

# ACT ON THE FINANCIAL STABILITY COUNCIL

## I GENERAL PROVISIONS

### *Subject matter of the Act*

#### Article 1

This Act regulates the issues in the area of financial stability, the design and implementation of macroprudential policy and its objectives, the establishment, working methods and competence of the Financial Stability Council and other issues relevant for the design and implementation of macroprudential policy.

### *Definitions*

#### Article 2

For the purposes of this Act, the following definitions shall apply:

- 1) "financial stability" means a situation that is characterised by the smooth and efficient functioning of the entire financial system in the financial resource allocation process, in risk assessment and management, payments execution, as well as by the resilience of the financial system to sudden shocks;
- 2) "financial system" means all financial institutions, markets, services and market infrastructures;
- 3) "systemic risk" means a risk of disruption in the financial system with the potential to have serious negative consequences for the financial system and the real economy;
- 4) "financial institution" means a credit institution or a legal person with a registered office in the Republic of Croatia which is authorised and/or supervised by the Croatian National Bank, a legal person authorised and/or supervised by the Croatian Financial Services Supervisory Agency, and in particular a credit institution, an investment firm, a pension insurance company, an investment fund, a pension fund, a company for management of open-ended investment funds with a public offering, an alternative investment fund management company, a mandatory pension fund management company, a voluntary pension fund management company, an insurance undertaking, a reinsurance undertaking, a financial conglomerate, a payment institution, an electronic money institution, a leasing company, a legal person engaged in factoring business, as well as other unregulated legal persons engaged in comparable activities;
- 5) "systemically important financial institution" means a financial institution which is, by virtue of its size, position and importance, critical for financial stability in the Republic of Croatia, and which is identified as such by the competent authority;
- 6) "macroprudential policy" means a policy that comprises measures, instruments and activities necessary to safeguard the stability of the financial system as a whole, including by strengthening the resilience of the financial system and preventing and mitigating systemic risks;

7) "competent authorities" means the Croatian National Bank and the Croatian Financial Services Supervisory Agency;

8) "crisis situation" means a situation where disruptions arise in one or more segments of the financial system that may threaten overall financial stability, e.g. illiquidity or insolvency of financial entities, serious disruptions in payment and settlement systems, disruptions stemming from external financial markets or other disruptions that may lead to difficulties in the functioning of the financial system.

## **II MACROPRUDENTIAL POLICY OBJECTIVE AND POLICY MAKER**

### *Macprudential policy objectives*

#### **Article 3**

(1) The ultimate objective of the macroprudential policy of the Republic of Croatia shall be to contribute to the safeguard of the stability of the financial system of the Republic of Croatia as a whole, including by strengthening the resilience of the financial system and preventing and mitigating systemic risks, thereby insuring a sustainable contribution of the financial system to economic growth.

(2) The ultimate objective of macroprudential policy shall be pursued in particular through the following intermediate policy objectives:

- 1) to mitigate and prevent excessive credit growth and leverage;
- 2) to mitigate and prevent excessive maturity mismatch and market illiquidity;
- 3) to limit direct and indirect exposure concentrations;
- 4) to limit the systemic impact of misaligned incentives with a view to reducing moral hazard;
- 5) to strengthen the resilience of financial infrastructures; and
- 6) other objectives established in European Systemic Risk Board (hereinafter: "ESRB") recommendations as intermediate objectives for the purpose of achieving the ultimate objective of macroprudential policy.

### *Establishment of the Financial Stability Council*

#### **Article 4**

(1) This Act establishes the Financial Stability Council (hereinafter: "Council") as the inter-institutional body that designs the macroprudential policy of the Republic of Croatia.

(2) The macroprudential policy of the Republic of Croatia shall be implemented by the competent authorities in accordance with this Act and special regulations governing their competence and mandate.

## **III TASKS AND POWERS OF THE COUNCIL**

### *Tasks of the Council*

#### **Article 5**

The tasks of the Council shall be:

- 1) to design the macroprudential policy of the Republic of Croatia;
- 2) to identify, assess and address systemic risks;
- 3) to ensure cooperation and exchange of information between the competent authorities for the purpose of implementing this Act, in particular in crisis situations;
- 4) to take actions related to the fulfilment of the requirements specified in ESRB warnings and recommendations and to prepare adequate explanations in case such requirements are not fulfilled;
- 5) to align the methodology for identifying systemically important financial institutions or structures;
- 6) to issue warnings and recommendations related to systemic risks and financial stability;
- 7) to participate in the design and implementation of actions related to the recovery and resolution of credit institutions and non-banking financial institutions;
- 8) to participate in the design of deposit insurance schemes;
- 9) to participate in the design of investor protection schemes; and
- 10) other tasks established under this Act.

### ***Macroprudential policy measures and instruments***

#### **Article 6**

For the purpose of achieving the ultimate and intermediate objectives of macroprudential policy, the Council may issue recommendations to the competent authorities on the implementation of adequate measures and instruments, taking account of their effectiveness and appropriateness for achieving these objectives.

### ***Council warnings and recommendations***

#### **Article 7**

(1) The Council may issue warnings and recommendations to the competent authorities, other government administration bodies and legal persons with public authorities in the Republic of Croatia when it deems it necessary to prevent or mitigate systemic risks and when it implements ESRB warnings or recommendations.

(2) In its warnings the Council shall draw attention to systemic risks that may threaten financial stability in the Republic of Croatia.

(3) In its recommendations the Council shall indicate the need to introduce new or amend existing measures and instruments to be taken with the objective of safeguarding financial stability in the Republic of Croatia.

(4) The bodies and legal persons referred to in paragraph (1) of this Article shall be obligated to act in accordance with a Council recommendation.

(5) The bodies and legal persons referred to in paragraph (1) of this Article to which the Council issued a recommendation shall be obligated to report regularly to the Council on the actions taken regarding the implementation of the recommendation.

(6) Where the bodies and legal persons referred to in paragraph (1) of this Article deem that it is not possible or necessary to implement a recommendation, they shall explain their views to the Council in writing. The Council may disclose such explanations to the public.

***Powers of the competent authorities to adopt subordinate legislation for the implementation of Council recommendations***

**Article 8**

For the purpose of implementing Council recommendations the competent authorities may adopt subordinate legislation within their competence and mandate.

**IV COMPOSITION AND WORKING METHODS OF THE COUNCIL**

***Composition of the Council***

**Article 9**

(1) The Council shall consist of the following ten members: four representatives of the Croatian National Bank, two representatives of the Croatian Financial Services Supervisory Agency, two representatives of the Ministry of Finance of the Republic of Croatia and two representatives of the State Agency for Deposit Insurance and Bank Rehabilitation.

(2) Representatives of the Croatian National Bank shall be the Governor by virtue of his position and three representatives of the Croatian National Bank appointed by a decision of the Council of the Croatian National Bank.

(3) Representatives of the Croatian Financial Services Supervisory Agency shall be the President of the Board by virtue of his position and one representative of the Croatian Financial Services Supervisory Agency appointed by the Board of the Croatian Financial Services Supervisory Agency.

(4) Representatives of the Ministry of Finance of the Republic of Croatia shall be the Minister of Finance or a person designated by the Minister and another representative appointed by the Minister.

(5) Representatives of the State Agency for Deposit Insurance and Bank Rehabilitation shall be the Director of the Agency or a person designated by the Director and another representative appointed by the Director.

(6) Members of the Council shall possess professional qualifications, abilities and experience necessary to participate efficiently in the pursuit of Council tasks.

(7) Members of the Council shall be appointed for a term of office of one year in accordance with the provisions of this Act.

(8) By way of derogation from the provision of the previous paragraph of this Article, the term of office of the persons who are members of the Council by virtue of their positions shall expire on the date of termination of the office to which they have been appointed.

***Working methods of the Council***  
**Article 10**

(1) The Council shall be chaired and its work shall be managed by the Governor of the Croatian National Bank in his capacity as chairperson of the Council, and in his absence, a member of the Council from the ranks of Croatian National Bank representatives appointed by a decision of the Governor of the Croatian National Bank.

(2) A Council meeting may be held if at least five members with a voting right are present.

(3) Eight Council members shall have a voting right at Council meetings; each representative of the Croatian National Bank and the Croatian Financial Services Supervisory Agency shall have one vote. The Ministry of Finance and the State Agency for Deposit Insurance and Bank Rehabilitation shall have one vote each. If only one representative of the Ministry of Finance or the State Agency for Deposit Insurance and Bank Rehabilitation is present at a Council meeting, that representative shall have the voting right pertaining to the body he/she represents.

(4) The decisions at Council meetings shall be adopted by the majority of the votes of present Council members with a voting right. When voting, each Council member with a voting right shall vote in favour of or against a proposed decision.

(5) Council decisions, communications, warnings and recommendations shall be made in writing.

(6) In the event of a tie, the Governor of the Croatian National Bank or the member chairing that Council meeting shall have the casting vote.

(7) Meetings of the Council shall be held at least twice a year, and more often if necessary, and shall as a rule be convened at the invitation of the Council chairperson or at the initiative of other Council members subject to approval of the Council chairperson.

(8) The minutes of meetings shall be drafted after each Council meeting. The minutes of Council meetings shall be confidential.

(9) The material based on which the Council 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 Council only under the conditions laid down in Article 12, paragraph (2) of this Act.

(10) Following a Council meeting or when necessary, the Council may issue a press release which shall be published on the Council website.

(11) Documentation and all data and analyses necessary for the work of the Council shall be prepared by the competent authorities.

(12) The Council may, when necessary, engage outside experts to perform certain activities within the competence of the Council.

(13) If necessary, on proposal of Council members, experts in the areas discussed at a meeting and expert representatives of the competent authorities may be invited to Council meetings.

(14) The Council may adopt its rules of procedure.

(15) Meetings of the Council shall not be open to the public and shall be held on the premises of the Croatian National Bank.

(16) Secretarial assistance and technical support to the Council shall be provided by the Croatian National Bank.

(17) The operating costs of the Council shall be borne by the Croatian National Bank.

## **V OTHER PROVISIONS**

### *Delivery of notifications, data and documents*

#### **Article 11**

(1) The competent authorities shall deliver, upon request of the Council, notifications, data and documents necessary for carrying out the tasks laid down in this Act, including data on individual financial institutions.

(2) The Council shall also be empowered to request notifications, data and documents it deems necessary for carrying out its tasks from bodies governed by public law in the Republic of Croatia, as well as from other legal persons.

(3) Bodies governed by public law in the Republic of Croatia and legal persons referred to in paragraph (2) of this Article shall deliver the requested data to the Council within the time limit specified in the request.

(4) The Council may forward received notifications, data and documents to the competent authorities if such notifications, data and documents are relevant for their work on the safeguarding of financial stability.

### *Confidentiality*

#### **Article 12**

(1) All notifications, data and documents received in accordance with the provisions of this Act and notifications, data and documents received from the ESRB or other competent authorities responsible for financial stability in EU member states shall be kept confidential by members of the Council and all persons participating in its work, and may not be disclosed to third parties.

(2) By way of derogation from paragraph (1) of this Article, received notifications, data and documents may be delivered to the authorities responsible for criminal proceedings or the general public if such notifications, data and documents have been publicly disclosed and made available to the public.

***International cooperation***  
**Article 13**

- (1) The Council shall be empowered to cooperate and exchange data with other authorities responsible for financial stability, in particular the ESRB and the European Central Bank.
- (2) The Council may be a member or participate in the work of international institutions and organisations competent for macroprudential policy and financial stability and other areas within its competence.

***Transparency of Council work***  
**Article 14**

- (1) The Council shall notify the public of the adopted decisions related to the implementation of macroprudential policy in a timely manner, unless there are risks to financial stability in doing so. When the Council decides to issue a warning or a recommendation, it shall first notify the competent authority and persons to which the warning or the recommendation is addressed.
- (2) The Council shall publish a report on its work once a year.
- (3) The Council shall deliver a report on its work to the Croatian Parliament by means of the Committee on Finance and Budget of the Croatian Parliament.
- (4) When necessary, the Council shall notify European Union bodies and the ESRB in line with regulations and requirements of the European Union.

***Legal protection***  
**Article 15**

Members of the Council shall not be liable for any damage that may arise in the course of carrying out their tasks under this Act, unless the damage has been caused intentionally or by gross negligence.

***Independence of the competent authorities***  
**Article 16**

The provisions of this Act shall be without prejudice to independence of the Croatian National Bank in the sense of Article 130 of the Treaty on the Functioning of the European Union, Article 7 of the Statute of the European System of Central Banks and the European Central Bank and Article 71 of the Act on the Croatian National Bank or independence of the Croatian Financial Services Supervisory Agency in the sense of Article 5, paragraph (5) of the Act on the Croatian Financial Services Supervisory Agency.

***Independence of the Council***

## **Article 17**

When pursuing macroprudential policy objectives and carrying out the tasks established under this Act, the Council shall be autonomous and independent, in particular from political bodies and from financial institutions.

## **VI VIOLATION PROVISIONS**

### ***Violation*** **Article 18**

(1) A legal person commits a violation if it fails to deliver or fails to deliver within the specified time limit requested notifications, data or documents to the Council contrary to the provision of Article 11, paragraph (3) of this Act.

(2) A legal person shall be fined between 10,000.00 and HRK do 50,000.00 for the violation referred to in paragraph (1) of this Article.

(3) A responsible person of the legal person referred to in paragraph (1) of this Article shall be fined between HRK 1,000.00 and HRK 5,000.00.

## **VII TRANSITIONAL AND FINAL PROVISIONS**

### ***Time limit to appoint representatives in the Council*** **Article 19**

The Croatian National Bank, the Croatian Financial Services Supervisory Agency, the Ministry of Finance and the State Agency for Deposit Insurance and Bank Rehabilitation shall appoint their representatives in the Council within 30 days from the date of entry into force of this Act in accordance with the provision of Article 9 of this Act.

### ***Entry into force of this Act*** **Article 20**

This Act shall be published in the Official Gazette and shall enter into force on 1 January 2014.