

**LAW ON FOREIGN CURRENT AND CAPITAL OPERATIONS**  
**(OGRM 045/05 of 28 July 2005, OGM 062/08 of 15 October 2010, 040/11 of 8 August 2011, 062/13 of 31 December 2013, 070/17 of 27 October 2017)**

**I BASIC PROVISIONS**

**Subject of the Law**

**Article 1**

This Law regulates the execution of payment system operations between residents and non-residents in euro and the currency other than euro, as well as the manner for transfer of property to Montenegro and out of Montenegro, and the capacity of residents to have ownership over means of payment denominated in the currency other than euro.

**General Principle of Freedom of Business Operations in the Foreign Currency Regime of Montenegro**

**Article 2**

The current and capital operations, including transfers of property from and to Montenegro, shall be performed freely, unless otherwise prescribed by law.

Residents and non-residents are free to have ownership and disposition over means of payment denominated in currency other than euro, and to perform business and payment operations in currency other than euro, in accordance with law.

State authorities' measures shall not be undertaken for discriminatory restrictions of free capital movement and turnover referred to in paragraphs 1 and 2 above.

**Definitions**

**Article 3**

Within the meaning of this Law certain expressions have the following meanings:

1) Residents are:

- Business organisations and other legal persons (hereinafter: legal persons) registered in Montenegro, with the exception of their representative branches outside of Montenegro;
- Foreign company branches registered with the registry of the competent authority within Montenegro;
- Entrepreneurs – natural persons registered in or with residence in Montenegro, conducting an economic activity for its own account for the purpose of gaining profit, and also registered with the competent authority in Montenegro
- Natural persons – citizens of Montenegro residing in Montenegro continuously for a year or longer;
- Natural persons – foreign citizens, who based on the residence permit or work visa, reside in Montenegro continuously for a year or longer;

- Diplomatic, consular and other representative offices of Montenegro in foreign countries, employees in these representative offices, and the members of their families who are not citizens of foreign countries.
- 2) Non-residents are the persons not defined as residents;
- 3) Foreign payment system operations means an execution of international payment transactions and cross-border payment transactions in accordance with the law governing the payment system and the execution of payment transactions between residents and non-residents in Montenegro;
- 4) Provider of foreign payment system services shall be a bank and another payment services provider that may pursue foreign payment system operations of in accordance with the law governing the payment system;
- 5) Means of payment are cash and payment instruments;
- 6) Cash are banknotes and coins;
- 6a) Payment instruments are personalised means and/or set of procedures contracted between the payment services user and the payment services provider used by the payment services users to initiate a payment order;
- 7) Securities shall be documents giving rights to their owners in respect of the issuer in accordance with a law governing the securities;
- 8) Domestic securities are securities issued by a resident according to the law regulating securities;
- 9) Foreign securities are securities issued by non-residents;
- 10) Exchange operations are purchase and sale operations in means of payment denominated in various currencies performed;
- 11) Capital transactions are transfers of capital between residents and non-residents and one-side transfers of property for the purpose of transfer of capital other than current transfers. Capital operations shall be:
  - direct investments including all investments of residents abroad and non-residents within the country, which the investor makes for the purpose of establishing permanent economic relations and making significant impact on legal entity management;
  - investments in real-estate including investments of non-residents in real estate within the country and residents' investments in real estate abroad;
  - operations in securities normally dealt in on the stock exchange, including transactions in securities on a stock exchange, as well as their admission. Securities transactions on a stock exchange comprise obtaining domestic and/or foreign securities on the stock exchange by non-residents and residents. Admission of securities on a stock exchange comprises admission of domestic securities on a foreign stock exchange, as well as trading in foreign securities on domestic stock exchange;
  - operations in money market instruments. Transactions in securities on money market include acquisition of securities and instruments from domestic money market by non-residents, as well as acquisition of securities and instruments from foreign money market by residents. Admission of securities and other instruments on the money market includes admission of domestic securities on foreign money market, as well as admission of foreign securities and instruments on domestic money market;
  - operations in units of collective investment undertakings;
  - operations in current and deposit accounts with financial institutions which include operations carried out by non-residents with domestic financial institutions, as well as operations carried out by residents with foreign financial institutions;
  - credits related to commercial transactions or to the provision of services in which a resident is participating including short-term (less than one year) and long-term (over one

year), as well as credits granted by non-residents to residents and credits granted by residents to non-residents;

-financial loans and credits which include short-term and long-term loans and credits, loans and credits granted by non-residents to residents, as well as loans and credits granted by residents to non-residents;

-sureties, other guarantees and rights of pledge granted by non-residents to residents and those granted by residents to non-residents;

-transfers in performance of the insurance contracts include premiums and all payments in respect of life and credit insurance, as well as other transfers of capital in respect of insurance contracts;

-personal capital movements from and to Montenegro which include gifts, donations, inheritance, rent, settlement of debts to immigrants in their country of origin and transfer of immigrant's funds abroad;

-physical import and export of financial assets which include securities and other means of payment from and to Montenegro;

-other capital movements, which include indemnifications, death duties, refunds, copyrights (patents, designs, trademarks and inventions), transfers of funds for services rendered;

12) Current operations are transactions concluded between residents and non-residents, the purpose of which is not to transfer capital.

## **II FOREIGN PAYMENT OPERATIONS**

### **Foreign Payment Operations**

#### **Article 4**

Foreign payment system operations shall be performed in accordance with the law governing the payment system by respecting the regime referred to in Article 2 herein.

### **Deadlines for Execution of Orders in Foreign Payment Operations**

#### **Article 5**

*Rescinded, (Payment System Law, OGM 62/13)*

### **Balance of Payments Statistics**

#### **Article 6**

The Central Bank shall collect data on foreign current and capital operations between residents and non-residents, and based on such data it shall prepare the balance of payments statistics.

The Central Bank shall submit the statistical data referred to in paragraph 1 above to the state administration authority for the purpose of developing macro-economic projections, as well as to the European Union bodies and institutions, international financial institutions and other competent authorities in accordance with the law and the concluded agreements.

## **Obligations of Providers of Foreign Payment System Services, their Clients and Residents**

### **Article 6a**

A customer of a bank or other foreign payment system services provider shall state the purpose of payment for every payment in foreign payment operations exceeding the amount determined by the Central Bank.

A bank or other foreign payment system services provider shall submit to the Central Bank the statistical data on every payment and collection in foreign payment system in the manner and within a deadline as stipulated by the Central Bank.

A resident – legal person shall keep separate records on foreign current and capital operations and provide data from the records upon the request of the Central Bank.

The Central Bank shall stipulate the content of the separate records referred to in paragraph 3 above and the manner and deadlines for submission of data from such records.

A resident-legal person shall be responsible for the accuracy of data referred to in paragraph 3 above.

## **Supervising Authority**

### **Article 7**

The Central Bank shall supervise the foreign payment system operations carried out by banks and other providers of foreign payment system services in accordance with the law.

## **III EXCHANGE OPERATIONS**

### **Exchange Operations**

#### **Article 8**

Exchange operations may be performed by legal persons and entrepreneurs, which have contract with a bank, and are registered for performing exchange operations.

The Central Bank shall prescribe in detail terms and manner of performing exchange operations.

### **Publication of Exchange Rate List**

#### **Article 9**

The Central Bank shall accept from the European Central Bank and publish the exchange rate parity of Euro versus other convertible currencies (exchange rate list) each working day.

## **IV PHYSICAL IMPORT AND EXPORT OF FINANCIAL ASSETS**

### **Reporting on Physical Import and Export of Financial Assets**

#### **Article 10**

For the purpose of compiling the balance of payments statistics of Montenegro, and control against money laundering and terrorism financing, resident and non-resident shall declare physical import and export of means of payment at the point of entry or departure to or from Montenegro.

The declaration referred to in paragraph 1 above shall be submitted to administration body responsible for the customs affairs at a border crossing point.

The administration body referred to in paragraph 2 above shall perform control over the physical import and export of means of payment.

The Central Bank shall prescribe the amount of cash which residents or non-residents may import into Montenegro or export from Montenegro without declaring it to the body referred to in paragraph 2 above.

The administration body responsible for the customs affairs shall keep records on performed controls.

The Ministry of Finance shall determine in more detail contents of the records referred to in paragraph 5 above.

## **V PROTECTIVE MEASURES**

### **Short-term Protective Measures**

#### **Article 11**

The Central Bank may introduce protective measures, if capital movements seriously jeopardise or threaten to jeopardise monetary policy or financial situation of Montenegro.

The protective measures referred to in paragraph 1 above shall be:

- 1) Restrict payments in respect of current and capital operations;
- 2) Deleted. (Law amending the Law on Foreign Current and Capital Operations, OGM 62/08);
- 3) Prohibit taking and granting loans, sureties or guarantees;
- 4) Restrict taking means of payment in and out of the country;
- 5) Restrict payments and collections via payment cards, travellers' and bank cheques and securities;
- 6) Restrict purchase and sale of particular foreign currency banknotes.

The Central Bank shall notify the Government on the introduction of the protective measures referred to in paragraph 2 above.

The protective measures referred to in paragraph 2 above shall be applied for maximum of six months as of the day of being introduced.

If the protective measures referred to in paragraph 2 above failed to accomplish the objective of their introduction, the Central Bank may extend the protective measures for a maximum of six months.

In the case referred to in paragraph 5 above, the protective measures shall be extended with the opinion of the Government.

#### **Article 12**

*Deleted. (Law amending the Law on Foreign Current and Capital Operations, OGM 62/08)*

## **VI PENALTY PROVISIONS**

#### **Article 13**

A fine ranging from 2,500 euro to 20,000 euro shall be imposed against a bank or other provider of foreign payment system services for an offence if fails to submit to the Central Bank statistical data on every payment and collection in the foreign payment operations in accordance with Article 6a paragraph 2 herein.

For the offence specified in paragraph 1 above, a responsible person in bank or other provider of foreign payment system services shall also be imposed a fine ranging from 550 euro to 2,000 euro.

#### **Article 14**

A fine ranging from 2,500 euro to 10,000 euro shall be imposed against a legal person – resident if fails to keep separate records on foreign current and capital operations or upon a request of the Central Bank it fails to provide data or provides incorrect data referred to in Article 6a paragraphs 3, 4 and 5 herein.

For the offence specified in paragraph 1 above, a responsible person in the legal person shall also be imposed a fine ranging from 550 euro to 2,000 euro.

#### **Article 15**

A fine ranging from 2,500 euro to 16,500 euro shall be imposed against a legal person for an offence if fails to declare physical import or export of means of payment at the place of entry into Montenegro and/or exit from Montenegro in accordance with Article 10 paragraph 1 herein.

For the offence specified in paragraph 1 above, a responsible person in the legal person shall also be imposed a fine ranging from 550 euro to 2,000 euro.

For the offence specified in paragraph 1 above, a natural person shall also be imposed a fine ranging from 550 euro to 2,000 euro.

For the offence specified in paragraph 1 above, an entrepreneur shall also be imposed a fine ranging from 550 euro to 2,000 euro.

## **VII TRANSITIONAL AND FINAL PROVISIONS**

### **Deadline for Adoption of Secondary Regulations**

#### **Article 16**

Detailed regulations for the implementation of this Law shall be adopted no later than 90 days following that of its entry into force.

#### **Article 16a**

The provisions of Article 11 paragraph 6 herein shall apply from the day of Montenegro's accession to the European Union.

### **Entry into Force of this Law**

#### **Article 17**

This Law shall enter into force on the eighth day following that of its publication in the Official Gazette of Montenegro.

#### **Note:**

Article 131 and Article 163 of the Law amending the Law Prescribing Monetary Fines for Misdemeanour Offense (OGM 40/11) explicitly prescribe the amount of fines in the Law on Foreign Current and Capital Operations (OGRM 45/05, OGM 62/08).

The unofficially consolidated text does not include the abovementioned provisions.