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GVERNER

Pursuant to Article 58, paragraph (4) of the Act on the Resolution of Credit Institutions and Investment Firms (OG 146/2020), Article 43, paragraph (2), item (10) and Article 77, paragraph (3) of the Act on the Croatian National Bank (OG 75/2008, 54/2013 and 47/2020), the Governor of the Croatian National Bank hereby issues the

**Decision
on actions in relation to the exercise of the power to write down
and convert relevant capital instruments, eligible liabilities and
bail-inable liabilities**

I GENERAL PROVISIONS

**Subject matter
Article 1**

This Decision specifies:

- 1) the conditions for determining conversion rates;
- 2) the treatment of shareholders and holders of relevant capital instruments, eligible liabilities and bail-inable liabilities; and
- 3) the interrelationship between Regulation (EU) No 575/2013 and the Credit Institutions Act (OG 146/2020) and the Act on the Resolution of Credit Institutions and Investment Firms (OG 146/2020, hereinafter: the Act) regarding the sequence of write-down and conversion in the exercise of the powers of the Croatian National Bank referred to in Article 52, paragraph (1) and Article 97, paragraph (1), item (3) and items (5) to (9) of the Act.

**Compliance with the regulations of the European Union
Article 2**

With this Decision, the Croatian National Bank brings into compliance its actions with the Final Guidelines concerning the interrelationship between the BRRD sequence of write-down and conversion and CRR/CRD (EBA/GL/2017/02), Final Guidelines on the rate of conversion of debt to equity in bail-in (EBA/GL/2017/03) and Final Guidelines on the treatment of shareholders in bail-in or the write-down and conversion of capital instruments (EBA/GL/2017/04) of the European Banking Authority of 11 July 2017.

**Scope of application
Article 3**

This Decision shall apply to the exercise of the powers referred to in Article 1, paragraph (1) of this Decision in relation to the following entities:

- 1) credit institutions having their head office in the Republic of Croatia;
- 2) financial institutions having their head office in the Republic of Croatia that are subsidiaries of credit institutions or companies referred to in items (3) or (4) of this Article and are covered by the supervision

of the parent undertaking on a consolidated basis in accordance with Articles 6 to 17 of Regulation (EU) No 575/2013;

- 3) financial holding companies, mixed financial holding companies and mixed-activity holding companies having their head office in the Republic of Croatia, which are a part of a group in which at least one member of the group is a credit institution;
- 4) RC parent financial holding companies, EU parent financial holding companies having their head office in the Republic of Croatia, RC parent mixed financial holding companies and EU parent mixed financial holding companies having their head office in the Republic of Croatia, which are a part of a group in which at least one member of the group is a credit institution; and
- 5) branches of third-country institutions having their head office in the Republic of Croatia, for which the Single Resolution Board is not directly responsible and for which, in accordance with Article 8, paragraph (1) of the Act, the Croatian National Bank is the resolution authority.

Definitions

Article 4

For the purposes of this Decision, the terms used in this Decision shall have the following meaning:

- 1) '*right to property*' means the right to property as defined in Article 17 of the Charter of Fundamental Rights of the European Union (2016/C 202/02);
- 2) '*valuation*' means the valuation of the assets and liabilities of the entity referred to in Article 3 of this Decision carried out in accordance with Article 50 or 51 of the Act;
- 3) '*dilution of shareholder structure*' means a reduction of the share of existing shareholders in the share capital of the entity referred to in Article 3 of this Decision by issuing new instruments of ownership to holders of relevant capital instruments, eligible liabilities and bail-inable liabilities converted by the exercise of the powers referred to in Article 1, paragraph (1) of this Decision;
- 4) '*write-down and conversion sequence*' means the sequence in which the powers referred to in Article 1, paragraph (1) of this Decision are exercised, as determined in Article 53 and Article 85 of the Act;
- 5) '*relevant capital instruments*' means capital instruments that meet the conditions specified in Article 52, paragraph (1) and Article 63 of Regulation (EU) No 575/2013 and that continue to be grandfathered in accordance with Part Ten, Title I, Chapter 2 of Regulation (EU) No 575/2013.

(2) All other terms used in this Decision shall have the same meaning as they have in the Act unless otherwise specified in paragraph (1) of this Article.

Valuation

Article 5

The Croatian National Bank shall determine the conversion rate and the manner of treatment of shareholders and holders of relevant capital instruments, eligible liabilities and bail-inable liabilities based on the information obtained by valuation and in particular based on the relationship between the estimated value of instruments of ownership following the exercise of the powers referred to in Article 1, paragraph

(1) of this Decision and the estimated amount that the shareholders and holders of relevant capital instruments, eligible liabilities and bail-inable liabilities would have received in satisfaction of their claims if normal insolvency proceedings had been carried out against the entity referred to in Article 3 of this Decision.

II SETTING THE CONVERSION RATE

Conditions for setting the conversion rate

Article 6

(1) The Croatian National Bank shall apply the same or different rate of conversion of relevant capital instruments, eligible liabilities and bail-inable liabilities, depending on which of them can best achieve:

- 1) the objectives of resolution referred to in Article 6 of the Act;
- 2) the general principles governing resolution referred to in Article 7 of the Act;
- 3) the sequence of write-down and conversion; and
- 4) the right to property.

(2) When applying the principles referred to in paragraph (1) of this Article, the Croatian National Bank shall take into account the following:

- 1) the general principle governing resolution referred to in Article 7, paragraph (1), item (7) of the Act shall have seniority over other principles;
- 2) the right to property shall have seniority over other principles, with the exception of the general principle governing resolution referred to in Article 7, paragraph (1), item (7) of the Act;
- 3) the general principles governing resolution referred to in Article 7, paragraph (1), items (1), (2) and (6) shall have seniority over other principles, with the exception of the general principle governing resolution referred to in Article 7, paragraph (1), item (7) of the Act and the right to property.

(3) The general principle governing resolution referred to in Article 7, paragraph (1), item (7) of the Act shall be deemed achieved if the Croatian National Bank sets the conversion rate in such a way that for each holder of relevant capital instruments, eligible liabilities and bail-inable liabilities, the estimated value of their instruments of ownership following the exercise of the powers referred to in Article 1, paragraph (1) of this Decision equals or exceeds the estimated amount that the entity referred to in Article 3 of this Decision would have received in satisfaction of its claims in normal insolvency proceedings, had it not been subject to the exercise of these powers.

Different conversion rates

Article 7

(1) The Croatian National Bank shall set different conversion rates for different categories of relevant capital instruments, eligible liabilities and bail-inable liabilities if the estimated value of the instruments of ownership following the exercise of the powers referred to in Article 1, paragraph (1) of this Decision is lower than the estimated amount that the entity referred to in Article 3 of this Decision would have received in satisfaction of its claims in normal insolvency proceedings, had it not been subject to the exercise of these powers.

(2) The Croatian National Bank may set different conversion rates for different categories of relevant capital instruments, eligible liabilities and bail-inable liabilities if the estimated value of the instruments of ownership following the exercise of the powers referred to in Article 1, paragraph (1) of this Decision exceeds the estimated amount that the entity referred to in Article 3 of this Decision would have received in satisfaction of its claims in normal insolvency proceedings, had it not been subject to the exercise of these powers.

(3) Where it applies different conversion rates, the Croatian National Bank shall determine the categories of relevant capital instruments and liabilities in accordance with the rules on the classification of claims according to the order of priority in normal insolvency proceedings.

(4) In the case referred to in paragraph (3) of this Article, the Croatian National Bank shall take care not to set conversion rates that would disproportionately favour certain categories of holders of relevant capital instruments, eligible liabilities and bail-inable liabilities in such a way that the estimated value of instruments of ownership following the exercise of the powers referred to in Article 1, paragraph (1) of this Decision is significantly higher than the estimated amount that the holders of relevant capital instruments, eligible liabilities and bail-inable liabilities would have received in satisfaction of their claims, had the entity referred to in Article 3 of this Decision been subject to normal insolvency proceedings.

III TREATMENT OF SHAREHOLDERS

Article 8

(1) If based on the information referred to in Article 50, paragraph (3) of the Act, contained in the valuation, the assets of the entity referred to in Article 3 of this Decision are equal to or less than the liabilities and if it follows from the information referred to in Article 50, paragraph (9) of the Act that shareholders would not receive satisfaction in normal insolvency proceedings, the Croatian National Bank shall conduct a full simplified share capital reduction, i.e. share capital reduction by cancelling the shares or transfer the existing instruments of ownership to holders of relevant capital instruments, eligible liabilities and bail-inable liabilities converted by exercising the powers referred to in Article 1, paragraph (1) of this Decision.

(2) If based on the information referred to in Article 50, paragraph (3) of the Act, contained in the valuation, the assets of the entity referred to in Article 3 of this Decision are greater than liabilities and if it follows from the information referred to in Article 50, paragraph (9) of the Act that shareholders would not receive satisfaction in normal insolvency proceedings, the Croatian National Bank may conduct a full or a partial simplified share capital reduction, i.e. share capital reduction by cancelling the shares or transfer the existing instruments of ownership to holders of relevant capital instruments, eligible liabilities and bail-inable liabilities converted by exercising the powers referred to in Article 1, paragraph (1) of this Decision.

(3) If based on the information referred to in Article 50, paragraph (3) of the Act, contained in the valuation, the assets of the entity referred to in Article 3 of this Decision are greater than liabilities and if it follows from the information referred to in Article 50, paragraph (9) of the of the Act that shareholders would receive satisfaction in normal insolvency proceedings, the Croatian National Bank shall conduct a partial simplified share capital reduction, i.e. share capital reduction by cancelling the shares or transfer the existing instruments of ownership to holders of relevant capital instruments, eligible liabilities and bail-inable liabilities converted by exercising the powers referred to in Article 1, paragraph (1) of this Decision.

(4) In the case of a partial simplified share capital reduction, i.e. partial share capital reduction by cancelling the shares or a partial transfer of the existing instruments of ownership, the Croatian National Bank shall also carry out a dilution of shareholder structure.

(5) In the case referred to in paragraphs (2) and (3) of this Article, the Croatian National Bank may also carry out a dilution of shareholder structure without carrying out a simplified share capital reduction or share capital reduction by cancelling the shares or without transferring the existing instruments of ownership to holders of relevant capital instruments, eligible liabilities and bail-inable liabilities converted by exercising the powers referred to in Article 1, paragraph (1) of this Decision.

IV SEQUENCE OF WRITE-DOWN AND CONVERSION

Article 9

(1) When exercising the powers referred to in Article 1, paragraph (1) of this Decision, the Croatian National Bank shall ensure:

1) an equal treatment of relevant capital instruments belonging to the same category in the sequence of write-down and conversion which, in the case of normal insolvency proceedings belong to the same order of priority regardless of their other characteristics, unless otherwise provided for by the Act; and

2) an equal treatment of relevant capital instruments irrespective of the amount by which they meet the conditions for own funds items.

(2) For the purposes of paragraph (1), item (1) of this Article, the Croatian National Bank shall treat additional tier 1 instruments and instruments grandfathered in accordance with Part Ten, Title I, Chapter 2 of Regulation (EU) No 575/2013 in an equal manner.

(3) For the purposes of paragraph (1), item (2) of this Article, the Croatian National Bank shall treat tier 2 instruments that meet the conditions for own funds items in a full amount and tier 2 instruments that are subject to amortisation referred to in Article 64 of Regulation (EU) No 575/2013 in an equal manner.

V FINAL PROVISIONS

Article 10

(1) On the date of entry into force of this Decision, the Decision on actions in exercising the power to write down and convert capital instruments (OG 23/2018) shall cease to have effect.

This Decision shall enter into force on the eighth day following its publication in the Official Gazette.

Dec. No.: 214-091/08-21/BV
Zagreb, 24 August 2021

Boris Vujčić
Governor