

CROATIAN PARLIAMENT

2827

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 18 December 2020.

Class: 011-01/20-01/131

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Zagreb, 22 December 2020

The President of the Republic of Croatia^[1]
Zoran Milanović, m. p.

THE ACT ON THE RESOLUTION OF CREDIT INSTITUTIONS AND INVESTMENT FIRMS

I GENERAL PROVISIONS

Subject matter of the Act

Article 1

This Act governs:

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

Compliance with the regulations of the European Union

Article 2

(1) This Act transposes into the Croatian legislation the following acts of the European Union:

1) 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);

2) Directive (EU) 2017/2399 of the European Parliament and of the Council of 12 December 2017 amending Directive 2014/59/EU as regards the ranking of unsecured debt instruments in insolvency hierarchy (OJ L 345, 27.12.2017);

3) Directive (EU) 2019/879 of the European Parliament and of the Council of 20 May 2019 amending Directive 2014/59/EU as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms and Directive 98/26/EC (OJ L 150, 7.6.2019);

4) Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU (Text with EEA relevance) (OJ L 314, 5.12.2019);

(2) This Act further regulates the implementation of the following regulations of the European Union:

1) 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 (OJ L 176, 27. 6.2013, hereinafter referred to as 'Regulation (EU) No 575/2013');

2) Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.7.2014, hereinafter referred to as 'Regulation (EU) No 806/2014');

3) Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance) (OJ L 150, 7.6.2019); and

4) Regulation (EU) 2019/877 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 806/EU as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms (OJ L 150, 7.6.2019).

Entities subject to this Act

Article 3

This Act shall apply to the following entities:

- 1) institution with a registered office in the Republic of Croatia;
- 2) financial institution with a registered office 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 Article 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 company, mixed financial holding company and mixed-activity holding company with a registered office in the Republic of Croatia;
- 4) RC parent financial holding company, EU parent financial holding company with registered office in the Republic of Croatia, RC parent mixed financial holding company and EU parent mixed financial holding company with registered office in the Republic of Croatia; and
- 5) third-country institution's branch with registered office in the Republic of Croatia.

Definitions

Article 4

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

1) *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);

2) *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, 27.2.2012);

3) *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);

4) *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);

5) *Regulation (EU) No 468/2014* to refer to Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (SSM Framework Regulation) (OJ L 141, 14.5.2014);

6) *Regulation (EU) 2019/2033* to refer to Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014 (Text with EEA relevance) (OJ L 314, 5.12.2019);

7) *Commission Delegated Regulation (EU) 2016/1712* to refer to Commission Delegated Regulation (EU) 2016/1712 of 7 June 2016 supplementing Directive 2014/59/EU of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms with regard to regulatory technical standards specifying a minimum set of the information on financial contracts that should be contained in the detailed records and the circumstances in which the requirement should be imposed (Text with EEA relevance) (OJ L 258, 24.9.2016);

8) *Commission Delegated Regulation (EU) 2015/63* to refer to 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 (OJ L 11, 17.1.2015).

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

1) '*group financing arrangement*' means the financing arrangement or arrangements available in the Member State where the group-level resolution authority is located;

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

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

4) '*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 prescribed by the regulation governing deposit insurance;

5) '*shareholder*' means a shareholder or holder of other instruments of ownership;

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

7) '*participating Member State*' means a Member State within the meaning of Article 2, item (1) of Council Regulation (EU) No 1024/2013;

8) '*debt instruments*' referred to in Article 97, paragraph (1), items (7) and (10) of this Act mean bonds and other forms of transferable debt, instruments creating or acknowledging a debt, and instruments giving rights to acquire debt instruments;

9) '*EU branch*' means a third-country institution's branch with a registered office in the Republic of Croatia;

10) '*EU subsidiary*' means an institution with a registered office in the Republic of Croatia or another Member State and that is a subsidiary of a third-country institution or a third-country parent undertaking;

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

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

13) '*financial contract*' includes the following contracts and arrangements:

a) securities contract, including;

– contract for the purchase, sale or loan of a security, a group or index of securities;

– option on a security or group or index of securities;

- repurchase or reverse repurchase transaction on any such security, group or index;
- b) commodities contract, including:
 - contract for the purchase, sale or loan of a commodity or group or index of commodities for future delivery;
 - option on a commodity or group or index of commodities;
 - repurchase or reverse repurchase transaction on any such commodity, group or index;
- c) forward contract and non-standardised forward contract, including contract (other than a commodities contract) for the purchase, sale or transfer of a commodity or property of any other kind, service, right or interest for a specified price at a future date;
- d) swap agreement, including:
 - swap and option relating to interest rates, spot or other agreement for the exchange of currency, equity indexes or equity, debt indexes or debt, commodity indexes or commodities, weather, emissions or inflation;
 - total return, credit spread or credit swaps;
 - any arrangement or transaction that is 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 agreement where the term of the borrowing is three months or less;
- f) master agreement for any of the contracts or agreements referred to in sub-items (a) to (e) of this item.

14) '*Global Systemically Important Institution or G-SII*' shall have the meaning as defined in Article 4, paragraph (1), item (133) of Regulation (EU) No 575/2013;

15) '*Global Systemically Important Institution outside the EU or G-SII outside the EU*' shall have the meaning as defined in Article 4, paragraph (1), item (134) of Regulation (EU) No 575/2013;

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

17) '*group resolution plan*' means a resolution plan for a group drawn up in accordance with Article 18 of this Act;

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

19) '*G-SII entity*' shall have the meaning as defined in Article 4, paragraph (1), item (136) of Regulation (EU) No 575/2013;

20) '*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 are facing temporary liquidity problems, without such an operation being part of monetary policy;

21) '*designated national macroprudential authority*' means the authority of a Member State 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 that is the Financial Stability Council;

22) '*individual resolution plan*' means a resolution plan for an institution drawn up in accordance with Article 17 of this Act;

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

24) '*third-country institution*' means an entity with a registered office in a third country, that would, if it is established in the European Union, be covered by the definition of an institution;

25) '*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;

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

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

28) '*bridge institution tool*' means the mechanism by which a resolution authority in accordance with Title IX.3 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 bridge institution;

29) '*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 an acquirer that is not a bridge institution;

30) '*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;

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

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

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

34) '*investment firm*' means a firm:

a) which 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 730,000.00 and in the Republic of Croatia this is an investment firm subject to the minimum initial capital requirement of HRK 6,000,000.00 as prescribed by the regulation governing the capital market;

b) which shall have the meaning as defined in Article 4, paragraph (1), item (22) of Regulation (EU) No 2019/2033 and shall be subject to the initial capital requirement of EUR 750,000.00 and in the Republic of Croatia this is an investment firm subject to the minimum initial capital requirement of HRK 6,000,000.00 as prescribed by the regulation governing the capital market;

35) '*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 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;

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

37) '*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;

38) '*Single Resolution Fund*' means the fund established in accordance with Article 67, paragraph (1) of Regulation (EU) No 806/2014;

39) '*Single Resolution Mechanism*' means the mechanism established by Regulation (EU) No 806/2014 creating uniform rules and a uniform procedure for the resolution of entities referred to in Article 2 of Regulation (EU) 806/2014 and supported by the Single Resolution Fund;

40) '*Single Resolution Board*' means the Board established in accordance with Article 42 of Regulation (EU) No 806/2014;

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

42) '*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;

43) '*supervisory college*' means a supervisory college established by the consolidating supervisor, and in the Republic of Croatia this is the college of supervisors as prescribed by the regulation governing the operation of credit institutions and the supervisory college as prescribed by the regulation governing the capital market;

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

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

46) '*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;

47) '*retail investor*' means a client of an investment firm or a credit institution who provides investment services and activities and does not meet the criteria for professional investors, and in the Republic of Croatia as prescribed by the regulation governing the capital market;

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

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

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

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

52) '*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;

53) '*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;

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

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

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

57) '*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;

58) '*crisis prevention measure*' means the exercise of powers for direct removal of deficiencies or impediments to recoverability in accordance with the regulations governing the operation of credit institutions or the capital market, the exercise of powers to address or remove impediments to resolvability in accordance with Article 22 of this Act, the application of an early intervention measure in accordance with the regulations governing the operation of credit institutions or the capital market or the exercise of the write-down or conversion powers in accordance with Title VII of this Act;

59) '*crisis management measure*' means a resolution action or the appointment of a resolution administration in accordance with Articles 59 and 60 of this Act or persons responsible for drawing up the business reorganisation plan in accordance with Article 87 of this Act or Article 110 of this Act;

60) '*appropriate authority*' means authority of the Member State that is responsible under the national law of that Member State for determination of the conditions for write-down or conversion of relevant capital instruments, and in the Republic of Croatia this is the Croatian National Bank or the Croatian Financial Services Supervisory Agency;

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

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

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

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

65) '*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 the provisions of the regulation governing the operation of credit institutions, including the European Central Bank; for investment firms the Croatian Financial Services Supervisory Agency in accordance with the regulation governing the capital market; and for financial holding companies, mixed financial holding companies and mixed-activity holding companies the Croatian National Bank, including the European Central Bank, or the Croatian Financial Services Supervisory Agency depending on their competences under the regulations governing the operations of those entities;

66) '*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;

67) '*independent valuer*' means either a natural person that conducts his/her business under self-employment or a legal person, contracted by the resolution authority to carry out an independent valuation of the assets and liabilities of an institution or entity referred to in Article 3, item (2), (3) or (4) of this Act, and that is independent and has no conflicting interests with the contractor, other resolution authorities, the Ministry of Finance or the institution under resolution, as laid down by the Commission Delegated Regulation (EU) 2016/1075;

68) '*non-preferred unsecured debt instruments*' means bonds and other forms of transferable debt and instruments creating or acknowledging a debt, which meet the requirements referred to in Article 32, paragraph (2) of this Act;

69) '*asset management vehicle*' means a legal person that meets the requirements referred to in Article 78, paragraphs (3) and (4) of this Act;

70) '*bail-inable 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 80, paragraph (2) of this Act;

71) '*operator of a system*' means an entity responsible for the functioning of the system which may also act as a settlement agent, a central counterparty or a clearing house, in accordance with the regulation governing settlement finality in payment and financial instruments settlement systems;

72) '*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 financial collateral arrangements including liabilities arising from repurchase transactions and other title transfer financial collateral arrangements;

73) '*covered deposit*' means the part of eligible deposit that does not exceed the coverage level, and in the Republic of Croatia as prescribed by the regulation governing deposit insurance;

- 74) '*resolution power*' shall have the meaning as defined in Title X of this Act;
- 75) '*write-down and conversion powers*' shall have the meaning as defined in Title VII of this Act and Article 97, paragraph (1), items (5) to (9) of this Act;
- 76) '*transfer powers*' means the powers as defined in Article 97, paragraph (1), item (3) or (4) 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;
- 77) '*eligible liabilities*' means bail-inable liabilities that fulfil, as applicable, the conditions of Article 30 or Article 31, paragraph (2) of this Act and tier 2 instruments that meet the conditions of Article 72a, paragraph (1), item (b) of Regulation (EU) No 575/2013;
- 78) '*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 as prescribed by the regulation governing deposit insurance;
- 79) '*subordinated eligible instruments*' means instruments that meet all of the conditions laid down in Article 72a of Regulation (EU) No 575/2013 other than Article 72b, paragraphs (3) to (5) of Regulation (EU) No 575/2013;
- 80) '*branch*' shall have the meaning as defined in Article 4, paragraph (1), item (17) of Regulation (EU) No 575/2013;
- 81) '*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 97, paragraph (1), item (8) of this Act;
- 82) '*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;
- 83) '*covered bonds*' means bonds which meet the conditions specified for covered bonds, which are issued by a credit institution which has its registered office in a Member State and is subject by law to special public supervision designed to protect bond-holders, and in the Republic of Croatia as prescribed by the regulation governing the issuance and supervision of covered bonds;
- 84) '*sub-consolidated basis*' shall have the meaning as defined in Article 4, paragraph (1), item (49) of Regulation (EU) No 575/2013;
- 85) '*legal instruments of the Single Resolution Board*' means decisions, instructions, guidelines, recommendations and warnings that the Single Resolution Board adopts pursuant to its powers under Regulation (EU) No 806/2014;
- 86) '*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;
- 87) '*cancellation right*' means a right to cancel a contract, a right to accelerate, cancel or set-off an obligation 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;
- 88) '*cross-border group*' means a group having members of the group established in more than one Member State;
- 89) '*winding up*' means the realisation of assets of an institution or entity referred to in Article 3, item (2), (3) or (4) of this Act;
- 90) '*bridge institution*' means a legal person that meets the requirements laid down in Article 73 of this Act;
- 91) '*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;
- 92) '*working day*' means a day other than a Saturday, a Sunday or a public holiday in the Republic of Croatia;

93) '*common equity tier 1 capital*' shall have the meaning as defined in Article 50 of Regulation (EU) No 575/2013;

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

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

96) '*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;

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

98) '*relevant third-country authority*' means a third-country authority responsible for exercising powers comparable to those of resolution authorities or competent authorities in accordance with this Act and with powers of the competent authorities in accordance with the regulation governing the operation of credit institutions or the regulation governing the capital market in the part relating to approval for concluding group financial support agreements and the provision of financial support as well as crisis prevention measures;

99) '*resolution*' means the application of a resolution tool in order to achieve at least one of the resolution objectives referred to in Article 6 of this Act;

100) '*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;

101) '*resolution group*' means a group comprising a resolution entity and its subsidiaries that are not:

a) resolution entities themselves;

b) subsidiaries of other resolution entities; or

c) entities established in a third country that are not included in the resolution group in accordance with the resolution plan and their subsidiaries;

102) '*resolution action*' means the decision to open resolution proceedings against an institution or entity referred to in Article 3, items (2), (3) and (4) of this Act in accordance with the provisions of Title V of this Act, the application of resolution tools in accordance with the provisions of Title IX of this Act, or the exercise of one or more resolution powers in accordance with Title X of this Act;

103) '*resolution fund*' means the fund established under the Act on the Resolution of Credit Institutions and Investment Firms (Official Gazette 19/2015, 16/2019 and 47/2020);

104) '*resolution tool*' shall have the meaning as defined in Article 71, paragraph (1) of this Act;

105) '*resolution college*' means a college established in accordance with the provisions of Title XI of this Act to carry out the tasks referred to in Article 112, paragraph (3) of this Act;

106) '*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;

107) '*group resolution scheme*' means a plan for the resolution of a group drawn up in accordance with Article 47 of this Act;

108) '*resolution entity*' means:

a) a legal person with a registered office in the European Union in respect of which the group resolution plan referred to in Article 18 of this Act provides for resolution action; or

b) an institution with a registered office in the Republic of Croatia that is not part of a group in respect of which the individual resolution plan referred to in Article 17 of this Act provides for resolution action;

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

110) '*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 and all types of financial intermediaries, markets and infrastructure may be potentially systemically important to some degree;

111) '*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 cease to exist, and in either case are converted into or replaced by a single net claim, including:

a) 'close-out netting provisions' which represent provisions of a financial collateral arrangement, or of an arrangement of which a financial collateral instrument 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:

– the obligations of the parties are accelerated so as to become 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; or

– 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

b) '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 regulation governing financial collateral and 'settlement' as prescribed by the regulation governing settlement finality in payment and financial instruments settlement systems;

112) '*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;

113) '*Agreement on the transfer and mutualisation of contributions to the Single Resolution Fund*' shall have the meaning as defined in Article 3, paragraph (1), item (36) of Regulation (EU) No 806/2014;

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

115) '*client funds and client assets*' means client funds and client assets held, administered or managed by an institution on behalf of the client;

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

117) '*entity subject to Regulation (EU) No 806/2014*' means an entity referred to in Article 3 of this Act subject to Regulation (EU) No 806/2014 in accordance with Article 2 of Regulation (EU) No 806/2014;

118) '*entity for which the Single Resolution Board is directly responsible*' means an entity referred to in Article 3 of this Act for which the Single Resolution Board is directly responsible in accordance with Article 7, paragraph (2) of Regulation (EU) No 806/2014 and, when the conditions for their

application are met, in accordance with Article 7, paragraph (4), item (b) and paragraph (5) of Regulation (EU) No 806/2014;

119) '*deposit guarantee scheme*' means a deposit guarantee scheme introduced and officially recognised by a Member State, and in the Republic of Croatia as prescribed by the regulation governing deposit insurance;

120) '*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;

121) '*title transfer financial collateral arrangement*' means an arrangement, including repurchase agreements, under which, a financial 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 prescribed by the regulation governing financial collateral;

122) '*aggregate amount*' means the aggregate amount of bail-inable liabilities in accordance with the assessment of the resolution authority referred to in Article 83, paragraph (1) of this Act;

123) '*total turnover*' means total annual net turnover of an undertaking in the preceding business year, including gross income consisting of interests and similar income, income from shares and other variable and fixed-yield securities and commissions and fees receivable in accordance with Article 316 of Regulation (EU) No 575/2013 and exceptionally, for undertakings which are subsidiaries of a parent undertaking, the relevant net income from interest and fees shall be determined based on the consolidated annual financial statements of the ultimate parent undertaking;

124) '*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 prescribed by the regulation governing the capital market;

125) '*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;

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

127) '*regulated market*' means a regulated market as prescribed by the regulation governing the capital market;

128) '*conditions for resolution*' shall have the meaning as defined in Article 43, paragraph (4) of this Act;

129) '*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 as prescribed by the regulation governing the operation of credit institutions or the regulation governing the capital market;

130) '*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;

131) '*combined buffer requirement*' means the total common equity tier 1 capital required to meet the requirement for capital conservation buffer extended by the following, as applicable:

- a) a countercyclical capital buffer;
- b) a G-SII buffer;
- c) an O-SII buffer;
- d) a structural systemic risk buffer,

and in the Republic of Croatia as prescribed by the regulation governing the operation of credit institutions or the regulation governing the capital market;

132) '*significant branch*' means a branch that has been identified as significant in a special procedure, and in the Republic of Croatia a branch identified in a procedure prescribed by the regulation governing the operation of credit institutions or the regulation governing the capital market;

133) '*significant supervised entity*' shall have the meaning as defined in Article 2, item (16) of Regulation (EU) No 468/2014; and

134) '*material subsidiary*' shall have the meaning as defined in Article 4, paragraph (1), item (135) of Regulation (EU) No 575/2013.

General principles

Article 5

(1) When deciding on and exercising the powers under this Act and when using the different tools at their disposal in relation to entities referred to in Article 3 of this Act, in accordance with the relevant provisions, resolution authorities and competent authorities shall take account of the nature, scope and complexity of the entity's activities, its shareholding structure, legal form, risk profile, size and legal form, interconnectedness to other institutions and to the financial system in general, as well as whether it exercises any investment services or activities in accordance with the regulation governing the capital market

(2) The regulations governing the operation of credit institutions shall apply to credit institutions subject to the exercise of resolution powers by the Croatian National Bank, 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 the Croatian Financial Services Supervisory Agency, unless otherwise prescribed in this Act.

(4) The provisions of regulations governing the establishment and organisation of companies shall apply to institutions subject to the exercise of resolution powers by the Croatian National Bank and the Croatian Financial Services Supervisory Agency, unless otherwise prescribed in by this Act.

(5) The provisions of this Act shall apply to entities subject to Regulation (EU) No 806/2014, to the extent not covered by Regulation (EU) No 806/2014 and to the extent necessary for the application of the provisions of Regulation (EU) No 806/2014.

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 each 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 authorities shall seek to minimise the cost of resolution and avoid destruction of value unless otherwise necessary for the achievement of those objectives.

(4) The resolution authorities shall have regard to all resolution objectives and take into account 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 is carried out in accordance with the following principles:

1) 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 hierarchy of claims in normal insolvency proceedings, unless otherwise provided for in this Act;

3) management body and senior management of the institution under resolution are replaced, except in those cases when the retention of the management body and senior management, in whole or in part, 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 applicable provisions of civil or criminal law for their responsibility for the failure of the institution;

6) except where otherwise provided for in this Act, creditors who fall within the same class within the hierarchy of claims in normal insolvency proceedings are treated in an equitable manner;

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

8) covered deposits are fully protected, as well as the claims of investors protected by the investor-protection scheme in accordance with the regulation 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 resolution tools and the exercise of 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 to be transferred to a new employer may be reduced.

(5) When applying the resolution tools and exercising the resolution powers, the Croatian National Bank or the Croatian Financial Services Supervisory Agency, where it deems it necessary, or the Croatian National Bank, pursuant to the instructions of the Single Resolution Board referred to in Article 15, paragraph (4) of Regulation (EU) No 806/2014, shall inform and consult employee representatives.

(6) The application of resolution tools and the exercise of resolution powers shall be without prejudice to the participation of employee representatives in the supervisory board where this is provided for in *lex specialis*.

Resolution authorities and competent ministry

Article 8

(1) For the purposes of this Act and Article 3, paragraph (1) items (3) and (4) of Regulation (EU) No 806/2014, the resolution authority that is empowered to exercise resolution powers and apply resolution tools in the Republic of Croatia over entities referred to in Article 3 of this Act for which the Single Resolution Board is not directly responsible, in accordance with the division of powers as provided for in this Act shall be:

1) the Croatian National Bank as the resolution authority for credit institutions which are not part of a group and for groups in which at least one member is a credit institution; or

2) the Croatian Financial Services Supervisory Agency as the resolution authority for investment firms which are not part of a group and for groups in which at least one member is an investment firm but no member of the group is a credit institution.

(2) The authorities referred to in paragraph (1) of this Article shall be empowered, in accordance with the division of powers and as provided for in this Act, to exercise the resolution powers and apply the resolution tools in the Republic of Croatia over entities for which the Single Resolution Board is directly responsible when acting in accordance with legal instruments of the Single Resolution Board.

(3) The Croatian National Bank shall designate its representative to at the Single Resolution Board with the right to vote at plenary and executive sessions of the Single Resolution Board.

(4) 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 drafting, planning and enforcement of the decisions under this Act.

(5) The authorities referred to in paragraph (1) of this Act shall ensure operational and functional independence to avoid conflicts of interest between the resolution powers exercised by those authorities in accordance with the provisions of Regulation (EU) No 806/2014 and 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.

(6) The authorities referred to in paragraph (1) of this Act shall ensure that the employees carrying out resolution activities in accordance with the provisions of Regulation (EU) No 806/2014 and this Act are structurally and functionally separated from the employees exercising supervision in accordance with the provisions of Regulation (EU) No 575/2013 and other regulations governing the operation of credit institutions or investment firms or with regard to other functions that these authorities exercise in accordance with the provisions of other regulations and subject to separate reporting lines.

(7) The employees of the authorities referred to in paragraph (1) of this Article carrying out the resolution activities in accordance with the provisions of Regulation (EU) No 806/2014 and this Act and employees carrying out supervision in accordance with the provisions of Regulation (EU) No 575/2013 and regulations governing the operation of credit institutions or investment firms shall cooperate closely in drafting, planning and enforcement of the decisions in accordance with this Act.

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

(9) The authorities referred to in paragraph (1) of this Article shall publish on their websites in a summary form any internal rules applicable when carrying out the activities pursuant to this Act, especially regarding professional secrecy and information exchanges between the different organisational areas.

(10) The summary form of any internal rules referred to in paragraph (9) of this Article shall be updated on a regular basis.

(11) For the purposes of this Act, the Croatian National Bank 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.

(12) 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 (11) of this Act, and the Croatian National Bank shall deliver that information to the European Banking Authority.

(13) The Croatian National Bank, the Croatian Financial Services Supervisory Agency, the Croatian Deposit Insurance Agency and the Ministry of Finance may, in order to facilitate and implement the provisions of Regulation (EU) No 806/2014 and this Act, conclude a written agreement to further regulate mutual cooperation and the exchange of information.

(14) The authorities referred to in paragraph (1) of this Article shall be empowered to refer the matter to the European Banking Authority in accordance with Article 19 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.

(15) The authorities referred to in paragraph (1) of this Article, for the purpose of exercising the powers referred to in Title III, Title IV and Title VI of this Act, and also the Croatian National Bank when cooperating with the Single Resolution Board in accordance with Articles 35 and 36 of Regulation (EU) No 806/2014, shall be empowered to:

1) conduct inspection for resolution purposes by collecting and verifying necessary information on the premises of the entities referred to in Article 3 of this Act or based on reports delivered by the entity referred to in Article 3 of this Act;

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

(16) The inspection for resolution purposes referred to in paragraph (15), item (1) of this Article shall be exercised by the employees of the authorities referred to in paragraph (1) of this Article.

(17) By way of derogation from paragraph (16) of this Article, the Croatian National Bank may authorise other expert persons to conduct the inspection for resolution purposes.

(18) 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 matters relevant to the implementation of this Act and Regulation (EU) No 806/2014 and enable the collection and verification of information in their premises in the manner referred to in paragraph (16), item (a) of this Article.

(19) The Croatian National Bank shall adopt subordinate legislation to further regulate the conditions for and the manner of implementing inspection for resolution purposes and the manner of imposing measures referred to in paragraph (15) of this Article and the obligations of the entities referred to in Article 3 of this Act during and after the implementation of activities by the Croatian National Bank.

(20) The Board of the Croatian Financial Services Supervisory Agency shall adopt an ordinance to further regulate the conditions for and the manner of implementing inspection for resolution purposes and the manner of imposing measures referred to in paragraph (15) of this Article, and the obligations of the entities referred to in Article 3 of this Act during and after the implementation of activities by the Croatian Financial Services Supervisory Agency.

Information exchange

Article 9

(1) Resolution authorities and competent authorities shall assist one another on a request basis with all the information relevant for the exercise of the other authorities' tasks in accordance with this Act, upholding the provisions governing the confidentiality of information as referred to in Article 115 of this Act.

(2) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall exchange information with the Ministry of Finance at least as regards decisions and activities which may have implications for public funds or systemic implications and shall consult the Ministry and obtain approval prior to implementing such decisions and performing those activities.

(3) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall notify the Ministry of Finance and the Croatian Deposit Insurance Agency of its decisions adopted in accordance with the provisions of this Act.

(4) The Croatian National Bank shall notify the Ministry of Finance and the Croatian Deposit Insurance Agency of the decisions of the Single Supervisory Board as regards entities for which the Single Resolution Board is directly responsible and of the manner of application of Article 25 of this Act.

(5) Upon a request for information which has been provided by a relevant third-country authority, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall seek the consent of the third-country resolution authority for the onward transmission of that information, save where the relevant authority has already consented to the onward transmission of that information.

(6) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall not be obliged to transmit information provided from a relevant third-country resolution authority if that authority has not consented to its onward transmission.

(7) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may, in order to facilitate the implementation of this Act, conclude written agreements regulating in more detail the mutual cooperation and the exchange of information with the Single Resolution Board, the resolution and competent authorities of other Member States and the relevant third-country authorities.

Cooperation between the resolution and competent authorities

Article 10

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall consult the competent authority or the consolidating supervisor:

1) when performing the resolvability assessment in accordance with Article 15 of this Act and, when it is the group-level resolution authority, in accordance with Article 16 of this Act;

2) when drawing up a resolution plan referred to in Article 17 of this Act or, when it is the group-level resolution authority, referred to in Article 18 of this Act;

3) when determining whether there are substantive impediments to resolvability, when assessing the proposed measures to address or remove the impediments or imposing measures to address or remove them in accordance with Article 22 of this Act and, when it is the group-level resolution authority, in accordance with Article 23 of this Act;

4) when determining the recapitalisation amount in accordance with Article 27, paragraph (6) of this Act, on the increase or decrease of the applicable additional own funds requirement set in accordance with the regulation governing the operation of credit institutions or the regulation governing the capital market with aim to align that requirement for the institution that is a resolution entity with the situation after the implementation of the preferred resolution strategy;

5) when determining the recapitalisation amount in accordance with Article 27, paragraphs (8) and (9) of this Act, on the decrease or increase of the amount to sustain sufficient market confidence in the resolution entity;

6) when determining, in accordance with Article 27, paragraph (12) of this Act, the minimum requirement amount referred to in Article 27, paragraph (10) of this Act for an institution that is a resolution entity which is not subject to Article 92a of Regulation (EU) No 575/2013 and which is part of a resolution group the total assets of which are lower than EUR 100 billion and for which it assesses as reasonably likely to pose a systemic risk in the event of its failure;

7) when determining the recapitalisation amount in accordance with Article 28, paragraph (6) of this Act, on the increase or decrease of the applicable additional own funds requirement set in accordance with the regulation governing the operation of credit institutions or the regulation governing the capital market with aim to align that requirement for the institution that is not a resolution entity with the situation after the exercise of the power to write down or convert capital instruments and eligible liabilities in accordance with Article 52 of this Act or after the resolution of the resolution group;

8) when determining the recapitalisation amount in accordance with Article 28, paragraphs (8) and (9) of this Act, on the decrease or increase of the amount to sustain sufficient market confidence in the institution that is not a resolution entity;

9) when deciding, in accordance with Article 30, paragraph (12) or (16) of this Act, on the minimum requirement amount which is to be met using own funds, subordinated eligible instruments, or liabilities issued by a subsidiary in accordance with Article 30, paragraph (6) of this Act;

10) when deciding on the minimum requirement in accordance with Articles 34, 35 and 37 of this Act and, when it is the group-level resolution authority, in accordance with Article 36 of this Act;

11) when exercising powers in the event of failure to meet the minimum requirements, in accordance with Article 40, paragraph (1) of this Article;

12) when deciding, in accordance with Article 41, paragraphs (2) and (5) of this Act, on the prohibition to distribute more than the maximum distributable amount in connection with the minimum requirement; and

13) when deciding, in accordance with Article 105 of this Act, on the suspension of payment or delivery obligations pursuant to a contract to which an institution or entity referred to in Article 3, item (2), (3) or (4) is a party.

(2) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall deliver to the competent authority a resolution plan adopted in accordance with Article 17 of this Act and, when it is a group-level resolution authority, Article 18 of this Act, including any amendments thereto.

(3) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall notify the competent authority in writing:

1) when, in accordance with Article 22, paragraph (1) of this Act, it determines that there are substantive impediments to resolvability;

2) of its assessment that it is unnecessary to prohibit the distribution of more than the maximum distributable amount in connection with the minimum requirement to the institution or entity referred to in Article 3, item (2), (3) or (4) due to the existence of conditions referred to in Article 41, paragraph (5) of this Act, together with an explanation of the assessment; and

3) of the adoption of the decision to open resolution proceedings in accordance with Article 46, paragraph (1) of this Act and all subsequent decisions implementing the decision to open resolution proceedings, without delay.

(4) The competent authority shall consult the Croatian National Bank or the Croatian Financial Services Supervisory Agency when determining whether the institution is failing or is likely to fail in accordance with Article 43, paragraph (1) of this Article.

(5) The competent authority shall deliver to the Croatian National Bank or the Croatian Financial Services Supervisory Agency:

1) any available information necessary to draw up, amend or implement resolution plans; and

2) reports received in accordance with Article 39, paragraph (1) of this Act.

(6) The competent authority shall notify the Croatian National Bank or the Croatian Financial Services Supervisory Agency:

1) of any change to the legal or organisational structure, to the business or to the financial position of the institution that could have a material effect on the effectiveness of the resolution plan and therefore necessitate its revision in accordance with Article 17, paragraph (5) of this Act;

2) of the notification referred to in Article 45, paragraph (1) of this Act or when it determines that the institution or entity referred to in Article 3, items (2), (3) or (4) of this Act meets the conditions referred to in Article 43, paragraph (4), items (1) and (2) of this Act, without delay;

3) of all notifications received in accordance with Article 45, paragraph (1) of this Act that the institution or entity referred to in Article 3, items (2), (3) or (4) of this Act meets any of the conditions referred to in Article 43, paragraph (1) of this Act;

4) of all crisis prevention measures and supervisory measures, including early intervention measures imposed on the institution or entity referred to in Article 3, items (2), (3) or (4) of this Act in accordance with the regulation governing the operation of credit institutions or the regulation governing the capital market.

(7) The competent authority and the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall cooperate when:

1) examining whether the institution meets the minimum requirement referred to in Article 34, 35 or 36 of this Act;

2) notifying the European Banking Authority of decisions of the Croatian National Bank or Croatian Financial Services Supervisory Agency on the minimum requirement in accordance with Articles 34 to 37 of this Act;

3) initiating a procedure for imposing penalties in accordance with the regulation governing the operation of credit institutions or the regulation governing the capital market or misdemeanour proceedings in accordance with Articles 143 and 144 of this Act in order to produce the desired results and coordinate their action when dealing with cross-border cases.

Liability for damage

Article 11

The Croatian National Bank, the Croatian Financial Services Supervisory Agency, the Croatian Deposit Insurance Agency and the Ministry of Finance, their employees or any persons authorised by them shall not be liable for damages that may arise in the course of performance of their duties under this Act or regulations governing the recovery and resolution of credit institutions and investment firms and under Regulation (EU) No 806/2014 and regulations adopted in accordance with Regulation (EU) No 806/2014, unless it is proven that they acted or failed to act intentionally or as a result of gross negligence.

Legal instruments of the Single Resolution Board

Article 12

(1) Decisions of the Single Resolution adopted in accordance with Regulation (EU) No 806/2014 shall be binding in their entirety and applicable in the Republic of Croatia.

(2) When implementing decisions and special instructions of the Single Resolution Board in accordance with Article 29 of Regulation (EU) No 806/2014, the resolution authorities shall take all actions necessary, each within the scope of activities and competences under this Act.

(3) When implementing guidelines, general instructions and recommendations of the Single Resolution Board adopted in accordance with Regulation (EU) No 806/2014, the resolution authorities, shall exercise the powers referred to in this Act, each within the scope of activities and competences under this Act.

Cooperation within the Single Resolution Mechanism

Article 13

(1) The Croatian National Bank and the competent authority shall cooperate with the Single Resolution Board, the Council of the European Union, the European Commission and the European Central Bank in accordance with Regulation (EU) No 806/2014.

(2) At the request of the Single Resolution Board, the Croatian National Bank shall cooperate in the manner governed by Regulation (EU) No 806/2014, in particular:

1) by providing accurate and complete information necessary to carry out the tasks of the Single Resolution Board in a timely manner;

2) by providing assistance in conducting general investigations in accordance with Article 35 of Regulation (EU) No 806/2014 and on-site inspections in accordance with Article 36 of Regulation (EU) No 806/2014;

3) by preparing draft resolution plans, including draft decisions on the minimum requirement for own funds and eligible liabilities and draft resolution schemes for entities for which the Single Resolution Board is directly responsible;

4) by providing information on the performance of the tasks of the Croatian National Bank in respect of entities for which the Single Resolution Board is not directly responsible;

5) by participating in internal resolution teams established by the Single Resolution Board;

6) by providing assistance in monitoring the implementation of the write-down or conversion of relevant capital instruments and eligible liabilities by the Croatian National Bank pursuant to instructions of the Single Resolution Board;

7) by providing assistance in monitoring the implementation of the resolution scheme adopted by the Single Resolution Board, including the application of resolution tools and the exercise of resolution powers by the Croatian National Bank, and submitting final reports on the execution in accordance with Article 28, paragraph (1) of Regulation (EU) No 806/2014; and

8) by exchanging views for the purpose of the functioning of resolution colleges established by the Single Resolution Board;

(3) In order to implement the Commission's decision on the compatibility of the use of the Single Resolution Fund with the internal market, referred to in Article 19, paragraph (5) of Regulation (EU) No 806/2014, the Croatian Deposit Insurance Agency shall be empowered to require from beneficiaries the recovery of misused amounts determined by the European Commission, including interest at an appropriate rate fixed by the European Commission, and to transfer them to the Single Resolution Fund.

III RESOLUTION PLANNING

Information for the purpose of resolution plans

Article 14

(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 revision 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 revision of 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, for which a resolution plan provides the taking of resolution action when the conditions for resolution are met as specified in a summary of the key elements of the resolution plan referred to in Article 17, paragraph (3) or Article 18, paragraph (24) of this Act, shall prepare and on a regular basis update a list of all

financial contracts to which it is a party, in accordance with the provisions of Commission Delegated Regulation (EU) No 2016/1712.

(4) By way of derogation from paragraphs (1) and (2) of this Article, an RC parent institution or an EU parent institution with a registered office in the Republic of Croatia shall meet the requirements referred to in this Article for all members of its group.

Assessment of resolvability for institutions

Article 15

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall, when drawing up and updating individual resolution plan referred to in Article 17 of this Act, assess whether it is feasible to carry out the normal insolvency proceedings or the resolution over each institution which is not part of a group and for which the Single Resolution Board is not directly responsible without the assumption of any of the following:

1) any extraordinary public financial support besides the use of the funds of the resolution fund or the Single Resolution Fund;

2) any central bank emergency liquidity assistance; or

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

(2) Resolution or normal insolvency proceedings against an institution which is not part of a group and for which the Single Resolution Board is not directly responsible shall be deemed possible, if the normal insolvency proceedings are feasible and credible or if the resolution that would be carried out by the Croatian National Bank or the Croatian Financial Services Supervisory Agency by applying any of the resolution tools and powers provided for in this Act, 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, is feasible and credible.

(3) Prior to making 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 referred to in paragraph (1) of this Article is located insofar as is relevant to the branch.

(4) The assessment referred to in paragraph (1) of this Article shall include 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 the necessary number of employees, infrastructure, funding, liquidity and capital are able to support and maintain the core business lines and critical functions;

4) the extent to which the institution has in place agreements entrusting the performance of processes, services or activities to a service provider, the extent to which they are feasible, and the extent to which they 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 agreements entrusting the performance of processes, services or activities with the institution's policies;

6) the extent to which the institution has a process for transitioning of the processes, services or activities provided under agreements with service providers 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 process 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 the results thereof;

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 can provide updated and complete information to identify creditors, including information necessary to identify depositors and the amounts of covered deposits in accordance with the regulation governing deposit insurance, 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 bail-inable liabilities of the institution;

14) the feasibility of using resolution tools in such a way which meets the resolution objectives, given the tools available and the institution's structure;

15) the credibility of using resolution tools in such a way which meets the resolution objectives, given possible impacts on creditors, counterparties, customers and employees and possible actions that third-country authorities may take;

16) 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;

17) the extent to which the application of resolution tools and powers could contain the contagion of adverse effects to other institutions or to the financial markets; and

18) the extent to which the resolution of the institution could have a significant effect on the operation of payment and settlement systems.

(5) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall notify the European Banking Authority without delay if it assessed that normal insolvency proceedings of the institution referred to in paragraph (1) of this Article are not feasible or that the institution is not resolvable.

Assessment of resolvability for groups

Article 16

(1) In case of groups, when drawing up and updating the resolution plan referred to in Article 18 of this Act, it shall be assessed whether it is feasible to carry out the normal insolvency proceedings or the resolution of the group without the assumption of any of the following:

1) any extraordinary public financial support besides the use of the funds of the resolution fund or the Single Resolution Fund;

2) any central bank emergency liquidity assistance; or

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

(2) Resolution or normal insolvency proceedings against a group shall be deemed possible if normal insolvency proceedings are feasible and credible or if the resolution that would be carried out by resolution authorities by applying any of the resolution tools and powers thus separating critical functions within a reasonable timeframe or in some other way, 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, is feasible and credible.

(3) In case of cross-border groups, the assessment referred to in paragraph (1) of this Article shall be made with a joint decision within the resolution college in parallel with the adoption of a group resolution plan in accordance with the procedure laid down in Article 18 of this Act.

(4) For a group which is not a cross-border group, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall make the assessment referred to in paragraph (1) of this Article without the establishment of a resolution college and without assessing the circumstances referred to in paragraph (5), items (6) and (7) of this Article of this Act.

(5) The assessment referred to in paragraph (1) of this Article shall, in addition to the applicable circumstances in Article 15, paragraph (4) of this Act, take into account 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) whether relevant third-country authorities have the power to apply the resolution tools necessary to implement resolution actions taken by the Croatian National Bank or the Croatian Financial Services Supervisory Agency or the resolution authority of another Member State, and the scope for coordinated action between the Croatian National Bank or the Croatian Financial Services Supervisory Agency and the resolution authority of another Member State and third-country authorities;

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

8) 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) The Croatian National Bank or the Croatian Financial Services Supervisory Agency as a group-level resolution authority shall notify the European Banking Authority without delay if it assessed that neither the normal insolvency proceedings nor the resolution of the group referred to in paragraph (3) of this Article or the group referred to in paragraph (4) of this Article is feasible.

(7) Where the group referred to in paragraph (1) of this Article is composed of several resolution groups, the assessment referred to in paragraph (1) of this Article shall include the resolvability assessment of each resolution group and shall be made within the same procedure.

Adoption of an individual resolution plan

Article 17

(1) The Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency shall adopt an individual resolution plan referred to in Article 19 of this Act for an institution with a registered office in the Republic of Croatia for which the Single Resolution Board is not directly responsible and which is not part of a group after consulting the resolution authority of another Member State in which the significant branch of the institution is located insofar as is relevant to the branch.

(2) Prior to its adoption, the Croatian National Bank shall submit the draft resolution plan for a credit institution referred to in paragraph (1) of this Article to the Single Resolution Board for opinion in the manner and within the time limit laid down in Regulation (EU) No 806/2014. When drawing up the resolution plan, the Croatian National Bank shall act in accordance with the opinion of the Single Resolution Board regarding compliance with Regulation (EU) No 806/2014 and general instructions of the Single Resolution Board referred to in Article 31, paragraph (1), item (a) of Regulation (EU) No 806/2014.

(3) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall deliver a summary of the key elements of the resolution plan to the relevant institution.

(4) The Croatian National Bank shall deliver adopted individual resolution plans for credit institutions to the Single Resolution Board in accordance with Article 7, paragraph (3) of Regulation (EU) No 806/2014.

(5) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall review the individual resolution plan, and where appropriate update it, at least annually and after any material change 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 thus necessitating its revision or after the taking of resolution action or the exercise of the write-down or conversion power referred to in Article 52, paragraph (1) of this Act.

(6) Revisions of the individual resolution plan shall be made in accordance with the procedure referred to in this Article.

Adoption of a group resolution plan

Article 18

(1) Group resolution plans for cross-border groups shall be adopted by a joint decision of the resolution college.

(2) For the purpose of paragraph (1) of this Article, where the consolidating supervisor is located in the Republic of Croatia, the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the group-level resolution authority shall, acting in accordance with the confidentiality requirements referred to in Article 115 of this Act, forward the information referred to in Article 14 of this Act to:

- 1) the European Banking Authority;
- 2) the resolution authorities competent for the resolution of subsidiaries;
- 3) the resolution authorities of the Member States in which significant branches have their registered offices, as is relevant to those branches;
- 4) competent authorities participating in the colleges of supervisors i.e. supervisory authorities for that group; and
- 5) resolution authorities of the Member States in which where the registered offices of entities referred to in Article 3, items (3) and (4) of this Act are located.

(3) The information referred to in Article 14 of this Act that are delivered to the authorities referred to in paragraph (2), items (2) to (5) of this Article shall include at a minimum all information that are relevant to these authorities.

(4) The European Banking Authority shall be provided with the information referred to in Article 14 of this Act that is relevant to its role in relation to the drawing up, adoption and implementation of group resolution plans.

(5) In the case of information relating to a subsidiary with a registered office in a third country, the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the group-level resolution authority shall not be obliged to deliver that information without the prior consent of the relevant third-country authority.

(6) The Croatian National Bank or the Croatian Financial Services Supervisory Agency as the group-level resolution authority may, provided that the conditions for the exchange of confidential information as laid down in Article 121 of this Act are fulfilled, involve in the drawing up of group resolution plan for a cross-border group the relevant third-country authority responsible for a subsidiary, financial holding company or significant branch with a registered office in that country.

(7) For the purpose of paragraph (1) of this Article, where the consolidating supervisor is located in the Republic of Croatia, the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the group-level resolution authority shall, acting jointly with the resolution authorities responsible for subsidiaries, after consulting the relevant competent authorities, including the competent authorities of the Member States in which significant branches have their registered offices, reach a joint decision on the group resolution plan referred to in Article 20 of this Act, which shall include all members of the group, within four months of the delivery of information referred to in paragraph (2) of this Article.

(8) Where a group is composed of several resolution groups, the planning of the resolution actions referred to in Article 20, paragraph (3), item (2) of this Act shall be covered by the joint decision referred to in paragraph (7) of this Article.

(9) By way of derogation from paragraph (7) of this Article, in case of disagreement with the proposed group resolution plan of some resolution authorities responsible for subsidiaries, Croatian National Bank or the Croatian Financial Services Supervisory Agency as the group-level resolution authority may reach a joint decision on the group resolution plan referred to in Article 20 of this Act with those resolution authorities that agree with the proposed group resolution plan.

(10) If the joint decision referred to in paragraph (7) or paragraph (9) of this Article is not reached within four months of delivery of the information referred to in paragraph (2) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the group-level resolution authority shall, acting on its own, adopt the group resolution plan referred to in Article 20 of this Act with a decision that shall be fully reasoned and take into account the views and reservations of the resolution authorities responsible for subsidiaries, and shall deliver it to the EU parent institution.

(11) By way of derogation from paragraph (10) of this Article, if before the expiry of four months of the delivery of information referred to in paragraph (2) of this Article but before the joint decision is reached, any resolution authority of other Member States in which other members of the group have their registered office refers the matter to the European Banking Authority and requests the mediation in accordance with Article 19 of Regulation (EU) No 1093/2010, whereby the four-month period shall be deemed, within the meaning of that Regulation, to be the conciliation period, the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the group-level resolution authority shall defer the adoption of the decision referred to in paragraph (10) of this Article until the European Banking Authority adopts the decision referred to in Article 19, paragraph (3) of Regulation (EU) No 1093/2010.

(12) For the purpose of paragraph 11 of this Article, where the European Banking Authority reached the decision referred to in Article 19, paragraph (3) of Regulation (EU) No 1093/2010 within one month, the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in paragraph (10) of this Article shall be made in accordance with that decision.

(13) Where the European Banking Authority does not reach the decision referred to in Article 19, paragraph (3) of Regulation (EU) No 1093/2010 within one month, the decision referred to in paragraph (10) of this Article shall be adopted.

(14) For the purpose of paragraph (1) of this Article, where the consolidating supervisor is not located in the Republic of Croatia, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall participate with the group-level resolution authority and resolution authorities of other Member States responsible for subsidiaries, after consulting the relevant competent authorities, including the competent authorities of Member States in which significant branches have their registered offices, in the reaching of a joint decision on the group resolution plan, which shall include all members of the group or those members of the group within the responsibility of the resolution authorities that agree with the proposed resolution plan, within four months of receipt of relevant information from the group-level resolution authority of another Member State.

(15) If the joint decision referred to in paragraph (14) of this Article is not reached within four months of receipt of the relevant information from the group-level resolution authority, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall, acting on its own, adopt the resolution plan for a member of the group under its responsibility, identifying if needed the resolution entity and resolution group thereunder, with a decision that shall be fully reasoned and set out the reasons for disagreement with the proposed group resolution plan and take into account the views and reservations of other resolution authorities, and shall deliver it to other members of the resolution college.

(16) By way of derogation from paragraph (15) of this Article, if before the expiry of four months of the delivery of relevant information but before the joint decision is reached, the group-level resolution authority 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 in accordance with Article 19 of Regulation (EU) No 1093/2010, whereby the four-month period shall be deemed, within the meaning of that Regulation, to be the conciliation period, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall defer the adoption of the decision referred to in paragraph (15) of this Article until the adoption of the decision of the European Banking Authority referred to in Article 19, paragraph (3) of Regulation (EU) No 1093/2010.

(17) For the purpose of paragraph (16) of this Article, where the European Banking Authority reached the decision referred to in Article 19, paragraph (3) of Regulation (EU) No 1093/2010 within one month, the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in paragraph (15) of this Article shall be made in accordance with that decision.

(18) Where the European Banking Authority does not reach the decision referred to in Article 19, paragraph (3) of Regulation (EU) No 1093/2010 within one month, the decision referred to in paragraph (15) of this Article shall be adopted.

(19) For the purpose of paragraphs (7) and (14), the Croatian National Bank or the Croatian Financial Services Supervisory Agency may, before the expiry of four months of the delivery of information referred to in paragraph (2) of this Article or of the receipt of relevant information but before the joint decision is reached, refer the matter to the European Banking Authority in accordance with Article 19 of Regulation (EU) No 1093/2010, unless any resolution authority concerned deems that the subject matter of a disagreement may in any way impinge on its Member State's fiscal responsibilities.

(20) If any resolution authority concerned, during the procedure for the reaching of a joint decision referred to in paragraph (7) or (9) of this Article, deems that the subject matter of a disagreement may in any way impinge on its Member State's fiscal responsibilities, the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the group-level resolution authority shall initiate a review of the group resolution plan, including the minimum requirement for own funds and eligible liabilities.

(21) In the absence of a joint decision on the group resolution plan, the joint decisions referred to in paragraphs (7), (9) and (14) of this Article, as well as individual decisions of relevant resolution authorities comparable to decisions referred to in paragraphs (10) and (15) of this Article, shall be recognised as conclusive and produce legal effects on the Croatian National Bank or the Croatian Financial Services Supervisory Agency.

(22) The Council of the Croatian National bank shall have the authority to adopt a decision that empowers the Governor of the Croatian National Bank to sign the joint decision referred to in paragraphs (7), (9) and (14) of this Article or to adopt the decisions referred to in paragraphs (10) and (15) of this Article.

(23) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall deliver without any delay the group resolution plan adopted in accordance with paragraph (7) or (9) of this Article or in accordance with paragraph (10) of this Article to relevant competent authorities and the Croatian National Bank shall deliver it to the Single Resolution Board in accordance with Article 7, paragraph (3) of Regulation (EU) No 806/2014.

(24) The Croatian National Bank or the Croatian Financial Services Supervisory Agency as the group-level resolution authority shall deliver to the EU parent institution a summary of the key elements of the group resolution plan that was adopted in accordance with paragraph (7) or (9) of this Article or in accordance with paragraph (10) of this Article.

(25) The group resolution plan shall be reviewed, and where appropriate revised, 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 thus necessitating its revision.

(26) The provisions of this Article shall apply to the procedure for the revision of the resolution plan.

(27) The provisions of Article 17 of this Act shall apply *mutatis mutandis* to the procedure for the adoption of a group resolution plan for a group which is not a cross-border group and for which the Single Resolution Board is not directly responsible.

Content of individual resolution plans

Article 19

(1) The individual resolution plan shall set out resolution actions which may be undertaken by the Croatian National Bank or the Croatian Financial Services Supervisory Agency if the institution meets the conditions for resolution, elaborate options for applying the resolution tools and exercising the resolution powers and shall include, quantified whenever appropriate and possible:

- 1) a summary of the key elements of the plan;
- 2) a summary of the material changes that have occurred after the adoption of the latest resolution plan;
- 3) assessment of the public interest;
- 4) a demonstration of how critical functions and core business lines could be legally and economically separated, to the extent necessary, from other functions and business lines so as to ensure continuity upon determining that the conditions referred to in Article 43, paragraph (1) of this Act have been met;
- 5) an estimation of the timeframe for executing each material aspect of the plan;
- 6) results of the assessment referred to in Article 15 of this Act and paragraph (3) of this Article and its detailed description;
- 7) a description of any measures referred to in Article 22 of this Act required pursuant to the assessment referred to in Article 15 of this Act to address or remove impediments to resolvability;
- 8) a description of the processes for determining the value and marketability of the critical functions, core business lines and assets of the institution;

9) a detailed description of the arrangements for ensuring that the information referred to in Article 14 of this Act that is required by the Croatian National Bank or the Croatian Financial Services Supervisory Agency to draw up and update resolution plans is up to date and at their disposal at all times;

10) a description of how the resolution strategies could be financed without the assumption of any of the following:

a) any extraordinary public financial support besides the use of the funds of the resolution fund or the Single Resolution Fund;

b) any central bank emergency liquidity assistance;

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

11) 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;

12) a description of critical interdependencies;

13) a description of options for preserving access to payment and clearing systems and other infrastructures and an assessment of the portability of client positions;

14) 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;

15) a plan for communicating with the media and the public;

16) the minimum requirement for own funds and eligible liabilities determined in accordance with Article 34 of this Act and the time limit referred to in Article 148 of this Act to meet that requirement;

17) the minimum requirement for own funds and contractual bail-in instruments determined in accordance with Article 30, paragraph (12) of this Act and the time limit referred to in Article 148 of this Act to meet that requirement, where applicable;

18) a description of essential procedures and systems for maintaining the continuous functioning of the institution's operational processes;

19) where applicable, an opinion expressed by the institution in relation to the resolution plan; and

20) an analysis of how and when an institution may apply, in the conditions addressed by the plan, for the use of central bank facilities and identify those assets which would be expected to qualify as financial collateral.

(2) When determining the time limits referred to in paragraph (1), items (16) and (17) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall take into account the time limit for compliance with the guidance on additional own funds in accordance with the regulation governing the operation of credit institutions or the regulation governing the capital market.

(3) When drawing up the individual resolution plan referred to in paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall identify any substantive impediments to resolvability and, where necessary and proportionate, outline actions for how those impediments could be addressed.

(4) When drawing up the individual resolution plan referred to in paragraph (1) of this Article, 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:

1) any extraordinary public financial support besides the use of the funds of the resolution fund or the Single Resolution Fund;

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

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

(5) When drawing up the individual resolution plan referred to in paragraph (1) of this Article, the Croatian National Bank shall act in accordance with the opinion of the Single Resolution Board regarding compliance with Regulation (EU) No 806/2014 and the general instructions of the Single Resolution Board referred to in Article 31, paragraph (1), item (a) of Regulation (EU) No 806/2014.

Content of group resolution plans

Article 20

(1) The group resolution plan shall identify resolution actions to be taken in respect of:

1) the EU parent undertaking;

2) subsidiaries with a registered office in the Republic of Croatia or other Member States and that are part of the group;

3) entities referred to in Article 3, items (3) and (4) of this Act with a registered office in the Republic of Croatia or other Member States; and

4) subsidiaries with a registered office outside the European Union that are part of the group, in accordance with the provisions of Title XI of this Act.

(2) In accordance with the measures referred to in paragraph (1) of this Article the group resolution plan shall identify resolution entities and resolution groups.

(3) The group resolution plan shall, while also including the information referred to in Article 19 of this Act in an appropriate manner, contain or set out:

1) the resolution actions to be taken in relation to resolution entities, taking into consideration relevant scenarios including idiosyncratic or macroeconomic events and describes the impact of these resolution actions on other members of the group referred to in Article 3, items (2), (3) and (4) of this Act, parent undertaking and subsidiaries;

2) where the group comprises several resolution groups, resolution actions to be undertaken in relation to resolution entities of each resolution group and the impact of these actions on other members of the group that are part of the same resolution group and on other resolution groups;

3) the extent to which the resolution tools and powers could be applied and exercised in a coordinated way to resolution entities with a registered 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 or resolution group and identify any potential impediments to a coordinated resolution;

4) appropriate arrangements for cooperation and coordination with the relevant authority of a third country in which a group member has a registered office and their implications for the resolution of the group;

5) 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;

6) additional actions that are not covered by this Act, that resolution authorities responsible for members of the group intend to take in relation to them, within each resolution group

7) the ways for possible financing of group resolution actions, and where the use of group financing arrangements, including of the resolution fund, is envisaged, set out principles for sharing financing responsibilities among financing arrangements of different Member States, whereby the said principles shall be set out on the basis of equitable and balanced criteria taking into account Article 138 of this Act and financial stability of all included Member States;

8) the minimum requirement for own funds and eligible liabilities determined in accordance with Article 35 or 36 of this Act and the time limit referred to in Article 148 of this Act to meet that requirement;

9) the minimum requirement for own funds and contractual bail-in instruments determined in accordance with Article 30, paragraph (7) or (16) of this Act and the time limit referred to in Article 148, where applicable to meet that requirement.

The group resolution plan shall not assume the following:

1) any extraordinary public financial support besides the use of the funds of the resolution fund, Single Resolution Fund or 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.

(5) The group resolution plan shall contain the results of the assessment referred to in Article 16 of this Act and their detailed explanation.

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

Resolution plan drawn by the Single Resolution Board

Article 21

(1) The Croatian National Bank shall cooperate in accordance with Article 8 of Regulation (EU) No 806/2014 with the Single Resolution Board in the process of drawing up resolution plans for entities for which the Single Resolution Board is directly responsible.

(2) Taking into account the effect that normal insolvency proceedings or resolution of the entity for which the Single Resolution Fund is directly responsible, due to the nature of the entity's business, its shareholding structure, its legal form, its risk profile, size and legal status, its interconnectedness to other institutions or to the financial system in general, might have on financial markets, on other institutions, on funding conditions, the Croatian National Bank shall act in accordance with Article 11 of Regulation (EU) No 806/2014 in relation to the application of simplified obligations connected to the drawing up of the resolution plan referred to in paragraph (1) of this Article.

Powers to address or remove impediments to resolvability

Article 22

(1) Where substantive impediments to resolvability are determined in the course of the assessment referred to in Article 15 of this Act, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall notify in writing the entity referred to in Article 3 of this Act to which the impediments relate and the resolution authority of the Member State in which the significant branch is located.

(2) The entity referred to in Article 3 of this Act shall, within four months of receipt of the notification from the Croatian National Bank or the Croatian Financial Services Supervisory Agency, deliver a proposal of measures to address or remove the said impediments, containing time limits for their implementation.

(3) By way of derogation from paragraph (2) of this Article, the time limit within which the entity referred to in Article 3 of this Act is obligated to deliver a proposal of measures to meet both the requirement referred to in Articles 34 to 37 of this Act and the combined buffer requirement including the time limits for the implementation thereof, while taking into account the reasons for substantive impediments, shall be 14 days of the date of receipt of the notification from the Croatian National Bank or the Croatian Financial Services Supervisory Agency, in the situation concerning the following substantive impediments to resolvability:

1) the entity referred to in Article 3 of this Act is in the situation where it meets the combined buffer requirement when considered in addition to the requirements referred to in Article 92,

paragraph (1), items (a), (b) and (c) of Regulation (EU) No 575/2013, and, in addition to each of these requirements, additional own funds requirement addressing risks other than the risk of excessive leverage imposed pursuant to the regulation governing the operation of credit institutions or regulation governing the capital market, but fails to meet the combined buffer requirement when considered in addition to the minimum requirement referred to in Articles 34 to 37 of this Act, as applicable, which is calculated in accordance with Article 26, paragraph (4), item (1) of this Act; or

2) the entity referred to in Article 3 of this Act fails to meet the requirements referred to in Articles 92a and 494 of Regulation (EU) No 575/2013 or the requirement referred to in Article 34, 35 and 36 of this Act.

(4) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall assess whether the measures proposed to address or remove the substantive impediments to resolvability are effective and where it deems that they are, it shall notify thereof the entity referred to in Article 3 to which the impediments relate.

(5) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency, while taking into account the possible threat to financial stability and the effect of the proposed measures on the business of the entity referred to in Article (3) of this Act to which these impediments relate, its stability and its ability to contribute to the economy, assesses that measures to address or remove the substantive impediments to resolvability proposed by that entity are not effective, it may adopt the decision by which it:

1) requires the entity referred to in Article 3 of this Act to revise group financial support agreements or review the reasons for the absence thereof, or to conclude process, service or activities agreements, either with a group member or with third party, to ensure the provision of critical functions;

2) imposes on the entity referred to in Article 3 of this Act the maximum permitted individual or aggregate exposures;

3) requires the entity referred to in Article 3 of this Act to deliver additional information relevant for resolution planning and implementation purposes;

4) requires the entity referred to in Article 3 of this Act to divest specific assets;

5) requires the entity referred to in Article 3 of this Act to limit or cease specific existing or proposed activities;

6) restricts or prevents the entity referred to in Article 3 of this Act in the development of new or existing business lines or products;

7) requires the entity referred to in Article 3 of this Act to change its legal or operational structure, so as to reduce complexity in order to ensure that critical functions may be legally and operationally separated from other functions when applying the resolution tools;

8) requires the entity referred to in Article 3 of this Act or the parent undertaking to set up an RC parent financial holding company or an EU parent financial holding company;

9) requires the institution or the entity referred to in Article 3, item (2), (3) or (4) of this Act to submit a plan to restore compliance with the requirements referred to in Articles 34 to 37 of this Act, as applicable, expressed as a percentage of the total risk exposure amount calculated in accordance with Article 92, paragraph (3) of Regulation (EU) No 575/2013, or in accordance with the applicable requirement referred to in Article 11, paragraph (1) of Regulation (EU) 2019/2033 multiplied by 12.5 and, where applicable, with the combined buffer requirement and with the requirement referred to in Articles 34 to 37 of this Act, as applicable, expressed as a percentage of the total exposure measure referred to in Articles 429 and 429a of Regulation (EU) No 575/2013;

10) requires the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act to issue eligible liabilities to meet the requirement of Articles 34 to 37 of this Act, as applicable;

11) requires the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act, for the purpose of ensuring ongoing compliance with the requirement of Articles 34 to 37 of this Act, as applicable, to amend or alter the maturity of:

a) own funds instruments, after having obtained the agreement of the competent authorities; and

b) eligible liabilities referred to in Article 30 and Article 31, paragraph (2) of this Act;

12) requires the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act to take other steps to meet the requirement of Articles 34 to 37 of this Act, as applicable, including renegotiating conditions in relation to eligible liabilities, additional tier 1 instrument or tier 2 instrument it has issued, with a view to ensuring the implementation of any decision by the Croatian National Bank or the Croatian Financial Services Supervisory Agency to write down or convert that liability or instrument in accordance with the applicable law governing that liability or instrument; or

13) where the entity referred to in Article 3 of this Act is the subsidiary of a mixed-activity holding company, requires that the mixed-activity holding company sets up a separate financial holding company to control the subsidiary, if necessary in order to facilitate the resolution and to avoid the application of the resolution tools and powers referred to in Title X of this Act on the non-financial part of the group which could have an adverse effect on the non-financial part of the group.

(6) When imposing the measures referred to in paragraph (5) of this Article the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall duly consider the potential effect of these measures on the entity referred to in Article 3 of this Act, its stability and its ability to contribute to the economy, on the market for financial services, and on the financial stability in other Member States and the European Union as a whole, and may, where appropriate, consult the Financial Stability Council thereof.

(7) In the decision referred to in paragraph (5) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall demonstrate how the measures proposed by the entity referred to in Article 3 of this Act would not be effective and why it considers that the measures it imposed with the decision are proportionate in removing impediments.

(8) The entity referred to in Article 3 of this Act shall implement the measures to address or remove impediments to resolvability within the time limits laid down in the decision referred to in paragraph (5) of this Article and shall within one month of receipt of the decision imposing those measures deliver to the Croatian National Bank or the Croatian Financial Services Supervisory Agency a plan to comply with the imposed measures.

(9) The Croatian National Bank shall submit the draft decision referred to in paragraph (5) of this Article to the Single Resolution Board for opinion in the manner and within the time limit laid down in Regulation (EU) No 806/2014 and when adopting that decision shall act in accordance with the opinion of the Single Resolution Board regarding compliance with Regulation (EU) No 806/2014 and general instructions of the Single Resolution Board referred to in Article 31, paragraph (1), item (a) of Regulation (EU) No 806/2014.

(10) Where the resolution plan provides for the application of the bail-in instrument for the purpose of exercising the powers referred to in Article 97, paragraph (1), items (5) and (6) 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 impose, where it deems it necessary, by the decision referred to in paragraph (5) of this Article, require on the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act the requirement 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.

(11) For the purpose of paragraph (10) 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 aggregate amount referred to in Article 84, paragraph (4), items (2) and (3) of this Act.

(12) For the purpose of paragraph (10) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may impose, by the decision referred to in paragraph (5) of this Article, measures which ensure that there are no obstacles in the provisions of their Articles of Association or other acts of incorporation of the institutions or entities referred to in Article 3, item (2), (3) or (4) of this Act which impede the conversion of liabilities to shares or other instruments of ownership.

(13) For the purpose of ensuring the resolution of an institution or group by applying bail-in instrument, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may limit, with measures referred to in paragraph (5), item (2) of this Article, the institution's investments in bail-inable liabilities or its raising of bail-inable liabilities from other institutions, except intra-group placements.

(14) Following the delivery of the notification referred to in paragraph (1) of this Article, the procedure for the adoption of the resolution plan referred to in Article 17 of this Act or the group resolution plan referred to in Article 18 of this Act shall be deferred until the date of delivery of the notification referred to in paragraph (4) of this Article or until the imposition of measures referred to in paragraph (5) of this Article.

Powers to address or remove impediments to resolvability of a group

Article 23

(1) In case of cross-border groups, the manner of implementing the measures referred to in Article 22, paragraph (5) of this Act in relation to resolution entities and their subsidiaries that are the entities referred to in Article 3 of this Act, after taking into account the assessment referred to in Article 16 of this Act, shall be determined by a joint decision at the resolution college.

(2) Prior to the reaching of the joint decision referred to in paragraph (1) of this Article, if the consolidating supervisor is located in the Republic of Croatia, the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the group-level resolution authority shall, in cooperation with the European Banking Authority in accordance with Article 25, paragraph (1) of Regulation (EU) No 1093/2010, after consulting the competent supervisory authorities of subsidiaries, draw up a report and submit it to the EU parent undertaking, the resolution authorities of subsidiaries and the resolution authorities of the Member States where significant branches are located.

(3) The report referred to in paragraph (2) of this Article shall include:

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 as well as resolution group where the group is composed of several resolution groups;

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.

(4) Within four months of the date of receipt of the report referred to in paragraph (2) of this Article, the EU parent undertaking may submit comments to the report and propose to the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the group-level resolution authority alternative measures to remove the impediments to resolvability identified in the report.

(5) Where a substantive impediment to the resolvability of the group is due to circumstances referred to in Article 22, paragraph (3) of this Act, the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the group-level resolution authority, after consulting the resolution authority competent for resolution entity and resolution authorities competent for the subsidiaries of that resolution entity, shall notify the EU parent undertaking of the results of the assessment of those impediments.

(6) For the purpose of paragraph (5) of this Article, the EU parent undertaking with a registered office in the Republic of Croatia shall, within 14 days of the date of receipt of the that notification, propose measures that ensure that the entity referred to in Article 3 of this Act to which the impediment relate meets the requirement referred to in Articles 34 to 37 of this Act, as applicable, and the combined buffer requirement together with the time limit for their implementation, which shall take into account the reasons for the substantive impediment.

(7) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall assess whether the proposed measures referred to in paragraph (4) or (6) of this Article are effective for addressing or removing the substantive impediment to the resolvability of the group.

(8) The Croatian National Bank or the Croatian Financial Services Supervisory Agency as the group-level resolution authority shall communicate any measure proposed by the EU parent undertaking to the European Banking Authority, the resolution authorities of subsidiaries and resolution authorities of the Member States where the significant branch operates insofar as is relevant to that branch.

(9) The Croatian National Bank or the Croatian Financial Services Supervisory Agency as the group-level resolution authority shall, together with the resolution authorities of subsidiaries and after consulting the relevant competent authorities and the resolution authorities of the Member States 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 resolvability of the group, and if necessary, the assessment of measures proposed by the EU parent undertaking and measures required by the resolution authorities in order to address or remove the impediments, which shall take into account the potential impact of those measures in all the Member States where the group operates.

(10) The joint decision referred to in paragraph (9) of this Article shall be fully reasoned and the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the group-level resolution authority shall deliver it to the EU parent undertaking.

(11) The joint decision referred to in paragraph (9) of this Article shall be reached within four months of submission of any comments by the EU parent undertaking to the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the group-level resolution authority or within one month of the date of the expiry of the time limit referred to in paragraph (4) of this Article in the absence of comments.

(12) By way of derogation from paragraph (11) of this Article, the joint decision relating to substantive impediment referred to in paragraph (5) of this Article shall be reached within 14 days of submission of any comments by the EU parent undertaking to the Croatian National Bank or the Croatian Financial Services Supervisory Agency.

(13) If the joint decision referred to in paragraph (9) of this Article is not reached within the time limit referred to in paragraph (11) or (12) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the group-level resolution authority shall reach its own decision on the manner of implementation of the measures referred to in Article 22, paragraph (5) of this Act at group level, which shall be fully reasoned and take into account views and reservations expressed by resolution authorities of subsidiaries and shall deliver it to the EU parent undertaking which shall implement the imposed measures in accordance with that decision.

(14) By way of derogation from paragraph (13) of this Article, where prior to the expiry of the time limit referred to in paragraph (11) or paragraph (12) of this Article, and prior to the reaching of a joint decision, any resolution authority of other Member States where other members of the group have their registered office refers the matter to the European Banking Authority and requests its mediation, in accordance with Article 19 of Regulation (EU) No 1093/2010, whereby those time limits shall be deemed, within the meaning of that Regulation, to be the conciliation period, the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the group-level resolution authority shall defer the adoption of the decision referred to in paragraph (13) of this Article until the

European Banking Authority reaches the decision referred to in Article 19, paragraph (3) of Regulation (EU) No 1093/2010.

(15) For the purpose of paragraph (14) of this Article, where the European Banking Authority reached the decision referred to in Article 19, paragraph (3) of Regulation (EU) No 1093/2010 within a month, the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in paragraph (13) of this Article must be in conformity with that decision.

(16) Where the European Banking Authority does not reach the decision referred to in Article 19, paragraph (3) of Regulation (EU) No 1093/2010 within a month, the decision referred to in paragraph (13) of this Article shall be adopted.

(17) For the purpose of paragraph (1) of this Article, if the consolidating supervisor is not located in the Republic of Croatia, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall participate with the group-level resolution authority and resolution authorities of other Member States competent for subsidiaries, after consulting the relevant competent authorities, including the resolution authorities of the Member States where significant branches have their registered office, in reaching of a joint decision regarding the identification of the substantive impediments to the resolvability of the group, and where necessary, the assessment of the measures proposed by the EU parent undertaking and the measures required by resolution authorities in order to address or remove the impediments, which shall take into account the potential impact of the measures in all Member States where the group operates.

(18) Where the joint decision referred to in paragraph (17) of this Article is not reached within the time limit referred to in paragraphs (11) or (12) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the resolution authority of the resolution entity shall reach its own decision on the manner of implementation of measures referred to in Article 22, paragraph (5) of this Act at resolution group level, which shall be fully reasoned and take into account views and reservations expressed by the resolution authorities of subsidiaries that are part of the same resolution group and the group-level resolution authority and shall deliver it to the resolution entity which shall implement the imposed measures in accordance with that decision.

(19) By way of derogation from paragraph (18) of this Article, where prior to the expiry of the time limit referred to in paragraph (11) or paragraph (12) of this Article, and prior to the reaching of a joint decision, the group-level resolution authority or any resolution authority of other Member States where other members of the group have their registered office refers the matter to the European Banking Authority and requests its mediation, in accordance with Article 19 of Regulation (EU) No 1093/2010, whereby those time limits shall be deemed, within the meaning of that Regulation, to be the conciliation period, the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the resolution authority of the resolution entity shall defer the adoption of that decision until the adoption of the decision of the European Banking Authority referred to in Article 19, paragraph (3) of Regulation (EU) No 1093/2010.

(20) For the purpose of Article 19 of this Article, where the European Banking Authority reached the decision referred to in Article 19, paragraph (3) of Regulation (EU) No 1093/2010 within a month, the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in paragraph (18) of this Article must be in conformity with that decision.

(21) Where the European Banking Authority does not reach the decision referred to in Article 19, paragraph (3) of Regulation (EU) No 1093/2010 within a month, the decision referred to in paragraph (18) of this Article shall be adopted.

(22) If the joint decision referred to in paragraph (17) of this Article is not reached within the time limit referred to in paragraphs (11) or (12) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the resolution authority of the subsidiary which is not a resolution entity shall reach its own decision on the manner of implementation of measures referred to in Article 22, paragraph (5) of this Act at subsidiary level, which shall be fully reasoned and take into account views and reservations expressed by other resolution authorities and shall deliver it to the

resolution authority of the resolution entity and to the group-level resolution authority where it is not the resolution authority of the resolution entity and to the subsidiary which shall implement the imposed measures in accordance with this decision.

(23) By way of derogation from paragraph (22) of this Article, where prior to the expiry of the time limit referred to in paragraph (11) or paragraph (12) of this Article, and prior to the reaching of a joint decision, the group-level resolution authority 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, in accordance with Article 19 of Regulation (EU) No 1093/2010, whereby those time limits shall be deemed, within the meaning of that Regulation, to be the conciliation period, the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the resolution authority of the subsidiary shall defer the adoption of that decision until the adoption of the decision of the European Banking Authority referred to in Article 19, paragraph (3) of Regulation (EU) No 1093/2010.

(24) For the purpose of Article 23 of this Article, where the European Banking Authority reached the decision referred to in Article 19, paragraph (3) of Regulation (EU) No 1093/2010 within a month, the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in paragraph (22) of this Article shall be in conformity with that decision.

(25) Where the European Banking Authority does not reach the decision referred to in Article 19, paragraph (3) of Regulation (EU) No 1093/2010 within a month, the decision referred to in paragraph (22) of this Article shall be adopted.

(26) The joint decisions referred to in paragraphs (9) and (17) of this Article shall be binding for the Croatian National Bank or the Croatian Financial Services Supervisory Agency, which shall adopt a decision in accordance with these decisions.

(27) The entity referred to in Article (3) of this Act shall implement the measures to address or remove impediments to the resolvability within the time limits laid down in the decision referred to in paragraph (26) of this Article and shall, within one month of receipt of the decision imposing these measures, deliver to the Croatian National Bank or the Croatian Financial Services Supervisory Agency a plan on how to comply with the imposed measures.

(28) The provisions of Article 22, paragraph (1) and paragraphs (5) to (13) of this Act and paragraphs (2) to (8) of this Article shall apply to the procedure of addressing or removing impediments to resolvability relating to a group that is not a cross-border group and for which the Single Resolution Board is not directly responsible.

Implementation of instructions of the Single Resolution Board on the exercise of powers to address or remove impediments to resolvability

Article 24

(1) When the Single Resolution Board exercises its powers referred to in Article 10, paragraph (10) or (11) of Regulation (EU) No 806/2014 in relation to addressing or removing impediments to the resolvability, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall act only in accordance with the instructions of the Single Resolution Board, in the manner laid down in Article 22, paragraphs (5) and (7) and paragraphs (10) to (13) of this Act.

(2) The entity for which the Single Resolution Board is directly responsible shall implement measures to address or remove impediments to resolvability within the time limits set out in the decision of the Croatian National Bank adopted pursuant to paragraph (1) of this Article.

(3) The entity for which the Single Resolution Board is directly responsible shall within one month of the date of receipt of the decision imposing measures pursuant to paragraph (1) of this Article, deliver to the Croatian National Bank a plan on how to comply with the imposed measures.

Simplified obligations

Article 25

(1) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency assesses that the failure of the institution or its winding up under normal insolvency proceedings, taking into account the nature of its business, its shareholding structure, its legal form, its risk profile, size and legal status, its interconnectedness to other institutions or to the financial system in general, the scope and the complexity of its activities, its membership of an institutional protection scheme or other cooperative mutual solidarity systems and any exercise of investment services or activities as prescribed by the regulation governing the capital market, would not be likely to have a significant negative effect on financial markets, on other institutions, on funding conditions, or on the wider economy, it shall apply simplified obligations.

(2) Where it deems it necessary, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may, for the purposes of the assessment referred to in paragraph (1) of this Article, consult the Financial Stability Council.

(3) Where simplified obligations are applied the Croatian National Bank or the Croatian Financial Services Supervisory Agency can impose full, unsimplified obligations referred to in this Act at any time.

(4) The application of simplified obligations shall not, *per se*, affect the Croatian National Bank or the Croatian Financial Services Supervisory Agency's powers to take a crisis prevention measure or a crisis management measure against the institution to which the simplified obligations have been applied.

(5) The Croatian National Bank shall adopt subordinate legislation and the Board of the Croatian Financial Services Supervisory Agency shall adopt an ordinance to regulate in more detail the manner of application of simplified obligations referred to in this Article with regard to determining the contents and details of resolution plans, the contents and details of the information required from institutions in accordance with Article 14 of this Act, the level of detail for the assessment of resolvability in accordance with Article 15 of this Act, the scope of reporting within the meaning of the application of this Act and the frequency of review and amendments of resolution plans of institutions referred to in paragraph (1) of this Article.

IV MINIMUM REQUIREMENT FOR OWN FUNDS AND ELIGIBLE LIABILITIES

Determining the minimum requirement for own funds and eligible liabilities

Article 26

(1) The minimum requirement for own funds and eligible liabilities (hereinafter referred to as 'the minimum requirement') shall be determined based on the following criteria:

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

2) the need to ensure, in appropriate cases, that the resolution entity and its subsidiaries that are the institutions or entities referred in Article 3, item (2), (3) or (4) of this Act but are not resolution entities, have sufficient own funds and eligible liabilities to ensure that, if the bail-in tool or write-down or conversion powers were to be applied to them, losses could be absorbed and their total capital ratio and leverage ratio, as applicable, could be restored to a level necessary to enable them to continue to comply with the conditions for authorisation and continue to carry out the activities for which they were authorised pursuant to the regulations governing the operation of credit institutions or investment firms;

3) if the resolution plan provides that certain classes of eligible liabilities might be excluded from bail-in pursuant to Article 81 of this Act or that certain classes of eligible liabilities might be transferred to a recipient in full under a partial transfer, that the resolution entity has sufficient own funds and other eligible liabilities to ensure that losses could be absorbed and their total capital ratio and leverage ratio, as applicable, could be restored to a level necessary to enable them to continue to

comply with the conditions for authorisation and continue to carry out the activities for which they were authorised pursuant to the regulations governing the operation of credit institutions or investment firms;

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

5) 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 other entities referred to in Article 3 of this Act or with the rest of the financial system through contagion to other institutions or other entities referred to in Article 3 of this Act.

(2) Where the resolution plan, in accordance with the relevant scenario referred to in Article 19, paragraph (4) of this Act provides that, when the conditions referred to in Article 43, paragraph (1) of this Act are met, resolution action is to be taken in respect of the institution or that the power to write down or convert capital instruments and eligible liabilities in accordance with Article 52 of the Act is to be exercised, the requirement referred in Article 34, 35 or 36 of this Act shall equal the amount sufficient for:

1) absorption of expected losses in full (hereinafter referred to as 'loss absorption') and

2) recapitalisation of the resolution entity and its subsidiaries that are institutions or entities referred to in Article 3, item (2), (3) or (4) of this Act but are not resolution entities, to a level necessary to enable them to continue to comply with the conditions for authorisation and continue to carry out the activities for which, pursuant to the regulations governing the operation of credit institutions or investment firms or regulations governing the operation of entities referred to in Article 3, item (2), (3) or (4) of this Act, they were authorised for an appropriate period not longer than one year (hereinafter referred to as 'recapitalisation').

(3) Where the resolution plan provides that, when the conditions referred to in Article 43, paragraph (1) of this Act are met, normal insolvency proceedings can be carried out in relation to the institution, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall assess whether it is justified to limit the requirement referred to in Article 34, 35 or 36 of this Act for that institution to the amount sufficient for loss absorption, especially by evaluating this limit as regards any possible impact on financial stability and on the risk of contagion to the financial system.

(4) The minimum requirement shall be calculated in accordance with Article 27 or 28 of this Act, depending whether or not the institution is a resolution entity, as a sum of own funds and eligible liabilities expressed as a percentage of:

1) the total risk exposure amount of an institution, calculated in accordance with Article 92, paragraph (3) of Regulation (EU) No 575/2013 or in accordance with the applicable requirement referred to in Article 11, paragraph (1) of Regulation (EU) 2019/2033 multiplied by 12.5 and

2) the total exposure measure referred to in Articles 429 and 429a of Regulation (EU) No 575/2013.

(5) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency anticipates that certain classes of eligible liabilities might be excluded from bail-in pursuant to Article 81 of this Act or that certain classes of eligible liabilities might be transferred to a recipient in full under a partial transfer, it may decide that the institution shall meet the minimum requirement with own funds or other eligible liabilities sufficient to cover the amount of liabilities that might be excluded in accordance with Article 81 of this Act and to meet the requirements of paragraph (2) or (3) of this Article.

(6) For the purpose of Articles 27 and 28 of this Act, own funds requirements shall be interpreted in accordance with the manner in which the competent authority applies transitional provisions laid down in Part Ten, Title I, Chapters 1, 2 and 4 of Regulation (EU) No 575/2013 and in accordance with the regulation governing the operation of credit institutions or the regulation governing the capital market.

(7) The Croatian National Bank shall adopt subordinate legislation to regulate in more detail the manner of application of paragraph (3) of this Article to credit institutions and the Board of the Croatian Financial Services Supervisory Agency shall adopt an ordinance to regulate in more detail the manner of application of paragraph (3) of this Article to investment firms.

Calculation of minimum requirement for institutions that are resolution entities

Article 27

(1) For the purpose of calculating the minimum requirement expressed as a percentage of the total risk exposure amount of the institution in accordance with Article 26, paragraph (4) item (1) of this Act, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall determine the amount of the minimum requirement for institutions that are resolution entities as the sum of:

1) the amount sufficient to absorb the losses in resolution that corresponds to the sum of amounts of the requirement referred to in Article 92, paragraph (1), item (c) of Regulation (EU) No 575/2013 or Article 11, paragraph (1) of Regulation (EU) No 2019/2033 and the requirement for additional own funds in accordance with the regulation governing the operation of credit institutions or the regulation governing the capital market applicable to the institution that is the resolution entity at the consolidated resolution group level; and

2) the recapitalisation amount that allows the resolution group resulting from resolution to restore compliance with the requirement for total capital ratio referred to in Article 92, paragraph (1), item (c) of Regulation (EU) No 575/2013 or Article 11, paragraph (1) of Regulation (EU) No 2019/2033 and the requirement for additional own funds in accordance with the regulation governing the operation of credit institutions or the regulation governing the capital market for institutions that are resolution entities at the consolidated resolution group level after the implementation of the preferred resolution strategy.

(2) For the purpose of paragraph (1) of this Article, the minimum requirement shall be expressed as the percentage obtained by dividing the amount calculated in accordance with paragraph (1) of this Article with the total risk exposure amount.

(3) For the purpose of calculating the minimum requirement expressed as a percentage of the total exposure measure of an institution in accordance with Article 26, paragraph (4) item (2) of this Act, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall determine the amount of the minimum requirement for institutions that are resolution entities as the sum of:

1) the amount sufficient to absorb the losses in resolution that corresponds to the resolution entity's leverage ratio requirement referred to in Article 92, paragraph (1), item (d) of Regulation (EU) No 575/2013 at the consolidated resolution group level; and

2) a recapitalisation amount that allows the resolution group resulting from resolution to restore compliance with its total capital ratio requirement referred to in Article 92, paragraph (1), item (d) of Regulation (EU) No 575/2013 at the consolidated resolution group level after the implementation of the preferred resolution strategy.

(4) For the purpose of paragraph (3) of this Article, the minimum requirement shall be expressed as the percentage obtained by dividing the amount calculated in accordance with paragraph (3) of this Article with the total exposure measure.

(5) When determining the individual requirement referred to in paragraph (3) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall take into account the requirements referred to in Article 70, paragraph (8) and the conditions referred to in Article 82, paragraphs (2) and (6) of this Act or the requirement referred to in Article 27, paragraph (7) of Regulation (EU) 806/2014.

(6) When determining the recapitalisation amount referred to in paragraph (1), item (2) and paragraph (3), item (2) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall:

1) use the most recently reported values for the relevant total risk exposure amount or total exposure measure, adjusted for any changes resulting from resolution actions set out in the resolution plan; and

2) adjust the amount of the current requirement for additional own funds determined in accordance with the regulation governing the operation of credit institutions or the regulation governing the capital market downwards or upwards, aiming to adjust this requirement for an institution that is the resolution entity with the situation after the implementation of the preferred resolution strategy.

(7) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may increase the recapitalisation amount referred to in paragraph (1), item (2) of this Article by the amount sufficient to sustain market confidence for an appropriate period not longer than one year from the date of resolution, which shall be equal to the combined buffer requirement less the amount of countercyclical capital buffer determined in accordance with the regulation governing the operation of credit institutions or regulation governing the capital market, that is to apply after the application of the resolution tools.

(8) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall adjust the amount referred to in paragraph (7) of this Article downwards, if it determines that it would be feasible and credible for a lower amount to be sufficient to sustain market confidence for an appropriate period not longer than one year from the date of resolution and to ensure both the continued provision of critical economic functions by the institution and its access to funding without recourse to extraordinary public financial support other than contributions from the resolution fund, in accordance with Article 82, paragraphs (2) and (6) and Article 136, paragraphs (3) and (4) of this Act or the Single Resolution Fund, after implementation of the resolution strategy.

(9) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall adjust the amount referred to in paragraph (7) of this Article upwards, if it determines that a higher amount is necessary to sustain sufficient market confidence for an appropriate period not longer than one year from the date of resolution and to ensure both the continued provision of critical economic functions by the institution and its access to funding without recourse to extraordinary public financial support other than contributions from the resolution fund, in accordance with Article 82, paragraphs (2) and (6) and Article 136, paragraphs (3) and (4) of this Act or the Single Resolution Fund.

(10) For an institution that is the resolution entity not subject to Article 92a of Regulation (EU) No 575/2013 and that is part of a resolution group the total assets of which exceed the amount equivalent to EUR 100 billion, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall determine the minimum requirement at least equal to:

1) 13.5% of the total risk exposure amount of the institution, when calculated in accordance with Article 26, paragraph (4), item (1) of this Act; and

2) 5% of the total exposure measure of the institution, when calculated in accordance with Article 26, paragraph (4), item (2) of this Act.

(11) By way of derogation from Article 30 of this Act, the minimum requirement referred to in paragraph (10) of this Article in the amount of 13.5% of the total risk exposure amount of the institution, when calculated in accordance with Article 26, paragraph (4), item (1) of this Act, or in the amount of 5% of the total exposure measure of the institution, when calculated in accordance with Article 26, paragraph (4), item (2) of this Act shall be met using own funds instruments, subordinated eligible instruments or liabilities referred to in Article 30, paragraph (6) of this Act issued by subsidiaries.

(12) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may apply the provisions of paragraphs (10) and (11) of this Article to an institution that is the resolution entity which is not subject to Article 92a of Regulation (EU) No 575/2013 and which is part of a resolution group the total assets of which are lower than the equivalent of EUR 100 billion where it assesses that it is reasonably likely that its failure would pose a systemic risk.

(13) When taking a decision on the application of paragraphs (10) and (11) on the institution referred to in paragraph (12) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall take into account:

- 1) the prevalence of deposits, and the absence of debt instruments, in the funding model;
- 2) the extent to which access to the capital markets for eligible liabilities is limited;
- 3) the extent to which the resolution entity relies on common equity tier 1 capital to meet the requirement referred to in Article 34, paragraph (2), Article 35, paragraph (2) or Article 36, paragraph (5), item (1) of this Act, as applicable.

(14) If the Croatian National Bank or the Croatian Financial Services Supervisory Agency does not apply the provisions of paragraphs (10) and (11) of this Article on the institution referred to in paragraph (12) of this Article, this shall be without prejudice to the possibility of adopting any decision under Article 30, paragraph (12) of this Act in relation to this institution.

Calculation of minimum requirement for institutions that are not resolution entities

Article 28

(1) For the purpose of calculating the minimum requirement expressed as a percentage of the total risk exposure amount of an institution in accordance with Article 26, paragraph (4) item (1) of this Act, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall determine the amount of the minimum requirement for an institution that is not the resolution entity as the sum of:

- 1) the amount sufficient to absorb the losses that corresponds to the sum of amounts of the requirement referred to in Article 92, paragraph (1), item (c) of Regulation (EU) No 575/2013 or Article 11, paragraph (1) of Regulation (EU) No 2019/2033 and the requirement for additional own funds in accordance with the regulation governing the operation of credit institutions or the regulation governing the capital market applicable to the institution; and
- 2) the recapitalisation amount that allows the institution to restore compliance with the requirement for total capital ratio referred to in Article 92, paragraph (1), item (c) of Regulation (EU) No 575/2013 or Article 11, paragraph (1) of Regulation (EU) No 2019/2033 and additional own funds requirement in accordance with the regulation governing the operation of credit institutions or the regulation governing the capital market after the exercise of the power to write down or convert capital instruments and eligible liabilities in accordance with Article 52 of this Act or after the resolution of the resolution group.

(2) For the purpose of paragraph (1) of this Article, the minimum requirement shall be expressed as the percentage obtained by dividing the amount calculated in accordance with paragraph (1) of this Article with the total exposure measure.

(3) For the purpose of calculating the minimum requirement expressed in percentage terms as the total exposure measure of an institution in accordance with Article 26, paragraph (4) item (2) of this Act, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall determine the amount of the minimum requirement for an institution that is not the resolution entity as the sum of:

- 1) the amount sufficient to absorb the losses that corresponds to the institution's leverage ratio requirement referred to in Article 92, paragraph (1), item (d) of Regulation (EU) No 575/2013; and
- 2) the recapitalisation amount that allows the institution to restore compliance with to the institution's leverage ratio requirement referred to in Article 92, paragraph (1), item (d) of Regulation (EU) No 575/2013 after the exercise of the power to write down or convert capital instruments and eligible liabilities in accordance with Article 52 of this Act or after the resolution of the resolution group.

(4) For the purpose of paragraph (3) of this Article, the minimum requirement shall be expressed as the percentage obtained by dividing the amount calculated in accordance with paragraph (3) of this Article with the total exposure measure.

(5) When determining the individual requirement referred to in paragraph (3) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall take into account the requirements referred to in Article 70, paragraph (8) and Article 82, paragraphs (2) and (6) of this Act or the requirement referred in Article 27, paragraph (7) of Regulation (EU) 806/2014.

(6) When determining the recapitalisation amounts referred to in paragraph (1), item (2) and paragraph (3), item (2) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall:

1) use the most recently reported values for the relevant total risk exposure amount or total exposure measure, adjusted for any changes resulting from resolution actions set out in the resolution plan; and

2) adjust the amount of the current requirement for additional own funds determined in accordance with the regulation governing the operation of credit institutions or the regulation governing the capital market downwards or upwards, aiming to adjust this requirement for an institution with the situation after the exercise of the power to write down or convert capital instruments and eligible liabilities in accordance with Article 52 of this Act or after the resolution of the resolution group.

(7) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may increase the recapitalisation amount referred to in paragraph (1), item (2) of this Article by the amount sufficient to sustain market confidence for an appropriate period not longer than one year from the date of the exercise of the power to write down or convert capital instruments and eligible liabilities in accordance with Article 52 of this Act, which shall be equal to the combined buffer requirement less the amount of countercyclical capital buffer determined in accordance with the regulation governing the operation of credit institutions or regulation governing the capital market, and which would be applied after the exercise of that power or after the resolution of the resolution group.

(8) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall adjust the amount referred to in paragraph (7) of this Article downwards, if it determines that it would be feasible and credible for a lower amount to be sufficient to sustain market confidence for an appropriate period not longer than one year from the date of the exercise of the power referred to in Article 52 of this Act or after the resolution of the resolution group and to ensure both the continued provision of critical functions by the institution and its access to funding without recourse to extraordinary public financial support other than contributions from the resolution fund, in accordance with Article 82, paragraphs (2) and (6) and Article 136, paragraphs (3) and (4) of this Act or the Single Resolution Fund.

(9) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall adjust the amount referred to in paragraph (7) of this Article upwards, if it determines that a higher amount is necessary to sustain sufficient market confidence for an appropriate period not longer than one year from the date of the exercise of the power to write down or convert capital instruments and eligible liabilities in accordance with Article 52 of this Act or after the resolution of the resolution group and to ensure both the continued provision of critical functions by the institution and its access to funding without recourse to extraordinary public financial support other than contributions from resolution fund, in accordance with Article 82, paragraphs (2) and (6) and Article 136, paragraphs (3) and (4) of this Act or the Single Resolution Fund.

(10) Where the application of the bail-in tool to liabilities of the resolution entity with a registered office outside the Republic of Croatia would include a liability to a subsidiary with a registered office in the Republic of Croatia that is part of the same resolution group and whose claim that is connected to that liability has a lower settlement priority in respect of the settlement priority of claims connected with other ordinary unsecured liabilities, the Croatian National Bank or the Croatian Financial Services

Supervisory Agency shall timely assess whether the amount of items of the subsidiary with a registered office in the Republic of Croatia in accordance with Article 30 of this Act is sufficient for the implementation of the preferred resolution strategy.

Calculation of the minimum requirement for institutions that are resolution entities and G-SIIs or part of G-SII and Union material subsidiaries of non-EU G-SIIs

Article 29

(1) The minimum requirement for an institution that is the resolution entity which is a G-SII or part of a G-SII consists of the following:

- 1) the requirement referred to in Articles 92a and 494 of Regulation (EU) No 575/2013; and
- 2) where appropriate, any additional requirement for own funds and eligible liabilities referred to in paragraph (3) of this Article.

(2) The minimum requirement for a Union material subsidiary of the non-EU G-SII shall consist of the following:

- 1) the requirement referred to in Articles 92b and 494 of Regulation (EU) No 575/2013; and
- 2) where appropriate, any additional requirement for own funds and eligible liabilities referred to in paragraph (3) of this Article, which is to be met using own funds referred to in Article 31, paragraph (3) of this Act and liabilities that meet the conditions referred to in Article 31, paragraph (2) of this Act and Article 114, paragraph (6) of this Act.

(3) Where the requirement referred to paragraph (1), item (1) or paragraph (2) item (1) of this Article is not sufficient to fulfil the conditions set out in Article 27, or Article 28 of this Act, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall impose an additional requirement for own funds and eligible liabilities referred to in paragraph (1), item (2) and paragraph (2), item (2) of this Article to an extent that ensures that the conditions set out in Article 27, or Article 28 of this Act are fulfilled.

Eligible liabilities for resolution entities

Article 30

(1) For the purpose of meeting the minimum requirement the sum of own funds and eligible liabilities of institutions that are resolution entities shall include eligible liabilities that satisfy the conditions referred to in:

- 1) Article 72a of Regulation (EU) No 575/2013;
- 2) Article 72b of Regulation (EU) No 575/2013, except for the conditions referred to in paragraph (2), item (d) of the same Article of Regulation (EU) No 575/2013; and
- 3) Article 72c of Regulation (EU) No 575/2013.

(2) By way of derogation from paragraph (1) of this Article, where this Act refers to the requirements in Article 92a or Article 92b of Regulation (EU) No 575/2013, for the purpose of those requirements, eligible liabilities shall consist of eligible liabilities as defined in Article 72k of Regulation (EU) No 575/2013 and determined in accordance with Part Two, Title I, Chapter 5a of Regulation (EU) No 575/2013.

(3) Liabilities that arise from debt instruments with embedded derivatives that meet the conditions referred to in paragraph (1) of this Article, except for Article 72a, paragraph (2), item (I) of Regulation (EU) No 575/2013, shall be included in the amount of own funds and eligible liabilities if:

- 1) the principal amount of the liability arising from the debt instrument is known at the time of issue, is fixed or increasing, and is not affected by an embedded derivative feature, and the total amount of the liability arising from the debt instrument, including the embedded derivative, can be valued on a daily basis by reference to an active and liquid two-way market for an equivalent instrument without credit risk, in accordance with Articles 104 and 105 of Regulation (EU) No 575/2013; or

2) the debt instrument includes a contractual provision that specifies that the value of the claim in cases of the insolvency of the issuer and of the resolution of the issuer is fixed or increasing, and does not exceed the initially paid-up amount of the liability.

(4) Debt instruments referred to in paragraph (3) of this Article, including their embedded derivatives, shall not be subject to any netting agreement and the valuation of such instruments shall not be subject to Article 86, paragraph (4) of this Act.

(5) The liabilities referred to in paragraph (3) of this Article shall be included in the sum of own funds and eligible liabilities with respect to the part of the liability that corresponds to the principal amount referred to in paragraph (3), item (1) of this Article or to the fixed or increasing amount referred to in paragraph (3), item (2) of this Article.

(6) Where liabilities are issued by a subsidiary with a registered office in the European Union that is part of the same resolution group as the resolution entity with a registered office in the Republic of Croatia to an existing shareholder that is not part of the same resolution group, the liabilities issued to the existing shareholder shall be included in the amount of own funds and eligible liabilities of that resolution entity, provided that all of the following conditions are met:

1) liabilities are issued in accordance with Article 31, paragraph (2) of this Act;

2) the exercise of the write-down or conversion power in relation to those liabilities in accordance with Article 52 of this Act does not affect the control of the subsidiary by the resolution entity;

3) the amount of liabilities issued by the subsidiary to an existing shareholder does not exceed the amount of the difference between the minimum requirement for subsidiary determined in accordance with Article 28 of this Act and the sum of the subsidiary's liabilities issued to and bought by the resolution entity either directly or indirectly through other entities in the same resolution group and the amount of own funds referred to in Article 31, paragraph (3) of this Act.

(7) Without prejudice to the minimum requirement referred to in Article 27, paragraph (10) or Article 29, paragraph (1) item (1) of this Act, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall require that a resolution entity which is a G-SII or that a resolution entity which is subject to Article 27, paragraph (10) or (12) of this Act meets a part of the requirement referred to in Article 34, paragraph (2), Article 35, paragraph (2) or Article 36, paragraph (5), item (1) of this Act equal to 8% of the total liabilities, including own funds, by using own funds instruments, subordinated eligible instruments, or liabilities referred to in paragraph (6) of this Article that are issued by its subsidiary.

(8) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may permit that a resolution entity which is a G-SII or that a resolution entity which is subject to Article 27, paragraph (10) or (12) of this Act meets a part of the requirement referred to in Article 34, paragraph (2), Article (35) paragraph (2) or Article 36, paragraph (5), item (1) of this Act by using own funds instruments, subordinated eligible instruments, or liabilities referred in paragraph (6) of this Article that are issued by its subsidiary in the amount lower than 8 % of the total liabilities, including own funds, but greater than the amount resulting from the application of the formula $(1-(X1/X2)) \times 8\%$ of the total liabilities, including own funds, provided that all the conditions set out in Article 72b, paragraph (3) of Regulation (EU) No 575/2013 are met, where, in light of the reduction that is possible under Article 72b, paragraph (3) of Regulation (EU) No 575/2013:

1) X1 signifies the 3.5% of the total risk exposure amount calculated in accordance with Article 92, paragraph (3) of Regulation (EU) No 575/2013 or in accordance with the applicable requirement referred to in Article 11, paragraph (1) of Regulation (EU) 2019/2033 multiplied by 12.5; and

2) X2 signifies the 18% of the total risk exposure amount calculated in accordance with Article 92, paragraph (3) of Regulation (EU) No 575/2013 and the amount of the combined buffer requirement or in accordance with the applicable requirement referred to in Article 11, paragraph (1) of Regulation (EU) 2019/2033 multiplied by 12.5.

(9) Where the application of paragraph (7) of this Article to a resolution entity which is subject to Article 27, paragraph (10) leads to a requirement greater than 27% of the total risk exposure amount,

the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall limit the part of the minimum requirement which is to be met using own funds instruments, subordinated eligible instruments, or liabilities referred to in paragraph (6) of this Article, to an amount equal to 27% of the total risk exposure amount, if it assessed that:

1) access to the resolution fund or Single Resolution Fund is not considered to be an option for resolving that resolution entity under the resolution plan; or

2) where the resolution plan for the resolution of a resolution entity provides for the use of the resolution fund, or the Single Resolution Fund, the requirement referred to in Article 35, paragraph (2) or Article 36, paragraph (5), item (1) of this Act allows that resolution entity to meet the requirements referred to in Article 82, paragraph (2) or (4), as applicable.

(10) When carrying out the assessment referred to in paragraph (9) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall also take into account the risk of disproportionate impact on the business model of the resolution entity concerned.

(11) The provisions of paragraph (9) of this Article shall not apply to an institution that is the resolution entity subject to Article 27, paragraph (12) of this Act.

(12) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may require that a resolution entity which is neither the G-SII nor the resolution entity subject to Article 27, paragraph (10) or (12) of this Act meets a part of the requirement referred to in Article 34, paragraph (2), Article 35, paragraph (2) or Article 36, paragraph (5), item (1) of this Act by using own funds instruments, subordinated eligible instruments, or liabilities referred to in paragraph (6) of this Article that are issued by its subsidiary, up to the amount of, whichever is greater, of 8% of the total liabilities, including own funds, or the amount obtained by applying the formula referred to in paragraph (16), item (2) of this Article, provided that the following conditions are met:

1) pursuant to regulations governing normal insolvency proceedings non-subordinated liabilities referred to in paragraphs (1), (2) and (3) of this Article have the same priority ranking as liabilities that are excluded from the application of write-down and conversion powers in accordance with Article 80, paragraph (2) and Article 81, paragraph (1) of this Act;

2) there is a risk that creditors whose claims arise from non-subordinated liabilities that are not excluded from the application of write-down and conversion powers in accordance with Article 80, paragraph (2) or Article 81, paragraph (1) of this Act, as a result of the application of write-down and conversion powers to those liabilities would incur greater losses than they would incur if an institution was wound up under normal insolvency proceedings; and

3) the amount of own funds and other subordinated liabilities does not exceed the amount necessary to ensure that the creditors referred to in item (2) of this paragraph do not incur losses above the level of losses that they would otherwise have incurred if an institution was wound up under normal insolvency proceedings.

(13) Where it determines that, within a class of liabilities which includes eligible liabilities, the amount of the liabilities that are excluded or reasonably likely to be excluded from the application of write-down and conversion powers in accordance with Article 80, paragraph (2) or Article 81, paragraph (1) of this Act totals more than 10% of that class, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall assess the risk referred to in paragraph (12), item (2) of this Article.

(14) For the purposes of paragraphs (7) to (13) and paragraph (16) of this Article, derivative liabilities shall be included in total liabilities on the basis that full recognition is given to counterparty netting rights.

(15) The own funds of a resolution entity that are used to comply with the combined buffer requirement shall be eligible to comply with the requirements referred to in paragraphs (7), (8), (9), (12) and (16) of this Article.

(16) By way of derogation from paragraph (7) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may require that a resolution entity which is a G-SII or that a resolution entity which is subject to Article 27, paragraph (10) or (12) of this Act, meets the requirement referred to in Article 34, paragraph (2), Article 35, paragraph (2) or Article 36, paragraph (5), item (1) of this Act by using own funds instruments, subordinated eligible instruments, or liabilities referred to in paragraph (6) of this Article that are issued by its subsidiary to the extent that, taking into account the obligation of the resolution entity to meet the combined buffer requirement and the requirement referred to in Article 92a of Regulation (EU) No 575/2013 as well as the requirement referred to in Article 27, paragraph (10) and Article 34, paragraph (2), Article 35, paragraph (2) or Article (36), paragraph (5), item (1) of this Act, the sum of own funds, those instruments and liabilities does not exceed the greater of:

1) 8% of the total liabilities, including own funds, and

2) the amount obtained by summing a double amount resulting from the requirement referred to in Article 92, paragraph (1), item (c) Regulation (EU) No 575/2013, a double amount resulting from the additional requirement for own funds in accordance with the regulation governing the operation of credit institutions, or the regulation governing the capital market and the amount resulting from the combined buffer requirement.

(17) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may apply the provisions of paragraph (16) of this Article to a resolution entity that is a G-SII or that is subject to Article 27, paragraph (10) or (12) of this Act, which also meets one of the conditions set out in paragraph (18) of this Article, up to a limit of 30% of the total number of all resolution entities that are G-SIIs or that are subject to Article 27, paragraph (10) or (12) of this Act, for which it determines the requirement referred to in Article 34, paragraph (2), Article 35, paragraph (2) or Article (36), paragraph (5), item (1) of this Act.

(18) When applying the provision referred to in paragraph (16) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall consider the following:

1) substantive impediments to resolvability have been identified in the preceding resolvability assessment in relation to which no remedial action has been taken following the application of the measures referred to in Article 22, paragraph (5) of this Act in the timeline required by the Croatian National Bank or the Croatian Financial Services Supervisory Agency, or identified substantive impediments cannot be addressed using any of the measures referred to in Article 22, paragraph (5), and the exercise of the power referred to in paragraph (16) of this Article would partially or fully compensate for the negative impact of the substantive impediments to resolvability; or

2) the feasibility and credibility of a resolution entity's preferred resolution strategy is, in the opinion of the Croatian National Bank or the Croatian Financial Services Supervisory Agency limited, taking into account the entity's size, its interconnectedness, the nature, scope, risk and complexity of its activities, its legal status and its shareholding structure; or

3) the additional requirement for own funds in accordance with the regulation governing the operation of credit institutions, or the regulation governing the capital market, reflects the fact that a resolution entity that is a G-SII or that is subject to Article 27, paragraph (10) or (12) of this Act is, in terms of riskiness, among the top 20% of institutions for which the Croatian National Bank or the Croatian Financial Services Supervisory Agency determines the minimum requirement.

(19) For the purposes of the percentages referred to in paragraphs (17) and (18) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall round the number resulting from the calculation up to the closest whole number.

(20) When applying the provisions referred to in paragraph (12) and (16) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall additionally take into account the following:

1) the depth of the market for the resolution entity's own funds instruments and subordinated eligible instruments, the pricing of such instruments, where they exist, and the time needed to execute any transactions necessary for the purpose of complying with the decision;

2) the amount of eligible liabilities instruments that meet all of the conditions referred to in Article 72a of Regulation (EU) No 575/2013 that have a residual maturity below one year as of the date of the decision, with a view to making quantitative adjustments to the requirements referred to in paragraphs (12) and (16) of this Article;

3) the availability and the amount of instruments that meet all of the conditions referred to in Article 72a of Regulation (EU) No 575/2013 other than Article 72b, paragraph (2), item (d) of that Regulation;

4) whether in comparison with the own funds and eligible liabilities of the resolution entity the amount of liabilities that are excluded from the application of write-down and conversion powers in accordance with Article 80, paragraph (2) or Article 81, paragraph (1) of this Act is significant, and that, in accordance with regulations governing normal insolvency proceedings, rank equally with or below the highest ranking eligible liabilities.

5) the resolution entity's business model, funding model, and risk profile, as well as its stability and ability to contribute to the economy; and

6) the impact of possible restructuring costs on the resolution entity's recapitalisation.

(21) For the purpose of the provision of paragraph (20), item (4) of this Article, it shall be considered that the excluded amount is not significant where it does not exceed 5% of the amount of the own funds and eligible liabilities of the resolution entity, while the significance of the excluded liabilities above that threshold shall be assessed by the Croatian National Bank or the Croatian Financial Services Supervisory Agency.

Eligible liabilities and own funds of institutions that are not themselves resolution entities

Article 31

(1) An institution that is the subsidiary of a resolution entity or of a third-country resolution entity, but is not itself the resolution entity, shall meet the minimum requirement by using the liabilities referred to in paragraph (2) of this Article or own funds referred to in paragraph (3) of this Article.

(2) For the purpose of paragraph (1) of this Article the liabilities of the institution shall be the liabilities that meet the following criteria:

1) they are issued to and bought by the resolution entity, either directly or indirectly through other entities in the same resolution group that bought the liabilities, or are issued to and bought by an existing shareholder that is not part of the same resolution group as long as the exercise of write-down or conversion powers in accordance with Articles 52 to 55 of this Act does not affect the control of the subsidiary by the resolution entity;

2) they fulfil the eligibility criteria referred to in Article 72a of Regulation (EU) No 575/2013, except for items (b), (c), (k), (l) and (m) of Article 72b, paragraph (2) and Article 72b, paragraphs (3) to (5) of that Regulation;

3) they rank, in normal insolvency proceedings, below liabilities that do not meet the condition referred to in item (1) of this paragraph and that are not eligible for own funds requirements;

4) they are subject to write-down or conversion powers in accordance with Articles 52 to 55 of this Act in a manner that is consistent with the resolution strategy of the resolution group, in particular by not affecting the control of the subsidiary by the resolution entity;

5) their acquisition is not funded directly or indirectly by the institution;

6) the contractual provisions governing these liabilities do not indicate explicitly or implicitly that the liabilities would be called, redeemed, repaid or repurchased early, as applicable, other than in the case of the insolvency or winding-up of that institution, and that institution does not otherwise provide such an indication;

7) the contractual provisions governing these liabilities do not give the holder the right to accelerate the future scheduled payment of interest or principal, other than in the case of the insolvency or winding-up of the institution; and

8) the level of interest or dividend payments, as applicable, due thereon is not amended on the basis of the credit standing of the institution or its parent undertaking;

(3) Own funds for the purpose of the provision of paragraph (1) of this Article, shall be as follows:

1) common equity tier 1 capital; and

2) other own funds that are issued by the institution and bought by members of the same resolution group, or that are not bought by members of the same resolution group as long as the exercise of write-down or conversion powers in accordance with Articles 52 to 55 of this Act does not affect the control of the institution by the resolution entity.

Non-preferred unsecured debt instruments

Article 32

(1) Non-preferred unsecured debt instruments issued by the institution for the purpose of meeting the minimum requirement shall meet the conditions referred to in this Article and Article 30 or Article 31 of this Act, as applicable.

(2) Non-preferred unsecured debt instruments are debt instruments that meet the following conditions:

1) the original maturity of the debt instrument is at least one year,

2) the debt instrument does not contain an embedded derivative and is not a derivative and

3) in accordance with the contract or prospectus, the claim of the holder of the debt instrument shall be considered as the claim for which it has been agreed between the creditor and the institution that the creditor shall be settled in normal insolvency proceedings before holders of the instruments of common equity tier 1, additional tier 1 and tier 2 capital, but after all other creditors of higher and lower priority claims.

(3) For the purpose of paragraph (2), item (2) of this Article, a debt instrument with variable interest derived from a broadly used reference rate and debt instrument which is not denominated in the domestic currency of the issuer, provided that principal, repayment and interest are denominated in the same currency, should not be considered to be debt instruments containing embedded derivatives solely because of these features.

Selling of subordinated eligible liabilities to retail investors

Article 33

When selling subordinated eligible liabilities which meet all the conditions referred to in Article 72a of Regulation (EU) No 575/2013 except for Article 72a, paragraph (1), item (b) and Article 72b, paragraphs (3) to (5) of that Regulation to retail investors, the institution shall ensure that these liabilities are denominated in the minimum amount of EUR 100,000.00 in kuna equivalent, at the mid-point exchange rate of the Croatian National Bank applicable at the date of the sale, taking into account the suitability assessment in accordance with the regulation governing the capital market.

Deciding on the minimum requirement for institutions that are not themselves resolution entities

Article 34

(1) The Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency shall adopt, in accordance with Article 27 of this Act, a decision on the minimum requirement for institutions with a registered office in the Republic of Croatia which are not a part of a group and for which the Single Resolution Board is not directly responsible.

(2) An institution that is the resolution entity and is not part of a group, shall continuously meet the minimum requirement in accordance with the decision referred to in paragraph (1) of this Article on an individual basis in accordance with the provisions of Article 30 of this Act.

(3) The decision referred to in paragraph (1) of this Article shall contain an explanation, including an assessment of the elements referred to in Article 26, paragraph (2) or (3) and Article 27 of this Act.

(4) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall review the decision referred to in paragraph (1) of this Article without delay in case of a change in the additional requirement for own funds that the institution is required to meet in accordance with the regulation governing the operation of credit institutions or the regulation governing the capital market.

(5) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall verify whether the institution meets the minimum requirement referred to in this Article.

(6) The decision on the minimum requirement referred to in paragraph (1) of this Article shall be reached in parallel with the drawing up and revision of the resolution plan.

(7) The Croatian National Bank shall submit the draft of the decision on the minimum requirement referred to in paragraph (1) of this Article for opinion to the Single Resolution Board in the manner and within the time limit laid down in Regulation (EU) No 806/2014 and when adopting this decision shall act in compliance with the opinion of the Single Resolution Board regarding compliance with Regulation (EU) No 806/2014 and the general instructions of the Single Resolution Board referred to in Article 31, paragraph (1), item (a) of Regulation (EU) No 806/2014.

(8) The Croatian National Bank shall inform the European Banking Authority on the minimum requirement that was imposed in accordance with paragraph (1) of this Article for each individual institution and the Croatian Financial Services Supervisory Agency shall, for the purpose of informing the European Banking Authority, deliver to the Croatian National Bank information about decisions on the minimum requirement it adopted in accordance with paragraph (1) of this Article.

Deciding on the minimum requirement for groups that are not cross-border groups

Article 35

(1) The Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency shall adopt, in accordance with Article 27, 28 or 29 of this Act, as applicable, a decision on the minimum requirement for a group which is not a cross-border group and for which the Single Resolution Board is not directly responsible.

(2) An institution that is the resolution entity shall continuously meet the minimum requirement in accordance with the decision referred to in paragraph (1) of this Article on a consolidated basis at the resolution group level in accordance with the provisions of Article 30 of this Act.

(3) An institution that is the subsidiary of a resolution entity or of a third-country resolution entity, but is not itself the resolution entity, shall continuously meet the minimum requirement referred to in paragraph (1) of this Article on an individual basis in accordance with the provisions of Article 31 of this Act.

(4) By way of derogation from paragraph (3) of this Article, an institution that is an EU parent institution but is not itself the resolution entity, and which is the subsidiary of third-country resolution entity, shall continuously meet the minimum requirement in accordance with the decision referred to in paragraph (1) of this Article on a consolidated basis in accordance with the provisions of Article 31 of this Act.

(5) By way of derogation from paragraph (3) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may waive the application of the minimum requirement on an individual basis to the subsidiary with a registered office in the Republic of Croatia that is not the resolution entity, where:

1) the subsidiary and the resolution entity have their registered offices in the Republic of Croatia and are part of the same resolution group;

2) the resolution entity meets the requirement referred to in paragraph (2) of this Article;

3) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities by the resolution entity to the subsidiary in respect of which a determination has been made in accordance with Article 52, paragraph (6) of this Act, in particular where resolution action is taken in respect of the resolution entity;

4) the resolution entity satisfies the requests of the Croatian National Bank or the Croatian Financial Services Supervisory Agency for the prudent management of the subsidiary and has declared, with the consent of the competent authority, that it guarantees the commitments entered into by the subsidiary, or the risks in the subsidiary are of no significance;

5) the risk evaluation, measurement and control procedures of the resolution entity cover the subsidiary; and

6) the resolution entity 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 a majority of the members of the management body of the subsidiary.

(6) By way of derogation from paragraph (3) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may waive the application of the minimum requirement on an individual basis to the subsidiary with a registered office in the Republic of Croatia that is not the resolution entity, where:

1) the subsidiary and its parent undertaking have their registered offices in the Republic of Croatia and are part of the same resolution group;

2) the parent undertaking meets with the requirement referred to in paragraph (4) on a consolidated basis in the Republic of Croatia;

3) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities by the parent undertaking to the subsidiary in respect of which a determination has been made in accordance with Article 52, paragraph (6) of this Act, in particular where resolution action or write-down and conversion powers referred to in Article 52 of this Act are taken in respect of the parent undertaking;

4) the parent undertaking satisfies the requests from the Croatian National Bank or the Croatian Financial Services Supervisory Agency for the prudent management of the subsidiary and has declared, with the consent of the competent authority, that it guarantees the commitments entered into by the subsidiary, or the risks in the subsidiary are of no significance;

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

6) 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 a majority of the members of the management body of the subsidiary.

(7) Where the conditions laid down in paragraph (5), items (1) and (2) are met, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may permit the subsidiary to meet the requirement referred to in Article 28 of this Act in full or in part with a guarantee provided by the resolution entity, which fulfils the following conditions:

1) the guarantee is provided for at least an amount that is equivalent to the amount of the requirement for which it substitutes;

2) the guarantee is triggered when the subsidiary is unable to pay its debts or other liabilities as they fall due, or a determination has been made in accordance with Article 52, paragraph (6) of this Act, in respect of the subsidiary, whichever is the earliest;

3) the guarantee is collateralised through a financial collateral arrangement as defined in the regulation governing the rules for collateralising financial liabilities through financial collateral instruments for at least 50% of its amount;

4) the collateral backing the guarantee fulfils the requirements of Article 197 of Regulation (EU) No 575/2013, which, following appropriately conservative haircuts, are sufficient to cover the amount collateralised as referred to in item (3) of this paragraph;

5) the collateral backing the guarantee is unencumbered and, in particular, is not used as collateral to back any other guarantee;

6) the collateral has an effective maturity that fulfils the same maturity condition as that referred to in Article 72c, paragraph (1) of Regulation (EU) No 575/2013; and

7) there are no legal, regulatory or operational barriers to the transfer of the collateral from the resolution entity to the relevant subsidiary, including where resolution action is taken in respect of the resolution entity.

(8) For the purposes of paragraph (7), item (7) of this Article, at the request of the Croatian National Bank or the Croatian Financial Services Supervisory Agency, the resolution entity shall provide an independent written and reasoned legal opinion or shall otherwise satisfactorily demonstrate that there are no legal, regulatory or operational barriers to the transfer of collateral from the resolution entity to the relevant subsidiary.

(9) The decision referred to in paragraph (1) of this Article shall contain an explanation, including an assessment of the elements referred to in Article 26, paragraph (2) or (3) and Article 27, 28 or 29 of this Act, as applicable when the decision is reached.

(10) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall review the decision referred to in paragraph (1) of this Article, without delay, taking into account the changes in the level of the requirement for additional own funds that the institution is obligated to maintain in accordance with the regulation governing the operation of credit institutions or the regulation governing the capital market.

(11) When imposing an additional requirement for own funds and eligible liabilities in accordance with Article 29 of this Act, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall take into account the additional requirement for own funds applied to the resolution entity or to the Union material subsidiary of a non-EU G-SII.

(12) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall verify whether the institution complies with the minimum requirement referred to in this Article.

(13) The decision on the minimum requirement referred to in paragraph (1) of this Article shall be adopted in parallel with the drawing up and revision of the group resolution plan.

(14) The Croatian National Bank shall submit the draft of the decision referred to in paragraph (1) of this Article to the Single Resolution Board in the manner and within the time limit laid down by Regulation (EU) No 806/2014 and when adopting that decision shall act in compliance with the opinion of the Single Resolution Board regarding compliance with Regulation (EU) No 806/2014 and the general instructions of the Single Resolution Board referred to in Article 31, paragraph (1), item (a) of Regulation (EU) No 806/2014.

(15) The Croatian National Bank shall inform the European Banking Authority on the minimum requirement that was imposed in accordance with paragraph (1) of this Article for each individual institution and the Croatian Financial Services Supervisory Agency shall, for the purpose of informing the European Banking Authority, deliver to the Croatian National Bank information about decisions on the minimum requirement it adopted in accordance with paragraph (1) of this Article.

Deciding on the minimum requirement for cross-border groups

Article 36

(1) The minimum requirement for a cross-border group shall be determined in parallel with the drawing up and updating of the group resolution plan on a resolution college by a joint decision on:

1) the level of the minimum requirement applied to each resolution entity on a consolidated basis; and

2) the level of the minimum requirement applied to members of a resolution group that are not resolution entities themselves on an individual basis.

(2) For the purpose of reaching a joint decision referred to in paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall prepare:

1) a proposal of the minimum requirement for a resolution entity having its registered office in the Republic of Croatia on the basis of the criteria laid down in Article 27, Article 29, paragraph (1), item (2) and Article 30 of this Act and on the basis of whether the third-country subsidiary of that resolution entity is to be resolved separately under the resolution plan, where applicable;

2) a proposal of the minimum requirement on an individual basis for a subsidiary with a registered office in the Republic of Croatia that is part of the resolution group, taking into account the criteria laid down in Article 28 of this Act.

(3) The joint decision referred to in paragraph (1) of this Article may provide that the subsidiary with a registered office in the Republic of Croatia partially meets, in accordance with Article 31 of this Act, the requirements referred to in Article 28 of this Act with instruments issued to and bought by entities not belonging to the same resolution group, where this is consistent with the resolution strategy and sufficient instruments complying with the conditions referred to in Article 31 of this Act have not been bought directly or indirectly by the resolution entity of the resolution group to which that subsidiary belongs.

(4) The joint decision referred to in paragraph (1) of this Article shall be reached by the Croatian National Bank or the Croatian Financial Services Supervisory Agency and the group-level resolution authority, if different, resolution authorities of other resolution entities and resolution authorities of other Member States where subsidiaries that are subject to the requirement equivalent to the requirement referred to in Article 35, paragraph (3) of this Act have their registered office, it shall be in writing and reasoned and the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall deliver it, as applicable to:

1) an EU parent undertaking that is not itself a resolution entity and belongs to the resolution group in which an institution with a registered office in the Republic of Croatia is the resolution entity;

2) an institution with a registered office in the Republic of Croatia that is the resolution entity; and

3) a subsidiary with a registered office in the Republic of Croatia that is not the resolution entity itself and belongs to the resolution group.

(5) The Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency shall, in accordance with the joint decision referred to in paragraph (1) of this Article, adopt a decision imposing:

1) to an institution with a registered office in the Republic of Croatia that is the resolution entity to meet the minimum requirement on a consolidated basis;

2) to an institution with a registered office in the Republic of Croatia which is not the resolution entity itself and that belongs to the same resolution group to meet the minimum requirement on an individual basis;

3) where the resolution entity is not located in the Republic of Croatia, to an institution with a registered office in the Republic of Croatia that belongs to the resolution group of that resolution entity but is not the resolution entity itself to meet the minimum requirement on an individual basis.

(6) Where the joint decision referred to in paragraph (1) of this Article is not reached within four months due to disagreement regarding the requirement on a consolidated basis or disagreement

regarding the requirement on an individual basis, the Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency shall, as applicable, adopt its own:

1) decision on the minimum requirement for the resolution entity with a registered office in the Republic of Croatia, taking into account the assessments carried out by the resolution authorities of the Member States where the registered offices of members of the group that are not resolution entities themselves and the group-level resolution authority, where different from the former;

2) decision on the minimum requirement for a subsidiary with a registered office in the Republic of Croatia that is a part of a resolution group, taking into account the written assessment of the resolution authority for the resolution entity, where different from the former.

(7) By way of derogation from paragraph (6) of this Article, where prior to the expiry of the time limit of four months but before a joint decision is reached, any relevant 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, whereby that time limit shall be deemed, within the meaning of that Regulation, to be the conciliation period, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall defer the adoption of the decision referred to in paragraph (6), items (1) and (2) of this Article, as applicable.

(8) For the purpose of Article 7 of this Article where the European Banking Authority reached the decision in accordance with to in Article 19, paragraph (3) of Regulation (EU) No 1093/2010 within a month, the decisions of the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall be in conformity with that decision.

(9) Where the European Banking Authority does not reach the decision in accordance with Article 19, paragraph (3) of Regulation (EU) No 1093/2010 within a month, the decision referred to in paragraph (6) of that the Article shall be adopted.

(10) The Croatian National Bank or the Croatian Financial Services Supervisory Agency, as the resolution authority for the resolution entity, may not refer the matter to the European Banking Authority and request its assistance in accordance with Article 19 of Regulation (EU) No 1093/2010, where the minimum requirement proposed by the resolution authority of the subsidiary of that resolution entity is within 2% of the total risk exposure amount calculated in accordance with Article 92, paragraph (3) of Regulation (EU) No 575/2013 or in accordance with the applicable requirement referred to in Article 11, paragraph (1) of Regulation (EU) 2019/2033 multiplied by 12.5, relative to the minimum requirement set on a consolidated basis and complies with the criteria corresponding to those referred to in Article 28 of this Act.

(11) Where two or more G-SII entities that are part of a G-SII are at the same time resolution entities, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall calculate the amount of additional requirement for own funds and eligible liabilities referred to in Article 29, paragraph (3) of this Act for each resolution entity with a registered office in the Republic of Croatia and for an EU parent undertaking as if it was the only resolution entity of a G-SII and shall discuss with resolution authorities referred to in paragraph (4) of this Article and, where appropriate and consistent with the G-SII's resolution strategy, agree on the application of Article 72e of Regulation (EU) No 575/2013 and any adjustment to minimise or eliminate the difference between the sum of the amount of additional requirement for own funds and eligible liabilities and the amount referred to in Article 12a of Regulation (EU) No 575/2013 for individual resolution entities and the sum of the amount of additional requirement for own funds and eligible liabilities and the amount referred to in Article 12a of Regulation (EU) No 575/2013 for the EU parent undertaking.

(12) The adjustment referred to in paragraph (11) of this Article may be applied so as to adjust the level of the requirement in respect of differences in the calculation of the total risk exposure amounts between the relevant Member States, but not to eliminate differences resulting from exposures between resolution groups.

(13) For the purpose of paragraph (11) of this Article, the sum of the amount of additional requirement for own funds and eligible liabilities referred to in Article 29, paragraph (3) of this Act and

Article 12a of Regulation (EU) No 575/2013 for individual resolution entities shall not be lower than the sum of the amount of additional requirement for own funds and eligible liabilities referred to in Article 29, paragraph (3) of this Article and the amount referred to in Article 12a of Regulation (EU) No 575/2013 for the EU parent undertaking.

(14) The joint decision referred to in paragraph (1) of this Article and individual decisions of the Croatian National Bank or the Croatian Financial Services Supervisory Agency adopted in accordance with this Article shall be reviewed and where relevant updated on a regular basis.

(15) The joint decision referred to in paragraph (1) of this Article and individual decisions of resolution authorities competent for group members reached in the absence of a joint decision shall be binding on the Croatian National Bank or the Croatian Financial Services Supervisory Agency.

(16) An institution shall meet the minimum requirement imposed by the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency adopted in accordance with this Article on a continuous basis and the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall verify whether institution meets the minimum requirement of this Article.

(17) The Croatian National Bank shall inform the European Banking Authority on the minimum requirement that was imposed in accordance with this Article for each individual institution and the Croatian Financial Services Supervisory Agency shall, for the purpose of informing the European Banking Authority, deliver to the Croatian National Bank information about decisions on the minimum requirement it adopted in accordance with this Article.

Determining the minimum requirement for entities referred to in Article 3, item (2), (3) or (4) of this Act

Article 37

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may impose to the entity referred to in Article 3, item (2), (3) or (4) of this Act the application of the minimum requirement in the manner laid down in Articles 26 to 36 of this Act.

(2) The entities referred to in Article 3, item (2), (3) or (4) of this Act shall meet the minimum requirement imposed by the decision of the Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency referred to in paragraph (1) of this Article on a continuous basis, whereby Articles 26 to 36 of this Act shall appropriately apply.

Implementation of decisions of the Single Resolution Board on the minimum requirement

Article 38

(1) When the Single Resolution Board exercises its powers referred to in Article 12 of Regulation (EU) No 806/2014, the Council of the Croatian National Bank shall, only in accordance with the instructions of the Single Resolution Board, adopt a decision by which it requires an entity for which the Single Resolution Board is directly responsible to meet the minimum requirement on an individual or on a consolidated basis as determined by the decision of the Single Resolution Board referred to in Article 12, paragraph (1) of Regulation (EU) No 806/2014 or by the joint decision on the minimum requirement the Single Resolution Board participated in the reaching of, with respect to a member of the group with a registered office in the Republic of Croatia .

(2) The entity for which the Single Resolution Board is directly responsible shall meet the minimum requirement determined in the decision referred to in paragraph (1) of this Article on a continuous basis.

(3) Where the Single Resolution Board determines the minimum requirement in accordance with Articles 12 to 12k of Regulation (EU) No 806/2014 the Croatian National Bank may submit a proposal to the Single Resolution Board to waive the application of the minimum requirement on an individual basis to a subsidiary with a registered office in the Republic of Croatia that is not, in accordance with Article 3, paragraph (1), item (24a) of Regulation (EU) No 806/2014, the resolution entity and that meets the conditions referred to in Article 12h of Regulation (EU) No 806/2014.

(4) Where the Single Resolution Board determines the minimum requirement in accordance with Articles 12 to 12k of Regulation (EU) No 806/2014, the Croatian National Bank may propose that the entity for which the Single Resolution Board is directly responsible and that is, in accordance with Article 3, paragraph (1), item (24a) of Regulation (EU) No 806/2014, the resolution entity to meet the minimum requirement on a consolidated or on an individual basis in the manner referred to in Article 12c, paragraph (4) or (5) of Regulation (EU) No 806/2014.

(5) If it assesses that the failure of the entity, for which the Single Resolution Board is directly responsible, and which is the resolution entity not subject to Article 92a of Regulation (EU) No 575/2013 and a part of a resolution group the total assets of which do not exceed the equivalent of EUR 100 billion, is likely to pose a systemic risk, the Croatian National Bank may adopt a decision to submit the request referred to in Article 12d, paragraph (5) of Regulation (EU) No 806/2014 to the Single Resolution Board.

(6) The Croatian National Bank shall, in accordance with the instructions of the Single Resolution Board, verify whether the entity for which the Single Resolution Board is directly responsible meets the minimum requirement referred to in paragraph (1) of this Article.

Supervisory reporting and public disclosure of the minimum requirement

Article 39

(1) An institution shall report to the competent authority on the following:

1) the amount of own funds that, in case of an institution that is not the resolution entity itself, meets the conditions of Article 30, paragraph (3) of this Act, or Article 12g, paragraph (2), item (b) of Regulation (EU) No 806/2014 and the amount of eligible liabilities, and the calculation of those amounts in accordance with Article 26, paragraph (4) of this Act or Article 12a, paragraph (2) of Regulation (EU) No 806/2014 after any applicable deductions in accordance with Articles 72e to 72j of Regulation (EU) No 575/2013; and

2) the amount of other bail-inable liabilities;

(2) When reporting pursuant to paragraph (1) of this Article, an institution shall file the following data on report items:

1) their composition, including their maturity profile,

2) their ranking in normal insolvency proceedings, and

3) whether they are governed by the laws of a third country and, if so, which third country and whether they contain the contractual provisions referred to in Article 93, paragraph (1) of this Act and Article 52, paragraph (1), items (p) and (q) and Article 63, items (n) and (o) of Regulation (EU) No 575/2013.

(3) By way of derogation from paragraph (1) of this Article, an institution is not obligated to report on the amounts of other bail-inable liabilities if, at the date of the reporting of that information, it holds amounts of own funds and eligible liabilities of at least 150% of the minimum requirement referred to in Article 34, 35, or 36 of this Act, as applicable, or Article 12, paragraph (1) of Regulation (EU) No 806/2014 as calculated in accordance with paragraph (1), item (1) of this Article.

(4) An institution is obligated to report the information referred to in paragraph (1), item (1) of this Article on a semi-annual basis and the information referred to in paragraph (1), item (2) and paragraph (2) of this Article on an annual basis.

(5) Without prejudice to the manner of reporting laid down in paragraph (4) of this Article, an institution is obligated to report the information referred to in paragraphs (1) and (2) of this Article at the request of the competent authority.

(6) An institution is obligated to make publicly available on its web site on an annual basis:

1) the amount of own funds that, in the case of an institution that is not the resolution entity itself, meets the conditions referred to in Article 30, paragraph (3) of this Act and the amount of eligible liabilities;

2) the composition of the items referred to in paragraph (1), item (2) of this Article including their maturity profile and ranking in normal insolvency proceedings;

3) the requirement referred to in Article 34, 35 or 36 of this Act, as applicable, expressed in accordance with Article 26, paragraph (4).

(7) Where an institution has been subject to resolution action or the write-down or conversion power has been exercised in accordance with Article 52 of this Act, the obligation referred to in paragraph (6) of this Article shall apply from the date set out in Article 148 of this Act for meeting the requirement referred to in Article 34, 35 or 36 of this Act, as applicable.

(8) By way of derogation from paragraphs (1) and (6) of this Article, an institution for which the resolution plan provides that, where the conditions referred to in Article 43, paragraph (1) of this Act are met, it is not going to be subject to resolution proceedings, but to normal insolvency proceedings, shall not be obligated to submit reports or publicly disclose information.

(9) An entity referred to in Article 3, item (2), (3) or (4) of this Act that was imposed by the Croatian National Bank or the Croatian Financial Services Supervisory Agency the minimum requirement in accordance with Article 37 of this Act shall be obligated to submit reports and publicly disclose information in accordance with the provisions of this Article.

(10) The Croatian National Bank shall deliver to the Single Resolution Board the reports referred to in paragraph (1) of this Article of the entity for which the Single Resolution Board is directly responsible, without delay.

Failure to meet the minimum requirement

Article 40

(1) In case of failure to meet the minimum requirement determined by the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency in accordance with Articles 34 to 37 of this Act, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall have the power to:

- 1) address or remove impediments to resolvability in accordance with Article 22 or 23 of this Act;
- 2) restrict the distribution referred to in Article 41 of this Act; or
- 3) initiate misdemeanour proceedings for misdemeanours in accordance with Article 143 of this Act.

(2) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall exercise at least one of the powers referred to in paragraph (1) of this Article, in accordance with the principle of proportionality, except where the competent authority decides, in agreement with the Croatian National Bank or the Croatian Financial Services Supervisory Agency, to exercise the powers at its disposal in case of failure to meet the minimum requirement by an institution.

(3) For the purpose of paragraph (1) of this Article, the competent authority may carry out an assessment of whether the institution or entity referred to in Article 3, item (2), (3) or (4) is failing or is likely to fail.

Restrictions on distributions

Article 41

(1) The institution or the entity referred to in Article 3, item (2), (3) or (4) of this Act shall notify the Croatian National Bank or the Croatian Financial Services Supervisory Agency without delay if it is in the situation where it meets the combined buffer requirement when considered in addition to the requirements referred to in Article 92, paragraph (1), items (a), (b) and (c) of Regulation (EU) No 575/2013, and, in addition to each of these requirements, additional own funds requirement addressing risks other than the risk of excessive leverage imposed pursuant to the regulation governing the operation of credit institutions or regulation governing the capital market, but fails to meet the combined buffer requirement when considered in addition to the minimum requirement

referred to in Articles 34 to 37 of this Act, as applicable, which is calculated in accordance with Article 26, paragraph (4), item (1) of this Act.

(2) In case of the situation referred to in paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may adopt a decision prohibiting the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act for which the Single Resolution Board is not directly responsible from distributing the amount which exceeds the maximum distributable amount related to the minimum requirement calculated in accordance with Article 42 of this Act, through the following actions:

1) making a distribution in connection with common equity tier 1 capital;

2) creating an obligation to pay variable remuneration or discretionary pension benefits or pay variable remuneration if the obligation to pay was created at a time when the institution failed to meet the combined buffer requirement; or

3) making payments on additional tier 1 instruments.

(3) Before imposing the prohibition referred to in paragraph (2) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall consider the following:

1) the reason, duration and magnitude of the failure and its impact on resolvability;

2) the development of the financial situation of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act and the likelihood of it fulfilling, in the foreseeable future, the condition referred to in Article 43, paragraph (1);

3) the prospect that the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act will be able to ensure compliance with the requirements referred to in paragraph (1) of this Article within a reasonable timeframe;

4) where the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act is unable to replace liabilities that no longer meet the eligibility or maturity criteria laid down in Articles 72b and 72c of Regulation (EU) No 575/2013, or in Article 30 or Article 31 of this Act, if that inability is idiosyncratic or is due to market-wide disturbance; and

5) whether the imposition of the prohibition referred to in paragraph (2) of this Article is the most adequate and proportionate means of addressing the situation of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act, taking into account its potential impact on both the financing conditions and resolvability of the institution or entity concerned.

(4) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency based on the assessment referred to in paragraph (3) of this Article does not impose the prohibition referred in paragraph (2) of this Article on the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act it shall carry out the assessment referred to in paragraph (3) of this Article at least every month for as long as the entity continues to be in the situation referred to in paragraph (1) of this Article for the purpose of establishing the need to impose the prohibition.

(5) If the Croatian National Bank or the Croatian Financial Services Supervisory Agency finds that after nine months of the date of the notification referred to in paragraph (1) of this Article the institution or the entity referred to in Article 3, item (2), (3) or (4) of this Act is still in the situation referred to in paragraph (1) of this Article, it shall impose on the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act the prohibition referred to in paragraph (2) of this Article, except where it finds that at least two of the following conditions are fulfilled:

1) the failure is due to a serious disturbance to the functioning of financial markets which leads to broad-based financial market stress across several segments of financial markets;

2) the disturbance referred to in item (1) of this paragraph not only results in the increased price volatility of the own funds instruments and eligible liabilities instruments of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act or its increased costs, but also leads to a full or partial closure of markets which prevents the institution or entity referred to in Article 3, item (2), (3)

or (4) of this Act from issuing own funds instruments and eligible liabilities instruments on those markets;

3) the market closure referred to in item (2) of this paragraph is observed not only for the institution or entity referred to in Article 3, item (2), (3) or (4) if this Act, but also for several other entities;

4) the disturbance referred to in item (1) of this paragraph prevents the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act from issuing own funds instruments and eligible liabilities instruments sufficient to remedy the failure; or

5) the imposition of the prohibition referred to in paragraph (2) of this Article leads to negative spill-over effects for part of the banking sector, thereby potentially undermining financial stability.

(6) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency based on the assessment referred to in paragraph (5) of this Article does not impose the prohibition referred to in paragraph (2) of this Act on the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act it shall carry out the assessment referred to in paragraph (5) of this Article every month for as long as the entity continues to be in the situation referred to in paragraph (1) of this Article.

(7) When the Single Resolution Board exercises its powers referred to in Article 10a, paragraph (1) of Regulation (EU) No 806/2014, the Croatian National Bank shall, only in accordance with the instruction of the Single Resolution Board, shall adopt a decision prohibiting the entity for which the Single Resolution Board is directly responsible from distributing the amount which exceeds the maximum distributable amount related to the minimum requirement calculated in accordance with Article 10a, paragraph (4), Regulation (EU) No 806/2014, through the following actions:

- 1) making a distribution in connection with common equity tier 1 capital;
- 2) creating an obligation to pay variable remuneration or discretionary pension benefits or pay variable remuneration if the obligation to pay was created at a time when the institution failed to meet the combined buffer requirement; or
- 3) making payments on additional tier 1 instruments.

The manner of calculating the maximum distributable amount related to the minimum requirement

Article 42

(1) An institution or an entity referred to in Article 3, item (2), (3) or (4) of this Act shall calculate the maximum distributable amount related to the minimum requirement by multiplying the sum calculated in accordance with paragraph (3) of this Article by the factor determined in accordance with paragraph (4) of this Article and notify the Croatian National Bank or the Croatian Financial Services Supervisory Agency thereof.

(2) By way of derogation from paragraph (1) of this Article, where an institution or an entity referred to in Article 3, item (2), (3) or (4) of this Act has undertaken actions referred to in Article 41, paragraph (2), item (1), (2) or (4) of this Act, the maximum distributable amount related to the minimum requirement shall be considered the maximum distributable amount related to the minimum requirement calculated in accordance with paragraph (1) of this Article reduced by any amount resulting from any of the actions referred to in Article 41, paragraph (2), item (1), (2) or (3) of this Act.

(3) The sum of the profit is calculated as the sum of the amounts referred to in items (1) and (2) of this paragraph reduced by the amount referred to in item (3) of this paragraph:

- 1) any interim profits not included in common equity tier 1 capital pursuant to Article 26, paragraph (2) of Regulation (EU) No 575/2013, net of any distribution of profits or any payment resulting from the actions referred to Article 41, paragraph (2), item (1), (2) or (3) of this Act;
- 2) any year-end profits not included in common equity tier 1 capital pursuant to Article 26, paragraph (2) of Regulation (EU) No 575/2013, net of any distribution of profits or any payment resulting from the actions referred to Article 41, paragraph (2), item (1), (2) or (3) of this Act;

3) amount which the institution or entity referred to in Article 3, item (2), (3) or (4) would be obligated to pay as tax for the items specified in item (1) and (2) of this paragraph.

(4) The factor referred to in paragraph (5) of this Article shall be determined depending on the quartile within which the common equity tier 1 capital maintained by an institution or an entity referred to in Article 3, item (2), (3) or (4) of this Act belongs which is not used to meet the requirements set out in Article 92a of Regulation (EU) No 575/2013 and, as applicable, the requirements referred to in Articles 34 to 37 of this Act, whereby this common equity tier 1 capital is expressed as a percentage of the total risk exposure amount calculated in accordance with Article 92 of Regulation (EU) No 575/2013.

(5) It shall be considered that the common equity tier 1 capital maintained by an institution or entity referred to in Article 3, item (2), (3) or (4) of this Act not used to meet the requirements set out in Article 92a of Regulation (EU) No 575/2013 and, as applicable, the requirements referred to in Articles 34 to 37 of this Act, and expressed as a percentage of the total risk exposure amount belongs:

1) within the first quartile of distribution if greater than or equal to 0.00, and lower than or equal to 1/4 of the amount of the combined buffer requirement, in which case the factor shall be 0;

2) within the second quartile of distribution if greater than 1/4 of the amount of the combined buffer requirement, and lower or equal to 1/2 of the amount of the combined buffer requirement, in which case the factor shall be 0.2;

3) within the third quartile of distribution if greater than 1/2 of the amount of the combined buffer requirement, and lower than or equal to 3/4 of the amount of combined buffer requirement, in which case the factor shall be 0.4; or

4) within the fourth quartile of distribution if greater than 3/4 of the amount of the combined buffer requirement, and lower than the amount of combined capital buffer requirement, in which case the factor shall be 0.6.

(6) The amount of the combined capital buffer requirement referred to in paragraph (5) of this Article shall be expressed as a percentage of the total risk exposure amount.

V DECIDING ON RESOLUTION

Conditions for resolution

Article 43

(1) The competent authority, except when the European central Bank carries out its supervisory tasks referred to in Article 4 of Council Regulation (EU) No 1024/2013 in relation to significant supervised entities, shall determine 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 where one or more of the following circumstances occurs:

1) there are reasons to revoke the authorisation of the institution or there are objective circumstances indicating that reasons to revoke the 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) a state guarantee to back liquidity support provided by the central bank according to its terms and conditions;

b) a state guarantee of newly issued liabilities of the institution; or

c) 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 52, paragraph (6) 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:

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

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

3) 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 shall be provided only in the form of investments in own funds or purchase of capital instruments that pertain 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 conditions for opening resolution proceedings are:

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 in the early intervention phase, or the write-down or conversion of relevant capital instruments or eligible liabilities in accordance with Title VII of this Act would prevent the failure of the institution within a reasonable timeframe; and

3) the resolution is in the public interest.

(5) For the purposes of resolution planning, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall assess whether resolution is in the public interest and this shall be determined in the resolution plan referred to in Article 19 or Article 20 of this Act.

(6) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency at the moment when the conditions referred to in paragraph (1) of this Article are met changes the conclusion on the public interest referred to in paragraph (5) of this Article, no need shall arise to amend the resolution plan referred to in Article 19 or Article 20 of this Act.

(7) For the purpose of paragraph (4), item (3) 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 normal insolvency proceedings would not meet those resolution objectives to the same extent.

(8) In case the conditions referred to in paragraph (4), item (1) or (2) of this Article are met in relation to an institution, if the condition referred to in paragraph (4), item (3) of this Article is not met, the Council of the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall adopt a decision to submit a request to open normal insolvency proceedings in accordance with the provisions of a special law.

(9) The prior adoption of supervisory measures in the early intervention phase in accordance with the regulations governing the operation of credit institutions or investment firms is not a condition for taking of resolution actions and opening of resolution proceedings.

Conditions for resolution of financial institutions and holding companies

Article 44

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may take resolution action with regard to financial institutions referred to in Article 3, item (2) of this Act where

the conditions referred to in Article 43, paragraph (4) of this Act are met at the same time both with regard to the financial institution and with regard to its parent undertaking subject to consolidated supervision, and for which the Single Resolution Board is not directly responsible.

(2) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may take resolution action with regard to entities referred to in Article 3, item (3) or (4) of this Act where the conditions referred to in Article 43, paragraph (4) of this Act are met with regard to this entity.

(3) Where the subsidiary institutions of a mixed-activity holding company are held directly or indirectly by an intermediate financial holding company, the Croatian National Bank or the Financial Services Supervisory Agency shall identify the intermediate financial holding company in the resolution plan as the resolution entity subject to resolution actions and in this case resolution actions shall not be taken in relation to the mixed-activity holding company.

(4) Subject to paragraph (3) of this Article and notwithstanding the fact that an entity referred to in Article 3, paragraph (3) or (4) of this Act does not meet the conditions laid down in Article 43, paragraph (4) of this Act, the Croatian National Bank or the Financial Services Supervisory Agency may take resolution action with regard to that entity where all of the following conditions are fulfilled:

- 1) the entity is a resolution entity;
- 2) one or more of the subsidiaries of the entity that are institutions, but not resolution entities, comply with the conditions laid down in Article 43, paragraph (4) of this Act;
- 3) assets and liabilities of the subsidiaries referred to in item (2) of this paragraph are such that the failure of those subsidiaries threatens the resolution group as a whole, and resolution action with regard to the entity is necessary either for the resolution of such subsidiaries referred to in item (2) of this paragraph or for the resolution of the relevant resolution group as a whole.

(5) For the purpose of paragraphs (2) and (4) of this Article, when assessing whether the conditions referred to in Article 43, paragraph (4) of this Act are met with regard to one or more subsidiary that are institutions, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may decide to disregard any intra-group capital or loss transfers between the entities, including when exercising of the power to write down or convert relevant capital instruments.

(6) With regard to the entity referred to in Article 3, item (2), (3) or (4) of this Act for which it is determined that are failing or likely to fail in accordance with Article 43, paragraph (1) of this Act and that the condition referred to in Article 43, paragraph (4), item (2) of this Act is met, and the condition referred to in Article 43, paragraph (4), item (3) of this Act is not met, the Council of the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall adopt a decision to submit a request to open normal insolvency proceedings in accordance with the provisions of a special law.

Notification requirement

Article 45

(1) The institution or entity referred to in Article 3, item (2), (3) or (4) of this Act shall immediately notify the competent authority where it deems that it meets any of the conditions referred to in Article 43, paragraph (1) of this Act.

(2) The competent authority shall without delay notify the decision that the conditions referred to in Article 43, paragraph (4), items (1) and (2) of this Act are met in relation to an institution or entity referred to in Article 3, item (2), (3) or (4) of this Act to the following:

- 1) the Croatian National Bank or the Croatian Financial Services Supervisory Agency;
- 2) the competent and supervisory authority for each branch of an institution or entity referred to in Article 3, item (2), (3) or (4) of this Act in another Member State;
- 3) the Croatian National Bank as the central bank;
- 4) the Croatian Deposit Insurance Agency;
- 5) the group-level resolution authority, where different from the authority referred to in item (1) of this paragraph;

- 6) the consolidating supervisor, where a different authority;
- 7) the Ministry of Finance;
- 8) the European Systemic Risk Board; and
- 9) the Financial Stability Council.

(3) If no adequate level of protection of the confidentiality of information is ensured in the transfer of information to the authority referred to in paragraph (2), item (4) of this Article, the competent authority shall determine alternative ways of communication to achieve the same goals with the satisfactory level of confidentiality ensured.

Adopting a decision to open resolution proceedings

Article 46

(1) The decision to open resolution proceedings against an institution or entity referred to in Article 3, item (2), (3) or (4) of this Act for which the Single Resolution Board is not directly responsible shall be adopted by the Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency *ex officio* where it establishes that in relation to that institution all the conditions referred to in Article 43, paragraph (4) of this Act have been met or that in relation to that entity all the conditions referred to in Article 44 of this Act have been met.

(2) The Croatian National Bank shall submit the draft of the decision referred to in paragraph (1) of this Article for opinion to the Single Resolution Board in the manner and within the time limit laid down by Regulation (EU) 806/2014 and when adopting this decision shall take account of the opinion of the Single Resolution Board regarding compliance of this decision with Regulation (EU) No 806/2014 and the general instructions of the Single Resolution Board referred to in Article 31, paragraph (1), item (a) of Regulation (EU) No 806/2014, especially with regard to the use of the Single Resolution Fund.

(3) The Decision referred to in paragraph (1) of this Article shall include:

- 1) the reasons for opening resolution proceedings;
- 2) the explanation of how the criteria for resolution are met, including the results of the valuation;
- 3) the resolution action that the Croatian National Bank or the Croatian Financial Services Supervisory Agency intends to take;
- 4) the date, hour and minute of the opening of resolution proceedings.

(4) When selecting the resolution action the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall take into account and follow the actions provided for in the resolution plan, 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.

(5) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall without delay notify the following of the decision referred to in paragraph (1) of this Article:

- 1) the institution concerned;
- 2) the Ministry of Finance;
- 3) the Croatian Deposit Insurance Agency
- 4) the competent authorities for each branch of the institution in other Member States, where applicable;
- 5) the Financial Stability Council and the European Systemic Risk Board;
- 6) the European Banking Authority;
- 7) the European Commission;
- 8) the European Central Bank;
- 9) the European Securities and Markets Authority;

- 10) the European Insurance and Occupational Pensions Authority; and
- 11) the operators of the systems in which it participates, where applicable.

(6) In addition to the notification referred to in the previous paragraph, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall submit to the authorities referred to in paragraph (5) of this Article a copy of all decisions in relation to the relevant institution by which the resolution action is intended to be taken and shall in the notification specify the date as of which these decisions will have effect.

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

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

(9) For the purpose of paragraph (8) of this Article, the powers of the supervisory board or non-executive directors of the board of directors and of the general assembly of the institution under resolution shall be exercised by the Croatian National Bank or the Croatian Financial Services Supervisory Agency and 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 governing the capital market.

(10) Where several entities of the same group that is not a cross-border group meet the conditions for resolution, the Croatian National Bank or the Croatian Financial Services Supervisory Agency 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.

Adopting a decision to open resolution proceedings or to submit a request to carry out normal insolvency proceedings in case of a group

Article 47

(1) In case of a cross-border group, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall reach a decision referred to in Article 46, paragraph (1) of this Act, Article 43, paragraph (8) of this Act or Article 44, paragraph (6) of this Act based on a joint decision on the group resolution scheme referred to in paragraph (8), (9), (12) or (15) of this Article.

(2) For the purpose of paragraph (1) of this Article, where the consolidating supervisor is located in the Republic of Croatia, the Croatian National Bank or the Croatian Financial Services Supervisory Authority as the group-level resolution authority shall:

- 1) after it establishes that the conditions referred to in Article 43, paragraph (4) or (8) of this Act or the conditions referred to in Article 44 of this Act are met in relation to the EU parent undertaking having its registered office in the Republic of Croatia; or

- 2) after it receives notification from the resolution authority from another Member State whether the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act from that Member State for which this authority is competent and which is the subsidiary of the EU parent undertaking having its registered office in the Republic of Croatia meets the conditions for opening of resolution proceedings or carrying out of normal insolvency proceedings and of the action it intends to take in relation to this subsidiary;

- 3) notify other members of the resolution college and after consulting them assess the impact of the planned actions on the EU parent undertaking having its registered office in the Republic of Croatia, the group as a whole and on the members of the group in other Member States, and, in particular, whether these actions would make it likely that the conditions for resolution or normal insolvency proceedings would be met in relation to other members of the group.

(3) Where the Croatian National Bank or the Croatian Financial Services Supervisory Authority as the group-level resolution authority assesses that the planned actions referred to in paragraph (2) of

this Article would make it likely that the conditions referred to in Article 43, paragraph (4) or (8) or Article 44 of this Act are met in relation to the EU parent undertaking having its registered office in the Republic of Croatia or in relation to member of the group in another Member State as regulated by the law of that other Member State it shall within 24 hours after receiving the notification referred to in paragraph (4) of this Article draw up and propose to the members of the resolution college a group resolution scheme.

(4) By way of derogation from paragraph (3) of this Article, the 24-hour time limit may be extended with prior approval of the resolution authority of another Member State which made the notification referred to in paragraph (2), item (2) of this Article.

(5) The group resolution scheme shall:

a) take into account and follow the group resolution plan adopted in accordance with Article 18 of this Act, unless the members of the resolution college 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;

2) outline the resolution actions that should be taken by the relevant resolution authorities in relation to the EU parent undertaking having its registered office in the Republic of Croatia and other members of the group with the aim of meeting the resolution objectives and principles referred to in Articles 6 and 7 of this Act;

3) specify how those resolution actions should be coordinated;

4) outline a financing plan which is based on the group resolution plan, principles for sharing responsibility for financing in the manner referred to in Article 20, paragraph (3), item (7) of this Act and the general principles of mutualisation determined in accordance with Article 138 of this Act.

(6) The group resolution scheme shall be adopted where any of the following conditions are met:

1) resolution actions or other actions planned to be carried out in relation to the EU parent undertaking having its registered office in the Republic of Croatia will make it likely that the conditions for resolution or normal insolvency proceedings as regulated in other Member States are met in relation to the member of the group in another Member State.

2) resolution actions or other actions that are planned to be implemented in relation to the EU parent undertaking having its registered office in the Republic of Croatia are not sufficient or are not likely to provide an optimum outcome;

3) the conditions for resolution or normal insolvency proceedings as regulated in other Member States are met with regard to one or more subsidiaries, in accordance with the assessment of resolution authorities competent for them; or

4) the implementation of resolution or other actions at group level will benefit the subsidiaries thus justifying the adoption of the group resolution scheme.

(7) Where the conditions for the adoption of the group resolution scheme referred to in paragraph (6) of this Article are not met and the conditions referred to in Article 43, paragraph (4) or (8) or Article 44 of this Act are met in relation to the EU parent undertaking having its registered office in the Republic of Croatia, the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the group-level resolution authority shall reach the decision referred to in Article 46, paragraph (1) of this Act, Article 43, paragraph (8) of this Act or Article 44, paragraph (6) of this Act, after consulting other members of the resolution college, whereby this decision shall:

1) take into account and follow the group-level resolution plan adopted in accordance with Article 18 of this Act, unless the members of the resolution college 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; and

2) take into account the financial stability of Member States in which the members of the group operate.

(8) Where the conditions referred to in paragraph (8) of this Article are met, the Croatian National Bank and the Croatian Financial Services Supervisory Authority as the group-level resolution authority shall together with resolution authorities of subsidiaries covered by the group resolution scheme, adopt the group resolution scheme referred to in paragraph (5) of this Article in the form of a joint decision.

(9) Where a resolution authority of another Member State competent for a subsidiary disagrees with the group resolution scheme because it thinks it must adopt its own resolution action or actions not proposed in the group resolution scheme with regard to this subsidiary due to reasons connected with the financial stability in that Member State, the Croatian National Bank or the Croatian Financial Services Supervisory Agency as a group-level resolution authority may reach a joint decision on the group resolution scheme with those resolution authorities that agree with the proposed group resolution scheme.

(10) For the purpose of paragraph (1) of this Article, if the consolidating supervisor is not located in the Republic of Croatia and the Croatian National Bank or the Croatian Financial Services Supervisory Agency determines that in relation to the subsidiary having its registered office in the Republic of Croatia which is an institution or entity referred to in Article 3, item (2), (3) or (4) of this Act and for which the Single Resolution Board is not directly responsible the conditions referred to in Article 43, paragraph (4) or (8) of this Act or Article 44 of this Act are met, it shall without delay notify the group-level resolution authority of another Member State competent for the EU parent undertaking thereof and the action it intends to take in relation to the subsidiary.

(11) Where within the 24-hour time limit or exceptionally, with prior approval of the Croatian National Bank or the Croatian Financial Services Supervisory Agency, a longer time limit, the group-level resolution authority does not propose a group resolution scheme or prior to this fails to notify the Croatian National Bank or the Croatian Financial Services Supervisory Agency that the planned action will not make it likely that the conditions for resolution or normal insolvency proceedings as regulated in other Member States are met in relation to other members of the group, the Croatian National Bank or the Croatian Financial Agency Supervisory Agency shall adopt the decision referred to in Article 46, paragraph (1) of this Act, the decision referred to in Article 52, paragraph (1) of this Act, Article 43, paragraph (8) of this Act or Article 44, paragraph (6) of this Act.

(12) Where the need exists to adopt a group resolution scheme because meeting the conditions for resolution in relation to the EU parent undertaking or subsidiary having its registered office in another Member State, as regulated in that Member State, resulted in the conditions referred to in Article 43, paragraph (4) or (8) of this Act or Article 44 of this Act being met in relation to the subsidiary located in the Republic of Croatia or this need exists in the case referred to in paragraph (10) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall, together with the group-level resolution authority from another Member State and resolution authorities of subsidiaries covered by the group resolution scheme, adopt the group resolution scheme referred to in paragraph (5) of this Article in the form of a joint decision.

(13) By way of derogation from paragraph (12) of this Article, where the Croatian National Bank or the Croatian Financial Services Supervisory Agency disagrees with the group resolution scheme or it thinks it must adopt its own resolution action or actions not proposed in the group resolution scheme with regard to the institution or entity referred to in Article 3, item (2), (3) or (4) having its registered office in the Republic of Croatia due to reasons connected with the financial stability in the Republic of Croatia, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall notify the group-level resolution authority and the resolution authorities of subsidiaries covered by the group resolution scheme thereof and own action it intends to take and shall explain in detail why it does not want to participate in the group resolution scheme and shall take its own decision.

(14) The explanation of the disagreement with the proposed group resolution scheme shall take into account the adopted group resolution plan and the potential impact on the financial stability in other Member States where members of the group are located.

(15) Where the resolution authority of another Member State competent for the subsidiary disagrees with the proposed group resolution scheme, and the Croatian National Bank or the Croatian Financial Services Supervisory Agency agrees with it, it may, together with the group-level resolution authority and those resolution authorities that agree with the proposed group resolution scheme, reach a joint decision on the group resolution scheme.

(16) The joint decisions referred to in paragraphs (8), (9), (12) and (15) of this Article shall be deemed final and shall have legal effects on the Croatian National Bank or the Croatian Financial Services Supervisory Agency.

(17) For the purpose of paragraphs (8) and (12) of this Article, 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 scheme in accordance with Article 31, item (c) of Regulation (EU) No 1093/2010.

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

(19) In the absence of a joint decision on the group resolution scheme, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall cooperate closely with the members of 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.

(20) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall inform the members of the resolution college regularly and fully about the resolution actions taken in accordance with this Article.

Public disclosure and delivery of decisions in resolution proceedings

Article 48

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency 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 institution shall publish on its website the decision to open resolution proceedings and all subsequent decisions implementing the decision to open resolution proceedings.

(3) 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, which 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 106, 107 or 108 of this Act, the conditions and the time limits relating to the suspensions or restrictions shall be disclosed in the publication referred to in paragraph (1) of this Article.

(5) The resolution authority shall without delay deliver to the Financial Agency and the Central Depository and Clearing Company the decisions referred to in Article 106, 107 or 108 of this Act which shall act upon them as of the moment of delivery.

(6) Where shares or 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.

(7) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall without delay deliver to the institution under resolution all decisions it adopted for the purpose of opening resolution proceedings and the institution under resolution shall without delay notify thereof the persons the decision pertains to in the part relevant to them.

Implementation of the resolution decision of the Single Resolution Board

Article 49

(1) When the Single Resolution Board exercises its powers referred to in Article 18 of Regulation (EU) No 806/2014, the Croatian National Bank shall act in compliance with the resolution decision and the instructions of the Single Resolution Board, by applying resolution tools referred to in Title IX of this Act, by exercising the resolution powers referred to in Title X of this Act and by applying the safeguards referred to in Title XII of this Act.

(2) The Croatian National Bank may, at the request of the Single Resolution Board, in cooperation with the European Central Bank assess whether the conditions referred to in Article 18, paragraph (1), item (b) of Regulation (EU) No 806/2014 are met.

(3) Immediately upon receiving the resolution decision of the Single Resolution Board, the Croatian National Bank shall reach a decision to appoint a resolution administration.

(4) The resolution administration appointed in accordance with paragraph (3) of this Article shall be subject to the provisions of Articles 59 to 69 of this Act.

(5) Public disclosure and delivery of the resolution decision of the Single Resolution Board shall be subject to the provisions of Article 46, paragraph (5) and Article 48 of this Act.

(6) Where it is established in relation to the entity for which the Single Resolution Board is directly responsible that it is failing or it is likely to fail and in relation to which no decision has been reached on the opening of resolution proceedings in accordance with Article 18 of Regulation (EU) No 806/2014, the Council of the Croatian National Bank shall reach a decision to submit a request to open normal insolvency proceedings in accordance with the provisions of a special law.

VI VALUATION

Valuation

Article 50

(1) Before taking resolution action or exercising the power to write down or convert relevant capital instruments and eligible liabilities in accordance with Article 52, paragraph (1) of this Act, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall ensure that a fair, prudent and realistic 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 a valuer independent from any public authority, including the Croatian National Bank or the Croatian Financial Services Supervisory Agency and the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act (hereinafter referred to as 'independent valuer'), unless it has already been ensured by the Single Resolution Board in accordance with Article 20, paragraphs (1) to (15) of Regulation (EU) No 806/2014.

(2) The objective of the valuation referred to in paragraph (1) of this Article shall be to assess the value of the assets and liabilities of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act that meet the conditions for resolution of Article 43, paragraph (4) or Article 44 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 and eligible liabilities in accordance with Article 52, paragraph (1) of this Act 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 and eligible liabilities in accordance with Article 52, paragraph (1) of this Act 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 and eligible liabilities in accordance with Article 52, paragraph (1) of this Act, 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 bail-inable 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 or holders of other instruments of ownership;

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 Croatian National Bank or the Croatian Financial Services Supervisory Agency of what constitutes commercial terms for the purposes of Article 71 of this Act; and

7) to ensure that all 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 and eligible liabilities in accordance with Article 52, paragraph (1) of this Act 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 these purposes.

(5) The valuation referred to in paragraph (1) of this Article, unless it is the case of 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 and eligible liabilities in accordance with Article 52, paragraph (1) of this Act.

(6) The valuation referred to in paragraph (1) of this Article shall, regardless of the applied resolution tool, take into account that the Croatian National Bank or the Croatian Financial Services Supervisory Agency and the resolution fund or the Single Resolution Fund:

1) may recover any reasonable expenses properly incurred from the institution under resolution, in accordance with Article 70, paragraph (5) of this Act or in accordance with Article 22, paragraph (6) of Regulation (EU) No 806/2014; and

b) may charge interest or fees in relation to any loans or guarantees provided to the institution in accordance with Article 136 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 ranking in accordance with the regulations governing normal insolvency proceedings; 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 ranking of individual claims in accordance with the regulations governing normal insolvency 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 normal insolvency proceedings against the institution or entity are implemented, whereby the estimate of the outcome shall not affect the application of the principle referred to in Article 124 of this Act under which no creditor would receive worse treatment relative to the treatment the creditor would have received in normal insolvency proceedings, in the valuation referred to in Article 123 of this Act.

(10) 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 in the manner referred to in paragraph (11) of this Article.

(11) 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, which meets, to the extent possible, the requirements referred in paragraphs (1), (7) and (9) of this Article and includes appropriately justified estimate of a buffer for additional losses.

(12) Based on the provisional valuation referred to in paragraph (10) or (11) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may take resolution action and write down or convert relevant capital instruments and eligible liabilities in accordance with Article 52, paragraph (1) of this Act, 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.

(13) The result of the valuation referred to in paragraph (1), (10), (11) or (12) 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 and eligible liabilities in accordance with Article 52, paragraph (1) of this Act.

(14) Action for judicial review may not be brought before the administrative court relating to the valuation, but action for judicial review may be brought against the decision referred to in paragraph (13) of this Article in accordance with Article 141 of this Act.

(15) By way of derogation from the regulation governing public procurement, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may contract the services of the independent valuer by direct award not subject to the public procurement procedure.

Ex-post valuation

Article 51

(1) For the purpose of Article 50, paragraph (10) or (11) of this Act, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall ensure that, when possible, an independent person has carried out an *ex-post* independent valuation that is fully compliant with all the requirements laid down in Article 50 of this Act and may be carried out either separately from the valuation referred to in Article 123 of this Act or simultaneously with and by the same independent valuator as that valuation, in which case it shall be clear that these are two distinct valuations.

(2) The *ex-post* valuation referred to in paragraph (1) of this Article must:

- 1) 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
- 2) inform the decision referred to in paragraph (3) of this Article on the increase of value of the claims of creditors whose claims are written down or to increase the value of the consideration paid.

(3) In the event that the *ex-post* valuation's estimate referred to in paragraph (1) of 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 is higher than the provisional valuation's estimate of the net asset value carried out based on Article 50,

paragraph (10) or (11) of this Act, the Croatian National Bank or the Croatian Financial Services Supervisory Agency 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 the powers referred to in Title VII 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.

(4) When the Single Resolution Board exercises its powers in accordance with Article 20, paragraph (12) of Regulation (EU) No 806/2014, the Croatian National Bank shall act in accordance with the instructions of the Single Resolution Board.

VII WRITE-DOWN OR CONVERSION OF CAPITAL INSTRUMENTS AND ELIGIBLE LIABILITIES

Write-down or conversion of relevant capital instruments and eligible liabilities

Article 52

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency have the power to write down the relevant capital instruments or eligible liabilities referred to in paragraph (3) of this Article of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act for which the Single Resolution Board is not directly responsible or convert them into shares or other types of instruments of ownership, which it may exercise:

1) independently of resolution action; or

2) in combination with a resolution action, where the conditions referred to in Articles 43, paragraph (4) and Article 44 of this Act are met.

(2) Where the resolution entity acquired the relevant capital instruments and eligible liabilities indirectly through other members of the same resolution group, the power referred to in paragraph (1) of this Article shall be exercised together with the exercise of the power to write down or convert at the level of the parent undertaking that issued the capital instruments and eligible liabilities or at the level of other parent undertakings that are not resolution entities, in order to efficiently transfer such losses to the resolution entity and in order for it to enable the adequate capital level to be attained by the entity that issued the capital instruments and eligible liabilities.

(3) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may exercise the power referred to in paragraph (1) of this Article only in relation to eligible liabilities that meet the conditions referred to in Article 31 of this Act, except the condition relating to residual maturity as specified in Article 72c, paragraph (1) of Regulation (EU) No 575/2013.

(4) When exercising the power referred to in paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall take into account that no creditor incurs greater losses than would have been incurred if normal insolvency proceedings had been opened in relation to the 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;

(5) Where resolution action is taken in respect of the resolution entity or, in exceptional circumstances in deviation from the resolution plan, in relation to an entity that is not a resolution entity, the amount that is written down or converted in accordance with Article 52, paragraph (3) of this Act at the level of such an entity shall count towards the meeting of the conditions referred to in Article 70, paragraph (8), Article 82, paragraph (2), item (1) and Article 82, paragraph (6), item (1) of this Act that apply to the entity concerned.

(6) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall exercise the power referred to in paragraph (1) of this Article without delay, and in the manner referred to in Article 53 of this Act, in relation to relevant capital instruments and eligible liabilities as

referred to in paragraph 3 of this Article issued by an institution or an entity referred to in Article 3, item (2), (3) or (4) of this Act when one or more of the following circumstances apply:

1) the conditions referred to in Article 43, paragraph 4 or Article 44 of this Act have been met, in which case the power is exercised before any resolution action is taken;

2) the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act will no longer be viable unless that power is exercised in relation to the write-down or conversion of relevant capital instruments, and eligible liabilities as referred to in paragraph (3) of this Article;

3) in the case of relevant capital instruments issued by a subsidiary having its registered office in the Republic of Croatia where those capital instruments are recognised for the purposes of meeting own funds requirements by the subsidiary also on a consolidated basis, together with the appropriate authority of the Member State of the consolidating supervisor in the form of a joint decision referred to in Article 47, paragraph (10) or (11) of this Act, the group will no longer be viable unless the write-down or conversion power is exercised in relation to those relevant capital instruments;

4) in the case of relevant capital instruments issued at the level of the parent undertaking with a registered office in the Republic of Croatia where those capital instruments are recognised for the purposes of meeting own funds requirements on an individual basis at the level of that parent undertaking or on a consolidated basis, the group will no longer be viable unless the write-down or conversion power is exercised in relation to those relevant capital instruments;

5) the institution or the entity referred to in Article 3, item (2), (3) or (4) of this Act requires extraordinary public financial support except in the case referred to in Article 43, item (4), sub-item (a) of this Act.

(7) For the purposes of paragraph (6) of this Article, an institution or an entity referred to in Article 3, item (2), (3) or (4) of this Act or a group shall be deemed to be no longer viable only if the following conditions are met:

1) the institution or the entity referred to in Article 3, item (2), (3) or (4) of this Act or the group is failing or likely to fail; and

2) 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, other than the power referred to in paragraph (1) of this Article regardless whether taken independently or in combination with a resolution action, would prevent the failure of the institution or the entity referred to Article 3, item (2), (3) or (4) of this Act within a reasonable timeframe.

(8) For the purposes of paragraph (7), item (1) of this Article, an institution or an entity referred to in Article 3, item (2), (3) or (4) of this Act shall be deemed to be failing or likely to fail where one of the conditions referred to in Article 43, paragraph (1) of this Act is met.

(9) For the purposes of paragraph (7), item (1) of this Article, an institution or an entity referred to in Article 3, item (2), (3) or (4) of this Act shall be deemed to be failing or likely to fail where the consolidating supervisor determines 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, including 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.

(10) For the purpose of paragraph (6), item (3) of this Article, the Croatian National Bank or the Croatian Financial Services Agency shall not exercise the power referred to in paragraph (1) of this Article on worse terms than equally ranked capital instruments at the level of the parent undertaking which have been written down or converted.

(11) Before determining the existence of the circumstances referred to in paragraph (6), item (3) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall act in accordance with Article 54 of this Act in the part relating to notification and consultation.

(12) Where the relevant capital instruments are used for the purposes of meeting own funds requirements of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act having its registered 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 be the appropriate authority to determine the existence of the circumstances referred to in paragraph (6) of this Article.

(13) Where the relevant capital instruments or eligible liabilities referred to in paragraph (3) of this Article are used for the purposes of meeting the minimum requirement referred to in Article 28 of this Act in relation to the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act having its registered office in the Republic of Croatia that is not a resolution entity, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall be the appropriate authority to determine the existence of the circumstances referred to in paragraph (6) of this Article.

(14) 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 registered 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 be the appropriate authority to determine the existence of circumstances referred to in paragraph (6), item (2) 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 (6), item (3) of this Article.

(15) 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 registered 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 be the appropriate authority to determine the existence of circumstances referred to in paragraph (1), item (4) of this Article.

(16) After the exercise of the power referred to in paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall ensure a valuation of the effects of difference in the treatment referred to in Article 123 of this Act, applying the right to the payment of the difference in accordance with Article 124 of this Act.

Exercise of the write-down and conversion powers in relation to relevant capital instruments and eligible liabilities

Article 53

(1) Before exercising the power to write down capital instruments or convert the relevant capital instruments and eligible liabilities, 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 50 or 51 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 and eligible liabilities in order to absorb losses at the expense of capital instruments and eligible liabilities and determine the level of conversion to be applied to the relevant capital instruments and eligible liabilities into common equity tier 1 instruments in order to establish an adequate level of capital of 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 power referred to in Article 52, paragraph (1) of this Act in accordance with the priority of claims in normal insolvency proceedings, in the following way:

1) the losses determined by the valuation referred to in Article 50 or 51 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 56, paragraphs (1) and (2) of this Act;

2) the losses determined by the valuation referred to in Article 50 or 51 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 common equity tier 1 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 50 or 51 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 common equity tier 1 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) the losses determined by the valuation referred to in Article 50 or 51 of this Act that are not covered in accordance with items (1), (2) and (3) of this paragraph shall be covered by writing down the principal amount of eligible liabilities referred to in Article 52, paragraph (3) of this Act and converting these liabilities into common equity tier 1 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 in accordance with paragraph (3) of this Article the principal amount of relevant capital instruments or eligible liabilities has been written down in accordance with Article 52, paragraph (3) of this Act, 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 51, paragraph (3) or Article 83, paragraph (4) of this Act;

2) the holder of the relevant capital instrument or eligible liabilities referred to in Article 52, paragraph (3) of this Act shall have no rights in connection with the part of the instrument which has been written down or converted, except for:

a) the right to interest and other claims arising from the instrument or liabilities calculated as at the date of the write-down or conversion of the relevant instrument or eligible liabilities;

b) the right to bring action for judicial review before the competent administrative court which shall *mutatis mutandis* be subject to the provisions of Article 141 of this Act; and

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

(5) For the purpose of the conversion of relevant capital instruments or eligible liabilities referred to in Article 52, paragraph (3) of this Act in accordance with paragraph (3), items (2), (3) and (4) of this Article, 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 and eligible liabilities.

(6) The relevant capital instruments and eligible liabilities referred to in Article 52, paragraph (3) of this Act 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 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 or eligible liability referred to in Article 52, paragraph (3) of this Act complies with the principles referred to in Article 58 of this Act.

(7) For the purposes of ensuring that common equity tier 1 instruments are issued in accordance with paragraph (6) 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.

(8) Where conditions for resolution are met in relation to an institution and Croatian National Bank or the Croatian Financial Services Supervisory Agency intends to apply resolution tools to that institution, prior to the application of this resolution tool, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall act in accordance with Article 52, paragraph (6) of this Act.

Actions of the Croatian National Bank or the Croatian Financial Services Supervisory Agency in relation to the exercise of powers to write down or convert relevant capital instruments and eligible liabilities

Article 54

(1) A decision to write down or convert relevant capital instruments and eligible liabilities 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 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.

(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 of share capital prior to the increase, the amount by which the share capital will be increased, the amount of share capital after the increase, the number of shares issued where shares without the nominal amount are issued or the number of shares and the nominal share value where shares with the nominal amount are issued, their class and the amount of their issue, that is, the persons whose claims are converted to shares, the identifier and amount of the claim and the number of shares to be so acquired.

(6) The share capital shall be deemed to have been 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 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 are paid in and the increase in the share capital is executed.

(8) The Croatian National Bank shall deliver the draft decision referred to in paragraph (1) of this Article to the Single Resolution Board in the manner and within the time limit laid down by Regulation (EU) No 806/2014 and when adopting decision shall act in compliance with the opinion of the Single Resolution Board regarding compliance with Regulation (EU) No 806/2014 and the general instructions of the Single Resolution Board referred to in Article 31, paragraph (1), item (a) of Regulation (EU) No 806/2014.

(9) 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 commercial 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.

(10) The commercial court shall without delay decide on the application for entry referred to in paragraph (9) 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.

(11) 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.

(12) Pursuant to the decision referred to in paragraph (1) of this Article, the commercial 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.

(13) 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 competent authority, and the holders of shares in relation to which the reduction of the share capital was carried out shall not have subscription priority.

(14) 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 and eligible liabilities in relation to cross-border groups

Article 55

(1) Prior to determining the circumstances referred to in Article 52, paragraph (6), item (2), (3), (4) or (5) of this Act in relation to an institution or entity referred in Article 3, item (2), (3) or (4) of this Act having its registered office in the Republic of Croatia which is a subsidiary of an EU parent undertaking having its registered office in another Member State that issues relevant capital instruments or eligible liabilities referred to in Article 52, paragraph (3) of this Act for the purpose of meeting own funds requirements referred to in Article 36, paragraph (5), item (3) of this Act on an individual basis or the relevant capital instruments that are recognised for the purpose of meeting own funds requirements on an individual or consolidated basis, the Croatian National Bank or the Croatian Financial Services Agency shall:

1) after consulting the resolution authority competent for the relevant resolution entity within 24 hours of consulting on the intention to make a determination of the circumstances referred to in Article 52, paragraph (6), item (2), (3), (4) or (5) of this Act notify:

a) the consolidating supervisor and, if different, the appropriate authority in the Member State where the consolidating supervisor is located; and

b) resolution authorities of other members within the same resolution group that directly or indirectly acquired liabilities referred to in Article 31 of this Act from the subsidiary that is subject to the requirement referred to in Article 36, paragraph (5), item (3) of this Act;

2) on the intention to make a determination of the circumstances referred to in Article 52, paragraph (6), item (3) of this Act without delay notify the competent and the appropriate authorities, if different, for 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 such circumstances.

(2) When determining the existence of the circumstances referred to in Article 52, paragraph (6), item (3), (4) or (5) of this Act in relation to the institution which is a member of a cross-border 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 the said circumstances.

(4) After the delivery of the notification referred to in paragraph (1) of this Article and after consulting the relevant authorities, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall assess the following matters:

1) whether an alternative measure to the write-down or conversion of relevant capital instruments in accordance with Article 52, paragraph (1) of this Act is available;

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

3) 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 52, 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:

1) 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

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

(6) For the purpose of paragraph (4) of this Article, if 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 (3) of this Article, it shall ensure the application of these measures.

(7) Where, in the case referred to in paragraph (1), item (1) of this Article and in the case referred to in 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 (3) of this Article is not available, it shall decide on the justification of the determination of the existence of the circumstances referred to in Article 52, paragraph (6) of this Act.

(8) Where the consolidating supervisor is located in the Republic of Croatia and the Croatian National Bank or the Croatian Financial Services Supervisory Agency decides to determine the existence of the circumstances referred to in Article 52, paragraph (6), item (3) of this Act, it shall without delay notify the appropriate authorities of the Member States in which the registered offices of the affected subsidiaries are located.

(9) For the purpose of paragraph (8) of this Article, the determination of the circumstances referred to in Article 52, paragraph (6), item (3) of this Act shall be made in the form of a joint decision

referred to in Article 47, paragraph (10) or (11) of this Act in the absence of which this determination must not be made.

(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 that is adopted in accordance with this Article.

(11) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency receives the notification that the appropriate authority of another Member State considers the determination of the circumstances referred to in Article 52, paragraph (6), item (3) of this Act as regulated in that Member State, it shall participate in the reaching of a joint decision on the determination of these circumstances.

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

Article 56

(1) When exercising the powers referred to in Article 52, paragraph (1), item (1) of this Act, 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; or

2) provided that, in accordance with the valuation carried out pursuant to Article 50 or 51 of this Act, the assets of the institution under resolution exceed its liabilities, dilute the existing shareholder structure by converting in accordance with the powers referred to in Article 52, paragraph (1) or Article 57 of this Act the relevant capital instruments issued by the institution 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 and holders of other instruments of ownership if these shares or other instruments of ownership 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 determination of the Croatian National Bank or the Croatian Financial Services Supervisory Agency that the conditions for resolution have been met in relation to the institution or entity referred to in Article 3, item (2), (3) (4) of this Act;

2) pursuant to the conversion of relevant capital instruments to common equity tier 1 instruments in accordance with Article 52 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) the valuation carried out in accordance with Article 50 or 51 of this Act; and

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 53, paragraph (3) 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 competent authority 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) For the purpose of paragraph (5) of this Article, the competent authority shall carry out the decision-making procedure regarding prior approval to acquire a qualifying holding *ex officio*.

(7) If 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 71, paragraphs (10) of this Act.

(8) When the European Central Bank carries out its supervisory tasks referred to in Article 4 of Council Regulation (EU) No 1024/2013, the Croatian National Bank as the competent authority for the implementation of paragraphs (5) to (7) of this Article shall adopt a decision only in accordance with the instructions of the European Central Bank.

Write-down or conversion of capital instruments and eligible liabilities in accordance with the instructions of the Single Resolution Board

Article 57

(1) For entities for which the Single Resolution Board is directly responsible, the competent authority shall assess whether the conditions referred to in Article 21, paragraph (1), sub-paragraph (1), items (a), (c) and (d) of Regulation (EU) No 806/2014 have been met, except when the European Central Bank carries out its supervisory tasks referred to in Article 4 of Council Regulation (EU) No 1024/2013 in relation to significant supervised entities.

(2) When the Single Resolution Board exercises its powers referred to in Article 21, paragraph (8) and Article 22, paragraph (1) of Regulation (EU) No 806/2014, the Croatian National Bank shall write down capital instruments or convert the relevant capital instruments and eligible liabilities into common equity tier 1 instruments only in accordance with the instructions of the Single Resolution Board.

(3) The provisions of Article 53, paragraphs (3) to (7) and Articles 54, 55 and 58 of this Act shall apply in the case referred to in paragraph (2) of this Article, whereby all references to the valuation referred to in Article 35 of this Act and the valuation referred to in Article 69 of this Act shall be related to the valuation which in accordance with Article 20, paragraphs (1) to (15) or Article 27, paragraph (13) of Regulation (EU) No 806/2014 is provided by the Single Resolution Board.

Conversion rate

Article 58

(1) When exercising the powers referred to in Article 52, paragraph (1) of this Act or the powers referred to in Article 97, paragraph (1), item (6) 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 normal insolvency 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 regulate in more detail the conditions for setting the conversion rate, while the Board of the Croatian Financial Services Supervisory Agency shall adopt an ordinance to regulate in more detail the conditions for setting the conversion rate.

VIII RESOLUTION ADMINISTRATION

General provisions

Article 59

(1) At the same time when adopting the decision to open resolution proceedings referred to in Article 46 or 47 of this Act, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall adopt the decision to appoint a resolution administration to take over the management of the institution under resolution.

(2) The resolution administration shall have at least two members, one of which shall be appointed the chairperson of the resolution administration.

(3) Only a person who possesses adequate professional knowledge, skills and experience required to direct the business of an institution under resolution and who meets the criteria laid down for a member of the management board pursuant to the provisions of the regulation governing the operation and organisation of companies may be appointed as a member of the resolution administration.

(4) 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.

(5) By way of derogation from the regulation governing the operation of credit institutions, a member of the resolution administration need not be employed with the credit institution under resolution.

Adopting a decision to appoint a resolution administration

Article 60

(1) The decision to appoint a resolution administration shall contain at least the following:

1) the name and the surname of the chairperson of the resolution administration and the person's personal identification number (OIB);

2) name and surname of other members of the resolution administration and their personal identification numbers (OIBs);

3) the duration of the term of office of the resolution administration; and

4) the manner of representation of members of the resolution administration.

(2) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may in the decision referred to in paragraph (1) of this Article lay down that members of the resolution administration may perform certain activities only with the prior approval of the Croatian National Bank or the Croatian Financial Services Supervisory Agency.

(3) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may in the decision referred to in paragraph (1) of this Article also appoint assistants to the resolution administration who are not members of the resolution administration and are not employed with the institution under resolution but who will perform assistant, administrative and technical tasks by order of the resolution administration.

(4) The resolution administration shall be appointed for a period not exceeding 12 months.

(5) By way of derogation from paragraph (4) of this Article, the appointment period may be renewed once or more times for a period not longer than 12 months, where the Croatian National Bank or the Croatian Financial Services Supervisory Agency determines whether conditions for appointment of the resolution administration continue to be met.

(6) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall publish the decision referred to in paragraph (1) of this Article on its website.

(7) Where it is necessary to appoint a resolution administration to a member of a group that is a part of a cross-border group, the Croatian National Bank or the Croatian Financial Services Supervisory Agency 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 the implementation of measures to restore financial stability of the entities concerned.

(8) Where it is necessary to appoint a resolution administration to a member of a group that is a part of a group that is not a cross-border group, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may appoint the same resolution administration for some or for all the members of the group under resolution in order to facilitate the implementation of measures to restore financial stability of the entities concerned.

Legal effects of the appointment of a resolution administration

Article 61

(1) The legal effects of the appointment of a resolution administration shall enter into force on the date of the adoption of the decision to appoint a resolution administration referred to in Article 59 of this Act.

(2) On the date of the adoption of the decision to appoint a resolution administration all powers of former members of the management board of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act shall cease.

(3) On the date of the adoption of a decision to appoint a resolution administration all contracts pursuant to which former management board members were employed with the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act shall cease.

(4) For the purpose of 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 entity referred to in Article 3, item (2), (3) or (4) of this Act or arose from another act of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act and any contractual provisions on such entitlement shall be null and void.

Entry in the register of companies

Article 62

(1) Appointment of a resolution administration shall be entered in the register of companies.

(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 appoint a resolution administration which it shall enclose to the application.

(3) At the same time, the change of persons authorised to represent the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act under resolution shall be entered in the register of companies accordingly.

Duties of the resolution administration

Article 63

(1) The resolution administration shall have all powers of the management board or executive directors of the board of directors of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act under resolution.

(2) The resolution administration shall take all measures necessary to achieve resolution objectives referred to in Article 6 of this Act and to implement resolution actions in accordance with the decision to open resolution proceedings.

(3) The measures referred to in paragraph (2) of this Article may include an increase of capital, reorganisation of the ownership structure of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act or takeover of its assets, rights or liabilities by institutions that are financially and organisationally sound in accordance with the selected resolution tools.

(4) The duties referred to in paragraph (2) of this Article, insofar as they are different, shall override any other duties of the management board that arise from regulations or internal acts of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act.

Rights and responsibilities of the resolution administration

Article 64

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

(2) Members and assistants of the resolution administration shall have the right to receive remuneration for their work to be paid by the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act under resolution or, where this is not possible, by the Croatian National Bank or the Croatian Financial Services Supervisory Agency.

(3) The resolution administration shall without delay notify the Croatian National Bank or the Croatian Financial Services Supervisory Agency 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.

Orders and instructions to the resolution administration

Article 65

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency 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 Croatian National Bank or the Croatian Financial Services Supervisor Agency.

(3) The resolution administration shall prepare reports on the economic and financial position of the institution and measures taken by the resolution administration in the conduct of its duties, and deliver them to the Croatian National Bank or the Croatian Financial Services Supervisory Agency at regular intervals set by it and at least at the beginning and at the end of its term of office.

Liability for damage

Article 66

(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 Croatian National Bank or the Croatian Financial Services Supervisor Agency shall be liable 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 67

(1) The former members of the institution's management board and other persons with special powers and responsibilities of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act under resolution shall provide the resolution administration and its assistants access to all documentation of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act under resolution without delay and prepare a report on the transfer of operations to the resolution administration.

(2) The persons referred to in paragraph (2) of this Article shall provide the resolution administration or its assistants with all explanations or additional operating reports.

(3) All employees of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act under resolution shall be required to cooperate with the resolution administration and its assistants.

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

Removal from office of resolution administration and cessation of the term of office

Article 68

(1) The Croatian National Bank or the Croatian Financial Services Supervisor Agency may remove from office the appointed member or assistant of the resolution administration at any time, especially if he fails to perform his duty or fails to perform his duty in a satisfactory manner, and appoint a new member or assistant to the resolution administration whose term of office may not exceed the original term of office of the member of the resolution administration or assistant of the resolution administration in whose place the new member or assistant is appointed.

(2) The term of office of a resolution administration shall cease on the date:

- 1) of delivery of the decision on the completion of resolution proceedings;
- 2) of expiry of the period to which it was appointed;
- 3) of the adoption of a decision to open normal insolvency proceedings;
- 4) of delivery of the decision to appoint a liquidator.

(3) The term of office of assistants to the resolution administration shall cease on the date of cessation of the term of office of the resolution administration.

Trustee in bankruptcy as a member of the resolution administration

Article 69

Where normal insolvency proceedings are opened against a member of the group, the Croatian National Bank or the Croatian Financial Services Supervisor Agency 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.

IX RESOLUTION TOOLS

IX.1 GENERAL PROVISIONS

General principles of resolution tools

Article 70

(1) When implementing the resolution decision referred to in Article 46 or 47 of this Act to the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act under resolution the Croatian National Bank or the Croatian Financial Services Supervisor Agency shall apply one or more resolution tools:

- 1) the sale of business tool;
- 2) the bridge institution tool;
- 3) the asset separation tool; and
- 4) the bail-in tool.

(2) The Croatian National Bank or the Croatian Financial Services Supervisor Agency 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 Croatian National Bank or the Croatian Financial Services Supervisor Agency shall apply the asset separation tool only together with another resolution tool.

(4) Where it applies the resolution tools referred to in paragraph (1), item (1) or (2) of this Article whereby it transfers only a part of the assets, rights or liabilities of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act under resolution, the Croatian National Bank or the Croatian Financial Services Supervisor Agency shall, at the latest by the adoption of the decision on the completion of resolution proceedings, in relation to the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act in which assets, rights and obligations that were not transferred remained, adopt a decision referred to in Article 43, paragraph (8) of this Act or Article 44, paragraph (6) of this Act.

(5) For the purpose of achieving resolution objectives and in accordance with the principles of resolution referred to in Article 7 of this Act, normal insolvency proceedings shall be completed within a reasonable timeframe, and in the manner enabling the recipient of the assets, rights or liabilities of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act to continue carrying out the transferred activities or services in accordance with Article 100 of this Act.

(6) The Croatian National Bank or the Croatian Financial Services Supervisory Agency, the Ministry of Finance, the resolution fund and the Single Resolution Fund shall be entitled to the reimbursement 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 an acquirer, which is paid to the institution under resolution or shareholders;
- 2) from the institution under resolution as a preferred creditor before all other creditors; or
- 3) from the bridge institution or an asset management vehicle as a preferred creditor before all other creditors.

(7) By way of derogation from the provisions of the regulation governing normal insolvency proceedings, where these 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 tools may not be challenged or declared null and void.

(8) The Croatian National Bank or the Croatian Financial Services Supervisory Agency 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:

- 1) the shareholders and the holders of relevant capital instruments and bail-inable 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 50 or 51 of this Act; and
- 2) 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 establishment and organisation of companies shall not apply in the part relating to:

- 1) audit requirement of the increase in share capital by contributions in kind and rights, as well as special conditions for the increase in share capital by contributions in kind and rights without the audit of that increase in the share capital;
- 2) the obligation to convene the general assembly in the case of loss, over-indebtedness or inability to pay;
- 3) the obligation of the general assembly to adopt a decision to increase or reduce the share capital and the disclosure of such decision;
- 4) the authorised share capital;

5) the approval of the shareholders of each class of shares conferring the right to vote in relation to the decision of the general assembly to increase or reduce the share capital of the company;

6) the right of priority of the existing shareholders in relation to the acquisition of new shares of the institution under resolution;

7) the protection of creditors in relation to the reduction of the share capital;

8) the cancellation of shares;

9) the cross-border mergers and acquisitions;

10) the convening of the general assembly, 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

11) 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:

1) collection arising from financial collateral;

2) the right of use of the financial collateral;

3) the recognition of collateral by transfer of a financial collateral instrument; and

4) the provisions concerning early cessation.

(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 Croatian National Bank or the Croatian Financial Services Supervisory Agency.

(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 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) As regards the entities for which the Single Resolution Board is not directly responsible, after the grounds for opening resolution proceedings have ceased to exist or after all necessary resolution action has been taken, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall, after consulting the competent authority, adopt a decision on the completion of the resolution proceedings.

(16) When the Single Resolution Board exercises its powers referred to in Article 23 of Regulation (EU) No 806/2014 in implementing the resolution decision, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall implement one or more resolution tools referred to in paragraph (1) of this Article only in accordance with the instructions of the Single Resolution Board referred to in Article 18 of Regulation (EU) No 806/2014.

IX.2 SALE OF BUSINESS TOOL

Sale of business tool

Article 71

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall be empowered to transfer to an acquirer different from the bridge institution:

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

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

(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 different from the acquirer nor compliance with any procedural requirements of the regulation governing the establishment and organisation of companies or the capital market that are contrary to this Article, except the procedural requirements referred to in Article 72 of this Act.

(3) The transfer referred to in paragraph (1) 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.

(4) Within the meaning of the provision of paragraph (3) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall take all appropriate actions to achieve the best possible terms of the sale, that are comparable with the valuation conducted in accordance with Article 50 or 51 of this Act or valuation conducted in accordance with Article 20 of Regulation (EU) No 806/2014, taking into account the circumstances of each relevant case.

(5) The amount that the acquirer pays to the Croatian National Bank or the Croatian Financial Services Supervisory Agency reduced by the amounts specified in Article 70, paragraph (6) of this Act, shall be paid out:

1) to shareholders or holders of other instruments of ownership if the sale of business tool has been applied in such a manner that shares or other instruments of ownership issued by an institution under resolution from these shareholders or holders of other instruments of ownership have been transferred to the acquirer;

2) institution under resolution if the sale of business tool has been applied in such a manner that assets, rights or liabilities of the institution under resolution are transferred in whole or in part to the acquirer.

(6) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may effect the transfer referred to in paragraph (1) of this Article more than once.

(7) After applying the sale of business tool, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may, with the consent of the acquirer, adopt a decision to return the assets, rights and/or liabilities transferred to the acquirer to the institution under resolution, or return shares or other instruments of ownership transferred to the acquirer to shareholders or holders of other instruments of ownership and the institution under resolution or shareholders or holders of other instruments of ownership shall be obliged to take back any such assets, rights or liabilities, or shares or other instruments of ownership.

(8) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may effect the transfer referred to in paragraph (1), item (1) of this Article only to the acquirer that at the moment of the transfer has all appropriate authorisations to perform the service that is the subject of the transfer.

(9) In the case of the transfer referred to in paragraph (1), item (2) of this Article, the acquirer of a qualifying holding shall at the moment of the transfer have the prior approval to acquire a qualifying holding in accordance with the regulations governing the operation of credit institutions or regulations governing the capital market.

(10) The competent authority shall decide on the application to acquire a qualifying holding without delay, at the latest within the time limit laid down in the regulations governing the operation of credit institutions or regulations governing the capital market, in order to avoid delays in the application of the sale of business tool or prevention of the resolution action from achieving the relevant resolution objectives, and until the competent authority reaches its decision the following shall apply:

1) the transfer of shares or other instruments of ownership to the acquirer shall have legal effects and a transfer of ownership may be effected;

2) during the decision-making procedure carried out by the competent authority regarding the application to acquire a qualifying holding and during the period referred to in item (6) of this paragraph, the acquirer's voting rights attached to such shares or other instruments of ownership shall be suspended and vested solely in the Croatian National Bank or the Croatian Financial Services Supervisory Agency, which shall have no obligation to exercise any such voting rights and which shall have no liability whatsoever for exercising or refraining from exercising any such voting rights;

3) during the decision-making procedure regarding the application to acquire a qualifying holding and during the period referred to in item (6) of this paragraph, the competent authority shall not undertake actions with regard to acquisitions without approval that are provided for in the regulations governing the operations of credit institutions and investment firms nor file an indictment;

4) upon the completion of the decision-making procedure regarding prior approval to acquire a qualifying holding, the competent authority shall without delay deliver the decision to the applicant and the Croatian National Bank or the Croatian Financial Services Supervisory Agency;

5) where the competent authority grants approval to acquire a qualifying holding, the voting rights arising from these instruments of ownership shall be transferred from the Croatian National Bank or the Croatian Financial Services Supervisory Agency to the acquirer after it receives the decision from the competent authority;

6) if the competent authority refuses the application for approval to acquire a qualifying holding:

a) the voting rights arising from these shares or other instruments of ownership shall continue to be held by the Croatian National Bank or the Croatian Financial Services Supervisory Agency;

b) the Croatian National Bank or the Croatian Financial Services Supervisory Agency may order the acquirer to sell the shares or other instruments of ownership for which it failed to obtain the necessary approval within the set time limit taking into account the current market situation.

(11) Where the acquirer, within the period referred to in paragraph (10), item (6) of this Article fails to sell the shares or other instruments of ownership, the competent authority shall, with the approval of the Croatian National Bank or the Croatian Financial Services Supervisory Agency, take measures with regard to acquisitions 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.

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

(13) The acquirer shall be considered to be the legal successor of the institution under resolution in respect of the transferred assets, rights or liabilities for the purposes of exercising the right of establishment and freedom to provide services as governed by the regulations governing the operation of credit institutions or the regulations governing the operation of investment firms and within this meaning the acquirer may continue to exercise all rights exercised by the institution under resolution in respect of the transferred assets, rights and liabilities.

(14) The acquirer 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.

(15) Access cannot be denied on the ground that the acquirer 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.

(16) Where the acquirer does not meet the membership or participation criteria for a payment or settlement system, stock exchange, investor compensation scheme or deposit guarantee scheme, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may grant that the rights referred to in paragraph (14) of this Article are exercised for a period of time not exceeding two

years from the transfer of assets, rights or liabilities of the institution under resolution that may exceptionally be extended at the request of the acquirer.

(17) The shareholders or creditors of the institution under resolution and other third parties whose assets, rights or liabilities remained with the institution under resolution shall lose all 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.

Procedural requirements in relation to the sale of business tool

Article 72

(1) Where the sale of business tool is applied, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall market or otherwise secure that marketing of the assets, rights or liabilities and shares and other instruments of ownership of the institution under resolution with the possibility to market pools of rights, assets, and liabilities separately.

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

1) transparency, and to the extent possible, accurate representation of the assets, rights, liabilities, shares or instruments of ownership of the institution under resolution, having regard to maintenance of financial stability;

2) equal positions of potential acquirers;

3) avoidance of conflict of interest;

4) urgency of the resolution proceedings; and

5) maximising, as far as possible, the highest price for marketed shares or other instruments of ownership, assets, rights or liabilities.

(3) The principle referred to in this paragraph (2), item (2) of this Article shall not prevent the Croatian National Bank or the Croatian Financial Services Supervisory Agency from soliciting a particular potential acquirer.

(4) Any public announcement of the marketing of the sale of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act under resolution that is required in accordance with Article 17, paragraph (1) of Regulation (EU) No 596/2014 may be delayed in accordance with Article 17, paragraph (4) or (5) of that Regulation.

(5) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may carry out the sale procedure without marketing if it determines that this would be disenable 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 failure or likely failure of the institution under resolution; and

2) it considers that marketing the sale would harm the effectiveness of the sale or achieving the resolution objective referred to in Article 6, paragraph (2), item (2) of this Act.

IX.3 BRIDGE INSTITUTION TOOL

Bridge institution tool

Article 73

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency is empowered to transfer to the bridge institution:

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.

(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 nor compliance or acting in

accordance with procedural requirements from the regulations governing the establishment and organisation of companies or the capital market.

(3) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall inform the Central Depository and Clearing Company of the transfer referred to in paragraph (1), item (1) of this Article.

(4) For the purpose of paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall in accordance with Article 74 of this Act establish a bridge institution that meets with the following requirements:

1) it is a legal person fully or partially owned by the resolution fund and entirely managed by the Croatian National Bank or the Croatian Financial Services Supervisory Agency; and

2) it is established for the purpose of the transfer and holding of all or a certain number of shares or other instruments of ownership issued by the institution under resolution or individual parts or total assets, rights or liabilities of one or more institutions under resolution with the objective of access to key functions and the sale of institution or entity referred to in Article 3, item (2), (3) or (4) of this Act.

(5) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall manage the bridge institution in the manner referred to in paragraph (4), item (1) of this Article irrespective of the change in ownership structure following the application of the bail-in tool in the manner referred to in Article 79, paragraph (1), item (2) of this Act.

(6) 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 secured from other sources.

(7) The amount that the bridge institution pays to the Croatian National Bank or the Croatian Financial Services Supervisory Agency reduced by the amount specified in Article 70, paragraph (6) of this Act, shall be paid out:

1) to shareholders or holders of other instruments of ownership if the bridge institution tool has been applied in such a manner that shares or other instruments of ownership issued by an institution under resolution have been transferred from these shareholders or holders of other instruments of ownership to the bridge institution;

2) to the institution under resolution, if the bridge institution tool has been applied in such a manner that assets, rights or liabilities of the institution under resolution are transferred in whole or in part to the bridge institution.

(8) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may effect the transfer in accordance with to in paragraph (1) of this Article to a bridge institution more than once.

(9) After applying the bridge institution tool in accordance with paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may:

1) execute the return of 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 or holders of other instruments of ownership of the institution under resolution in relation to which the transfer was effected, and the institution under resolution or the shareholders or holders of other instruments of ownership 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 (10) of this Article are met;

2) transfer shares or other instruments of ownership, or assets, rights or liabilities from the bridge institution to a third party.

(10) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may transfer back the shares or other instruments of ownership or assets, rights or liabilities from the

bridge institution to the institution under resolution in accordance with paragraph (9) of this Article in the following cases:

1) if such a possibility of the return is expressly provided for in the transfer of shares or other instruments of ownership or of assets, rights or liabilities; or

b) if 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 in relation to which the transfer was made.

(11) The return referred to in paragraph (9) of this Article may be executed at any moment until the adoption of the decision on the completion of resolution proceedings and shall comply with the conditions established at the moment of transfer.

(12) The transfer between the institution under resolution or shareholders or holders of other instruments of ownership of the institution under resolution in relation to which the transfer was effected on the one hand, and the bridge institution on the other, shall be subject to safeguards referred to in Title XII of this Act.

(13) The rights necessary for the direct provision of services or establishment of a branch in another Member State shall be transferred from the institution under resolution to the bridge institution and 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, while the Croatian National Bank or the Croatian Financial Services Supervisory Agency may request that the bridge institution be considered as the legal successor also in relation to other rights of the institution under resolution.

(14) 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.

(15) The managers of payment systems, settlement systems of financial instruments, stock exchange, investor compensation scheme and deposit guarantee scheme to which the institution under resolution had access shall be obligated to enable the bridge institution to continue to exercise the rights of membership and access, provided that it meets the participation criteria for participation in such systems.

(16) By way of derogation from paragraph (15) of this Article, where the bridge institution does not meet the membership and participation criteria for payment or settlement system of financial instrument, stock exchange, investor compensation scheme or deposit guarantee scheme, the managers of these systems shall be obligated, at the request of the Croatian National Bank or the Croatian Financial Services Supervisory Agency to grant that the rights of membership and access to these systems are exercised during the period laid down by it.

(17) The period referred to in paragraph (16) of this Article shall not be longer than two years, except exceptionally in the case of a request by the bridge institution.

(18) Access to the systems referred to in paragraph (15) of this Article 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 in accordance with the rating level required to be granted access to such systems.

(19) A shareholder or creditor of the institution under resolution and a third person whose assets, rights or liabilities are not transferred to the bridge institution shall not have any rights in relation to the transferred assets, rights or liabilities or to participation in management of a bridge institution, except the right to safeguards referred to in Title XII of this Act.

(20) When applying the bridge institution tool, the management body and the senior management of the institution under resolution shall have no liability to the shareholder or creditor of the institution under resolution for acts and omissions in the performance of their duties unless the damage is a result of gross negligence or gross breach of work duties.

(21) The bridge institution shall be liable for damage only if the damage has been caused intentionally or as a result of gross negligence.

Establishment of a bridge institution

Article 74

(1) The bridge credit institution shall be established as a joint stock company and the bridge investment company shall be established as a limited liability company or joint stock company whose shares or other instruments of ownership shall be wholly or partially subscribed by the resolution fund.

(2) The provisions of the regulation governing the establishment and organisation of companies and the regulations governing the operation of credit institutions and investment firms shall apply to the establishment of a bridge institution, unless otherwise prescribed in this Act.

(3) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall adopt the Articles of Association or a deed of establishment or a memorandum of a bridge institution.

(4) When the European Central Bank carries out its supervisory tasks referred to in Article 4, paragraph (1), sub-paragraph (a) of Council Regulation (EU) No 1024/2013, the Croatian National Bank as the competent authority, pursuant to the instruction of the European Central Bank, or the Croatian Financial Services Supervisory Agency as the competent authority at the request of the Croatian National Bank, or the Croatian Financial Services Supervisory Agency, shall 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.

(5) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall appoint as members of the management board of the bridge institution persons that have been appointed as members of the resolution administration of the institution under resolution.

(6) The powers of the supervisory board or of non-executive directors of the board of directors and of the general assembly of the institution under resolution shall be exercised by the Croatian National Bank or the Croatian Financial Services Supervisory Agency.

(7) The resolution administration shall, within the time limit set by the Croatian National Bank or the Croatian Financial Services Supervisory Agency and subject to its approval, adopt the strategy and risk profile of the bridge institution and shall without delay deliver it to the competent authority.

(8) The decision to establish a bridge institution shall contain the decision on the issuance of shares or other instruments of ownership of the bridge institution and the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall empower the resolution administration to carry out the issue.

(9) The capital of the bridge institution shall be subscribed by the resolution fund and it shall be created in the manner laid down in the resolution decision of the Single Resolution Board referred to in Article 18 of Regulation (EU) No 806/2014.

(10) The provisions regarding the issuance of consent for a qualifying holder of the regulation governing the operation of credit institutions or the regulation governing the capital market shall not apply to the subscription of capital by the resolution fund.

(11) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall, at the latest within 24 hours of reaching the decision to establish a bridge institution, submit an application for entry of the establishment of the bridge institution in the register of companies.

(12) The commercial court shall decide on the entry of all data contained in the application submitted by the Croatian National Bank or the Croatian Financial Services Supervisory Agency under an emergency procedure, and the entry procedure may not take longer than 24 hours from the submission of the application.

(13) By way of derogation from the regulation governing the establishment and the organisation of companies and the regulation governing the application for entry in the register of companies, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall enclose with the application for entry:

- 1) the decision to open resolution proceedings referred to in Article 45 of this Act or the resolution decision of the Single Resolution Fund adopted pursuant to Article 18 of Regulation (EU) No 806/2014;
- 2) 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;
- 3) provisional authorisation of the Croatian National Bank or the Croatian Financial Services Supervisory Agency as the competent authority for the provision of services to be transferred to the bridge institution; and
- 4) the Articles of Association or a deed of establishment or a memorandum.

Operation of a bridge institution

Article 75

(1) 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 capital market 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 competent authority may at the request of the Croatian National Bank or the Croatian Financial Services Supervisory Agency 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 Croatian National Bank or the Croatian Financial Services Supervisory Agency may for this purpose limit the actions of the bridge institution.

(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 institution or entity referred to in Article 3, item (2), (3) or (4) of this Act, their assets, rights or liabilities in accordance with the time limits referred to in Article 77, paragraphs (3) and (4) of this Act and subject to the European Union legal framework and regulations governing the protection of market competition.

Sale of a bridge institution

Article 76

The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall effect the sale of a 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:

- 1) transparency and, to the extent possible, accurate representation of the assets, rights, liabilities; and
- 2) equality among potential acquirers.

Cessation of a bridge institution

Article 77

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall adopt a decision on the cessation of the bridge institution in the following cases:

- 1) the bridge institution fails to meet the requests referred to in Article 73, paragraph (4) of this Act;
- 2) where it sells the assets, rights or liabilities of the bridge institution or the majority thereof to third persons; or
- 3) of cessation of business or where the assets of the bridge institution are realised and the liabilities discharged.

(2) The bridge institution shall cease to exist in the following cases:

1) if it merges with another undertaking, as at the date of the entry in the register of companies of a new undertaking; or

2) if it is merged by acquisition with another undertaking, as at the date of the entry in the register of companies of the recipient undertaking.

(3) If none of the circumstances referred to in paragraph (1) or (2) of this Article have occurred, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall adopt a decision on the cessation of the status of a bridge institution at the latest two years of the latest decision on transfer from or to the bridge institution.

(4) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may extend the period referred to in paragraph (3) of this Article for one or more one-year periods where such an extension:

1) supports the occurrence of the circumstances referred to in paragraph (1) or (2) of this Article; or

2) ensures the continuity of critical functions of the bridge institution.

(5) The decision referred to in paragraph (4) of this Article must be fully reasoned and contain a detailed assessment of the state, including market conditions and reasons for the extension.

(6) For the purpose of paragraph (1), item (2) or paragraph (3,) or paragraph (4) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall without delay initiate the cessation of a bridge institution or adopt the decision referred to in Article 43, paragraph (8) of this Act or Article 44, paragraph (6) of this Act.

(7) The amount remaining after the cessation of business or completion of normal insolvency proceedings against the bridge institution referred to in paragraph (6) of this Article shall be paid to the Croatian National Bank or the Croatian Financial Services Supervisory Agency which shall, reduced by the amounts determined under Article 70, paragraph (6) of this Act, pay to the shareholders or holders of other instruments of ownership of the bridge institution.

(8) 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 (6) 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 78

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency is authorised to transfer the 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, except the bridge institution, nor compliance with any procedural requirements of the regulation governing the establishment and organisation of companies or the capital market.

(3) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall use the power referred to in paragraph (1) of this Article if the:

1) the situation in the particular market for those assets is of such a nature that the sale of such assets within winding-up or the normal insolvency proceedings would have an adverse effect on one or more financial markets;

2) such a transfer is necessary to ensure the proper functioning of the institution under resolution or bridge institution; or

3) such a transfer is necessary to maximise liquidation proceeds.

(4) The asset management vehicle shall be a legal person established by the Croatian Deposit Insurance Agency 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.

(5) The start-up capital of the asset management vehicle may be paid in by the Croatian Deposit Insurance Agency in the manner laid down in the resolution decision and instructions of the Single Resolution Board referred to in Article 18 of Regulation (EU) No 806/2014 or from the resolution fund.

(6) The asset management vehicle shall be wholly or partially owned by the resolution fund and shall be controlled by the Croatian Deposit Insurance Agency.

(7) 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 normal insolvency proceedings.

(8) Irrespective of the asset management vehicle's ownership structure, the Croatian Deposit Insurance Agency either adopts or approves its acts of incorporation.

(9) Irrespective of the asset management vehicle's ownership structure, the Croatian Deposit Insurance Agency either appoints or approves the vehicle's management body.

(10) The Croatian Deposit Insurance Agency approves the remuneration of members of the asset management vehicle's management body and determines their duties, rights and responsibilities and approves the strategy and risk profile of the asset management vehicle.

(11) When applying the power referred to in paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall, based on the valuation carried out in accordance with Article 50 or 51 of this Act, that is, in accordance with Article 20, paragraphs (1) to (15) of Regulation 806/2014, 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, with the amount of consideration having nominal or negative value.

(12) The amount referred to in paragraph (11) of this Article shall be paid by the asset management vehicle to the institution under resolution.

(13) The amount referred to in paragraph (12) of this Article may be paid by the asset management vehicle in the form of debt issued by the asset management vehicle.

(14) 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 in which case the amount referred in paragraph (12) of this Article shall be paid to the bridge institution.

(15) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may more than once execute the transfer of assets, rights or liabilities from the institution under resolution to one or more asset management vehicles, or execute the return of assets, rights or liabilities from one or more asset management vehicles to the institution under resolution under the conditions referred to in paragraph (16) of this Article, and the institution under resolution shall be obliged to take back any such assets, rights or liabilities.

(16) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may transfer back the assets, rights or liabilities from the asset management vehicle to the institution under resolution in one of the following circumstances:

1) such a possibility of the transfer back is expressly provided for in the transfer of assets, rights or liabilities; or

b) the specific assets, rights or liabilities do not meet the conditions or fall within the classes of assets, rights or liabilities in relation to which the transfer was made.

(17) The return referred to in paragraph (16) 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 established at the moment of transfer.

(18) The transfer between the institution under resolution and asset management vehicle shall be subject to safeguards in case of partial transfer in accordance with the provisions from Title XII of this Act.

(19) The shareholder or creditor of the institution under resolution and third person 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.

(20) In the application of the asset separation tool, the management body and the senior management of the institution under resolution shall have no liability to the shareholder or holder of other instruments of ownership, or the creditors of the institution under resolution 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.

(21) The asset management vehicle shall be liable for damage only if the damage has been caused intentionally or as a result of gross negligence.

(22) The asset management vehicle shall be considered to be the legal successor of the institution under resolution or a bridge institution in respect of the transferred assets, rights or liabilities and 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.

IX.5 BAIL-IN TOOL

Bail-in tool

Article 79

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall be empowered, in accordance with Article 97, paragraph (1) of this Act, to apply the bail-in tool with a view to meeting the objectives for resolution referred to in Article 6 of this Act and in accordance with the principles of resolution referred to in Article 7 of this Act for the following purposes:

1) recapitalisation of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act that meets the conditions for resolution to the extent sufficient to restore its ability to comply with the conditions for authorisation in accordance with the regulations governing the operation of credit institutions or investment firms and to continue to carry out the activities for which it is authorised and to sustain market confidence; or

2) 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:

- a) to a bridge institution with a view to providing capital for that bridge institution; or
- b) by applying the sale of business tool or the asset separation tool.

(2) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall adopt the decision on the application of the resolution tool referred to in paragraph (1), item (1) of this Article, if there is a reasonable prospect that with the application of that tool, together with other measures, including measures implemented in accordance with the business reorganisation plan referred to in Article 87 of this Act the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act will restore financial soundness and maintain regular operation long-term.

(3) Where the condition referred to in paragraph (2) of this Article has not been met, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall be empowered to apply any other resolution tool referred to in Article 70 of this Act and the bail-in tool in the manner referred to in paragraph (1), item (2) of this Article.

(4) When applying the bail-in tool to institutions or entities referred to in Article 3, item (2), (3) or (4) of this Act their legal form may be changed.

Bail-inable liabilities

Article 80

(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 Croatian National Bank or the Croatian Financial Services Supervisory Agency may not write down or convert the following liabilities irrespective of the law applicable to these liabilities:

1) deposits covered in accordance with the regulation governing deposit insurance;

2) secured liability, 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.

3) liability that arises by virtue of 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 regulation governing the operation of open-ended investment funds or alternative investment funds, provided that such client assets are protected in accordance with the provisions of a special law;

4) liability 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 who is in the capacity of a fiduciary and another person in the capacity of fiduciary, provided that such fiduciary is protected under the regulation governing normal insolvency proceedings or under civil law;

5) liability to institutions, excluding liabilities to members of the same group, with an original maturity of less than seven days;

6) liability with a remaining maturity of less than seven days, towards systems for the settlement of transfer orders or operators of these systems or participants in that system in accordance with the regulations governing settlement finality in payment and financial instruments settlement systems, arising from the participation in such systems, or to central counterparties authorised in the European Union pursuant to Article 14 of Regulation (EU) No 648/2012 and third country central counterparties recognised by the European Securities and Markets Authority pursuant to Article 25 of Regulation (EU) No 648/2012;

7) a liability to any one of the following persons:

a) an employee, in relation to all remuneration, except for variable remuneration that is not determined by a collective 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;

b) 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;

c) 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 regulations governing normal insolvency proceedings; and

d) deposit guarantee schemes based on contributions due in accordance with the regulations governing insurance of deposits with credit institutions.

8) a liability to the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act that belongs to the same resolution group but is not a resolution entity, irrespective of its maturity, unless in accordance with the regulations governing normal insolvency proceedings the claim related to that liability is in lower order of priority in respect of the order of priority of claims connected with other regular unsecured liabilities.

(3) With respect to paragraph (2), item (2) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall ensure that all assets used as a covered bond cover pool remain unaffected, segregated and with enough funding to cover such liabilities.

(4) By way of derogation from paragraph (2), item (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may apply the bail-in tool to the part of covered deposits that exceeds the coverage level, as governed by the regulation governing deposit insurance.

Exclusion or partial exclusion of bail-inable liabilities

Article 81

(1) By way of derogation from Article 80, paragraph (1) of this Act, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may exclude or partially exclude certain bail-inable liability or class of bail-inable liabilities from the application of bail-in tool where:

1) it is not possible to write down or convert the value of the liability within a reasonable time notwithstanding the good faith efforts of the Croatian National Bank or the Croatian Financial Services Supervisory Agency;

2) the exclusion is necessary to achieve the continuity of critical functions and core business lines;

3) 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

4) the application of the bail-in tool to those liabilities would result in higher losses borne by other creditors.

(2) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency decides to exclude or partially exclude a bail-inable liability or a class of bail-inable liabilities in accordance with paragraph (1) of this Article, the amount of write-down or conversion applied to other bail-inable liabilities may be increased for the amount of such exclusions, provided that the amount of write-down and conversion applied to other bail-inable liabilities complies with the principle referred to in Article 7, paragraph (1), item (7) of this Act.

(3) When adopting the decision referred to in paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall take into account:

1) the principle that losses are first to be absorbed by the shareholder and then the creditor of the institution under resolution in accordance with the order of priority of settlement in normal insolvency proceedings;

2) the ability of the institution under resolution to absorb the losses it would sustain in case of the exclusion of liabilities; and

3) the need to ensure appropriate funding for the resolution.

(4) Prior to the adoption of the decision referred to in paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall notify the European Commission thereof.

(5) Aiming at effective implementation of the resolution strategy, when adopting the decision referred to in paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall carefully assess whether to exclude or partially exclude from the application of the bail-in tool the liabilities to institutions or entities referred to in Article 3, item (2), (3) or (4) of this Act that are part of the same resolution group without being themselves resolution entities, which are not excluded in accordance with Article 80, paragraph (2), item (8) of this Act, thereby taking into account the assessment of the resolution authority with respect to the subsidiary whose claim is in question, whether in case of the application of the bail-in tool to these liabilities the

amount of items complying with the conditions referred to in Article 31 of this Act is sufficient to support the implementation of the preferred resolution strategy.

Use of the resolution fund where eligible liabilities are excluded or partially excluded

Article 82

(1) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency in accordance with Article 81, paragraph (1) of this Act decides to exclude or partially exclude certain bail-inable eligible liabilities or a class of bail-inable liabilities and where the losses have not been passed on fully to other creditors in accordance with Article 81, paragraph (2) of this Act, it may use the funds of the resolution fund to cover the difference to the institution under resolution in order to:

1) absorb any losses which have not been passed on fully to other creditors in order for the net value of the assets of the institution under resolution to be zero in accordance with Article 83, paragraph (1), item (1) of this Act; or

2) purchase shares or other instruments 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 83, paragraph (1), item (2) of this Act.

(2) The funds of the resolution fund may be used for the purposes referred to in paragraph (1) of this Article:

1) where shareholders and other creditors, through write-down, conversion or otherwise, participated in the loss absorption and recapitalisation in the amount not less than 8% of the total liabilities, including own funds of the institution under resolution, measured at the time of resolution action in accordance with the valuation referred to in Article 50 or 51 of this Act; and

2) up to the amount of 5% of the total liabilities, including own funds of the institution under resolution, measured at the time of resolution action in accordance with the valuation referred to in Article 50 or 51 of this Act.

(3) The sources of funds of the resolution fund used in accordance with paragraph (1) of this Article are:

1) *ex-ante* contributions referred to in Article 132, paragraph (1), item (1) of this Act;

2) the amount that can be raised through *ex-post* contributions referred to in Article 132, paragraph (1), item (2) of this Act over a period of three years; and

3) where the amounts referred to in items (1) and (2) of this paragraph are insufficient, the amount raised from alternative financing sources in accordance with Article 132, paragraph (1), item (3) of this Act.

(4) In extraordinary circumstances, the Croatian Deposit Insurance Agency may seek additional funding referred to in paragraph (3), item (3) of this Article, where all of the following conditions are met:

1) the amount of the funds used from the resolution fund has reached the 5% limit specified in paragraph (2), item (2) of this Article; and

2) all unsecured liabilities, other than eligible deposits, that are non-preferred liabilities under regulations governing normal insolvency proceedings, have been written down in or converted to capital instruments in full.

(5) Where the conditions referred to in paragraph (4) of this Article are met, the Croatian Deposit Insurance Agency may instead of the funds referred in paragraph (4) or in addition to them contribute with the funds from the resolution fund which have been raised through *ex-ante* contributions referred to in Article 132, paragraph (1), item (1) of this Act, and have not yet been fully used.

(6) By way of derogation from paragraph (2), item (1) of this Article, the Croatian Deposit Insurance Agency 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:

1) the persons referred to in paragraph (2), item (1) of this Article contributed to the loss absorption and recapitalisation in the amount not less than 20% of the risk weighted assets of the institution under resolution;

2) the resolution fund has at its disposal the funds raised through *ex-ante* contributions referred to in Article 132, paragraph (1), item (1) of this Act in the amount which is higher than 3% of covered deposits of all credit institutions authorised by the Croatian National Bank; and

3) the assets of the institution under resolution on a consolidated basis are below the amount equivalent to EUR 900 billion.

(7) The decision of the Croatian Deposit Insurance Agency on the use of funds from the resolution fund in the case of the exclusion referred to in Article 81, paragraph (1) of this Act is enforceable where the European Commission has not, within 24 hours of receipt of the notification referred to in Article 81, paragraph (4) of this Act or longer with the consent of the Croatian National Bank or the Croatian Financial Services Supervisory Agency, prohibited or required amendments to the decision.

Assessment of amount of bail-in

Article 83

(1) When applying the bail-in tool, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall determine on the basis of a valuation in accordance with Article 50 or 51 of this Act, where relevant:

1) the total amount by which bail-inable 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

2) the total amount by which bail-inable 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) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall determine the amount referred to in paragraph (1) of this Article, taking into account:

1) any contribution of capital by the resolution fund in accordance with Article 136, paragraph (1), item (4) of this Act;

2) 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

3) the capital required to sustain sufficient market confidence.

(3) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency intends to use the asset separation tool referred to in Article 78 of this Act, when determining the amount referred to in paragraph (1), item (1) of this Article it shall take into account the estimate of the capital needs of the asset management vehicle.

(4) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency, by applying the bail-in tool in accordance with Article 79, paragraph (1) of this Article, wrote down liabilities in part or in full, that is, where, in accordance with the provisions of Title VII of this Act capital instruments have been written down, and the level of write-down based on the preliminary valuation referred to in Article 11 of this Act exceeds requirements when assessed against the *ex-post* valuation referred to in Article 50, paragraph (10) or (11) of this Act, the resolution authority 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) By way of derogation from paragraph (4) of this Article, when the Single Resolution Board exercises its powers in accordance with Article 20, paragraph (12) of Regulation (EU) No 806/2014, the Croatian National Bank shall act in accordance with the instructions of the Single Resolution Board.

(6) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall, to the extent possible, ensure that the valuation referred to in Article 50 or 51 of this Act is based on

information about the assets and liabilities of the institution under resolution that is up to date and comprehensive.

Treatment of shareholders in bail-in or write-down or conversion of capital instruments

Article 84

(1) When exercising the powers referred to in Article 52, paragraph (1), item (2) of this Act or applying the bail-in tool, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall, in respect of shareholders, have the power to:

1) 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

2) provided that, in accordance with the valuation carried out pursuant to Article 50 or 51 of this Act or in accordance with Article 20, paragraphs (1) to (15) of Regulation (EU) No 806/2014, the assets of the institution under resolution exceed its liabilities, dilute the existing shareholder structure by converting in accordance with the powers referred to in Article 52, paragraph (1) or Article 57 of this Act the relevant capital instruments issued by the institution to common equity tier 1 instruments or by converting in accordance with the powers referred to in Article 97, paragraph (1), item (6) of this Act the bail-inable liabilities of the institution under resolution 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) Measures referred to in paragraph (1) of this Article shall also apply to shareholders and holders of other instruments of ownership if these shares or other instruments of ownership 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 determination of the Croatian National Bank or the Croatian Financial Services Supervisory Agency that the conditions for resolution have been met in relation to the institution or entity referred to in Article 3, item (2), (3) (4) of this Act.

2) pursuant to the conversion of relevant capital instruments to common equity tier 1 instruments in accordance with Article 53 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) the valuation carried out in accordance with Article 50 or 51 of this Act or in accordance with Article 20, paragraphs (1) to (15) of Regulation (EU) No 806/2014;

2) the amount by which, in accordance with its assessment, common equity tier 1 items must be reduced and value of relevant capital instruments must be written down or these instruments must be converted in accordance with Article 53, paragraph (3) of this Act;

3) the aggregate amount assessed out in accordance with Article 83 of this Act or in accordance with Article 27, paragraph (13) of Regulation (EU) No 806/2014.

(5) Where the conversion of relevant capital instruments would result in the acquisition of or increase in a qualifying holding in an institution, the competent authority 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) For the purpose of paragraph (5) of this Article the decision-making procedure regarding prior approval to acquire a qualifying holding shall be carried out by the competent authority *ex officio*.

(7) If 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 71, paragraph (10) of this Act.

Sequence of write-down and conversion

Article 85

(1) When applying the bail-in tool, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may write down or exercise the conversion of the instrument or liabilities that are not excluded pursuant to Articles 80 and 81 of this Act, in the following manner:

1) firstly reduce common equity tier 1 items in accordance with Article 53 of this Act, to the extent possible and necessary;

2) then reduce the principal amount of additional tier 1 instruments to the extent possible and necessary and in accordance with the characteristics of the instruments, where the total reduction in accordance with item (1) of this paragraph is less than the sum of the amounts referred to in Article 84, paragraph (4), items (2) and (3) of this Act;

3) then reduce the principal amount of tier 2 instruments to the extent possible and necessary and in accordance with the characteristic of the instruments, where the total reduction in accordance with items (1) and (2) of this paragraph is less than the sum of the amounts referred to in Article 84, paragraph (4), items (2) and (3) of this Act;

4) 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 normal insolvency proceedings, so as to in conjunction with the write-down in accordance with items (1), (2) and (3) of this paragraph produce the sum of the amounts referred to in Article 84, paragraph (4), items (2) and (3) of this Act, where the total reduction in accordance with items (1), (2) and (3) of this paragraph is less than the sum of the amounts referred to in Article 84, paragraph (4), items (2) and (3) of this Act;

5) then reduce the principal amount or outstanding amount of bail-inable liabilities, including non-preferred non-covered debt instruments, to the extent possible and necessary in accordance with the hierarchy of claims in normal insolvency proceedings, including the ranking of deposits, except where a different allocation of loss absorption is provided for in Article 81 of this Act, so as to in conjunction with the write-down in accordance with items (1) to (4) of this paragraph produce the sum of the amounts referred to in Article 84, paragraph (4), items (2) and (3) of this Act, where the total reduction of shares or of other instruments of ownership, relevant capital instruments and bail-inable liabilities referred in items (1) to (4) of this paragraph is less than the sum of the amounts referred to in Article 84, paragraph (4), items (2) and (3) of this Act.

(2) When applying the write-down or conversion powers, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall allocate the losses referred to in Article 84, paragraph (4), items (2) and (3) of this Act equally between shares or other instruments of ownership and bail-inable liabilities of the same rank, except where a different allocation of losses arises from the application of Article 81 of this Act.

(3) The provisions of paragraph (2) of this Article shall not prevent the Croatian National Bank or the Croatian Financial Services Supervisory Agency from applying a more favourable treatment to liabilities that are not bail-inable in accordance with Article 80, paragraph (2) and to liabilities which have been excluded from bail-in in accordance with Article 81 of this Act than to other bail-inable liabilities which are of the same rank in normal insolvency proceedings.

(4) Before applying paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall write down or convert the principal amount of instruments referred to in paragraph (1), items (2), (3) and (4) of this Article when those instruments contain the following provisions:

1) 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;

2) 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 (1) of this Article, the residual amount of that principal is higher than zero, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may prior to applying the bail-in tool write down or convert the residual amount of the principal in accordance with paragraph (1) of this Article.

(6) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency adopts 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 80 and 81 of this Act.

Derivatives

Article 86

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall write down or convert the liabilities arising from derivative contracts after netting.

(2) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall be empowered to accelerate and terminate a derivative contract as of the date of the decision to open resolution proceedings.

(3) By way of derogation from paragraph (2) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency need not accelerate and terminate 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 81 of this Act.

(4) Where a derivative contract is subject to a netting agreement, the Croatian National Bank or the Croatian Financial Services Supervisory Agency or an independent valuer in the valuation carried out in accordance with Article 50 or 51 of this Act or in accordance with Article 20 paragraphs (1) to (15) of Regulation (EU) No 806/2014 shall determine the liability arising from those transaction on a net basis in accordance with the terms of the agreement.

(5) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall determine the value of liabilities arising from derivatives in accordance with the following:

1) appropriate methodologies for determining the value of classes of derivatives, including transactions that are subject to netting agreements;

2) principles for establishing the relevant point in time at which the value of a derivative should be established; and

3) appropriate methodologies for comparing the reduction in value that would result from early maturity 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.

Recovery and reorganisation measures to accompany bail-in

Article 87

(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 accordance with Article 79, paragraph (1), item (1) of this Act shall, within one month of the day of application of the bail-in tool, draw up a business reorganisation plan in accordance with Article 89 of this Act and deliver it to the Croatian National Bank or the Croatian Financial Services Supervisory Agency.

(2) By way of derogation from Article 68, paragraph (2), item (1) of this Act, the term of office of the resolution administration appointed in accordance with the provisions of Title VIII of this Act shall not cease where there is the need to ensure the drawing up of the business reorganisation plan and the implementation of measures provided for in this plan, as decided by the Croatian National Bank or the Croatian Financial Services Supervisory Agency.

(3) Where the resolution proceedings provide for State aid, the plan referred to in paragraph (1) of this Article must be in accordance with the restructuring plan submitted to the European Commission.

(4) By way of derogation from paragraph (1) of this Article, in exceptional circumstances and where it deems it necessary for the achievement of the resolution objectives, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may, at the request of the management board of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act or resolution administration, 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.

(5) By way of derogation from paragraph (3) of this Article, where the bail-in proceedings provide for State aid, the Croatian National Bank or the Croatian Financial Services Supervisory Agency 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 88

(1) Where the bail-in tool is, in accordance with Article 79, paragraph (1), item (1) of this Act, applied to two or more members of the group, the EU parent institution for which the Single Resolution Board, the Croatian National Bank or the Croatian Financial Services Supervisory Agency is the group-level resolution authority shall 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 the regulation governing the operation of credit institutions or the regulation governing the capital market and deliver it to the Croatian National Bank or the Croatian Financial Services Supervisory Agency.

(2) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall deliver the business reorganisation plan referred to in paragraph (1) of this Article to other resolution authorities of the Member States where the registered offices of the members of the group are located and to the European Banking Authority.

Content of reorganisation plans

Article 89

(1) The business reorganisation plan shall contain measures aiming to ensure timely restoration of long-term viability of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act or part of its business within a reasonable timescale. Those measures must 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) or (4) of this Act will operate.

(2) When drafting the business reorganisation plan 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, shall be, *inter alia*, taken into account. Assumptions shall be compared with appropriate sector-wide benchmarks.

(3) A business reorganisation plan shall include at least the following:

1) 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

2) activities that the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act plans to undertake to re-establish its long-term viable operations and deadlines for the implementation of those activities.

(4) Activities referred to in paragraph (3), item (2) of this Article may include:

- 1) the reorganisation of the operation of the institution under resolution;
- 2) changes to the organisational structure, operational systems and infrastructure of the institution under resolution;
- 3) the withdrawal from providing loss-making services;
- 4) the restructuring of existing activities with a view to increasing competitiveness;
- 5) the sale of assets or business lines; or
- 6) other activity that restores long-term viability of operation.

Assessment of the business reorganisation plan

Article 90

(1) Within one month of the receipt of the business reorganisation plan, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall, in cooperation with the competent authority, 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.

(2) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall approve the business reorganisation plan where it assesses that the plan will achieve the objective specified in paragraph (1) of this Article.

(3) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency assesses that the plan will not achieve the objective referred to in paragraph (1) of this Article, it shall notify the management board or resolution administration of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act of established deficiencies and order it to draw up and deliver an amended plan eliminating the established deficiencies within a period not longer than 15 working days.

(4) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall within five working days of delivery of the amended plan assess whether the established deficiencies have been removed and where it deems that they have been, approve the plan or order the management board or resolution administration of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act to implement further amendments to the plan.

(5) The management board or the resolution administration of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act shall implement the approved resolution plan and shall, at least on a quarterly basis or upon request, report to the Croatian National Bank or the Croatian Financial Services Supervisory Agency.

(6) The management board or the resolution administration of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act shall review or amend the reorganisation plan in accordance with the opinion of the Croatian National Bank or the Croatian Financial Services Supervisory Agency in cooperation with the competent authority, where this is necessary to meet the objective referred to in paragraph (1) of this Article and shall deliver each such amendment for approval to the Croatian National Bank or the Croatian Financial Services Supervisory Agency.

Assessment of the business reorganisation plan of the entity for which the Single Resolution Board is directly responsible

Article 91

Upon receipt of the business reorganisation plan of the entity for which the Single Resolution Board is directly responsible, the Croatian National Bank shall act in the manner laid down in Article 27, paragraph (16) of Regulation (EU) No 806/2014.

Effects of bail-in

Article 92

(1) The decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency to exercise the powers referred to in Title VII of this Act and Article 97, paragraph (1), items (5) to (9) of this Act shall have legal effects as of the date specified in the disposition and the provisions of Article 54 of this Act shall apply *mutatis mutandis* when adopting the said decision.

(2) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall implement or submit the application for the implementation of the procedure for exercising the powers referred to in Title VII and Article 97, paragraph (1), items (5) to (9) of this Act, including:

- 1) the amendment of all relevant registers;
- 2) the temporary suspension of trading, removal from trading or delisting of shares or debt instruments in the regulated market;
- 3) the listing of new shares in the regulated market;
- 4) 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 regulation governing the capital market.

(3) All authorities or persons who receive the application referred to in paragraph (2) of this Article from the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall act upon it without delay.

(4) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency reduces to zero the principal amount or outstanding amount of the liability by means of the power referred to in Article 97, paragraph (1), item (5) of this Act, that liability and any claims arising in relation to it, including those that were not calculated at the time of exercising the authority, shall be considered settled. 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 normal insolvency proceedings.

(5) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency reduces in part the principal amount of or outstanding amount payable of a liability by means of the power referred to in Article 97, paragraph (1), item (5) of this Act, that liability shall be considered fulfilled 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 Croatian National Bank or the Croatian Financial Services Supervisory Agency might make by means of the power referred to in Article 97, paragraph (1), item (10) of this Act.

Contractual recognition of bail-in in relation to liabilities governed by the law of a third country

Article 93

(1) The institution or entity referred to in Article 3, item (2), (3) or (4) of this Act shall ensure that a contract or instrument 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) The provisions of paragraph (1) of this Article shall be applied to all liabilities that:

- 1) are not excluded under Article 80, paragraph (2) of this Act;
- 2) are not arising from eligible deposits held by natural persons, micro, small and medium-sized enterprises which exceed the coverage level provided for in the regulation governing deposit insurance or part of deposits held by natural persons, micro, small and medium-sized enterprises that would be eligible deposits if they were not held with a branch of the credit institution which is situated

in a third country, which exceed the coverage level provided for in the regulation governing deposit insurance;

3) are governed by the law of a third country; and

4) have arisen after the entry into force of this Act.

(3) Exceptionally, the provision of paragraph (1) of this Article shall not apply to an institution or entity referred to in Article 3, item (2), (3) or (4) of this Act in respect of which the amount of minimum requirement equals the loss-absorption amount in accordance with Article 26, paragraph (3) of this Act, in which case the liabilities to which paragraph (1) of this Article applies in accordance with paragraph (2) of this Article, and which do not include the contractual provision in accordance with paragraph (1) of this Article, may not be counted towards meeting the minimum requirement.

(4) Exceptionally, the provision of 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.

(5) Where the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act assesses that it is legally or otherwise impracticable to include the contractual provisions in accordance with paragraph (1) of this Article, it shall notify the Croatian National Bank or the Croatian Financial Services Supervisory Agency of its assessment, specifying the type of obligation and the justification of its assessment.

(6) For the purpose of paragraph (5) of this Article, the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act shall provide all information that the Croatian National Bank or the Croatian Financial Services Supervisory Agency requests, within a reasonable timeframe following the receipt of the notification, in order for it to assess the effect of such notification on resolvability.

(7) As from the moment of the receipt of the notification referred to in paragraph (5) of this Article, the requirement to include the contractual provision in accordance with paragraph (1) of this Article shall not apply to the obligation the notification refers to.

(8) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency, following the receipt of the notification referred to in paragraph (5) of this Article concludes that the assessment by the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act is not justified, it shall request from the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act, within a reasonable timeframe from the receipt of the notification, taking into account the need to ensure resolvability, to include such contractual provision and may in addition require the amendment of its practice concerning the application of the exemption from contractual recognition of bail-in.

(9) The institution or entity referred to in Article 3, item (2), (3) or (4) of this Act may not make an assessment referred to in paragraph (5) of this Article on the impracticability of the inclusion of the contractual provision in relation to the common equity tier 1 instruments, additional tier 1 instruments, tier 2 instruments and non-preferred unsecured debt instruments but only in relation to the liabilities senior to these instruments.

(10) Where, in the context of the assessment of the resolvability of an institution or entity referred to in Article 3, item (2), (3) or (4) of this Act in accordance with Articles 15 and 16 of this Act, or at any other time, it determines that, within a class of liabilities which includes eligible liabilities, the amount of liabilities that, in accordance with the paragraph (5) do not include the contractual provision referred to in paragraph (1) of this Article, together with the liabilities which are excluded from the application of the bail-in tool or which are likely to be excluded from the application of the bail-in tool in accordance with Article 80, paragraph (2) or Article 81, paragraph (1) of this Act, amounts to more than 10% of that class, the Croatian National Bank or the Croatian Financial Services Supervisory entity shall immediately assess the impact of that particular fact on the resolvability of that institution or entity, including the impact on the resolvability resulting from the risk of breaching

the creditor safeguards provided in Article 122 of this Act when applying write-down and conversion powers to eligible liabilities.

(11) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency concludes, on the basis of the assessment referred to in paragraph (10) of this Article, that the liabilities which, in accordance with paragraph (5) of this Article, do not include the contractual provision referred to in paragraph (1) of this Article, create a substantive impediment to resolvability, it shall apply the powers provided in Article 22 of this Article, as appropriate, to remove that impediment to resolvability.

(12) Liabilities which, in accordance with paragraph (5) of this Article do not include the contractual provision in accordance with paragraph (1) of this Article or for which, in accordance with paragraph (2) of this Article, that requirement does not apply, shall not be counted towards the meeting of the minimum requirement.

(13) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may require from the institution or entity referred to in Article 3, paragraph (2), (3) or (4) of this Act to provide it with a legal opinion relating to the legal enforceability and effectiveness of the provision referred to in paragraph (1) of this Article.

(14) Regardless of whether the contract includes the provision referred to in this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may write down or convert that liability.

(15) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may specify the categories of liabilities for which the institution or entity referred to in Article 3, paragraph (2), (3) or (4) of this Act may assess that that it is legally or otherwise impracticable to include the contractual provision required in accordance with paragraph (1) of this Article, taking into account the conditions preventing the inclusion of the provision in the certain categories of liabilities specified by regulatory technical standards of the European Commission.

IX.6 GOVERNMENT FINANCIAL STABILISATION TOOLS

Government financial stabilisation tools

Article 94

(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 normal insolvency proceedings, with a view to meeting the objectives for resolution referred to in Article 6, paragraph (2) of this Act in the Republic of Croatia or the European Union as a whole.

(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, as determined by the Ministry of Finance, after consulting the Croatian National Bank or the Croatian Financial Services Supervisory Agency.

(3) The government financial stabilisation tools may be provided for only where in relation to the institution or entity referred to in Article 3, paragraph (2), (3) or (4) of this Act all the conditions referred to in Article 43, paragraph (4) of this Act have been met and where:

1) the Ministry of Finance, after consulting the Croatian National Bank or the Croatian Financial Services Supervisory Agency, determines that the application of other resolution tools would not suffice to avoid significant adverse effects on financial stability;

2) the Ministry of Finance, after consulting the Croatian National Bank or the Croatian Financial Services Supervisory Agency, determines that the application of other resolution action would not suffice to protect the public interest, where extraordinary liquidity assistance from the central bank has been previously given to the credit institution; or

3) 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, 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 95 of this Act.

(4) Where the conditions referred to in paragraphs (2) and (3) of this Article and Article 70, paragraph (8) of this Act are met, and prior to the reaching of a decision to use government financial stabilisation tools, 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 the individual state aid to the European Commission for the purpose of obtaining its approval.

(5) After obtaining the approval from the European Commission, 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:

- 1) the public equity support tool referred to in Article 95 of this Act;
- 2) the temporary public ownership tool referred to in Article 96 of this Act.

Public equity support tool

Article 95

(1) In accordance with the regulation governing the establishment and organisation 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 contribution in:

- 1) common equity tier 1 instruments; or
- 2) additional tier 1 instruments; or
- 3) 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 and does not distort market competition.

(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 96

(1) The Ministry of Finance may transfer the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act into temporary public ownership.

(2) For the purpose of paragraph (1) of this Article, the Ministry of Finance shall issue one or more orders for the transfer of shares to the Central Depository and Clearing Company, which 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 any other person nominated 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 and does not distort market completion.

(5) Where the instrument referred to in paragraph (1) of this Article has been applied, the Ministry of Finance shall ensure that the transferred share is sold as soon as commercial and financial circumstances allow.

X RESOLUTION POWERS

General resolution powers

Article 97

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may, with an aim to apply resolution tools to institutions and entities referred to in Article 3, item (2), (3) or (4) of this Act that meet the conditions for resolution, exercise the following powers individually or in any combination:

1) require any information necessary for updating and supplementing information provided in the resolution plans and information required to decide upon and prepare a resolution action and for that purpose use the powers referred to in Article 8, paragraph (15) of this Act;

2) 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;

3) transfer instruments of ownership issued by the institution under resolution;

4) transfer rights, assets or liabilities of the institution under resolution to another person with the approval of that person;

5) partly or in full reduce the principal amount of or outstanding amount due in respect of bail-inable liabilities of the institution under resolution;

6) convert bail-inable liabilities of the institution under resolution into ordinary shares or other instruments of ownership of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act, its parent undertaking or a bridge institution to which assets, rights or liabilities of the institution under resolution or of the entity referred to in Article 3, item (2), (3) or (4) of this Act, are transferred;

7) withdraw and cancel debt instruments issued by the institution under resolution except for secured liabilities referred to in Article 80, paragraph (2) of this Act;

8) reduce the nominal amount of instruments of ownership of the institution under resolution or withdraw them;

9) require the institution under resolution or its parent undertaking to issue new instruments of ownership, including preference shares and convertible bonds;

10) alter the maturity of debt instruments issued by the institution under resolution and other bail-inable liabilities, or the interest rate payable on the basis of these instruments and other bail-inable liabilities, the date on which the interest becomes due and suspending payment for a temporary period, except for payments arising from secured liabilities referred to in Article 80, paragraph (2) of this Act;

11) accelerate and terminate financial contracts or derivatives contracts for the purposes of applying Article 86 of this Act;

12) remove or replace the management body or senior management of the institution under resolution;

13) require the competent authority to assess the acquirer of a qualifying holding within the shortest possible time limit.

(2) When applying the resolution tool or exercising the powers referred to in paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may, irrespective of the applicable law or contractual provisions, exercise these powers without:

1) prior approval or consent from any person, including public law bodies, the shareholders or creditors of the institution under resolution, unless otherwise provided for in this Act; and

2) requirements to notify any person and to publish any notice or prospectus or to file or register any document with any other authority unless otherwise provided for in this Act, especially in Articles 45, 46 and 48 of this Act or any notification requirements under the European Union State aid framework.

(3) The powers referred to in paragraph (1) 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.

(4) The resolution powers referred to in paragraph (1) of this Article shall be applied to the entity referred to in Article 3 of this Act as appropriate in respect of its specific legal form.

(5) When exercising the powers referred to in paragraph (4) 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.

Powers of the Croatian National Bank or the Croatian Financial Services Supervisory Agency in early intervention phase

Article 98

(1) Where the conditions for early intervention have been met in accordance with the regulations governing the operation of credit institutions or regulations governing the capital market, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall be empowered to require the institution for which the Single Resolution Board is not directly responsible to contact potential acquirers in order to prepare for the resolution of the institution, subject to the principles laid down in Article 72, paragraph (2) of this Act and the confidentiality requirements laid down in Article 115 of this Act.

(2) The Croatian National Bank shall submit the draft of the decision referred to in paragraph (1) of this Article to the Single Resolution Board in the manner and within the time limit laid down in Regulation (EU) No 806/2014 and when drawing up this decision shall act in compliance with the opinion of the Single Resolution Board regarding compliance with Regulation (EU) No 806/2014 and the general instructions of the Single Resolution Board referred to in Article 31, paragraph (1), item (a) of Regulation (EU) No 806/2014.

Ancillary resolution powers

Article 99

(1) When carrying out resolution and in order to achieve one or more of the resolution objectives, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall be empowered to:

1) secure for the transfer to take effect free from any additional right or liability affecting the financial instruments, rights, assets or liabilities transferred in accordance with Article 127 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;

2) remove rights to acquire new instruments of ownership;

3) require the relevant authority to discontinue trading or suspend from trading on a regulated market or the official listing of financial instruments;

4) provide for the recipient undertaking to be treated as if it were the institution under resolution for the purposes of any rights, obligations or measures taken subject to Articles 71 and 73 of this Act, including any rights or obligations relating to the participation in the market;

5) require the institution under resolution or the recipient undertaking to provide each other with information and assistance; and

6) 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 Croatian National Bank or the Croatian Financial Services Supervisory Agency shall have the power to ensure to the recipient undertaking:

1) the continuity of contractual relationships of 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

2) for the recipient undertaking 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 (4) and paragraph (2), item (2) of this Article shall not affect the following:

1) the right of an employee of the institution under resolution to cancel a contract of employment; and

2) the right of a party to a contract under the contract, including the right to terminate a contract, in accordance with Articles 106, 107 and 108 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 transfer.

Power to require the provision of services and facilities

Article 100

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency 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 normal insolvency proceedings are carried out in relation to the institution under resolution or a member of that group, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may require from the trustee in bankruptcy or liquidator 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 Croatian National Bank or the Croatian Financial Services Supervisory Agency may act in accordance with paragraph (1) of this Article in relation to members of the group having their registered 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:

1) 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

2) where there is no agreement on the provision of services or facilities, or where the agreement has expired, on reasonable terms.

*Crisis management or crisis prevention powers of the resolution authority of another Member State
in the territory of the Republic of Croatia*

Article 101

(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 VII of this Act, the write-down or conversion powers shall also apply to the following bail-inable liabilities and relevant capital instruments of the institution under resolution:

- 1) instruments or liabilities that are subject to the law of the Republic of Croatia;
- 2) liabilities towards creditors from the Republic of Croatia.

(5) In accordance with the regulations of the Republic of Croatia, 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 carried out in accordance with the write-down or conversion powers of the resolution authority of another Member State shall be recognised.

(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 such 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 registered 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 Croatian National Bank or the Croatian
Financial Services Supervisory Agency*

Article 102

(1) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency exercises the write-down or conversion powers in relation to capital instruments in accordance with the provisions of Title VII of this Act, the write-down or conversion powers in relation to capital instruments shall also apply to the following bail-inable liabilities or relevant capital instruments of the institution under resolution:

- 1) instruments or liabilities that are subject to regulations of other Member States;
- 2) liabilities towards 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 Croatian National Bank or the Croatian Financial Services Supervisory Agency.

(3) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency exercises the power to transfer, in whole or in part, or the power to write-down or convert the

relevant capital instruments in relation 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 instruments of ownership located in third countries

Article 103

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency 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:

1) the resolution administration or the person managing that institution and the recipient take all necessary steps to ensure that the transfer, write-down, conversion or actions taken become valid;

2) the resolution administration or the person managing the institution holds the shares or other instruments of ownership, assets, rights liabilities or fulfils liabilities on behalf of the recipient until the transfer, write-down, conversion or action taken become valid;

3) the reasonable expenses incurred by the recipient in carrying out any action referred to in items (1) and (2) of this paragraph are met in the manner referred to in Article 70, paragraph (6) of this Act.

(2) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency 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 that institution and the receiver, the effectiveness is low, it shall not proceed with the transfer, write-down, conversion or other actions taken 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 another action is taken, that order shall be suspended.

Exclusion of certain contractual terms in resolution

Article 104

(1) The application of a crisis prevention measure or a crisis management measure in accordance with this Act, including the occurrence of any event directly linked to the application of such measures, shall not, *per se*, be deemed, in accordance with the contract entered into by the institution or entity referred to in Article 3, paragraph (2), (3) or (4) of this Act, a prerequisite for the enforcement of a financial collateral instrument in accordance with the regulations governing financial collateral or as a insolvency procedure in accordance with the regulations governing settlement finality, provided that substantive obligations under the contract, including payment and delivery obligations or the acquisition of financial collateral instrument, continue to be performed.

(2) The provision of paragraph (1) of this Article shall be applied to contracts:

1) entered into by a subsidiary, for whose contractual obligations under that agreement the parent undertaking or other member of the group guarantees or otherwise secures; or

2) entered into by a member of the group to which the cross-default provisions pertain.

(3) Where the third country resolution proceedings are recognised in accordance with Article 117 of this Act or when the Croatian National Bank or the Croatian Financial Services Supervisory Agency so decides, such proceedings shall be deemed to be a crisis management measure in accordance with this Article.

(4) Where essential parts of the contract, including payment and delivery obligations, or the acquisition of the financial collateral instrument, continue to be performed, the application of a crisis prevention measure, the powers to defer payment or meeting of obligations referred to in Article 105 of this Article or a crisis management measure, including the occurrence of any event directly linked to the application of such measures, shall disenable anyone to:

1) exercise the right to terminate the agreement, to suspend its execution, to modify its provisions, netting or set-off rights in relation to the contract, including in relation to the contracts:

a) contracted by the subsidiary, where the contractual obligations are guaranteed or otherwise secured by the member of the same group;

b) contracted by a member of the same group to which the cross-default provisions pertain;

2) obtain possession, control or enforce any lien over any property of the institution or subject referred to in Article 3, paragraph (2), (3) or (4) of this Act, including the members of the same group which is a party to the contract that includes cross-default provisions;

3) affect any contractual rights of the institution or the entity referred to in Article 3, paragraph (2), (3) or (4) of this Act or any member of the same group which is party to the contract which includes cross-default provisions.

(5) The provisions of this Article shall not affect the right of a certain 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 or the crisis management measure, including the occurrence of any event directly linked to the application of these measures.

(6) A suspension or restriction referred to in Article 105, 106 or 107 of this Act shall not constitute non-performance of a contractual obligation for the purposes of paragraphs (1), (2) and (4) of this Article.

(7) The provisions of this Article shall be considered to be overriding obligatory 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 prior to the adoption of decision to open resolution proceedings

Article 105

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may prior to the adoption of the resolution decision reach a decision on suspension of any payment or delivery obligations pursuant to any contract to which an institution or entity referred to in Article 3, item (2), (3) or (4) of this Act is a contractual party, if the following conditions are met:

1) the institution or the entity referred to in Article 3, item (2), (3) or (4) of this Act is failing or likely to fail;

2) private sector measure that would prevent its failure is not available;

3) the exercise of the power to suspend payments is deemed necessary to avoid further deterioration in the financial conditions of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act; and

4) the exercise of the powers to suspend is necessary to assess whether resolution is in the public interest or to reach the decision on appropriate resolution actions or to ensure the effective application of a resolution tool.

(2) By way of derogation from paragraph (1) of this Article the decision on suspension shall not apply to payment or delivery obligations towards:

1) systems and operators of systems referred to in regulations governing settlement finality;

2) central counterparties authorised in the European Union pursuant to Article 14 of Regulation (EU) No 648/2012 or third-country central counterparties recognised by European Securities and Markets Authority pursuant to Article 25 of Regulation (EU) No 648/2012; and

3) central banks.

(3) When deciding on obligations to which the decision referred in paragraph (1) of this Article shall apply, the Croatian National Bank shall take into account the circumstances of each case and carefully assess the appropriateness of the application of the decision on suspension to eligible

deposits, especially to covered deposits held by natural persons and micro, small and medium-sized enterprises.

(4) In the case of application of the decision referred to in paragraph (1) of this Article on eligible deposits, the Croatian National Bank shall in relation to each depositor exempt an appropriate daily amount from the amount of its covered deposits, corresponding to one average monthly net salary paid per employee in legal persons in the Republic of Croatia as published by the Croatian Bureau of Statistics.

(5) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall publish on its website the decision referred to in paragraph (1) of this Article, together with the conditions and the period of suspension.

(6) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall in the dispositive part of the decision referred to in paragraph (1) of this Article and in its publication pursuant to paragraph (5) of this Article specify the day, the hour and the minute when the suspension shall enter into force.

(7) 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 for as long as necessary in order to achieve the objective referred to in paragraph (1), items (3) and (4) of this Article and at the latest until midnight of the next working day counting from the day specified in the dispositive part of the decision on suspension.

(8) When adopting the decision referred to in paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall have regard to the impact that the exercise of that power might have on the orderly functioning of financial markets and shall consider the rights of creditors in accordance with the general principles of resolution referred to in Article 7, paragraph (1), items (6) and (7) of this Act.

(9) Where payment or delivery obligations of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act 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.

(10) 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.

(11) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall without delay deliver the decision referred to in paragraph (1) of this Article to the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act to which the decision pertains, the Ministry of Finance, the competent authority of each branch of the institution in other countries, the group-level resolution authority, where the authority is different, to the consolidating supervisor, the Financial Agency, the Central Depository and Clearing Company and to the Croatian Deposit Insurance Agency.

(12) The Croatian National Bank, the Croatian Financial Services Supervisory Agency, the Financial Agency and the Central Depository and Clearing Company shall act in accordance with the decision as of the moment of its delivery.

(13) The institution or entity referred to in Article 3, item (2), (3) or (4) of this Act shall publish on its website the decision referred to in paragraph (1) of this Article.

(14) Where shares, other instruments of ownership or debt instruments of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act under resolution are admitted to trading on a stock exchange, the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act shall notify the stock exchange where those instruments are listed, the stock exchange shall publish the information in accordance with its rules.

(15) The following may be an integral part of the decision referred to in paragraph (1) of this Article:

1) a decision on suspension of execution of enforcement over the assets of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act by creditors of the institution or entity for the duration of the suspension of the payment or delivery obligations of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act pursuant to paragraph (1) of this Article, whereby the provisions of Article 107, paragraphs (5), (6) and (7) of this Act shall apply; and

2) a decision on suspension of the right of the counterparty to cancel a contractual relationship with the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act for the duration of the suspension of the payment or delivery obligations of the institution or entity referred to in Article 3 item (2), (3) or (4) of this Act pursuant to paragraph (1) of this Article, whereby the provisions of Article 108, paragraph (5), (7), (8), (9), (10) or (11) of this Act shall apply.

(16) In the event that, after reaching the decision referred to in paragraph (1) of this Article in respect of the institution, a decision has been reached to open resolution proceedings in accordance with Article 46 or 47 of this Act, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may not exercise its powers to adopt a decision on suspension or restriction from Article 106, 107 or 108 of this Act.

Power to suspend payment or delivery obligations after the adoption of decision to open resolution proceedings

Article 106

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may reach a decision on suspension of any payment or delivery 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 48 of this Act.

(2) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall in the dispositive part of the decision referred to in paragraph (1) of this Article and in its publication pursuant Article 48 of this Act specify the day, the hour and the minute when the suspension shall enter 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 46 or 47 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 becomes 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 payment or delivery obligations towards:

1) systems and operators of systems referred to in regulations governing settlement finality;

2) central counterparties authorised in the European Union pursuant to Article 14 of Regulation (EU) No 648/2012 and third-country central counterparties recognised by European Securities and Markets Authority pursuant to Article 25 of Regulation (EU) No 648/2012; and

3) central banks.

(8) When reaching the decision referred to in paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall have regard to the impact the exercise of that power might have on the orderly functioning of financial markets.

(9) When deciding on obligations to which the decision referred in paragraph (1) of this Article shall apply, the Croatian National Bank shall take into account the circumstances of each case and

carefully assess the appropriateness of the application of the decision on suspension to eligible deposits, especially to covered deposits held by natural persons and micro, small and medium-sized enterprises.

(10) In the case of application of the decision referred to in paragraph (1) of this Article on eligible deposits, the Croatian National Bank shall exempt in relation to each depositor an appropriate daily amount from the amount of its covered deposits, corresponding to one average monthly net salary paid per employee in legal persons in the Republic of Croatia as published by the Croatian Bureau of Statistics.

Power to suspend the enforcement of execution

Article 107

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may reach a decision on suspension of the enforcement of execution over the assets of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act under resolution by creditors of that institution and immediately publish it in the manner referred to in Article 48 of this Act.

(2) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall in the dispositive part of the decision referred to in paragraph (1) of this Article and in its publication referred to in Article 48 of this Act specify the day, the hour and the minute when the suspension referred to in paragraph (1) of this Article shall enter 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 46 or 47 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 enforcement over the assets of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act under resolution which are given to them as collateral, which enforcement is carried out by:

- 1) systems or operators of systems referred to in the regulation governing settlement finality;
- 2) central counterparties authorised in the European Union pursuant to Article 14 of Regulation (EU) No 648/2012 or third-country central counterparties recognised by European Securities and Markets Authority pursuant to Article 25 of Regulation (EU) No 648/2012; and
- 3) central banks in relation to assets for which the institution under resolution guarantees or secures it by amount of compensation or financial collateral.

(6) For the purpose of Article 128 of this Act, the Croatian National Bank or the Croatian Financial Services Supervisory Agency 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 equivalent 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 Croatian National Bank or the Croatian Financial Services Supervisory Agency shall have regard to the impact the exercise of that power might have on the orderly functioning of financial markets.

Power to temporarily suspend cancellation rights

Article 108

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may reach a decision on the temporary suspension of the right to cancel a contractual relationship with the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act under resolution provided that payment and delivery obligations or the acquisition of financial collateral instrument continue to be performed and immediately publish it in the manner referred to in Article 48 of this Act.

(2) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall in the dispositive part of the decision referred to in paragraph (1) of this Article as well as in the publication referred to in Article 48 of this Act specify the day, the hour and the minute when the suspension referred to in paragraph (1) of this Article shall enter 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 46 or 47 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 or entity referred to in Article 3, item (2), (3) or (4) of this Act under resolution where:

1) the contractual obligations are guaranteed or otherwise secured by the institution under resolution;

2) the right to cancel the contract is based solely on the insolvency or financial condition of the institution under resolution; and

3) the power of transfer is or may be exercised over the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act under resolution, either so that all the assets and liabilities of the subsidiary relating to that contract are or may be transferred to the recipient who assumed them or may assume them or so that the Croatian National Bank or the Croatian Financial Services Supervisory Agency ensures in any other way adequate protection of that obligation.

(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 paragraph (1) and (5) of this Article the decision on suspension shall not apply to:

1) systems and operators of systems referred to in the regulation governing settlement finality;

2) central counterparties authorised in the European Union pursuant to Article 14 of Regulation (EU) No 648/2012 and third-country central counterparties recognised by European Securities and Markets Authority pursuant to Article 25 of Regulation (EU) No 648/2012; and

3) central banks.

(8) By way of derogation from paragraphs (1) to (7) of this Article, a party may cancel 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 Croatian National Bank or the Croatian Financial Services Supervisory Agency 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 79, paragraph (1), item (1) of this Act.

(9) The right to cancel 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:

1) where the rights and liabilities covered by the contract have been transferred to the recipient, a counterparty may cancel the contract only on the occurrence of the conditions for cancellation of the contract in respect of the recipient;

2) where the rights and liabilities covered by the contract remain with the institution under resolution and the Croatian National Bank or Croatian Financial Services Supervisory Agency has not applied the bail-in tool in accordance with Article 79, paragraph (1), item (1) of this Act, a counterparty may cancel the contract if after the expiry of the suspension period the conditions for the cancellation of the contract arise.

(10) When reaching the decision referred to in paragraph (1) and (5) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency 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, a trade repository shall make the necessary information available to it to enable it to fulfil its respective responsibilities in accordance with Article 81 of Regulation (EU) No 648/2012.

Contractual recognition of suspension and restriction powers in financial contracts governed by third-country law

Article 109

(1) The institution or entity referred to in Article 3, item (2), (3) or (4) of this Act shall ensure that financial contracts governed by third-country law contain provisions under which the rights and obligations arising from that contractual relationship may be subject to suspension or restriction in accordance with Articles 105 to 108 of this Act and that they are subject to provisions of Article 104 of this Act.

(2) The provision of paragraph (1) of this Article shall also apply to a financial contract pursuant to which it is possible to exercise the right of cancellation or enforcement, which is the right to which Articles 104 to 108 of this Act could apply if the law applicable to the financial contract is the law of the Republic of Croatia.

(3) Irrespective of the fact whether the financial contract contain the provision in accordance with paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may apply the powers referred to in Articles 104 to 108 of this Act to that financial contract.

Exercise of the resolution powers

Article 110

(1) When implementing a resolution action, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may exercise control over the institution under resolution, so as to:

- 1) operate the institution under resolution with all the powers of its shareholders and management body;
- 2) manage and dispose of the assets and property of the institution under resolution.

(2) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall exercise the 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 Croatian National Bank or the Croatian Financial Services Supervisory Agency shall take into account whether it is appropriate to exercise this power, having regard to the objectives and general principles of resolution, the specific circumstances of the institution under resolution and the need of the effective resolution of a cross-border group.

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 111

When reaching decisions or taking measures in accordance with this Act which may have an impact in one or more other Member States, the Croatian National Bank or the Croatian Financial Services Supervisory Agency and the Ministry of Finance shall have regard to the following principles:

- 1) the efficacy of decision-making and of keeping resolution costs as low as possible when taking resolution action;
- 2) that decisions are reached and measures taken in a timely manner, having regard to due urgency;

3) mutual cooperation in order to ensure that decisions are reached and measures are taken in a coordinated and efficient manner;

4) clear definition of the roles and responsibilities of relevant authorities within each Member State;

5) that due consideration is given to the interests of individual Member States where EU parent undertakings have their registered office, in particular the impact of any decision or measure or inaction on the financial stability, fiscal resources, resolution fund, deposit guarantee scheme or investor compensation scheme of those Member States;

6) that due consideration is given to the interests of each Member State where a subsidiary has a registered office, in particular the impact of any decision or action or inaction on the financial stability, fiscal resources, resolution fund, deposit guarantee scheme or investor compensation scheme of those Member States;

7) 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 measure or inaction on the financial stability of those Member States;

8) that due consideration is given to the objectives of aligning the interests of the Member States involved and of avoiding unfair assumptions or unfair protection of interests of particular Member States, including avoiding unfair burden allocation across Member States;

9) that any obligation under this Act to consult an authority before any decision or measure is taken implies at least that such an obligation to consult that authority on those elements of the proposed decision or measure which have or which are likely to have:

a) an effect on the EU parent undertaking, the subsidiary or the branch; and

b) an impact on the stability of the Member State where the EU parent undertaking, the subsidiary or the branch has its registered office;

j) that resolution authorities, when taking a resolution action, take into account and follow the group resolution plans, unless the resolution authorities assess, taking into account the circumstances of the case, that the resolution objectives will be achieved more effectively by taking measures which are not provided for in the resolution plans;

11) transparency whenever a proposed decision or measure 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

12) acceptance that the likelihood of achieving a result that reduces the overall cost of resolution is greater through compliance and cooperation.

Resolution college when the consolidating supervisor is located in the Republic of Croatia

Article 112

(1) Where consolidating supervisor is located in the Republic of Croatia, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall, complying with the provisions on the European resolution college referred to in Article 114 of this Act, establish a resolution college to carry out the obligations referred to in Articles 16, 18, 23, 36, and 47 of this Act, and, where appropriate, to ensure cooperation and coordination with third-country resolution authorities.

(2) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall coordinate the flow of all relevant information between resolution authorities. In particular, it shall provide the resolution authorities in 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 paragraph (3), items (2) to (9) of this Article.

(3) The members of the college referred to in paragraph (1) of this Article in the resolution college shall:

- 1) exchange information relevant for drawing up group resolution plans, for the application of preparatory and preventive powers to groups and for group resolution;
- 2) assess the resolvability of a group in accordance with Article 16 of this Act;
- 3) adopt group resolution plans in accordance with Article 18 of this Act;
- 4) decide on exercising powers to remove impediments to the resolvability of a group in accordance with Article 23 of this Act;
- 5) decide on the need to establish a group resolution scheme as provided for in Article 47 of this Act;
- 6) decide on the group resolution scheme proposed in accordance with Article 47 of this Act;
- 7) coordinate plans for communicating with the media and the public in relation to group resolution strategies and schemes;
- 8) coordinate the use of a financial arrangement;
- 9) determine the minimum requirement for a resolution entity on a consolidated basis at resolution group level and at the level of individual group members of a resolution group that themselves are not entities on an individual basis in accordance with Article 36 of this Act.

10) discuss any issues relating to cross-border group resolution.

(4) The members of the resolution college referred to in paragraph (1) of this Article shall be:

- 1) the Croatian National Bank or the Croatian Financial Services Supervisory Agency;
- 2) the Croatian Deposit Insurance Agency
- 3) the Ministry of Finance;
- 4) the resolution authorities of each Member State in which a subsidiary covered by consolidated supervision has its registered office;
- 5) 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 registered office;
- 6) the resolution authorities of Member States in which significant branches of group members are located;
- 7) the consolidating supervisor;
- 8) the competent authorities of the Member States where the resolution authority is a member of the resolution college;
- 9) 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;
- 10) 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;
- 11) 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;
- 12) the European Banking Authority in the manner prescribed by paragraph (5) of this Article.

(5) Where a member of the group having its registered 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 121 of this Act, at its request, allow the third-country resolution authority to participate in the resolution college as an observer.

(6) 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.

(7) The Croatian National Bank shall, with a view to ensuring the efficient operation of the resolution college, cooperate with the Single Resolution Board that may participate in the resolution college as an observer.

(8) 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:

1) establish written arrangements and procedures for the functioning of the resolution college, after consulting the other members of the resolution college;

2) coordinate all activities of the resolution college;

3) convene and chair the meetings of the resolution college;

4) 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;

5) decide which authorities referred to in paragraphs (3) and (4) of this Article shall attend the meetings or participate in particular activities of the resolution college, 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;

6) keep all of the members of the college informed, in a timely manner, of the decisions and conclusions of those meetings.

(9) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall closely cooperate with the authorities referred to in paragraph (4) of this Article.

(10) By way of derogation from paragraph (8), item (5) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall always invite the resolution authority of other Member States to the meetings of the resolution college whenever a joint decision or issues relating to the member of the group having its registered office in their Member State are to be discussed.

(11) By way of derogation from paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency 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, which comply with all the conditions and procedures, including those regulating membership and participation in resolution colleges established in this Article and confidentiality requirements in accordance with Article 121 of this Act. In that case, all references to resolution colleges in this Act shall be understood as reference to those groups or colleges.

Resolution college when the consolidating supervisor is not located in the Republic of Croatia

Article 113

(1) Where the consolidating supervisor is not located in the Republic of Croatia and the Single Resolution Board is not directly responsible for a member of the group having its registered office in the Republic of Croatia, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall, together with the Ministry of Finance, the Croatian Deposit Insurance Agency, the competent authority and other members of the resolution college, participate in the work of the resolution college that was established by the resolution authority of another Member State which is not a participating Member State in order to take activities that correspond to activities referred to in Article 112, paragraph (3) of this Act.

(2) For the purpose of paragraph (1) of this Article, where the Single Resolution Board is not a member of the resolution college and the subsidiary is an entity subject to Regulation (EU) No 806/2014, the Croatian National Bank shall submit an application to the group-level resolution authority for the participation of the Single Resolution Board in the resolution college as an observer.

(3) During the participation in the work of the resolution college referred to in paragraph (1) of this Article, the Croatian National Bank shall cooperate with the Single Resolution Board in accordance with Regulation (EU) No 806/2014.

(4) In the case of resolution colleges established by the Single Resolution Board as the group-level resolution authority or when the Single Resolution Board is the member of the resolution college and the subsidiary is an entity for which the Single Resolution Board is directly responsible, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may participate as an observer.

European resolution colleges

Article 114

(1) Where a third-country institution or third-country parent undertaking has subsidiaries with registered offices in the Republic of Croatia and in one or more other Member States, or an EU parent undertaking having its registered office in the Republic of Croatia and one or more other Member States that are regarded as significant in the Republic of Croatia and at least in one more Member State, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall establish a European resolution college with resolution authorities of other Member States where those subsidiaries or parent undertakings or those significant branches have their registered office.

(2) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall chair over the European resolution college referred to in paragraph (1) of this Article if all subsidiaries of a third-country institution or a third-country parent undertaking are managed by an EU parent undertaking having its registered office in the Republic of Croatia.

(3) Where an EU parent undertaking having its registered office in the Republic of Croatia does not manage all subsidiaries of a third-country institution or a third-country parent undertaking, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall chair the European resolution college referred to in paragraph (1) of this Article if the EU parent undertaking having its registered office in the Republic of Croatia or the subsidiary with a registered office in the Republic of Croatia has the highest amount of total on-balance sheet assets.

(4) The European resolution college shall be established for the purpose of executing activities and tasks referred to in Article 112, paragraph (3) of this Act in relation to entities referred to in paragraph (1) of this Article and, where relevant, to their subsidiaries.

(5) The activities and tasks referred to in paragraph (4) of this Article shall include the determining of the minimum requirement in accordance with Article 36 of this Act, whereby the members of the European resolution college shall take into account, if any, the global resolution strategy adopted by third-country authorities.

(6) Where, in accordance with the global resolution strategy, EU subsidiaries or EU parent undertakings and their subsidiary institutions are not resolution entities and the members of the European resolution college agree with that approach, subsidiaries with the registered office in the Republic of Croatia or, on a consolidated basis, the EU parent undertaking having its registered office in the Republic of Croatia shall comply with the requirement referred to in Article 35, paragraph (3) or (4) of this Act by issuing instruments referred to in Article 31, paragraphs (2) and (3) to their ultimate parent undertaking with the registered office in a third country, or to the subsidiaries of that ultimate parent undertaking with the registered office in the same third country or to other entities under the conditions set out in Article 31, paragraph (2), item (1) and paragraph (3), item (2) of this Act.

(7) By way of derogation from paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency 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 confidentiality requirements in accordance with Articles 115 and 121 of this Act. In such cases, all references to European resolution colleges in this Act shall be understood as reference to those groups or colleges.

(8) With the exception of the provisions of this Article, the provisions of Article 112 or 113 of this Act shall apply *mutatis mutandis* to the work of the European resolution colleges.

Duty to protect the confidentiality of information

Article 115

(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:

1) the employees of the Croatian National Bank or the Croatian Financial Services Supervisory Agency;

2) the employees of the competent authority;

3) the employees of the Ministry of Finance;

4) the members of the resolution administration;

5) the potential acquirers of instruments of ownership, assets, rights and liabilities of the institution under resolution that, during preparatory actions for the application of the sale of business tool, received confidential information from the resolution or competent authorities regardless of whether the transfer was finalised or not;

6) the employees of audit firms, legal and professional advisors, valuers and other experts that received confidential information from the resolution or competent authorities, competent ministries or potential acquirers referred to in item (5) of this paragraph;

7) the employees the Croatian Deposit Insurance Agency;

8) the employees of the Central Depository and Clearing Company;

9) the employees of the central bank and other authorities involved in the process of resolution planning and implementation in accordance with this Act;

10) the employees of the bridge institutions or the asset management vehicle

11) any other persons who provide or have provided services directly or indirectly, permanently or occasionally to persons referred to in items (1) to (10) of this paragraph; and

12) members of the management board and senior management referred to in items (1) to (10) 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 the appointment or employment of persons 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 (1), (2), (3), (7), (8) and (9) of this Article and the bridge institution and the asset management vehicle shall adopt and implement internal rules to secure the confidentiality of information referred to in paragraph (1) of this Article.

(4) Without prejudice to the general rules on professional secrecy, the persons referred to in paragraph (1) of this Article shall be prohibited from disclosing confidential information learned during the course of their professional activities or where received from a resolution authority or competent authority in relation to the execution of their powers in accordance with this Act to any person or authority, unless they are disclosed for the purpose of execution of duties in accordance with this Act or the information 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 they are disclosed with the express prior consent of the resolution authority or competent 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, whereby the assessment procedure shall include an assessment of each individual effect of disclosure

of the contents and details of a resolution plan 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:

- 1) the persons referred to in paragraph (1) of this Article among each other within each authority;
- 2) the employees of the Croatian National Bank or the Croatian Financial Services Supervisory Agency and among each other and with the employees of resolution and competent authorities of other Member States, the Single Resolution Board, the competent ministries, central banks, deposit insurance schemes, court and other authorities competent for carrying out normal insolvency proceedings, the European Banking Authority, Council of the European Union and the European Commission, that is, in accordance with Article 121 of this Act with the relevant third-country authorities that carry out the same kind of duties as resolution authorities and, where confidentiality requirements are met, with potential acquirers.

(7) The provisions of this Article shall not apply to 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.

Agreements with third countries

Article 116

(1) The Republic of Croatia may enter into a bilateral agreement 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:

- 1) where a third-country parent undertaking has a subsidiary institution or a significant branch in the Republic of Croatia;
- 2) where a parent undertaking having its registered office in the Republic of Croatia has a subsidiary institution in a third country;
- 3) where an institution having its registered 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 cooperation arrangements between the Croatian National Bank or the Croatian Financial Supervisory Agency and the relevant third-country authorities for the purpose of carrying out some or all of the tasks and exercising some or all of the powers referred to in Article 120 of this Act, whereby such an 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 pursuant to 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 117

(1) This Article shall apply in respect of third-country resolution proceedings, unless an international agreement as referred to in Article 116, paragraph (1) or (3) of this Act with the relevant third-country enters into force in which case the Article shall apply until it enters into force or it shall also apply in respect of third-country resolution proceedings following the entry into force of that international agreement where the recognition and enforcement of resolution proceedings of that third-country is not covered by this agreement.

(2) Where an European resolution college is established in accordance with Article 114 of this Act in which the Croatian National Bank or the Croatian Financial Supervisory Agency are participants, a joint decision shall be reached on whether to recognise, except in cases provided for in Article 118 of this Act, third-country resolution proceedings relating to a third-country institution or a parent undertaking that:

- 1) has EU subsidiaries or significant EU branches in two or more Member States; or
- 2) 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 Croatian National Bank or the Croatian Financial Supervisory Agency shall enable the implementation of the recognised third-country resolution proceedings in accordance with the law of the Republic of Croatia.

(4) Where the joint decision on the recognition of the third-country resolution proceedings is not reached or an European resolution college is not established, 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 118 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 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 Croatian National Bank or the Croatian Financial Services Supervisory Agency shall be empowered to:

- 1) exercise the resolution powers in relation to:
 - a) 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;
 - b) rights or liabilities of a third-country institution that are booked in the balance sheet of the EU 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 fulfilled in the Republic of Croatia;
- 2) perfect or require to perfect the transfer of shares or other instruments of ownership in an EU subsidiary in the Republic of Croatia;
- 3) exercise the powers referred to in Article 106, 107 or 108 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
- 4) revoke any contractual right to cancellation, fulfilment or acceleration of a contract, 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 a resolution action taken in respect of the third-country institution or third-country parent undertaking of entities referred to in paragraph (2) of this Article or other members of the group, whether by the third-country resolution authority or otherwise pursuant to legal or regulatory requirements connected to resolution scheme in that country, provided that the substantive obligations under the contract, including payment and delivery obligations and the acquisition of financial collateral instrument, continue to be performed.

(7) Where the relevant third-country authority determines that an institution having its registered 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 actions and exercise any resolution powers referred to in this Act, whereby Article 104 of this Act applies as well.

(8) The recognition and enforcement of third-country resolution proceedings shall be without prejudice to any normal insolvency proceedings in accordance with the regulations governing insolvency proceedings.

(9) When the Single Resolution Board issues a recommendation in accordance with Article 33 of Regulation (EU) No 806/2014, the Croatian National Bank shall act in accordance with the recommendation or shall explain to the Single Resolution Board why it has not acted in compliance with the recommendation.

Right to refuse recognition or enforcement of third-country resolution proceedings

Article 118

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 114 of this Act, refuse to recognise or to enforce third-country resolution proceedings in accordance with a joint decision referred to in Article 117, paragraph (2) of this Act if it considers:

1) 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;

2) that independent resolution action in accordance with Article 119 of this Act in relation to an EU branch is necessary to achieve one or more of the resolution objectives;

3) that creditors, including in particular depositors located or that are being paid 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;

4) that recognition or enforcement of the third-country resolution proceedings would have material fiscal implications for the Republic of Croatia; or

5) that the effects of such recognition or enforcement would be contrary to the law of the Republic of Croatia.

Resolution of an EU branch

Article 119

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency shall have all the resolution powers referred to in this Act in relation to an EU branch that is not subject to a third-country resolution proceedings or that is subject to third-country proceedings but there are grounds for refusal of recognition or enforcement of third-country resolution proceedings referred to in Article 118 of this Act, whereby in connection to the exercise of such powers Article 104 of this Act applies as well.

(2) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may exercise the powers referred to in paragraph (1) of this Article where it considers that resolution action is necessary to protect the public interest and where one of the following conditions is met:

1) the EU branch no longer meets or is likely not to meet the conditions prescribed by the law of the Republic of Croatia for its authorisation and operation within the Republic of Croatia and there is no prospect that any measure of the private sector, supervisors or relevant third-country would restore compliance of the branch with those conditions or prevent its failure in a reasonable timeframe;

2) the third-country institution is, in the opinion of 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 Croatian National Bank or the Croatian Financial Services Supervisory Agency is confident that no third-country resolution proceedings or normal insolvency proceedings have been or will be initiated in relation to that third-country institution in a reasonable timeframe;

3) the relevant third-country authority has opened resolution proceedings in relation to the third-country institution, or has notified the Croatian National Bank or the Croatian Financial Services Supervisory Agency of its intention to open such a proceeding.

(3) When the Croatian National Bank or the Croatian Financial Services Supervisory Agency takes an independent measure 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:

- 1) the principles referred to in Article 7 of this Act;
- 2) the requirements relating to the application of the resolution tools referred to in this Act.

Cooperation with the competent authorities of third countries

Article 120

(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 116, paragraph (1) of this Act, as well as following the entry into force of that international agreement to the extent that the subject matter of this Article is not covered by that agreement.

(2) The Croatian National Bank or the Croatian Financial Services Supervisory Agency or the competent authority 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 the competent authority with third countries in accordance with Article 33 of Regulation (EU) No 1093/2010.

(4) The cooperation agreements concluded between the Croatian National Bank or the Croatian Financial Services Supervisory Agency and authorities of third countries in accordance with the provisions of this Article may include provisions on:

- 1) the exchange of information necessary for the preparation and maintenance of resolution plans;
- 2) the consultation and cooperation in the development of resolution plans, including principles for the enforcement of the recognised third-country resolution proceedings in accordance with Article 117 of this Act and the exercise of powers referred to in Article 119 of this Act and similar powers in accordance with the law of the relevant third country;
- 3) 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;
- 4) 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;
- 5) the coordination of public communication in the case of joint resolution actions;
- 6) procedures and arrangements for the exchange of information and cooperation in accordance with items (1) to (5) of this paragraph, including, where necessary, 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 121

(1) The Croatian National Bank, the Croatian Financial Services Supervisory Agency, the competent authority and the Ministry of Finance may exchange confidential information, including recovery plans, with relevant third-country authorities only if the following conditions are met:

1) the third-country authorities are subject to requirements and standards of professional secrecy considered to be at least equivalent, in the opinion of all the authorities concerned, to those specified in Article 115 of this Act, whereby the exchange of information relating to personal data shall be exercised in accordance with the provisions of national regulations governing the protection of personal data and in accordance with the applicable EU regulations relating to the protection of personal data;

2) the information is necessary for the performance of their resolution tasks by the relevant authorities of third countries whose national legislation is comparable to the provisions of this Act and is, in accordance with the provisions of item (1) of this paragraph, not used for other purposes.

(2) The Croatian National Bank, the Croatian Financial Services Supervisory Agency, the competent authority and the Ministry of Finance may disclose confidential information received from the relevant authorities of other Member States to the relevant third-country authorities only if the following conditions are met:

1) the relevant authority of the other Member State where the information originated agrees to that disclosure;

2) the information is disclosed only for the purposes permitted by the originating authority.

(3) Within the meaning of the provisions 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 122

(1) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency, by applying one or more resolution tools, transfers only part of the rights, assets and liabilities of the institution under resolution, it shall 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 normal insolvency proceedings have been carried out against the institution under resolution at the time when the decision referred to in Article 46 or Article 47 of this Act was adopted.

(2) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency applies the bail-in tool, it shall 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 normal insolvency proceedings have been carried out against the institution under resolution at the time when the decision referred to in Article 46 or Article 47 of this Act was adopted.

Valuation of the effects of difference in treatment

Article 123

(1) After carrying out the transfer of a part of the rights, assets and liabilities of the institution under resolution or after applying the bail-in tool, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall without delay, for the purpose of applying Article 122 of this Act and other provisions of this Act, ensure that a valuation of the effects of the difference in treatment is carried out by an independent valuer, which shall be distinct from the *ex-post* valuation referred to in Article 51 of this Act, unless the valuation has already been ensured by the Single Resolution Board in accordance with Article 20, paragraph (16) of Regulation (EU) No 806/2014 and which shall determine the following:

1) the effect that normal insolvency proceedings would have had on shareholders, creditors or on the relevant deposit guarantee scheme if they had been initiated and carried out at the time when the decision referred to in Article 46 or 47 of this Act was adopted;

2) the effect that the resolution of the institution would have on shareholders and creditors; and

3) if there is any difference between the effects referred to in items (1) and (2) of this paragraph.

(2) The independent valuer shall carry out the valuation of the effects of difference in treatment based on the following assumptions:

1) that normal insolvency proceedings had been initiated and carried out against the institution under resolution at the time when the decision referred to in Article 46 or Article 47 of this Act was adopted;

2) that resolution action had not been effected; and

3) no extraordinary public financial support has been provided to the institution under resolution.

Safeguards for shareholders and creditors

Article 124

Where the valuation referred to in Article 123 of this Act determines that any shareholder or creditor referred to in Article 122 of this Act or the deposit guarantee scheme in accordance with Article 139, paragraph (1) of this Act has incurred greater losses than it would have incurred if normal insolvency proceedings had been carried out against the institution under resolution at the time when the resolution decision was adopted, the shareholder, the creditor or the deposit guarantee scheme shall be entitled to the payment of the difference from the Single Resolution Fund in accordance with the provisions of Regulation (EU) No 806/2014 or the resolution fund when the said right is not exercised in accordance with Regulation (EU) No 806/2014.

Safeguards for counterparties in partial transfers

Article 125

(1) Where the Croatian National Bank or the Croatian Financial Services Supervisory Agency 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 97, paragraph (1), item (6) of this Act the following arrangements and counterparties to the arrangements shall be protected:

1) security arrangements under which a person has by way of warranty 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;

2) 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;

3) 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;

4) netting agreements;

5) covered bonds;

6) 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, trustee 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 126 to 129 of this Act and is subject to the restrictions referred to in Article 104 and Articles 106 to 108 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:

1) the legal arrangements are created by contracts, through transfer of title as collateral or by other means, or arise by operation of law;

2) the legal arrangements are in whole or in part subject to the law of another Member State or of a third-country.

Protection of financial collateral arrangements, set-off and netting agreements

Article 126

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency may not effect a partial transfer of rights and liabilities that are protected under a financial collateral agreement with the transfer of ownership, a set-off agreement or a netting agreement nor, by applying ancillary resolution powers, modify or cancel rights and liabilities that are protected under a title transfer financial collateral agreement, a set-off agreement or a netting agreement concluded between the institution under resolution and another person.

(2) Within the meaning of the application of paragraph (1) of this Article, it shall be deemed that rights and obligations are protected under such an agreement or arrangement where their parties are entitled to set-off or net those rights and liabilities.

(3) By way of derogation from paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may in order to ensure availability of the covered deposits:

1) 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

2) transfer, modify or liquidate such assets, rights or liabilities without transferring the covered deposits.

Protection for security arrangements

Article 127

(1) For the purpose of protection for liabilities secured under security arrangements, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may not:

1) transfer assets against which the liability is secured unless the liability and benefit of the security are also transferred;

2) transfer secured liabilities unless the benefit of the security is also transferred;

3) transfer the benefit of the security unless the secured liability is also transferred;

4) 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 Croatian National Bank or the Croatian Financial Services Supervisory Agency may in order to ensure availability of the covered deposits:

1) 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

2) transfer, modify or liquidate such assets, rights or liabilities without transferring the covered deposits.

Protection for structured finance arrangements and covered bonds

Article 128

(1) In order to ensure the protection for structured finance arrangements, including arrangements referred to in Article 125, paragraph (1), items (5) and (6) of this Act, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may not effect a partial transfer of rights and liabilities nor, by applying ancillary resolution powers, modify or cancel rights and liabilities that are an integral part of the structured finance arrangement, including arrangements referred to in Article 125, paragraph (1), items (5) and (6) of this Act concluded between the institution under resolution and another person.

(2) By way of derogation from paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may in order to ensure availability of the covered deposits:

1) 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

2) transfer, modify or liquidate such assets, rights or liabilities without transferring the covered deposits.

Partial transfers: protection of trading, clearing and settlement systems

Article 129

(1) The Croatian National Bank or the Croatian Financial Services Supervisory Agency 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 paragraph (1) of this Article shall not revoke, modify or negate the enforceability of transfer and calculation orders, the use of funds, securities or credit facilities or protection of collateral security in accordance with the regulation governing settlement finality in payment and securities settlement systems.

XIII RESOLUTION FUND

Resolution fund management

Article 130

(1) All funds raised in accordance with the provisions of this Act shall constitute the funds of the resolution fund.

(2) The resolution fund shall be managed by the Croatian Deposit Insurance Agency in accordance with the provisions of this Act.

(3) The funds of the resolution fund shall be held at the account with the Croatian National Bank.

(4) The Croatian Deposit Insurance Agency shall maintain the assets and liabilities of the resolution fund separately from the assets and liabilities of other activities of the Croatian Deposit Insurance Agency.

Resolution fund target level

Article 131

(1) Assets of the resolution fund shall, on 31 December 2024 at the latest, 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) For the purposes of the calculation of the targeted resolution fund level referred to in paragraph (1) of this Article, the contributions transferred to the Single Resolution Fund in accordance with Article 132, paragraph (4) of this Act and transferred funds of the resolution fund to the Single Resolution Fund in accordance with the provisions of the regulation confirming the Agreement on the transfer and mutualisation of contributions to the Single Resolution Fund shall be calculated towards the resolution fund target level referred to in paragraph (1) of this Article.

(3) 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 *ex-ante* contributions raised in accordance with Article 133 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.

(4) By way of derogation from paragraph (3) 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.

(5) For the purposes of paragraphs (3) and (4) of this Article, the Croatian Deposit Insurance Agency shall take into account the phase of the business cycle and the impact procyclical contributions may have when setting annual contributions.

(6) During the period referred to in paragraph (1) of this Article the *ex-ante* contributions to the resolution fund raised in accordance with Article 133 of this Act shall be spread out in time as evenly as possible until the target level is reached.

(7) By way of derogation from paragraph (6) of this Article, the Croatian Deposit Insurance Agency 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.

(8) By way of derogation from paragraph (1) of this Article, the Croatian Deposit Insurance Agency 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.

Raising of funds by the resolution fund

Article 132

(1) For the purpose of ensuring sufficient funds to achieve the objectives referred to in Article 6 of this Act, the Croatian Deposit Insurance Agency shall, on behalf of the resolution fund:

1) raise *ex-ante* contributions in accordance with Article 133 of this Act for the purpose of reaching the target level referred to in Article 131 of this Act;

2) raise *ex-post* contributions in accordance with Article 134 of this Act where the contributions specified in item (3) of this paragraph are not sufficient; and

3) contract borrowings and other alternative financing sources in accordance with Article 135 of this Act.

(2) For the purpose of meeting the requirements referred to in Article 67 of Regulation (EU) No 806/2014, the Croatian Deposit Insurance Agency shall, on behalf of the resolution fund:

1) raise *ex-ante* contributions in accordance with Article 70 Regulation (EU) No 806/2014;

2) raise *ex-post* contributions in accordance with Article 71 of Regulation (EU) No 806/2014;

(3) The funds raised in accordance with this Article shall constitute the assets of the resolution fund.

(4) The funds raised in accordance with paragraph (2) of this Article shall be transferred to the Single Resolution Fund in accordance with the provisions of the Agreement on the transfer and mutualisation of contributions to the Single Resolution Fund and Regulation (EU) No 806/2014.

Ex-ante contribution

Article 133

(1) The investment firms not subject to Regulation (EU) No 806/2014 and EU branches shall pay the *ex-ante* contribution once a year as calculated in accordance with paragraph (4) of this Article.

(2) The *ex-ante* contribution of an individual entity referred to in paragraph (1) of this Article shall be *pro rata* to the amount of its liabilities without own funds, reduced by covered deposits with respect to the aggregate liabilities without own funds, reduced by covered deposits of all the institutions and EU branches in the Republic of Croatia.

(3) The *ex-ante* contributions shall be adjusted in proportion to the risk profile of institutions in accordance with the criteria for establishing riskiness of an institution and an EU branch.

(4) The investment firms not subject to Regulation (EU) No 806/2014 and EU branches shall be obligated to report to the Croatian Deposit Insurance Agency in accordance with the provisions of Commission Delegated Regulation (EU) No 2015/63, which shall, based on the data collected this way, calculate the *ex-ante* contribution of these entities and shall issue and deliver them an invoice.

(5) The investment firms not subject to Regulation (EU) No 806/2014 and EU branches shall pay the contribution referred to in paragraph (1) of this Article within 15 days of delivery of the invoice referred to in paragraph (4) of this Article.

(6) The credit institutions and investment firms subject to Regulation (EU) No 806/2014 with a registered office in the Republic of Croatia shall be obligated to pay the contribution referred to in Article 132, paragraph (2), item (1) of this Act pursuant to the invoice delivered to them by the Croatian Deposit Insurance Agency within 15 days of delivery of the invoice.

(7) The Croatian Deposit Insurance Agency may grant an individual investment firm not subject to Regulation (EU) No 806/2014 or an EU branch to meet the obligation of paying the *ex-ante* contribution through irrevocable payment obligations of the contribution which are fully secured by collateral of low risk assets unencumbered by any third party rights pledged or transferred to the ownership of the Croatian Deposit Insurance Agency for the purposes specified in Article 132, paragraphs (1) and (2) of this Act, provided that the aggregate share of such irrevocable payment obligations 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 be used for the purposes specified in Article 136 of this Act.

(9) The amounts received from the institution under resolution or the bridge institution in accordance with Titles IX.1, IX.2, IX.3 and IX.4 of this Act, as well as the interest and other turnover from investments and any other turnover related to that shall be the turnover of the resolution fund.

Ex-post contributions

Article 134

(1) When the available funds of the resolution fund are not sufficient to absorb the losses, costs or other expenses incurred through the use of the resolution fund, the Croatian Deposit Insurance Agency is empowered to raise *ex-post* contributions from institutions and EU branches, in accordance with Article 133 of this Act.

(2) *Ex-post* contributions shall not exceed three times the annual amount of *ex-ante* contributions determined in accordance with Article 133 of this Act.

(3) Institutions and EU branches shall be obligated to pay in the contributions referred to in paragraph (1) of this Article within 15 days of delivery of the payment order.

(4) The Croatian Deposit Insurance Agency may, in part or in whole, defer the obligation of institutions or EU branches to pay the *ex-post* contribution where this would jeopardise liquidity or solvency of the entity concerned.

(5) The Croatian Deposit Insurance Agency shall adopt the decision on deferral, referred to in paragraph (4) of this Article, pursuant to the request of an institution or an EU branch.

(6) The deferral referred to in paragraph (4) of this Article shall not be granted for a period longer than 180 days but may exceptionally be renewed for the same period at the repeated request of an institution or an EU branch.

(7) The obligation to pay the *ex-post* contribution shall fall due on the first business day following the expiry of the period for which the deferral was granted.

(8) The obligation to pay the *ex-post* contribution shall arise even before the expiry of the period referred to in paragraph (7) of this Article where such payment no longer jeopardises the liquidity or solvency of the institution or of an EU branch.

Contracting borrowings and other alternative financing sources

Article 135

A resolution fund may borrow with institutions, financial institutions or third persons when the available funds raised through *ex-ante* contributions in accordance with Article 133 of this Act are not sufficient to absorb the losses, costs and other expenses incurred through the use of the resolution fund and *ex-post* contributions referred to in Article 134 of this Act are not immediately accessible or sufficient.

Use of funds of the resolution fund

Article 136

(1) The Croatian Deposit Insurance Agency may, at the request of the Croatian National Bank or the Croatian Financial Services Supervisory Agency, in order to ensure that resolution tools are efficiently applied, use the funds of the resolution fund for the following purposes:

1) to guarantee the assets or the liabilities of the institution under resolution, its subsidiaries, bridge institution or the asset management vehicle;

2) to grant loans to the institution under resolution, its subsidiaries, the bridge institution or the asset management vehicle;

3) to purchase assets of the institution under resolution;

4) to pay in capital and ensure other necessary funds to a bridge institution or an asset management vehicle;

5) to pay damages to shareholders or creditors in accordance with Article 124 of this Act;

6) to compensate the institution under resolution the amount arising due to the exclusion of bail-inable liabilities of certain creditors from the application of the bail-in tool in accordance with Article 81, paragraphs (1), (2) and (3) and Article 82, paragraphs (1) to (6) of this Act;

7) to lend to other resolution financing arrangements in accordance with Article 137 of this Act;

8) to take any combination of measures referred to in items (1) to (7) of this paragraph;

(2) When applying the sale of business tool, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may use the funds of the resolution fund also to take measures referred to in paragraph (1) of this Article with respect to the acquirer.

(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.

(4) Where the use of the funds of the resolution fund within the meaning 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 81 and 82 shall apply.

Borrowing between the resolution fund and resolution financing arrangements of other Member States

Article 137

(1) In order to ensure the funds of the resolution fund, the Croatian Deposit Insurance Agency may request to borrow from resolution financing arrangements of other Member States in cases when:

1) the amounts raised through *ex-ante* contributions in accordance with Article 133 of this Act are not sufficient to cover the losses, costs or other expenses;

2) the *ex-post* contributions referred to in Article 134 of this Act are not immediately accessible; and

3) borrowings and other alternative financing sources provided for in Article 135 of this Act are not accessible on reasonable terms.

(2) The resolution fund may lend to other resolution financing arrangements of other Member States when the resolution financing arrangement is subject to the circumstances equivalent to the circumstances referred to in paragraph (1) of this Article.

(3) The Croatian Deposit Insurance Agency shall, without delay, subject to prior approval of the Ministry of Finance, reach a decision on the request of the resolution financing arrangements of another Member State.

(4) The resolution fund shall grant the loan under the same terms and conditions as other financing arrangements participating in the financing, unless all participating financing arrangements agree otherwise.

(5) The amount lent by the resolution fund to the resolution financing arrangement of another Member State shall be *pro rata* to the amount of covered deposits in the Republic of Croatia in relation to the amount of covered deposits of all Member States whose financing arrangements participate in the financing, whereby the rates determined in this way may vary upon agreement of all participating resolution financing arrangements.

(6) An outstanding loan granted by the resolution fund to a resolution 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 resolution financing arrangements of other Member States in the case of a group resolution

Article 138

(1) In the case of a group resolution in accordance with Article 47 of this Act, the resolution fund shall participate in the financing of the group resolution.

(2) In the case where the Croatian National Bank or the Croatian Financial Services Supervisory Agency is the group-level resolution authority, and the Single Resolution Board is not directly responsible for the group, the Croatian National Bank or the Croatian Financial Services Supervisory Agency 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 47 of this Act, which shall be adopted by a joint decision.

(3) The financing plan shall include:

1) a valuation of assets and liabilities of members of the group in the Republic of Croatia in accordance with Article 50 or 51 of this Act or a valuation of assets and liabilities of other members of the group in accordance with the provisions of national law;

2) the amount of losses sustained by each member of the group under resolution at the moment the resolution tools are exercised;

3) the amount of losses suffered by each class of shareholders and creditors of an individual group member under resolution;

4) the amount of loss that would be charged to the Deposit Insurance Fund in accordance with Article 139, paragraph (1) of this Act and other deposit guarantee schemes to which members of the group belong to;

5) the aggregate amount of the contribution to resolution by the resolution fund and other resolution financing arrangements included in the resolution of the group and the purpose and form of the financing;

6) the criteria for calculating the share of the resolution fund and other resolution financing arrangements of the Member States where the members of the group under resolution are located in aggregate amount of the contribution to resolution referred to in item (5) of this paragraph;

7) the amount of the contribution to resolution by each resolution financing arrangement of Member States in which members of the group under resolution are located and the form of financing;

8) the amount that the resolution fund in accordance with Article 136 of this Act or resolution financing arrangements of other Member States included in the resolution of the group plan to borrow from institutions, financial institutions and third persons

9) a timeframe for the use of the funds of the resolution fund and of the resolution financing arrangements of other Member States included in the resolution of the group, which should be capable of being extended where necessary.

(4) The basis for calculating the share of the resolution fund and resolution financing arrangements of other Member States included in the group resolution in the aggregate amount referred to in paragraph (3), item (5) 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 (7) of this Act, unless otherwise determined by the financing plan.

(5) Unless otherwise determined in the financing plan, when determining the criteria for calculating the contribution of each resolution financing arrangement the following shall be taken into account:

1) 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 registered office in the Member State of the individual resolution financing arrangement in relation to the amount of the group's risk-weighted assets to which they belong;

2) the share of the assets of institution and entities referred to in Article 3, item (2), (3) or (4) of this Act having their registered office in the Member State of the individual resolution financing arrangement in relation to the amount of assets of the group they belong to;

3) the share of the losses of individual group members supervised by the competent authority of the Member State in which individual resolution financing arrangements are located in relation to group losses which have led to the need for group resolution;

4) the estimated share in the group financing arrangement included in the resolution of the group, the use of which would pursuant to the financing plan directly benefit the members of the group under resolution having their registered office in the Member State of that financing arrangement.

(6) Pursuant to the adopted rules and procedures the resolution fund shall, without delay and without derogation from the provisions of paragraph (2) of this Article, pay its contribution to the financing of group resolution.

(7) In the case of group resolution and for the purpose of mutual support, the resolution fund as a group financing arrangement may contract a loan or other forms of support as laid down in Article 135 of this Act.

(8) The resolution fund may guarantee for loans contracted by group financing arrangements 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 a deposit guarantee scheme when carrying out resolution

Article 139

(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 compensates:

1) when the bail-in tool is applied the amount by which covered deposits would have been written down in order to absorb the losses in accordance with Article 83, paragraph (1), item (1) of this Act, had covered deposits been included within the scope of bail-in and been written down to the same extent as the claims of creditors with the same level of priority in accordance with the regulations governing normal insolvency proceedings;

2) when one or more resolution tools are applied, with the exception of the bail-in tool, the amount of losses that covered depositors would have suffered had they suffered loss, proportionate to the losses suffered by creditors with the same level of priority in accordance with the regulations governing normal insolvency proceedings.

(2) When carrying out resolution proceedings, the amount of compensation of the deposit guarantee scheme shall not be greater than the amount of losses in the case of normal insolvency 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 83, paragraph (1), item (2) of this Act.

(4) Where the valuation referred to in Article 123 of this Act determines that the deposit guarantee scheme's contribution was greater than the net losses it would have incurred in normal insolvency proceedings, the deposit guarantee scheme shall be entitled to the payment of the difference from the resolution fund in accordance with Article 124 of this Act.

(5) The amount up to which the deposit guarantee scheme compensates in accordance with paragraphs (1) and (2) of this Article shall be determined by applying the provisions of Article 49 or Article 50 of this Act.

(6) The deposit guarantee scheme shall pay out the amount of the compensation 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 right of compensation 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 transferred deposits 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 of the target level within six years.

(9) When carrying out resolution proceedings, the participation of the deposit guarantee scheme may not be greater than the amount equal to 50% of its target level in accordance with the regulation

governing deposit insurance nor than the losses that would have been incurred by the deposit guarantee scheme in normal insolvency proceedings.

XIV ADMINISTRATIVE EXPENDITURES OF RESOLUTION AUTHORITIES

Fees for administrative expenditures of resolution authorities

Article 140

(1) The Croatian National Bank shall be authorised to levy annual fees on institutions and EU branches to settle administrative expenditures in respect of their function of a resolution authority and expenditures for cooperating with the Single Resolution Board in accordance with the provisions of regulation (EU) No 806/2014.

(2) The amount of the annual fee referred to in paragraph (1) of this Article for an individual institution or EU branch shall not exceed 5% of its *ex-ante* contribution referred to in Article 132 of this Act.

(3) An institution or an EU branch shall settle the fee referred to in paragraph (1) of this Article in the manner governed by the subordinate legislation referred to in paragraph (4) of this Article.

(4) The Croatian National Bank shall adopt subordinate regulation to further regulate the amount of the fee referred to in paragraph (1) of this Article, the manner of its calculation and the manner of its payment.

XV LEGAL REMEDIES

Right to challenge a decision to open resolution proceedings

Article 141

(1) No appeal shall be allowed against the decision to write down or convert relevant capital instruments and eligible liabilities, the decision to open resolution proceedings or any decisions adopted by the Croatian National Bank or the Croatian Financial Services Supervisory Agency for the purpose of implementing the decision to open resolution proceedings, including decisions aimed at implementing the decisions of the Single Resolution Board, but natural or legal persons that consider their rights or legal interests are infringed upon by the adoption of such decision may bring action for judicial review before the competent administrative court within one month 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 46, 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 48, paragraph (1) of this Act.

(3) The action for judicial review 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 Croatian National Bank or the Croatian Financial Services Supervisory Agency in order to implement the decision to open resolution proceedings and the court may not decide that the action for judicial review has the effect of a deferral or issue a temporary measure.

(4) The competent administrative court shall decide on the action for judicial review referred to in paragraph (1) of this Article under an emergency procedure and at the latest within one month of receipt.

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

(6) Where it is necessary to protect the interests of third parties acting in good faith who have acquired shares, other instruments of ownership, assets, rights or liabilities of an institution under resolution pursuant to the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency by virtue of which they use resolution tools or exercise resolution powers, the decision of the competent court to annul the resolution decision or declare a resolution decision null

and void in whole or in part or any other decision concerned based on that resolution decision shall be without effect on such transfers that are based on the annulled decision or the decision declared null and void.

(7) For the purpose of paragraph (6) of this Act, the applicant shall be limited exclusively to the compensation for damage in accordance with the general rules on the compensation for damage.

Legal remedy against other decisions of the Croatian National Bank or the Croatian Financial Services Supervisory Agency

Article 142

(1) No appeal shall be allowed against the decision adopted by the Croatian National Bank or the Croatian Financial Services Supervisory Agency in the exercise of their powers, that are not decisions referred to in Article 141, paragraph (1) of this Act, but action for judicial review may be brought before the competent administrative court.

(2) The action for judicial review shall not postpone the execution of the decision referred to in paragraph (1) of this Article and the court may not decide that the action for judicial review has the effect of a deferral or issue a temporary measure.

(3) 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.

XVI PENALTY PROVISIONS

Misdemeanours by entities referred to in Article 3 of this Act

Article 143

(1) An entity referred to in Article 3 of this Act shall be fined between HRK 100,000.00 and up to 10% of total turnover:

1) where at the request of the Croatian National Bank or the Croatian Financial Services Supervisory Agency the entity referred to in Article 3 of this Act fails to submit reports and information on all issues relevant to the implementation of this Act and Regulation (EU) No 806/2014, and thereby acts contrary to Article 8, paragraph (18) of this Act;

2) where the entity referred to in Article 3 of this fails to act in accordance with subordinate legislation of the Croatian National Bank referred to in Article 8, paragraph (19) of this Act;

3) where the entity referred to in Article 3 of this fails to act in accordance with implementing regulation of the Croatian Financial Supervisory Agency referred to in Article 8, paragraph (20) of this Act;

4) where the institution fails to deliver the information necessary to draw up, revise or implement the resolution plan, and thereby acts contrary to Article 14, paragraph (1), item (1) of this Act;

5) where the institution fails to cooperate and assist the Croatian National Bank or the Croatian Financial Services Supervisory Agency in the drawing up and updating of the resolution plan, and thereby acts contrary to Article 14, paragraph (1), item (2) of this Act;

6) where the institution fails to 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 institution or any other change which could require a change to the resolution plan, especially if it could have a material effect on the effectiveness of the plan, and thereby acts contrary to Article 14, paragraph (2) of this Act;

7) where the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act, for which a resolution plan provides that resolution action be taken when the conditions for resolution are met fails to establish and on a regular basis update a list of all financial contracts to which it is a party, in accordance with the provisions of Commission Delegated Regulation (EU) No 2016/1712, and thereby acts contrary to Article 14, paragraph (3) of this Act;

8) where the entity referred to in Article 3 of this Act fails to deliver or fails to deliver within the time limit referred to in Article 22, paragraph (2) of this Act a proposal of measures to address or remove the impediments, containing time limits for their implementation;

9) where the entity referred to in Article 3 of this Act fails to deliver or fails to deliver within the time limit referred to in Article 22, paragraph (3) of this Act a proposal of measures to meet the requirements referred to in Articles 34 to 37 of this Act and the combined buffer requirements, containing time limits for their implementation;

10) where the entity referred to in Article 3 of this Act fails to revise or fails to revise within the time limit the group financial support agreements or the reasons for not entering into them, or enter into an agreement on the provision of services with a member of the group or with a third party to ensure the provision of critical functions, which measure to address or remove impediments to resolvability the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

11) where the exposure of the entity referred to in Article 3 of this Act exceeds the maximum individual or aggregate exposure, which measure to address or remove impediments to resolvability the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

12) where the entity referred to in Article 3 of this Act fails to deliver or fails to deliver within the time limit additional information relevant for resolution planning and enforcement of resolution, which measure to address or remove impediments to resolvability the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

13) where the entity referred to in Article 3 of this Act fails to divest or fails to divest specific assets within the time limit, which measure to address or remove impediments to resolvability the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

14) where the entity referred to in Article 3 of this Act fails to limit or discontinue specific existing or proposed activities, which measure to address or remove impediments to resolvability the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

15) where the entity referred to in Article 3 of this Act fails to restrict existing or prohibits the development of new business lines or sale of existing or new products, which measure to address or remove impediments to resolvability the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

16) where the entity referred to in Article 3 of this Act fails to change or fails to change within the time limit its legal or operational structures, in order to reduce complexity and ensure that critical functions may be legally and operationally separated from other functions when applying resolution tools, which measure to address or remove impediments to resolvability the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

17) where the entity referred to in Article 3 of this Act or a parent undertaking fails to establish or fails to establish within the time limit an RC financial holding company or an EU parent financial holding company, which measure to address or remove impediments to resolvability the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted

pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

18) where the institution or the entity referred to in Article 3, item (2), (3) or (4) of this Act fails to deliver or fails to deliver within the set time limit a plan to restore compliance with the requirements referred to in Articles 34 to 37 of this Act, as applicable, expressed as a percentage of the total amount of risk exposure calculated in accordance with Article 92, paragraph (3) of Regulation (EU) No 575/2013, or in accordance with the applicable requirement referred to in Article 11, paragraph (1) of Regulation (EU) 2019/2033 multiplied by 12.5 and, where applicable, with the combined buffer requirement and with the requirement referred to in Articles 34 to 37 of this Act, as applicable, expressed in percentage terms as the total exposure measure referred to in Articles 429 and 429a of Regulation (EU) No 575/2013, which measure to address or remove impediments to resolvability the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

19) where the institution or the entity referred to in Article 3, item (2), (3) or (4) of this Act fails to issue or fails issue within the time limit the eligible liabilities to meet the requirements referred to in Articles 34 to 37 of this Act, as applicable, which measure to address or remove impediments to resolvability the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

20) where the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act, for the purpose of ensuring ongoing compliance with the requirements of Articles 34 to 37 of this Act, as applicable, fails to alter the maturity of own funds instruments and eligible liabilities referred to in Article 30 and Article 31, paragraph (2) of this Act, which measure to address or remove impediments to resolvability the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

21) where the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act fails to take or fails to take within the time limit other activities to meet the requirements referred to in Articles 34 to 37 of this Act, as applicable, including renegotiating conditions in relation to eligible liabilities, additional tier 1 instrument or tier 2 instrument it has issued, with a view to ensuring the implementation of any decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency to write down or convert that liability or relevant instrument in accordance with the applicable law governing that liability or instrument, which measure to address or remove impediments to resolvability the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

22) where the mixed-activity holding company fails to set up a separate financial holding company to control the subsidiary referred to in Article 3 of this Act, where necessary in order to facilitate the resolution and to avoid the application of the resolution tools and powers referred to in Title X of this Act on the non-financial part of the group which could have an adverse effect on the non-financial part of the group, which measure to address or remove impediments to resolvability, the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

23) where the entity referred to in Article 3 of this Act fails to deliver or fails to deliver within the time limit to the Croatian National Bank or the Croatian Financial Services Supervisory Agency a plan to comply with the measure of revising group financial support agreements or the reasons for not entering into them, or enter into an agreement on the provision of services with a member of the group or with a third party to ensure the provision of critical functions, which measure to address or

remove impediments to resolvability the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

24) where the entity referred to in Article 3 of this Act fails to deliver or fails to deliver to within the time limit to the Croatian National Bank or the Croatian Financial Services Supervisory Agency a plan to comply with the imposed maximum individual or aggregate exposure, which measure to address or remove impediments to resolvability the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

25) where the entity referred to in Article 3 of this Act fails to deliver or fails to deliver within the time limit to the Croatian National Bank or the Croatian Financial Services Supervisory Agency a plan to comply with the additional information requirement relevant for resolution planning and enforcement of resolution, which measure to address or remove impediments to resolvability the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

26) where the entity referred to in Article 3 of this Act fails to deliver or fails to deliver within the time limit to the Croatian National Bank or the Croatian Financial Services Supervisory Agency a plan to comply with the measure of divesting specific assets, which measure to address or remove impediments to resolvability the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

27) where the entity referred to in Article 3 of this Act fails to deliver or fails to deliver to within the time limit to the Croatian National Bank or the Croatian Financial Services Supervisory Agency a plan to comply with the measure of limiting or discontinuing specific existing or proposed activities, which measure to address or remove impediments to resolvability the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

28) where the entity referred to in Article 3 of this Act fails to deliver or fails to deliver to within the time limit to the Croatian National Bank or the Croatian Financial Services Supervisory Agency a plan to comply with the measure of restricting existing or prohibiting the development of new business lines or the sale of existing or new products, which measure to address or remove impediments to resolvability the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

29) where the entity referred to in Article 3 of this Act fails to deliver or fails to deliver to within the time limit to the Croatian National Bank or the Croatian Financial Services Supervisory Agency a plan to comply with the measure of changing its legal or operational structure, in order to reduce complexity and ensure that critical functions may be legally and operationally separated from other functions when applying the resolution tools, which measure to address or remove impediments to resolvability the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

30) where the entity referred to in Article 3 of this Act or the parent undertaking fails to deliver or fails to deliver to within the time limit to the Croatian National Bank or the Croatian Financial Services Supervisory Agency a plan to comply with the measure of establishing an RC financial holding company or an EU parent financial holding company, which measure to address or remove impediments to resolvability, the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

31) where the institution or the entity referred to in Article 3, item (2), (3) or (4) of this Act fails to deliver or fails to deliver within the time limit to the Croatian National Bank or the Croatian Financial Services Supervisory Agency a plan to comply with the measure of delivering a plan to restore compliance with the requirements referred to in Articles 34 to 37 of this Act, as applicable, expressed as a percentage of the total amount of risk exposure calculated in accordance with Article 92, paragraph (3) of Regulation (EU) No 575/2013, or in accordance with the applicable requirement referred to in Article 11, paragraph (1) of Regulation (EU) 2019/2033 multiplied by 12.5 and, where applicable, with the combined buffer requirement and with the requirement referred to in Articles 34 to 37 of this Act, as applicable, expressed in percentage terms as the total exposure measure referred to in Articles 429 and 429a of Regulation (EU) No 575/2013, which measure to address or remove impediments to resolvability the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

32) where the institution or the entity referred to in Article 3, item (2), (3) or (4) of this Act fails to deliver or fails to deliver within the time limit to the Croatian National Bank or the Croatian Financial Services Supervisory Agency a plan to comply with the measure of issuing eligible liabilities to meet the requirements referred to in Articles 34 to 37 of this Act, as applicable, which measure to address or remove impediments to resolvability, the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

33) where the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act fails to deliver or fails to deliver within the time limit to the Croatian National Bank or the Croatian Financial Services Supervisory Agency a plan to comply with the measure altering the maturity of own funds instruments and eligible liabilities referred to in Article 30 and Article 31, paragraph (2) of this Act, which measure to address or remove impediments to resolvability the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

34) where the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act fails to deliver or fails to deliver within the time limit, to the Croatian National Bank or the Croatian Financial Services Supervisory Agency a plan to comply with the measure of taking other actions to meet the requirements referred to in Articles 34 to 37 of this Act, as applicable, including renegotiating conditions in relation to eligible liabilities, additional tier 1 instrument or tier 2 instrument it has issued, with a view to ensuring the implementation of any decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency to write down or convert that liability or relevant instrument in accordance with the applicable law governing that liability or instrument, which measure to address or remove impediments to resolvability the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

35) where the mixed-activity holding company fails to deliver or fails to deliver within the time limit to the Croatian National Bank or the Croatian Financial Services Supervisory Agency a plan to comply with the measure of setting up a separate financial holding company to control the subsidiary referred to in Article 3 of this Act, if necessary in order to facilitate the resolution and to avoid the application of the resolution tools and powers referred to in Title X of this Act to the non-financial part of the group which could have an adverse effect on the non-financial part of the group, which measure to address or remove impediments to resolvability the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 22, paragraph (5) of this Act, and thereby acts contrary to Article 22, paragraph (8) of this Act;

36) where the EU parent undertaking having its registered office in the Republic of Croatia fails to deliver or fails to deliver within the time limit referred to in Article 23, paragraph (6) of this Act a proposal of measures ensuring that the entity to which the impediment relates meets the requirement

referred to in Articles 34 to 37 of this Act and the combined buffer requirements, containing time limits for their implementation;

37) where the parent undertaking fails to revise or fails to revise within the time limit the group financial support agreements or the reasons for not entering into them, or enter into an agreement on the provision of services with a member of the group or with a third party to ensure the provision of critical functions, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (13) of this Act;

38) where the parent undertaking exceeds the maximum individual or aggregate exposure laid down in the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (13) of this Act;

39) where the parent undertaking fails to deliver or fails to deliver within the time limit additional information relevant for resolution planning and enforcement of resolution, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (13) of this Act;

40) where the parent undertaking fails to divest or fails to divest specific assets within the time limit, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (13) of this Act;

41) where the parent undertaking fails to limit or discontinue specific existing or proposed activities, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (13) of this Act;

42) where the parent undertaking fails to restrict existing or prohibit the development of new business lines or the sale of existing or new products, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (13) of this Act;

43) where the parent undertaking fails to change or fails to change within the time limit its legal or operational structure, in order to reduce complexity and ensure that critical functions may be legally and operationally separated from other functions when applying the resolution tools, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (13) of this Act;

44) where the parent undertaking fails to establish or fails to establish within the time limit an RC financial holding company or EU parent financial holding company, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (13) of this Act;

45) where the parent undertaking fails to deliver or fails to deliver within the time limit a plan to restore compliance with the requirements referred to in Articles 34 to 37 of this Act, as applicable, expressed as a percentage of the total amount of risk exposure calculated in accordance with Article 92, paragraph (3) of Regulation (EU) No 575/2013, or in accordance with the applicable requirement referred to in Article 11, paragraph (1) of Regulation (EU) 2019/2033 multiplied by 12.5 and, where applicable, with the combined buffer requirement and with the requirement referred to in Articles 34 to 37 of this Act, as applicable, expressed in percentage terms as the total exposure measure referred to in Articles 429 and 429a of Regulation (EU) No 575/2013, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (13) of this Act;

46) where the parent undertaking fails to issue or fails to issue within the time limit the eligible liabilities to meet the requirements referred to in Articles 34 to 37 of this Act, as applicable, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (13) of this Act;

47) where the parent undertaking, for the purpose of ensuring ongoing compliance with the requirement referred to in Articles 34 to 37 of this Act, as applicable, fails to alter the maturity of own funds instruments and eligible liabilities referred to in Article 30 and Article 31, paragraph (2) of this

Act, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (13) of this Act;

48) where the parent undertaking fails to take or fails to take within the time limit other steps to meet the requirement referred to in Articles 34 to 37 of this Act, as applicable, including renegotiating conditions in relation to eligible liabilities, additional tier 1 instrument or tier 2 instrument it has issued, with a view to ensuring the implementation of the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency to write down or convert that liability or relevant instrument in accordance with the applicable law governing that liability or instrument, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (13) of this Act;

49) where the parent undertaking fails to set up a separate financial holding company to control the subsidiary referred to in Article 3 of this Act, if necessary in order to facilitate the resolution and to avoid the application of the resolution tools and powers referred to in Title X of this Act on the non-financial part of the group which could have an adverse effect on the non-financial part of the group, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (13) of this Act;

50) where resolution entity fails to execute or fails to execute within the time limit the measure for the revision of the group financial support agreements or reasons for not entering into them, or entering into an agreement on the provision of services with a member of the group or with a third party to ensure the provision of critical functions, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (18) of this Act;

51) where resolution entity exceeds the maximum individual or aggregate exposure laid down in the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (18) of this Act;

52) where the resolution entity fails to deliver or fails to deliver within the time limit additional information relevant for resolution planning and enforcement of resolution, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (18) of this Act;

53) where the resolution entity fails to divest or divest specific assets within the time limit, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (18) of this Act;

54) where the resolution entity fails to limit or discontinue specific existing or proposed activities, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (18) of this Act;

55) where the resolution entity fails to restrict existing or prohibit the development of new business lines or the sale of existing or new products, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (18) of this Act;

56) where the resolution entity fails to change or fails to change within the time limit its legal or operational structure, in order to reduce complexity and ensure that critical functions may be legally and operationally separated from other functions when applying the resolution tools, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (18) of this Act;

57) where the resolution entity fails to establish or fails to establish within the time limit an RC financial holding company or an EU parent financial holding company, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (18) of this Act;

58) where the resolution entity fails to deliver or fails to deliver within the time limit a plan to restore compliance with the requirements referred to in Articles 34 to 37 of this Act, as applicable,

expressed as a percentage of the total amount of risk exposure calculated in accordance with Article 92, paragraph (3) of Regulation (EU) No 575/2013, or in accordance with the applicable requirement referred to in Article 11, paragraph (1) of Regulation (EU) 2019/2033 multiplied by 12.5 and, where applicable, with the combined buffer requirement and with the requirement referred to in Articles 34 to 37 of this Act, as applicable, expressed in percentage terms as the total exposure measure referred to in Articles 429 and 429a of Regulation (EU) No 575/2013, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (18) of this Act;

59) where the resolution entity fails to issue or fails to issue within the time limit the eligible liabilities to meet the requirement referred to in Articles 34 to 37 of this Act, as applicable, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (18) of this Act;

60) where the resolution entity, for the purpose of ensuring ongoing compliance with the requirement referred to in Articles 34 to 37 of this Act, as applicable, fails to alter the maturity of own funds instruments and eligible liabilities referred to in Article 30 and Article 31, paragraph (2) of this Act, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (18) of this Act;

61) where the resolution entity fails to take or fails to take within the time limit other steps to meet the requirement referred to in Articles 34 to 37 of this Act, as applicable, including renegotiating conditions in relation to eligible liabilities, additional tier 1 instrument or tier 2 instrument it has issued, with a view to ensuring the implementation of the decision by the Croatian National Bank or the Croatian Financial Services Supervisory Agency to write down or convert that liability or relevant instrument, in accordance with the applicable law governing that liability or instrument, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (18) of this Act;

62) where the resolution entity fails to set up a separate financial holding company to control the subsidiary referred to in Article 3 of this Act, where necessary in order to facilitate the resolution and to avoid the application of the resolution tools and powers referred to in Title X of this Act on the non-financial part of the group which could have an adverse effect on the non-financial part of the group, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (18) of this Act;

63) where the subsidiary fails to execute or fails to execute within the time limit the measure for the revision of group financial support agreements or reasons for not entering into them, or entering into an agreement on the provision of services with a member of the group or with a third party to ensure the provision of critical functions, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (22) of this Act;

64) where the subsidiary exceeds the maximum individual or aggregate exposure laid down in the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (22) of this Act;

65) where the subsidiary fails to deliver or fails to deliver within the time limit additional information relevant for resolution planning and enforcement of resolution, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (22) of this Act;

66) where the subsidiary fails to divest or divest specific assets within the time limit in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (22) of this Act;

67) where the subsidiary fails to limit or discontinue specific existing or proposed activities, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (22) of this Act;

68) where the subsidiary fails to restrict existing or prohibit the development of new business lines or the sale of existing or new products, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (22) of this Act;

69) where the subsidiary fails to change or fails to change within the time limit its legal or operational structures, in order to reduce complexity and ensure that critical functions may be legally and operationally separated from other functions when applying the resolution tools, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (22) of this Act;

70) where the subsidiary fails to establish or fails to establish within the time limit an RC financial holding company or EU parent financial holding company in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (22) of this Act;

71) where the subsidiary fails to deliver or fails to deliver within the time limit a plan to restore compliance with the requirements referred to in Articles 34 to 37 of this Act, as applicable, expressed as a percentage of the total amount of exposure to risk calculated in accordance with Article 92, paragraph (3) of Regulation (EU) No 575/2013, or in accordance with the applicable requirement referred to in Article 11, paragraph (1) of Regulation (EU) 2019/2033 multiplied by 12.5 and, where applicable, with the combined buffer requirement and with the requirement referred to in Articles 34 to 37 of this Act, as applicable, expressed in percentage terms as the total exposure measure referred to in Articles 429 and 429a of Regulation (EU) No 575/2013, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (22) of this Act;

72) where the subsidiary fails to issue or fails to issue within the time limit the eligible liabilities to meet the requirement referred to in Articles 34 to 37 of this Act, as applicable, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (22) of this Act;

73) where the subsidiary, for the purpose of ensuring ongoing compliance with the requirement referred to in Articles 34 to 37 of this Act, as applicable, fails to alter the maturity of own funds instruments and eligible liabilities referred to in Article 30 and Article 31, paragraph (2) of this Act, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (22) of this Act;

74) where the subsidiary fails to take or fails to take within the time limit, other steps to meet the requirement referred to in Articles 34 to 37 of this Act, as applicable, including renegotiating conditions in relation to eligible liabilities, additional tier 1 instrument or tier 2 instrument it has issued, with a view to ensuring the implementation of the decision by the Croatian National Bank or the Croatian Financial Services Supervisory Agency to write down or convert that liability or relevant instrument in accordance with the applicable law governing that liability or instrument, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (22) of this Act;

75) where the subsidiary fails to set up a separate financial holding company to control the subsidiary referred to in Article 3 of this Act, if necessary in order to facilitate the resolution and to avoid the application of the resolution tools and powers referred to in Title X of this Act on the non-financial part of the group which could have an adverse effect on the non-financial part of the group, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (22) of this Act;

76) where the entity referred to in Article 3 of this Act fails to execute or fails to execute within the time limit the measure of revision of group financial support agreements or reasons for not entering into them, or entering into an agreement on the provision of services with a member of the group or with a third party to ensure the provision of critical functions, in accordance with the decision

of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (27) of this Act;

77) where the entity referred to in Article 3 of this Act exceeds the maximum individual or aggregate exposure laid down in the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (27) of this Act;

78) where the entity referred to in Article 3 of this Act fails to deliver or fails to deliver within the time limit additional information relevant for resolution planning and enforcement of resolution, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (27) of this Act;

79) where the entity referred to in Article 3 of this Act fails to divest or divest specific assets within the time limit, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (27) of this Act;

80) where the entity referred to in Article 3 of this Act fails to limit or discontinue specific existing or proposed activities in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (27) of this Act;

81) where the entity referred to in Article 3 of this Act fails to restrict or prohibits the development of new business lines or the sale of existing or new products, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (27) of this Act;

82) where the entity referred to in Article 3 of this Act fails to change or fails to change within the time limit its legal or operational structures, in order to reduce complexity and ensure that critical functions may be legally and operationally separated from other functions when applying the resolution tools, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (27) of this Act;

83) where the entity referred to in Article 3 of this Act fails to establish or fails to establish within the time limit an RC financial holding company or EU parent financial holding company, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (27) of this Act;

84) where the entity referred to in Article 3 of this Act fails to deliver or fails to deliver within the time limit a plan to restore compliance with the requirements referred to in Articles 34 to 37 of this Act, as applicable, expressed as a percentage of the total amount of risk exposure calculated in accordance with Article 92, paragraph (3) of Regulation (EU) No 575/2013, or in accordance with the applicable requirement referred to in Article 11, paragraph (1) of Regulation (EU) 2019/2033 multiplied by 12.5 and, where applicable, with the combined buffer requirement and with the requirement referred to in Articles 34 to 37 of this Act, as applicable, expressed in percentage terms as the total exposure measure referred to in Articles 429 and 429a of Regulation (EU) No 575/2013, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (27) of this Act;

85) where the entity referred to in Article 3 of this Act fails to issue or fails to issue within the time limit the eligible liabilities to meet the requirement referred to in Articles 34 to 37 of this Act, as applicable, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (27) of this Act;

86) where the entity referred to in Article 3 of this Act, for the purpose of ensuring ongoing compliance with the requirement referred to in Articles 34 to 37 of this Act, as applicable, fails to alter the maturity of own funds instruments and eligible liabilities referred to in Article 30 and Article 31, paragraph (2) of this Act, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (27) of this Act;

87) where the entity referred to in Article 3 of this Act fails to take or fails to take within the time limit other steps to meet the requirement referred to in Articles 34 to 37 of this Act, as applicable, including renegotiating conditions in relation to eligible liabilities, additional tier 1 instrument or tier

2 instrument it has issued, with a view to ensuring the implementation of the decision by the Croatian National Bank or the Croatian Financial Services Supervisory Agency to write down or convert that liability or relevant instrument into capital in accordance with the applicable law governing that liability or instrument, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (27) of this Act;

88) where the entity referred to in Article 3 of this Act fails to set up a separate financial holding company to control the subsidiary referred to in Article 3 of this Act, if necessary in order to facilitate the resolution and to avoid the application of the resolution tools and powers referred to in Title X of this Act on the non-financial part of the group which could have an adverse effect on the non-financial part of the group, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 23, paragraph (27) of this Act;

89) where the entity for which the Single Resolution Board is directly responsible fails to implement or fails to implement within the time limit the measures to address or remove impediments to resolution the Croatian National Bank or the Croatian Financial Services Supervisory Agency imposed by a decision adopted pursuant to Article 24, paragraph (2) of this Act;

90) where it fails to deliver or fails to deliver within the time limit a plan to comply with the measures to address or remove impediments to resolvability imposed by a decision by the Croatian National Bank, and thereby acts contrary to Article 24, paragraph (3) of this Act;

91) where the institution that is a resolution entity and is not part of a group fails to meet on an ongoing basis the minimum requirement in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 34, paragraph (1) of this Act on an individual basis, in accordance with the provisions of Article 30 of this Act, and thereby acts contrary to Article 34 paragraph (2) of this Act;

92) where the institution that is a resolution entity and is part of a group fails to meet on an ongoing basis the minimum requirement in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 35, paragraph (1) of this Act on a consolidated basis at resolution group level, in accordance with the provisions of Article 30 of this Act, and thereby acts contrary to Article 35 paragraph (2) of this Act;

93) where the institution that is a subsidiary of a resolution entity or a third-country resolution entity but is not itself a resolution entity fails to meet on an ongoing basis the minimum requirement, in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 35, paragraph (1) of this Act on an individual basis in accordance with the provisions of Article 31 of this Act, and thereby acts contrary to Article 34 paragraph (3) of this Act;

94) where the institution that is an EU parent undertaking and is not a resolution entity but is a subsidiary of a third-country resolution entity fails to meet on an ongoing basis the minimum requirement in accordance with the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 35, paragraph (1) of this Act on an consolidated basis in accordance with the provisions of Article 31 of this Act, and thereby acts contrary to Article 34 paragraph (4) of this Act;

95) where the institution fails to meet the minimum requirement in the amount and in the manner imposed by the Croatian National Bank or the Croatian Financial Services Supervisory Agency in a decision adopted pursuant to Article 36, paragraph (5) of this Act, and thereby acts contrary to Article 36, paragraph (16) of this Act;

96) where the institution fails to meet the minimum requirement in the amount and in the manner determined in the decision of the Council Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency adopted pursuant to Article 36, paragraph (6) of this Act, and thereby acts contrary to Article 36, paragraph (16) of this Act;

97) where the entity referred to in Article 3, item (2), (3) or (4) of this Act fails to meet the minimum requirement in the amount and in the manner determined in the decision of the Council of

the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency referred to in Article 37, paragraph (1) of this Act on an ongoing basis, and thereby acts contrary to Articles 37, paragraph (2) of this Act;

98) where the entity for which the Single Resolution Board is directly responsible fails to meet on an ongoing basis the minimum requirement in the amount and in the manner imposed by the Council of the Croatian National Bank or the Board of the Croatian Financial Services Supervisory Agency in a decision adopted pursuant to Article 38, paragraph (1) of this Act on an individual or on a consolidated basis, and thereby acts contrary to Article 38, paragraph (2) of this Act;

99) where contrary to Article 39, paragraph (1) of this Act the institution fails to report to the competent authority;

100) where contrary to Article 39, paragraph (6) of this Act the institution fails to make information publicly available on its web site;

101) where the entity referred to in Article 3, item (2), (3) or (4) of this Act that has been ordered to apply the minimum requirement by the Croatian National Bank or the Croatian Financial Services Supervisory Agency fails to report the information referred to in Article 39, paragraph (1) of this Act to the competent authority, and thereby acts contrary to Article 39, paragraph (9) of this Act;

102) where the entity referred to in Article 3, item (2), (3) or (4) of this Act that has been ordered to meet the minimum requirement by the Croatian National Bank or the Croatian Financial Services Supervisory Agency fails to publicly disclose the information referred to in Article 39, paragraph (6) of this Act, and thereby acts contrary to Article 39, paragraph (9) of this Act;

103) where the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act, contrary to Article 41, paragraph (1) of this Act, fails to notify without delay the Croatian National Bank or the Croatian Financial Services Supervisory Agency of the failure to meet the combined buffer requirement where it is taken into account together with the minimum requirement referred to in Articles 34 to 37 of this Act, as applicable, which is calculated in accordance with Article 26, paragraph (4), item (1) of this Act.

104) where the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act distributes more than the maximum distributable amount related to the minimum requirement contrary to the decision of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 41, paragraph (2) of this Act;

105) where the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act fails to calculate or incorrectly calculates the maximum distributable amount related to the minimum requirement, and thereby acts contrary to Article 42, paragraph (1) of this Act;

106) where the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act fails to notify the Croatian National Bank or the Croatian Financial Services Supervisory Agency of the calculated maximum distributable amount related to the minimum requirement in the manner referred to in Article 42 of this Act, and thereby acts contrary to Article 42, paragraph (1) of this Act;

107) where the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act fails to notify without delay the Croatian National bank or the Croatian Financial Services Supervisory Agency when it deems that it meets any of the conditions referred to in Article 43, paragraph (1) of this Act, and thereby acts contrary to Article 45, paragraph (1) of this Act.

108) where the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act fails to deliver or fails to deliver within the set time limit to the Croatian National Bank or the Croatian Financial Services Supervisory Agency a business reorganisation plan, and thereby acts contrary to Article 87, paragraph (1) of this Act;

109) where the EU parent institution fails to deliver to the Croatian National Bank or the Croatian Financial Services Supervisory Agency a business reorganisation plan that covers all of the members of the group, drawn up in accordance with Article 88, paragraph (1) of this Act;

110) where the submitted business reorganisation plan of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act does not comply with the contents prescribed in Article 89 of this Act, and thereby acts contrary to Article 87, paragraph (1) of this Act;

111) where the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act fails to ensure that contract or instrument includes a provision by which the liability arising from that contractual relationship may be subject to write-down or conversion and that the creditor or counterparty agrees to the reduction of the principal or outstanding amount, conversion or annulment of that liability in case of bail-in, and thereby acts contrary to Article 93, paragraph (1) of this Act

112) where the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act, in accordance with the request of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 93, paragraph (8) of this Act, fails to include a contractual provision or amend its practices concerning the application of the exemption from contractual recognition of bail-in;

113) where the institution under resolution or any member of the same group fails to act in accordance with the request of the Croatian National Bank or the Croatian Financial Services Supervisory Agency referred to in Article 100, paragraph (1) of this Act;

114) where a member of the group with a registered office in the Republic of Croatia fails to act in accordance with the request of the Croatian National Bank the Croatian Financial Supervisory Agency referred to in Article 100, paragraph (3) of this Act;

115) where an investment firm not subject to Regulation (EU) No 806/2014 or an EU branch fails to execute the payment order of the Croatian Deposit Insurance Agency regarding *ex-ante* contributions within the prescribed time limit, and thereby acts contrary to Article 133, paragraph (5) of this Act;

116) where a credit institution or an investment firm subject to Regulation (EU) No 806/2014 fails to execute the payment order of the Croatian Deposit Insurance Agency regarding *ex-ante* contributions within the prescribed time limit, and thereby acts contrary to Article 133, paragraph (6) of this Act;

117) where an institution or an EU branch fails to execute the payment order of the Croatian Deposit Insurance Agency regarding *ex-post* contributions, and thereby acts contrary to Article 134, paragraph (3) of this Act;

118) where an institution or an EU branch fails to settle the fee referred to in Article 140, paragraph (1) of this Act in the manner governed by the subordinated regulation referred to in article 140, paragraph (4) of this Act, and thereby acts contrary to Article 140, paragraph (3) of this Act.

119) where the entity referred to in Article 3 of this Act 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 142, paragraph (3) of this Act;

(2) A responsible person of the management board of the entity referred to in Article 3 of this Act shall be fined between HRK 10,000.00 and up to HRK 100,000.00 for any of the misdemeanours referred to in paragraph (1) of this Article.

Misdemeanours by other persons

Article 144

(1) An independent valuer that is a legal person shall be fined between HRK 10,000.00 and up to HRK 50,000.00:

1) 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 elements referred to in Article 50, paragraphs (7) and (9) of this Act;

2) where it fails to carry out the *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 so as to ensure that all losses for which the assets of the institution or the entity need to be written down are identified and are fully recognised in their business books or in such a way as to obtain information for adopting a decision on increasing the value of the creditor's claim whose value has been reduced or on compensation increase, and thereby acts contrary to Article 51, paragraph (2) of this Act.

3) where the valuation of the effects of the difference in treatment carried out pursuant to Article 123 of this Act does not contain all the elements specified in Article 123, paragraph (1) of this Act and

4) where the valuation of the effects of the difference in treatment carried out pursuant to Article 123 of this Act is not based on the assumptions referred to in Article 123, paragraph (2) of this Act;

(2) An independent valuer that is a natural person shall be fined between HRK 10,000.00 and up to HRK 50,000.00:

1) where he/she 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 elements referred to in Article 50, paragraphs (7) and (9) of this Act;

2) where he/she fails to carry out the *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 so as to ensure that all losses for which the assets of the institution or the entity need to be written down are identified and are fully recognised in their business books or in such a way as to obtain information for adopting a decision on increasing the value of the creditor's claim whose value has been reduced or on compensation increase, and thereby acts contrary to Article 51, paragraph (2) of this Act.

3) where the valuation of the effects of the difference in treatment carried out pursuant to Article 123 of this Act does not contain all the elements specified in Article 123, paragraph (1) of this Act and

4) where the valuation of the effects of the difference in treatment carried out pursuant to Article 123 of this Act is not based on the assumptions referred to in Article 123, paragraph (2) of this Act;

(3) A responsible person of the independent valuer that is a legal person shall be fined between HRK 5000.00 and up to HRK 25,000.00 for any of the misdemeanours referred to in paragraph (1) of this Article.

(4) 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 50,000.00:

1) where he/she fails to provide the resolution administration and its assistants immediate access to all documentation of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act under resolution or fails to prepare a report on the transfer of operations, and thereby acts contrary to Article 67, paragraph (1) of this Act; and

2) where he/she fails to provide the resolution administration and its assistants all requested explanations and additional business reports, and thereby acts contrary to Article 67, paragraph (2) of this Act.

(5) An employee of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act under resolution shall be fined between HRK 1000.00 and up to HRK 10,000.00 where he/she fails to cooperate with the resolution administration and its assistants, and thereby acts contrary to Article 67, paragraph (3) of this Act.

(6) The natural person referred to in Article 115, paragraph (1) of this Act shall be fined between HRK 10,000.00 up to HRK 50,000.00 where he/she fails to protect as confidential all information of which the person became aware in the course of his/her work within the framework of this Act or breaches the prohibition of disclosing confidential information received during the course of his/her professional activities from a competent authority or resolution authority.

Acting at the recommendation of and execution of decisions of the Single Resolution Board

Article 145

(1) The Croatian National Bank shall, at the recommendation of the Single Resolution Board referred to in Article 38, paragraph (8) of Regulation (EU) No 806/2014, consider initiating misdemeanour proceedings for misdemeanours referred to in Articles 124 and 125 of this Act.

(2) When initiating misdemeanour proceedings for misdemeanours referred to in Article 124, paragraph (1) of this Act against an entity for which the Single Resolution Board is directly responsible, the Croatian National Bank shall give due consideration to the recommendation of the Single Resolution Board referred to in Article 38, paragraph (8) of Regulation (EU) No 806/2014.

(3) With a view to execute the decisions of the Single Resolution Board on the imposition of fines and periodic penalty payments referred to in Articles 38 and 39 of Regulation (EU) No 806/2014, the Croatian National Bank shall act in the manner laid down in Article 41, paragraph (3) of Regulation (EU) No 806/2014.

(4) The authority referred to in paragraph (3) of this Article shall submit the title for payment to the authority competent for enforcement of monetary assets in accordance with the law governing the enforcement of monetary assets.

XVII TRANSITIONAL AND FINAL PROVISIONS

Time limits for the adoption of subordinate legislation and implementing regulations

Article 146

(1) The Croatian National Bank shall adopt subordinate legislation referred to in Article 8, paragraph (19), Article 25, paragraph (5), Article 26, paragraph (7), Article 58, paragraph (4) and Article 140, paragraph (4) of this Act, and the Board of the Croatian Financial Services Supervisory Agency shall adopt the ordinances referred to in Article 8, paragraph (20), Article 25, paragraph (5), Article 26, paragraph (7) and Article 58, paragraph (4) of this Act within 12 months of the entry into force of this Act.

(2) The Minister of Finance shall adopt the ordinance referred to in Article 115, paragraph (8) of this Act within 12 months of the entry into force of this Act.

(3) Decision on the conditions and manner of implementing activities and the manner of imposing measures to exercise resolution powers (Official Gazette 73/2017) shall apply until the entry into force of the subordinate legislation referred to in Article 8, paragraph (19) of this Act.

(4) Decision on actions in exercising the power to write down and convert capital instruments (Official Gazette 28/2018) shall apply until the entry into force of the subordinate legislation referred to in Article 58, paragraph (4) of this Act.

(5) The Ordinance on the manner of disclosing confidential information in summary or collective form (Official Gazette 27/2017) shall apply until the entry into force of the ordinance referred to in Article 115, paragraph (8) of this Act.

Transitional provisions concerning the selling of subordinated eligible liabilities to retail investors

Article 147

The provisions of Article 33 of this Act shall not apply to liabilities issued prior to the entry into force of this Act.

Time limits for compliance with the provisions of this Act on the minimum requirement and compliance with the minimum requirement post-resolution

Article 148

(1) In the decision on the minimum requirement adopted for the first time in accordance with Articles 34 and 37 of this Act, the Croatian National Bank or the Croatian Financial Services Supervisory

Agency shall set 1 January 2024 as the deadline until which the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act is obligated to meet this requirement.

(2) With a view to ensure a linear build-up of own funds and eligible liabilities for the purpose of fulfilment of the minimum requirement in accordance with the deadline referred to in paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall in the decision adopted for the first time in accordance with Articles 34 to 37 of this Act determine the intermediate target levels for the minimum requirement that the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act shall be obligated to meet by 1 January 2022.

(3) By way of derogation from paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may in the decision referred to in Articles 34 to 37 of this Act set a period that ends after 1 January 2024 where it considers it duly justified and appropriate on the basis of the criteria referred to in paragraph (9) of this Article, taking into consideration:

1) the development of the financial situation of the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act;

2) the prospect that the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act will be able to ensure compliance with the requirements in accordance with the decision referred to in Article 34 or 37 of this Act; and

3) whether the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act is able to replace liabilities that no longer meet the eligibility or maturity criteria laid down in Articles 72b and 72c of Regulation (EU) No 575/2013, and Article 30 or 31 of this Act, and if not, whether that inability is of an idiosyncratic nature or is due to market-wide disturbance.

(4) As regards the decision adopted for the first time in accordance with Articles 34 and 37 of this Act, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall set 1 January 2022 as the deadline until which the resolution entity that is not subject to the provisions of Article 92a of Regulation (EU) No 575/2013 but is subject to the provisions of Article 27, paragraph (10) or (12) of this Act, is obligated to meet this requirements referred to in Article 27, paragraphs (10) and (11) of this Act.

(5) The requirements referred to in Article 27, paragraphs (10) and (11) of this Act shall not apply to the resolution entity not subject of Article 92a of Regulation (EU) No 575/2013 but subject to the provisions of Article 27, paragraph (10) or (12) of this Act within the two-year period following the date:

1) on which the Croatian National Bank or the Croatian Financial Services Supervisor Agency has applied the bail-in tool to that resolution entity; or

2) on which the resolution entity has put in place an alternative private sector measure as referred to in Article 43, paragraph (4), item (2) of this Act, by which capital instruments and other liabilities have been written down or converted into common equity tier 1 instruments, or on which the Croatian National Bank or the Croatian Financial Services Supervisory Agency has exercised write-down or conversion powers, in accordance with Article 52 of this Act, in respect of that resolution entity, in order to recapitalise the resolution entity without the application of resolution tools.

(6) The requirements referred to in Article 27, paragraphs (10) and (12) of this Act as well as Article 30, paragraphs (7), (8), (9) and (16) of this Act, as applicable, shall not apply to the resolution entity within the three-year period following the date on which the resolution entity or the group of which the resolution entity is a part has been identified as a G-SII, or the resolution entity starts to be in the situation referred to in Article 27, paragraph (10) or (12) of this Act.

(7) After applying the resolution tool or exercising write-down or conversion powers in accordance with Article 52 of this Act, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall, depending on the individual case, determine an appropriate transitional period within which the institution or entity referred in Article 3, item (2), (3) or (4) of this Act to which a resolution tool or the write-down or conversion power has been applied in accordance with Article 52 of this Act shall comply with the minimum requirement determined in the decision referred to in

Articles 34 to 37 of this Act or the requirements referred to in Articles 30, paragraphs (7), (8), (9), (12) and (16) of this Act, as applicable.

(8) In the case referred to in paragraphs (1) to (7) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall notify the institution or entity referred to in Article 3, item (2), (3) or (4) of this Act of the planned minimum requirement for own funds and eligible liabilities for each 12-month period during the transitional period, with a view to facilitating a gradual build-up of its loss-absorbing and recapitalisation capacity so that at the end of the transitional period, the minimum requirement for own funds and eligible liabilities shall be equal to the amount determined in the decision referred to in Articles 34 to 37 of this Act, as applicable.

(9) When determining the transitional periods, the Croatian National Bank or the Croatian Financial Services Supervisory Agency shall take into account the following:

- 1) the prevalence of deposits and the absence of debt instruments in financing;
- 2) the access to the capital markets for eligible liabilities; and

3) the extent to which the resolution entity relies on common equity tier 1 capital to meet the requirement referred to in Articles 34 to 37 of this Act.

(10) By way of derogation from paragraph (1) of this Article, the Croatian National Bank or the Croatian Financial Services Supervisory Agency may subsequently amend either the transitional period or the planned minimum requirement notified in accordance with paragraph (8) of this Article.

Transitional period for public disclosure relating to the minimum requirement

Article 149

When the Croatian National Bank or the Croatian Financial Services Supervisory Agency, in accordance with Article 148, paragraph (3) of this Act, determines the transitional period for compliance with the minimum requirement that ends after 1 January 2024, the period to comply with the public disclosure requirement shall be equal to the transitional period provided to meet the minimum requirement determined in this way.

Transitional provisions concerning the contractual recognition of suspension and restriction powers in financial contracts governed by third-country law

Article 150

The provisions of Article 109 of this Act shall apply to financial contracts which after the entry into force of this Act create a new obligation, or materially amend an existing obligation.

Completion of initiated proceedings

Article 151

The proceedings initiated before the entry into force of this Act shall be completed in accordance with the provisions of the Act on the Resolution of Credit Institutions and Investment Firms (Official Gazette No 19/2015, 16/2019 and 47/2020).

Effects of the entry into force of this Act

Article 152

The Act on the Resolution of Credit Institutions and Investment Firms (Official Gazette No 19/2015, 16/2019 and 47/2020) shall cease to have effect by virtue of the entry into force of this Act.

Entry into force

Article 153

This Act shall be published in the Official Gazette and shall enter into force on 1 January 2021, with the exception of Article 4, paragraph (2), item (35), sub-item (b) of this Act, which shall enter into

force on 26 June 2021 and Article 39, paragraph (6) of this Act which shall enter into force on 1 January 2024.

Class: 022-03/20-01/107
Zagreb, 18 December 2020

THE CROATIAN PARLIAMENT

The President of the Croatian Parliament 

Gordan Jandroković, m. p.