concluded between the institution under resolution and another person.

(2) By way of derogation from paragraph (1) of this Article, the State Agency for Deposit Insurance and Bank Resolution in order to ensure availability of the covered deposits may:

- a) transfer covered deposits which are part of any of the arrangements mentioned in paragraph (1) of this Article without transferring other assets, rights or liabilities that are part of the same arrangement; or
- b) transfer, modify or liquidate such assets, rights or liabilities without transferring the covered deposits.

Partial transfers: protection of trading, clearing and settlement systems

Article 113

(1) The State Agency for Deposit Insurance and Bank Resolution shall not, by applying resolution tools, affect the operation of systems and rules of systems governed by the regulation governing the settlement finality in payment and securities settlement systems, where it effects a partial transfer of assets, rights or liabilities of an institution under resolution to another entity, or where by applying ancillary resolution powers it amends or cancels the terms of a contract to which an institution under resolution is a party or ensures that the recipient undertaking steps in the place of the institution under resolution as a party.

(2) The transfer, amendment or cancellation referred to in part (1) of this Article shall not revoke, modify or negate the enforceability of transfer orders and netting as required in accordance with Articles 6 and 8 of the Act on Settlement Finality in Payment and Financial Instruments Settlement Systems, the use of funds, securities or credit facilities as required by Article 8 of that Act or protection of collateral security as required by Articles 11 and 12 thereof.

TITLE XIII

RESOLUTION FUND

Establishment of the resolution fund

Article 114

(1) The resolution fund shall be established in accordance with Article 115 of this Act. The resolution fund shall be managed by the State Agency for Deposit Insurance and Bank Resolution in accordance with the provisions of this Act. The resolution fund shall have its personal identification number generated and allocated at the request of the State Agency for Deposit Insurance and Bank Resolution by the Ministry of Finance, the Tax Administration, pursuant to a special regulation.

(2) The funds of the resolution fund shall ensure the effective application of the resolution tools and the resolution powers. The funds of the resolution fund shall be used to achieve resolution objectives referred to in Article 6 of this Act and in accordance with the principles referred to in Article 7 of this Act.

(3) The funds of the resolution fund shall be held at the account with the Croatian National Bank opened for this purpose by the State Agency for Deposit Insurance and Bank Resolution.

(4) The State Agency for Deposit Insurance and Bank Resolution shall maintain the assets and liabilities of the resolution fund separately from the assets and liabilities of other activities of the State Agency for Deposit Insurance and Bank Resolution.

Raising of funds by the resolution fund

Article 115

(1) The resolution fund shall have available sufficient funds to achieve the objectives referred to in Article 6 of this Act and therefore the State Agency for Deposit Insurance and Bank Resolution shall, in the name and for the account of the resolution fund:

a) raise *ex-ante* contributions in accordance with Article 118 of this Act for the purpose of reaching the target level referred to in Article 117 of this Act;

b) raise *ex-post* contributions in accordance with Article 119 of this Act where the contributions specified in item (a) of this paragraph are not sufficient; and

c) contract borrowings and other alternative financing sources in accordance with Articles 120 to 121 of this Act.

(2) The funds raised in accordance with paragraph (1) of this Article constitute the assets of the resolution fund whose use is approved by the State Agency for Deposit Insurance and Bank Resolution for the purposes specified in Article 116, paragraph (1) of this Act.

(3) The State Agency for Deposit Insurance and Bank Resolution shall adopt an implementing regulation to further regulate the manner of investment and the assets that the available funds of the resolution fund may be invested in.

Use of funds by the resolution fund

Article 116

(1) The State Agency for Deposit Insurance and Bank Resolution may use the resolution fund for the following purposes:

- a) to guarantee the assets or the liabilities of the institution under resolution, its subsidiaries, a bridge institution or an asset management vehicle;
- b) to grant loans to the institution under resolution, its subsidiaries, a bridge institution or an asset management vehicle;
- c) to purchase assets of the institution under resolution;
- d) to pay in capital and ensure other necessary funds to a bridge institution or an asset management vehicle;
- e) to pay compensation to shareholders or creditors in accordance with Article 108 of this Act;
- f) to compensate the institution under resolution the amount arising due to the exclusion of eligible liabilities of certain creditors from the application of the bail-in tool in accordance with Article 67, paragraphs (1), (2) and (3) and Article 68, paragraphs (1) to (6) of this Act;
- g) to lend to other resolution funds in accordance with Article 121 of this Act;
- h) to take any combination of the actions referred to in items (a) to (g) of this paragraph;
- i) to pay justified costs incurred by the resolution authorities of the Republic of Croatia in relation to the application of the resolution tools or powers if not compensated in accordance with Article 56, paragraph (5) of this Act.

(2) When applying the sale of business tool, the State Agency for Deposit Insurance and Bank Resolution may use the funds of the resolution fund also to take actions referred to in paragraph (1), items (a) to (h) of this Act with respect to the buyer.

(3) The funds of the resolution fund shall not be used directly to absorb the losses of or recapitalise the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act. In the event that the use of the funds of the resolution fund for the purposes of paragraphs (1) and (2) of this Article indirectly results in part of the losses of an institution or entity referred to in Article 3, item (2), (3) or (4) of this Act being absorbed by the resolution fund, the principles governing the use of the funds of the resolution fund specified in Articles 66 to 68 shall apply.

Resolution fund target level

Article 117

(1) Assets of the resolution fund shall reach at least 1% of the amount of covered deposits of all the credit institutions authorised in the Republic of Croatia in accordance with the audited financial statements for the previous year.

(2) By way of derogation from paragraph (1) of this Article, where the funds of the resolution fund diminish below the amount referred to in paragraph (1) of this Article to the amount constituting more than two thirds of the target level referred to in paragraph (1) of this Article, the contributions raised in accordance with Article 118 of this Act shall resume to be raised at the regular pace until the level referred to in paragraph (1) of this Article is reached.

(3) By way of derogation from paragraph (2) of this Article, where the funds of the resolution fund diminish to below two thirds of the target level referred to in paragraph (1) of this Article, the contribution shall be set at a level allowing for reaching the target level referred to in paragraph (1) of this Article within six years.

(4) By way of derogation from paragraph (3) of this Article, the State Agency for Deposit Insurance and Bank Resolution may decide otherwise where this is justified in view of the phase of the business cycle and the impact procyclical contributions may have when setting annual contributions in the context of this provision.

Ex-ante contributions

Article 118

(1) Institutions and EU branches authorised in the Republic of Croatia shall pay in *ex-ante* contributions once a year.

(2) The contribution referred to in paragraph (1) of this Article of institutions and EU branches authorised in the Republic of Croatia shall be pro rata to the amount of their liabilities (excluding own funds) less covered deposits, with respect to the aggregate liabilities (excluding own funds) less covered deposits of all the institutions and EU branches authorised in the Republic of Croatia.

(3) The contributions shall be adjusted in proportion to the risk profile of institutions authorised in the Republic of Croatia in accordance with the criteria for establishing the risk profile of institutions and EU branches in the Republic of Croatia.

(4) The Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority shall, pursuant to the submitted audited data for the previous business year, deliver to the State Agency for Deposit Insurance and Bank Resolution the data on:

a) the amount of the aggregate liabilities less own fund items; and

b) input parameters for the calculation of the risk profile in accordance with the delegated regulation governing *ex-ante* contributions to the resolution financing arrangements.

(5) The data referred to in paragraph (4) of this Article shall be delivered by 15 May of the current year for the previous year.

(6) The State Agency for Deposit Insurance and Bank Resolution shall calculate the contribution referred to in paragraph (1) of this Article and deliver an invoice for the calculated contribution to institutions and EU branches authorised in the Republic of Croatia which they shall be obliged to pay within 15 days of delivery.

(7) The State Agency for Deposit Insurance and Bank Resolution may grant individual institutions or entities to meet the obligation of paying contributions referred to in this Article through irrevocable payment commitments which are fully backed by collateral of low risk assets unencumbered by any third party rights pledged or transferred to the ownership of the State Agency for Deposit Insurance and Bank Resolution for the purposes specified in Article 116, paragraphs (1) and (2) of this Act. The aggregate share of such irrevocable payment commitments shall not exceed 30% of the total amount of contributions raised in accordance with this Article.

(8) The funds raised in accordance with this Article shall only be used for the purposes specified in Article 116 of this Act.

(9) The amounts received from the institution under resolution or the bridge institution, the interest and other earnings on investments and any other earnings arising from the application of the resolution tools in accordance with Titles IX.1, IX.2, IX.3 and IX.4 of this Act shall be the earnings of the resolution fund.

(10) Compliance with the requirement of registering with the resolution fund, accounting, reporting and other requirements necessary to ensure that the annual contributions of the institutions and EU branches authorised in the Republic of Croatia are paid and the measures ensuring that contributions are paid in full shall be carried out in the manner specified in the Commission Delegated Regulation (EU) 2015/63 of 21 October 2014 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to *ex-ante* contributions to resolution financing arrangements.

Ex-post contributions

Article 119

(1) In cases where available funds of the resolution fund are not sufficient to absorb the losses, costs and other expenses incurred, the State Agency for Deposit Insurance and Bank Resolution is empowered to raise *ex-post* contributions.

(2) *Ex-post* contributions shall be raised from institutions and EU branches authorised in the Republic of Croatia in accordance with Article 118 of this Act.

(3) *Ex-post* contributions shall not exceed three times the annual amount of contributions determined in accordance with Article 118 of this Act.

(4) *Ex-post* contributions raised in accordance with this Article shall be subject to Article 118, paragraph (3), (4), (5), (6), (8), (9) or (10) of this Act.

(5) The State Agency for Deposit Insurance and Bank Resolution may, in whole or in part, waive the application of the requirement to pay *ex-post* contributions to an institution or EU branch authorised in the Republic of Croatia where the payment of the *ex-post* contribution would jeopardise its liquidity or solvency.

(6) The decision on the waiver referred to in paragraph (5) of this Article shall be reached pursuant to the application of the institution or EU branch authorised in the Republic of Croatia.

(7) The waiver referred to in paragraph (5) of this Article shall not be granted for a period longer than 180 days but may exceptionally be renewed to the same period.

(8) The obligation to pay contributions shall arise even before the expiry of the period referred to in paragraph (7) of this Article where such a payment no longer jeopardises the liquidity or solvency of the institution and EU branch.

(9) The State Agency for Deposit Insurance and Bank Resolution is obligated to comply with the delegated acts of the European Commission specifying the circumstances and conditions under which an institution may be temporarily exempt from the payment of the *ex-post* contributions in accordance with paragraph (5) of this Article.

Contracting borrowings and other alternative financing sources

Article 120

A resolution fund may borrow with institutions or third persons in the event that the available funds raised in accordance with Article 118 of this Act and *ex-post* contributions referred to in Article 119 of this Act are not sufficient or accessible to cover the losses, costs and other expenses.

Borrowing between the resolution fund and Member States financing arrangements

Article 121

(1) The resolution fund may make a request to borrow from all other financing arrangements of Member States in the event that:

- a) the amounts raised in accordance with Article 118 of this Act are not sufficient to cover the losses, costs or other expenses;
- b) the *ex-post* contributions referred to in Article 119 of this Act are not immediately accessible; and
- c) borrowings and other alternative financing sources provided for in Article 120 of this Act are not accessible on reasonable terms.

(2) The resolution fund may lend to other financing arrangements when it is subject to the circumstances specified in paragraph (1) of this Article.

(3) The State Agency for Deposit Insurance and Bank Resolution shall reach a decision whether to lend to another financing arrangement from the resolution fund. The decision shall be reached pursuant to the request of the financing arrangement of another Member State under an emergency procedure with prior approval of the Ministry of Finance.

(3) The resolution fund shall grant the loan under the same terms and conditions as other financing arrangements participating in the financing of the financing arrangement of one Member State, unless all participating financing arrangements agree otherwise.

(5) The amount lent by the resolution fund to the financing arrangement of another Member State shall be pro rata to the amount of covered deposits in the Republic of Croatia and the aggregate of covered deposits in the Member States of participating financing arrangements. The rates determined in this way may vary upon agreement of all participating financing arrangements.

(6) An outstanding loan granted by the resolution fund to a financing arrangement of another Member State shall represent the assets of the resolution fund and is counted towards its target level.

*Mutual support between the resolution fund and other financing arrangements of
Member States in the case of a group resolution*

Article 122

(1) In the case of a group resolution in accordance with Articles 30 and 31 of this Act, the resolution fund shall participate in the financing of the group resolution.

(2) In the case where the State Agency for Deposit Insurance and Bank Resolution is the group-level resolution authority, it shall, after consulting the resolution authorities of institutions that are the members of the group under resolution, propose a financing plan as part of the group resolution scheme in accordance with Article 30 of this Act.

(3) The financing plan shall include:

a) a valuation of assets and liabilities of members of the group in accordance with Article 35 of this Act;

b) the amount of losses sustained by each affected member of the group under resolution at the moment the resolution tools are exercised;

c) the amount of losses suffered by each class of shareholders and creditors of individual members of the group under resolution;

d) the amount of loss that would be charged to the Deposit Insurance Fund and other deposit guarantee schemes of other members of the group in accordance with Article 123, paragraph (1) of this Act;

e) the aggregate amount of the funds required by the resolution fund and other financing arrangements included in the resolution of the group and the purpose and form of the financing;

f) the criteria for calculating the share of the resolution fund and other financing arrangements of the Member States where the members of the group under resolution are located in aggregate amount of the funds referred to in item (e) of this paragraph;

g) the amount of the share of the resolution fund and other financing arrangements of the Member State where the members of the group under resolution are located in the aggregate amount of the funds referred to in item (e) of this paragraph;

h) the amounts that the resolution fund and other financing arrangements included in the resolution of the group will borrow in accordance with Article 121 of this Act;

i) a timeframe for the use of the funds of the resolution fund and of the financing arrangements of the Member States included in the resolution of the group, which should be capable of being extended where appropriate.

(4) The criteria for calculating the share of the resolution fund and other financing arrangements of the Member States included in the group resolution in the aggregate amount referred to in paragraph (3), item (e) of this Article shall be consistent with paragraph (5) of this Article and with the principles of the group resolution plan in accordance with Article 18, paragraph (3), item (5) and Article 18, paragraphs (4) and (5) of this Act, unless otherwise agreed.

(5) Unless otherwise agreed in the financing plan, when determining the criteria for calculating the share of the resolution fund and other financing arrangements of the Member States included in the resolution of the group regard shall be taken of the following:

a) the share of the risk-weighted assets of the institution and entities referred to in Article 3, item (2), (3) or (4) of this Act having their head office in the Member State of that financing arrangement relative to the amount of the group's risk-weighted assets;

b) the share of the assets of institution and entities referred to in Article 3, item (2), (3) or (4) of this Act having their head office in the Member State of that financing arrangement relative to the amount of assets of the group they belong to;

c) the share of the losses of all members of the group supervised by the same competent authorities of a Member State which have led to group resolution;

d) the estimated share of the funds of the resolution fund and any other financing arrangement included in the resolution of the group, the use of which directly benefited the members of the group having their head office in the Member State of that financing arrangement.

(6) Pursuant to the adopted rules and procedures and without derogation from the provisions of paragraph (2) of this Article the resolution fund shall without delay effect its contribution to the financing of group resolution.

(7) In the case of group resolution and for the purpose of mutual support among the resolution fund and other financing arrangements of the Member States, the resolution fund may contract a loan or other forms of support under the conditions specified in Article 121 of this Act.

(8) The resolution fund may guarantee for loans contracted by other financing arrangements of the Member States included in the group resolution.

(9) All proceeds and other benefits that arise from the use of the resolution fund and other financing arrangements of the Member States included in the group resolution shall belong to them in accordance with their contributions under the financing plan referred to in paragraph (2) of this Article.

Use of deposit guarantee schemes when carrying out resolution

Article 123

(1) In the case of the application of the resolution action that continues to enable depositors to have access to their deposits, the deposit guarantee scheme shall be liable for:

a) the amount by which covered deposits would have been written down in order to absorb the losses in accordance with Article 69, paragraph (1), item (a) of this Act, had covered deposits been included within the scope of bail-in and been written down to the same extent as creditors with the same level of priority in accordance with the regulations governing bankruptcy proceedings when the bail-in tool is applied;

b) the amount of losses that covered depositors would have suffered had their loss been proportionate to the losses suffered by creditors with the same level of priority in accordance with the regulations governing bankruptcy proceedings when one or more resolution tools are applied, with the exception of the bail-in tool.

(2) When carrying out resolution proceedings, the liability of the deposit guarantee scheme shall not be greater than the amount of losses in the case of bankruptcy proceedings.

(3) When the bail-in tool is applied, the deposit guarantee scheme shall not be required to recapitalise the institution or bridge institution in accordance with Article 69, paragraph (1), item (b) of this Act.

(4) Where the valuation referred to in Article 107 of this Act determine that the deposit guarantee scheme's contribution was greater than the net losses it would have incurred in bankruptcy proceedings, the deposit guarantee scheme shall be entitled to the payment of the difference from the resolution fund in accordance with Article 108 of this Act.

(5) The amount by which the deposit guarantee scheme is liable in accordance with paragraphs (1) and (2) of this Article shall be determined by the application of the provisions of Article 35 of this Act.

(6) The deposit guarantee scheme shall pay out the amount of the coverage referred to in paragraphs (1) and (2) of this Article to the account of the institution under resolution or of a bridge institution.

(7) Where eligible deposits of the institution under resolution are transferred to another entity through the sale of business tool or the bridge institution tool, the depositors shall have no claim against the deposit guarantee scheme in relation to any part of their deposits not transferred from the institution under resolution, provided that the amount of funds transferred is equal or more than the aggregate coverage level provided for in accordance with the regulation governing deposit insurance.

(8) Where the funds of the deposit guarantee scheme are used in accordance with paragraphs (1) to (7) of this Article and are subsequently reduced to less than two thirds of the target level of the deposit guarantee scheme, the rate of the premium shall be increased to the level allowing for reaching the target level within six years.

(9) When carrying out resolution proceedings, the liability of the Deposit Insurance Fund may not be greater than the amount equal to 50% of its target level in accordance with the regulations governing deposit insurance, or than the losses incurred in bankruptcy proceedings.

XIV PENALTY PROVISIONS

Minor offences by institutions

Article 124

(1) An institution or entity referred to in Article 3, paragraph (2), (3) or (4) of this Act and an institution under resolution shall be fined between HRK 100,000.00 and up to 10% of the infringed protected value:

1) where it fails to exercise measures in the manner and within the time limits imposed in the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency and thereby acts contrary to Article 8, paragraph (18) of this Act;

2) where at the request of the Croatian National Bank or the Croatian Financial Services Supervisory Agency it fails to submit reports and information on all issues relevant to the implementation of this Act and thereby acts contrary to Article 8, paragraph (19) of this Act or fails to act in accordance with the regulation referred to in Article 8, paragraph (20) of this Act;

3) where it fails to submit any information necessary to draw up, revise or implement the resolution plan and thereby acts contrary to Article 15, paragraph (1), item (1) of this Act or fails to cooperate

and assist the resolution authority in the drawing up and updating of the resolution plan and thereby acts contrary to Article 15, paragraph (1), item (2) of this Act;

4) where it fails to notify the resolution authority in accordance with Article 15, paragraph (2) of this Act;

5) where it fails to prepare or on a regular basis update a list of financial contracts and thereby acts contrary to Article 15, paragraph (3) of this Act;

6) where it fails to maintain the list of financial contracts in the form and manner specified in the subordinate legislation or implementing regulation referred to in Article 15, paragraph (4) of this Act, or where it fails to update the list within the time limits specified in the subordinate legislation or implementing regulation referred to in Article 15, paragraph (4) of this Act;

7) where it fails to deliver or fails to deliver within the time limit referred to in Article 21, paragraph (1) of this Act a proposal of measures to address or remove the impediments, containing time limits for their removal;

8) where it fails to deliver or fails to deliver within the time limit referred to in Article 21, paragraph (9) of this Act a plan to comply with the imposed decision;

9) where it fails to remove impediments to the implementation of bankruptcy proceedings or to the resolvability of the institution and thereby acts contrary to Article 21, paragraph (3) of this Act, or where within the time limit specified it fails to deliver a plan to comply with the imposed measures and thereby acts contrary to Article 21, paragraph (9) of this Act or fails to act in accordance with a decision adopted pursuant to Article 21, paragraph (4) or Article 22, paragraph (9), (11) or (12), or Article 23, paragraph (5), (7) or (8) of this Act;

10) where it fails to meet the minimum requirement in the amount and in the manner set by the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by the decision specified in Article 25, paragraph (41), (6), (8) or (89), in Article 26, paragraph (5), (6) or (8), or in Article 27, paragraph (8), (9) or (11) of this Act on an individual, sub-consolidated or consolidated basis;

11) where the institution contrary to Article 43, paragraph (1) of this Act, fails to notify the Croatian National Bank or the Croatian Financial Services Supervisory Agency where it deems that it meets any of the conditions referred to in Article 28, paragraph (4) of this Act;

12) where the institution fails to draw up a business reorganisation plan and thereby acts contrary to Article 74, paragraph (1) or (2) of this Act or where the EU parent institution fails to draw up a business reorganisation plan which covers all of the members of the group and thereby acts contrary to Article 75, paragraph (1) of this Act, or where the content of the recovery plan does not comply with the requirements and thereby acts contrary to Article 76 of this Act;

13) where the institution, contrary to Article, 79, paragraph (1) of this Act, fails to ensure that a contract includes a provision by which the liability arising from that contractual relationship may be subject to write down or conversion and that creditors or counterparties agree to the reduction of the principal or outstanding amount due, conversion or cancellation of that liability in case of bail-in;

14) where the institution or any member of the same group fails to act in accordance with the request of the State Agency for Deposit Insurance and Bank Resolution referred to in Article 85, paragraph (1) of this Act, or where a member of the group having its head office in the Republic of Croatia fails to act in accordance with the request of the State Agency for Deposit Insurance and Bank Resolution referred to in Article 85, paragraph (3) of this Act;

15) where the institution fails to pay *ex-ante* contributions and thereby acts contrary to Article 118, paragraph (6) of this Act;

16) where the institution fails to pay *ex-post* contributions and thereby acts contrary to Article 119, paragraph (2) of this Act;

17) where the institution acts contrary to the subordinate legislation or implementing regulation adopted by the resolution authority pursuant to Article 8, paragraph (21) of this Act.

(2) A responsible person of the institution's management board shall be fined between HRK 10,000.00 and up to HRK 100,000.00 for any of the minor offences referred to in paragraph (1) of this Article.

(3) A responsible person of the resolution administration of an institution under resolution shall be fined between HRK 10,000.00 and HRK 50,000.00 for any of the minor offences referred to in paragraph (1) of this Article.

Minor offences by other persons

Article 125

(1) An independent valuer shall be fined between HRK 10,000.00 and up to HRK 100,000.00:

1) where it fails to carry out a valuation of assets and liabilities of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act fairly, prudently or realistically and thereby acts contrary to Article 35, paragraphs (1), (4), (5) and (6) of this Act;

2) where it fails to draw up the valuation report on the valuation of assets and liabilities of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act that contains all the information referred to in Article 35, paragraphs (7) and (9) of this Act;

3) where it fails to carry out the *ex-post* valuation the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act in the manner referred to in Article 36, paragraph (14) of this Act; and

4) where the valuation of assets and liabilities of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act, carried out pursuant to Article 107 of this Act does not contain all the elements specified in Article 107, paragraph (1) of this Act or where this valuation is not based on the assumptions referred to in Article 107, paragraph (2) of this Act.

(2) A former member of the management board of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act or another authorised person with special powers and responsibilities of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act shall be fined between HRK 10,000.00 and up to HRK 100,000.00 where:

1) he/she fails to provide the resolution administration and its assistants immediate access to all business and other documentation of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act or fails to prepare a report on the transfer of operations and thereby acts contrary to Article 52, paragraph (1) of this Act; and

2) he/she fails to provide the resolution administration or its individual member all requested explanations and additional reports on the institution's operation and thereby acts contrary to Article 52, paragraph (2) of this Act.

(3) A natural person shall be fined between HRK 10,000.00 and up to HRK 100,000.00 where he/she breaches the provisions regarding the duty to protect the confidentiality of information referred to in Article 98 of this Act.

XV TRANSITIONAL AND FINAL PROVISIONS

Time limits for the adoption of subordinate legislation and implementing regulations

Article 126

(1) The State Agency for Deposit Insurance and Bank Resolution shall adopt the implementing regulation referred to in Article 115 of this Act within six months of the entry into force of this Act.

(2) The resolution authority shall, at the latest within three years of the entry into force of this Act, adopt the subordinate legislation or implementing regulation referred to in Article 8, paragraph (20), Article 25, paragraph (3), Article 42, paragraph (4), Article 58, paragraph (6), Article 64, paragraph (19), Article 71, paragraph (7), Article 73, paragraph (4), Article 77, paragraph (9), Article 85, paragraph (6), Article 108, paragraph (2) and Article 115, paragraph (3) of this Act.

Transitional period in relation to the list of financial contracts

Article 127

An institution shall prepare a list of all financial contracts referred to in Article 15, paragraph (3) of this Act within six months of the entry into force of this Act.

Transitional period to reach the target level of the resolution fund

Article 128

(1) The assets of the resolution fund in accordance with Article 117 of this Act shall reach at least 1% of the amount of covered deposits of all the credit institutions authorised in the Republic of Croatia in accordance with the audited financial statements for the previous year until 31 December 2024 at the latest.

(2) During the period referred to in paragraph (1) of this Article the contributions to the resolution fund raised in accordance with Article 118 of this Act shall be spread out in time as evenly as possible until the target level is reached.

(3) By way of derogation from paragraph (2) of this Article, the State Agency for Deposit Insurance and Bank Resolution may opt, given the phase of the business cycle and the impact procyclical contributions may have on the financial position of contributing institutions, for some other way of spreading out the contributions to reach the target level of the resolution fund over the period referred to in paragraph (1) of this Article.

(4) By way of derogation from paragraph (1) of this Article, the State Agency for Deposit Insurance and Bank Resolution may extend the initial period for a maximum of four years if the resolution fund has in the period referred to in paragraph (1) of this Article made cumulative disbursements in excess of 0.5% of covered deposits of all the credit institutions authorised in the Republic of Croatia in accordance with the audited financial statements for the previous year.

Entry into force

Article 129

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

Class: 022-03/15-01/05

Zagreb, 6 February 2015

THE CROATIAN PARLIAMENT

The President of the Croatian
Parliament

Josip Leko, m. p.