

ACT

ON AMENDMENTS TO THE ACT ON THE CROATIAN NATIONAL BANK

Article 1

In the Act on the Croatian National Bank (Official Gazette 75/08), after Article 1, a heading and Article 1.a are added to read:

"Transposition and implementation of the legal acts of the European Union
Article 1a

This Act transposes into the legal order of the Republic of Croatia the Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (OJ L 319, 5.12.2007).

This Act governs the implementation of the following regulations of the European Union:

- Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting (OJ L 181, 4.7.2001); and
- Council Regulation (EC) No 1339/2001 of 28 June 2001 extending the effects of Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting to those Member States which have not adopted the euro as their single currency (OJ L 181, 4.7.2001)."

Article 2

In Article 4, indents (4) and (5), after the words "payment institutions" a comma is inserted and the words "electronic money institutions" are added.

In indent (9), the word "and" is deleted.

After indent (9), a new indent (10) is added to read:

"the contribution to the stability of the financial system as a whole; and".

The former indent (10) becomes indent (11).

Article 3

In Article 5, paragraph (2) is amended to read:

"(2) The term 'credit institution having its registered office in the Republic of Croatia' shall include: banks, savings banks and housing savings banks."

Article 4

In Article 18, paragraph (2), item (3), after the words "credit institutions" a semicolon is inserted and the words "whose short-term liabilities have been assigned one of the two highest ratings by two internationally recognised credit rating agencies;" are deleted.

In item (5), after the words "currencies of obligors" the words "whose short-term liabilities have been assigned one of the two highest ratings by two internationally recognised credit rating agencies" are deleted.

Item (6) is amended to read:

"6) forward purchase or repurchase agreements entered into by the Croatian National Bank with or guaranteed by other central banks, credit or financial institutions with registered offices outside the Republic of Croatia or international financial institutions, and forward and option agreements entered into by the Croatian National Bank with parties, providing for payment in a convertible foreign currency;"

After paragraph (2), paragraph (3) is added to read:

"(3) In the management of foreign reserves, the Croatian National Bank may enter into agreements and other legal arrangements with the entities referred to in Article 18, paragraph (2), items (3), (5) and (6) of this Act only provided that their liabilities have been assigned an investment rating by two internationally recognised credit rating agencies. The Croatian National Bank shall, by a decision, determine the lowest investment rating for the said entities' liabilities in accordance with Article 19, paragraph (1) of this Act."

Article 5

In Article 37, the introductory sentence is amended to read:

"Without prejudice to the prohibition of lending to the public sector referred to in this Act, the Croatian National Bank may, on market terms and conditions, act as fiscal agent for the Republic of Croatia, in regard to the following:"

Article 6

In Article 42, paragraph (3), item (11) is amended to read:

"11) grant and withdraw the approval for the appointments of chairpersons and members of credit institutions' management and supervisory boards;"

Article 7

In Article 43, after paragraph (4), a new paragraph (5) is added to read:

"(5) In the event that a reason arises for the removal from office of the Governor referred to in this Act, as well as in the event of his/her death, temporary illness or absence or the expiry of his/her term of office, all the duties and powers of the Governor referred to in this Article shall be assumed by the Deputy Governor pending the return of the Governor or the appointment of a new Governor."

The former paragraph (5) becomes paragraph (6).

Article 8

In Article 47, paragraph (3) is amended to read:

"(3) In the event that a reason arises for the removal from office of the Governor referred to in this Act, as well as in the event of his/her death, temporary illness or absence or the expiry of his/her term of office, all the duties and powers of the Governor in his/her capacity as the Chairperson of the Council shall be assumed by the Deputy Governor pending the return of the Governor or the appointment of a new Governor."

After paragraph (6), a new paragraph (7) and paragraphs (8) and (9) are added to read:

"(7) The materials based on which the Council of the Croatian National Bank adopts decisions, proposals for the agenda of Council meetings and the minutes of Council meetings shall be confidential and may be disclosed to third parties outside the Croatian National Bank only under the conditions laid down in Article 53 of this Act.

(8) Meetings of the Council of the Croatian National Bank shall not be open to the public.

(9) Following a meeting of the Council of the Croatian National Bank a press release shall be issued and published on the Croatian National Bank website."

In the former paragraph (7) which becomes paragraph (10), the full stop at the end of the sentence is deleted and the words "specifying its working methods." are added.

Article 9

The heading of Article 53 is amended to read: "Data confidentiality".

In Article 53, paragraph (1) is amended to read:

"(1) Members of the Council of the Croatian National Bank and employees of the Croatian National Bank shall be bound by the obligation of confidentiality, within the meaning of Article 37 of the Statute of the ESCB and the ECB, with regard to any documents and data of which they become aware in the course of carrying out their duties and tasks, and whose disclosure to an unauthorised person would harm the reputation and interests of the Croatian National Bank, European Central Bank, central banks of the Member States and credit institutions and other legal persons which are authorised by or whose operation is supervised by the Croatian National Bank."

After paragraph (1), a new paragraph (2) is added to read:

"(2) The obligation of confidentiality referred to in paragraph (1) of this Article shall continue after the termination of membership in the Council of the Croatian National Bank or employment in the Croatian National Bank."

In the former paragraph (2), which becomes paragraph (3), the introductory sentence is amended to read:

"(3) By way of exception, members of the Council of the Croatian National Bank and employees of the Croatian National Bank may disclose the documents and data referred to in paragraph (1) of this Article to third parties outside the Croatian National Bank, unless such disclosure would be contrary to Article 85 paragraph (2) of this Act, in the cases and in accordance with the procedure stipulated by an internal bylaw of the Governor of the Croatian National Bank and subsequently endorsed by the Council of the Croatian National Bank, provided that the disclosure of such documents and data is made:"

Article 10

In Article 71, paragraph (1), the first sentence is amended to read:

"In accordance with Article 130 of the Treaty on the Functioning of the European Union and Article 7 of the Statute of the ESCB and the ECB, the Croatian National Bank and the members of its decision-making bodies shall be independent in achieving their objective and carrying out their tasks under this Act, the Treaty on European Union, the Treaty on the Functioning of the European Union and the Statute of the ESCB and the ECB."

Paragraph (2) is amended to read:

"(2) The institutions and bodies of the European Union, the governments, agencies, offices and other bodies of the Member States of the European Union shall respect the independence referred to in Article 130 of the Treaty on the Functioning of the European Union and Article 7 of the Statute of the ESCB and the ECB and may not influence the independence of the Croatian National Bank, the adoption and implementation of the decisions of the Croatian National Bank and of its decision-making bodies, nor may they approve, revoke, postpone, cancel, or influence in any other form any decision of the Croatian National Bank falling within its competence."

Article 11

Article 72 is amended to read:

"Without prejudice to the achievement of its objective referred to in Article 3, paragraph (1) of this Act, the Croatian National Bank shall support the general economic policies of the European Union with a view to contributing to the achievement of the objectives of the European Union, as laid down in Article 3 of the Treaty on European Union. The Croatian National Bank shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources in compliance with the principles set out in Article 119 of the Treaty on the Functioning of the European Union."

Article 12

In Article 74, paragraph (2), the words "Article 111 of the Treaty establishing the European Community" are replaced by the words "Article 219 of the Treaty on the Functioning of the European Union."

Article 13

In Article 75, paragraph (1) is amended to read:

"(1) The ECB shall be consulted on any proposals of laws and other regulations within its competence in accordance with Article 127, paragraph (4) and Article 282, paragraph (5) of the Treaty on the Functioning of the European Union and the provisions of the Council Decision No 98/415/EC."

Paragraph (2) is amended to read:

"(2) The Government of the Republic of Croatia shall, for information purposes, submit to the Croatian National Bank the proposals of laws and other regulations referred to in paragraph (1) of this Article."

In paragraph (3), the words "In the areas outside the competence of the ECB" are replaced by the words "Notwithstanding the competence of the ECB".

Article 14

In Article 76, paragraph (1), after the word "coins" a comma is inserted and the words "denominated in euro," are added, and after the word "counterfeiting" the words "and distribution" are added.

In paragraph (2), after the word "counterfeiting" the words "and distribution" are added.

After paragraph (3), paragraphs (4) and (5) are added to read:

"(4) The Croatian National Bank may, in its subordinate legislation, regulate the handling of suspect foreign banknotes and coins not denominated in euro.

(5) The Croatian National Bank shall, in its subordinate legislation, regulate the handling of suspect kuna banknotes and kuna and lipa coins used as the monetary unit in the Republic of Croatia."

Article 15

The heading of Article 78 is amended to read: "Prohibition of lending to the public sector".

In Article 78, paragraph (1) is amended to read:

"(1) In accordance with Article 123 of the Treaty on the Functioning of the European Union and the Council Regulation (EC) No 3603/93, the Croatian National Bank shall not extend overdrafts or any other type of credit facility to the institutions, bodies, offices or agencies of the European Union, central governments, regional, local or other public authorities, other bodies governed by public law or public undertakings of the Member States, nor may the Croatian National Bank purchase debt instruments from these entities."

Paragraph (2) is amended to read:

"(2) The prohibition of lending to the public sector referred to in paragraph (1) of this Article shall not apply to the exemptions provided for in Article 123, paragraph (2) of the Treaty on the Functioning of the European Union and the provisions of the Council Regulation (EC) No 3603/93."

Paragraphs (3) and (4) are deleted.

Article 16

In Article 81, paragraph (4) is deleted.

In the former paragraph (5), which becomes paragraph (4), the words "the Administrative Court of the Republic of Croatia" are replaced by the words "a competent administrative court".

Article 17

The heading of Article 85 is amended to read: "Submission of confidential data".

In Article 85, paragraph (1) is amended to read:

"(1) The Croatian National Bank may submit confidential data to the ECB in accordance with the obligations set out in the Statute of the ESCB and the ECB."

In paragraph (2), the full stop at the end of the sentence is replaced by a comma and the words "or if it would damage the reputation or interests of the European Central Bank and central banks of the Member States." are added.

Article 18

In Article 88, item (1) is amended to read:

"1. participate in the definition and implementation of monetary policy of the European Union;"

In item (2), the words "Article 111 of the Treaty establishing the European Community" are replaced by the words "Article 219 of the Treaty on the Functioning of the European Union; and".

Item (3) is deleted.

The former item (4) becomes item (3).

Article 19

In Article 89, after the introductory sentence, a new item (1) is added to read:

"1. manage the assets referred to in Article 100, paragraph (1) of this Act;"

In the former items (1) and (2), which become items (2) and (3) respectively, after the words "payment institutions" a comma is inserted and the words "electronic money institutions" are added.

The former items (3), (4), (5) and (6) become items (4), (5), (6) and (7) respectively.

In the former item (7), which becomes item (8), the word "and" is deleted.

After the former item (7), which becomes item (8), item (9) is added to read:

"9. contribute to the stability of the financial system as a whole within its competence; and".

In the former item (8), which becomes item (10), the semicolon at the end of the sentence is replaced by a full stop and the words "if not contrary to the tasks set out in Article 3 of the Statute of the ESCB and the ECB" are deleted.

Article 20

The heading of Article 91 and Article 91 are deleted.

Article 21

In Article 93, paragraph (2) is amended to read:

"(2) In the event of an urgent, unforeseen and temporary liquidity need of a credit institution, the Croatian National Bank may grant a short-term loan to a solvent credit institution, provided that the loan is secured by adequate collateral instruments."

Article 22

The heading of Article 94 and Article 94 are deleted.

Article 23

In Article 96, paragraph (2), the words "subject to prior opinion of the ECB", and the commas before and after these words, are deleted.

Article 24

The heading of Article 98 and Article 98 are deleted.

Article 25

Article 99 is amended to read:

"In accordance with Article 30 of the Statute of the ESCB and the ECB, the Croatian National Bank shall transfer to the ECB a portion of the foreign reserves recorded in the Croatian National Bank balance sheet as at the date of introduction of the euro as the official currency of the Republic of Croatia."

Article 26

The heading of Article 100 is amended to read: "Asset management".

Article 100 is amended to read:

"(1) The Croatian National Bank shall manage the foreign reserves of the Republic of Croatia that have not been transferred to the ECB, as well as other assets of the Republic of Croatia recorded in the Croatian National Bank balance sheet as at the date of introduction of the euro as the official currency of the Republic of Croatia.

(2) The Croatian National Bank shall manage the assets referred to in paragraph (1) of this Article in accordance with its own rules and the principles of liquidity and safety of investment.

(3) If, in the management of the assets referred to in paragraph (1) of this Article, an individual transaction exceeds a limit set out in the guidelines of the Governing Council, or if a transaction with the foreign exchange working balances of the Republic of Croatia exceeds a limit set out in the guidelines of the Governing Council, such a transaction shall be subject to approval of the ECB.

(4) By way of exception from paragraph (3) of this Article, the performance of transactions in fulfilment of obligations towards international organisations referred to in Article 97 of this Act shall not be subject to approval of the ECB.

(5) The Croatian National Bank may, if so entrusted by the ECB, manage the transferred portion of foreign reserves referred to in Article 99 of this Act in the name and for the account of the ECB, as set out in the guidelines of the ECB."

Article 27

In Article 104, item (7) is amended to read:

"7) grant and withdraw the approval for the appointments of chairpersons and members of credit institutions' management and supervisory boards;"

In item (10), the words "the non-transferred portion of foreign reserves" are replaced by the words "the assets referred to in Article 100 of this Act;"

Article 28

Article 106 is amended to read:

"The capital of the Croatian National Bank in the amount of HRK 2,500,000,000.00 shall be converted into euro pursuant to the provisions of the Council Regulation (EC) No 974/98 on the introduction of the euro."

Article 29

In Article 107, paragraph (1), the words "and instructions" are deleted.

In paragraph (2), the words "the Statute" are replaced by the words "Article 32 of the Statute".

Article 30

The heading of Title X is amended to read: "X VIOLATION PROVISIONS".

Article 31

In Article 111, paragraph (1), item (6) is deleted.

The former items (7) and (8) become items (6) and (7) respectively.

Article 32

The heading of Article 112 is amended to read: "Liability for violations after the accession of the Republic of Croatia to the European Union".

Article 112 is amended to read:

"(1) A credit institution shall commit a violation:

1) if it fails to comply with the subordinate legislation and decisions of the Croatian National Bank regulating banking operations and establishing standards for sound and safe operation of credit institutions (Article 77);

2) if it fails to submit to the Croatian National Bank the statistical data for processing, in accordance with Article 86 of this Act;

- 3) if it fails to comply with the subordinate legislation of the Croatian National Bank governing the measures to prevent an uncontrollable increase in liquidity in the market (Article 87);
- 4) if, in performing the activities related to the protection of euro banknotes and coins against counterfeiting and distribution, in accordance with Article 6, paragraph (1) of the Council Regulation (EC) No 1338/2001, and on the basis of Article 1 of the Council Regulation (EC) No 1339/2001, it fails to ensure a proper authentication of euro banknotes and coins or withdrawal from circulation of banknotes and coins received by it which it knows or has sufficient reason to believe to be counterfeit;
- 5) if, in the handling of foreign cash not denominated in euro which is suspected of being counterfeit, it fails to comply with the subordinate legislation or measures laid down by the Croatian National Bank (Article 76, paragraph (4)); or
- 6) if, in the handling of kuna banknotes and kuna and lipa coins used as the monetary unit in the Republic of Croatia, it fails to comply with the subordinate legislation or measures laid down by the Croatian National Bank (Articles 26 and 27 and Article 76, paragraph (5)).

(2) A legal or natural person shall commit a violation:

- 1) if it fails to submit to the Croatian National Bank the statistical data for processing, in accordance with Article 86 of this Act;
- 2) if, in performing the activities related to the protection of euro banknotes and coins against counterfeiting and distribution, in accordance with Article 6, paragraph (1) of the Council Regulation (EC) No 1338/2001, and on the basis of Article 1 of the Council Regulation (EC) No 1339/2001, it fails to ensure a proper authentication of euro banknotes and coins or withdrawal from circulation of banknotes and coins received by it which it knows or has sufficient reason to believe to be counterfeit;
- 3) if, in the handling of foreign cash not denominated in euro which is suspected of being counterfeit, it fails to comply with the subordinate legislation or measures laid down by the Croatian National Bank (Article 76, paragraph (4)); or
- 4) if, in the handling of kuna banknotes and kuna and lipa coins used as the monetary unit in the Republic of Croatia, it fails to comply with the subordinate legislation or measures laid down by the Croatian National Bank (Articles 26 and 27 and Article 76, paragraph (5))."

Article 33

In Article 113, paragraph (3), the words "two years" are replaced by the words "up to one year".

In paragraph (4), after the words "from the date of" the words "committing the violation" are added and the words "preparing the report of the Croatian National Bank on established irregularities or illegalities in the credit institution's operation" are deleted.

Paragraph (8) is deleted.

Article 34

Article 118 is amended to read:

"On the date of introduction of the euro as the official currency of the Republic of Croatia, the following provisions of this Act shall cease to have effect:

- Article 4,
- Article 6, paragraph (2),

- Article 7,
- Articles 9 through 20,
- Articles 21 through 27,
- Articles 33 through 35,
- Articles 38 and 39,
- Article 42, paragraph (3),
- Article 54, paragraph (1),
- Articles 60 and 61,
- Article 74,
- Article 76, paragraph (5),
- Article 87,
- Article 111, paragraph (1), items (1), (2), (3), (6) and (7),
- Article 111, paragraph (2), item (1),
- Article 112, paragraph (1), items (3) and (6),
- Article 112, paragraph (2), item (4)."

TRANSITIONAL AND FINAL PROVISIONS

Article 35

(1) In the entire text of the Act on the Croatian National Bank (Official Gazette 75/08) the words "the Treaty establishing the European Community" in various grammatical cases are replaced by the words "the Treaty on the Functioning of the European Union" in the appropriate grammatical case, the words "the European Community" in various grammatical cases are replaced by the words "the European Union" in the appropriate grammatical case, and the words "payment transaction settlement systems" in various grammatical cases are replaced by the words "payment systems" in the appropriate grammatical case.

(2) In the entire text of the Act on the Croatian National Bank (Official Gazette 75/08) the wording "the accession of the Republic of Croatia to the European Union" and the same wording in which a Croatian word translated as "accession" is replaced by another Croatian word, with no relevance to the English translation, in various grammatical cases, are replaced by the wording "the accession of the Republic of Croatia to the European Union" in the appropriate grammatical case.

Article 36

This Act shall enter into force on the eighth day after the date of its publication in the Official Gazette, with the exception of:

- Article 2 paragraph (3) and Articles 9, 10, 11, 12, 13, 14, 15, 16, 17 and 32 of this Act, which shall enter into force on the date of accession of the Republic of Croatia to the European Union, and
- Article 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 33 and 34 of this Act, which shall enter into force on the date of introduction of the euro as the official currency of the Republic of Croatia.