

Pursuant to Article 29 and Article 43, paragraph (2), item (9) of the Act on the Croatian National Bank (Official Gazette 75/2008), and in relation to Article 16, paragraph (1) of the National Payment System Act (Official Gazette 117/2001) and Article 261, paragraph (2) and Article 270, paragraph (2) of the Credit Institutions Act (Official Gazette 117/2008), the Governor of the Croatian National Bank hereby issues the

**Decision on the application of provisions of laws and other regulations within the competence of the Croatian National Bank to credit institutions undergoing winding-up proceedings**

**I GENERAL PROVISIONS**

**Article 1**

This Decision prescribes the manner of application of the provisions of the Credit Institutions Act and other laws and subordinate legislation within the competence of the Croatian National Bank to credit institutions undergoing winding-up proceedings, as well as the obligations of credit institutions undergoing winding-up proceedings, exemptions from these obligations, and other matters related to the carrying out of winding-up proceedings of credit institutions arising from the regulations governing the operation of credit institutions.

**Article 2**

The provisions of this Decision shall apply to credit institutions undergoing voluntary or compulsory winding-up proceedings, unless otherwise provided for in this Decision.

**II OBLIGATIONS OF CREDIT INSTITUTIONS UNDERGOING WINDING-UP PROCEEDINGS**

**Article 3**

Credit institutions undergoing winding-up proceedings shall comply with the provisions of the laws and relevant subordinate legislation governing the operation of credit institutions, unless otherwise provided for in this Decision.

## **1 Reporting**

### **Article 4**

Credit institutions undergoing winding-up proceedings shall deliver to the Croatian National Bank the following:

1. unconsolidated monthly statistical reports (MI) in accordance with the Decision relating to the bank statistical report (Official Gazette 166/2003, 53/2004, 129/2004 and 60/2006). Credit institutions undergoing winding-up proceedings shall not be obliged to deliver other statistical reports prescribed in that decision; and
2. reports on reserve requirement calculation, with the exception of the reports relating to the calculation of reserve requirement maintenance, in the manner and within the time limits prescribed in the Decision on reserve requirements (Official Gazette 203/2003, 145/2004, 34/2005, 64/2005, 136/2005, 146/2005, 112/2008, 137/2008, 139/2008 and 3/2009) and the Instructions for the implementation of the Decision on reserve requirements (Official Gazette 7/2004, 38/2005, 137/2005, 82/2006, 117/2008 and 64/2009).

## **2 Domestic payment operations**

### **2.1 Credit institutions undergoing compulsory winding-up proceedings**

#### **Article 5**

A credit institution undergoing compulsory winding-up proceedings may not make payments through interbank payment systems before the institution responsible for deposit insurance has appointed liquidators of the credit institution and taken all actions necessary to protect the rights of the credit institution's creditors.

By way of derogation from the provision of paragraph (1) of this Article, a credit institution undergoing compulsory winding-up proceedings may make payments through interbank payment systems subject to a written consent of the institution responsible for deposit insurance.

#### **Article 6**

From the date of the entry into force of the Croatian National Bank decision to initiate compulsory winding-up proceedings of a credit institution, the credit institution undergoing winding-up proceedings may neither manage transaction accounts of

payment system participants (individuals and business entities) nor perform payment operations on their behalf.

Under the prohibition referred to in paragraph (1) of this Article, a credit institution undergoing compulsory winding-up shall close all transaction accounts of payment system participants.

Business entities whose transaction accounts have been closed pursuant to this Decision shall without delay adjust their operation to the provisions of the National Payment System Act.

If a business entity's account that is being closed by a credit institution undergoing winding-up proceedings is its main account and the business entity fails to act in accordance with the provisions of paragraph (3) of this Article, its account for regular operations held with another credit institution shall be designated as its main account. If the business entity has several accounts for regular operations with other credit institutions, its account for regular operations which, according to the data from the Unified Register of Business Entities' Accounts, was opened first, shall be designated as its main account.

A credit institution undergoing winding-up proceedings shall notify another credit institution that manages a business entity's account for regular operations of the designation of the business entity's main account pursuant to paragraph (4) of this Article and, if the business entity's main account that is being closed is blocked, deliver to that credit institution any unexecuted orders for forced collection of payments together with relevant records.

A credit institution that receives the notification of the designation of the main account in the manner prescribed in paragraph (5) of this Article shall:

- designate that business entity's account as its main account;
- change the account status in the Unified Register of Business Entities' Accounts to the main account;
- enclose the documentation of the account opening with the written information on the change in the account status containing a reference to this Decision;
- notify the business entity of the effected change in the account status; and
- accept and continue to keep records of unexecuted orders for forced collection of payments.

## **Article 7**

The Croatian National Bank shall deliver to a credit institution undergoing compulsory winding-up proceedings the instructions on operational procedures relating to the

manner and dynamics of closing its accounts held with the Croatian National Bank and in interbank payment systems.

#### **Article 8**

Accounts of a credit institution undergoing compulsory winding-up proceedings held with the Croatian National Bank may be opened for no longer than six months.

The period referred to in paragraph (1) of this Article shall begin on the date of the entry into force of the Croatian National Bank decision to initiate compulsory winding-up proceedings of the credit institution.

### **2.2 Credit institutions undergoing voluntary winding-up proceedings**

#### **Article 9**

The provisions of Articles 6 to 8 of this Decision shall apply *mutatis mutandis* to credit institutions undergoing voluntary winding-up proceedings.

The prohibition to manage accounts of payment system participants and perform payment operations on their behalf and the period in which a credit institution undergoing voluntary winding-up proceedings must close its accounts held with the Croatian National Bank shall begin on the date of the opening of voluntary winding-up proceedings of the credit institution.

A credit institution undergoing voluntary winding-up proceedings shall notify the Croatian National Bank without delay of the date of the opening of voluntary winding-up proceedings. The credit institution's authorisation to provide banking services and authorisation to provide financial services shall expire on that date.

### **3 External payment operations**

#### **3.1 Credit institutions undergoing compulsory winding-up proceedings**

#### **Article 10**

A credit institution undergoing compulsory winding-up proceedings may not make payments across its accounts opened with credit institutions in the country and abroad before the institution responsible for deposit insurance has appointed liquidators of the credit institution and taken all actions necessary to protect the rights of the credit institution's creditors.

By way of derogation from the provision of paragraph (1) of this Article, a credit institution undergoing compulsory winding-up proceedings may make payments across its accounts opened with credit institutions in the country and abroad subject to a written consent of the institution responsible for deposit insurance.

#### **Article 11**

A credit institution undergoing compulsory winding-up proceedings may neither perform external payment operations nor conclude foreign credit transactions.

Within six months of the entry into force of the Croatian National Bank decision to initiate compulsory winding-up proceedings of a credit institution, the credit institution shall close resident foreign exchange accounts and non-resident foreign exchange and kuna accounts.

#### **Article 12**

Resident foreign exchange accounts shall be as defined in the Decision governing the opening and managing of foreign exchange accounts and foreign exchange savings deposit accounts of residents with a bank (Official Gazette 111/2003, 138/2003, 176/2004 and 122/2005) and non-resident accounts shall be as defined in the Decision governing the conditions for and the manner of opening and managing non-resident bank accounts (Official Gazette 124/2006, 131/2006 and 74/2007).

### **3.2 Credit institutions undergoing voluntary winding-up proceedings**

#### **Article 13**

The provisions of Articles 11 and 12 of this Decision shall apply *mutatis mutandis* to credit institutions undergoing voluntary winding-up proceedings.

The period referred to in Article 11 of this Decision shall begin on the date of the opening of voluntary winding-up proceedings of a credit institution.

### **4 Reserve requirement allocation**

#### **Article 14**

A credit institution undergoing winding-up proceedings shall allocate a part of reserve requirements amounting to the minimum allocation rate prescribed in the Decision on reserve requirements.

## **5 Other obligations**

### **Article 15**

A credit institution undergoing winding-up proceedings shall, as soon as practicable:

- publish in the media and post up in another clear and conspicuous manner (at the entrance to its headquarters building and in other business premises, e.g. in its sub-branches, at counters, on statements of account, etc.) a notice about the opening of voluntary winding-up proceedings of the credit institution, or a notice about withdrawal of its authorisation or authorisation to provide financial services and the initiation of compulsory winding-up proceedings of the credit institution, as well as about the prohibition to conclude, commence or perform new transactions related to the provision of banking and financial services; and
- notify its correspondent credit institutions and credit institutions with which it maintains correspondent account relationships, other credit institutions and financial institutions and, if it disburses pensions, the Croatian Pension Insurance Administration of its decision to dissolve the credit institution or cease to provide banking services and the related initiation of voluntary winding-up proceedings, or of withdrawal of its authorisation or authorisation to provide financial services and the initiation of compulsory winding-up proceedings.

## **III EXEMPTIONS OF CREDIT INSTITUTIONS UNDERGOING WINDING-UP PROCEEDINGS FROM OBLIGATIONS**

### **Article 16**

Credit institutions undergoing winding-up proceedings shall not be obliged to deliver to the Croatian National Bank the following:

1. reports on own funds and capital requirements of credit institutions, as well as reports about the facts and circumstances referred to in Article 162 of the Credit Institutions Act;
2. reports in accordance with the Decision on the obligation to report trading on the money market (Official Gazette 65/2002, 144/2002 and 140/2004);

3. reports in accordance with the Decision on the minimum required amount of foreign currency claims (Official Gazette 59/2008, 17/2009 and 23/2009);
4. reports in accordance with the Decision on the manner of reporting and the time limits for reporting on the balance of individual claims and liabilities (Official Gazette 140/2004, 70/2006 and 150/2008);
5. reports in accordance with the Decision on the manner and time limits for submitting foreign exchange market transactions data (Official Gazette 111/2003);
6. reports in accordance with the Decision on the limitation of banks' exposure to foreign exchange risk (Official Gazette 17/2003, 39/2006, 130/2006 and 25/2009); and
7. reports in accordance with the Decision on the purchase of compulsory CNB bills (Official Gazette 132/2007 and 29/2008).

#### **IV OTHER PROVISIONS**

##### **Article 17**

At the request of the Croatian National Bank, the institution responsible for deposit insurance shall deliver a report on progress in compulsory winding-up proceedings.

Liquidators of a credit institution undergoing voluntary winding-up proceedings shall deliver to the Croatian National Bank, every six months as from the date of the opening of winding-up proceedings or at the request of the Croatian National Bank, reports on progress in voluntary winding-up proceedings.

##### **Article 18**

Prior to meeting the obligations to its creditors, a credit institution undergoing winding-up proceedings may not settle:

1. claims of shareholders and former management and supervisory board members, on whatever basis; and
2. claims arising from hybrid and subordinated instruments contracted pursuant to the regulations on the calculation of capital and capital adequacy of credit institutions.

The provisions of paragraph (1) of this Article shall not apply to other claims of shareholders holding less than 3 percent of the initial capital of the credit institution undergoing winding-up proceedings.

For the purpose of this Decision, other claims referred to in paragraph (2) of this Article shall be the claims of shareholders of the credit institution undergoing winding-up proceedings that do not arise from their shareholder status.

#### **Article 19**

In addition to the Credit Institutions Act and the Companies Act (Official Gazette 111/1993, 34/1999, 118/2003, 107/2007 and 146/2008), the provisions of the law governing the keeping of the register of companies shall apply to winding-up proceedings.

### **V TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 20**

The Decision on the application of the provisions of laws and regulations coming within the competence of the Croatian National Bank to banks undergoing winding-up proceedings (Official Gazette 151/2003 and 60/2005) shall cease to have effect on the date of the entry into force of this Decision.

#### **Article 21**

The provisions of this Decision shall also apply to credit institutions undergoing winding-up proceedings initiated before the entry into force of this Decision.

This Decision shall be published in the Official Gazette and shall enter into force on 30 June 2009.

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Zagreb, 19 June 2009

Croatian National Bank  
Governor  
**Željko Rohatinski**