

# THE CROATIAN PARLIAMENT

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

## DECISION

### PROMULGATING THE PAYMENT SYSTEM ACT

I hereby promulgate the Payment System Act, passed by the Croatian Parliament at its session on 6 July 2018.

Class: 011-01/18-01/76

No.: 71-06-01/1-18-2

Zagreb, 10 July 2018

The President of the Republic of Croatia  
Kolinda Grabar-Kitarović, m. p.

## PAYMENT SYSTEM ACT

### TITLE I

#### GENERAL PROVISIONS

##### *Subject matter*

##### Article 1

This Act governs payment services and their providers, the obligations of payment service providers, payment institutions and payment systems.

##### *Compliance with the legal acts of the European Union*

##### Article 2

This Act transposes into Croatian legislation the following EU act: Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (Text with EEA relevance) (OJ L 337, 23.12.2015) (hereinafter referred to as 'Directive (EU) 2015/2366').

## Definitions

### Article 3

(1) For the purposes of this Act, the following terms shall have the following meanings:

- 1) '*authentication*' means a procedure which allows the payment service provider to verify the identity of a payment service user or the validity of the use of a specific payment instrument, including the use of the user's personalised security credentials;
- 2) '*co-badging*' means the inclusion of two or more payment brands or payment applications of the same payment brand on the same payment instrument;
- 3) '*value date*' means a reference time used by a payment service provider for the calculation of interest on the funds debited (debit value date) from or credited (credit value date) to a payment account;
- 4) '*digital content*' means goods or services which are produced and supplied in digital form, the use or consumption of which is restricted to a technical device and which do not include in any way the use or consumption of physical goods or services;
- 5) '*Member State*' means an EU Member State and a contracting party to the Agreement on the European Economic Area;
- 6) '*host Member State*' means the Member State other than the home Member State in which a payment service provider has a branch or an agent, or provides payment services directly;
- 7) '*outsourcing*' means a contractual agreement by which the performance of operational or other activities of a payment institution or operational activities of a payment system operator, which would otherwise be performed by them, is entrusted to third parties;
- 8) '*electronic communications network*' means an electronic communications network as defined in the law governing electronic communications;
- 9) '*electronic communications service*' means an electronic communications service as defined in the law governing electronic communications;
- 10) '*electronic payment transaction*' means a payment transaction initiated and executed in the manner which includes the use of electronic platforms or devices and does not include paper-based payment transactions, mail orders or telephone orders;
- 11) '*group*' means a group of companies which are linked to each other by a relationship referred to in Article 23, paragraph (3) of the Accounting Act (Official Gazette 78/2015, 134/2015 and 120/2016) or companies referred to in Articles 4 to 7 of the Commission Delegated Regulation (EU) No 241/2014 of 7 January 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for Own Funds requirements for institutions (OJ L 74, 14.3.2014) which are linked to each other by a relationship referred to in Article 10, paragraph (1) or in Article 113, paragraphs (6) or (7) of 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');
- 12) '*initial capital*' means the capital comprised of one or more of the items referred to in Article 26, paragraph (1), items (a) to (e) of Regulation (EU) No 575/2013;

- 13) '*payment institution*' means a legal person who has been granted authorisation from the home Member State to provide one of the payment services referred to in Article 4, items (1) to (7) of this Act or several payment services referred to in Article 4 of this Act;
- 14) '*issuing of payment instruments*' means a payment service by a payment service provider contracting to provide a payer with a payment instrument to initiate and process the payer's payment transactions;
- 15) '*direct debit*' means a payment service for debiting a payer's payment account, where a payment transaction is initiated by the payee on the basis of the consent given by the payer to the payee, to the payee's payment service provider or to the payer's own payment service provider;
- 16) '*unique identifier*' means a combination of letters, numbers or symbols specified to the payment service user by the payment service provider and to be provided by the payment service user to identify unambiguously another payment service user and/or the payment account of that other payment service user for a payment transaction;
- 17) '*payment service user*' means a natural or legal person making use of a payment service in the capacity of payer, payee, or both;
- 18) '*credit transfer*' means a payment service for crediting a payee's payment account with a payment transaction or a series of payment transactions from a payer's payment account by the payment service provider which holds the payer's payment account, based on an instruction given by the payer;
- 19) '*qualifying holding*' means a holding referred to in Article 4, paragraph (1), item (36) of Regulation (EU) No 575/2013;
- 20) '*small payment institution*' means a legal person established in the Republic of Croatia and entered by the Croatian National Bank in the register referred to in Article 93 of this Act for the purpose of providing one or more payment services referred to in Article 4, items (3) to (6) of this Act;
- 21) '*home Member State*' means the Member State in which the registered office of the payment service provider is situated or if the payment service provider has, under its national law, no registered office, the Member State in which its head office is situated;
- 22) '*international payment transaction*' means a payment transaction the execution of which involves two payment service providers of which one payment service provider operates in the Republic of Croatia, and the other in a third country;
- 23) '*national payment transaction*' means a payment transaction the execution of which involves a payer's payment service provider and a payee's payment service provider, or only one payment service provider, which operate in the Republic of Croatia;
- 24) '*payment order*' means any instruction by a payer or payee to their respective payment service providers requesting the execution of a payment transaction;
- 25) '*money remittance*' means a payment service where funds are received from a payer, without any payment accounts being created in the name of the payer or the payee, for the sole purpose of transferring a corresponding amount to a payee or to another payment service provider acting on behalf of the payee, and/or where such funds are received on behalf of and made available to the payee;
- 26) '*funds*' means banknotes and coins, electronic money within the terms of the law governing electronic money, as well as monetary claims against the payment service provider (scriptural money);

- 27) '*framework contract*' means a payment service contract which governs the future execution of individual and successive payment transactions and which may contain the obligation and conditions for setting up a payment account;
- 28) '*online*' means the possibility of connection via a publicly available communication network, such as the internet, for the purpose of using a certain service;
- 29) '*sensitive payment data*' means data, including personalised security credentials which can be used to carry out fraud. For the activities of payment initiation service providers and account information service providers, the name of the account owner and the account number do not constitute sensitive payment data;
- 30) '*personalised security credentials*' means personalised features provided by the payment service provider to a payment service user for the purposes of authentication;
- 31) '*payer*' means a natural or legal person who holds a payment account and gives a payment order or allows a payment order from that account, or, where there is no payment account, a natural or legal person who gives a payment order;
- 32) '*payment card*' means a device enabling its holder to make payments for goods and services either at an accepting device or remotely, and/or to access cash and/or other services at an ATM or another self-service device and to transfer funds which enables payment transaction initiation and its execution within a card payment scheme;
- 33) '*payment transaction*' means the placing, withdrawing or transferring of funds initiated by or on behalf and for the account of the payer or by the payee, regardless of any underlying obligations between the payer and the payee;
- 34) '*remote payment transaction*' means an electronic payment transaction initiated via internet or through a device that can be used for distance communication;
- 35) '*payment brand*' means any material or digital name, term, sign, symbol or combination of them, capable of denoting under which payment card scheme card-based payment transactions are carried out;
- 36) '*payment instrument*' means a personalised device(s) and/or set of procedures agreed between the payment service user and the payment service provider and used in order to initiate a payment order;
- 37) '*card-based payment instrument*' means each payment instrument, including the card, mobile phone, computer or any other technological device with an appropriate payment application, enabling the payer to initiate card-based payment transactions other than credit transfers or direct debits referred to in Article 2 of Regulation (EU) 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L 94, 30.3.2012, hereinafter referred to as 'Regulation (EU) No 260/2012');
- 38) '*payment system*' means a funds transfer system with formal and standardised arrangements and common rules for the processing, clearing and/or settlement of payment transactions;
- 39) '*branch of a payment institution*' means a part of a payment institution without legal personality which carries out directly some or all the transactions carried out by the payment institution, and is situated outside the payment institution's registered office or, if the payment institution does not have a registered office, outside the place of its head office; for the purposes of this Act, all branches established in the same Member State by a payment institution with a head office in another Member State shall be deemed to be one branch;

40) '*consumer*' means a natural person who, in payment service contracts covered by this Act, is acting for purposes other than his/her trade, business or profession;

41) '*strong customer authentication*' means an authentication based on the use of two or more elements categorised as knowledge (something only the user knows), possession (something only the user possesses) and inherence (something the user is) that are independent, in that the breach of one does not compromise the reliability of the others, and is designed in such a way as to protect the confidentiality of the authentication data, with at least two of the said elements belonging to different categories;

42) '*cross-border payment transaction*' means a payment transaction the execution of which involves two payment service providers of which one payment service provider operates in the Republic of Croatia, and the other in another Member State;

43) '*acquiring of payment transactions*' means a payment service provided by a payment service provider contracting with a payee to accept and process payment transactions, which results in a transfer of funds to the payee; this payment service may be contracted for any instrument;

44) '*payee*' means a natural or legal person that is the intended recipient of funds which have been the subject of a payment transaction;

45) '*account servicing payment service provider*' means a payment service provider providing and maintaining a payment account for a payer;

46) '*account information service provider*' means a payment service provider pursuing business activities as referred to in Article 4, item (8) of this Act;

47) '*payment initiation service provider*' means a payment service provider pursuing business activities referred to in Article 4, item (7) of this Act;

48) '*payment account*' means any account held by a payment service provider in the name of one or more payment service users which is used for the execution of payment transactions;

49) '*business day*' means a day on which the relevant payment service provider involved in the execution of a payment transaction is open for business as required for the execution of a payment transaction;

50) '*reference interest rate*' means the interest rate which is used as the basis for calculating any interest to be applied and which comes from a publicly available source which can be verified by both parties to a payment service contract;

51) '*reference exchange rate*' means the exchange rate which is used as the basis to calculate any currency exchange and which is made available by the payment service provider or comes from a publicly available source;

52) '*own funds*' means funds as defined in Article 4, paragraph (1), item (118) of Regulation (EU) No 575/2013 where at least 75 % of the tier 1 capital is in the form of common equity tier 1 capital as referred to in Article 50 of that Regulation and tier 2 is equal to or less than one third of tier 1 capital;

53) '*registered account information service provider*' means a legal or natural person entered in the appropriate register by the competent authority of the home Member State for the sole purpose of providing payment services referred to in Article 4, item (8) of this Act;

54) '*means of distance communication*' means a method which, without the simultaneous physical presence of the payment service provider and the payment service user, may be used for the conclusion of a payment services contract;

55) '*associate of an acquirer of a qualifying holding in a payment institution*' means:

- any natural person in a management position in a legal entity in which the proposed acquirer of a qualifying holding in a payment institution is in a management position or is the beneficial owner of the legal entity;
- any natural person that is the beneficial owner of the legal entity in which the proposed acquirer of a qualifying holding in a payment institution is in a management position;
- any natural person who shares a joint beneficial ownership of a legal entity with the proposed acquirer of a qualifying holding in a payment institution;

56) '*associate of an applicant for the approval to perform the function of the management board member of a payment institution*' means:

- any natural person in a management position in a legal entity in which the candidate for the payment institution's management board member is in a management position or is the beneficial owner of a legal entity;
- any natural person that is the beneficial owner of a legal entity in which the candidate for the payment institution's management board member is in a management position;
- any natural person who shares a joint beneficial ownership of a legal entity with the candidate for the payment institution's management board member;

57) '*systemic risk*' means a risk caused by a disruption in the functioning of a payment system or by the inability of payment system participants to fulfil their obligations related to the functioning of the payment system, which results in the inability of other payment system participants to fulfil their obligations or in threats to the safety of payment operations and the financial system as a whole;

58) '*durable medium*' means any instrument which enables the payment service user to store information addressed personally to that payment service user in a way accessible for future reference for a period of time adequate to the purposes of the information and which allows the unchanged reproduction of the information stored;

59) '*third country*' means any non-Member State;

60) '*close links*' means close links as defined in Article 4, paragraph (1), item (38) of Regulation (EU) No 575/2013;

61) '*payment initiation service*' means a service to initiate a payment order at the request of the payment service user with respect to a payment account held at another payment service provider;

62) '*account information service*' means an online service to provide consolidated information on one or more payment accounts held by the payment service user with either another payment service provider or with more than one payment service provider;

63) '*agent*' means a natural or legal person who acts on behalf and for the account of a payment institution, a small payment institution or a registered account information service provider in providing payment services.

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

## *Payment services*

### Article 4

Payment services shall be the following services provided by payment service providers as their regular occupation or business activity:

- 1) services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account;
- 2) services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account;
- 3) execution of payment transactions, including transfers of funds on a payment account with the user's payment service provider or with another payment service provider, in particular:
  - a) execution of direct debits, including one-off direct debits;
  - b) execution of payment transactions through a payment card or a similar device; or
  - c) execution of credit transfers, including standing orders;
- 4) execution of payment transactions where the funds are covered by a credit line for a payment service user; in particular:
  - a) execution of direct debits, including one-off direct debits;
  - b) execution of payment transactions through a payment card or a similar device;
  - c) execution of credit transfers, including standing orders;
- 5) issuing of payment instruments and/or acquiring of payment transactions;
- 6) money remittance;
- 7) payment initiation service; and
- 8) account information service.

### *Activities not deemed to be payment services*

### Article 5

For the purposes of this Act, the following shall not be deemed to be payment services:

- 1) payment transactions made exclusively in cash directly from the payer to the payee, without any intermediary intervention;
- 2) payment transactions from the payer to the payee through a commercial agent authorised via an agreement to negotiate or conclude contracts on the sale or purchase of goods or services on behalf of the payer or the payee;
- 3) professional physical transport of banknotes and coins, including their collection, processing and delivery;
- 4) payment transactions consisting of the non-professional cash collection and delivery within the framework of a non-profit or charitable activity;

- 5) services where cash is provided by the payee to the payer as part of a payment transaction on explicit request by the payment service user just before the execution of the payment transaction through a payment for the purchase of goods or services;
- 6) money exchange business consisting in cash-to-cash operations, where the funds are not held in a payment account;
- 7) payment transactions based on any of the following documents drawn on, or issued to a payment service provider with a view to making funds available to the payee:
  - a) paper cheques in accordance with the Geneva Convention of 19 March 1931 providing a uniform law for cheques;
  - b) paper cheques similar to those referred to in sub-item (a) of this item and governed by the laws of Member States which are not parties to the Geneva Convention of 19 March 1931 providing a uniform law for cheques;
  - c) paper-based drafts in accordance with the Geneva Convention of 7 June 1930 providing a uniform law for bills of exchange and promissory notes;
  - d) paper-based drafts similar to those referred to in sub-item (c) of this item and governed by the laws of Member States which are not parties to the Geneva Convention of 7 June 1930 providing a uniform law for bills of exchange and promissory notes;
  - e) paper-based vouchers;
  - f) paper-based traveller's cheques; and
  - g) paper-based postal money orders as defined by the Universal Postal Union;
- 8) payment transactions carried out within a payment or financial instruments settlement system between settlement agents, central counterparties, clearing houses and/or central banks and other system participants, and payment service providers;
- 9) payment transactions related to securities asset servicing, including dividends, income or other distributions, or related to the redemption or sale of securities assets, carried out by persons referred to in item (8) of this Article, or by investment firms, credit institutions, collective investment undertakings or asset management companies providing investment services, and any other entities allowed to have the custody of financial instruments;
- 10) services provided by technical service providers who support the provision of payment services, without them entering at any time into possession of the funds to be transferred, including processing and storage of data, trust and privacy protection services, data and entity authentication, information technology and communication network provision, provision and maintenance of terminals and devices used for payment services, except payment initiation and account information services;
- 11) services based on specific payment instruments that can be used only in a limited way, that meet one of the following conditions:
  - a) instruments allowing the holder to acquire goods or services only in the premises of the issuer or within a limited network of service providers under direct commercial agreement with a professional issuer;
  - b) instruments which can be used only to acquire a very limited range of goods or services;



c) instruments valid only in a single Member State provided at the request of a company or a public sector entity and regulated by a national or regional public authority for specific social or tax purposes to acquire specific goods or services from suppliers having a commercial agreement with the issuer;

12) payment transactions by a provider of electronic communications networks or services provided in addition to electronic communications services for a user of the network or service:

a) for purchase of digital content and voice-based services, regardless of the device used for the purchase or consumption of the digital content and charged to the user together with electronic communications services; or

b) performed from or via an electronic device and charged within the framework of a charitable activity or for the purchase of tickets, which are charged to the user together with electronic communications services

under the following conditions, irrespective of whether it is a subscriber or a user pre-funding their account with the provider of the electronic communications network or service:

– provided that the value of any single payment transaction referred to in sub-items (a) and (b) of this item does not exceed HRK 375.00; and

– provided that the cumulative value of payment transactions for an individual user does not exceed HRK 2,250.00 per month;

13) payment transactions carried out between payment service providers, their agents or branches for their own account;

14) payment transactions and related services between a parent company and its subsidiary or between subsidiaries of the same parent company, without any intermediary intervention by a payment service provider other than a company belonging to the same group;

15) cash withdrawal services offered by means " devices of third persons, acting on behalf of one or more card issuers, that are not a party to the framework contract with the customer withdrawing money from a payment account, on condition that those third persons do not conduct other payment services referred to in Article 4 of this Act. Service providers referred to in this item shall inform their users in accordance with Article 15, paragraph (3) of this Act.

### *Obligation of the provision of information on activities not deemed to be payment services*

#### Article 6

(1) A service provider engaging in one or both activities referred to in Article 5, item (11), sub-items (a) and (b) of this Act shall, as soon as the cumulative value of payment transactions executed over the previous 12 months exceeds HRK 7,500,000.00, submit to the Croatian National Bank a notification on the cumulative value of payment transactions executed over the previous 12 months, providing a detailed account of the services it offers and indicating which of the activities referred to in Article 5, item (11) of this Act it refers to, and every 12 months following the submission of the first such notification, if the cumulative value of payment transactions executed over the previous 12 months exceeds HRK 7,500,000.00, it shall submit to the Croatian National bank a new updated notification.

(2) A service provider notifying the Croatian National Bank in accordance with paragraph (1) of this Article, shall, at the request of the Croatian National Bank submit the information required by the Croatian National Bank for the assessment referred to in paragraph (3) of this Act and for the entry in the register referred to in Article 93 of this Act.

(3) The Croatian National Bank shall, based on the notification referred to in paragraph (1) of this Article and the information submitted in accordance with paragraph (2) of this Article determine if the conditions for the exclusion referred to in Article 5, item (11), sub-items (a) and (b) of this Act are met.

(4) When making the determination referred to in paragraph (3) of this Article, the Croatian National Bank shall be governed by principles of protection of interests of consumers and payment service providers that may not be brought into a less favourable position than service providers referred to in paragraph (1) of this Article.

(5) If the Croatian National Bank assesses, in accordance with paragraphs (3) and (4) of this Article, that a service provider is no longer justified to use the exclusion referred to in Article 5, item (11) of this Act, it shall adopt a decision instructing the service provider referred to in paragraph (1) of this Article to submit, within a time limit set by the Croatian National Bank of no less than ninety days to the Croatian National Bank an application for authorisation to provide payment services referred to in Article 85 of this Act, or an application for entry in the register referred to in Article 93 of this Act as a small payment institution or to comply within the same time limit with the limitations referred to in Article 5, item (11) of this Act in the manner described in the decision.

(6) The provider of electronic communications networks or services engaging in the activity referred to in Article 5, item (12) of this Act shall inform the Croatian Regulatory Authority for Network Industries thereof.

(7) The service provider referred to in paragraph (6) of this Article shall submit to the Croatian Regulatory Authority for Network Industries an annual audit opinion confirming compliance of its activities with the limitations referred to in Article 5, item (12) of this Act no later than within four months of the expiry of the business year to which the annual audit opinion refers.

(8) The service provider referred to in paragraph (6) of this Article shall submit, at the request of the Croatian Regulatory Authority for Network Industries, the information required for the purposes of paragraph (10) of this Article.

(9) The Croatian Regulatory Authority for Network Industries shall notify the Croatian National Bank of providers of electronic communications networks or services referred to in paragraph (6) of this Article which engage in the activity referred to in Article 5, item (12) of this Act.

(10) The Croatian Regulatory Authority for Network Industries shall submit to the Croatian National Bank, in addition to the notification referred to in paragraph (9) of this Article, the data for each provider referred to in paragraph (6) of this Article prescribed as mandatory by the implementing technical standard adopted as a delegated act by the European Commission based on Article 15, paragraph (5) of Directive (EU) 2015/2366 to be submitted by competent authorities of Member States to the European Banking Authority.

(11) When the Croatian Regulatory Authority for Network Industries assesses that the activity provided by the service provider referred to in paragraph (6) of this Article is not compliant with the limitations referred to in Article 5, item (12) of this Act, it shall immediately inform the Croatian National Bank thereof and transmit to it the annual audit opinion on that provider.

(12) If, based on the notification and the submitted information referred to in paragraph 10 of this Article, the Croatian National Bank assesses that the activity carried out by the service provider referred to in paragraph (6) of this Article is not compliant with the limitations referred to in Article 5, item (12) of this Act, it shall adopt a decision instructing the service provider referred to in paragraph (6) of this Article to submit to the Croatian National Bank within a time limit set by the Croatian National Bank of no less than ninety days, an application for authorisation to provide payment services referred to in Article 85 of this Act, or an application for entry in the register referred to in Article 93

of this Act as a small payment institutions or to comply within the same time limit with the limitations referred to in Article 5, item (12) of this Act.

### *Payment service providers*

#### Article 7

(1) Payment service providers in the Republic of Croatia may be:

1) credit institutions, in particular:

a) credit institutions established in the Republic of Croatia;

b) credit institutions established in another Member State within the meaning of Article 4, paragraph (1), item (1) of Regulation (EU) No 575/2013, including their branches within the meaning of Article 4, paragraph (1), item (17) of that Regulation when those branches are established in the Republic of Croatia;

c) third-country credit institutions via their branches established in the Republic of Croatia;

2) electronic money institutions, in particular:

a) electronic money institutions established in the Republic of Croatia;

b) electronic money institutions established in another Member State, including their branches established in the Republic of Croatia;

c) third-country electronic money institutions via their branches established in the Republic of Croatia;

3) small electronic money institutions established in the Republic of Croatia;

4) payment institutions, in particular:

a) payment institutions established in the Republic of Croatia;

b) payment institutions established in another Member State, including their branches established in the Republic of Croatia;

5) small payment institutions established in the Republic of Croatia;

6) registered account information service providers, in particular:

a) registered account information service providers established in the Republic of Croatia;

b) registered account information service providers established in another Member State, including their branches established in the Republic of Croatia;

7) the Croatian National Bank, when not acting in its capacity as monetary or other public authority;

8) the Republic of Croatia and units of local or regional self-government, when not acting in their capacity as public authorities;

9) the European Central Bank and central banks of other Member States, when not acting in their capacity as monetary or other public authority.

(2) Payment services in the Republic of Croatia may only be rendered by the providers referred to in paragraph (1) of this Article.

(3) By way of derogation from paragraphs (1) and (2) of this Article, the Croatian Bank for Reconstruction and Development may provide payment services in accordance with the law governing its status, operations and powers.

(4) The providers referred to in paragraph (1), item (1), sub-items (a) and (c), item (2), sub-item (a) and (c) and item (3) of this Article may provide payment services in accordance with the laws governing these entities and their operations, but the providers referred to in paragraph (1), item (2), sub-item (c) may provide only those payment services which are associated with electronic money issuing.

(5) The rights of the entities referred to in paragraph (1), items (7), (8) and (9) of this Article to provide payment services shall be governed by regulations governing these entities, and their tasks and competences.

(6) The providers referred to in paragraph (1), item (4), sub-item (a), item (5) and item (6), sub-item (a) of this Article may provide payment services only within the limits of the decisions issued pursuant to the provisions of this Act.

(7) The providers referred to in paragraph (1), item (1), sub-item (b), item (2), sub-item (b), item (4), sub-item (b) and item (6), sub-item (b) of this Article may provide payment services within the limits of the authorisation issued by the competent authority of the home Member State or the registration by the competent authority of the home Member State in the manner laid down in this Act and other laws governing their operation.

#### *Accounts of payment providers with credit institutions*

##### Article 8

(1) Credit institutions shall open payment accounts to payment institutions, small payment institutions, electronic money institutions and small electronic money institutions, at their request, and provide services associated with such accounts in an objective, non-discriminatory and proportionate manner in the scope which shall be sufficiently extensive to enable these institutions to provide payment services in an unhindered and efficient manner.

(2) Credit institutions shall notify the Croatian National Bank of each refusal of the application referred to in paragraph (1) of this Article and state the reasons for the refusal.

#### *Application of the provisions of other laws*

##### Article 9

(1) The relationships between payment service users and providers other than those governed by Titles II and III of this Act shall be governed by the provisions of laws governing civil obligations.

(2) The relationships between payment service users that are consumers and payment services providers shall be governed by the provisions of the laws governing consumer protection and consumer credit.

(3) By way of derogation from paragraph (2) of this Article, the relationships between payment service users that are consumers and payment service providers shall not be governed by the provisions of the Consumer Protection Act (Official Gazette 41/2014 and 110/2015) relating to the provision of information when concluding distance consumer contracts concerning the sale of financial services, except Article 83, items (3) to (8), Article 84, items (1), (4) and (5) and Article 85, item (2) of that Act.

## *Reports on payment services*

### Article 10

- (1) The Croatian National Bank shall determine the reporting entities, content, manner and time limits of statistical reporting on payment services and on payment frauds.
- (2) The payment service reporting entities may be payment service providers referred to in Article 7, paragraph (1), items (1) to (6) of this Act and entities engaging in activities not considered payment services in accordance with Article 5 of this Act and payment infrastructure owners.
- (3) The payment service reporting entities shall report to the Croatian National Bank in accordance with the provision of paragraph (10) of this Article.
- (4) The payment service reporting entities shall report to the Croatian National Bank on payment frauds in accordance with the provision of paragraph (11) of this Article as a minimum on an annual basis.
- (5) The Croatian National Bank shall be authorised to use data collected from the reports referred to in paragraphs (3) and (4) of this Article for the purposes of prudential supervision of payment service providers falling within its sphere of competence.
- (6) The Croatian National Bank shall be authorised to determine as reporting entities for information and statistical purposes also the payment institutions and registered account information service providers from other Member States operating in the territory of the Republic of Croatia through branches or agents as well as electronic money institutions from other Member States operating in the territory of the Republic of Croatia through branches or agents.
- (7) The reporting entities referred to in paragraph (6) of this Article shall report to the Croatian National Bank in accordance with regulatory technical standards governing the framework for cooperation and exchange of information between competent authorities of Member States, adopted as a delegated act by the European Commission based on Article 29, paragraph (7) of Directive (EU) 2015/2366.
- (8) The Croatian National Bank shall be authorised to use data provided in the reports referred to in paragraphs (6) and (7) of this Article for the purpose of supervision of the application of the provisions of Title II and Title III of this Act by payment institutions and electronic money institutions operating in the territory of the Republic of Croatia through branches or agents based on the right of establishment.
- (9) The Croatian National Bank shall be authorised to submit the collected statistical data on payment frauds to the European Central Bank and the European Banking Authority in collective form.
- (10) The Croatian National Bank shall adopt subordinate legislation to determine reporting entities, the content, the manner and the time limits of the statistical reporting referred to in paragraph (1) of this Article.
- (11) The Croatian National Bank shall adopt subordinate legislation governing the reporting on payment frauds for the purpose of alignment with European Banking Authority Guidelines on fraud reporting in accordance with Article 96, paragraph (6) of Directive (EU) 2015/2366.

## TITLE II

### OBLIGATION TO PROVIDE INFORMATION TO PAYMENT SERVICE USERS

#### CHAPTER I GENERAL PROVISIONS

##### *Application of the provisions of Title II*

###### Article 11

- (1) This Title shall apply to single payment transactions and to framework contracts and payment transactions executed based on such contracts.
- (2) By way of derogation from paragraph (1) of this Article, payment system users that are not consumers and their payment service providers may agree by a contract that some or all provisions of this Title shall not apply to single payment transactions, framework contracts and payment transactions based on framework contracts.
- (3) Unless otherwise regulated by this Act for an individual provision, the provisions of this Title shall apply, irrespectively of the payment transaction currency, to that part of national, cross-border and international payment transactions which take place in the territory of the Member States.
- (4) The payment service provider may grant more favourable terms to the payment service user than those provided under this Title.
- (5) The provisions of this Title shall not apply to the Croatian Bank for Reconstruction and Development when it provides payment services pursuant to Article 7, paragraph (3) of this Act.

##### *Information fees*

###### Article 12

- (1) The payment service provider shall not charge the payment service user a fee for the information it is obliged to provide to it based on the provisions of this Title.
- (2) Should a payment service user require from a payment service provider additional or more frequent information than specified under the framework contract, or its transmission by means of communication other than those specified in the framework contract, the payment service provider and user may agree on additional fees for such provision of information.
- (3) Where a payment service provider has the right to charge fees in accordance with paragraph (2) of this Article, these fees shall be appropriate and in line with the payment service provider's actual costs.

##### *Burden of proof*

###### Article 13

In case of a dispute, the payment service provider shall prove that it has fulfilled its information obligations towards the payment service user pursuant to the provisions of this Title.

## *Information obligation for low-value payment instruments and electronic money*

### Article 14

In cases of payment instruments which, according to the provisions of the framework contract, concern only individual payment transactions that do not exceed HRK 225.00, or which either have a spending limit up to a total of HRK 1,125.00 or store funds that never exceed HRK 1,125.00:

- 1) by way of derogation from Articles 23, 24 and 28 of this Act, the payment service provider shall provide a payer only with information on the main characteristics of the payment service, including the way in which the payment instrument can be used, liability, fees charged and other material information needed by the payment service user to take a decision on concluding a contract, as well as an indication of where any other information laid down in Article 23 of this Act is made available to the payment service user in an easily accessible manner;
- 2) by way of derogation from Article 26 of this Act, the payment service provider and the payment service user may agree that the payment service provider shall not be required to propose changes to the framework contract in the same way as provided for in Article 24, paragraph (1) of this Act;
- 3) by way of derogation from Articles 29 and 30 of this Act, the payment service provider and the payment service user may agree that, after the execution of a payment transaction, the payment service provider shall provide or make available only a reference enabling the payment service user to identify the payment transaction, its amount and any fees; and in the case of several payment transactions of the same kind made to the same payee, the references and information on the total amount of and fees for those payment transactions; and
- 4) if a payment instrument is used anonymously, or if the payment service provider is not otherwise technically in a position to provide the information referred to in item (3) of this Article to the payment service user, the payment service provider and the payment service user may agree that the payer shall only be enabled to verify the amount of funds stored on the payment instrument after the execution of the payment transaction.

## *Information on fees or reductions*

### Article 15

- (1) Where, for the use of a given payment instrument, the payee offers a reduction, the payee shall inform the payer thereof prior to the initiation of the payment transaction.
- (2) Where, for the use of a given payment instrument, the payment service provider or a third person that is not a payment service provider and is involved in the payment transaction charges a fee, it shall inform the payment service user thereof prior to the initiation of the payment transaction.
- (3) If a third person is involved in the transaction referred to in paragraph (2) of this Article, the person providing the service referred to in Article 5, item (15) of this Act shall provide the user with information in accordance with Articles 16, 18, 21 and 22 of this Act prior to cash withdrawal, and on the receipt following the execution of the cash withdrawal transaction.
- (4) The payer shall pay the fee referred to in paragraph (2) of this Article only if informed about the full amount of the fee prior to initiating the payment transaction.

## *Transaction currency and currency conversion*

### Article 16

- (1) Payments shall be made in the currency agreed in accordance with this Act and special regulations.

(2) Where a currency conversion service is offered at ATMs, points of sale or is offered by the payee, the party offering that service shall disclose to the payer all fees as well as the exchange rate to be used for currency conversion before initiating the payment transaction. The payer shall give its consent for such currency conversion service.

## CHAPTER II SINGLE PAYMENT TRANSACTIONS

### *Avoiding double information*

#### Article 17

When a payment order for a single payment transaction is transmitted to the payment service provider by a payment instrument covered by a framework contract with another payment service provider, the payment service provider shall not be obliged to provide or make available the information which is already given, or which will be given to the payment service user based on a framework contract with another payment service provider.

### *Prior general information*

#### Article 18

(1) The payment service provider shall, before the payment service user is bound by any offer or single payment transaction contract, provide or make available to the payment service user the following information on its service:

- 1) the data relating to the payee or payer to be submitted by the payment service user for the correct initiation or execution of a payment order, and/or that the payment service user is required to submit to the payment service provider the unique identifier of the payee or payer for that purpose;
- 2) the maximum execution time for the payment service to be provided;
- 3) the total amount of all fees payable by the payment service user to the payment service provider, and a breakdown of the amounts of such fees;
- 4) the actual or reference exchange rate, if the payment transaction concerned involves currency conversion; and
- 5) any other information referred to in Article 23 of this Act relating to the payment transaction.

(2) The provision of paragraph (1), item (2) of this Article shall apply only to national and cross-border payment transactions in currencies of the Member States.

(3) Payment initiation service providers shall provide or make available to the payer, in addition to the information referred to in paragraph (1) of this Article, the following clear and comprehensive information before initiating a payment order:

- 1) the name of the payment initiation service provider, the address of its head office and, where the service is provided through an agent or branch, the address of its agent or branch;
- 2) all other information required for communication with the payment initiation service provider, including electronic mail address; and
- 3) information on the competent authority and contact details required for communication with the competent authority.



(4) The payment service provider shall make available to the payment system user the information referred to in paragraphs (1) and (3) of this Article:

1) in an easily accessible manner;

2) in easily understandable words and in a clear and comprehensive form in the Croatian language and in Latin script and any other language agreed between the payment service provider and payment service user; and

3) at the payment service user's request, on paper or another durable medium.

(5) If a single payment service contract has been concluded at the request of the payment service user using a means of distance communication which does not enable the payment service provider to fulfil its obligations referred to in paragraphs (1), (3) and (4) of this Article, the payment service provider shall fulfil these obligations immediately after the execution of the payment transaction.

(6) The obligations referred to in paragraphs (1), (3) and (4) of this Article may also be fulfilled by providing a copy of the draft single payment service contract or the draft payment order including the information referred to in this Article.

*Payment initiation service providers' information for the payer and payee after the initiation of a payment order*

Article 19

In addition to the information referred to in Article 18 of this Act, where a payment order is initiated through a payment initiation service provider, the payment initiation service provider shall, immediately after initiation, provide or make available all of the following data to the payer and, where applicable, the payee:

1) confirmation of the successful initiation of the payment order with the payer's account servicing payment service provider;

2) a reference enabling the payer and the payee to identify the payment transaction and, where appropriate, the payee to identify the payer, and any information transferred with the payment transaction;

3) the amount of the payment transaction; and

4) the amount of any fees payable by the payment service user to the payment initiation service provider for the payment transaction, and a breakdown of the amounts of such fees.

*Information for payer's account servicing payment service provider in the event of a payment initiation service*

Article 20

Where a payment transaction is initiated through a payment initiation service provider, the payment initiation service provider shall make available to the payer's account servicing payment service provider the reference of the payment transaction.

### *Information for the payer after receipt of the payment order*

#### Article 21

Immediately after receipt of a payment order, the payer's payment service provider shall provide or make available to the payer, in the manner referred to in Article 18, paragraph (4) of this Act, the following information:

- 1) a reference enabling the payer to identify the payment transaction and, where applicable, any information relating to the payee;
- 2) the amount of the payment transaction in the currency used in the payment order;
- 3) the total amount of all fees for the payment transaction payable by the payer and a breakdown of the amounts of such fees;
- 4) where the payment transaction involves currency conversion, the exchange rate used in the payment transaction by the payer's payment service provider, or a reference to the exchange rate used, and the amount of the payment transaction after the currency conversion; and
- 5) the date of receipt of the payment order.

### *Information for the payee after the execution of a payment transaction*

#### Article 22

Immediately after the execution of a payment transaction, the payee's payment service provider shall provide or make available to the payee, in the manner referred to in Article 18, paragraph (4) of this Act, the following information with regard to the services it provided:

- 1) a reference enabling the payee to identify the payment transaction and, where appropriate, any information transferred with the payment transaction and information relating to the payer;
- 2) the amount of the payment transaction in the currency in which the funds have been made available to the payee;
- 3) the total amount of all fees for the payment transaction payable by the payee and a breakdown of the amounts of such fees;
- 4) where the payment transaction involves currency conversion, the exchange rate used in the payment transaction by the payee's payment service provider and the amount of the payment transaction before the currency conversion; and
- 5) the credit value date.

## CHAPTER III FRAMEWORK CONTRACTS

### *Prior information*

#### Article 23

(1) The payment service provider shall, before the payment service user is bound by any offer or framework contract, provide the payment service user with the following information:

- 1) on the payment service provider, in particular:

- a) the firm name or name of the payment service provider and the address of its head office;
  - b) where the service is provided through a branch or an agent in the Republic of Croatia, the firm name or name and the address of that branch or agent;
  - c) any other address, including electronic mail address, for communication with the payment service provider; and
  - d) the particulars of the authority competent for supervision of the payment service provider's operation and of the register referred to in Article 93 of this Act, or of any other relevant public register of authorisation of the payment service provider and the registration number or, where such registration number does not exist, of another adequate identifier of the payment service provider;
- 2) on the use of the payment service, in particular:
- a) a description of the main characteristics of the payment service to be provided;
  - b) the data relating to the payee or payer to be provided by the payment service user for the correct initiation or execution of a payment order and/or that the payment service user is required to provide the unique identifier of the payee or payer for that purpose;
  - c) on the possibility, the form and manner of giving consent to execute a payment transaction and withdrawing of such consent in accordance with Articles 34 and 52 of this Act;
  - d) a reference to the point in time of receipt of a payment order pursuant to Article 50 of this Act and the cut-off time, if established by the payment service provider;
  - e) the maximum execution time for the payment service to be provided; and
  - f) whether there is a possibility of a contractual limitation of consumption when using the payment instrument pursuant to Article 38, paragraph (1) of this Act; and
  - g) on the rights of payment service users in accordance with Article 8 of Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions (OJ L 123, 19.5.2015) in the case of co-badging on card-based payment instruments;
- 3) on fees, interest and exchange rates, in particular:
- a) all fees payable by the payment service user to the payment service provider including those connected to the manner in and frequency with which information is provided or made available and a breakdown of those fees;
  - b) where interest and/or exchange rates are used, the interest and/or exchange rates to be applied or, if reference interest and/or exchange rates are to be applied, the method of calculating the actual interest, and the reference date and index or base for determining such reference interest or exchange rate; and
  - c) if agreed, the immediate application of changes in reference interest or exchange rate, and the way of notifying the payment service user of the changes in exchange or interest rate pursuant to Article 26, paragraphs (5), (6) and (7) of this Act;
- 4) on communication, in particular:
- a) where applicable, the means of communication, including the technical requirements for the payment service user's equipment and software necessary for the transmission of information or notifications;

- b) the manner in and frequency with which information is to be provided or made available to the payment service user in accordance with the provisions of this Act, including information on the right of the payment service user referred to in Article 29, paragraph (3) and Article 30, paragraph (3) of this Act;
  - c) the language or languages in which the framework contract will be concluded and communication during this contractual relationship undertaken; and
  - d) the payment service user's right referred to in Article 25 of this Act;
- 5) on safeguards and corrective measures in connection with the use of a payment instrument, in particular:
- a) where applicable, the steps that the payment service user is to take in order to keep safe a payment instrument, and the manner of notifying the payment service provider, in accordance with Article 39 of this Act;
  - b) the secure procedure for notification of the payment service user by the payment service provider in the event of suspected or actual fraud or security threats;
  - c) if agreed, the conditions under which the payment service provider reserves the right to block a payment instrument in accordance with Article 38 of this Act;
  - d) the liability of the payer in accordance with Article 46 of this Act, including information on the relevant amount;
  - e) how and within what period of time the payment service user is to notify the payment service provider of any unauthorised or incorrectly initiated, non-executed, or late payment transaction in accordance with Articles 41 and 63 of this Act as well as the payment service provider's liability for unauthorised payment transactions in accordance with Articles 43, 44 and 45 of this Act;
  - f) the liability of the payment service provider for the initiation of payment transactions pursuant to Article 60 of this Act and for execution of payment transactions pursuant to Articles 58 and 59 of this Act; and
  - g) the conditions for refund in accordance with Articles 48 and 49 of this Act;
- 6) on changes to, and termination of, the framework contract, in particular:
- a) if agreed, information that the payment service user will be deemed to have accepted changes in the conditions of the framework contract, unless the payment service user notifies the payment service provider before the date of their proposed date of entry into force that they are not accepted, in accordance with Article 26 of this Act;
  - b) the duration of the framework contract; and
  - c) the right of the payment service user to terminate the framework contract and other conditions for its termination in accordance with Article 26, paragraphs (3) and (4) and Article 27 of this Act;
- 7) on redress, in particular:
- a) any contractual clause on the law applicable to the framework contract and/or on the competent courts for the settlement of disputes arising from the framework contract; and
  - b) the procedures available to the payment service user in accordance with Title III, Chapter VI of this Act (complaint to payment service provider, complaint to the competent authority and alternative consumer dispute resolution).

(2) The provision of paragraph (1), item (2), sub-item (e) of this Article shall apply only to national and cross-border payment transactions in currencies of the Member States.

(3) The provision of paragraph (1), item (5), sub-item (g) of this Article shall not apply to international payment transactions.

(4) The information provided by the payment service provider to payment service user pursuant to paragraph (1) of this Article shall be contained in the framework contract concluded with that user.

(5) In addition to the information referred to in paragraph (1) of this Article, the payment service provider issuing payment cards that is not subject to the application of the provisions of law on the comparability of fees, payment account switching and access to payment accounts with basic features relating to transparency and comparability of fees related to payment accounts shall provide the payment system user that is the consumer, in a separate document, and in line with the subordinate legislation referred to in paragraph (6) of this Article, with information on the fees for payment card issuing and use, including the applicable interest, before the payment system user is bound by any offer or framework contract, and once a year with information on all calculated fees and interest.

(6) The Croatian National Bank shall adopt subordinate legislation to determine the content of the information on fees charged for payment card issuing and use referred to in paragraph (5) of this Article and the manner in which such information is provided.

#### *Manner of providing prior information and conditions*

##### Article 24

(1) The payment service provider shall provide the information referred to in Article 23 of this Act:

1) on paper or on another durable medium;

2) sufficiently in advance, so that the payment service user has enough time to take a decision on concluding a contract; and

3) in easily understandable words and in a clear and comprehensive form in the Croatian language and in Latin script and any other language agreed between the payment service provider and payment service user.

(2) If the framework contract has been concluded at the request of the payment service user using a means of distance communication which does not enable the payment service provider to fulfil its obligations under Article 23 of this Act and paragraph (1) of this Article, the payment service provider shall fulfil these obligations immediately after the conclusion of the framework contract.

(3) The payment service provider may also fulfil the obligations referred to in Article 23 of this Act and paragraph (1) of this Article by providing a copy of the draft framework contract including the information referred to in Article 23 of this Act.

#### *Accessibility of information and terms of the framework contract*

##### Article 25

At any time during the contractual relationship, the payment service provider shall provide the payment service user without delay, on request, with the contractual terms of the framework contract and information referred to in Article 23 of this Act on paper or on another durable medium.

## *Changes to the framework contract*

### Article 26

- (1) The payment service provider shall propose any changes to the framework contract in the manner referred to in Article 24, paragraph (1) of this Act at least two months prior to the proposed date of application of such changes.
- (2) In the case referred to in paragraph (1) of this Article, the payment system user shall have the right to accept or refuse changes to the framework contract prior to the proposed date of their entry into force.
- (3) The payment service provider and the payment service user may agree that the payment service user is to be deemed to have accepted these changes if the payment service user does not notify the payment service provider of not accepting them by the proposed date of their entry into force.
- (4) The payment service provider shall notify the payment system user that, in the event of user not accepting the proposed changes, the user shall have the right to terminate the framework contract without incurring fees effective as of any date prior to the entry into force of such changes.
- (5) The payment service provider and the payment service user may agree that changes in the interest or exchange rates arising from the reference interest or exchange rates may be applied immediately and without prior notice, provided the manner of interest rate calculation and the reference date and index, or the basis for determining such interest or exchange rate have been agreed.
- (6) The payment service provider shall inform the payment service user of any change in the interest rate at the earliest opportunity in the same way as provided for in Article 24, paragraph (1) of this Act, unless the parties have agreed on a specific frequency or different manner in which such notice is to be provided or made available to the payment service user.
- (7) Changes in interest or exchange rates which are more favourable to the payment service user may be applied without notice to the payment service user.
- (8) Changes in the interest or exchange rate used in the execution of payment transactions shall be implemented and calculated in a manner that does not discriminate against payment service users.

## *Termination of the framework contract*

### Article 27

- (1) The payment service user may terminate the framework contract at any time, unless a period of notice has been agreed.
- (2) The period of notice referred to in paragraph (1) of this Article shall not exceed one month and where a longer period of notice has been agreed, the one-month period of notice shall apply.
- (3) The payment service provider shall not charge the payment service user a fee for the termination of a framework contract except where the contract has been in force for less than 6 months prior to entry into force of the termination.
- (4) By way of derogation from paragraph (3) of this Article, if the payment service user does not accept changes to the framework contract proposed by the payment service provider and therefore decides to terminate the framework contract, the payment service provider shall not charge any fees for such termination of the framework contract.
- (5) Where the payment service provider has the right to charge a fee for the termination of a contract, such fee must be appropriate and in line with the payment service provider's costs.

(6) It may be agreed in the framework contract that the payment service provider has the right to terminate the framework contract concluded for an indefinite period by giving at least two months' notice, provided that the notice is given in the same way as provided for in Article 24, paragraph (1) of this Act.

(7) Where the payment service user is charged a fee for payment services on a periodic basis, in case of termination of the framework contract, the payment service provider may only charge a fee proportionate to the duration of the contract.

(8) Where the payment service user has paid the fee in advance, the payment service provider shall reimburse the part of the fee proportionate to the period between the termination of the contract and the end of the period for which the fee has been paid.

### *Information before execution of individual payment transactions*

#### Article 28

(1) In the case of an individual payment transaction under a framework contract initiated by the payer, the payment service provider shall, at the payer's request, provide the following information on that payment transaction prior to its execution:

- 1) the maximum execution time; and
  - 2) total fees payable by the payer and a breakdown of the amounts of each fee.
- (2) The provision of paragraph (1), item (1) of this Article shall apply only to national and cross-border payment transactions in currencies of the Member States.

### *Information for the payer on individual payment transactions*

#### Article 29

(1) The payer's payment service provider shall, after the amount of an individual payment transaction is debited from the payer's payment account or, where the payer does not use a payment account for that payment transaction, after the receipt of the payment order, provide the payer without delay, in the same way as provided for in Article 24, paragraph (1) of this Act, with the following information:

- 1) a reference enabling the payer to identify each payment transaction and, where appropriate, information relating to the payee;
- 2) the amount of the payment transaction in the currency in which the payer's payment account is debited or in the currency used for the payment order;
- 3) the total amount of all fees for the payment transaction and a breakdown of the amounts of such fees, as well as the interest payable by the payer;
- 4) where the payment transaction involves currency conversion, the exchange rate used and the amount of the payment transaction after the currency conversion; and
- 5) the debit value date or the date of receipt of the payment order.

(2) A framework contract shall include a condition that the payer may require the information referred to in paragraph 1 to be provided or made available periodically, at least once a month, free of charge and in an agreed manner which allows the payer to store and reproduce information unchanged.

(3) The payment service provider shall, at the payer's request, provide the information referred to in paragraph (1) of this Article on paper once a month free of charge for the payer.

## *Information for the payee on individual payment transactions*

### Article 30

(1) After the execution of an individual payment transaction, a payee's payment service provider shall provide the payee, without delay, in the same way as provided for in Article 24, paragraph (1) of this Act with the following information:

- 1) a reference enabling the payee to identify the payment transaction and, all information transferred with the payment transaction and information relating to the payer;
- 2) the amount of the payment transaction in the currency in which the payee's payment account is credited or in which the funds have been made available to the payee;
- 3) the total amount of all fees for the payment transaction and a breakdown of the amounts of each fee, as well as the interest payable by the payee;
- 4) where the payment transaction involves currency conversion, the exchange rate used in the payment transaction by the payee's payment service provider, and the amount of the payment transaction before the currency conversion; and
- 5) the credit value date.

(2) A framework contract may include a condition that the information referred to in paragraph (1) of this Article be provided or made available to the payee periodically, at least once a month, in an agreed manner which allows the payee to store and reproduce information unchanged.

(3) The payment service provider shall, at the payee's request, provide the information referred to in paragraph (1) of this Article on paper once a month free of charge for the payee.

## TITLE III

### RIGHTS AND OBLIGATIONS IN RELATION TO THE PROVISION AND USE OF PAYMENT SERVICES

#### CHAPTER I COMMON PROVISIONS

##### *General provisions*

#### Article 31

(1) This Title governs the rights and obligations of payment service providers and payment service users.

(2) Unless otherwise regulated by this Act, the provisions of this Title shall apply, irrespectively of the payment transaction currency, to that part of national, cross-border and international payment transactions which take place in the territory of the Member States.

(3) The payment service provider may grant more favourable terms to the payment service user than those provided under this Title.



(4) The provisions of this Title shall not apply to the Croatian Bank for Reconstruction and Development when it provides payment services pursuant to Article 7, paragraph (3) of this Act.

### *Fees*

#### Article 32

(1) The payment service provider may charge the payment service user a fee for the fulfilment of the obligations under this Title only in the cases referred to in Article 51, paragraph (3), Article 52, paragraph (9) and Article 61, paragraph (7) of this Act, if such fees have been agreed; and if they are reasonable and in line with the payment service provider's actual costs.

(2) The payment service provider and the payment service user that is not a consumer may agree by contract on the payment of fees in a different manner than that provided for in paragraph (1) of this Article.

(3) The payee's payment service provider may only charge its fees for the execution of national and cross-border payment transactions. It may only charge the payee its fees while the payer's payment service provider may only charge the payer its fees.

(4) The payment service provider shall not prevent the payee from offering the payer a reduction or otherwise steering him towards the use of a given payment instrument.

(5) The payee shall not charge the payer any fees for the use of a given payment instrument.

### *Derogations for low-value payment instruments and electronic money*

#### Article 33

(1) In the case of payment instruments which, according to the framework contract, solely concern individual payment transactions not exceeding HRK 225.00, or which either have a spending limit up to a total of HRK 1,125.00 or store funds which do not exceed HRK 1,125.00 at any time, the payment service providers may agree with their payment service users that:

1) Article 39, paragraph (1), item (2), Article 40, paragraph (1), items (3), (4) and (5), and Article 46, paragraph (2), item (3), paragraph (4) in the part relating to fraudulent activity and paragraph (5) of this Act shall not apply if the payment instrument concerned does not allow its blocking or the prevention of its further use;

2) Articles 42 to 45, and Article 46, paragraph (1), paragraph (2), items (1), (2) and (3) and paragraph (4) in the part relating to fraudulent activity and paragraph (5) of this Act shall not apply if the payment instrument is used anonymously, or if the payment service provider is not in a position, for other reasons which are intrinsic to that payment instrument, to prove that a payment transaction was authorised;

3) by way of derogation from Article 51, paragraph (1) of this Act, the payment service provider is not required to notify the payment service user of the refusal of a payment order, if the non-execution is apparent from the context;

4) by way of derogation from Article 52 of this Act, the payer may not revoke a payment order after transmitting the payment order or giving consent to the payee to execute the payment transaction; and

5) by way of derogation from Articles 54 and 55 of this Act, other execution periods shall apply.

(2) If the payer's payment service provider does not have the ability to freeze the payment account on which the electronic money is stored or block the payment instrument, the provisions of Articles 43 to

46 of this Act shall not apply to electronic money within the meaning of the provisions of the law governing electronic money.

## CHAPTER II AUTHORISATION OF PAYMENT TRANSACTIONS

### *Consent and withdrawal of consent*

#### Article 34

- (1) A payment transaction shall be deemed to be authorised:
- 1) if the payer has given consent to execute the payment transaction; or
  - 2) if the payer has given consent to execute a series of payment transactions of which that payment transaction is a part.
- (2) The consent referred to in paragraph (1) of this Article shall be given in the form agreed between the payer and the payment service provider.
- (3) The consent to execute a payment transactions shall be given by the payer directly or via the payee or payment initiation service provider.
- (4) If consent to execute a payment transaction has not been given in line with paragraphs (2) and (3) of this Article, the payment transaction shall be considered to be unauthorised.
- (5) Consent to execute a payment transaction may be given before or, if so agreed between the payer and the payment service provider, after the execution of the payment transaction.
- (6) The procedure for giving consent shall be governed by a contract between the payer and the payer's payment service provider(s).
- (7) The payer may withdraw the consent given no later than at the moment of irrevocability of the payment order referred to in Article 52 of this Act.
- (8) The payer may withdraw the consent to execute a series of payment transactions at any time. In the case of such a withdrawal, any future payment transaction shall be considered to be unauthorised.
- (9) The payment service provider and payer that is not a consumer may agree by a contract that the provisions of paragraphs (7) and (8) of this Article shall not apply in whole or in part.
- (10) The form and manner of the withdrawal of consent to execute a payment transaction shall be governed by a contract between the payer and its payment service provider.

### *Confirmation on the availability of funds*

#### Article 35

- (1) The payment service provider issuing card-based payment instruments may send a request to the account servicing payment service provider for confirmation on availability based on which a confirmation on availability is given whether the amount needed to execute a card-based payment transaction is available in the payer's payment account provided that all of the following conditions are met:
- 1) the payer has given explicit consent to the payment service provider issuing card-based payment instruments to request the confirmation on availability;

2) the payer has initiated a card-based payment transaction for the amount in question using a card-based payment instrument issued by the payment service provider;

3) the payment service provider issuing card-based payment instruments authenticates itself towards the account servicing payment service provider before each request for confirmation on availability, and securely communicates with the account servicing payment service provider in accordance with Commission Delegated Regulation (EU) 2018/389 of 27 November 2017 supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards for strong customer authentication and common and secure open standards of communication (OJ L 69, 13.3.2018, hereinafter referred to as 'Regulation (EU) No 2018/389').

(2) The account servicing payment service provider shall provide immediately the payment service provider issuing card-based payment instruments, at the latter's request, with the confirmation on availability referred to in paragraph (1) of this Article where all of the following conditions are met:

1) the payer's account maintained by that payment service provider is accessible online at the time of the request for confirmation on availability;

2) the payer has given explicit consent to the account servicing payment service provider to respond to such requests from specific payment service providers issuing card-based payment instruments; and

3) the consent referred to in item (2) of this paragraph has been given before the first request for confirmation on availability.

(3) The confirmation on availability referred to in paragraph (1) of this Article shall consist only in a simple 'yes' or 'no' answer and not in a statement of the account balance.

(4) The payment service provider issuing payment instruments shall not store the answer referred to in paragraph (1) of this Article or use it for purposes other than for the execution of the card-based payment transaction.

(5) The account servicing payment service provider shall not block funds in the payer's payment account based on the confirmation on availability referred to in paragraph (1) of this Article.

(6) The account servicing payment service provider shall communicate to the payer at the request of the payer the identification of the payment service provider who filed the request referred to in paragraph (1) of this Article and the answer provided.

(7) This Article does not apply to payment transactions initiated through card-based payment instruments on which electronic money as defined by law governing electronic money.

#### *Rules on access to a payment account in the case of payment initiation services*

##### Article 36

(1) A payer has the right to make use of a payment initiation service as referred to in Article 4, item (7) of this Act provided by payment initiation service providers.

(2) The payer shall not have the right referred to in paragraph (1) of this Article if its payment account is not accessible online.

(3) A payment initiation service provider shall:

1) not hold at any time the payer's funds in connection with the provision of the payment initiation service;

- 2) ensure that the personalised security credentials of the payment service user are not, with the exception of the user and the issuer of the personalised security credentials, accessible to other parties;
- 3) ensure that the personalised security credentials of payment service users are transmitted through safe and efficient channels;
- 4) ensure that any other information about the payment service user, obtained when providing payment initiation services, is only provided to the payee and only with the payment service user's explicit consent;
- 5) every time a payment is initiated, identify itself towards the account servicing payment service provider in accordance with Regulation (EU) No 2018/389;
- 6) communicate with the account servicing payment service provider, the payer and the payee in a secure way, in accordance with Regulation No 2018/389;
- 7) not store sensitive payment data of the payment service user;
- 8) not request from the payment service user any data other than those necessary to provide the payment initiation service;
- 9) not use, access or store any data for purposes other than for the provision of the payment initiation service as explicitly requested by the payer;
- 10) not modify the amount, the payee or any other feature of the transaction.

(4) For the purpose of ensuring the payer's right to use payment initiation services and provided the payer has given its explicit consent to execute a payment transaction in accordance with Article 34 of this Act, the account servicing payment service provider shall:

- 1) communicate securely with payment initiation service providers in accordance with Regulation (EU) No 2018/389;
  - 2) provide or make available to the payment initiation service provider immediately after the receipt of the payment order from the payment initiation service provider all information pertaining to the initiation of the payment transaction and all the information in connection with the execution of the payment transaction available to it in accordance with Regulation (EU) No 2018/389;
  - 3) treat payment orders transmitted through the services of a payment initiation service provider without any discrimination other than for objective reasons, in particular in terms of timing, priority or fees vis-à-vis payment orders transmitted directly by the payer.
- (5) The account servicing payment service provider shall not make its activity dependent in accordance with paragraph (4) of this Article upon the existence of a contractual relationship with the payment initiation service provider.

*Rules on access to and use of payment account information in the case of account information services*

Article 37

- (1) The payment service user shall have the right to use account information services referred to in Article 4, paragraph (8) of this Act.
- (2) The payer shall not have the right referred to in paragraph (1) of this Article if its payment account is not accessible online.
- (3) The account information service provider shall:

- 1) provide services only where based on the payment service user's explicit consent;
- 2) ensure that the personalised security credentials of the payment service user are not, with the exception of the user and the issuer of the personalised security credentials, accessible to other parties;
- 3) ensure that the personalised security credentials of payment service users are transmitted through safe and efficient channels;
- 4) for each communication session, identify itself towards the account servicing payment service provider(s) in accordance with Regulation (EU) No 2018/389;
- 5) communicate with the account servicing payment service provider(s) and the payment service user in a secure way, in accordance with Regulation No 2018/389;
- 6) access only the information from payment accounts designated for this service by the user and information on payment transactions associated with these accounts;
- 7) not request sensitive payment data linked to the payment accounts;
- 8) not use, access or store any data for purposes other than for performing the account information service explicitly requested by the payment service user, in accordance with data protection rules.

(4) The account servicing payment service provider shall:

- 1) communicate securely with the account information service providers in accordance with Regulation (EU) No 2018/389; and

- 2) treat data requests transmitted through the services of an account information service provider without any discrimination for other than objective reasons.

(5) The account servicing payment service provider shall not make the activity referred to in paragraph (4) of this Article contingent upon the existence of a contractual relationship with the account information service provider.

(6) The information on payment transactions associated with the payment account referred to in paragraph (3), item (6) of this Article shall imply all payment transaction information associated with the payment account designated by the payment service user for account information services, including the information on card-based payment transactions designated by the payment service user for account information services and which the account servicing payment service provider makes available to the payment service user in the case of direct request for access to information.

*Limits of the use of the payment instrument and of the access to payment accounts by payment service providers*

Article 38

(1) The payer and the payer's payment service provider may agree on spending limits for payment transactions executed through a payment instrument used for the purposes of giving consent.

(2) It may be agreed in the framework contract that the payment service provider has the right to block a payment instrument for objectively justified reasons relating to:

- 1) the security of the payment instrument;

- 2) the suspicion of unauthorised or fraudulent use of the payment instrument; or

3) in the case of a payment instrument with a credit line, a significantly increased risk that the payer may be unable to fulfil its liability to pay.

(3) The payment service provider shall inform the payer, in the manner agreed in the contract, of the intention to block the payment instrument and the reasons for it before the payment instrument is blocked.

(4) Where the payment service provider is unable to inform the payer before blocking a payment instrument, it shall do so immediately after the payment instrument is blocked.

(5) The provisions of paragraphs (3) and (4) of this Article shall not apply if giving such information is contrary to objectively justified security reasons or is prohibited by law.

(6) The payment service provider shall unblock the payment instrument or replace it with a new one once the reasons for blocking this payment instrument no longer exist.

(7) An account servicing payment service provider may deny an account information service provider or a payment initiation service provider access to a payment account for objectively justified and duly evidenced reasons relating to unauthorised or fraudulent access to the payment account by that account information service provider or that payment initiation service provider, including the unauthorised or fraudulent initiation of a payment transaction.

(8) In the case referred to in paragraph (7) of this Article, the account servicing payment service provider shall inform the payer about the intention and the reasons for denying access to the payment account before access is denied.

(9) If the account servicing payment service provider is not able to inform the payer about the denial of access to the payment account in advance, he shall do it immediately after having denied access.

(10) If the providing of information on the intention and the reasons for denying access to a payment account is contrary to objectively justified reasons or contrary to regulations, the provisions of paragraphs (8) and (9) of this Article shall not apply.

(11) The account servicing payment service provider shall allow access to the payment account once the reasons for denying access no longer exist.

(12) In the case referred to in paragraph (7) of this Article, the account servicing payment service provider shall immediately report the incident relating to the account information service provider or the payment initiation service provider to the Croatian National Bank. The information shall include the relevant details of the case and the reasons for denying access to the payment account.

(13) Based on the information referred to in paragraph (12) of this Article, the Croatian National Bank shall act in accordance with the powers prescribed by laws governing individual payment service providers.

*Obligations of the payment service user in relation to payment instruments and personalised security credentials*

Article 39

(1) The payment service user entitled to use a payment instrument shall:

1) use the payment instrument in accordance with the terms of a framework contract governing the issuing and use of that payment instrument; and

2) notify the payment service provider, or the entity specified by the payment service provider, without delay of becoming aware of the loss, theft or misappropriation of the payment instrument or of its unauthorised use.

(2) In the case referred to in paragraph (1), item (1) of this Article, the payment service user shall, immediately after receipt of the payment instrument, take all reasonable steps to keep safe the personalised security features of that payment instrument.

### *Obligations of the payment service provider in relation to payment instruments*

#### Article 40

(1) The payment service provider issuing a payment instrument shall:

- 1) make sure that the personalised security credentials are not accessible to parties other than the payment service user that is entitled to use the payment instrument;
- 2) refrain from sending an unsolicited payment instrument to the payment system user, except where a payment instrument already given to the payment service user is to be replaced;
- 3) ensure that appropriate means are available at all times to enable the receipt of the notification referred to in Article 39, paragraph (1), item (2) of this Act or the request for unblocking of the payment instrument referred to in Article 38, paragraph (6) of this Act;
- 4) provide the payment service user, upon request submitted by the payment system user within 18 months of the notification or the request referred to in item (3) of this paragraph, with the appropriate means to prove that it made such notification or request; and
- 5) not charge the payment service user a fee for the notification referred to in Article 39, paragraph (1), item (2) of this Act;
- 6) prevent all use of the payment instrument once the notification referred to in Article 39, paragraph (1), item (2) of this Act has been made.

(2) Based on the notification referred to in Article 39, paragraph (1), item (2) of this Act, the payment service provider referred to in paragraph (1) of this Article may charge the payment service user only for the replacement costs directly attributable to the payment instrument.

(3) The payment service provider shall bear the risk of sending a payment instrument or any of its personalised security features to the payment service user.

(4) The provisions of the framework contract on the issuing and use of the payment instrument shall be objective, non-discriminatory and proportionate.

### *Notification on unauthorised payment transactions*

#### Article 41

(1) If the payment service user fails to notify that user's payment service provider without delay on becoming aware of any unauthorised payment transaction, and no later than 13 months of the debit date, the payment service user shall lose the right referred to in this chapter pertaining to the payment service user in the case of executing an unauthorised payment transaction.

(2) The time limit of 13 months referred to in paragraph (1) of this Article shall not apply if the payment service provider has failed to provide or make available to the payment service user the information on the executed payment transaction in accordance with Title II of this Act.

(3) When a payment initiation service provider is involved in the execution of a payment transaction, the payment service user shall submit the notification referred to in paragraph (1) of this Article to the account servicing payment service provider.

(4) The payment service provider and the payment service user that is not a consumer may agree by contract on a time limit other than that provided for in paragraph (1) of this Article.

### *Evidence on authentication and execution of payment transactions*

#### Article 42

(1) Where the payment service user denies having authorised an executed payment transaction or claims that the payment transaction was not executed or was not executed correctly or on time, that user's payment service provider shall prove that the payment transaction was authenticated, accurately recorded and entered in the accounts, and that its execution was not affected by a technical breakdown or some other deficiency of the service provided.

(2) Where a payment service user denies having authorised an executed payment transaction, the use of a payment instrument recorded by the payment service provider shall in itself not necessarily be sufficient to prove that the payment transaction was authorised by the payer.

(3) Where a payment system user denies having authorised an executed payment transaction and the payment service provider suspects that that the payment system user acted fraudulently or failed with intent or gross negligence to fulfil one or more of the obligations under Article 39 of this Act, the payment service provider shall provide supporting evidence to prove fraud or gross negligence on part of the payment service user.

(4) The payment service provider and the payment service user that is not a consumer may agree by contract on the burden of proof in a different manner than that provided for by the provisions of this Article.

### *Payment service provider's liability for unauthorised payment transactions*

#### Article 43

(1) In the case of an unauthorised payment transaction, the payer's payment service provider shall refund the payer the amount of the unauthorised payment transaction immediately, and in any event no later than by the end of the following business day, after receipt of the notification referred to in Article 41 of this Act or being notified of the unauthorised payment transaction in some other way.

(2) Where the payer's payment account has been debited for the amount of the unauthorised payment transaction, the payer's payment service provider shall restore, within the time limit referred to in paragraph (1) of this Article the debited payment account to the state in which it would have been had the unauthorised payment transaction not taken place. This shall also ensure that the credit value date for the payer's payment account shall be no later than the date the amount had been debited.

(3) The payer's payment service provider shall not be obligated to act in accordance with paragraphs (1) and (2) of this Article if he has reasonable grounds for suspecting fraud and communicates those grounds to the Croatian National Bank in writing.



### *Liability for unauthorised payment transaction in the case of payment initiation services*

#### Article 44

- (1) If an executed payment transaction was initiated through a payment initiation service provider, the account servicing payment service provider shall act in accordance with the provisions of Article 43 of this Act irrespective of the liability of the payment initiation service provider.
- (2) The payment initiation service provider shall, at the request of the account servicing payment service provider, prove that, within the framework of the services he provided, the transaction was authenticated, that the payment transaction was accurately recorded and that the execution was not affected by a technical breakdown or some other deficiency of the service he provided.
- (3) The provisions of Article 42, paragraphs (2) and (3) of this Act shall apply to the payment initiation service provider.
- (4) The payment initiation service provider liable for the unauthorised payment transaction shall refund immediately the account servicing payment service provider, at the latter's request, all the amounts under Article 64 of this Act.

### *Other payment service users' rights in the case of execution of an unauthorised payment transaction*

#### Article 45

In the case of execution of an unauthorised payment transaction, the payer shall, in addition to the rights referred to in Article 43, paragraphs (1) and (2) of this Act, be entitled to default interest and the difference up to the full amount of the damage payable by the liable payment service providers in accordance with general rules governing liability for damage.

### *Payer's liability for unauthorised payment transactions*

#### Article 46

- (1) By way of derogation from Articles 43 and 44 of this Act, where the execution of an unauthorised payment transaction results from the use of a lost or stolen payment instrument or from the misappropriation of a payment instrument, the payer shall be liable for such transactions, up to a maximum of HRK 375,00.
- (2) In the case referred to in paragraph (1) of this Article, the payer shall not be liable if:
  - 1) the loss, theft or misappropriation of a payment instrument was not detectable to the payer prior to a payment, except where the payer has acted fraudulently;
  - 2) where unauthorised payment transactions were caused by acts or lack of action of an employee, agent or branch of a payment service provider or of an entity to which its activities were outsourced;
  - 3) where the payment service provider has not provided appropriate means for the notification at all times of a lost, stolen or misappropriated payment instrument in accordance with Article 40, paragraph (1), item (3) of this Act;
  - 4) where the payer's payment service provider does not require strong customer authentication;
  - 5) where the payee's payment service provider does not apply the required strong customer authentication.

(3) The payee or the payee's payment service provider who fail to apply the required strong customer authentication shall refund the damage caused to the payer's payment service provider.

(4) The payer shall be fully liable for the executed unauthorised payment transactions if they were incurred by the payer acting fraudulently the payer or failing to fulfil one or more of the obligations set out in Article 39 of this Act with intent or gross negligence.

(5) The payer shall not be liable for the amount of unauthorised payment transactions executed after notification to the payment service provider in accordance with Article 39, paragraph (1), item (2) of this Act, except where the payer has acted fraudulently.

(6) The payment service provider and the payer that is not a consumer may agree by contract to regulate the payer's liability in a different manner than that provided for in this Article.

#### *Payment transactions where the transaction amount is not known in advance*

##### Article 47

(1) Where a payment transaction is initiated by or through the payee in the context of a card-based payment transaction and the exact amount is not known at the moment when the payer gives consent to execute the payment transaction, the payer's payment service provider may block funds on the payer's payment account only if the payer has given consent to the exact amount of the funds to be blocked.

(2) The payer's payment service provider shall release the funds blocked on the payer's payment account under without delay after receipt of the information about the exact amount of the payment transaction and at the latest immediately after receipt of the payment order.

#### *Refunds for authorised payment transactions initiated by or through a payee*

##### Article 48

(1) A payer shall be entitled to a full refund from the payment service provider of an authorised payment transaction which has already been executed, if all of the following conditions are met:

1) the authorised payment transaction was initiated by or through a payee:

2) consent to execute a payment transaction, when given, did not specify the exact amount of the payment transaction; and

3) the amount of the payment transaction exceeded the amount the payer could reasonably have expected, taking into account the payer's previous spending pattern, the terms of the framework contract and relevant circumstances of the case.

(2) The payer may not invoke the right referred to in paragraph (1) of this Article if the realisation of the condition referred to in paragraph (1), item (3) of this Article was due to the application of the reference exchange rate agreed with the payer's payment service provider.

(3) By way of derogation from paragraph (1) of this Article, the payer and the payer's payment service provider may agree that the payer has no right to a refund for executed authorised payment transactions if the following conditions are met:

1) the payer has given consent to execute the payment transaction directly to the payer's payment service provider; and

2) the payment service provider or the payee has provided or made available to the payer in an agreed manner the information on the future payment transaction at least four weeks before the due date.

(4) The payment service provider and payer that is not a consumer may agree by a contract that the right to a refund referred to in this Article not be applied in whole or in part.

(5) The provisions of this Article shall not apply to international payment transactions.

(6) The payer shall be entitled to a full refund of the executed authorised payment transaction from the payer's payment service provider even in the case when the conditions referred to in paragraph (1) of this Article are not met, in the case of direct debits within the meaning of Article 1 of Regulation (EU) No 260/2012.

(7) In the case of refund referred to in paragraph (1) of this Article, the credit value date for the payer's payment account shall be no later than the date on which that account was debited for the amount for which the payer requests a refund.

(8) In the case of an executed authorised direct debit in kuna, the payer shall be entitled to a full refund from the payer's payment service provider even in the case where the conditions referred to in paragraph (1) of this Article are not met.

*Requests for refunds for authorised payment transactions initiated by or through a payee*

Article 49

(1) The payer shall lose the entitlement to a refund pursuant to Article 48 , paragraphs (1), (6) and (8) of this Act, if the payer fails to submit a request for a refund to the payment service provider within eight weeks of the debit date.

(2) In the case of request for a refund pursuant to Article 48, paragraph (1) of this Act, the payment service provider shall have the right to request from the payer proof of fulfilment of the conditions referred to in Article 48, paragraph (1), items (2) and (3) of this Act.

(3) Within ten business days of receiving a request for a refund, the payment service provider shall:

1) refund to the payer the full amount of the payment transaction; or

2) provide the payer with justification for refusing the refund, obligatorily indicating the authorities competent for out-of-court complaint and alternative dispute resolution to which the payer may, in the case of not accepting the justification provided, submit a complaint or a proposal for an alternative dispute resolution in accordance with Title III, Chapter VI of this Act.

(4) The payment service provider shall not refuse a refund in the case referred to in Article 48, paragraphs (6) and (8) of this Act.

(5) The payment service provider and payer that is not a consumer may agree by a contract that the provisions of this Article shall not apply in whole or in part.

(6) The provisions of this Article shall not apply to international payment transactions.

CHAPTER III  
EXECUTION OF PAYMENT TRANSACTIONS

SECTION 1

Payment orders and amounts transferred

*Receipt of payment orders*

Article 50

- (1) The time of receipt of the payment order is when the payment order is received by the payer's payment service provider.
- (2) If the time of receipt is not on a business day for the payer's payment service provider, the payment order shall be deemed to have been received on the following business day.
- (3) The payment service provider may establish a cut-off time near the end of a business day for the receipt of payment orders.
- (4) If the payer's payment service provider has received a payment order after the cut-off time for the receipt of payment orders determined in accordance with paragraph 3 of this Article, the payment order received shall be deemed to have been received on the following business day.
- (5) The payment service user initiating a payment order and that user's payment service provider may agree that the execution of the payment order shall commence:
  - 1) on a specific day;
  - 2) at the end of a certain period; or
  - 3) on the day on which the payer has made the necessary funds available to the payer's payment service provider.
- (6) In the case referred to in paragraph (5) of this Article, the point in time of receipt of the payment order shall be deemed to be the agreed day to commence the execution of the payment order.
- (7) If the agreed day referred to in paragraph (5) of this Article is not a business day for the payment service provider, the payment order received shall be deemed to have been received on the following business day.
- (8) The payer's payment service provider shall not debit the payer's payment account before receipt of the payment order.

*Refusal of payment orders*

Article 51

- (1) Where the payment service provider refuses to execute a payment order or to initiate a payment transaction, it shall, unless otherwise provided for by other regulations, notify the payment service user of:
  - 1) the refusal;
  - 2) if possible, the reasons for the refusal; and
  - 3) the procedure for correcting any mistakes that led to the refusal.

(2) The payment service provider shall provide or make available the notification referred to in paragraph (1) of this Article in an agreed manner at the earliest opportunity, and in any case, within the time limits referred to in Article 54 of this Act.

(3) It may be agreed in the framework contract that the payment service provider may charge a reasonable fee for the refusal referred to in paragraph (1) of this Article if the refusal is objectively justified.

(4) Where all of the conditions set out in the framework contract between the payer and the payment service provider are met, the payment service provider shall not refuse to execute an authorised payment order irrespective of whether the payment order is initiated by a payer, including through a payment initiation service provider, or by or through a payee, unless otherwise provided by other regulation.

(5) A payment order whose execution has been refused shall be deemed not to have been received.

### *Irrevocability of a payment order*

#### Article 52

(1) The payment service user may not revoke a payment order once it has been received by the payer's payment service provider, except in the cases governed by this Article.

(2) Where the payment transaction is initiated by or through the payee, the payer shall not revoke the payment order after giving consent to execute the payment transaction to the payee.

(3) Where a payment transaction is initiated through a payment initiation payment provider, the payer shall not revoke the payment order after giving consent to initiate the payment transaction to the payment initiation service provider.

(4) By way of derogation from paragraph (2) of this Article, in the case of a direct debit, the payer may revoke the payment order at the latest by the end of the business day preceding the agreed debit date.

(5) In the case referred to in Article 50, paragraph (5) of this Act, the payment service user may revoke a payment order at the latest by the end of the business day preceding the agreed day of commencement of execution of that order.

(6) In the case of direct debit the payment service provider that is available online shall enable the payer to revoke the online payment order.

(7) After expiry of the time limit referred to in paragraphs (1) to (5) of this Article, a payment order may be revoked only if so agreed between the payment service user and the relevant payment service providers.

(8) In the cases referred to in paragraphs (2), (3) and (4) of this Article, the revocation of the payment order referred to in paragraph (7) of this Article shall also require the payee's consent.

(9) The relevant payment service provider may charge a fee for the revocation of the payment order referred to in paragraph (7) of this Article only if such fee has been agreed.

(10) The payment service provider and payment system user that is not a consumer may agree by a contract that the provisions of this Article shall not apply in whole or in part.

## *Amounts transferred and amounts received*

### Article 53

- (1) All payment service providers and any intermediaries of the payment service providers shall transfer the full amount of the payment transaction without deducting fees.
- (2) By way of derogation from paragraph (1) of this Article, the payee and the payee's payment service provider may agree that the payment service provider deduct its fees from the amount transferred before crediting it to the payee.
- (3) In the case referred to in paragraph (2) of this Article, the payment service provider shall include in the information on the executed payment transaction supplied to the payee the amount of the payment transaction separately from the fees.
- (4) If any fees other than those referred to in paragraph (2) are deducted from the amount transferred, the payer's payment service provider shall ensure that the payee receives the full amount of the payment transaction initiated by the payer.
- (5) Where the payment transaction is initiated by or through the payee, the payment service provider of the payee shall ensure that the full amount of the payment transaction is received by the payee.
- (6) The provisions of this Article shall apply only to national and cross-border payment transactions in currencies of the Member States.

## SECTION 2

### Execution time and value date

#### *Execution of payments between payment service providers*

### Article 54

- (1) A payer's payment service provider shall ensure:
  - 1) in national payment transactions in kuna and in euro, including transactions which involve conversion between the kuna and the euro; and
  - 2) in cross-border payment transactions in euro, including transactions which involve conversion from the kuna into the euro; andthat the payee's payment service provider's account is credited with the amount of the payment transaction at the latest by the end of the next business day after the point in time of receipt of the payment order referred to in Article 50 of this Act.
- (2) The time limit referred to in paragraph (1) of this Article may be extended by one business day for paper-initiated payment transactions.
- (3) By way of derogation from paragraphs (1) and (2) of this Article, in the case of national payment transactions in kuna and euro, where the payer's payment service provider and the payee's payment service provider are the persons referred to in Article 7, paragraph (1), items (1) or (7) of this Act, the payer's payment service provider shall ensure that the account of the payee's payment service provider is credited with the amount of the payment transaction on the same business day when the payment order is received pursuant to Article 50 of this Act.

(4) The time limit referred to in paragraphs (1) and (2) of this Article shall also apply to all other payment transactions not referred to in paragraphs (1) and (3) of this Article unless a longer period has been agreed between the payment service provider and the payer.

(5) Where under paragraph (4) of this Article in the case of national payment transactions in the currency of a Member State other than the euro or in the case of cross-border payment transactions in a currency of a Member State other than the euro, a period longer than that referred to in paragraphs (1) and (2) of this Article has been agreed, that period shall be maximum four business days counting from the receipt of the payment order referred to in Article 50 of this Act.

(6) The time limits for the execution of payment transactions referred to in this Article shall not apply to payment transactions initiated by or through the payee.

(7) The payee's payment service provider shall transmit a payment order initiated by or through the payee to the payer's payment service provider within the time limits agreed with the payee, and, in the case of a direct debit, within the time limit enabling settlement on the agreed due date of the payer's liability.

### *Execution of payments to the payee*

#### Article 55

(5) A payee's payment service provider who receives a payment transaction amount shall ensure that the payee's payment account is credited with that amount on the value date and shall make available to the payee the credited amount in accordance with Article 57 of this Act.

(2) A payment service provider who received the funds for the payee with no payment account shall ensure that the received funds are made available to the payee in accordance with Article 57 of this Act.

### *Cash placed on a payment account*

#### Article 56

(1) Where the payment service user that is a consumer places cash on its payment account with the payment service provider operating that account, in the currency of that payment account, the account servicing payment service provider shall make the funds available immediately after receipt of the cash and shall credit that account on the value date of cash receipt.

(2) Where the payment service user that is not a consumer places cash on its payment account with the payment service provider servicing that account, in the currency of that payment account, the payment service provider shall make the funds available at the latest on the next business day after receipt of the cash and shall credit that account no later than on the value date.

(3) Article 50, paragraphs (1) to (4) of this Act shall apply *mutatis mutandis* to the point in time of receipt referred to in paragraphs (1) and (4) of this Article.

### *Value date and availability of funds*

#### Article 57

(1) The credit value date for the payee's payment account may be no later than the business day on which the amount of the payment transaction is credited to the account of the payee's payment service provider.

(2) The payee's payment service provider shall make sure that the amount of the payment transaction is at the payee's disposal immediately after that amount is credited to the account of the payee's payment service provider provided:

1) there is no currency conversion; or

2) there is a currency conversion between the euro and a Member State currency or between two Member State currencies.

(3) The provision of paragraph (2) of this Article shall also apply to a payment transaction within one payment service provider.

(4) The time limit referred to in paragraph (2) of this Article shall also apply when the payee's payment service provider engages in conversion of currencies other than those referred to in paragraph (2), item (2) of this Article unless a different time limit has been agreed between the payee's payment service provider and the payment services user.

(5) The debit value date for the payer's payment account may be no earlier than the time when that account is debited for the amount of the payment transaction.

### SECTION 3

Payment service provider's liability for the non-execution, defective and late execution of payment transactions

*Payment service provider's liability for the execution of a payment transaction initiated by the payer*

#### Article 58

(1) The payer's payment service provider shall be liable to the payer for the execution of a payment transaction initiated by the payer, except in the cases referred to in paragraph (4) of this Article, Article 61, paragraphs (2) and (3) and Article 65 of this Act.

(2) A payer's payment service provider liable pursuant to paragraph (1) of this Article shall, without delay, refund to the payer the amount of the non-executed or defective payment transaction.

(3) Where the payer's payment account has been debited in the case referred to in paragraph (2) of this Article, the payer's payment service provider shall restore that account to the state in which it would have been had that transaction not been executed. The credit value date for the payer's payment account shall be no later than the date on which the account was debited for the amount of non-executed or defective payment transaction.

(4) Where the payer's payment service provider proves to the payer that the payee's payment service provider received the amount of the payment transaction initiated in accordance with Article 54 of this Act, and where the payee's payment service provider denies that and the payer's payment service provider proves it to the payee's payment service provider, the payee's payment service provider shall be liable to the payee for the non-execution, defective or late execution of the payment transaction.

(5) In the case referred to in paragraph (4) of this Article, the payee's payment service provider shall make sure that the amount of the payment transaction is immediately at the payee's disposal.

(6) Where in the case referred to in paragraph (4) of this Article the payment should have been made to the payee's payment account, the payee's payment service provider shall credit the payee's payment account with the appropriate amount. The credit value date for the payee's payment account shall be



no later than the date that would have been set as the value date for that amount had the transaction been executed in accordance with Article 57 of this Act.

(7) Where a payment transaction is executed with a delay, the payee's payment service provider shall, at the request of the payer's payment service provider submitted for the account of the payer, set a credit value date for the payee's payment account which may be no later than the date that would have been set as the value date had the transaction been executed on time.

(8) In the case of a non-executed or defective payment transaction initiated by the payer, the payer's payment service provider shall, at the payer's request and regardless of its liability, take immediate steps, free of charge, to trace the funds and notify the payer of the outcome.

(9) A payment service provider shall be also liable to its user for any fees the user has been charged and for any interest resulting from non-execution, defective or late execution of a payment transaction

(10) The provisions of this Article shall not apply to international payment transactions.

(11) The payment service provider and payment system user that is not a consumer may agree by a contract that the provisions of this Article shall not apply in whole or in part.

*Payment service provider's liability for the execution of a payment transaction initiated by or through the payee*

Article 59

(1) In the case of a payment transaction initiated by or through the payee, except in the cases referred to in paragraph (5) of this Article, Article 61, paragraphs (2) and (3) and Article 65 of this Act, the payee's payment service provider shall be liable to the payee:

1) for the correct transmission of the payment order to the payer's payment service provider in accordance with Article 54, paragraph (7) of this Act; and

2) for proceeding in accordance with Article 57 of this Act.

(2) The payee's payment service provider who has not transferred the payment order in accordance with paragraph (1), item (1) of this Article shall immediately re-transmit the payment order in question to the payer's payment service provider.

(3) In the case of a late transmission of a payment order, the payee's payment service provider shall credit the payee's payment account, value dating it at the latest on the date which would have been set as the value date had the transaction been executed on time.

(4) A payee's payments service provider liable in accordance with paragraph (1), item (2) of this Article shall ensure that the amount of the payment transaction is placed at the disposal of the payee immediately after that amount has been credited to the payee's payment service provider. The credit value date for the payee's payment account shall be no later than the date that would have been set as the value date for that amount had the transaction been executed correctly.

(5) Where the payee's payment service provider proves that it has correctly transmitted the payee's payment order to the payer's payment service provider in accordance with Article 54, paragraph (7) of this Act and that it has proceeded in accordance with Article 57 of this Act, the payer's payment service provider shall be liable to the payer for the execution of the payment transaction.

(6) In the case referred to in paragraph (5) of this Article, the payer's payment service provider shall refund the payer without delay for the amount of the non-executed or defective payment transaction.

(7) Where the payer's payment account has been debited in the case referred to in paragraph (5) of this Article, the payer's payment service provider shall restore that account to the state in which it would have been had that transaction not been executed. The credit value date for the payer's payment account shall be no later than the date on which the account was debited for the amount of non-executed or defective payment transaction.

(8) The provisions of paragraphs (6) and (7) of this Article shall not apply if the payer's payment service provider proves that the payee's payment service provider received the amount of the payment transaction with a delay. In that case, the payee's payment service provider shall credit the payee's payment account, value dating it at the latest on the date which would have been set as the value date for that amount had the transaction been executed on time.

(9) In the case of a non-executed or defective executed payment transaction initiated by or through the payee, the payee's payment service provider shall, regardless of its liability, at the payee's request, take immediate steps to trace the funds and notify the payee of the outcome free of charge.

(10) A payment service provider shall also be liable to its user for any fees the user has been charged and for any interest resulting from non-execution, defective or late execution of a payment transaction.

(11) The provisions of this Article shall not apply to international payment transactions.

(12) The payment service provider and payee that is not a consumer may agree by a contract that the provisions of this Article shall not apply in whole or in part.

*Liability in the case of payment initiation services for non-execution, defective or late execution of payment transactions*

Article 60

(1) In the case of a non-executed or defective payment transaction initiated through a payment initiation service provider, the account servicing payment service provider shall, without prejudice to Article 61 of this Act, refund to the payer the amount of that payment transaction and, where the payer's account was debited, restore that account to the state in which it would have been had the payment transaction not taken place.

(2) The payment initiation service provider shall, at the request of the account servicing payment service provider, prove that the account servicing payment service provider has confirmed the receipt of the payment order by providing information in accordance with Article 36, paragraph (4), item (2) of this Act and that, within the framework of the service provided by the payment initiation service provider, the payment transaction was authenticated, accurately recorded and not affected by a technical breakdown or some other deficiency which resulted in a non-execution, defective or late execution of the transaction.

(3) If the payment initiation service provider is liable for the non-execution, defective or late execution of the payment transaction, it shall immediately compensate the payer's account servicing payment service provider, at its request, all the amounts paid to the payer and any damages incurred by the payer.

(4) The account servicing payment service provider and payment system user that is not a consumer may agree by a contract that the provisions of this Article shall not apply in whole or in part.

### *Incorrect unique identifiers*

#### Article 61

- (1) If a payment order is executed in accordance with the unique identifier, the payment order shall be deemed to have been executed correctly with regard to the payee specified by the unique identifier.
- (2) If the unique identifier provided by the payment service user is incorrect, the payment service provider shall not be liable for the non-execution or incorrect execution of a payment transaction in the part relating to the incorrectly provided unique identifier.
- (3) If the payment service user provides to the payment service provider information in addition to the unique identifier relating to the payee or the payer, the payment service provider shall be liable only for the execution of payment transactions in accordance with the unique identifier provided by the payment service user.
- (4) The payer's payment service provider shall, regardless of its liability, take reasonable steps to recover the funds involved in the payment transaction with an incorrect unique identifier.
- (5) In the case referred to in paragraph (4) of this Article, the payee's payment service provider shall cooperate with the payer's payment service provider and communicate to the payer's payment service provider all relevant information for the collection of funds.
- (6) In the event that the collection of funds from a payment transaction with an incorrect unique identifier is not possible, the payer's payment service provider shall provide to the payer, upon written request, all information available to the payer's payment service provider and relevant to the payer in order for the payer to file a legal claim to recover the funds.
- (7) A payment service provider may charge the payment service user a fee for the services referred to in this Article and related to recovery of funds from the payment transaction with an incorrectly specified unique identifier only if provided for in the framework contract.

### *Other rights of payment service users*

#### Article 62

In the case of non-execution, defective or late execution of a payment transaction, the payment service user shall have the right, in addition to the rights referred to under the provisions of this section of this Act, be entitled to default interest and the difference up to the full amount of the damage payable by the liable payment service provider pursuant to general rules governing liability for damage.

### *Loss of payment service users' rights in the case of defective and late payment transaction*

#### Article 63

- (1) The payment service user shall lose the right based on non-execution, defective or late execution of a payment transaction if it fails to notify its payment service provider without delay on becoming aware of any such transaction as soon as it becomes aware of it, and no later than 13 months of the debit date, or credit date of its payment account.
- (2) The time limit of 13 months referred to in paragraph (1) of this Article shall not apply if the payment service provider has failed to provide or make available to the payment service user the information on that payment transaction in accordance with Title II of this Act.

(3) Where a payment initiation service provider is involved, the payment service user shall submit the notification referred to in paragraph (1) of this Article to the account servicing payment service provider.

(4) The payment service provider and payment service user that is not a consumer may agree on a time limit other than that provided for in paragraph (1) of this Article.

### *Right of recourse*

#### Article 64

(1) A payment service provider shall be liable to its payment service user for the execution of a payment transaction pursuant to Articles 43, 58, 59 and 60 of this Act also when the liability may be ascribed to an intermediary or other payment service provider.

(2) In the case referred to in paragraph (1) of this Article, the payment system provider shall have the right to demand from the intermediary or other payment service provider to compensate all its costs, including the amounts paid by it to its payment service user pursuant to Articles 43, 58, 59 and 60 of this Act and to pay any other amounts in accordance with the contract and law, including the amount of damage resulting from the failure by the other payment service provider to apply strong customer authentication.

(3) The provisions of this Article shall not apply to international payment transactions.

### *Exclusion of liability*

#### Article 65

The liability governed by this Chapter and Chapter II of this Title shall be excluded in cases of abnormal and unforeseeable circumstances beyond the control of the party pleading for the application of those circumstances, the consequences of which would have been unavoidable despite all efforts to the contrary, and where a payment service provider is obliged to apply other regulations.

## CHAPTER IV DATA PROTECTION

### *Data protection*

#### Article 66

(1) A payment service provider and payment system operators shall be authorised to process personal data to safeguard the prevention, investigation and detection of payment fraud.

(2) Payment service providers and payment system operators shall process the personal data referred to in this Article and provide information on such processing to the payment service user and personal information to third parties in accordance with this Act and regulations on personal data protection.

(3) Except in the cases referred to in paragraphs (1) and (2) of this Article, payment service providers shall only access, process and retain personal data necessary for the provision of their payment services, with the explicit consent of the payment service user.

## CHAPTER V OPERATIONAL AND SECURITY RISKS AND AUTHENTICATION

### *Management of operational and security risks*

#### Article 67

(1) Payment service providers shall establish a framework with appropriate mitigation measures and control mechanisms to manage the operational and security risks, relating to the payment services they provide. As part of that framework, payment service providers shall establish and maintain effective incident management procedures, including for the detection and classification of major operational and security incidents.

(2) Payment service providers shall discharge their obligations referred to in paragraph (1) of this Article in accordance with European Banking Authority Guidelines on security measures for operational and security risks of payment services based on Directive (EU) 2015/2366 (EBA/GL/2017/17).

(3) Payment service providers referred to in Article 7, paragraph (1), item (1), sub-items (a) and (c), item (2), sub-items (a) and (c), item (3), item (4), sub-item (a), item (5) and item (6), sub-item (a) shall submit to the Croatian National Bank at least once a year an updated and comprehensive assessment of the operational and security risks relating to the payment services they provide and of the adequacy of the mitigation measures and control mechanisms implemented in response to those risks.

(4) The payment service provider referred in paragraph (3) of this Article shall submit the assessment referred to in paragraph (3) of this Article to the Croatian National Bank and at its request.

### *Incident reporting*

#### Article 68

(1) Payment service providers referred to in Article 7, paragraph (1), item (1), sub-items (a) and (c), item (2), sub-items (a) and (c), item (3), item (4), sub-item (a), item (5) and item (6), sub-item (a) shall, without delay and in accordance with the European Banking Authority Guidelines on major incident reporting in accordance with Directive (EU) 2015/2366 (EBA/GL/2017/10), notify the Croatian National Bank of each significant operational or security incident.

(2) Where the incident referred to in paragraph (1) of this Article has or may have an impact on the financial interests of its payment service users, the payment service provider shall, without delay, inform its payment service users of the incident and of all measures that they can take to mitigate the adverse effects of the incident.

(3) The Croatian National Bank shall, without delay and after receipt of the notification referred to in paragraph (1) of this Article, provide the relevant details of the incident to the European Banking Authority and the European Central Bank.

(4) After assessing the relevance of the incident referred to in paragraph (1) of this Article, the Croatian National Bank shall notify thereof other relevant authorities in the Republic of Croatia.

(5) The Croatian National Bank shall cooperate with the European Banking Authority and the European Central Bank in their assessment of the significance of the incidence to other relevant authorities of the European Union and the competent authorities of other Member States.

(6) On the basis of notification by the European Banking Authority or the European Central Bank about an incident in another Member State, the Croatian National Bank shall take all of the necessary measures to protect the immediate safety of the financial system of the Republic of Croatia.

### *Authentication*

#### Article 69

(1) A payment service provider shall apply strong customer authentication where the payer:

1) accesses its payment account online;

2) initiates an electronic payment transaction;

3) carries out any action through a remote channel which may imply a risk of payment fraud or other abuses.

(2) In the case of initiation of electronic payment transactions through a remote channel as referred to in paragraph (1), item (2) of this Article, the payment service provider shall apply strong customer authentication that includes elements which dynamically link the transaction to a specific amount and a specific payee.

(3) The payment service provider shall, in the cases referred to in paragraph (1) of this Article, have in place adequate security measures to protect the confidentiality and integrity of payment service users' personalised security credentials.

(4) The account servicing payment service provider shall allow the payment initiation service provider and the account information service provider to rely on the authentication procedures provided by the account servicing payment service provider to the payment service user in accordance with paragraphs (1) and (3) of this Article and, where the payment initiation service provider is involved, in also accordance with paragraph (2) of this Article.

(5) The provisions of paragraphs (2) and (3) of this Article shall also apply where payments are initiated through a payment initiation service provider.

(6) The provisions of paragraphs (1) and (3) of this Article shall also apply where information is requested through an account servicing payment service provider.

(7) Payment service providers shall apply the provisions of this Article in accordance with Regulation (EU) No 2018/389.

## CHAPTER VI OUT-OF-COURT COMPLAINT PROCEDURES, ALTERNATIVE DISPUTE RESOLUTION AND INFORMATION ON CONSUMER RIGHTS

### *Complaints to the payment service provider*

#### Article 70

(1) Where it is deemed that the payment service provider does not comply with the provisions of this Title and Title II of this Act, the payment service user may submit a complaint to the payment service provider.

(2) A payment service provider shall provide the payment service user with the final reply to all the points raised in the complaint referred to in paragraph (1) of this Article no later than within ten days of the date of receipt of the complaint, on paper, or if so agreed between the payment service provider and user, on another durable medium.

(3) In exceptional situations, where a payment service provider is unable to provide an answer within the time limit referred to in paragraph (2) of this Article for reasons beyond the control of the payment service provider, it shall be required to send a holding reply to the payment service user, clearly indicating the reasons for a delay in answering to the complaint and specifying the time limit by which the payment service user will receive the final reply and which shall not be longer than 35 days from the date of receipt of the complaint.

(4) In the final reply to the complaint, the payment service provider shall refer the payment service user to the possibility of submitting a complaint to the Croatian National Bank and where the user of payment services is a consumer, also to the authorities competent for alternative dispute resolution and provide the user with the information referred to in Article 72, paragraphs (1) and (2) of this Act.

(5) A payment service provider shall develop and apply appropriate and effective procedures for the resolution of payment service user complaints in all Member States in which it provides payment services and make them available to payment service users in the official language of each individual Member State in which it provides services or in another language agreed with the payment service user.

(6) Where a payment service provider from another Member State provides payment services in the territory of the Republic of Croatia through a branch or an agent operating on the basis of the right of establishment, the complaint referred to in paragraph (1) of this Article shall be submitted to the branch or the agent and the obligations referred to in paragraphs (2) to (5) of this Article shall apply to the branch or agent, respectively.

### *Complaints to the competent authority*

#### Article 71

(1) Payment service users and other interested parties, including consumer associations, may submit complaints to the Croatian National Bank against the payment service provider referred to in Article 7, paragraph (1), items (1) to (6) of this Act, if they deem that the payment service provider has acted contrary to the provisions of this Title or Title II of this Act.

(2) Upon receipt of the complaint referred to in paragraph (1) of this Article, the Croatian National Bank shall invite the respondent payment service provider to submit its reply and the relevant evidence it invokes unless it follows from the complaint and the information available to the Croatian National Bank that the complaint is not grounded.

(3) The payment service provider shall, within the time limit set by the Croatian National Bank, but no longer than ten days after the day of receiving the invitation, submit its reply and the relevant evidence it invokes.

(4) Where, with reference to the complaint procedure, the Croatian National Bank establishes that there are reasonable grounds to suspect that the payment service provider has acted contrary to any of the provisions of this Title and Title II of this Act and has thus committed an offence, it shall initiate offence proceedings before the Financial Inspectorate of the Republic of Croatia.

(5) The Croatian National Bank shall notify the complainant of its findings and of the measures taken.

(6) Where the complainant is a consumer, the Croatian National Bank shall inform the complainant in its notification referred to in paragraph (5) of this Article of the possibility to initiate an alternative dispute resolution for consumer disputes pursuant to Article 72 of this Act.

(7) The provisions of this Article shall also apply to complaints against branches and agents of payment service providers established in another Member State providing payment services in the Republic of Croatia based on the right of establishment.

(8) By way of derogation from the provisions of this Article, where the Croatian National Bank receives a complaint against a payment service provider established in another Member State providing payment services in the Republic of Croatia directly or through an agent exercising the freedom to provide services, it shall forward such a complaint to the competent authority of the home Member State.

### *Alternative dispute resolution for consumer disputes*

#### Article 72

(1) The payment service provider shall provide the payment service user that is a consumer information on at least one authority competent for alternative dispute resolution for consumer disputes relating to the application of this Title and Title II of this Act.

(2) The information referred to in paragraph (1) of this Article shall comprise the postal address and website address of the authority competent for alternative dispute resolution for consumer disputes and information on the obligation of the payment service provider referred to in paragraph (5) of this Article.

(3) The payment service provider shall provide the information referred to in paragraphs (1) and (2) of this Article in a clear, comprehensible and easily accessible manner in its branches and on its website and provide them to its payment service user in the context of previous information the payment service provider is obligated to provide in accordance with the provisions of Article 23, paragraph (1), item (7), sub-item (b) of this Act and in the final reply to the complaint referred to in Article 70, paragraph (4) of this Act.

(4) In all disputes with a payment service provider related to the application of the provisions of this Title and Title II of this Act, the payment service user – consumer shall have the right to initiate a procedure before any authority for alternative dispute resolution for consumer disputes.

(5) A payment service provider shall participate in the alternative dispute resolution procedure initiated by the consumer before the authority referred to in paragraph (1) of this Article.

(6) The right of the payment service user referred to in paragraph (4) of this Article shall not affect its right to initiate court proceedings.

### *Obligation to inform consumers of their rights*

#### Article 73

(1) The Croatian National Bank shall publish on its website an electronic leaflet issued by the European Commission on the rights of consumers under Directive (EU) 2015/2366.

(2) Payment service providers shall ensure that the leaflet referred to in paragraph (1) of this Article is made available on their websites free of charge and, if existing on paper at their branches, their agents and the service providers to which their activities are outsourced.



(3) In respect of persons with disabilities, the provisions of this Article shall be applied using appropriate alternative means, allowing the information to be made available in an accessible format.

## TITLE IV

### TRANSACTION ACCOUNTS AND THE EXECUTION OF PAYMENT TRANSACTIONS AMONG CREDIT INSTITUTIONS

#### *Transaction account and transaction account number*

##### Article 74

(1) Transaction account means the payment account, in particular a current or giro account, opened and operated in the name of one or more payment service users by one of the following payment service providers:

- 1) a credit institution established in the Republic of Croatia;
- 2) a branch of a credit institution in another Member State with a head office in the Republic of Croatia; and
- 3) a branch of a third-country credit institution with a head office in the Republic of Croatia; and
- 4) the Croatian National Bank.

(2) A transaction account also means an account maintained by the payment service provider referred to in paragraph (1) of this Article to execute payment transactions on its own behalf.

(3) The manner of determining and use of the transaction account number shall be prescribed by subordinate legislation adopted by the Croatian National Bank.

(4) In addition to transaction accounts, the Croatian National Bank may prescribe by subordinate legislation referred to in paragraph (3) of this Article the manner of determining and use of other accounts opened and maintained by the payment service provider referred to in paragraph (1) of this Article.

#### *Data submission for the purposes of keeping the unified register of accounts*

##### Article 75

A payment service provider referred to in Article 74, paragraph (1) of this Act shall submit data on transaction accounts and other accounts for the execution of payment transactions in accordance with the regulation governing the keeping and contents of the unified register of accounts in the Republic of Croatia.

#### *Register of transaction accounts*

##### Article 76

(1) The payment service provider referred to in Article 74, paragraph (1) of this Act shall keep a register of transaction accounts and other accounts opened for the execution of payment transactions.

(2) The register referred to in paragraph (1) of this Article shall, at a minimum, contain the data which the payment service provider is obligated to submit pursuant to Article 75 of this Act.

## *Account number*

### Article 77

(1) Account number means the identification number of the payment service provider referred to in Article 74, paragraph (1) of this Act.

(2) The account number shall be assigned to the payment service provider referred to in Article 74, paragraph (1) of this Act in an authorisation to provide payment services issued by the Croatian National Bank.

(3) The Croatian National Bank shall assign the account number to the payment service provider referred to in Article 74, paragraph (1), item (2) of this Act at the request of the payment service provider or at the request of its founder.

(4) The Croatian National Bank shall keep records of the account numbers assigned, and shall make this data publicly available on its website.

## *Execution of payment transactions among credit institutions*

### Article 78

(1) National payment transactions of credit transfers and direct debits in the official currency of the Republic of Croatia in which both payment service providers are the persons referred to in Article 74, paragraph (1) of this Act, shall be executed through payment systems.

(2) By way of derogation from paragraph (1) of this Article, a payment service provider may execute payment transactions outside a payment system through another payment service provider on the basis of a contract with that other payment service provider.

(3) The payment service provider referred to in Article 74, paragraph (1) of this Act shall notify the Croatian National Bank of its intention to conclude the contract referred to in paragraph (2) of this Article at least thirty days prior to the conclusion of the contract, and shall accompany the notification with a detailed description of the payment transaction execution model.

## *Payment orders*

### Article 79

The Croatian National Bank shall prescribe the key elements of payment orders and their contents by a subordinate legislation.

## TITLE V

### PAYMENT INSTITUTION, SMALL PAYMENT INSTITUTION AND REGISTERED ACCOUNT INFORMATION SERVICE PROVIDER ESTABLISHED IN THE REPUBLIC OF CROATIA

#### CHAPTER I GENERAL PROVISIONS

*Payment institution established in the Republic of Croatia, small payment institution established in the Republic of Croatia and registered account information service provider established in the Republic of Croatia*

##### Article 80

(1) The Croatian National Bank shall be competent for:

- 1) issuing authorisations to provide payment services to a legal person established in the Republic of Croatia as a payment institution established in the Republic of Croatia;
- 2) adopting decisions on the entry of a small payment institution in the register referred to in Article 93 of this Act;
- 3) adopting decisions on the entry of the registered account information service provider established in the Republic of Croatia in the register referred to in Article 93 of this Act.

(2) An activity which carries out one or more payment services referred to in Article 4 of this Act may be entered in the register of companies or the crafts register only after the Croatian National Bank has adopted a decision authorising the provision of such payment services to a payment institution or a decision on the entry of a small payment institution or registered account information service provider in the register referred to in Article 93 of this Act.

(3) The person referred to in paragraph (2) of this Article may commence providing payment services only after these payment services have been entered as activities in the register of companies or the crafts register.

*Application of the provisions of law governing companies and other special laws*

##### Article 81

Unless otherwise provided by this Act, the provisions of law governing companies or other special law governing the manner of establishment of legal persons shall apply to payment institutions, small payment institutions and registered account information service providers that are legal persons or sole traders.

## CHAPTER II PAYMENT INSTITUTIONS

### SECTION 1

Capital and activity of payment institutions

#### *Initial capital of a payment institution* Article 82

- (1) The initial capital of a payment institution which provides payment services referred to in Article 4, item (6) of this Act shall not be less than HRK 150,000.00.
- (2) The initial capital of a payment institution which provides payment services referred to in Article 4, item (7) of this Act shall not be less than HRK 375,000.00.
- (3) The initial capital of a payment institution which provides any of the payment services referred to in Article 4, items (1) to (5) of this Act shall not be less than HRK 940,000.00.
- (4) For a company in the process of being incorporated for which an application for authorisation to provide payment services has been submitted, the share of the shareholders' capital in the amount of the initial capital referred to in this Article shall be paid in cash.

#### *Other activities of payment institutions*

##### Article 83

In addition to the payment services referred to in Article 4 of this Act, a payment institution may also engage in:

- 1) the provision of operational and ancillary services closely linked to payment services, such as the ensuring of the execution of payment transactions, provision of currency conversion services required for the execution of payment transactions, provision of safekeeping services and services related to data storage and processing;
- 2) the operation of a payment system in accordance with Title VIII of this Act; or
- 3) all other activities other than those listed in items (1) and (2) of this Article.

### SECTION 2

Authorisation to provide financial services

#### *Conditions for authorisation to provide payment services*

##### Article 84

- (1) A legal person established in the Republic of Croatia intending to provide payment services as a payment institution shall meet all of the following conditions:
  - 1) in view of the need to ensure the sound and prudent management of the payment institution, the holder of a qualifying holding is suitable, especially with respect to the good repute and the financial strength;
  - 2) members of the management board or executive directors of the payment institution that has a board of directors, where it does not also perform the activities referred to in Article 83, item (3) of this Act, are of a good repute and possess the skills and experience required for the provision of payment services;

3) where the payment institution, in addition to providing payment services, also engages in the activities referred to in Article 83, item (3) of this Act, the person responsible for managing operations related to the provision of payment services is of good repute and possesses the skills and experience required for the provision of payment services and the management board members or executive directors of a payment institution having a board of directors are of good repute;

4) taking into account the need to ensure the sound and prudent management of the payment institution, that institution has in place effective and sound governance arrangements comprising a clear organisational structure with well-defined, transparent and consistent lines of powers and responsibilities, effective procedures for establishing, managing, monitoring and reporting on all the risks to which the payment institution is or might be exposed, and adequate internal control mechanisms, which comprise, at a minimum, the functions of risk control, internal audit and compliance with regulations and standards, including appropriate administrative and accounting procedures and that the said governance arrangements, internal control mechanism and administrative and accounting procedures are appropriate, proportionate, reliable and sufficient in relation to the nature, scope and complexity of payment services which the payment institution intends to provide;

5) the business activities of the payment institution are carried out from the territory of the Republic of Croatia and the payment institution intends to provide at least part of the payment services in the Republic of Croatia;

6) it is capable of ensuring sound business operations with appropriate organisational, technical and personnel structure;

7) it meets the initial capital requirement in accordance with Article 82 of this Act;

8) it meets the requirement of safeguarding of the funds of payment service users in accordance with Article 100 of this Act;

9) when intending to provide services referred to in Article 4, items (7) and/or (8) of this Act, it has a liability coverage in accordance with Article 101 of this Act;

10) it meets all other conditions referred to in Article 85, paragraph (2), items (9) to (15) of this Act.

(2) When assessing the appropriateness of a holder of a qualifying holding, the Croatian National Bank shall take into account the following criteria:

1) the repute of the holder of a qualifying holdings;

2) the financial soundness of the holder of a qualifying holding, in particular with respect to the type of business pursued by the payment institution in which a holder has a qualifying holding;

3) the possibility that the holder of a qualifying holding affects the legitimacy of the business of the payment institution.

(3) In assessing the good repute, the Croatian National Bank shall particularly take into account the following circumstances:

1) whether the person has achieved successful results in its professional work so far;

2) whether the person has been convicted by a judgement with final force and effect or an investigation has been initiated against the person or a criminal proceedings is being conducted against the person for any of the following criminal offences:

– criminal offences against life and limb (Title X), criminal offences against values protected by international law (Title XIII), criminal offences against sexual freedom and sexual morality (Title XIV), criminal offences against property (Title XVII), with the exception of violations of copyrights

or of the rights of performing artists (Article 229), illicit use of an author's work or an artistic performance (Article 230), violations of the rights of producers of audio or video recordings and the rights related to radio broadcasting (Article 231), and violations of patent rights (Article 232), criminal offences against the payment system and the security of its operations (Title XXI), criminal offences relating to the authenticity of documents (Title XXIII), criminal offences against official duty (Title XXV), with the exception of failures to execute orders (Article 340) and violations of a duty to guard the state border (Article 341), under the Criminal Code (Official Gazette 110/1997, 27/1998, 50/2000, 129/2000, 51/2001, 111/2003, 190/2003, 105/2004, 84/2005, 71/2006, 110/2007, 152/2008 and 57/2011);

– a criminal offence under the Securities Markets Act (Official Gazette 84/2002 and 138/2006);

– a criminal offence under the Act on Criminal Offences Against the Capital Market (Official Gazette 152/2008);

– crimes against humanity and human dignity (Title IX), criminal offences against life and limb (Title X), criminal offences relating to labour relations and social security (Title XII), criminal offences against sexual freedom (Title XVI), criminal offences against property (Title XXIII), criminal offences against the economy (Title XXIV), a criminal offence of computer-related forgery (Article 270) and a criminal offence of computer-related fraud (Article 271), criminal offences of forgery (Title XXVI) and criminal offences against official duty (Title XXVIII) under the Criminal Code (Official Gazette 125/2011, 144/2012, 56/2015, 61/2015 and 101/2017);

– criminal offences under the law governing the operation of companies;

– criminal offences under the law governing the operation of investment funds; or

– criminal offences under the Accounting Act, (Official Gazette 109/2007, 54/2013 and 121/2014);

3) whether the person is an associate of the person convicted of a criminal offence prosecuted in the line of duty; and

4) whether the person has been convicted of an offence envisaged by laws governing financial business activity, if that could threaten the legitimacy, safety and stability of the provision of payment services.

### *Application for authorisation to provide payment services*

#### Article 85

(1) A legal person established in the Republic of Croatia intending to provide payment services as a payment institution shall submit an application to the Croatian National Bank for an authorisation to provide payment services.

(2) The application shall be accompanied by the following:

1) the identity and contact information of the applicant, including the head office of the applicant;

2) the Articles of Association, a deed of establishment or memorandum of the applicant;

3) a programme of operations, setting out the types of payment services for which authorisation is sought, in accordance with Article 4 of this Act, showing that the applicant shall carry out its business activity from the territory of the Republic of Croatia and provide at least part of its payment services in the Republic of Croatia;

4) if applicable, financial statements for the three preceding years of business;

- 5) a business plan, including a calculation of financial statements projections for the next three years of business which demonstrates that the applicant is able to employ the appropriate organisational, technical and personnel structure to operate soundly;
- 6) proof that it meets the initial capital requirement in accordance with Article 82 of this Act;
- 7) a description of measures taken or intended to be taken to safeguard payment service users' funds in accordance with Article 100 of this Act, including, where applicable, an assessment method for the representative portion of funds earmarked for future payment transactions;
- 8) a description of the applicant's governance arrangements and internal control mechanisms, including administrative, accounting and risk management, which demonstrates that those governance arrangements, control mechanisms and procedures are proportionate, appropriate, sound and adequate;
- 9) a description of the procedure in place to monitor, handle and follow up a security incident and security related customer complaints, including an incidents reporting mechanism which takes account of the notification obligations of the payment institution laid down in Article 68 of this Act;
- 10) a description of the process in place to file, monitor, track and restrict access to sensitive payment data;
- 11) a description of business continuity arrangements including a clear identification of the critical operations, effective contingency plans and a procedure to regularly test and review the adequacy and efficiency of such plans;
- 12) a description of the principles and definitions applied for the collection of statistical data on performance, transactions and fraud;
- 13) a security policy document, including a detailed risk assessment in relation to its payment services and a description of security control and mitigation measures taken to adequately protect payment service users against the risks identified, including fraud and illegal use of sensitive and personal data. The security control and mitigation measures shall indicate how they ensure a high level of technical security and data protection, including for the software and IT systems used by the applicant or the persons to which it outsources the whole or part of its operations. Security controls and risk mitigation measures shall take into account the Guidelines of the European Banking Authority referred to in Article 67, paragraph (2) of this Act;
- 14) for payment institutions subject to the obligations in relation to money laundering and terrorist financing, a description of the internal control mechanisms set up by the payment institution in order to comply with the obligations arising from regulations governing the prevention of money laundering and terrorist financing;
- 15) a description of the applicant's structural organisation, including, where applicable, a description of the intended operation through the use of agents and branches and a description of the intended off-site and on-site checks that the applicant undertakes to perform on them at least annually, indicating their frequency, as well as a description of outsourcing arrangements between the applicant and the persons to which certain activities are outsourced, and of its participation in a national or international payment system;
- 16) the identity of persons holding in the applicant, directly or indirectly, qualifying holdings, the size of their holdings and evidence of their suitability, taking into account the need to ensure the sound and prudent management of a payment institution;
- 17) the identity of each management board member of the applicant or each executive director of the applicant where the applicant has a board of directors as well as evidence that they are of good repute and possess appropriate knowledge and experience to perform payment services;

18) if the applicant also carries out the activities referred to in Article 83, item (3) of this Act, the identity of the persons responsible for managing the business operations related to the provision of payment services and evidence that they are of good repute and possess appropriate knowledge and experience to perform payment services and the identity of each member of the management board of the applicant or each executive director of the applicant where the applicant has a board of directors and evidence that they are of good repute;

19) information on whether the persons referred to in items (16), (17) and (18) of this paragraph have been convicted by a judgement with final force and effect for any of the criminal offences or offences referred to in Article 84, paragraph (3), items (2) and (4) of this Act, and if they have, state the criminal offences or offences committed, the date on which the judgements came into final force and effect and a certificate showing that no investigation or criminal proceedings have been initiated or are being conducted against these persons for any of the criminal offences referred to in Article 84, paragraph (3), item (2);

20) information on whether the person referred to in items (16), (17) and (18) of this Article is an associate of the person convicted of a criminal offence prosecuted in the line of duty;

21) where applicable, the identity of certified auditors and audit firms;

22) a list of persons with close links with the applicant within the meaning of Article 4, paragraph (1), item (38) of Regulation (EU) No 575/2013 and a description of the ways in which they are linked.

(3) For the purposes of paragraph (2), items (7), (8), (9) and (15) of this Article the applicant shall provide a description of its internal bylaws or other internal procedures related to internal audit arrangements and the organisational arrangements it has set up with a view to protecting the interests of its users and to ensure continuity and reliability in the performance of payment services and for the purposes of paragraph (2), items (16), (17) and (18) of this Article, the applicant shall provide evidence demonstrating the good repute and possession of appropriate knowledge and experience to provide payment services in accordance with the European Banking Authority Guidelines concerning the information to be provided to the competent authorities in the application for the authorisation of payment institutions and electronic money institutions and for the registration of account information service providers pursuant to Article 5, paragraph (5) of Directive (EU) 2015/2366 (EBA/GL/2017/09).

(4) The Croatian National Bank shall obtain data on judgements with final force and effect for criminal offences and offences committed in the Republic of Croatia from the criminal history records and offence records, based on a reasoned explanation, for the persons referred to in paragraph (2), items (16), (17) and (18) of this Article for whom evidence of good repute is sought, and as regards criminal offences and offences committed in the territory of the European Union, it shall obtain data from the European Criminal Records Information System in accordance with the law governing legal consequences of convictions, criminal records and rehabilitation.

(5) The Croatian National Bank shall be authorised to obtain data on judgements with final force and effect for associates of the persons referred to in paragraph (2), items (16), (17) and (18) of this Article for criminal offences committed in the Republic of Croatia from the ministry responsible for the judiciary, and for criminal offences committed in the territory of the European Union from the European Criminal Records Information System in accordance with the law governing legal consequences of convictions, criminal records and rehabilitation.

(6) The information referred to in paragraph (2), item (19) of this Article for the persons referred to in paragraph (2), items (16), (17) and (18) of this Article and their associates relating to judgements with final force and effect for criminal offences and offences in other countries which in their substance correspond to those referred to in Article 84, paragraph (3), items (2) and (4) of this Article shall be



deemed to be the information obtained from criminal or offence records, respectively, of the competent authority of the relevant country or, if under the laws of that country such information cannot be obtained, a statement provided by a natural person to whom the information relates, not older than ninety days.

(7) In addition to the information and documentation referred to in paragraph (2) of this Article, the applicant shall also submit the information and documentation in accordance with the European Banking Authority Guidelines concerning the information to be provided to the competent authorities in the application for the authorisation of payment institutions and electronic money institutions and for the registration of account information service providers pursuant to Article 5, paragraph (5) of Directive (EU) 2015/2366 (EBA/GL/2017/09), and the information required by the Croatian National Bank to process the application and decide on the issuing of an authorisation, including the information on the applicant prescribed by the law governing the prevention of money laundering and terrorist financing collected by the persons subject to that law.

(8) During the processing of the application the applicant shall notify the Croatian National Bank without delay of any changes relating to the information and documentation submitted pursuant to paragraphs (2), (3) and (7) of this Article, at the latest within seven days of the date on which such changes took place.

(9) The applicant only applying for an authorisation to provide payment services referred to in Article 4, item (7) of this Act shall, instead of the description referred to in paragraph (2), item (7) of this Article in accordance with Article 101 of this Act, submit evidence on a concluded professional indemnity contract or a similar guarantee covering the liability under Articles 43, 44, 45, 60 and 64 of this Act in the countries in which it provides or intends to provide payment services.

(10) The applicant applying for an authorisation to provide more payment services referred to in Article 4 together with the service referred to in Article 4, items (7) or (8) of this Act or together with the services referred to in Article 4, items (7) and (8) of this Act, shall provide, in addition to the description referred to in paragraph (2), item (7) of this Article, the evidence referred to in paragraph (9) of this Article, in accordance with Article 101 of this Act.

(11) The applicant applying for an authorisation to provide payment services shall pay an application processing fee to the Croatian National Bank.

(12) All the provisions of this Article shall apply *mutatis mutandis* to the application for an authorisation to provide payment services submitted for the company in the process of being incorporated.

(13) The Croatian National Bank shall prescribe the amount of the fee referred to in paragraph (11) of this Article by subordinate legislation.

### *Authorisation to provide payment services*

#### Article 86

(1) The Croatian National Bank shall adopt a decision authorising the applicant to provide payment services and shall enter it in the register referred to in Article 93 of this Act as a payment institution if it has come to an assessment, based on the application and the submitted information referred to in Article 85 of this Act and the information it possesses, that all the conditions referred to in Article 84 of this Act have been met.

(2) Before adopting a decision on the application for authorisation to provide payment services the Croatian National Bank may request an opinion from other competent authorities on the circumstances important for deciding on the submitted application.

## *Additional application for authorisation to provide payment services*

### Article 87

(1) A payment institution intending to provide payment services other than those listed in the decision shall, after receipt of the decision referred to in Article 86 of this Act, submit an application for the provision of those payment services, enclosing with the application the documentation referred to in Article 85, paragraph (2), items (3), (5) and (6) of this Act along with the related information and documentation in accordance with the European Banking Authority Guidelines concerning the information to be provided to the competent authorities in the application for the authorisation of payment institutions and electronic money institutions and for the registration of account information service providers pursuant to Article 5, paragraph (5) of Directive (EU) 2015/2366 (EBA/GL/2017/09) as well as the explanation of the impact of new services on financial stability, organisational structure, internal control mechanisms, system for safeguarding payment service users' funds, where applicable, and on security requirements referred to in Article 85, paragraph (2), items (9), (10), (11), and (13) of this Act.

(2) The payment institution referred to in paragraph (1) of this Article also intending to provide the service referred to in Article 4, item (7) of this Act or the service referred to in Article 4, item (8) of this Act or the services referred to in Article 4, items (7) and (8) of this Act, shall provide in its application, in addition to the documentation referred to in paragraph (1) of this Article, the evidence referred to in Article 85, paragraph (9) of this Act in accordance with Article 101 of this Act.

(3) The Croatian National Bank may while processing the application referred to in paragraph (1) of this Article, also require other information it deems necessary to decide on the issuing of an authorisation.

(4) Based on the application referred to in paragraph (1) of this Article, the Croatian National Bank shall adopt a decision authorising a payment institution to provide additional payment services and shall enter this change in the register referred to in Article 93 of this Act, if based on the information submitted pursuant to the provisions of this Article and the information it possesses assesses that the payment institution meets all the conditions referred to in Article 84 of this Act in relation to the existing and additional payment services.

## *Refusal of an application for authorisation to provide payment services*

### Article 88

(1) The Croatian National Bank shall adopt a decision refusing the application for authorisation to provide payment services if, based on the submitted documentation and information it assesses that:

- 1) any of the conditions referred to in Article 84 of this Act are not met;
- 2) where the exercise of supervision of the payment institution's operation may be made difficult or prevented due to close links between the applicant and other legal or natural persons;
- 3) the laws or other regulations of third countries governing the business of one or more natural or legal persons having close links with the applicant or difficulties in the implementation of such laws and regulations prevent effective supervision of the business operations of the payment institution; or
- 4) it is necessary to establish a separate entity for the activities of the provision of payment services referred to in Article 4, items (1) to (7) of this Act, because the activities referred to in Article 83, item (3) of this Act, which the applicant provides or intends to provide impair or might impair the financial

stability of the applicant, or make difficult or might make difficult the exercise of supervision by the Croatian National Bank.

(2) The provisions of paragraph (1) of this Article shall apply *mutatis mutandis* to the refusal of the application referred to in Article 87 of this Act.

*Grounds for a revocation of the decision authorising the provision of payment services*

Article 89

(1) The Croatian National Bank shall revoke in entirety the decision authorising the provision of payment services in the case:

- 1) where the payment institution fails to commence providing at least one of the payment services listed in the decision within 12 months of the date of the delivery of the decision;
- 2) where a payment institution submits a written notification to the Croatian National Bank stating that it no longer intends to provide the services for which the authorisation was issued;
- 3) where a payment institution stops providing all the payment services for which the decision has been issued for more than six months in a row;
- 4) where, in the case of a renewed procedure, it determines that the decision has been adopted based on false or inaccurate data or statements material for the adoption of that decision;
- 5) where a payment institution no longer meets the conditions under which the decision was adopted; or
- 6) where, at the request of the payment institution it adopts a decision on its entry in the register referred to in Article 93 of this Act as a small payment institution or a registered account information service provider.

(2) The Croatian National Bank may revoke, fully or in part, the decision authorising the provision of individual payment services in the case:

- 1) where any of the reasons referred to in Article 88, paragraph (1), items (2), (3) and (4) of this Act arises;
- 2) where a payment institution threatens the stability of and confidence in a payment system by continuing to provide payment services;
- 3) where a payment institution, in any manner whatsoever, prevents the supervision of its operation;
- 4) where a payment institution fails to implement supervisory measures imposed by the Croatian National Bank; or
- 5) where a payment institution fails to notify the Croatian National Bank of the significant changes in the conditions under which the decision was adopted.

(3) By way of derogation from paragraph (1) of this Article, the Croatian National Bank shall be authorised to revoke partly its decision authorising the provision of payment services in relation to a payment service fulfilling the conditions referred to in paragraph (1), items (2) or (5) of this Article.

## *Decision on the revocation of the decision authorising the provision of payment services*

### Article 90

- (1) The Croatian National Bank shall deliver the decision on the revocation of the decision authorising the provision of payment services to the payment institution without delay.
- (2) The Croatian National Bank shall submit its enforceable decision on the revocation of the decision authorising the provision of payment services to the competent commercial court without delay and shall publish a notice thereof on its website and in at least one daily paper in the Republic of Croatia.

## *Prohibition of the provision of payment services*

### Article 91

- (1) A payment institution shall cease to provide payment services:
  - 1) on the date of entry into force of the decision on the winding-up of a payment institution;
  - 2) on the date of adoption of a decision on the opening of bankruptcy proceedings against a payment institution;
  - 3) on the date of the removal of a payment institution from the register of companies or its dissolution in the case of merger, acquisition and division; or
  - 4) on the date when the decision on the revocation of the decision authorising the provision of payment services to a payment institution becomes enforceable or on the date defined in the decision on the revocation of the decision authorising the provision of payment services.
- (2) In the case referred to in paragraph (1) of this Article, the Croatian National Bank shall remove the payment institution from the register referred to in Article 93 of this Act without delay.

## SECTION 3

### Operation of a payment institution in the Republic of Croatia and the register

#### *Provision of payment services in the Republic of Croatia through an agent*

### Article 92

- (1) A payment institution established in the Republic of Croatia may provide payment services in the Republic of Croatia through one or more agents with a head office or domicile in the Republic of Croatia.
- (2) A payment institution intending to provide payment services through an agent shall first submit an application to the Croatian National Bank for entry of an agent in the register referred to in Article 93 of this Act.
- (3) A payment institution shall enclose with the application for entry in the register referred to in paragraph (2) of this Article:
  - 1) information on the agent's firm name and head office, or the agent's name and address;
  - 2) a description of the internal control mechanism put in place by the agent to comply with the provisions of the law governing the prevention of money laundering and terrorist financing;
  - 3) where the agent is a payment service provider, the name, address and personal identification number (OIB) of the agent's management board members or executive directors;

4) where the agent is not a payment service provider, for management board members of executive directors of the legal person that is an agent or for the natural person that is an agent, in addition to the names, addresses and other identification data, the information and documentation referred to in Article 85, paragraph (2), items (17) and (19) and paragraph (7) of this Act;

5) a list of payment services that it intends to provide through agents;

6) agent's OIB.

(4) The Croatian National Bank may during the processing of the application referred to in paragraph (2) of this Article take all the measures necessary to verify the authenticity of the submitted information, and request additional documentation from the payment institution and exchange of data with other competent authorities.

(5) The provision of Article 85, paragraph (4) of this Act shall apply to the processing of the application referred to in paragraph (2) of this Article.

(6) The Croatian National Bank shall decide on the application referred to in paragraph (2) of this Article within two months of submitting complete application.

(7) The Croatian National Bank shall refuse to enter an agent in the register referred to in Article 93 of this Act where it establishes, based on the documentation and information referred to in paragraphs (3), (4) and (5) of this Article, that:

1) the internal control mechanism put in place to comply with the provisions of the law governing the prevention of money laundering and terrorist financing is inadequate;

2) the person referred to in paragraph (3), item (4) of this Article has no good repute or appropriate knowledge and experience to provide payment services; or

3) after actions referred to in paragraph (4) of this Article have been taken, it is not possible to determine the accuracy of the submitted information.

(8) Article 84, paragraph (3) of this Act shall apply to the assessment of good repute.

(9) The Croatian National Bank shall adopt a decision on the removal of agents from the register referred to in Article 93 of this Act:

1) where a payment institution requires removal of an agent from the register or if it notifies the Croatian National Bank of the termination of provision of payment services through an agent in accordance with Article 119, paragraph (2), item (8) of this Act;

2) where consumer bankruptcy proceedings or bankruptcy proceedings have been opened against the agent;

3) where the agent has been removed from the register of companies;

4) where the agent is a natural person, upon his/her death.

(10) The Croatian National Bank may adopt a decision on the removal of an agent from the register referred to in Article 93 of this Act where after the entry of the agent in the register any of the reasons referred to in paragraph (7), items (1) and (2) of this Article arises or where it is established subsequently that the decision on the entry of an agent in the register was adopted on the basis of incorrect information.

(11) The Croatian National Bank shall submit all decisions adopted under this Article to the payment institution and entry or removal of agents in and from, respectively, the register referred to in Article 93 of this Act shall be made without delay after the relevant decision becomes enforceable.

(12) A payment institution may commence providing payment services through an agent from the date of that agent's entry in the register referred to in Article 93 of this Act.

(13) A payment institution shall cease providing payment services through an agent:

1) in the case referred to in paragraph (9), item (1) and paragraph (10) of this Article, from the date of entry of that agent's removal in the register referred to in Article 93 of this Act;

2) as of the date of adoption of the decision to open consumer bankruptcy proceedings or bankruptcy proceedings against the agent;

3) as of the date of that agent's removal from the register of companies.

(14) The payment institution shall, during the processing of the application referred to in paragraph (2) of this Article, notify the Croatian National Bank without delay of any changes in the information and documentation submitted pursuant to paragraph (3) of this Article, and of any other circumstance referred to in paragraph (9), items (2), (3) and (4) of this Article.

(15) A payment institution's agent shall inform payment services users that it provides payment services on behalf and for the account of a payment institution as its agent.

### *Register*

#### Article 93

(1) The Croatian National Bank shall keep a register of:

1) payment institutions it has authorised to provide payment services;

2) agents of payment institutions referred to in item (1) of this paragraph;

3) branches of payment institutions referred to in item (1) of this paragraph established in another Member State;

4) small payment institutions to which it has issued a decision on the entry in the register;

5) agents of small payment institutions referred to in item (4) of this paragraph;

6) registered account information service providers to whom it has issued a decision on the entry in the register;

7) agents of registered account information service providers referred to in item (6) of this paragraph;

8) branches of registered account information service providers referred to in item (6) of this paragraph established in another Member State;

9) the Croatian Bank for Reconstruction and Development.

(2) Entered in the register referred to in paragraph (1) of this Article shall also be service providers who have notified the Croatian National Bank in accordance with Article 6 of this Act and who meet the exclusion criteria referred to in Article 5, item (11), sub-items (a) and (b) of this Act or those operating within the limitations referred to in Article 5, item (12) of this Act as well as a description of the activities provided by these service providers.

(3) The register shall contain for each entity entered in the register referred to in paragraph (1) of this Article a list of payment services it is authorised to provide.

(4) For entities entered in the register providing services in another Member State, the country or the Member States in which they provide services and the manner of cross-border provision of services (establishment or freedom to provide services) shall be entered.

(5) Data on the entities referred to in paragraph (1), items (1), (2) and (3) of this Article, data on the entities referred to in paragraph (1), items (4) to (8) of this Article and data on the entities referred to in paragraph (2) of this Article shall be kept separately in the register.

(6) Any changes to data entered in the register shall be recorded in the register without delay.

(7) In the case of removal of an entity entered in the register referred to in paragraph (1), items (1), (4) and (6) of this Article, the reason for the removal from the register shall be specified.

(8) The register referred to in this Article shall be publicly available and accessible on the website of the Croatian National Bank.

(9) The Croatian National Bank shall notify the European Banking Authority, in a language customary in the field of finance, in accordance with implementing technical standards adopted as a delegated act by the European Commission based on Article 15, paragraph (5) of Directive (EU) 2015/2366:

1) about each entry in the register referred to in this Article, including entries of changes and removals;

2) in the case of removal of a payment institution from the register due to a revocation of the decision authorising the provision of payment services and removal of a small payment institution or a registered account information service provider from the register, about the reasons for revoking the decision or for removal from the register;

3) the services referred to in paragraph (2) of this Article, specifying the exclusion under which an activity is carried out.

(10) The Croatian National Bank shall adopt subordinate legislation governing in detail the contents and the manner of keeping a register.

## CHAPTER III QUALIFYING HOLDING AND THE OPERATION OF A PAYMENT INSTITUTION

### SECTION 1 Qualifying holding

#### *Notification on the intended acquisition of a qualifying holding*

#### Article 94

(1) Any natural and legal person intending to acquire for the first time directly or indirectly 10% or more of the capital or voting rights in a payment institution or intending to acquire a holding of less than 10% which would enable this person to achieve a significant influence over the management of a payment institution, shall notify the Croatian National Bank in advance of any such intended acquisition.

(2) A holder of a qualifying holding shall also notify the Croatian National Bank prior to each direct or indirect acquisition of a holding in the capital or voting rights of a payment institution which would enable this person to acquire, directly or indirectly 20%, 30% or 50% or more of the capital or of the voting rights in a payment institution.

(3) By way of derogation from paragraphs (1) and (2) of this Article, for a person other than the direct acquirer of a qualifying holding or an ultimate acquirer of a qualifying holding, the notification on the intended acquisition of a qualifying holding may be submitted by the ultimate acquirer of a qualifying holding.

(4) The person who has, in accordance with paragraphs (1) or (2) of this Article notified the Croatian National Bank, shall again notify the Croatian National Bank if it does not complete the intended acquisition of a qualifying holding within 12 months of the date referred to in Article 96, paragraph (17) of this Act.

(5) An acquirer of a qualifying holding intending to use directly or indirectly its qualifying holding acquired in accordance with Article 96, paragraph (17) of this Act in a manner in which the acquirer's holding in the capital or voting rights of a payment institution would fall below the percentage referred to in paragraph (1) or paragraph (2), respectively, of this Article, shall notify the Croatian National Bank thereof in advance.

(6) The person referred to in paragraphs (4) and (5) of this Article shall notify the Croatian National Bank of each new intended acquisition of a qualifying holding in accordance with paragraph (1) or paragraph (2), respectively, of this Article.

(7) A legal person holding a qualifying holding shall notify the Croatian National Bank of its intended participation in any mergers, acquisitions or divisions of companies, including any other change in their status.

(8) A person acquiring a qualifying holding by inheritance, reduction of the shareholders' capital of a payment institution or when unaware or could not be aware that it would acquire a qualifying holding or when unable to prevent or avoid the acquisition of a qualifying holding shall notify the Croatian National Bank thereof within 30 days of the date when it learned or must have learned of any such acquisition.

(9) The notifications referred to in paragraphs (1), (2) and (8) of this Article shall be a requirement to be used for the assessment if there is a possibility that the acquirer will have influence on sound and prudent management of a payment institution.

### *Documentation on the intended acquisition of a qualifying holding*

#### Article 95

(1) In addition to the notification on the intended acquisition of a qualifying holding referred to in Article 94, paragraphs (1) and (2) of this Act, also required to be submitted is the information and documentation referred to in Article 85, paragraph (2), items (16) and (19) of this Act, and at the request of the Croatian National Bank, the information and documentation referred to in Article 85, paragraph (7) of this Act, in accordance with the European Banking Authority Guidelines concerning the information to be provided to the competent authorities in the application for the authorisation of payment institutions and electronic money institutions and for the registration of account information service providers based on Article 5, paragraph (5) of Directive (EU) 2015/2366 (EBA/GL/2017/09).

(2) The provisions of Article 85, paragraphs (4) to (6) of this Act shall apply to the procedure pertaining to the notification referred to in paragraph (1) of this Article.

(3) Where a direct or indirect acquisition of shares or holdings in a payment institution involves the acquisition of 50% or more of the capital or of the voting rights in a payment institution, the acquirer of the qualifying holding shall, in addition to the information and documentation referred to in paragraph (1) of this Article also enclose the following with the application:



- 1) a business strategy of the payment institution in which the qualifying holding is acquired;
- 2) a business plan for the next three business years, including a financial statements projection;
- 3) planned change in the organisational, management and personnel structure of the payment institution with the information and documentation for new management board members of executive directors on the board of directors referred to in Article 85, paragraph (2), item (17) of this Act, i.e. where the payment institution also carries out the activities referred to in Article 83, item (3) of this Act, for the person who will be responsible to manage the business activities pertaining to the provision of payment services, the information and documentation referred to in Article 85, paragraph (2), item (18) of this Act; in addition, the acquirer of a qualifying holding shall, at the request of the Croatian National Bank, also submit the information and documentation referred to in Article 85, paragraph (7) of this Act, in accordance with the European Banking Authority Guidelines concerning the information to be provided to the competent authorities in the application for the authorisation of payment institutions and electronic money institutions and for the registration of account information service providers pursuant to Article 5, paragraph (5) of Directive (EU) 2015/2366 (EBA/GL2017/09) for the persons responsible for managing a payment institution;
- 4) a plan of activities regarding the creation of new, or amendments to the existing internal bylaws of a payment institution; and
- 5) a plan of activities regarding the changes to the existing information technology or introduction of a new information technology of a payment institution.

(4) In addition to the documentation referred to in this Article, the Croatian National Bank may, in the procedure of assessment of the notification on the acquisition of a qualifying holding, request additional documentation that it deems necessary for the assessment, including the information prescribed by the law governing the prevention of money laundering and terrorist financing, collected by the persons subject to that law.

(5) The Croatian National Bank shall be authorised to obtain the data on judgements with final force and effect for associates of the intended acquirer of a qualifying holding for criminal offences committed in the Republic of Croatia from the ministry competent for the judiciary and for criminal offences committed in the territory of the European Union from the European Criminal Records Information System in accordance with the law governing legal consequences of convictions, criminal records and rehabilitation.

(6) Where in addition to the notification referred to in Article 94, paragraphs (1) or (2) of this Act not all the information and documentation referred to in this Article are submitted, the Croatian National Bank shall, within 30 days of the date of receipt of such notification invite the acquirer of the qualifying holding to submit the missing information and documentation.

(7) In the case referred to in paragraph 6 of this Article, the notification shall be deemed complete as of the date of submission of all the requested information and documentation.

(8) Where the acquirer of a qualifying holding fails to submit the missing information and documentation within the time limit set by the Croatian National Bank, the Croatian National Bank shall be authorised to act in the manner referred to in Article 96, paragraph (4) of this Act.

(9) The provisions of this Article shall apply *mutatis mutandis* to the notification on the acquisition of a qualifying holding referred to in Article 94, paragraph (8) of this Act.

## *Assessment of the notification on the acquisition of a qualifying holding*

### Article 96

(1) The Croatian National Banks shall assess, based on the notification referred to in Article 94, paragraphs (1), (2) or (8) of this Act and the submitted information and documentation referred to in Article 95 of this Act, the possible impact of the intended acquirer of a qualifying holding on sound and prudent management of a payment institution in accordance with the following criteria:

- 1) the acquirer's good repute, taking into account the repute of all the qualifying holders of the acquirer's holdings and their influence on the acquirer;
- 2) good repute, appropriateness of skills and experience of any person who will direct the business of the payment institution following the acquisition;
- 3) the financial soundness of the acquirer, in particular with respect to the type of business pursued by the payment institution in which a qualifying holding is acquired;
- 4) the ability of the payment institution to continue to comply with the provisions of this Act after the acquisition of a qualifying holding; and
- 5) the existence of reasonable grounds to suspect that, in connection with the acquisition concerned, money laundering or terrorist financing is being or has been committed or attempted, or that the acquisition could increase the risk of money laundering or terrorist financing.

(2) Article 84, paragraph (3) of this Act shall apply to the assessment of good repute of the acquirer of a qualifying holding.

(3) The Croatian National Bank shall carry out the assessment referred to in paragraph (1) of this Article within three months of receipt of a complete notification referred to in Article 94, paragraphs (1), (2) and (8) of this Act.

(4) Where the Croatian National Bank in the case referred to in Article 94, paragraphs (1) and (2) of this Article assesses that it is possible that the intended acquirer will have a negative impact on sound and prudent management of a payment institution, it shall adopt a decision prohibiting the acquisition of a qualifying holding, within the time limit referred to in paragraph (3) of this Article.

(5) Where a direct acquirer, after the adoption of a decision prohibiting the acquisition referred to in paragraph (4) of this Article acquires a qualifying holding in a payment institution, the Croatian National Bank shall adopt a decision:

- 1) prohibiting the direct acquirer to exercise voting rights arising from the part of the holding (shares or holdings) acquired; or
- 2) ordering the direct acquirer to sell a part of the holding (shares or holdings) acquired and to submit proof of sale and if known, the information on the buyer, and prohibiting the exercise of voting rights based on the shares or holdings acquired in such a manner.

(6) The Croatian National Bank shall, by means of the decision referred to in paragraph (5), item (2) of this Article, set the time limit for the sale which may not be shorter than three months or longer than nine months.

(7) As of receipt of the decision referred to in paragraph (5) of this Article, the acquirer shall no longer be able to exercise voting rights based on the shares or holdings, respectively, acquired in such a manner.

(8) In the case of a decision referred to in paragraph (5) of this Article, the quorum for taking valid decisions and the necessary majority for taking decisions of the general meeting or the payment institution's meeting shall be determined in relation to the shareholders' capital reduced by the amount of the shares on the basis of which the acquirer cannot exercise any voting rights, or by the amount of the paid-in capital contribution on the basis of which a holding has been acquired which does not give the acquirer any voting rights.

(9) A vote cast contrary to the decision referred to in paragraph (5) of this Article shall be null and void.

(10) The decision referred to in paragraph (5) of this Article shall be submitted to the payment institution.

(11) The payment institution shall ensure that the acquirer referred to in paragraph (5) of this Article prohibited by a decision of the Croatian National Bank to exercise voting rights does not exercise voting rights based on shares or holdings acquired in such a manner and notify the Croatian National Bank thereof.

(12) Where the indirect acquirer after the decision prohibiting the acquisition referred to in paragraph (4) of this Article has been adopted acquires a qualifying holding in a payment institution, the Croatian National Bank shall adopt a decision ordering such an acquirer to reduce the acquired indirect qualifying holding in a payment institution and to submit evidence thereof.

(13) Where the Croatian National Bank in the case referred to in Article 94, paragraph (8) of this Article assesses that it is possible that the direct acquirer will have a negative impact on sound and prudent management of a payment institution, it shall act in the manner referred to in paragraph (5) of this Article.

(14) Where the Croatian National Bank in the case referred to in Article 94, paragraph (8) of this Article assesses that it is possible that the indirect acquirer will have a negative impact on sound and prudent management of a payment institution, it shall act in the manner referred to in paragraph (12) of this Article.

(15) The provisions of paragraphs (6) to (11) of this Article shall apply *mutatis mutandis* to the cases referred to in paragraphs (12), (13) and (14) of this Article.

(16) When adopting the decision referred to in paragraph (5) and paragraphs (12), (13) and (14) of this Article, the Croatian National Bank shall be guided by the principles of protection of public interest, financial system security and protection of interest of payment service users and other interested parties.

(17) If the Croatian National Bank fails to adopt the decision referred to in paragraph (4) and paragraphs (12), (13) and (14), respectively, of this Article within the time limit referred to in paragraph (3) of this Article, it shall be deemed that it is not possible that the proposed acquirer will have a negative impact on sound and prudent management of the payment institution.

#### *Legal effects of the failure to submit a notification on the acquisition of a qualifying holding*

##### Article 97

(1) In the case where a person acquiring directly a holding referred to in Article 94, paragraphs (1), (2) or (8) of this Act without notifying the Croatian National Bank thereof in accordance with the provisions of these paragraphs, the Croatian National Bank shall, after learning of such an acquisition, adopt a decision temporarily prohibiting the acquirer to exercise voting rights based on the part of the acquired holding (shares or holdings).

(2) The provisions of Article 96, paragraphs (7) to (11) of this Act shall apply *mutatis mutandis* to the case referred to in paragraph (1) of this Article.

(3) The Croatian National Bank shall request from the acquirer, by way of a decision referred to in paragraph (1) of this Article, to submit the information and documentation referred to in Article 95 of this Act within 30 days of receipt of the decision.

(4) Where the Croatian National Bank, based on the information and documentation submitted in accordance with paragraph (3) of this Article assesses that it is not possible that the direct acquirer will have a negative impact on sound and prudent management of a payment institution, it shall revoke the decision referred to in paragraph (1) of this Article.

(5) The Croatian National Bank shall inform the payment institution about the revocation of the decision referred to in paragraph (4) of this Act.

(6) Where the Croatian National Bank, based on the information and documentation submitted in accordance with paragraph (3) of this Article assesses that it is possible that the direct acquirer will have a negative impact on sound and prudent management of a payment institution, the Croatian National Bank may act in the manner referred to in Article 96, paragraph (5) of this Act.

(7) In the case where a decision is adopted in accordance with paragraph (6) of this Article, the Croatian National Bank shall revoke the decision referred to in paragraph (1) of this Article.

(8) The provisions of Article 96, paragraphs (6) to (11) and paragraph (16) of this Act shall apply *mutatis mutandis* to the case referred to in paragraph (6) of this Article.

(9) Where a person acquires indirectly the holding referred to in Article 94, paragraphs (1), (2) or (8) of this Act without notifying the Croatian National Bank in accordance with the provisions of these paragraphs, the Croatian National Bank shall invite that acquirer to submit the information and documentation referred to in Article 95 of this Act within 30 days of receipt of the invitation from the Croatian National Bank.

(10) Where the Croatian National Bank, based on the information and documentation submitted in accordance with paragraph (9) of this Article assesses that it is possible that the indirect acquirer will have a negative impact on sound and prudent management of a payment institution, the Croatian National Bank may act in the manner referred to in Article 96, paragraph (12) of this Act.

(11) The provisions of Article 96, paragraphs (6) to (11) and paragraph (16) of this Act shall apply *mutatis mutandis* to the case referred to in paragraph (10) of this Article.

(12) The Croatian National Bank shall make the assessment referred to in paragraphs (4), (6) and (10) of this Article within three months of the submission of complete information and documentation referred to in paragraphs (3) and (9) of this Article.

### *Subsequent assessment of the Croatian National Bank*

#### Article 98

(1) The holder of a qualifying holding shall, at the subsequent request of the Croatian National Bank, submit the information and documentation referred to in Article 95, paragraphs (1) and (3) of this Act valid at the time of submission of the subsequent request of the Croatian National Bank.

(2) The Croatian National Bank shall act in accordance with the provisions of Article 97 of this Act if it establishes subsequently:

1) in a repeated procedure that the holder of a qualifying holding referred to in Article 94, paragraphs (1), (2) or (8) of this Act has provided false or incorrect data or statements essential for the assessment of the possibility of the acquirer's negative impact on sound and prudent management of a payment institution; or

2) that negative changes have taken place as regards the possible impact of the holder of a qualifying holding on sound and prudent management of a payment institution.

## SECTION 2

### Operation of payment institutions

#### *Own funds*

##### Article 99

(1) In order to ensure its safe and sound operation and be able to meet obligations to creditors, a payment institution shall maintain an adequate level of own funds.

(2) The amount of own funds shall at no time be lower than the amount of initial capital referred to in Article 82 of this Act or the amount calculated in accordance with paragraph (3) of this Article.

(3) The amount of own funds shall be calculated in accordance with subordinate legislation determining the method and the manner of own funds calculation.

(4) The provision of paragraph (3) of this Article shall not apply to a payment institution authorised only for the provision of the payment services referred to in Article 4, item (7), and Article 4, items (7) and (8), respectively, of this Act.

(5) The provision of paragraph (3) of this Article shall not apply to a payment institution included in supervision on a consolidated basis of the home credit institution in accordance with the law governing the operation of credit institutions but only provided that the conditions determined in Article 7 of Regulation (EU) No 575/2013 have been met.

(6) The subordinate legislation referred to paragraph (3) of this Article shall be adopted by the Croatian National Bank.

#### *Safeguarding of payment service users' funds*

##### Article 100

(1) A payment institution shall safeguard the funds received for the execution of payment transactions from payment service users directly or through another payment service provider, in one of the following ways:

1) by holding in a special account with a credit institution established in the Republic of Croatia or another Member State;

2) by investing in safe, liquid and low-risk types of assets as prescribed by the subordinate legislation referred to in paragraph (6) of this Article adopted by the Croatian National Bank; or

3) by an insurance policy from an insurance company or a comparable guarantee from an insurance company or a credit institution, provided that this insurance company or credit institution does not belong to the same group as the payment institution itself.

(2) A payment institution shall not commingle the funds of payment service users referred to in paragraph (1) of this Article with the funds of other natural or legal persons.

(3) The funds referred to in paragraph (1), item (1) of this Article, the assets referred to in paragraph (1), item (2) of this Article and the funds collected from insurance or guarantees referred to in paragraph (1), item (3) of this Article in the amount corresponding a payment institution's debt towards payment service users referred to in paragraph (1) of this Article shall not represent the payment institution's assets and shall not be included in its winding-up or bankruptcy assets, nor may they be subject to execution relating to claims against the payment institution.

(4) Where a payment institution, in addition to providing payment services, also engages in the activity referred to in Article 83, item (3) of this Act and receives funds from a payment service user, of which a portion is to be used for future payment transactions, and the remaining portion for the services which the payment institution provides, other than payment services, it shall safeguard the portion of funds to be used for future payment transactions in one of the ways referred to in paragraph (1) of this Article. If that portion is variable or unknown in advance, the payment institution may safeguard the portion assumed to be used for future payment transactions, provided that such a portion can be reasonably estimated on the basis of historical data.

(5) This Article shall not apply to a payment institution authorised only for the provision of the payment services referred to in Article 4, item (7), and Article 4, items (7) and (8) of this Act.

(6) The funds received from payment service users deposited in an account with a credit institution shall not be included in assets or winding-up or bankruptcy assets of that credit institution.

(7) The Croatian National Bank shall prescribe by subordinate legislation the scope of and methodology for the calculation of protected funds referred to in paragraph (1) of this Article, the characteristics of the types of assets referred to in paragraph (1), item (2) of this Article and the characteristics of the insurance policy or comparable guarantee referred to in paragraph (1), item (3) of this Article.

### *Professional indemnity insurance*

#### Article 101

A payment institution providing the payment services referred to in Article 4, item (7) and Article 4, items (7) and (8) of this Act shall have a professional indemnity insurance or other comparable guarantee in accordance with the European Banking Authority Guidelines on the criteria on how to stipulate the minimum monetary amount of the professional indemnity insurance or other comparable guarantee, in accordance with Article 5, paragraph (4) of Directive (EU) 2015/2366 (EBA/GL/2017/08).

### *Payment accounts and received funds*

#### Article 102

(1) A payment institution may, in the framework of the provision of payment services open and maintain only the payment accounts used exclusively for the execution of payment transactions.

(2) The funds received by payment institutions from payment service users for the provision of payment services shall not constitute deposits or any other repayable funds from the public within the meaning of the law governing the operation of credit institutions, or electronic money within the meaning of the law governing electronic money.

## *Granting of credits and prohibition from accepting deposits*

### Article 103

(1) A payment institution may grant credits in connection with the provision of payment services referred to in Article 4, items (4) and (5) of this Act only provided all the following conditions are met:

- 1) a credit has been granted exclusively as an ancillary service in connection with the execution of a payment transaction;
- 2) the credit granted in connection with the provision of a payment service in the territory of another Member State is paid off within maximum 12 months;
- 3) a credit has not been granted from the funds of payment service users received by the payment institution and held for the execution of payment transactions; and
- 4) the own funds of the payment institution, as assessed by the Croatian National Bank, are at all times appropriate with regard to the total amount of the credit granted.

(2) A payment institution shall not accept deposits or any other repayable funds from the public within the terms of the law governing the operation of credit institutions.

## *Business books and financial statements*

### Article 104

(1) Unless otherwise provided for by this Act, a payment institution shall keep business books, other business documentation and records, evaluate assets and liabilities and prepare and publish annual financial statements in accordance with applicable regulations.

(2) A payment institution shall report separately the accounting data proving compliance with the provisions of this Title and regulations adopted based on this Title separately in the audited annual financial statements.

(3) The Croatian National Bank shall prescribe by subordinate legislation the accounting data referred to in paragraph (2) of this Article.

## *Storing of bookkeeping documents*

### Article 105

A payment institution shall store all bookkeeping documents and all other documentation related to this Title in accordance with applicable regulations, but for no less than five years.

## *Audit requirements*

### Article 106

(1) A payment institution shall have the annual financial statements and consolidated financial statements, referred to in Article 104 of this Act, audited for each business year.

(2) A payment institution shall, within 15 days of receipt of an audit report and at the latest within four months of expiry of the business year to which the annual financial statements relate, submit the following to the Croatian National Bank:

- 1) the audit report on annual financial statements, including these financial statements;

- 2) the audit report on consolidated annual financial statements, including these consolidated financial statements, where appropriate; and
  - 3) annual and consolidated annual reports, in accordance with the regulations governing the content of such reports.
- (3) For the purpose of paragraph (1) of this Article, a business year shall correspond to a calendar year.
- (4) The persons carrying out the audit referred to in paragraph (1) of this Article shall notify the Croatian National Bank without delay of all the facts and circumstances of which they learn during the audit which could:
- 1) breach the provisions of this Act or other regulations governing the conditions for issuing authorisation to provide payment services and operation of payment institutions;
  - 2) have an effect on the continuity of payment institution's operation;
  - 3) lead to a refusal to certify the financial statements or to an expression of reservations.
- (5) The persons carrying out an audit of a payment institution shall notify the Croatian National Bank of any of the facts referred to in paragraph (4) of this Article of which they became aware while auditing the financial statements of a company closely linked with that payment institution.
- (6) The submission of information referred to in paragraphs (4) and (5) of this Article shall not constitute a breach of the auditor's duty to protect the confidentiality of information under the contract or the law governing audit.

### *Outsourcing*

#### Article 107

- (1) A payment institution intending to outsource the operational activities of payment services to another person shall notify the Croatian National Bank thereof before entry into force of the contract with an outsourcing service provider.
- (2) In the case of a materially important outsourced operational activity, the payment institution shall, in addition to the notification referred to in paragraph (1) of this Article submit to the Croatian National Bank a draft contract with the provider of the outsourcing service prior to its entry into force and proof of fulfilment of the conditions referred to in paragraphs (4) to (7) of this Article.
- (3) Materially important operational activities shall be the activities which, if performed incorrectly or not at all, would significantly impair:
  - 1) the legality of the payment institution's operation;
  - 2) its financial stability;
  - 3) the continuity in meeting the conditions based on which it has been granted authorisation; or
  - 4) the soundness or continuity of its provision of payment services.
- (4) A payment institution shall ensure that the intended outsourcing:
  - 1) does not change the relationship of a payment institution with its users of payment services and its obligations towards its users of payment services as determined by this Act;
  - 2) does not threaten the legality of the payment institution's operation;



3) does not result in transferring the liability from the responsible persons of the payment institution to other natural persons; and

4) does not alter the conditions under which the payment institution has been granted authorisation to provide payment services.

(5) A payment institution shall ensure that the intended outsourcing of materially important operational activities, including IT outsourcing does not:

1) impair the quality of the payment institution's internal control mechanism;

2) impair the possibility for the Croatian National Bank to supervise and monitor on a continuous basis the discharge of all the responsibilities of the payment institution determined under this Act and subordinate legislation.

(6) A payment institution shall ensure that the Croatian National Bank can carry out on-site examinations at the premises of the outsourcing service provider, and it shall ensure access to the outsourcing-related documentation and data possessed by the outsourcing service provider.

(7) A payment institution shall check whether the outsourcing service provider provides the outsourced service in accordance with the contract and this Act and shall make sure that it has a right to carry out such checks.

(8) A payment institution shall notify the Croatian National Bank without delay of all the changes to entities providing outsourcing services, and in the case referred to in paragraph (2) of this Article, also of all the changes in connection with the outsourced activities, submitting the amended contract, at the latest within seven days of the day on which such changes took place.

### *Liability of a payment institution*

#### Article 108

(1) A payment institution shall be liable for the acts of its employees, agents and outsourcing service providers.

(2) A payment institution may not exclude or limit the liability referred to in paragraph (1) of this Article.

(3) A payment institution providing payment services through a branch or agent shall carry out on-site and off-site checks of branches and agents as a minimum once a year.

(4) A payment institution providing payment services through an agent shall bind the agent to inform the payment service users of the fact that it provides payment services on behalf and for the account of the payment institution, as its agent.

(5) A payment institution providing payment services through a branch shall ensure that the branch acting on its behalf informs payment system users of that fact.

### *Governance arrangements*

#### Article 109

(1) A payment institution shall establish and implement and maintain effective and sound governance arrangements, proportionate to the nature, scope and complexity of the operations it performs, comprising:

- 1) a clear management framework with well-defined, transparent and consistent lines of powers and responsibilities within the payment institution;
- 2) efficient risk management, in particular as concerns operational risk;
- 3) an appropriate internal control mechanism, which also includes appropriate administrative and accounting procedures.

## CHAPTER IV SUPERVISION OF PAYMENT INSTITUTIONS

### *Types of supervision and competence*

#### Article 110

- (1) The Croatian National Bank shall be responsible for the supervision of payment institutions established in the Republic of Croatia.
- (2) The supervision referred in paragraph (1) of this Article means the verification of whether a payment institution operates in accordance with the provisions of this Act and the regulations adopted under this Act, and in relation to its provision of payment services and the activities in accordance with Article 83, item (1) of this Act.
- (3) Within the supervision referred to in paragraph (1) of this Article, the Croatian National Bank may verify whether the part of a payment institution's operation referred to in Article 83, item (3) of this Act affects or might affect its financial stability, or makes difficult the exercise of supervision.
- (4) In addition to the supervision of a payment institution's operation referred to in paragraph (1) of this Article, the Croatian National Bank shall also supervise the implementation of the provisions of Titles II and III of this Act by payment institutions established in other Member States and operating in the Republic of Croatia based on the right of establishment when their branches are located in the Republic of Croatia and when their agents located in the Republic of Croatia are also payment service providers referred to in Article 7, paragraph (1), items (1) to (6) of this Act.
- (5) The Ministry of Finance – the Financial Inspectorate shall supervise the implementation of the provisions of Titles II and III of this Act by payment institutions established in other Member States and operating in the Republic of Croatia based on the right of establishment when their agents located in the Republic of Croatia are not also payment service providers referred to in Article 7 this Act.
- (6) The supervision referred to in paragraphs (4) and (5) of this Article shall be carried out in accordance with regulatory technical standards adopted as a delegated act by the European Commission based on Article 29, paragraph (7) of Directive (EU) 2015/2366, and in connection with Article 29, paragraph (6) of Directive (EU) 2015/2366 and with the implementation of the provisions of Title VI of this Act.
- (7) The part of the supervision referred to in paragraph (2) of this Article which relates to the implementation of the provisions of Titles II and III of this Act by payment institutions established in the Republic of Croatia and the supervision referred to in paragraph (4) of this Article shall also be exercised by the Ministry of Finance – the Financial Inspectorate in accordance with the law governing the scope, competence and powers of the Financial Inspectorate.

## *Manner of exercising supervision of payment institutions*

### Article 111

(1) The Croatian National Bank shall exercise supervision of payment institutions by:

1) collecting and analysing reports and information that payment institutions are required to submit to the Croatian National Bank pursuant to the provisions of this Act and other laws and regulations adopted under these laws, analysing the information submitted to the Croatian National Bank by other competent authorities in the Republic of Croatia and the competent authorities of the host Member States and monitoring the obtained business indicators (off-site examination);

2) carrying out on-site examinations of payment institutions' operation, their branches, agents and outsourcing service providers; and

3) imposing supervisory measures.

(2) In determining the frequency and intensity of the supervision referred to in paragraph (1) of this Article, the Croatian National Bank shall be governed by the type, scope and complexity of payment services provided by an individual payment institution and the estimated or established risk profile of its operations.

(3) The supervision referred to in paragraph (1), items (1) and (2) of this Article shall be exercised by the employees of the Croatian National Bank.

(4) By way of derogation from paragraph (3) of this Article, the Governor of the Croatian National Bank may authorise a certified auditor, an audit firm or other professionally qualifying persons to carry out the tasks related to the on-site examination of a payment institution's operation.

(5) The Croatian National Bank shall submit a notification of an on-site examination to a payment institution at least eight days prior to the beginning of an on-site examination. Exceptionally, authorised persons may submit the notification of an on-site examination no later than the beginning of the on-site examination.

The notification referred to in paragraph (5) of this Article shall include the subject of the on-site examination and information on what the payment institution shall prepare for authorised persons for the purpose of carrying out the on-site examination.

(7) A payment institution shall enable authorised persons to carry out an on-site examination and ensure adequate conditions for undisturbed performance of the on-site examination.

(8) A payment institution which processes data by computer shall, at the request of an authorised person ensure the conditions and adequate means for the examination of business books and records.

(9) Within the supervision referred to in paragraph (1), items (1) and (2) of this Article, the Croatian National Bank may require from the members of a payment institution's management board, or executive directors of that payment institution where it has a board of directors, or, where that institution engages in the activity referred to in Article 83, item (3) of this Act, from a person responsible for managing the operations relating to the provision of payment services, to prepare a written report on all the issues necessary for exercising supervision or to submit a statement on these issues within a time limit no shorter than three days.

### *On-site examination of a payment institution's operation*

#### Article 112

(1) A payment institution shall enable authorised persons, at their request, to carry out an on-site examination in its head office and in other localities in which the payment institution or another person based on an authorisation by the payment institution carries out the activities and operations subject to the supervision of the Croatian National Bank.

(2) A payment institution shall enable authorised persons, at their request, to carry out an examination of business books, business documentation, and administrative or business records, as well as an examination of information and related technologies, to the extent necessary for an examination.

(3) A payment institution shall submit to authorised persons, at their request, computer printouts, copies of business books, business documentation and administrative or business records, in a paper form or in the form of an electronic record, in the medium and format required by the authorised persons.

The payment institution shall provide authorised persons with a standard interface granting access to the database management system used by the payment institution, for the purpose of carrying out a computer-aided examination.

(5) The supervision referred to in paragraphs (1) and (2) of this Article shall be exercised by authorised persons during working hours of the payment institution or other person authorised by the payment institution to carry out the activities and operations subject to the supervision of the Croatian National Bank. Where necessary because of the scope or nature of the examination, the payment institution shall enable authorised persons to carry out the examination outside its or other person's working hours.

### *Completion of an examination of a payment institution*

#### Article 113

(1) Following an examination of the payment institution's operation a report on examination findings shall be prepared.

(2) By way of derogation from paragraph (1) of this Article, a report on examination findings shall not be prepared where the examination has been carried out under Article 111, paragraph (1), item (1) of this Act and where no illegalities or weaknesses and deficiencies in the payment institution's operation have been identified that would require the imposition of supervisory measures.

### *Supervisory measures*

#### Article 114

(1) The objective of the supervisory measures of the Croatian National Bank shall be to take actions at an early stage to improve the safety and stability of payment institutions' operations and to eliminate the established illegalities and irregularities.

(2) Supervisory measures shall be imposed by means of decisions.

## *Decision to impose supervisory measures*

### Article 115

(1) The Croatian National Bank may adopt a decision to impose supervisory measures on a payment institution if in the course of supervision it establishes:

- 1) that by its acts or omissions the payment institution acted contrary to laws or other regulations;
- 2) weaknesses or deficiencies in the payment institution's operation which do not constitute a violation of regulations; or
- 3) that it is necessary that the payment institution take actions and procedures to improve its operation.

(2) In the decision referred to in paragraph (1) of this Article, the Croatian National Bank shall lay down the time limit within which the payment institution is to implement the measures imposed by the decision.

(3) A payment institution may, no later than 15 days prior to the expiry of the time limit referred to in paragraph (2) of this Article, apply for an extension of the time limit referred to in paragraph (2) of this Article by a reasoned request. The Croatian National Bank shall decide on the extension at the latest by the expiry of the time limit laid down in the decision.

## *Reporting to the Croatian National Bank on the implementation of decisions*

### Article 116

(1) In its decision to impose supervisory measures, the Croatian National Bank may order the payment institution to report to the Croatian National Bank within a specified time limit on the implementation of the measures imposed.

(2) The payment institution shall, within the time limit referred to in paragraph (1) of this Article report to the Croatian National Bank on the implementation of the measures, enclosing relevant evidence.

(3) Where the Croatian National Bank establishes that the measures imposed have not been implemented or have not been implemented within the time limit and in the manner prescribed by the decision, it may adopt a decision imposing a new supervisory measure on the payment institution.

## *Types of supervisory measures*

### Article 117

(1) By means of supervisory measures, the Croatian National Bank may:

- 1) order the competent authority of the payment institution to remove from office a management board member or executive director and appoint a new management board member or executive director, or, where the payment institution also engages in the activity referred to in Article 83, item (3) of this Act, to remove from office the person responsible for managing the operations relating to the provision of payment services and appoint a new person responsible for managing the operations relating to the provision of payment services;
- 2) temporarily prohibit a payment institution from providing one or more payment services in the cases referred to in Article 89, paragraph (2) of this Act;
- 3) remove a payment institution's branch and/or agent from the register;

4) order a payment institution to meet the conditions pursuant to which it was granted authorisation to provide payment services; or

5) temporarily prohibit a payment institution from granting credit or restrict its credit granting;

6) order a payment institution's management board or the executive director of a payment institution which has a board of directors to adopt and ensure the implementation of a plan of measures to provide for the minimum own funds required in accordance with a regulation referred to in Article 99, paragraph (3) of this Act;

7) order a payment institution's management board or the executive director of a payment institution which has a board of directors to adopt and ensure the implementation of a plan of measures to provide that the own funds be appropriate with regard to the total amount of the credit granted in accordance with Article 103 of this Act;

8) order the payment institution to adopt a decision and carry out an increase in the shareholders' capital;

9) temporarily prohibit the payment institution from distributing dividends or any form of profit;

10) order an act, omission or sufferance with a view to own funds harmonisation with the conditions referred to in Article 99 of this Act;

11) order an act, omission or sufferance with a view to improving the safety and stability of the operation of a payment institution and removing the established illegalities and irregularities.

(2) The Croatian National Bank shall impose the measure referred to in paragraph (1), item (2) of this Article simultaneously with the imposition of another supervisory measure in the duration of no longer than one year. The Croatian National Bank shall notify the competent commercial court of the imposition of this measure without delay.

(3) The Croatian National Bank may order that a separate entity be established for the provision of payment services if a payment institution providing any of the payment services referred to in Article (4), items (1) to (7) of this Act carries out at the same time the activities referred to in Article 83, item (3) of this Act which impair or may impair the financial stability of the payment institution or make supervision more difficult.

### *Exemptions from the required minimum amount of own funds*

#### Article 118

(1) The Croatian National Bank may, based on an evaluation of the risk management process, risk loss data base or internal control mechanisms of the payment institution, require the payment institution to hold an amount of own funds which is higher by a certain percentage than the amount calculated in accordance with the regulation referred to in Article 99, paragraph (3) of this Act.

(2) The Croatian National Bank may, at the request of a payment institution, and taking into account its evaluation of the risk management process, risk loss data base or internal control mechanisms, permit the payment institution to hold an amount of own funds which is lower by a certain percentage than the amount calculated in accordance with the regulation referred to in Article 99, paragraph (3) of this Act.

(3) The percentage referred to in paragraphs (1) and (2) of this Article may not exceed 20%.

## *Reporting to the Croatian National Bank*

### Article 119

- (1) A payment institution shall report to the Croatian National Bank in accordance with this Title of this Act.
- (2) A payment institution shall notify the Croatian National Bank without delay of the following:
- 1) all facts to be entered in the register of companies relating to each submitted application for entry of data in the register of companies and to all completed entries of data changes in the register of companies;
  - 2) each planned change of management board members or executive directors or persons responsible for the business relating to the provision of payment services and submit proof of meeting the conditions referred to in Article 84, paragraph (1), item (2) or item (3), respectively, of this Act;
  - 3) all planned or executed changes relating to holders of qualifying holdings of which the management board or the executive director was aware or should have been aware;
  - 4) all planned changes in the payment institution's shareholders' capital of 10% or more;
  - 5) if the payment institution's financial position changes to the extent that its own funds fall below the amount of own funds prescribed by Article 99, paragraph (2) of this Act;
  - 6) if it stops providing some payment services;
  - 7) the intent to stop providing all payment services, if reasons arise for a revocation of the decision authorising the provision of payment services referred to in Article 89 of this Act and the expiry of the decision authorising the provision of payment services referred to in Article 91 of this Act;
  - 8) the termination of provision of payment services through an agent;
  - 9) all changes to facts on the basis of which the Croatian National Bank entered its agent in the register; and
  - 10) changes to the measures taken for safeguarding payment service users' funds, enclosing evidence that the measures meet the conditions referred to in paragraph 100 of this Act;
  - 11) each change in the basis for the calculation of the professional indemnity insurance and the conditions of the professional indemnity insurance contracts;
  - 12) any change of the audit firm carrying out the audit pursuant to Article 106 of this Act; and
  - 13) all other changes altering the facts on the basis of which the Croatian National Bank has issued its authorisation to provide payment services.
- (3) A payment institution shall notify the Croatian National Bank of its intention to provide payment services in a third country through a branch no later than within 60 days prior to the date of the establishment of the branch.
- (4) At the request of the Croatian National Bank, a payment institution shall submit reports and information on all matters relevant for the exercise of supervision or performing of other tasks within the competence of the Croatian National Bank.

CHAPTER V  
SMALL PAYMENT INSTITUTION AND REGISTERED ACCOUNT  
INFORMATION SERVICE PROVIDER

SECTION 1  
Small payment institutions

*Operation of small payment institutions*

Article 120

- (1) A small payment institution may provide one or more payment services referred to in Article 4, items (3) to (6) of this Act in accordance with a decision of the Croatian National Bank on the entry of small payment institutions in the register referred to in Article 93 of this Act.
- (2) A small payment institution may provide payment services exclusively in the territory of the Republic of Croatia.
- (3) The average total monthly value of payment transactions executed by a small payment institution in the last 12 months, including the payment transactions executed through its agents, shall not exceed HRK 7,500,000.00.

*Initial capital of small payment institutions*

Article 121

- (1) The initial capital of a small payment institution which provides payment services referred to in Article 4, item (6) of this Act shall not be less than HRK 50,000.00.
- (2) The initial capital of a small payment institution which provides any of the payment services referred to in Article 4, items (3) to (5) of this Act shall not be less than HRK 300,000.00.
- (3) For a company in the process of being incorporated for which an application has been submitted for entry in the register referred to in Article 93 of this Act, a share of the shareholders' capital in the amount of the initial capital referred to in this Article shall be paid in cash.

*Conditions for entry in the register*

Article 122

- (1) A legal person intending to provide payment services as a small payment institution shall, in addition to the conditions referred to in Article 121 of this Act, also meet the following conditions:
  - 1) the conditions referred to in Article 84, paragraph (1), items (1) to (4), (6), (8) and (10) of this Act;
  - 2) the average total monthly value of payment transactions executed by that person in the past 12 months, including the payment transactions executed through its agents, shall not exceed HRK 7,500,000,00 and where the applicant has not yet commenced operating or has operated for less than 12 months, it shall be evident from the business plan and the projection of the total amount of payment transactions in the following 12 months that the average total monthly value of executed payment transactions, including the payment transactions executed through its agents does not exceed HRK 7,500,000.00;
  - 3) have a head office in the Republic of Croatia.



(2) For the purposes of meeting the conditions referred to in Article 84, paragraph (1), items (1), (2) and (3) of this Act the provisions of Article 84, paragraphs (2) and (3) of this Act shall apply *mutatis mutandis*.

### *Application for entry in the register*

#### Article 123

(1) A legal person intending to provide payment services as a small payment institution shall submit to the Croatian National Bank an application for entry in the register referred to in Article 93 of this Act.

(2) To be enclosed with the application referred to in paragraph (1) of this Article shall be a report on the total value of all payment transactions executed in the past 12 months or, where the applicant has not yet commenced operating or has operated for less than 12 months, a projection of the total amount of payment transactions in the following 12 months.

(3) The provisions of Article 85, paragraphs (2) to (8), (11), (12) and (13) of this Act shall apply *mutatis mutandis* to the application referred to in paragraph (1) of this Article.

### *Issuing of the decision on the entry in the register*

#### Article 124

(1) The Croatian National Bank shall issue a decision on the entry in the register referred to in Article 93 of this Act where, based on the application and the submitted documentation referred to in Article 123 of this Act and the information it possesses it has come to an assessment that the conditions referred to in Article 122 of this Act have been met.

(2) Article 87 of this Act shall apply *mutatis mutandis* to the application for entry in the register of an additional payment service referred to in Article 120, paragraph (1) of this Act.

(3) Article 88 of this Act shall apply *mutatis mutandis* to the refusal of the application for entry in the register.

### *Decision on the entry of removal in the register*

#### Article 125

(1) The provisions of Articles 89 and 90 of this Act shall apply *mutatis mutandis* to the decision on the entry of removal of a small payment institution and decision on the entry of removal of a payment service provided by the small payment institution in the register referred to in Article 93 of this Act.

(2) A small payment institution shall cease to provide payment services entered in the register:

1) on the date of entry into force of the decision on the winding-up of a small payment institution;

2) on the date of the adoption of a decision on the opening of bankruptcy proceedings against a small payment institution;

3) on the date of the removal of a small payment institution from the register of companies or its dissolution in the case of a merger, acquisition and division.

(3) In the case referred to in paragraph (2) of this Article, the Croatian National Bank shall adopt a decision on the removal of a small payment institution from the register without delay.

## *Obligation of notification to the Croatian National Bank*

### Article 126

- (1) A small payment institution which is subject to annual financial statements audit in accordance with applicable regulations shall submit to the Croatian National Bank audited reports in accordance with Article 106 of this Act.
- (2) A small payment institution which is not subject to annual financial statements audit in accordance with applicable regulations shall submit to the Croatian National Bank the annual reports and consolidated annual reports no later than within four months of expiry of the business year to which the annual financial statements relate.
- (3) The Croatian National Bank may require submission of audited reports referred to in paragraph (1) of this Article also from a small payment institution which is not subject to annual financial statements audit.

### *Application of the provisions of this Act relating to payment institutions established in the Republic of Croatia*

### Article 127

Unless otherwise prescribed by the provisions of Articles 120 to 126 of this Act, the provisions of Articles 83, 92 and 93 of this Act and the provisions of Chapters III and IV of this Title, except the provisions of Article 99, Article 104, paragraph (2) and Article 118, shall apply *mutatis mutandis* to small payment institutions.

### *Transformation of a small payment institution to a payment institution*

### Article 128

- (1) A small payment institution intending to increase the amount of average total monthly value of payment transactions above the amount prescribed in Article 120, paragraph (3) of this Act, shall submit an application to the Croatian National Bank for authorisation to provide payment services as a payment institution.
- (2) Paragraph (1) of this Article shall also apply to a small payment institution intending to provide payment services in another Member State or third country as well as to a small payment institution intending to provide other payment services referred to in Article 4 of this Act not listed in Article 120, paragraph (1) of this Act.
- (3) A small payment institution which no longer meets the condition referred to in Article 122, paragraph (1), item (2) of this Act, shall submit to the Croatian National Bank the application referred to in paragraph (1) of this Article within 30 days of the date when it no longer meets the condition.
- (4) A small payment institution shall indicate in the application referred to in paragraphs (1) and (2) of this Article the reasons for the application and submit all the information and documentation referred to in Article 85 of this Act.
- (5) By way of derogation from paragraph (4) of this Article, a small payment institution does not have to submit the information and documentation that have already been submitted to the Croatian National Bank and that are relevant at the time of submitting the application.
- (6) On the date when the decision authorising the provision of payment services to a payment institution becomes enforceable, the entry of the small payment institution shall be removed from the

register referred to in Article 93 of this Act and the payment institution shall be entered as such in the register.

(7) Where in the case referred to in paragraph (3) of this Article, a small payment institution fails to submit an application within the prescribed time limit, the Croatian National Bank shall adopt a decision on the entry of removal of a small payment institution in the register.

### *Transformation of a payment institution to a small payment institution*

#### Article 129

(1) A payment institution intending to provide payment services listed in the decision authorising the provision of payment services as a small payment institution shall submit to the Croatian National Bank an application for the entry of a small payment institution in the register referred to in Article 93 of this Act, in accordance with Article 123 of this Act.

(2) Pursuant to the application referred to in paragraph (1) of this Article, the Croatian National Bank shall carry out the procedure based on the available documentation and information, but it can require additional documentation pursuant to the provisions of Article 123, paragraphs (2) and (3) of this Act.

(3) The provisions of Articles 123 and 124 of this Act shall apply to decision-making regarding the application referred to in paragraph (1) of this Article.

## SECTION 2

Registered account information service provider established in the Republic of Croatia

### *Registered account information service provider*

#### Article 130

(1) A registered account information service provider means a natural person pursuing an activity registered in the Republic of Croatia or a legal person entered by the Croatian National Bank in the register referred to in Article 93 of this Act to provide payment service referred to in Article 4, item (8) of this Act and entered in the register of companies or the crafts register.

(2) The registered account information service provider shall not provide other payment services, except those referred to in Article 4, item (8) of this Act.

### *Conditions for entry in the register*

#### Article 131

(1) The person referred to in Article 130, paragraph (1) of this Act intending to provide only the payment service referred to in Article 4, item (8) of this Act as a registered account information service provider shall meet all the conditions referred to in Article 84, paragraph (1), items (2), (3), (4), (6) and (9) of this Act and the conditions referred to in Article 85, paragraph (2), items (9), (10), (11), (13) and (15) of this Act.

(2) For the purposes of meeting the conditions referred to in Article 84, paragraph (1), items (2) and (3) of this Act, the provisions of Article 84, paragraph (3) of this Act shall apply *mutatis mutandis*.

### *Application and documentation for entry in the register*

#### Article 132

(1) A person intending to provide only the payment service referred to in Article 4, item (8) of this Act shall submit an application to the Croatian National Bank for entry in the register referred to in Article 93 of this Act.

(2) In addition to the information and documentation referred to in Article 85, paragraph (2), items (1), (2), (3), (5), (8) to (11), (13), (15), (17), (18) and (19) of this Act, also required to be submitted with the application is a proof of a concluded professional indemnity insurance contract or a similar guarantee covering the liability in accordance with Article 101 of this Act.

(3) The provisions of Article 85, paragraphs (3), (4), (6) to (9) and (11) to (13) of this Act shall apply *mutatis mutandis* to the application referred to in paragraph (1) of this Article.

### *Adopting of the decision on the entry in the register*

#### Article 133

(1) The Croatian National Bank shall adopt a decision on the entry in the register referred to in Article 93 of this Act of a registered account information provider where, based on the application and the submitted documentation referred to in Article 132 of this Act and the information it possesses it has come to an assessment that the conditions referred to in Article 131 of this Act have been met.

(2) Article 88 of this Act, except paragraph (1), item (4) thereof shall apply *mutatis mutandis* to the refusal of the application for entry in the register.

### *Decision on the entry of removal in the register*

#### Article 134

(1) The provisions of Article 89, paragraphs (1) and (2) and Article 90 of this Act shall apply *mutatis mutandis* on the decision on the entry of removal of a registered account information service provider in the register referred to in Article 93 of this Act.

(2) The registered account information service provider shall cease to provide the service referred to in Article 4, item (8) of this Act:

1) as of the date of entry into force of a decision on the winding-up of a registered account information service provider;

2) as of the date of adoption of a decision on the opening of bankruptcy proceedings against a consumer or the registered account information service provider;

3) as of the date of removal of the registered account information service provider from the register of companies or its dissolution in the case of a merger, acquisition and division, or as of the date of removal of the registered account information service provider that is a natural person from the register of companies or the crafts register.

(3) In the case referred to in paragraph (2) of this Article, the Croatian National Bank shall adopt a decision on the removal of a registered account information service provider from the register referred to in Article 93 of this Act without delay.

*Application of the provisions of this Act relating to payment institutions established in the Republic of Croatia*

Article 135

- (1) Unless otherwise provided by Articles 130 to 134 of this Act, the provisions of Article 83, 93 and 101 of this Act and the provisions of Chapter IV of this Title and Title VI of this Act shall apply *mutatis mutandis* to the registered account information service provider.
- (2) Title II of this Act, with the exception of the provisions of Articles 12, 13 and 24 to 27 of this Act and the provisions of Article 18, paragraph (1) and Article 23 of this Act, insofar as they are relevant, shall not apply to the registered account information service provider.
- (3) Title III of this Act, with the exception of the provisions of Articles 37 to 40, 64 and 67 to 72 of this Act shall not apply to the registered account information service provider.

*Transformation of a registered account information service provider to a payment institution*

Article 136

- (1) A registered account information service provider that is a legal person established in the Republic of Croatia intending to provide, in addition to the service referred to in Article 4, item (8) of this Act, one or more payment services referred to in Article 4 of this Act as a payment institution shall submit an application to the Croatian National Bank for authorisation to provide payment services.
- (2) The registered account information service provider referred to in paragraph (1) of this Article shall submit with the application all the information and documentation referred to in Article 85 of this Act.
- (3) By way of derogation from paragraph (2) of this Article, a registered account information service provider does not have to submit the information and documentation that have already been submitted to the Croatian National Bank and that are relevant at the time of submitting the application.
- (4) On the date when the decision authorising the provision of payment services to a payment institution becomes enforceable, the entry of the registered account information service provider shall be removed from the register referred to in Article 93 of this Act and a payment institution shall be entered in the register.

*Transformation of a payment institution to a registered account information service provider*

Article 137

- (1) A payment institution not intending to provide, apart from the payment services referred to in Article 4, item (8) of this Act, other payment services listed in the decision authorising the provision of payment services shall submit to the Croatian National Bank an application for its entry in the register referred to in Article 93 of this Act as a registered account information service provider in accordance with Article 132 of this Act.
- (2) Pursuant to the application referred to in paragraph (1) of this Article, the Croatian National Bank shall carry out the procedure based on the available information and documentation, but it can require additional documentation pursuant to the provisions of Article 132, paragraphs (2) and (3) of this Act.
- (3) The provisions of Articles 132 and 133 of this Act shall apply to decision-making regarding the application referred to in paragraph 1 of this Article.

TITLE VI  
CROSS-BORDER PROVISION OF PAYMENT SERVICES BY PAYMENT  
INSTITUTIONS AND COOPERATION WITH OTHER MEMBER STATES'  
COMPETENT AUTHORITIES

CHAPTER I  
CROSS-BORDER PROVISION OF PAYMENT SERVICES

*Manner of cross-border provision of services*

Article 138

- (1) A payment institution established in the Republic of Croatia may provide payment services authorised in the Republic of Croatia, in other Member States as host Member States in accordance with the conditions set out in the provisions of this chapter, exercising the right of establishment or freedom to provide services.
- (2) A payment institution established in another Member State may provide payment services authorised in the home Member State in the Republic of Croatia as the host country in accordance with the conditions set out in the provisions of this chapter, exercising the right of establishment or freedom to provide services.
- (3) Based on the right of establishment, payment services may be provided in the host Member State through a branch with a head office in the host Member State or through an agent with a head office or residence in the host Member State.
- (4) Based on the freedom to provide services, payment services may be provided in the host Member State directly or through an agent with a head office or residence in the host Member State.
- (5) Payment services may be provided in the host Member State by exercising the freedom to provide services only temporarily. Whether such provision of services will be allowed shall depend on the manner in which such services are provided, or on whether the payment institution provides such services in the host Member State permanently, frequently, regularly or continually.

*Provision of payment services in another Member State by a payment institution from the  
Republic of Croatia*

Article 139

- (1) A payment institution established in the Republic of Croatia and intending to provide payment services in the territory of another Member State exercising the right to establishment or freedom to provide services shall notify the Croatian National Bank thereof in advance.
- (2) Where the notification referred to in paragraph (1) of this Article relates to the provision of payment services through a branch or agent, such notification shall be deemed to be an application for the entry of the branch or agent, respectively, in the register referred to in Article 93 of this Act.
- (3) The notification referred to in paragraph (1) of this Article shall include:
  - 1) the name and address of the payment institution and the number of the decision authorising the provision of payment services;
  - 2) a list of Member States in which it intends to provide payment services; and
  - 3) a list of payment services it intends to provide in an individual host Member State.

(4) In the case of a payment institution intending to provide payment services in a host Member State through a branch, the notification referred to in paragraph (1) of this Article shall also include, in addition to the information referred to in paragraph (3) of this Article:

1) the address of the branch in the host Member State;

2) a description of the organisational structure of the branch;

3) a list of names and addresses of the persons that are to be responsible for managing the operations of the branch; and

4) the documentation referred to in Article 85, paragraph (2), items (5) and (8) of this Act relating to operations in a host Member State.

(5) In the case of a payment institution intending to provide payment services in a host Member State through an agent, the notification referred to in paragraph (1) of this Article shall also include, in addition to the information referred to in paragraph (3) of this Article, the information referred to in Article 92, paragraph (3) of this Act..

(6) The notification referred to in paragraph (1) of this Article shall also include information on the intended outsourcing of operational activities of payment services to other persons in the host Member State.

(7) The notification referred to in paragraph (1) of this Article shall also contain the information prescribed as mandatory by Commission Delegated Regulation (EU) 2017/2055 of 23 June 2017 supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards for the cooperation and exchange of information between competent authorities relating to the exercise of the right of establishment and the freedom to provide services of payment institutions (SL L 294, 11.11. 2017, hereinafter referred to as 'Regulation (EU) No 2017/2055') in the notification process between the competent authorities of the home Member State and the host Member State, in the case of intended provision of payment services in the territory of another Member State through a branch, agent or directly, or, in the case of outsourcing of operational activities of payment services to another person in the host Member State.

(8) The Croatian National Bank shall transmit the information contained in the received notification referred to in paragraph (1) of this Article on the intended cross-border provision of payment services (notification) to the competent authority of the host Member State within one month of the date of receipt of complete and accurate information.

(9) Where the Croatian National Bank does not accept the evaluation of the competent authority of the host Member State submitted to it by that authority based on the notification referred to in paragraph (8) of this Article, the Croatian National Bank shall notify that authority thereof and state the reasons for non-acceptance.

(10) Where the Croatian National Bank adopts a decision on the entry of a branch or agent in the register referred to in Article 93 of this Act, it shall notify thereof the competent authority of the host Member State and the payment institution within three months of the date of receipt of the notification referred to in paragraph (1) of this Article with complete and accurate information.

(11) A payment institution may commence providing payment services through a branch or agent in the host Member State only after the Croatian National Bank has entered the branch or agent in the register referred to in Article 93 of this Act.

(12) The Croatian National Bank may adopt a decision refusing the entry of a branch or agent in the register referred to in Article 93 of this Act based on the information available to it, and taking account in particular of the evaluation of the competent authority of the host Member State of all the justified

reasons for suspicion of money laundering or terrorist financing. The Croatian National Bank shall notify the competent authority of the host Member State and the payment institution of that decision within three months of the date of receipt of the notification referred to in paragraph (1) of this Article with complete and accurate information of that decision.

(13) The payment institution shall notify the Croatian National Bank of the date of commencement of the provision of payment services through a branch or agent in the host Member State.

(14) The Croatian National Bank shall transmit the notification referred to in paragraph (13) of this Article to the competent authority of the host Member State.

(15) The Croatian National Bank shall notify the payment institution and the competent authority of the host Member State at the latest within three months of receipt of the notification referred to in paragraph (1) of this Article with complete and accurate information of the intended direct provision of payment services.

(16) A payment institution intending to provide payment services directly may commence providing payment services in the host Member State after having received the notification referred to in paragraph (15) of this Article from the Croatian National Bank.

(17) A payment institution shall notify the Croatian National Bank of any change in the information submitted in the notification referred to in paragraph (1) of this Article, including the information on each new branch, agent or outsourcing service provider.

(18) The provisions of paragraphs (8) to (16) of this Article shall also apply in case of the notification referred to in paragraph (17) of this Article.

(19) Where the competent authority of the host Member State, after the entry of a branch or agent in the register referred to in Article 93 of this Act notifies the Croatian National Bank of the existence of risk, in particular the risk of money laundering or terrorist financing in relation to the branch or agent, the Croatian National Bank may adopt a decision on the removal of that branch or agent from the register.

(20) The Croatian National Bank shall transmit the decision on the removal referred to in paragraph (19) of this Article to the payment institution and the competent authority of the host Member State.

(21) Where the Croatian National Bank in relation to the notification referred to paragraph (19) of this Article does not accept the evaluation of the competent authority of the host Member State, it shall notify that authority of its non-acceptance and the reasons therefor.

(22) The cooperation and exchange of information between the Croatian National Bank and the competent authorities of host Member States in the process of notification shall be carried out in accordance with Regulation (EU) No 2017/2055.

(23) A payment institution operating in the territory of another Member State through an agent based on the right of establishment which, in accordance with regulatory technical standards adopted as a delegated act by the European Commission based on Article 29, paragraph (7) of Directive (EU) 2015/2366, and in connection with Article 29, paragraph (5) of Directive (EU) 2015/2366, shall appoint a central contact point and notify the Croatian National Bank thereof.



*Provision of payment services in the territory of the Republic of Croatia by a payment institution from another Member State*

Article 140

- (1) Where a payment institution from another Member State intends to provide payment services in the Republic of Croatia, the competent authority of the home Member State shall notify the Croatian National Bank thereof, in accordance with Regulation (EU) No 2017/2055.
- (2) The Croatian National Bank shall evaluate the information received with the notification referred to in paragraph (1) of this Article and notify its evaluation to the competent authority of the home Member State within one month of the date of receipt of that notification.
- (3) The evaluation referred to in paragraph (2) of this Article shall contain relevant information pertaining to the envisaged provision of payment services based on the right of establishment and freedom to provide services by the payment institution and in particular all the justified reasons for suspicion of money laundering or terrorist financing in relation to the intended appointment of an agent or the establishment of a branch.
- (4) The Croatian National Bank shall be authorised to require from the competent authorities of the home Member State information about any justified reasons for concern regarding money laundering or terrorist financing in relation to the intended appointment of an agent, distributor or establishment of a branch.
- (5) Paragraphs (2), (3) and (4) shall also apply in the case where the Croatian National Bank receives a notification from the competent authority of the home Member State of changes in relation to the provision of payment services of a payment institution from another Member State in the Republic of Croatia.
- (6) A payment institution from another Member State may commence providing payment services in the territory of the Republic of Croatia through a branch or agent once the branch or agent have been entered in the register kept by the competent authority of the host Member State.
- (7) The Croatian National Bank shall be authorised by a payment institution from another Member State which operates in the territory of the Republic of Croatia through an agent based on the right of establishment and which meets the criteria for appointment as a central contact point determined by regulatory technical standards adopted as a delegated act by the European Commission based on Article 29, paragraph (7) of Directive (EU) 2015/2366, and in connection with Article 29, paragraph (5) of Directive (EU) 2015/2366, to require the appointment of the central contact point in the Republic of Croatia.
- (8) A payment institution which has appointed, pursuant to paragraph (7) of this Article a central contact point shall notify the Croatian National Bank thereof.
- (9) The appointed central contact point shall carry out the tasks determined by the regulatory technical standards referred to in paragraph (7) of this Article.
- (10) Each agent of a payment institution from another Member State shall inform payment services users that it provides payment services on behalf and for the account of a payment institution as its agent.
- (11) The cooperation and exchange of information between the Croatian National Bank and the competent authorities of host Member States in the process of notification shall be carried out in accordance with Regulation (EU) No 2017/2055.

## CHAPTER II

### COOPERATION BETWEEN COMPETENT AUTHORITIES IN SUPERVISION IN CROSS-BORDER PROVISION OF SERVICES

#### *General provisions on cooperation in supervision in cross-border provision of services*

##### Article 141

(1) In addition to the purposes and the manner referred to in Chapter I of this Title, the Croatian National Bank shall also cooperate with the competent authorities of other Member States for supervisory purposes.

(2) The cooperation for supervisory purposes relates to supervision of the application of the provisions of national regulations of Member States transposing Titles II, III and IV of Directive (EU) 2015/2366 by a payment institution providing payment services in another Member State or by a branch or agent of a payment institution from one Member State located in the territory of another Member State.

(3) The provisions of this Title shall be without prejudice to the obligations of the Croatian National Bank under the regulations governing the prevention of money laundering and terrorist financing, especially those related to the supervision and control of the application of these regulations.

#### *Cooperation in on-site examination*

##### Article 142

(1) The Croatian National Bank may carry out on-site examination of a branch or an agent of a payment institution established in the Republic of Croatia and located in another Member State after having notified in advance the competent authority of the host Member State thereof.

(2) The Croatian National Bank may require from the competent authority of the host Member State to carry out the on-site examination referred to in paragraph (1) of this Article.

(3) Where a payment institution established in another Member State operates in the territory of the Republic of Croatia, the competent authority of the home Member State may:

1) carry out an on-site examination of its branches or agents in the Republic of Croatia, after having notified in advance the Croatian National Bank thereof; or

2) require from the Croatian National Bank to exercise such supervision of its branches or agents, respectively.

(4) Where in the case referred to in paragraph (3), item (2) of this Article, the request for supervision relates to the supervision of agents that are not providers of payment services referred to in Article 7, paragraph (1), items (1) to (6) of this Act, the Croatian National Bank shall transmit that request to the Ministry of Finance – the Financial Inspectorate.

#### *Other forms of cooperation between competent authorities in cross-border provision of payment services*

##### Article 143

(1) The Croatian National Bank shall cooperate with the competent authorities of other Member States and exchange material information with them on cross-border provision of payment services or information relevant to the competent authorities of Member States, particularly that relating to a committed illegality by a payment institution providing cross-border payment services.

(2) In the framework of cooperation referred to in paragraph (1) of this Article, the Croatian National Bank shall:

1) submit to the other competent authority, at its request, all the information relevant to that competent authority; and

2) submit at its own initiative all material information, including the information on whether the payment institution with a registered office in the home Member State fulfils the requirement of having a head office in the territory of a home Member State and of providing at least a part of its payment services in the territory of the home Member State.

(3) The Croatian National Bank shall take into account the information submitted to it by the competent authority of the other Member State at its own initiative and may submit a request to the competent authority of the other Member State for the submission of information relevant for the exercise of supervision pursuant to this Act.

(4) The cooperation and exchange of information between the Croatian National Bank and the competent authorities of other Member States in cross-border provision of services through branches and agents shall take place in accordance with regulatory technical standards adopted as a delegated act by the European Commission based on Article 29, paragraph (7) of Directive (EU) 2015/2366, and in connection with Article 29, paragraph (6) of Directive (EU) 2015/2366.

(5) Where the cooperation between the competent authorities of Member States referred to in this Article is related to the supervision of the implementation of provisions of Titles II and III of this Act by payment institutions established in other Member States operating in the Republic of Croatia through agents exercising the right of establishment and where their agents located in the Republic of Croatia are not at the same time providers of the payment services referred to in Article 7, paragraph (1), items (1) to (6) of this Act, the cooperation referred to in this Article shall be exercised by the Croatian National Bank in accordance with Article 150, paragraph (2) of this Act.

(6) The provisions of paragraphs (1) to (4) of this Article shall apply *mutatis mutandis* to the cooperation referred to in paragraph (5) of this Article.

*Adoption of measures in the case of cross-border provision of payment services through a branch or agent*

Article 144

(1) Where the Croatian National Bank receives a notification from the competent authority of a host Member State that a payment institution established in the Republic of Croatia and providing payment services in the territory of that Member State through a branch or agent does not operate in accordance with the provisions of Title II of Directive (EU) 2015/2366 or that it violates the provisions of national regulations transposing in that country the provisions of Titles III or IV of Directive (EU) 2015/2366 and where it establishes such information as justified, the Croatian National Bank shall take appropriate measures without delay, in accordance with its powers under this Act, to ensure that the payment institution rectifies the established illegalities or irregularities.

(2) The Croatian National Bank shall notify the actions taken to the competent authority of the host Member State and the competent authorities of all other Member States this could be relevant to.

(3) Where the Croatian National Bank learns that in the course of provision of cross-border payment services in the Republic of Croatia through a branch or agent that is also a payment service provider referred to in Article 7, paragraph (1), items (1) to (6) of this Act, the payment institution from another Member State does not operate in accordance with the provisions of Title II of Directive (EU)

2015/2366 or that that agent or branch of an institution from another Member State violates the provisions of Titles II and III of this Act, the Croatian National Bank shall notify the competent authority of the home Member State thereof without delay so that that competent authority can take appropriate measures against such a payment institution.

(4) Where the Ministry of Finance – the Financial Inspectorate learns that in the course of provision of cross-border payment services in the Republic of Croatia through an agent that is not also a payment service provider referred to in Article 7 of this Act the payment institution from another Member State does not operate in accordance with the provisions of Title II of Directive (EU) 2015/2366 or that that agent of an institution from another Member State violates the provisions of Titles II and III of this Act, it shall notify the Croatian National Bank thereof without delay which shall, in accordance with Article 150, paragraph (2) of this Act notify the competent authority of the home Member State so that that competent authority can take appropriate measures against such a payment institution.

### *Precautionary measures*

#### Article 145

(1) In the case of cross-border provision of payment services by a payment institution from another Member State through a branch or agent in the Republic of Croatia, the Croatian National Bank may in exceptional cases and pending measures by the competent authorities of the home Member State in the framework of cooperation under this Title, take precautionary measures against such branches of agents that are payment service providers referred to in Article 7, paragraph (1), item (1), sub-item (a), item (2), sub-item (a), item (3), item (4), sub-item (a), item (5) or item (6), sub-item (a) of this Act, only if this is necessary for the purpose of immediate action to protect payment service users in the Republic of Croatia from a serious threat to their collective interests.

(2) In the case of cross-border provision of payment services by a payment institution from another Member State through an agent in the Republic of Croatia that is not a payment service provider referred to in Article 7 of this Act, the Ministry of Finance – the Financial Inspectorate may in exceptional cases and pending measures by the competent authorities of the home Member State in the framework of cooperation under this Title, take precautionary measures in accordance with its authorities under this Act, only if this is necessary for the purpose of immediate action to protect payment service users in the Republic of Croatia from a serious threat to their collective interests.

(3) The precautionary measures referred to in paragraphs (1) and (2) of this Article shall be appropriate and proportionate to their purpose under these paragraphs and shall not result in a preference for payment service users of a payment institution in the Republic of Croatia over payment service users in other Member States.

(4) The precautionary measures referred to in paragraphs (1) and (2) of this Article shall be temporary and shall be terminated by the Croatian National Bank or the Ministry of Finance – the Financial Inspectorate, respectively, when the serious threats to collective interests of payment service users in the Republic of Croatia are addressed, irrespective of whether the threat was terminated with the assistance of or in cooperation with the home Member State's competent authorities or with the European Banking Authority in accordance with Article 19 of 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, hereinafter referred to as 'Regulation (EU) No 1093/2010').

(5) The Croatian National Bank shall notify the competent authority of the home Member State and the competent authority of any other Member State concerned, the European Commission and the

European Banking Authority of the imposed measures referred to in paragraph (1) and (2), respectively, of this Article and of the reasons for taking them.

(6) The Croatian National Bank shall send the notification referred to in paragraph (5) of this Article, where possible, in advance, and no later than upon the precautionary measures have been imposed by the Croatian National Bank or the Ministry of Finance – the Financial Inspectorate.

*Settlement of disagreements between the competent authorities of different Member States*

Article 146

(1) Where the Croatian National Bank finds that cross-border cooperation with the competent authorities of other Member States in some aspects is not in line with the conditions set out in the provisions of this Title, it may turn to the European Banking Authority and seek their assistance in accordance with Article 19 of Regulation (EU) No 1093/2010.

(2) The Croatian National Bank shall defer the adoption of its decisions until the adoption of a decision in accordance with Article 19 of Regulation (EU) No 1093/2010.

## TITLE VII

### SUPERVISION OF OTHER PAYMENT SERVICE PROVIDERS AND OTHER ENTITIES SUBJECT TO THE APPLICATION OF THIS ACT AND COOPERATION BETWEEN COMPETENT AUTHORITIES

*Supervision of the application of Titles II and III of this Act by other payment service providers*

Article 147

(1) The Croatian National Bank shall exercise supervision of the application of the provisions of Titles II and III of this Act by payment service providers referred to in Article (7), paragraph (1), items (1) to (3) of this Act, in accordance with the provisions of the law governing the operation of credit institutions and electronic money institutions.

(2) The Ministry of Finance – the Financial Inspectorate shall exercise supervision of the application of the provisions of Titles II and III of this Act by payment service providers referred to in Article (7), paragraph (1), items (1), (2), (3) and (8) of this Act, in accordance with the provisions of the law governing the scope, competence and authorities of the Financial Inspectorate.

(3) The cooperation with the competent authorities of other Member States in the case of provision of cross-border payment services referred to in paragraphs (1) and (2) of this Article shall be carried out through the Croatian National Bank.

*Additional supervisory powers*

Article 148

(1) Where, in the course of exercising the tasks within its competence, the Croatian National Bank establishes circumstances indicating that payment services are provided by persons other than those

referred to in Article 7, paragraph (1) of this Act, the Croatian National Bank shall notify a State Attorney's Office or another supervisory authority thereof without delay.

(2) The Croatian National Bank shall provide the authorities referred to in paragraph (1) of this Article, at their request, with an expert opinion for the establishment of the facts in connection with the provision of services and the circumstances referred to in paragraph (1) of this Article.

(3) Where in the framework of the procedure conducted pursuant to paragraph (1) of this Article cooperation with authorities of other Member States is required, the Croatian National Bank shall be the authority of the Republic of Croatia for contacts with the central banks of other Member States or other competent authorities of other Member States, the European Banking Authority and the European Central Bank.

(4) The Ministry competent for the economy, entrepreneurship and crafts shall be responsible for the supervision of the application of the following provisions of this Act:

a) Article 15, paragraphs (1) and (3) and paragraphs (2) and (4) in relation to a third party;

b) Article 16, paragraph (2) in relation to the service provider referred to in Article 5, item (15), currency conversion service provider at the point of sale and payee;

c) Article 32, paragraph (5).

(5) The Ministry of Finance – the Financial Inspectorate shall carry out inspection after learning of a service provider carrying out one of or both activities referred to in Article 5, item (11), sub-items (a) and (b) of this Act the total value of payment transactions of which, executed over the previous 12 months exceeds HRK 7,500,000.00, without having notified the Croatian National Bank in accordance with Article 6, paragraph (1) of this Act.

(6) The Croatian Regulatory Authority for Network Industries shall carry out inspection of delivery of the annual audit opinion referred to in Article 6, paragraph (7) of this Act.

*Cooperation and exchange of information between the competent authorities of the Republic of Croatia*

Article 149

(1) The Croatian National Bank, the Ministry of Finance – the Financial Inspectorate, the Croatian Regulatory Authority for Network Industries, the ministry competent for the economy, entrepreneurship and crafts and other competent authorities in the Republic of Croatia shall cooperate and exchange information when such cooperation and exchange of information is prescribed by this Act or by a special law, and shall, at the request of an individual competent authority submit to that authority all the information needed by that authority in the exercise of supervision, in the authorisation procedure or when deciding on other individual applications within their competence.

(2) The authorities referred to in paragraph (1) of this Article shall exchange notifications of withdrawals of authorisations, illegalities and irregularities identified in the course of supervision if such findings are relevant for the operation of the other authority.

(3) The Croatian National Bank shall, where needed and in cooperation with the Ministry of Finance – the Financial Inspectorate, make the basis for the assessment of risks arising from the provision of payment services referred to in Article 148, paragraph (1) of this Act.

(4) The Croatian National Bank and the Ministry of Finance – the Financial Inspectorate shall exchange all information for the purpose of cross-border cooperation with the competent authorities of other Member States referred to in Title VI of this Act.

(5) The Croatian National Bank and the Ministry of Finance – the Financial Inspectorate shall exchange information with other authorities of the Republic of Croatia competent for the supervision of application of other regulations of the Republic of Croatia or the European Union by payment service providers, such as regulations governing the prevention of money laundering and terrorist financing, personal data protection, etc.

(6) The Croatian National Bank and the Croatian Regulatory Authority for Network Industries shall cooperate and exchange information on service providers referred to in Article 6, paragraph (6) of this Act for the purpose of meeting their obligations under that Article.

(7) The submission of information and notifications referred to in paragraphs (1) to (6) of this Article shall not constitute a violation of the duty to protect data confidentiality.

(8) The authority referred to in paragraph (1) of this Article that receives the information and notifications in accordance with this Article shall protect their confidentiality and shall use them exclusively for the purpose for which they have been given and may not divulge them to third parties without the approval of the competent authority which submitted them or when so provided by a special law.

*Cooperation and exchange of information between the competent authorities in the Republic of Croatia and competent authorities of other Member States and authorities of the European Union*

Article 150

(1) The Croatian National Bank and the Ministry of Finance – the Financial Inspectorate shall cooperate with the competent authorities of other Member States and, where appropriate, with the European Banking Authority and other relevant competent authorities of the European Union and other Member States in accordance with the legal acts of the European Union and regulations of the Republic of Croatia.

(2) The Croatian National Bank shall also be the contact authority of the Republic of Croatia for contacts with the authorities of other Member States and other competent authorities of the European Union referred to in this Article.

(3) The Croatian National Bank shall also cooperate with the European Central Bank and central banks of the Member States in accordance with the legal acts of the European Union and regulations of the Republic of Croatia.

(4) The Croatian National Bank shall exchange information:

1) with the authorities of other Member States competent for the authorisation and supervision of payment institutions in accordance with this Act;

2) with the European Central Bank and the central banks of the Member States, in their capacity as monetary and supervisory authorities, and, where appropriate, other public authorities responsible for the supervision of payment and financial instrument settlement systems; and

3) with the European Banking Authority.

(5) The Croatian National Bank shall exchange information with other authorities of the Member States competent for the supervision of application of regulations of the European Union by payment service providers, such as regulations governing the prevention of money laundering and terrorist financing.

## *Data confidentiality*

### Article 151

(1) The Croatian National Bank, the Ministry of Finance – the Financial Inspectorate, the Croatian Regulatory Authority for Network Industries and the ministry competent for the economy, entrepreneurship and crafts shall protect the confidentiality of any data of which they become aware in the course of exercising their powers pursuant to this Act and they may not disclose them to other persons and authorities.

(2) By way of derogation from paragraph (1) of this Article, the following disclosure of information shall not constitute a breach of the duty to protect the confidentiality of information:

- 1) disclosure of information in aggregated form, such that personal or business data cannot be identified
- 2) disclosure of information in cases and in the manner provided for in this Act;
- 3) the delivery of information for the purposes of criminal or preliminary proceedings, when requested or ordered in writing by the competent court, the Office for the Prevention of Corruption and Organised Crime, the State Attorney's Office or the Ministry of the Interior, where ordered in writing by the State Attorney's office, or where requested in writing by the authority of another Member State in criminal proceedings;
- 4) exchange of information in accordance with other laws;
- 5) exchange of information in accordance with the legal acts of the European Union.

(3) The provisions of paragraph (1) of this Article shall also apply to all natural persons that work or have worked in any capacity in the competent authorities referred to in paragraph (1) of this Article and to auditors and experts that carry out or have carried out tasks at the request of these authorities.

(4) All persons, authorities and their employees who have received information referred to in paragraph (1) of this Article pursuant to paragraph (2), items (2), (3) and (4) of this Article shall use these information exclusively for the purpose for which it has been given and shall not disclose or make it available to third parties, except in cases provided by law.

## TITLE VIII

### PAYMENT SYSTEMS

#### CHAPTER I

#### ESTABLISHMENT AND OPERATION OF PAYMENT SYSTEMS IN THE REPUBLIC OF CROATIA

##### *Payment systems in the Republic of Croatia*

### Article 152

(1) A payment system in the Republic of Croatia (hereinafter referred to as 'payment system') means a payment system in which at least one participant is the provider of payment services, authorised to



provide payment services by the Croatian National Bank, whose operator is the person referred to in Article 153, paragraph (2) of this Act.

(2) The provisions of this Title, with the exception of Article 166 of this Act, shall not relate to payment systems consisting exclusively of payment service providers belonging to the same group.

### *Payment system operator*

#### Article 153

(1) A payment system shall be operated by a payment system operator.

(2) A payment system operator may be:

- 1) a credit institution established in the Republic of Croatia;
  - 2) an electronic money institution established in the Republic of Croatia;
  - 3) a small electronic money institution established in the Republic of Croatia;
  - 4) a payment institution established in the Republic of Croatia;
  - 5) a small payment institution established in the Republic of Croatia;
  - 6) another legal person with a head office in the Republic of Croatia, established as a joint stock company or as a limited liability company;
  - 7) another legal person established in the Republic of Croatia which may operate a payment system in accordance with a special law;
  - 8) the Croatian National Bank; and
  - 9) a branch of a legal person from a foreign country with a head office in the Republic of Croatia.
- (3) A payment system operator may engage in other activities, in addition to operating a payment system, unless otherwise provided for by a law governing such activities.

### *Payment system participants*

#### Article 154

(1) A payment system participant may be:

- 1) a payment service provider;
- 2) a payment system operator;
- 3) other payment system or other payment system operator from the Republic of Croatia or from a foreign country; and
- 4) another person in accordance with the rules of operation of the payment system.

(2) A payment service provider may also participate in a payment system indirectly, through another participant.

(3) The payment service providers referred to in Article 7, paragraph (1), item (1) sub-item (a), item (2), sub-item (a), item (3), item (4), sub-item (a) and item (5) and branches of credit institutions referred to in Article 7, paragraph (1), item (1), sub-items (b) and (c) of this Act established in the Republic of Croatia shall notify the Croatian National Bank of each payment system in which they

participate directly or indirectly and of that payment system's operator, regardless of whether this system operates in the territory of the Republic of Croatia or another country.

### *Payment systems regulated by the Croatian National Bank*

#### Article 155

- (1) The Croatian National Bank shall prescribe the rules of operation of a payment system it operates.
- (2) The Croatian National Bank shall be authorised to prescribe the rules of operation of systemically important payment systems used for the calculation of payment transactions in kuna referred in Article 54, paragraph (3) of this Act that are operated by the payment system operator referred to in Article 153, paragraph (2), item (7) of this Act.

### *Authorisation for the operation of a payment system*

#### Article 156

- (1) An authorisation from the Croatian National Bank shall be required for the operation of a payment system.
- (2) By way of derogation from paragraph (1) of this Article, authorisation for the operation of a payment system is not required in the following cases:
  - 1) a payment system which is a part of a card payment scheme or a payment system which consists of only one payment service provider; or
  - 2) where the rules of operation of a payment system have been prescribed by the Croatian National Bank in accordance with Article 155 of this Act.
- (3) The payment system referred to in paragraph (1) of this Article may not commence its operation before the Croatian National Bank has issued authorisation for the operation of that payment system.
- (4) A payment system operator shall notify the Croatian National Bank of the commencement of operation of the payment system it operates no later than within 30 days prior to the commencement of payment system operation as well as of the firm name and head office of each payment system participant.

### *Conditions for authorisation for the operation of a payment system*

#### Article 157

- (1) A legal person established in the Republic of Croatia intending to operate a payment system shall meet the following conditions or ensure that the following conditions are met:
  - 1) in view of the need to ensure the sound and prudent management of the payment institution, the holder of a qualifying holding in the payment system operator is suitable, especially with respect to the financial strength and good reputation;
  - 2) management board members or executive directors of a payment system operator are of good repute and possess appropriate knowledge and experience to manage a payment system; payment system operators that also engage in other activities, in addition to operating a payment system, have appointed a responsible person for managing the operations of the payment system; management board members or executive directors of a payment system operator are of good repute;
  - 3) the IT system is appropriate, adequate, sound and satisfactory in relation to all functions envisaged by the rules of operation of a payment system;

4) the rules of operation of the payment system contain all the elements referred to in Article 165 of this Act and the application of these rules of operation ensures adequate protection against systemic risk and other risks associated with payment system functioning;

5) taking into account the need to ensure the sound and prudent management of the payment institution, the payment system operator has in place effective and sound governance arrangements comprising a clear organisational structure with well-defined, transparent and consistent lines of powers and responsibilities, effective procedures for establishing, managing, monitoring and reporting on all the risks to which the payment institution is or might be exposed, and an adequate internal control mechanisms, which comprise, at a minimum, the functions of risk control, internal audit and compliance with regulations and standards, including appropriate administrative and accounting procedures and that the said governance arrangements, internal control mechanism and administrative and accounting procedures are appropriate, proportionate, reliable and sufficient in relation to the nature, scope and complexity of the payment system;

6) it is capable of ensuring stable business operations with appropriate organisational, technical and personnel structure;

7) that the payment system meets all other conditions referred to in Article 158, paragraph (2) of this Act; and

8) there are no other reasons which impair or might impair the safety and stability of the payment system operation.

(2) Article 84, paragraph (2) of this Act shall apply *mutatis mutandis* to the assessment of the adequacy of a holder of a qualifying holding and Article 84, paragraph (3) of this Act shall apply *mutatis mutandis* to the assessment of good repute.

### *Application for authorisation for the operation of a payment system*

#### Article 158

(1) A legal person established in the Republic of Croatia intending to operate a payment system shall submit an application to the Croatian National Bank for an authorisation for the operation of a payment system.

(2) The application shall be accompanied by the following:

1) the Articles of Association, a deed of establishment or memorandum of the applicant;

2) the rules of operation of the payment system referred in Article 165, paragraph (3) of this Act;

3) if applicable, financial statements for the three preceding years of business;

4) a business plan, including a calculation of financial statements projections for the next three years of business showing the ability for sound business operation and appropriate organisational, technical and personnel structure;

5) a description of corporate governance systems and internal control mechanisms of the applicant, including administrative and accounting procedures and risk management procedures which show that these systems, control mechanisms and procedures are proportionate, appropriate, reliable and sufficient;

6) a description of the procedure in place to monitor, handle and follow up a security incident and security related payment system participants complaints, including an incidents reporting mechanism which takes account of the notification obligations referred to in Article 172 of this Act;

- 7) the applicant's assessment on payment system compliance with internationally recognised payment system principles;
- 8) a description of the process in place to file, monitor, track and restrict access to sensitive payment data;
- 9) a description of business continuity arrangements including a clear identification of the critical operations, effective contingency plans and a procedure to regularly test and review the adequacy and efficiency of such plans;
- 10) a security policy document, including a detailed assessment of risks to which a payment system might be exposed, and a description of security control and mitigation measures taken to adequately protect payment system participants and the payment system itself against the risks identified. The security control and mitigation measures shall show how they ensure a high level of technical security and data protection, including payment system software and IT systems or persons to whom the applicant has outsourced its activities or part thereof;
- 11) a description of the IT system by which the payment system operator demonstrates that the respective IT system is appropriate, adequate, sound, and satisfactory with respect to the performance of all functions in accordance with the rules of operation of a payment system;
- 12) a description of the organisational, technical and personnel structure, including the structure of the applicant with respect to operating the payment system and, where appropriate, a description of outsourcing arrangements between the applicant and the person to whom individual activities with respect to operating payment system have been outsourced as well as a description of the payment system's connection with another payment system;
- 13) the identity of persons holding in the applicant, directly or indirectly, qualifying holdings, the size of their holdings and evidence of their suitability taking into account the need to ensure the sound and prudent management of a payment system;
- 14) the identity of each management board member of the applicant or each executive director of the applicant that has a board of directors as well as evidence that they are of good repute and possess appropriate knowledge and experience to manage a payment system;
- 15) if the applicant also engages in other activities in addition to the intended operation of a payment system, where applicable, the identity of the persons responsible for managing the business with respect to payment system operation, evidence that they are of good repute and possess appropriate knowledge and experience to operate the payment system and the identity of each member of the management board of the applicant or each executive director of the applicant that has a board of directors and evidence that they are of good repute;
- 16) information on whether the persons referred to in items (13), (14) and (15) of this paragraph have been convicted by a judgement with final force and effect for any of the criminal offences subject to criminal proceedings ex officio or any of the offences, and if they have, specify the criminal offences and offences committed and the date on which the judgements came into final force and effect;
- 17) the name of the certified auditor or audit firm, where the applicant uses the latter's services;
- 18) a list of persons with close links with the applicant within the meaning of Article 4, paragraph (1), item (38) of Regulation (EU) No 575/2013 and a description of the ways in which they are linked;
- 19) name and head office of the payment system participant known to the applicant at the time of submitting the application.

(3) The Croatian National Bank shall obtain data on judgements with final force and effect for criminal offences and offences in the Republic of Croatia showing the good repute of the persons referred to in paragraph (2) items (13), (14) and (15) of this Article from the criminal history records and offence records based on a reasoned explanation.

(4) The data referred to in paragraph (2), item (16) of this Article shall be data from the criminal history records and offence records of the competent authority of the relevant country, or if such data may not be obtained under the regulations of the country concerned, a statement of the natural person to whom the data refers, not older than 90 days.

(5) In addition to the information and documentation referred to in paragraph (2) of this Article, the applicant shall submit the information and documentation required by the Croatian National Bank to process the application and decide on the authorisation for the operation of a payment system.

(6) During the application processing procedure, the applicant shall, without delay, notify the Croatian National Bank of any changes relating to the information and documentation submitted pursuant to paragraphs (2), and (5) of this Article.

(7) The applicant applying for an authorisation for the operation of a payment system shall pay an application processing fee to the Croatian National Bank.

(8) All the provisions of this Article shall apply *mutatis mutandis* to the application for an authorisation for the operation of a payment system submitted by a company in the process of being incorporated.

(9) The Croatian National Bank shall prescribe the amount of the fee referred to in paragraph (7) of this Article by subordinate legislation.

#### *Authorising the operation of a payment system*

##### Article 159

(1) The Croatian National Bank shall adopt a decision authorising the operation of a payment system where, based on the application and the submitted documentation referred to in Article 158 of this Act and the information it possesses it has come to an assessment that all the conditions referred to in Article 157 of this Act have been met.

(2) Before adopting a decision on the application for authorisation of the operation of a payment system, the Croatian National Bank may request an opinion from other competent authorities on the circumstances important for deciding on the submitted application.

#### *Refusal of an application for authorisation for the operation of a payment system*

##### Article 160

The Croatian National Bank shall refuse an application for authorisation for the operation of a payment system if it assesses that any of the conditions referred to in Article 157 of this Act have not been met.

#### *Revocation of a decision authorising the operation of a payment system*

##### Article 161

(1) The Croatian National Bank shall revoke the decision authorising the operation of a payment system where:

1) the payment system does not commence its operation within 12 months of the date of adoption of that decision;

2) the payment system operator shall submit to the Croatian National Bank a notification of the termination of the payment system's operation;

3) the payment system has not operated for more than six consecutive months; or

4) where, in the case of a renewed procedure, it determines that the decision has been adopted based on false or inaccurate documentation or information relevant for the operation of a payment system.

(2) The Croatian National Bank may revoke the decision authorising the operation of a payment system:

1) where continued operation of a payment system would constitute a threat to the stability of payment operations;

2) where the conditions based on which the payment system obtained its authorisation are no longer met;

3) where a payment system operator, in any manner whatsoever, prevents the supervision of a payment system; or

4) where a payment system operator fails to implement supervisory measures imposed by the Croatian National Bank.

#### *Decision on the revocation of a decision authorising the operation of a payment system*

##### Article 162

(1) The Croatian National Bank shall submit the decision on the revocation of the decision authorising the operation of a payment system to the payment system operator without delay.

(2) The Croatian National Bank shall publish a notice of the revocation of the decision authorising the operation of a payment system on its website and in at least one daily paper in the Republic of Croatia.

#### *Expiry of the decision authorising the operation of a payment system*

##### Article 163

The decision authorising the operation of a payment system shall expire:

1) on the date of adopting a decision on the winding-up of the payment system operator;

2) on the date of adopting a decision on the opening of bankruptcy proceedings against the payment system operator;

3) on the date of the removal of the payment system operator from the register of companies in the case of merger, acquisition or division; or

4) on the date when the decision on the revocation of the decision authorising the operation of a payment system to a payment system operator becomes enforceable or on the date defined in that decision, as the case may be.

*Establishment of a branch of a legal person with a head office outside the Republic of Croatia for operating a payment system in the territory of the Republic of Croatia*

Article 164

Articles 156 to 163 of this Act shall apply *mutatis mutandis* to a legal person with a head office outside the Republic of Croatia intending to operate a payment system through a branch in the territory of the Republic of Croatia.

*Rules of operation of a payment system*

Article 165

- (1) A payment system shall operate in line with the rules of operation of the payment system.
- (2) The rules of operation of a payment system shall govern standardised arrangements and common rules for processing, clearing and/or settlement of payment transactions among the payment system participants.
- (3) The rules of operation of a payment system shall cover:
  - 1) payment system participants by type and a description of their role in the payment system;
  - 2) conditions for participation and termination of participation in the payment system of payment system participants;
  - 3) payment transactions cleared and/or settled in the payment system;
  - 4) basic principles for clearing and/or settlement of payment transactions;
  - 5) the currency or currencies in which the payment system operates;
  - 6) the manner of and conditions for executing payment transactions, including their form and content;
  - 7) procedures for providing information to participants on clearing and/or settlement;
  - 8) the manner of protection of data against abuse; and
  - 9) the moment of entry and irrevocability of a transfer order, and procedures in case of the opening of insolvency proceedings against a participant, for payment systems governed by the provisions of the law governing settlement finality in payment systems.
- (4) The rules of operation of a payment system may not be amended subsequently without prior approval of the Croatian National Bank.
- (5) A payment system operator shall submit an application for the approval of the amended rules of operation of a payment system to the Croatian National Bank at the latest two months prior to their amendment.
- (6) By way of derogation from paragraph (5) of this Article, a payment system operator shall submit an application for the approval of the amended rules of operation within a shorter time limit if amendments of rules are necessary due to a need for an urgent increase in the level of security of the payment system or other justified reasons.
- (7) The provisions of Articles 159 and 160 of this Act shall apply *mutatis mutandis* to the procedure of issuing approval for rules of operation of a payment system.

(8) By way of derogation from paragraphs (4), (5) and (6) of this Article, the Croatian National Bank shall not give an approval for the amended rules of operation of the payment system referred in Article 156, paragraph (2) of this Act.

(9) A payment system operator referred to in Article 155, paragraph (2) of this Act that has had its rules of operation prescribed by the Croatian National Bank may propose amendments to the rules of operation of the payment system, at the latest two months prior to the required amendment.

(10) By way of derogation from paragraph (9) of this Article, a payment system operator shall submit a proposal within a shorter time limit if amendments of rules are necessary due to a need for an urgent increase in the level of security of the payment system or other justified reasons.

### *Access to payment systems*

#### Article 166

(1) The rules of operation of a payment system governing the access to payment systems of payment service providers that are legal persons and that have received an approval from the competent authority or have been entered in the register kept by the competent authority shall be objective, non-discriminatory and proportionate and shall not inhibit access more than is necessary to safeguard against specific risks such as settlement risk, operational risk and business risk and to protect the financial and operational stability of the payment system.

(2) Payment systems shall impose on payment service providers, payment service users or on other payment systems none of the following requirements:

1) restrictive rule on effective participation in other payment systems;

2) the rules which do not discriminate between authorised payment service providers or between registered payment service providers in relation to the rights and obligations as participants in the payment system;

3) restrictions on the basis of institutional status.

(3) The provisions of paragraphs (1) and (2) of this Article shall not apply to:

1) payment systems subject to the application of the law governing settlement finality in payment systems; or

2) payment systems composed exclusively of one payment service provider or payment service providers belonging to a group.

(4) A participant in the payment system subject to the application of the law governing settlement finality in payment systems that has allowed a payment service provider that is not a participant in that payment system to pass transfer orders through the system shall, when requested, give the same opportunity in an objective, proportionate and non-discriminatory manner to other payment service provider.

(5) A participant in the payment system shall provide a detailed explanation for each rejection referred to in paragraph (4) of this Article.

### *Responsibilities of payment system operators*

#### Article 167

(1) A payment system operator shall at all times ensure safe and sound functioning of the payment system.



(2) A payment system operator shall, proportionate to the nature, scope and complexity of tasks arising from the rules of operation of the payment system, ensure:

1) that the payment system has an appropriate, adequate, sound and satisfactory IT system to perform all functions in accordance with the rules of operation of the payment system and that it has a business continuity plan;

2) organisational structure with well-defined, clear and consistent lines of powers and responsibilities, including a personnel structure; and

3) management of risks to which the payment system is exposed or might be exposed;

4) appropriate process in place to file, monitor, track and restrict access to sensitive payment data;

5) payment system compliance with internationally recognised payment system principles.

(3) A payment system operator shall notify payment system participants without delay of any major operational and security incidents which affect or might affect the financial interests of payment system participants and of all measures that payment system participants can take to mitigate the adverse effects of the incident.

### *Outsourcing*

#### Article 168

(1) A payment system operator may outsource operational or other activities related to the payment system operation. It shall notify the Croatian National Bank of the planned outsourcing prior to concluding a contract with an outsourcing service provider.

(2) A payment system operator shall ensure that the intended outsourcing complies with the following conditions:

1) that it does not alter the payment system operator's relationship with and obligations to payment system participants;

2) that it does not threaten the compliance of the payment system's operation with the rules of operation and the provisions of this Act; and

3) that it does not impair the exercise of supervision by the Croatian National Bank.

(3) A payment system operator shall be liable for damage caused by outsourcing service providers in connection with the provision of an outsourced activity.

(4) A payment system operator shall ensure that the Croatian National Bank can carry out on-site examination at the location where the services are provided, that is, at the service provider's premises, and it shall ensure access to the outsourcing-related documentation and data possessed by the outsourcing service provider.

## CHAPTER II SUPERVISION OF PAYMENT SYSTEMS

### *General provisions*

#### Article 169

(1) The Croatian National Bank shall supervise authorised payment systems and payment systems referred to in Article 155 of this Act.

(2) The supervision referred in paragraph (1) of this Article shall be the verification of whether a payment system operates in accordance with the provisions of this Act, whether it functions in a safe and sound manner and whether access to the payment system has been ensured to it in the manner referred to in Article 166 of this Act.

(3) For the purpose of exercising supervision of payment systems, the Croatian National Bank may formulate principles, recommendations and guidelines for the operation of payment systems.

(4) When exercising supervision of payment systems, the Croatian National Bank shall exercise supervision of payment system operators to the extent pertaining to the operation of a payment system.

### *Manner of exercising supervision*

#### Article 170

(1) Articles 110 to 116 of this Act shall apply *mutatis mutandis* to the supervision of payment systems and payment system operators.

(2) In establishing the methodology, frequency and intensity of the supervision of payment systems, the Croatian National Bank shall take into account the nature, scope and complexity of operation of payment systems with respect to the types of participants, payment transactions by type of payment instruments cleared and/or settled, and the risk exposure of payment systems, taking into account in particular the exposure to systemic risk.

### *Types of supervisory measures*

#### Article 171

The Croatian National Bank may adopt a decision to impose supervisory measures on a payment system operator in order to take action at an early stage to improve the safety and stability of functioning of a payment system and to eliminate established illegalities.

### *Reporting to the Croatian National Bank*

#### Article 172

(1) A payment system operator shall without delay report the following to the Croatian National Bank:

1) all facts to be entered in the register of companies relating to each submitted application for entry of data in the register of companies and to all completed entries of data changes into the register of companies;

2) all planned or executed changes of qualifying holders of which the management board or the executive director was aware or should have been aware;

3) in the cases where the payment system operator, in addition to operating a payment system, also engages in other activities, all changes of persons responsible for operating the payment system;

4) any change in the data on payment system participants and in the data relating to the inclusion of new participants or termination of the participation of former participants in a payment system;

5) each major operational or security incident;

6) its intention to cease performing the activity of operating the payment system, the reasons which arise for the revocation of the decision authorising the operation of a payment system referred to in Article 161 of this Act or for expiry of the authorisation of a payment system referred to in Article 163 of this Act; and

7) any other changes relating to the conditions for the operation of payment system laid down in this Act and/or altering the facts on the basis of which the Croatian National Bank has granted its authorisation for the operation of a payment system.

(2) At the request of the Croatian National Bank, a payment system operator shall submit all data on payment transactions executed through the payment system.

(3) At the request of the Croatian National Bank, a payment system operator shall submit reports, information and data on all matters relevant for the exercise of supervision or other tasks within the competence of the Croatian National Bank, including the assessment of the payment system's compliance with internationally recognised payment system principles.

### *Cooperation with competent authorities and exchange of information*

#### Article 173

In the supervision of payment systems the Croatian National Bank shall cooperate with other competent authorities in the Republic of Croatia and competent authorities of other countries.

### *Register of payment systems*

#### Article 174

(1) The Croatian National Bank shall keep a register of payment systems in the Republic of Croatia and shall publish it on its website.

(2) The register of payment systems shall contain at least the following information:

- 1) the name of the payment system;
- 2) the name and head office of the payment system operator; and
- 3) a list of payment system participants.

## TITLE IX DECISION-MAKING METHODS AND PROCEDURES OF THE CROATIAN NATIONAL BANK

### *Restitution*

#### Article 175

It shall not be possible to require restitution in an administrative procedure carried out by the Croatian National Bank.

### *Decision*

#### Article 176

(1) Decisions adopted by the Croatian National Bank on matters within its competence must be written and explained.

(2) No appeal against decisions referred to in paragraph (1) of this Article shall be allowed, but an administrative procedure may be initiated against them.

### *Liability for damage*

#### Article 177

The employees of the Croatian National Bank or any persons authorised by the Croatian National Bank shall not be liable for any damage that may arise in the course of performance of their duties under this Act and subordinate legislation adopted based on this Act, unless it is proven that they have acted or failed to act intentionally or with gross negligence.

### *Time limits*

#### Article 178

Pursuant to the application submitted in a procedure conducted in accordance with this Act, the Croatian National Bank shall adopt and submit the decision to the applicant within three months of the date of submission of a complete application.

## TITLE X

### PENALTY PROVISIONS

#### *Offences by payment service providers*

#### Article 179

(1) The following payment service providers shall be liable for the offences referred to in paragraph (2) of this Article:

- 1) credit institutions, electronic money institutions, small electronic money institutions, payment institutions, small payment institutions and registered account information service providers established in the Republic of Croatia;
- 2) branches of credit institutions in the Republic of Croatia established in another Member State or third country;
- 3) branches of electronic money institutions in the Republic of Croatia established in another Member State or third country;
- 4) branches of payment institutions or registered account information service providers in the Republic of Croatia established in another Member State;
- 5) legal persons appointed as agents in the Republic of Croatia based on the right of establishment of payment institutions, electronic money institutions or registered account information service providers established in other Member States;
- 6) units of local or regional self-government, when not acting in their capacity as public authorities;
- 7) the Croatian National Bank, when not acting in its capacity of monetary authority or other public authority.

(2) A payment service provider referred to in paragraph (1) of this Article shall be fined between HRK 20,000.00 and HRK 500,000.00:

- 1) if, as a reporting entity subject to reporting on payment services and payment service-related frauds, it fails to report to the Croatian National Bank on the content, and in the manner and within the time

limits prescribed by subordinate legislation adopted based on Article 10, paragraphs (10) and (11) of this Act (Article 10, paragraphs (3) and (4));

2) if, as a reporting entity subject to reporting on payment services and payment service-related frauds, it fails to report to the Croatian National Bank within the time limit referred to in Article 10, paragraph (4) of this Act;

3) if, as a reporting entity pursuant to Article 10, paragraphs (6) and (7) of this Act, it fails to report to the Croatian National Bank in accordance with the regulatory technical standard referred to in Article 10, paragraph (7) of this Act governing the framework for cooperation and exchange of information between competent authorities of Member States;

4) if it charges fees contrary to the prohibition of Article 12, paragraph (1) of this Act;

5) if contrary to the provision of Article 12, paragraph (3) of this Act it charges fees which are not reasonable and in line with the actual costs;

6) if, contrary to the provision of Article 15, paragraph (2) of this Act, it fails to inform a payment service user about the fee for the use of a given payment instrument prior to the initiation of a payment transaction;

7) if, in the case of a single payment transaction, it fails to provide or make available all the information prescribed by Article 18, paragraphs (1) and (3) of this Act;

8) if, in the case of a single payment transaction, it does not provide the information that it is obligated to provide pursuant to Article 18, paragraphs (1) and (3) of this Act in the manner referred to in Article 18, paragraph (4) of this Act;

9) if, in the case referred to in Article 18, paragraph (5) of this Act, it fails to fulfil its obligation referred to in Article 18, paragraphs (1), (3) and (4) of this Act immediately after payment transaction execution;

10) if, in the case referred to in Article 19 of this Act, it fails to provide or make available to a payment service user all the information referred to in items (1) to (4) of the same Article immediately after payment order initiation;

11) if, as a payment initiation service provider, it fails to make available to the payer's account servicing payment service provider the payment transaction reference in accordance with Article 20 of this Act;

12) if, after receipt of a payment order, it fails to provide or make available to the payer the information on its service in accordance with Article 21 of this Act;

13) if, after execution of a payment transaction, it fails to provide or make available to the payee the information on the service it provided in accordance with Article 22 of this Act;

14) if, before a payment service user is bound by any offer or framework contract, it fails to provide the payment service user with all the information referred to in Article 23, paragraph (1) of this Act;

15) if it concludes a framework contract with a payment service user that does not contain all the information it has provided or was obligated to provide pursuant to Article 23, paragraph (1) of this Act (Article 23, paragraph (4));

16) if it fails to provide the payment service user with the information referred to in Article 23, paragraph (1) of this Act in the manner referred to in Article 24, paragraph (1) of this Act;

- 17) if, in the case referred to in Article 24, paragraph (2) of this Act, it fails to fulfil its obligations referred to in Article 23 and Article 24, paragraph (1) of this Act immediately after concluding a framework contract;
- 18) if it fails to provide the payment service user with the terms of the framework contract and information in accordance with Article 25 of this Act;
- 19) if it fails propose to the payment service users changes to the framework contract in the manner and within the time limit referred to in Article 26, paragraph (1) of this Act;
- 20) if it stipulates that changes in the interest or exchange rates arising from the reference interest or exchange rates may be applied immediately and without prior notice, without having stipulated the manner of interest rate calculation or the reference date and index, or the basis for determining such interest or exchange rate (Article 26, paragraph (5));
- 21) if it fails to inform a payment service user of the change in interest rate within the time limit and in the manner referred to in Article 26, paragraph (6) of this Act;
- 22) if, contrary to Article 26, paragraph (8) of this Act, it uses or calculates changes in interest or exchange rates in a discriminatory manner as regards payment service users;
- 23) if it fails to accept termination of a framework contract by a payment service user in accordance with Article 27, paragraphs (1) and (2) of this Act;
- 24) if it charges a payments service user a fee for contract termination contrary to Article 27, paragraphs (3), (4) or (5) of this Act;
- 25) if it terminates a contract contrary to Article 27, paragraph (6) of this Act;
- 26) if it charges a payments service user a fee for contract expiry contrary to Article 27, paragraph (7) of this Act;
- 27) if, in the case of contract expiry, it fails to reimburse the fee or part thereof in accordance with the provision of Article 27, paragraph (8) of this Act;
- 28) if, at the payer's request, it fails to provide before a payment transaction execution all the information referred to in Article 28 of this Act;
- 29) if, after having debited the payment account or after having received the payment order, it fails to provide the payer with information in accordance with Article 29, paragraph (1) of this Act;
- 30) if the framework contract does not contain the provision in accordance with Article 29, paragraph (2) of this Act;
- 31) if, at the payer's request, it fails to provide to the payer referred to in Article 29, paragraph (1) of this Act the information in accordance with Article 29, paragraph (3) of this Act;
- 32) if it fails to provide the payee, after a payment transaction execution, information in accordance with Article 30, paragraph (1) of this Act;
- 33) if, at the payee's request, it fails to provide to the payee referred to in Article 30, paragraph (1) of this Act the information in accordance with Article 30, paragraph (3) of this Act;
- 34) if it charges a payments service user a fee contrary to Article 32, paragraphs (1), or (3) of this Act;
- 35) if it acts in relation to a payee contrary to the provision of Article 32, paragraph (4) of this Act;
- 36) if, as an account servicing payment service provider it gives a confirmation on the availability of requested funds in the payer's payment account to a payment service provider issuing card-based

payment instruments without having met all the conditions referred to in Article 35, paragraph (1) of this Act;

37) if, as an account servicing payment service provider, it denies a payment service provider issuing card-based payment instruments confirmation on the availability of requested funds in the payer's payment account, when all the conditions referred to in Article 35, paragraph (2) of this Act have been met;

38) if, as an account servicing payment service provider, it gives confirmation on the availability of the requested funds in the payer's payment account contrary to Article 35, paragraph (3) of this Act;

39) if, as a payment service provider issuing card-based payment instruments, it treats the information on the availability of the requested funds in the payer's payment account referred to in Article 35, paragraph (1) of this Article contrary to Article 35, paragraph (4) of this Act;

40) if, as an account servicing payment service provider, it prevents the use of the funds in the payer's payment account contrary to Article 35, paragraph (5) of this Act;

41) if, as an account servicing payment service provider, it fails to inform the payer, at the payer's request, in accordance with Article 35, paragraph (6) of this Act;

42) if, as an account servicing payment service provider, it fails to ensure the payer to exercise its right referred to in Article 36, paragraph (1) of this Act in the case when the condition referred to in paragraph (2) of the same Article has been met;

43) if, when providing a payment initiation service, it comes into possession of payer's funds contrary to Article 36, paragraph (3), item (1) of this Act;

44) if, when providing a payment initiation service with payment service user's personalised security credentials, it fails to act in accordance with Article 36, paragraph (3), items (2) and (3) of this Act;

45) if, when providing a payment initiation service, it fails to act with information on payment service user in accordance with Article 36, paragraph (3), items (4) of this Act;

46) if, contrary to Article 36, paragraph (3), item (5) of this Act, when providing a payment initiation service, it fails to confirm its identity to the account servicing payment service provider in accordance with Regulation (EU) No 2018/389;

47) if, contrary to Article 36, paragraph (3), item (6) of this Act, when providing a payment initiation service, it fails to communicate with the account servicing payment service provider, the payer or payee in accordance with Regulation (EU) No 2018/389;

48) if, when providing a payment initiation service it stores sensitive payment data of payment service users contrary to Article 36, paragraph (3), item (7) of this Act;

49) if, when providing a payment initiation service, it requires from a payment service user information contrary to Article 36, paragraph (3), item (8) of this Act;

50) if, when providing a payment initiation service, it uses, accesses or stores information contrary to Article 36, paragraph (3), item (9) of this Act;

51) if, when providing a payment initiation service, it modifies transaction information contrary to Article 36, paragraph (3), item (10) of this Act;

52) if, as an account servicing payment service provider, contrary to Article 36, paragraph (4), item (1) of this Act, it fails to communicate with the payment initiation service provider in accordance with Regulation (EU) No 2018/389;

- 53) if, as an account servicing payment service provider, contrary to Article 36, paragraph (4), item (2) of this Act, it fails to provide or make available to the payment initiation service provider all the information about the initiation and payment transaction execution in accordance with Regulation (EU) No 2018/389;
- 54) if, as an account servicing payment service provider, contrary to Article 36, paragraph (4), item (3) of this Act, discriminates against payment orders initiated through a payment initiation service provider;
- 55) if, as an account servicing payment service provider, contrary to Article 36, paragraph (5) of this Act it makes its action conditional upon conclusion of a contract in accordance with Article 36, paragraph (4) of this Act;
- 56) if, as an account servicing payment service provider, it fails to ensure to a payment service user to exercise its right referred to in Article 37, paragraph (1) of this Act in the case when the condition referred to in paragraph (2) of the same Article has been met;
- 57) if it provides an account information service contrary to Article 37, paragraph (3), item (1) of this Act without an explicit consent from the payment service user;
- 58) if, when providing an account information service on a payment service user's account with personalised security credentials, it fails to act in accordance with Article 37, paragraph (3), items (2) and (3) of this Act;
- 59) if, contrary to Article 37, paragraph (3), item (4) of this Act, when providing an account information service, it fails to confirm its identity to the account servicing payment service provider in accordance with Regulation (EU) No 2018/389;
- 60) if, contrary to Article 37, paragraph (3), item (5) of this Act, when providing an account information service, it fails to communicate with the account servicing payment service provider or payment service user in accordance with Regulation (EU) No 2018/389;
- 61) if, when providing an account information service, it accesses information contrary to Article 37, paragraph (3), item (6) of this Act;
- 62) if, when providing an account information service contrary to Article 37, paragraph (3), item (7) of this Act, it requires sensitive payment data;
- 63) if, when providing an account information service, it uses, accesses or stores information contrary to Article 37, paragraph (3), item (8) of this Act;
- 64) if, as an account servicing payment service provider contrary to Article 37, paragraph (4), item (1) of this Act, it fails to communicate with the account information service provider in accordance with Regulation (EU) No 2018/389;
- 65) if, as an account servicing payment service provider, contrary to Article 37, paragraph (4), item (2) of this Act, it discriminates against requests for information received from the account information service provider;
- 66) if, as an account servicing payment service provider, contrary to Article 37, paragraph (5) of this Act, it makes its activity referred to in Article 37, paragraph (4) of this Act contingent upon conclusion of a contract;
- 67) if it fails to inform the payer of the blocking of a payment instrument in accordance with Article 38, paragraph (3) or (4) of this Act;



- 68) if, contrary to Article 38, paragraph (6) of this Act, it fails to unblock the payment instrument or replace it with a new one once the reasons for blocking this instrument no longer exist;
- 69) if, as an account servicing payment service provider, contrary to Article 38, paragraph (7) of this Act, it denies account information service provider or payment initiation service provider access to a payment account when the conditions prescribed by that provision have not been met;
- 70) if, as an account servicing payment service provider, it fails to inform the payer about a denied access to the payment account in accordance with Article 38, paragraphs (8) or (9) of this Act;
- 71) if, as an account servicing payment service provider, it fails to allow access to the payment account in accordance with Article 38, paragraph (11) of this Act;
- 72) if, as an account servicing payment service provider, it fails to report to the Croatian National Bank in the manner and within the time limit referred to in Article 38, paragraph (12) of this Act the incident referred to in Article 38, paragraph (7) of this Act relating to an account servicing payment service provider or a payment initiation service provider;
- 73) if, as an issuer of a payment instrument, contrary to the provision of Article 40, paragraph (1), item (1) of this Act, it fails to make sure that the personalised security credentials are accessible exclusively to the payment service user authorised to use the instrument;
- 74) if, as an issuer of a payment instrument, contrary to the provision of Article 40, paragraph (1), item (2) of this Act, it sends an unsolicited payment instrument to the payment service user;
- 75) if, as an issuer of a payment instrument, contrary to the provision of Article 40, paragraph (1), item (3) of this Act, it fails to ensure that appropriate means are available at all times to enable the receipt of the notification referred to in Article 39, paragraph (1), item (2) of this Act or the request for unblocking of the payment instrument referred to in Article 38, paragraph (6) of this Act;
- 76) if, as an issuer of a payment instrument, contrary to the provision of Article 40, paragraph (1), item (4) of this Act, it fails to provide to the payment service user, upon request submitted by the payment system user with the appropriate means to prove that it made such notification or request;
- 77) if, as an issuer of a payment instrument, contrary to the provision of Article 40, paragraph (1), item (5) of this Act, it charges the payment service user a fee for the notification referred to in Article 39, paragraph (1), item (2) of this Act;
- 78) if, as an issuer of a payment instrument, contrary to the provision of Article 40, paragraph (1), item (6) of this Act, it fails to prevent all use of the payment instrument after receipt of the notification referred to in Article 39, paragraph (1), item (2) of this Act;
- 79) if, as an issuer of a payment instrument, contrary to the provision of Article 40, paragraph (2) of this Act, it charges a payment service user costs or fees other than replacement costs directly attributable to the payment instrument;
- 80) if, contrary to the provision of Article 40, paragraph (4) of this Act, it lays down the provisions of the framework contract which are not objective, non-discriminatory and proportionate;
- 81) if, as a payer's payment service provider, in the case of execution of an unauthorised payment transaction, it does not act in the manner and within the time limit referred to in Article 43, paragraphs (1) and (2) of this Act, irrespective of whether the payment transaction was initiated through a payment initiation service provider or not (Article 43, paragraphs (1) and (2) and Article 44, paragraph (1));

- 82) if, as a payment initiation service provider, contrary to Article 44, paragraph (4) of this Act, at the request of an account servicing payment service provider, it fails to refund immediately all the amounts paid by the account servicing payment service provider to the payer;
- 83) if, as a payee's payment service provider, it fails to apply the required strong customer authentication and, contrary to Article 46, paragraph (3) of this Act, it fails to refund the payer's payment service provider for the damage suffered by it as a result;
- 84) if, as a payer's payment service provider, contrary to Article 47, paragraph (1) of this Act, it blocks funds in the payer's payment account without the payer's consent to the exact amount of the funds to be blocked;
- 85) if, as a payment service provider, it fails to release the funds blocked in the payer's payment account within the time limit referred to in Article 47, paragraph (2) of this Act;
- 86) if, in the case of refund referred to in Article 48, paragraph (1) of this Act, contrary to Article 48, paragraph (7) of this Act, it credits the payer's payment account on a later value date than that on which that account was debited for the amount for which the payer requests a refund;
- 87) if, in the case referred to in Article 48, paragraph (1) of this Act, at the payer's request for a refund of an authorised payment transactions, it fails to act in accordance with Article 49, paragraph (3) of this Act;
- 88) if, contrary to Article 49, paragraph (4) of this Act, it refuses to make a refund in the case referred to in Article 48, paragraphs (6) or (8) of this Act;
- 89) if, as a payer's payment service provider, contrary to Article 50, paragraph (8) of this Act, it debits the payer's payment account before receipt of the payment order;
- 90) if it fails to notify a payment service user of the refusal to execute a payment order or to initiate a payment transaction in accordance with the provision of Article 51, paragraph (1) of this Act;
- 91) if it fails to notify a payment service user of the refusal to execute a payment order or to initiate a payment transaction within the time limits referred to in Article 51, paragraph (2) of this Act;
- 92) if, contrary to Article 51, paragraph (3) of this Act, it agrees or charges a fee for the refusal to execute a payment order or to initiate a payment transaction in an amount which is not reasonable or when the refusal is not objectively justified;
- 93) if, contrary to Article 51, paragraph (4) of this Act, it refuses to execute an authorised payment order;
- 94) if it fails to enable the payer to revoke a payment order in accordance with Article 52, paragraph (6) of this Act;
- 95) if, contrary to Article 52, paragraph (9) of this Act, it charges a fee for the revocation of the payment order referred to in Article 52, paragraph (7) of this Act where such a fee has not been agreed;
- 96) if, contrary to Article 53, paragraph (1) of this Act, it fails to transfer the full amount of the payment transaction or if it deducts fees from that amount;
- 97) if, in the case referred to in Article 53, paragraph (2) of this Act, in the information on the executed payment transaction it supplies to the payee, it fails to show the amount of the payment transaction separately from the fees (Article 53, paragraph (3));

98) if, as a payer's payment service provider, in the case referred to in Article 53, paragraph (4) of this Act, it fails to ensure that the payee receives the full amount of the payment transaction initiated by the payer;

99) if, as a payee's payment service provider, in the case referred to in Article 53, paragraph (5) of this Act, it fails to ensure that the payee receives the full amount of the payment transaction;

100) if, as a payer's payment service provider, it fails to ensure that the payee's payment service provider's account be credited for the full amount of the payment transaction within the time limit referred to in Article 54, paragraphs (1), (2) or (3) of this Act;

101) if, as a payer's payment service provider, in the case referred to in Article 54, paragraph (4) of this Act, it fails to ensure that the payee's payment service provider's account is credited with the amount of the payment transaction within the agreed time limit, or where no such limit has been agreed, within the time limit referred to in Article 54, paragraphs (1) or (2) of this Act;

102) if, contrary to the provision of Article 54, paragraph (5) of this Act, it agrees a time limit longer than four business days counting from the receipt of the payment order referred to in Article 50 of this Act;

103) if, as a payee's payment service provider, it fails to transmit or transmits incorrectly the payment order initiated by or through a payee to the payer's payment service provider within the time limit referred to in Article 54, paragraph (7) of this Act;

104) if, as an account servicing payment service provider, in the case of placing of cash, it fails to make the funds available and fails to credit the account in accordance with the provisions of Article 56, paragraphs (1) or (2) of this Act;

105) if it fails to credit a payee's payment account on the value date referred to in Article 57, paragraph (1) of this Act;

106) if, as a payee's payment service provider, it fails to make sure that the amount of the payment transaction is at the payee's disposal within the time limit referred to in Article 57, paragraph (2) of this Act;

107) if, in the case where, in accordance with Article 57, paragraph (4), a different time limit has been agreed for placing the amount of the payment transaction at the payee's disposal, it fails to make available to the payee the amount of the payment transaction within such a time limit;

108) if it sets the debit value date for the payer's payment account contrary to Article 57, paragraph (5) of this Act;

109) if, as a payer's payment service provider, in the case of non-execution or defective payment transaction, it does not act in accordance with the provisions of Article 58, paragraphs (2) and (3) of this Act, irrespective of whether the payment transaction was initiated through a payment initiation service provider or not (Article 58, paragraphs (2) and (3) and Article 60, paragraph (1));

110) if, as a payee's payment service provider, it receives the amount of the payment transaction from the payer's payment service provider, and fails to make it available to the payee immediately, and if the payment should have been executed to the payee's payment account, if it fails to credit that account with the appropriate amount on the credit value date no later than the date that would have been set as the value date for that amount had the transaction been executed in accordance with Article 57 of this Act (Article 58, paragraphs (5) and (6) in connection with paragraph (4) and Article 59, paragraph (4));

111) if, as a payee's payment service provider, in the case of a payment transaction initiated by the payer which was executed late, at the request of the payer's payment service provider, it fails to set the credit value date for the payee's payment account no later than the date which would have been set as the value date for that amount had the transaction been executed on time (Article 58, paragraph (7));

112) if, as a payer's payment service provider, it fails to act in accordance with the provision of Article 58, paragraph (8) of this Act, irrespective of whether the payment transaction was initiated through a payment initiation service provider or not;

113) if, contrary to Article 59, paragraph (2) of this Act, as a payee's payment service provider, it fails to re-transmit the payment order in question to the payer's payment service provider immediately;

114) if, as a payee's payment service provider, in the case of a late transmission of a payment order, contrary to Article 59, paragraph (3) of this Act, it fails to credit the payee's payment account;

115) if, as a payer's payment service provider, it acts contrary to Article 59, paragraphs (6), and (7) of this Act;

116) if, as a payee's payment service provider, in the case of a payment transaction initiated by or through a payee and which was executed with a delay, it fails to set the credit value date for the payee's payment account no later than the date which would have been set as the value date for that amount had the transaction been executed on time (Article 59, paragraph (8));

117) if, as a payee's payment service provider, it fails to act in accordance with Article 59, paragraph (9) of this Act;

118) if, as a payment initiation service provider, contrary to Article 60, paragraph (3) of this Act, at the request of an account servicing payment service provider, it fails to compensate immediately all the amounts paid by the account servicing payment service provider to the payer;

119) if, as a payer's payment service provider, in the case of an incorrect unique identifier, it acts contrary to Article 61, paragraphs (4), (6) and (7) of this Act;

120) if, as a payee's payment service provider, in the case of an incorrect unique identifier, it acts contrary to Article 61, paragraph (5) of this Act;

121) if it fails to establish a framework for the management of operational and security risks in accordance with the European Banking Authority Guidelines on security measures for operational and security risks of payment services based on Directive (EU) 2015/2366 (EBA/GL/2017/17) (Article 67, paragraph (2), in connection with Article 67, paragraph (1));

122) if it fails to submit to the Croatian National Bank the assessment of the operational and security risks in accordance with Article 67, paragraph (3) of this Act;

123) if it fails to submit to the Croatian National Bank the assessment of the operational and security risks at the request of the Croatian National Bank (Article 67, paragraph (4));

124) if, contrary to Article 68, paragraph (1) of this Act, it fails to notify the Croatian National Bank of each significant operational or security incident without delay and in accordance with the European Banking Authority Guidelines on major incident reporting in accordance with Directive (EU) 2015/2366 (EBA/GL/2017/10);

125) if, contrary to Article 68, paragraph (2) of this Act, it fails to inform its payment service users of the incident and of all measures that they can take to mitigate the adverse effects of the incident;

126) where it fails to apply strong customer authentication in accordance with Article 69, paragraph (1) of this Act;

127) if, contrary to Article 69, paragraph (2) of this Act, it fails to apply strong customer authentication that includes elements which dynamically link the transaction to a specific amount and a specific payee;

128) if it fails to set up security measures in accordance with Article 69, paragraph (3) of this Act;

129) if, as an account servicing payment service provider, it acts contrary to Article 69, paragraph (4) of this Act;

130) if it acts contrary to Regulation (EU) No 2018/389 (Article 69, paragraph (7));

131) if it fails to provide the payment service user with a final reply to all the points raised in the complaint on paper or another durable medium, with a referral referred to in Article 70, paragraph (4) of this Act, and within ten days of the receipt of the complaint or within the time limit determined in the holding reply which may not be longer than 35 days of the day of receipt of the complaint (Article 70, paragraphs 2, 3 and 4);

132) if, in the case referred to in Article 70, paragraph (3) of this Act, it fails to provide to the payment service user a holding reply within 10 days of receipt of the complaint and if the holding reply does not indicate the reasons for the delay and the time limit by which the payment service user will receive a final reply;

133) if it fails to develop and apply appropriate and effective procedures for the resolution of payment service user complaints in all Member States in which it provides payment services and make them available to payment service users in the official language of each individual Member State in which it provides services or in another language agreed with the payment service user (Article 70, paragraph (5));

134) if, at the invitation of the Croatian National Bank, it fails to submit its reply and the relevant evidence within the time limit referred to in the invitation (Article 71, paragraph (3));

135) if it fails to provide the information referred to in Article 72, paragraphs (1) and (2) of this Act in a clear, comprehensible and easily accessible manner in its branch offices and on its website (Article 72, paragraph (3));

136) if, contrary to Article 72, paragraph (5) of this Act, it refuses to participate in the alternative dispute resolution procedure initiated before the authority on which it gave information pursuant to Article 72, paragraphs (1) and (2) of this Act;

137) if it fails to make available the leaflet issued by the European Commission on the rights of consumers in accordance with Article 73, paragraphs (2) and (3) of this Act;

138) if, as a transaction account servicing payment service provider, it acts contrary to Article 76 of this Act;

139) if, as a payment service provider referred to in paragraph (1), items (1) and (2) of this Article that is a reporting entity pursuant to Article 154, paragraph (3) of this Act, it fails to notify the Croatian National Bank in accordance with Article 154, paragraph (3) of this Act.

(3) A fine between HRK 5,000.00 and HRK 50,000.00 shall be imposed for an offence referred to in paragraph (2) of this Article on:

1) the responsible person of the management board of the payment service provider referred to in paragraph (1), item (1) of this Article or the responsible executive director if the provider has a board of directors or where the payment service provider referred to in paragraph (1), item (1) of this Article, with the exception of credit institutions, engages in other activity in addition to payment services, the director responsible for payment services;

2) the responsible person of the payment service provider (branch) referred to in paragraph (1), items (2); to (4) of this Article and the responsible person of the payment service provider (agent) referred to in paragraph (1), item (5) of this Article that is a legal person;

3) the responsible person of the payment service provider referred to in paragraph (1), items (6) to (7) of this Article.

(4) A fine between HRK 10,000.00 and HRK 250,000.00 shall be imposed for an offence referred to in paragraph (2) of this Article on a sole trader, craftsman or another self-employed person, appointed as an agent of the payment institution, electronic money institution or registered account information service provider established in another Member State, in the Republic of Croatia based on the right of establishment.

(5) The fine referred to in paragraph (3) of this Article shall be imposed on the responsible person for an offence referred to in paragraph (2) of this Article committed during the provision of payment services by the Republic of Croatia when not acting in the capacity of public authority.

(6) Exceptionally, there shall be no offence referred to in paragraph (2) of this Article if the payment service provider referred to in paragraph (1) of this Act, where so provided by this Act, has agreed with the payment service user otherwise than prescribed by this Act.

#### *Offences by other persons*

##### Article 180

(1) A legal person shall be fined between HRK 20,000.00 and HRK 500,000.00 for any of the offences referred to in paragraph (1) of this Article:

1) if, as a person engaging in one or both activities referred to in Article 5, item (11), sub-items (a) and (b) of this Act, it fails to submit to the Croatian National Bank after submitting the first such notification referred to in Article 6, paragraph (1) of this Act, a new updated notification to the Croatian National Bank within the time limit and with the content prescribed by Article 6, paragraph (1) of this Act;

2) if, as a person engaging in one or both activities referred to in Article 5, item (11) sub-items (a) and (b) of this Act, it fails to submit at the request of the Croatian National Bank the information referred to in Article 6, paragraph (2) of this Act;

3) if, as a person engaging in one or both activities referred to in Article 5, item (11) sub-items (a) and (b) of this Act, it fails to act in accordance with the decision of Croatian National Bank referred to in Article 6, paragraph (5) of this Act;

4) if, as a person engaging in the activities referred to in Article 5, item (12) of this Act, it fails to submit to the Croatian Regulatory Authority for Network Industries the information in accordance with Article 6, paragraph (6) of this Act;

5) if, as a provider of electronic communications networks or services engaging in the activity referred to in Article 5, item (12) of this Act, it fails to submit to the Croatian Regulatory Authority for Network Industries the annual audit opinion referred to in Article 6, paragraph (7) of this Act;

6) if, as a provider of electronic communications networks or services engaging in the activity referred to in Article 5, item (12) of this Act, it fails to submit the information referred to in Article 6, paragraph (8) of this Act at the request of the Croatian Regulatory Authority for Network Industries;

7) if, as a provider of electronic communications networks or services engaging in the activity referred to in Article 5, item (12) of this Act, it fails to act in accordance with the decision of the Croatian National Bank referred to in Article 6, paragraph (12) of this Act;

8) if it provides payment services contrary to the provision of Article 7, paragraph (2) of this Act;

9) if, as a payee, contrary to the provision of Article 15, paragraph (1) of this Act, it fails to inform the payer of a reduction for the use of a given payment instrument prior to the initiation of a payment transaction;

10) if, as a third person included in a payment transaction contrary to the provision of Article 15, paragraph (2) of this Act, it fails to inform a payment service user of a fee for the use of a given payment instrument prior to the initiation of a payment transaction;

11) if as a person providing the service referred to in Article 5, item (15) of this Act, it fails to provide the user with information in accordance with Articles 16, 18, 21 and 22 of this Act prior to cash withdrawal, and on the receipt following the execution of the cash withdrawal transaction (Article 15, paragraph (3));

12) if as a currency conversion service provider at the point of sale or as a payee, contrary to Article 16 of this Act, it fails to inform the payer prior to the initiation of the payment transaction of all fees and the exchange rate to be used for currency conversion;

13) if, as a payee, it charges a fee for the use of a given payment instrument (Article 32, paragraph (5)).

(2) The responsible person of the natural person shall also be fined between HRK 5,000.00 and HRK 50,000.00 for the offence referred to in paragraph (1) of this Article.

(3) A natural person that is a sole trader, craftsman or another self-employed person shall also be fined between HRK 10,000.00 and HRK 250,000.00 for the offence referred to in paragraph (1) of this Article.

(4) A natural person shall also be fined between HRK 1,000.00 and HRK 25,000.00 for the offence referred to in paragraph (1), item (8) of this Article.

### *Offences related to the acquisition of qualifying holdings*

#### Article 181

(1) A legal person shall be fined between HRK 20,000.00 and HRK 500,000.00 for the offence referred to in paragraph (1) of this Article:

1) if it fails to notify the Croatian National Bank of each intended acquisition of a qualifying holding, uncompleted acquisition of a qualifying holding, intention to use a qualifying holding, planned change in the status or acquired acquisition in accordance with Article 94, paragraphs (1), (2), (4), (5), (6), (7) or (8) of this Act;

2) if it fails to act in accordance with the decision of the Croatian National Bank ordering the direct or indirect acquirer to sell the acquired shares or holdings (Article 96, paragraph (5), item (2) and paragraph (12));

3) if it fails to submit the information and documentation requested by the Croatian National Bank in accordance with Article 97, paragraphs (3) and (9) of this Act;

4) if it fails to comply with the subsequent request of the Croatian National Bank referred to in Article 98, paragraph (1) of this Act; or

(2) The responsible person of the legal person shall also be fined between HRK 5,000.00 and HRK 50,000.00 for the offence referred to in paragraph (1) of this Article.

(3) A natural person shall also be fined between HRK 5,000.00 and HRK 50,000.00 for the offence referred to in paragraph (1) of this Article.

### *Offences by credit institutions*

#### Article 182

(1) Liable for the offences referred to in paragraph (2) of this Article shall be:

- 1) credit institutions established in the Republic of Croatia;
- 2) branches of credit institutions in the Republic of Croatia established in another Member State or third country.

(2) A payment service provider referred to in paragraph (1) of this Article shall be fined between HRK 20,000.00 and HRK 250,000.00:

- 1) if it acts contrary to the provision of Article 8, paragraph (1) of this Act;
- 2) if, contrary to Article 8, paragraph (2) of this Act, it fails to submit to the Croatian National Bank a notification on the refusal of the application referred to in Article 8, paragraph (1) of this Act and state the reasons for the refusal;
- 3) if it determines or uses a transaction or other account contrary to the subordinate legislation adopted pursuant to Article 74, paragraphs (3) and (4) of this Act;
- 4) if, contrary to Article 78, paragraph (3) of this Act, it fails to notify the Croatian National Bank of an intention to conclude a contract referred to in Article 78, paragraph (2) of this Act or if it fails to provide with the notification a detailed description of the payment transaction execution model;
- 5) if a payment order for the execution of payment transactions across transaction accounts does not contain the elements or is not completed in the manner prescribed by subordinate legislation adopted under Article 79 of this Act;
- 6) if, contrary to Article 191, paragraph (16) of this Act, it blocks or hinders the use of payment initiation and account information services for the accounts it maintains.

(3) A fine between HRK 5,000.00 and HRK 30,000.00 shall be imposed for an offence referred to in paragraph (2) of this Article on:

- 1) the responsible person of a credit institution's management board;
- 2) the responsible person in the branch referred to in paragraph (1) of this Article.

### *Offences by payment institutions, small payment institutions and registered account information service providers established in the Republic of Croatia*

#### Article 183

(1) A payment institution established in the Republic of Croatia shall be fined between HRK 20,000.00 and HRK 500,000.00 for the offence referred to in paragraph (1) of this Article:

- 1) if it provides payment services outside the limits of the decisions issued pursuant to the provisions of this Act (Article 7, paragraph (6));



- 2) if, contrary to Article 80, paragraph (3) of this Act, it commences providing payment services before these services are entered as activities in the relevant register;
- 3) if, contrary to Article 92, paragraph (12) of this Act, it provides payment services through an agent in the Republic of Croatia before this agent is entered in the register referred to in Article 93 of this Act;
- 4) if, contrary to Article 92, paragraph (13) of this Act, it continues to provide payment services in the Republic of Croatia through an agent;
- 5) if it fails to notify the Croatian National Bank in accordance with Article 92, paragraph (14) of this Act;
- 6) if it acts contrary to Article 96, paragraph (11) of this Act;
- 7) if its own funds are lower than the amount prescribed in Article 99, paragraph (2) of this Act;
- 8) if it fails to use the method and the manner of own funds calculation in accordance with Article 99, paragraph (3) of this Act;
- 9) if it fails to safeguard the funds received for the execution of payment transactions in accordance with Article 100, paragraphs (1) and (2) of this Act or if it fails to do that in the manner determined in accordance with Article 100, paragraph (6) of this Act;
- 10) if, as a payment institution providing services referred to in Article 83, item (3) of this Act, it fails to safeguard the funds received for the execution of payment transactions in accordance with Article 100, paragraph (4) of this Act or if it fails to do that in the manner determined in accordance with Article 100, paragraph (6) of this Act;
- 11) if, as a payment institution providing payment services referred to in Article 4, item (7) or Article 4, items (7) and (8), it fails to have a professional indemnity insurance or other comparable guarantee with the features in accordance with Article 101 of this Act;
- 12) if it opens and maintains payment accounts for purposes other than payment transactions (Article 102, paragraph (1));
- 13) if it grants credits connected with the provision of payment services contrary to Article 103, paragraph (1) of this Act;
- 14) if it accepts deposits or any other repayable funds from the public contrary to Article 103, paragraph (2) of this Act;
- 15) if, contrary to Article 104, paragraph (2) of this Act, it fails to report separately in the audited annual financial statements the accounting data proving compliance with the provisions of Title V of this Act (Article 104, paragraphs (2) and (3));
- 16) if, as a legal person who, under accounting rules, is not subject to audit of the annual financial statements and consolidated financial statements referred to in Article 104 of this Act, it fails to act in accordance with Article 106, paragraph (1) of this Act;
- 17) if it fails to submit to the Croatian National Bank the reports referred to in Article 106, paragraph (2) of this Act within the deadline referred to in Article 106, paragraph (2) of this Act;
- 18) if it fails to notify the Croatian National Bank of intended outsourcing in accordance with Article 107, paragraphs (1) or (2) of this Act;
- 19) if it outsources operational activities contrary to the conditions referred to in Article 107, paragraphs (4) and (5) of this Act;

- 20) if it fails to ensure that the Croatian National Bank can carry out on-site examination at the premises of the outsourcing service provider and access to the documentation and data in accordance with Article 107, paragraph (6) of this Act;
  - 21) if it fails to notify the Croatian National Bank of changes in operational activities outsourcing in accordance with Article 107, paragraph (8) of this Act;
  - 22) if it fails to carry out checks of its branches and agents in accordance with Article 108, paragraph (3) of this Act;
  - 23) if it fails to ensure that its branches and agents inform payment service users of their activities on its behalf and for its account (Article 108, paragraphs (4) and (5));
  - 24) if it fails to establish or implement governance arrangements in accordance with Article 109 of this Act;
  - 25) if it fails to enable authorised persons to carry out an on-site examination in the manner and under the conditions prescribed in Article 111, paragraphs (7) and (8) and Article 112 of this Act;
  - 26) if it fails to act in accordance with the decision of the Croatian National Bank on the imposition of supervisory measures referred to in Article 115 of this Act;
  - 27) if it fails to notify the Croatian National Bank without delay of all the circumstances referred to in Article 119, paragraph (2) of this Act;
  - 28) if it fails to notify the Croatian National Bank of the intention to provide payment services in a third country through a branch within the time limit referred to in Article 119, paragraph (3) of this Act;
  - 29) if it fails to submit within the prescribed time limit, at the request of the Croatian National Bank, the requested reports and information (Article 119, paragraph (4));
  - 30) if, contrary to Article 139, paragraph (11) of this Act, it commences providing payment services through a branch or agent in the host Member State before this branch or agent is entered in the register referred to in Article 93 of this Act;
  - 31) if, contrary to Article 139, paragraph (13), it fails to notify the Croatian National Bank of the date of commencement of provision of payment services in the host Member State through a branch or agent;
  - 32) if, contrary to Article 139, paragraph (16) of this Act, it commences providing payment services in the host Member State directly before having received the notification on the completed the notification procedure from the Croatian National Bank;
  - 33) if it fails to notify the Croatian National Bank in accordance with Article 139, paragraph (17) of this Act;
  - 34) if it fails to notify the Croatian National Bank in accordance with Article 139, paragraph (23) of this Act.
- (2) The responsible person of the management board of a payment institution or the responsible executive director if a payment institution has a board of directors, or if a payment institution engages in other activities in addition to payment services, the director responsible for payment services, shall be fined between HRK 5,000.00 and HRK 50,000.00 for the offence referred to in paragraph (1) of this Article.

(3) A small payment institution shall also be fined between HRK 15,000.00 and HRK 350,000.00 for any of the offences referred to in paragraph (1), items (3), (4), (5), (6), (9), (10), (12), (13), (14) and (17) to (27) and (29) of this Article.

(4) The responsible person of the management board of a small payment institution or the responsible executive director if a small payment institution has a board of directors, or if a small payment institution engages in other activities in addition to payment services, the director responsible for payment services, shall be fined between HRK 3500.00 and HRK 35,000.00 for the offence referred to in paragraph (3) of this Article.

(5) A registered account information service provider that is a legal person shall also be fined between HRK 15,000.00 and HRK 350,000.00 for any of the offences referred to in paragraph (1), items (3) to (6) and (25) to (34) of this Article.

(6) The responsible person of the management board of a registered account information service provider that is a legal person, or the executive director if a registered account information service provider has a board of directors, or if a registered account information service provider engages in other activities in addition to payment services, the director responsible for payment services, shall also be fined between HRK 3,500.00 and HRK 35,000.00 for the offence referred to in paragraph (5) of this Article.

(7) A registered account information service provider that is a sole trader shall be fined between HRK 10,000.00 and HRK 250,000.00 for the offence referred to in paragraph (1), items (25) to (34) of this Article.

#### *Other offences by small payment institutions*

##### Article 184

(1) A small payment institution established in the Republic of Croatia shall be fined between HRK 15,000.00 and HRK 350,000.00 for the offence referred to in paragraph (1) of this Article:

1) if it provides payment services for which, as a small payment institution, it has not been entered in the register referred to in Article 93 of this Act (Article 7, paragraph (6));

2) if it provides payment services outside the Republic of Croatia (Article 120, paragraph (2));

3) if it fails to submit to the Croatian National Bank the reports referred to in Article 126 of this Act;

(2) The responsible person of the management board of a small payment institution or the responsible executive director if a small payment institution has a board of directors, or if a small payment institution engages in other activities in addition to payment services, the director responsible for payment services, shall also be fined between HRK 3500.00 and HRK 35,000.00 for the offence referred to in paragraph (1) of this Article.

#### *Other offences by registered account information service providers established in the Republic of Croatia;*

##### Article 185

(1) A registered account information service provider that is a legal person established in the Republic of Croatia shall be fined between HRK 15,000.00 and HRK 350,000.00 for the offence referred to in paragraph (1) of this Article:

1) if it provides payment services for which, as a registered account information service provider, it has not been entered in the register referred to in Article 93 of this Act (Article 7, paragraph (6));

2) if it fails to have a professional indemnity insurance or other comparable guarantee with the features in accordance with Article 101 of this Act.

(2) The responsible person of the management board of a registered account information service provider that is a legal person established in the Republic of Croatia or the responsible executive director if that provider has a board of directors, or if that provider engages in other activities in addition to payment services, the director responsible for payment services, shall also be fined between HRK 3,500.00 and HRK 35,000.00 for the offence referred to in paragraph (1) of this Article.

(3) A registered account information service provider that is a sole trader or a craftsman registered in the Republic of Croatia shall be fined between HRK 10,000.00 and HRK 250,000.00 for the offence referred to in paragraph (1) of this Article.

*Further offences by payment institutions, small payment institutions and registered account information service providers established in the Republic of Croatia*

Article 186

(1) A member of the management board of a payment institution, small payment institution or registered account information service provider or the executive director of these legal persons where they have a board of directors or where these legal persons engage in the activity referred to in Article 83, item (3) of this Act, the responsible person for carrying out the activity related to the provision of payment services, shall be fined between HRK 5,000.00 and HRK 50,000.00 if it fails to act upon the request of the Croatian National Bank in accordance with Article 111, paragraph (9) of this Act.

(2) A registered account information service provider that is a sole trader or a craftsman registered in the Republic of Croatia shall also be fined between HRK 5,000.00 and HRK 50,000.00 for the offence referred to in paragraph (1) of this Article.

*Offences by audit firms and independent auditors*

Article 187

(1) An audit firm shall be fined between HRK 20,000.00 and HRK 100,000.00 if it fails to fulfil the obligations referred to in Article 106, paragraphs (4) and (5) of this Act.

(2) The responsible person of the audit firm shall also be fined between HRK 2,000.00 and HRK 10,000.00 for the offence referred to in paragraph (1) of this Article.

(3) An independent auditor shall also be fined between HRK 5,000.00 and HRK 10,000.00 for the offence referred to in paragraph (1) of this Article.

*Small offences by payment system operators*

Article 188

(1) The payment system operator referred to in Article 153, paragraph (2), items (1) to (7) and item (9) of this Act shall be fined between HRK 20,000.00 and HRK 500,000.00 for the offence referred to in paragraph (1) of this Article:

1) if the payment system it operates which requires authorisation from the Croatian National Bank commences its operation before having obtained the authorisation (Article 156, paragraph (3));

2) if it fails to notify the Croatian National Bank of the commencement of operation of the payment system it operates within the time limit referred to in Article 156, paragraph (4) of this Act;

- 3) if it fails to submit to the Croatian National Bank the documentation referred to in Article 156, paragraph (5) of this Act;
  - 4) if it acts contrary to the provisions of Article 165, paragraphs (1) and (4) of this Act;
  - 5) if the rules governing the access of payment service providers to the payment system it operates do not comply with Article 166, paragraphs (1), (2), (4) and (5) of this Act;
  - 6) if it fails to ensure that all the conditions referred to in Article 167, paragraphs (1) and (2) of this Act are met;
  - 7) if it fails to notify payment system participants in accordance with Article 167, paragraph (3) of this Act;
  - 8) if it fails to notify the Croatian National Bank of intended outsourcing in accordance with Article 168, paragraph (1) of this Act;
  - 9) if it outsources activities contrary to the conditions referred to in Article 168, paragraph (2) of this Act;
  - 10) if it fails to ensure that the Croatian National Bank can carry out on-site examinations and access to the documentation and data in accordance with Article 168, paragraph (4) of this Act;
  - 11) if it fails to enable an authorised person to carry out an on-site examination in the manner and under the conditions prescribed in Article 111, paragraphs (7) and (8) and Article 112 of this Act (Article 170, in connection with Article 111, paragraphs (7) and (8) and Article 112);
  - 12) if it fails to act in accordance with the decision of the Croatian National Bank adopted pursuant to Article 171 of this Act;
  - 13) if it fails to report to the Croatian National Bank in accordance with Article 172, paragraph (1) of this Act;
  - 14) if it fails to submit the requested data, information or reports at the request of the Croatian National Bank contrary to in Article 172, paragraphs (2) and (3) of this Act.
- (2) The responsible person of the management board or the person responsible for the management of a payment system operator shall be fined between HRK 5,000.00 and HRK 50,000.00 for the offence referred to in paragraph (1) of this Article.

### *Competence for conducting offence proceedings*

#### Article 189

The Ministry of Finance – the Financial Inspectorate shall be competent for the first instance offence proceedings prescribed by this Act.

### *Public disclosure of decisions on offences*

#### Article 190

(1) The Croatian National bank shall publish on its website the dispositive parts of decisions with final force and effect adopted in offence proceedings initiated by the Croatian National Bank as an authorised prosecutor in which a payment service provider or the responsible person of a payment service provider has been found guilty for the offence referred to in Titles II and III of this Act. In addition to the dispositive part, the name of the authority that has taken the decision and the date of the decision shall be published.

(2) The Croatian National bank may publish on its website the dispositive parts of decisions with final force and effect adopted in offence proceedings initiated by the Croatian National Bank as an authorised prosecutor in which a payment service provider or the responsible person of a payment service provider has been found guilty for other offences under this Act. In addition to the dispositive part, the name of the authority that has adopted the decision and the date of the decision shall be published.

(3) The Croatian National Bank may publish decisions it adopts in the course of exercising its supervisory powers under this Act. When the Croatian National Bank publishes such decisions, it shall also publish a decision of the administrative court if an appeal has been lodged against such a decision.

(4) Data covered by banking secrecy or protected by special regulation governing personal data protection shall be excluded from the publication referred to in paragraphs (1), (2) and (3) of this Article.

(5) If the Croatian National Bank assesses that the publication referred to in paragraph (1) of this Article would constitute a threat to the stability of financial markets or cause disproportionate damage to a payment service provider, it shall anonymise the information on the payment service provider.

(6) If the Croatian National Bank assesses that the publication referred to in paragraph (1) of this Article would cause disproportionate damage to the responsible person of a payment service provider, it shall anonymise the information on the responsible person.

(7) The publications referred to in paragraphs (1) and (2) of this Article shall remain on the website three years of the date when the offence decision came into final force and effect and the publication referred to in paragraph (3) of this Article shall remain on the website three years of the date of the adoption of the decision.

## TITLE XI

### TRANSITIONAL AND FINAL PROVISIONS

#### *Compliance with the provisions of this Act*

##### Article 191

(1) Payment institutions authorised to provide payment services based on the Payment System Act (Official Gazette 133/2009 and 136/2012) may provide payment services in accordance with the issued authorisation pending expiry of the time limit of six months of the date of entry into force of this Act.

(2) Payment institutions intending to continue providing payment services after the time limit referred to in paragraph (1) of this Article shall comply with the provisions of this Act and shall submit to the Croatian National Bank an application for a decision determining such compliance no later than three months of the date of entry into force of this Act.

(3) Payment institutions shall submit, together with the application referred to in paragraph (2) of this Act, the documentation referred to in Article 85, paragraph (2), items (3), (9) to (13) and (15) of this Act if they have not submitted it to the Croatian National Bank prior to the submission of the application.

(4) The Croatian National Bank may, to process the application referred to in paragraph (2) of this paragraph, request from a payment institution additional documentation and information required for decision-making by the Croatian National Bank and, where necessary, impose measures on the payment institution to comply with the provisions of this Act.

(5) If, based on the application and the submitted documentation and information and documentation available to the Croatian National Bank, the Croatian National Bank assesses that a payment institution is compliant with the provisions of this Act, it shall adopt a decision determining the compliance and enter such compliance in the register of payment institutions.

(6) Where a payment institution fails to submit an application within the time limit referred to in paragraph (2) of this Article or where the Croatian National Bank, based on the application and the submitted documentation and the information and documentation available to it assesses that a payment institution does not comply with the provisions of this Act, the Croatian National Bank shall, following expiry of the time limit referred to in paragraph (1) of this Article revoke the decision authorising the payment institution to provide payment services and remove the institution from the register of payment institutions.

(7) Entries in the register and removals from the register referred to in paragraphs (5) and (6) of this Article shall relate to the existing register of payment institutions established pursuant to the provisions of Article 116 of the Payment System Act (Official Gazette 133/2009 and 136/2012) which shall comply with the provisions of Article 93 of this Act within six months of the date of entry into force of this Act.

(8) In the case referred to in paragraph (6) of this Article, the Croatian National Bank shall notify the competent commercial court of the revocation of the decision authorising a payment institution to provide payment services, for the purpose of removing the activity of the provision of payment services from the register of companies.

(9) The Croatian National Bank shall adopt the decision referred to in paragraphs (5) and (6) of this Article no later than six months of the date of entry into force of this Act. For the purpose of compliance with the provisions of this Act pursuant to this Article the fee charged by the Croatian National Bank in accordance with subordinate legislation referred to in Article 85, paragraph (13) of this Act shall not be charged.

(10) A payment institution referred to in paragraph (1) of this Article that has been authorised to provide payment services referred to in Article 3, item (7) of the Payment System Act (Official Gazette 133/2009 and 136/2012) following the entry into force of this Act, shall continue to provide the payment service referred to in Article 4, item (3) of this Act and shall apply for entry of the change in activity in the register of companies.

(11) The payment institution referred to in paragraph (10) of this Article shall provide evidence to the Croatian National Bank by 13 January 2020 at the latest, that it meets the conditions referred to in Article 82, paragraph (3) and Article 99 of this Act.

(12) Credit institutions which on the date of the entry into force of this Act are authorised to provide payment services in accordance with the law governing the operation of credit institutions, may provide all payment services referred to in Article 4 of this Act and may enter these activities in the register of companies without a special authorisation from the Croatian National Bank.

(13) Legal persons established in the Republic of Croatia that have commenced providing a service corresponding to the payment service referred to in Article 4, item (7) of this Act prior to 12 January 2016 may continue to provide that service without authorisation from the Croatian National Bank until 14 September 2019 and of which they shall notify the Croatian National Bank.

(14) Legal persons established in the Republic of Croatia and natural persons that have commenced providing a service corresponding to the payment service referred to in Article 4, item (8) of this Act prior to 12 January 2016 may continue to provide that service without entry in the register of the Croatian National Bank until 14 September 2019 and of which they shall notify the Croatian National Bank.

(15) Legal persons referred to in paragraphs (13) and (14) of this Article intending to continue providing payment services after 14 September 2019 shall submit an application to the Croatian National Bank for authorisation to provide payment services or an application for entry in the register referred to in Article 93 of this Act as a registered account information service provider no later than 14 June 2019.

(16) In the process of compliance of its operations with Regulation (EU) No 2018/389, the account servicing payment service provider shall not invoke its non-compliance with that Regulation to block or hinder the use of payment initiation or account information services for the accounts it maintains.

*Continuity of other acts adopted pursuant to the Payment System Act (Official Gazette 133/2009 and 136/2012)*

Article 192

(1) Authorisations to provide payment services and approvals for the rules of operation of a payment system adopted by the Croatian National Bank pursuant to the Payment System Act (Official Gazette 133/2009 and 136/2012) shall remain valid.

(2) Account numbers assigned by the Croatian National Bank prior to the entry into force of this Act shall continue to be used.

*Procedures initiated prior to the entry into force of this Act*

Article 193

(1) Procedures initiated pursuant to the provisions of the Payment System Act (Official Gazette 133/2009 and 136/2012) until the entry into force of this Act shall be completed in accordance with the provisions of that Act.

(2) By way of derogation from paragraph (1) of this Article, the authorisation procedures for payment service providers initiated pursuant to the provisions of the Payment System Act 133/2009 and 136/2012) shall be completed in accordance with the provisions of this Act.

*Subordinate legislation of the Croatian National Bank*

Article 194

The Croatian National Bank shall adopt the subordinate legislation referred to in Article 99, paragraph (6) and Article 100, paragraph (7) of this Act within one month of the date of entry into force of this Act, the subordinate legislation referred to in Article 93, paragraph (10) of this Act within six months of the date of entry into force of this Act and the subordinate legislation referred to in Article 10, paragraphs (10) and (11), Article 23, paragraph (6), Article 74, paragraph (3), Article 85, paragraph (13), Article 104, paragraph (3) and Article 158, paragraph (9) of this Act within one year of the date of entry into force of this Act.

*Application of current subordinate legislation*

Article 195

(1) Until the date of entry into force of the regulation referred to in Article 194 of this Act, the following subordinate legislation shall remain in force:

1) Decision on the obligation to submit data on the payment system and electronic money (Official Gazette 147/2013 and 16/2017);



- 2) Decision on the register of payment institutions and registers of electronic money institutions (Official Gazette 15/2011);
- 3) Decision on own funds of payment institutions (Official Gazette 3/2011);
- 4) Decision on safeguarding the payment service users' funds (Official Gazette 3/2011);
- 5) Decision on the manner of opening transaction account (Official Gazette 3/2011, 35/2011, 50/2011, 89/2011, 101/2011, 135/2011, 56/2012, 18/2013, 23/2013, 10/2014, 150/2014, 64/2016, 107/2017 and 1/2018).

(2) The following subordinate legislation adopted based on the Payment System Act (Official Gazette 133/2009 and 136/2012) shall remain in force after the entry into force of this Act:

- 1) Decision on Payment Orders (Official Gazette 46/2016);
- 2) Decision on the rules of operation of the Croatian Large Value Payment System (46/2016, 94/2017 and 35/2018);
- 3) Decision on the rules of operation of the National Clearing System (Official Gazette 46/2016);
- 4) Decision on the conditions for the opening and operation of a PM account in TARGET2-HR (Official Gazette (136/2015, 33/2016 and 109/2017);
- 5) Decision on the supplemental and modified conditions for the opening and operation of a PM account in TARGET2-HR using Internet-based access (Official Gazette 136/2015);
- 6) Decision on settlement procedures for ancillary systems (Official Gazette 109/2017);
- 7) Decision on the conditions for opening and functioning of dedicated cash account (DCA) in TARGET2-HR (Official Gazette (Official Gazette 136/2015, 33/2016 and 109/2017).

*Expiry of the Payment System Act (Official Gazette 133/2009 and 136/2012)*

Article 196

On the date of entry into force of this Act, the Payment System Act (Official Gazette 133/2009 and 136/2012) shall cease to have effect.

*Entry into force*

Article 197

This Act shall enter into force on the eighth day after the day of its publication in the Official Gazette, except Article 23, paragraph (5) which shall enter into force on 1 January 2019, Article 35, paragraph (1), item 3), Article 36, paragraph (3), items (5) and (6), Article 36, paragraph (4), item (1), a part of Article 36, paragraph (4), item (2) relating to the implementation of Regulation (EU) No 2018/389, Article 37, paragraph (3), items (4) and (5), Article 37, paragraph (4), item (1) and Article 69, paragraphs (1), (2), (3), (5), (6) and (7) of this Act which shall enter into force on 14 September 2019 and Article 48, paragraph (8) of this Act which shall enter into force two years after the entry into force of this Act.

Class: 022-03/18-01/23  
Zagreb, 6 July 2018

THE CROATIAN PARLIAMENT  
The President of the Croatian Parliament

**Gordan Jandroković, m. p.**