

**LAW ON VOLUNTARY FINANCIAL RESTRUCTURING OF DEBTS TOWARDS
FINANCIAL INSTITUTIONS**

(OGM 020/15 of 24 April 2015, 037/17 of 14 June 2017, 043/18 of 3 July 2018)

I BASIC PROVISIONS

Subject matter

Article 1

This Law shall govern the conditions and manner of voluntary financial restructuring of debts of legal persons, entrepreneurs, and natural persons as mortgage loan beneficiaries towards financial institutions and other creditors (hereinafter: financial restructuring).

Financial restructuring

Article 2

Financial restructuring, within the meaning of this Law, shall be the re-arrangement of debtor-creditor relations between the debtors and/or mortgage loan beneficiaries eligible for financial restructuring and financial institutions and other creditors.

Objective of financial restructuring

Article 3

The objectives of financial restructuring shall be:

- 1) stimulating the recovery of financially distressed debtors and/or mortgage loan beneficiaries via debt restructuring;
- 2) preservation of financial system stability;
- 3) enabling access to new financing with a view to stimulating economic recovery and growth.

Application of other laws

Article 4

The rights and obligations of creditors and debtors and/or mortgage loan beneficiaries shall be subject to provisions of laws governing contracts and torts, unless otherwise specified herein.

The relation of creditors and debtors with a mediator and the mediation procedure shall be subject to the provisions of the law governing mediation, unless otherwise specified herein.

The bankruptcy proceedings initiated against the debtor shall be subject to the provisions of the law governing bankruptcy proceedings, unless otherwise specified herein.

Gender equality

Article 5

Terms and definitions provided herein used for natural persons in masculine gender shall include a reference to the feminine gender.

Negative scope

Article 6

The provisions of this Law shall not apply to debtor-creditor relations in which the debtor is: a bank, an insurance company, an investment fund, an investment and voluntary pension fund

management company, a licensed participant in the securities market, a company dealing with financial leasing or any other company which is, in accordance with the law, primarily engaged in providing financial services.

Principle of free consent

Article 7

Financial restructuring shall be carried out voluntarily, on the basis of the consent of creditors and debtors and/or mortgage loan beneficiary.

Principle of urgency

Article 8

Participants in the financial restructuring shall carry out their obligations under this Law without any delay.

Principle of good faith

Article 9

Financial restructuring shall be carried out in good faith, in accordance with the principle of good faith and fair dealing, with due care (due diligence) of participants in financial restructuring.

Definitions

Article 10

The terms used herein shall have the following meaning:

- 1) creditor means financial institution and other creditor with respect to the debtor which participate in the financial restructuring;
- 2) financial institution means a bank and a micro-credit financial institution licensed by the Central Bank of Montenegro (hereinafter: the Central Bank), and a company having its registered office in Montenegro and engaged in financial leasing;
- 3) debtor means a company or an entrepreneur eligible for financial restructuring;
- 4) mortgage loan beneficiary means a natural person who has taken a loan from a bank secured by a mortgage or fiduciary transfer of ownership rights on immovable property and who is eligible for financial restructuring.

II FINANCIAL RESTRUCTURING OF THE DEBTOR

1. Conditions for financial restructuring

Consent to participate in financial restructuring

Article 11

Financial restructuring may be conducted only when the debtor and at least one financial institution in the capacity of the creditor agree to participate in the financial restructuring.

In addition to financial institutions, all other domestic and foreign creditors of the debtor may participate in the financial restructuring, including foreign banks.

The consent to participate in the financial restructuring shall be subject to a written agreement to be signed by both the debtor and the creditor.

The debtor and the creditor shall submit to the Central Bank the agreement under paragraph 3 above immediately after its signing.

Debtor's eligibility

Article 12

A debtor shall be eligible for financial restructuring under this Law if the debtor is financially distressed and if the debtor's business activity is viable.

Financial distress, within the meaning of paragraph 1 above, shall mean the inability to settle debts that are due for payment or certainty that debts maturing in the future will not be paid if the financial restructuring shall not be executed.

Debtor's business activity, within the meaning of paragraph 1 above, shall be considered viable if data on the balance of assets, capital and liabilities as well as performance indicators of the debtor indicate the possibility for recovery of the going concern of the debtor or that a financial restructuring will restore the debtor to profitability and enable the debtor to sustainably repay its debt in the ordinary course of operations.

A debtor shall be considered eligible for financial restructuring, within the meaning of paragraphs 1 to 3 above, if:

- 1) bankruptcy proceedings against the debtor has not been instigated in accordance with the law governing bankruptcy proceedings;
- 2) cash flows in the previous three months and cash flow projection for the next 12 months based on internationally accepted accounting methodologies show that the debtor has a shortage of cash inflows arising from operating income by comparison with its obligations to service financial debts;
- 3) the financial restructuring plan referred to in Article 22 of this Law shows that the debtor will be able to meet in due time its financial liabilities specified under the loan agreement subject to financial restructuring or its financial liabilities revised in the restructuring process from its operating income and liquid assets provided from the sale of assets and/or in some other way.

In cases where the creditor is a bank, the financial restructuring may be carried out only to cover the debtor's loans which are, pursuant to the Central Bank's regulations, classified into the classification categories B, C and D as of the day of the conclusion of the agreement on consent to participate in the financial restructuring, excluding from these classification categories loans that were sold and bought back.

In cases where the creditor is a micro-credit financial institution or a financial leasing company, financial restructuring may be carried out only for the claims against debtors which are not in arrears for more than 365 days as of the day of the conclusion of the agreement on consent to participate in the financial restructuring.

Information access and data confidentiality

Article 13

The debtor shall provide the creditors and/or persons authorised by them with a timely and unimpeded access to data and documents of importance for the financial restructuring and which refer to the debtor's assets, capital, liabilities, business operations and business plans with the objective of a proper assessment of the debtor's financial situation and preparation of a proposal for the financial restructuring measures.

The debtor shall not be obliged to disclose specific details about the debtor's business secrets or other information that could compromise the debtor's business operations, except where these are necessary for assessing the debtor's financial situation.

The creditor and/or the mediator shall keep confidential all data and information in accordance with the law governing the protection of undisclosed data.

Cooperation and coordination

Article 14

Creditors that participate in the financial restructuring shall cooperate with each other and with the debtor in order to collect and provide data and information on its assets, capital, liabilities,

business operations and business plans of the debtor, as well as with the aim to prepare a proposal of restructuring measures.

The cooperation referred to in paragraph 1 above shall cover in particular:

- 1) valuation of security interests that the debtor has given as security of claims that are subject matter of financial restructuring;
- 2) designating one or more persons to negotiate with the debtor and coordinate actions of creditors during the negotiations;
- 3) other activities aimed at achieving cooperation among the creditors and the debtor.

The person conducting negotiations with the debtor or coordinating actions of creditors shall inform other creditors participating in the financial restructuring on the course and contents of the negotiations in accordance with the dynamics specified in the document of its appointment.

2. Debt standstill

Introducing Standstill of Debts and Legal Consequences

Article 15

Creditors and the debtor participating in the financial restructuring may introduce debt standstill in the course of a financial restructuring.

Debt standstill shall represent the grounds for the prohibition to initiate and/or forbearance:

- 1) to enforce the collection from the debtor's account with regard to the claims of the creditors that participate in the financial restructuring, and
- 2) to enforce on other assets subject to enforcement initiated at the proposal of the creditors that participate in the financial restructuring.

During the standstill period, the creditors that participate in the financial restructuring shall not take any actions aimed at the collection of their claims other than bringing actions with a view to collecting claims to prevent the occurrence of the statutory limitation of their claim.

During the standstill period, the debtor shall not take any action that may prevent or hinder the collection of claims of creditors that have signed the standstill agreement.

Forms of debt standstill

Article 16

Debt standstill shall be conducted:

- 1) as a temporary moratorium, and
- 2) via a standstill agreement.

Temporary moratorium

Article 17

Temporary moratorium, within the meaning of this Law, shall be a form of a debt standstill, which introduces a debt standstill automatically by concluding the agreement on the consent to participate in the financial restructuring, which contains a provision on consent of participants for a standstill of debts to be introduced and which lasts until the conclusion of a standstill agreement or until the moment of stating that the debtor and the creditors failed to conclude such an agreement.

For the purposes of forbearance to enforce the collection from the debtor's account and/or forbearance to enforce on the debtor's other assets subject to enforcement with regard to the claims of the creditors that have concluded the agreement on the consent to participate in the financial restructuring referred to in paragraph 1 of this Article, these creditors shall immediately and at the latest within two business days following the conclusion of the agreement on the consent to participate in the financial restructuring, deliver an enforcement forbearance request with reasons thereof to the competent court and other authorities responsible for the enforcement procedure upon the request of those creditors.

The court and/or other authority conducting the procedure referred to in paragraph 2 above shall decide on the proposal for enforcement forbearance immediately upon receipt of the request and at the latest within two business days of receipt of the request.

The court and/or other authority shall deliver the decision referred to in paragraph 3 above, without any delay and at the latest on the next business day following its issuance to the organisation responsible for the enforced collection or to another competent authority.

Standstill agreement

Article 18

During negotiations on financial restructuring, the debtor and creditors that have concluded the agreement on the consent to participate in the financial restructuring and other creditors that decide to participate in the financial restructuring may conclude a standstill agreement.

After the conclusion of a standstill agreement and for the purpose of forbearance to enforce the collection from the debtor's account and/or forbearance to enforce on the debtor's other assets subject to enforcement with regard to the claims of the creditors that have concluded the standstill agreement, these creditors shall immediately and at the latest within two business days following the standstill agreement date, deliver an enforcement forbearance request with the reasons for forbearance thereof to the court and other authorities responsible for the enforced collection procedure at the creditors' request.

The court and/or other authority conducting the procedure referred to in paragraph 2 above shall decide on the proposal for enforcement forbearance immediately upon receipt of the request and no later than within two business days of receipt of the request.

The court and/or other authority shall deliver the decision referred to in paragraph 3 above without any delay and at the latest on the next business day following its issuance to the organisation responsible for the enforced collection or to another competent authority.

A standstill agreement may stipulate restrictions on disposal of the creditor's claim.

In the event that the creditors and the debtor fail to agree on the financial restructuring during the standstill period, the expiry of the debt standstill shall result in the continuation of collection of claims from the debtor's account and the creditors shall have the right to initiate or continue the enforcement procedure, in accordance with law.

Form of the standstill agreement

Article 19

The standstill agreement shall be concluded in writing.

The standstill agreement shall be verified and entered into separate records by the Centre for Mediation.

Mandatory provisions of a standstill agreement

Article 20

A standstill agreement shall contain the following mandatory elements:

- 1) name and registered office and/or name, last name and residence of contracting parties;
- 2) the subject matter of financial restructuring, in particular: the basis and the amount of every individual claim with the balance as at the agreement conclusion date and their maturity date, and collective matured and outstanding claims of creditors participating in the debtor's financial restructuring;
- 3) the standstill period (commencement and expiry dates);
- 4) the prohibition of initiating and/or forbearance to enforce the collection and the prohibition of initiating and/or forbearance to enforce on other assets subject to enforcement against the debtor, as well as the obligation of the creditors participating in the financial restructuring to refrain from any form of court or out-of-court collection of their claims during the standstill

period, other than bringing actions with a view to collecting claims to prevent the occurrence of the statutory limitation of the claim;

- 5) obligation of the debtor to refrain from actions that could prevent or hinder the collection of claims of creditors participating in the financial restructuring (prohibition of establishing another body with the same activity, prohibition of transfer of assets to another person, and the like);
- 6) access of creditors participating in the financial restructuring to the debtor's data and documents of importance for the financial restructuring and which refer to the debtor's assets, capital, liabilities, business operations and business plans, to allow for a proper assessment of the debtor's financial situation and preparation of a proposal for the financial restructuring measures, as well as the confidentiality of data and information received in such a manner;
- 7) the legal status of claims of the creditors participating in the financial restructuring following the expiry of the debt standstill.

Optional provisions of a standstill agreement

Article 21

Optional provisions of a standstill agreement may be:

- 1) security interests, i.e. guarantees for the collection of claims;
- 2) safeguard measures for claims of creditors participating in the financial restructuring and other liabilities of the debtor, including limitations and monitoring payments, settling liabilities, borrowings, other transfers and transactions of the debtor, such as prior or subsequent consent (permit or authorisation) or the appointment of a person authorised to sign the documents which allow the debtor to make cash transactions during the standstill period, including the responsibilities of this person;
- 3) restricted disposal of the creditors' claims against the debtor;
- 4) measures to establish the viability of the debtor's business operations;
- 5) contractual penalty for the creditors and/or the debtor failing to adhere to the provisions of the agreement;
- 6) the manner of informing creditors by the debtor about important events, measures taken or other circumstances that could affect the financial restructuring;
- 7) manner of dispute settlement;
- 8) conditions for the agreement's entry into force;
- 9) terms and conditions and the manner of extending the agreement;
- 10) termination of agreement, and
- 11) other optional provisions.

3. Conducting financial restructuring

Financial restructuring plan

Article 22

With a view to implementing the financial restructuring, the debtor, independently or in cooperation with one or more creditors, shall draw up a financial restructuring plan, which shall be based on:

- 1) an assessment of the debtor's assets;
- 2) a discount interest rate used when discounting future income flows that should take into account the costs of borrowing of that debtor;
- 3) an assessment that, in the event of a temporary deferral of payment of interest or principal, the debtor will acquire an enhanced ability to fully repay the full amount of the debt after the expiry of the agreed period of temporary deferral.

The financial restructuring plan shall particularly contain:

- 1) a brief introduction on the activities performed by the debtor and the circumstances that led to its financial distress;

- 2) data regarding the debtor's assets, capital, liabilities, business operations and business plans with a view to correctly assessing its financial situation and preparing a proposal for financial restructuring measures;
- 3) proposal for measures that should lead to the recovery and viability of the debtor's business operations, with a projection of the balance sheet, income statement and cash flows for the appropriate period after the conclusion of the agreement on financial restructuring.

Financial restructuring agreement

Article 23

Financial restructuring shall be finalised by concluding a financial restructuring agreement, with the participation of a mediator.

The financial restructuring agreement shall be concluded in writing.

The Centre for Mediation shall certify financial restructuring agreement and enter it into separate records.

The Centre for Mediation shall deliver the agreement referred to in paragraph 1 above to the Central Bank at the latest within three business days following the agreement date.

The Central Bank shall deliver the agreement under paragraph 4 above and the agreement on consent to participate in the financial restructuring to the Financial Stability Council.

Financial restructuring measures

Article 24

The financial restructuring agreement may lay down the following financial restructuring measures:

- 1) amendments to the agreement on debtor and creditor relations that provide for the repayment in instalments, amendment of maturity periods, change of interest rates, principal reduction or other conditions associated with the claim;
- 2) sale of the debtor's assets, with or without continuation of security interest' validity or transfer of such property in view of collection of claims;
- 3) purchase of the debtor's claims;
- 4) purchase and sale of debtor's debts to other creditors;
- 5) execution, modification or waiver of rights arising from security interests;
- 6) provision of additional security interests by the debtor or third parties, including guarantees and sureties;
- 7) conversion of debt to equity;
- 8) settlement;
- 8a) release from encumbrances resulting from mortgage, fiduciary right or pledge a part of collaterals given to secure claims creditors have against a debtor commensurate to the debt reduction;
- 9) entering into a new loan or credit agreement;
- 10) obtaining new financing or investment from the existing creditors or from other parties;
- 11) issuing of securities; and/or
- 12) other measures important for the implementation of the financial restructuring.

Security interests

Article 25

The financial restructuring shall not alter previously contracted mortgages and liens on the debtor's assets established as security interests for the creditors' claims nor the existing priorities among creditors with reference to using such security interests, except where the debtor and the creditors agree otherwise in the financial restructuring agreement.

Where a financial restructuring agreement results in modifications, supplements or amendments in the nature, scope or terms of the security interests, the debtor shall submit a request for the

registration of these changes to the competent authority responsible for managing the real estate cadastre and/or pledge registry, no later than within two business days following the date of the financial restructuring agreement's conclusion.

The competent authority responsible for managing the real estate cadastre and/or pledge registry shall change the data referred to in paragraph 2 above at the latest within eight business days following that of the receipt of the request referred to in paragraph 2 above.

Security interests provided by third parties may not be subject to financial restructuring without the consent of those persons.

New financing

Article 26

During the negotiations on entering into a financial restructuring agreement, the debtor may obtain new financing either from domestic or international sources for the purposes of obtaining funds necessary for the debtor's continued operations during the financial restructuring period.

In the event of new financing, the debtor may give a security interest only from unencumbered assets.

By way of derogation from paragraph 2 above, new financing may also be approved by using previously encumbered assets as a security interest, but only provided that it is approved by all the creditors whose claims have been secured by those assets.

4. Mediation in financial restructuring

Centre for Mediation

Article 27

Mediation in the financial restructuring shall be carried out in the Centre for Mediation.

Mediation

Article 28

Financial restructuring shall be carried out with the participation of a mediator.

A mediator shall not be held liable for damage that might incur with regard to the mediation for the performance of operations specified herein, unless it has been proved that the particular action has been performed deliberately or by negligence.

The fee for the work of mediator pursuant to this Law shall amount to 50% of an average net salary in Montenegro specified for the first month of the calendar year in which the mediation has been carried out according to the data of the competent authority responsible for the statistics.

Initiation of the procedure

Article 29

The mediation procedure shall be initiated by submitting the request for mediation to the Centre for Mediation.

The agreement on consent to participate in the financial restructuring shall be submitted together with the request referred to in paragraph 1 above.

The request under paragraph 1 above shall be submitted by the debtor or one or more creditors no later than within two days following the agreement date referred to in paragraph 2 above.

Verification

Article 30

The Centre for Mediation shall verify the compliance with the terms and conditions for mediation specified herein.

If it deems that the terms and conditions referred to in paragraph 1 above have not been met, the Centre for Mediation shall inform the applicant thereof.

Course of the procedure

Article 31

The Centre for Mediation shall invite, by mail or e-mail, at the latest within three business days following that of the receipt of the agreement referred to in Article 29 paragraph 2 of this Law and orderly request on the consent to participate in financial restructuring, the debtor and the creditors that have signed the respective agreement to attend the first meeting of creditors, to be held at the latest within 20 days from the date of sending the invitation to creditors.

The debtor shall be obliged to notify in writing, no later than within two business days as of the day of receiving the invitation from the Centre for Mediation referred to in paragraph 1 of this Article, creditors who have not signed the agreement referred to in Article 29 paragraph 2 of this Law, who it deems that may be interested to take part in the financial restructuring procedure, that the financial restructuring procedure has been initiated, including an invitation to these creditors to participate in that procedure and to attend the first meeting of creditors.

The debtor and the creditors referred to in paragraph 1 above shall designate a mediator from the list of mediators for mediation within three days following that of the submission of orderly request to the Centre for Mediation.

If the debtor and the creditors referred to in paragraph 3 above fail to designate the mediator, the Centre for Mediation shall designate one within three days in accordance with the law governing the mediation.

The debtor shall draw up an initial financial restructuring plan and deliver it no later than within eight days prior to the first meeting of creditors, to the following persons:

- 1) the creditors that have concluded the agreement on consent to participate in the financial restructuring;
- 2) the mediator.

The debtor shall provide the initial financial restructuring plan to creditors that have not concluded the agreement under paragraph 5 point 1) above, for information purposes.

Declaration of creditors

Article 32

At the first meeting of creditors referred to in Article 31 paragraph 1 of this Law, the creditors that have not concluded the agreement on consent to participate in financial restructuring may declare whether they want to participate in the financial restructuring.

Pursuant to the declaration of creditors, at the first meeting of creditors, the mediator shall draw up a list of creditors that have decided to participate in the financial restructuring and a list of creditors that have declared that they do not want to participate in the financial restructuring.

The creditors and the mediator shall certify by means of their signatures the relevant list referred to in paragraph 2 above.

The creditors that decide to participate in the financial restructuring shall start negotiations on concluding a standstill agreement with debtor.

After the conclusion of a standstill agreement, the signatories to the agreement shall consider the initial financial restructuring plan and, after developing the final version of the plan, they shall start negotiations on financial restructuring.

Completion of procedure

Article 33

Mediation in financial restructuring shall be completed:

- 1) by concluding a financial restructuring agreement;

- 2) by stating that the debtor-creditor relation between the debtor and the creditors is not eligible for financial restructuring in accordance with this Law;
- 3) by means of a written statement of the termination of reasons for institutional mediation in financial restructuring, signed by all participants in the procedure and delivered to the mediator;
- 4) when all participants in the procedure accept the proposal of the mediator that the mediation is no longer justifiable;
- 5) when the condition that at least one of the creditors has to be a financial institution has ceased to exist;
- 6) with a written statement of one or more creditors of waiver of restructuring submitted to the debtor, other creditors and the mediator, if following such a waiver the condition that at least one financial institution continues to participate in the financial restructuring procedure has no longer been fulfilled.

The concluded financial restructuring agreement referred to in Article 24 of this Law shall have the capacity of an enforcement document.

Legal consequences of non-acceptance of minority creditors to participate in the financial restructuring

Article 34

If creditors whose claims reach or comprise over 75% of the debtor's total debt decide to participate in the financial restructuring procedure at the first meeting of creditors, the creditors that have not responded to the invitation to the first meeting of creditors and creditors that declare at the first meeting of creditors that they do not want to participate in the financial restructuring shall not be entitled to submit a proposal for the initiation of bankruptcy proceedings against the debtor until the completion of mediation in financial restructuring, but not longer than three months from the date of holding the first meeting of creditors.

5. Incentives for financial restructuring

Tax incentives for creditors

Article 35

A creditor that has entered into the financial restructuring agreement with the debtor, purchasing the debtor's claims or purchasing the debtor's debts to other creditors, shall be exempt from the payment of value added tax for that purchase of claims and/or debts.

When establishing the taxable income of the creditor that has entered into the financial restructuring agreement with the debtor, the debtor's debt reduction granted under the concluded financial restructuring agreement shall be recognized as an expense.

Tax incentives for debtor

Article 36

Upon the request of the debtor that has entered into the financial restructuring agreement, the competent authority responsible for tax collection shall be obliged to grant to the debtor to pay in instalments the tax debt due as of the day the financial restructuring agreement is concluded, and so as follows:

- 1) tax debt of up to 100,000 euro - maximum 60 and minimum 24 equal monthly instalments,
- 2) tax debt exceeding 100,000 euro - maximum 72 and minimum 36 equal monthly instalments.

Incentives for banks

Article 37

A bank may keep the debtor's loan that is the subject of the concluded standstill agreement in the same classification category it was classified before the entry into force of the standstill agreement, but no longer than for two months.

During the asset classification and the calculation of potential loss provisions, banks may treat the debtor's loan restructured by concluding the financial restructuring agreement in line with this Law as a new loan.

Inability to challenge

Article 38

The debtor-creditor relations that are the subject of a financial restructuring agreement may not be challenged in the event of initiating bankruptcy proceedings against the debtor.

Using incentives

Article 39

Deleted. (Law amending the Law on Voluntary Financial Restructuring of Debts towards Financial Institutions, OGM 37/17)

6. Special Provision on Financial Restructuring

Special procedure of financial restructuring where a bank or micro-credit financial institution is a creditor

Article 39a

Notwithstanding provisions of Articles 27 to 33 of this Law, when a financial restructuring is being carried out only between the debtor and one bank or only between the debtor and one micro-credit financial institution, the debtor and the bank or the micro-credit financial institution may carry out financial restructuring in line with internal procedures of such bank or such micro-credit financial institution.

The bank or the micro-credit financial institution shall be obliged to submit to the Central Bank an agreement on reached consent to participate in the financial restructuring in accordance with paragraph 1 of this Article, within three business days as of the day it is concluded.

The debtor and the bank or micro-credit financial institution shall be obliged, in case of implementing the financial restructuring in accordance with paragraph 1 of this Article, to conclude a contract on financial restructuring within 60 days as of the day the agreement referred to in paragraph 2 of this Article is concluded.

The bank or micro-credit financial institution shall be obliged to submit to the Central Bank the contract on financial restructuring referred to in paragraph 3 of this Article within three business days as of the day it is concluded.

In the event of concluding the contract referred to in paragraph 3 of this Article, the bank shall be entitled to incentives referred to Articles 35, 37 and 38 of this Law, the micro-credit financial institutions to incentives referred to in Articles 35 and 38 of this Law and the debtor to incentives referred to in Article 36 of this Law.

Initiative to conclude agreement when a bank is a creditor

Article 39b

The debtor intending to conclude the agreement referred to in Article 11 paragraph 3 or the agreement referred to in Article 39a paragraph 2 of this Law with the bank shall submit to the bank in writing an initiative to conclude the agreement which shall contain:

- 1) data on debt that should be subject of restructuring;
- 2) type of agreement to which the initiative pertains to (agreement referred to in Article 11 paragraph 3 or agreement referred to in Article 39a paragraph 2 of this Law);
- 3) proposal of financial restructuring measures;
- 4) assessment of effects of proposed financial restructuring measures to the credit worthiness of the debtor and how regularly meets obligations after the restructuring;
- 5) other information and data for which the debtor deems that could be of importance for concluding an agreement.

The bank shall be obliged to take a position on the submitted initiative referred to in paragraph 1 of this Article within 15 days as of the day it receives such initiative.

Consequence of failed financial restructuring when a bank is a creditor

Article 39c

If the bank does not accept the initiative referred to in Article 39b paragraph 1 of this Law and does not conclude with the debtor the agreement referred to in paragraph 11 paragraph 3 or the agreement referred to in Article 39a paragraph 2 of this Law, or if the bank has concluded such agreement but it has not concluded the contract referred to in Article 23 paragraph 1 or the contract referred to in Article 39a paragraph 3 of this Law, it shall be obliged to notify thereof in writing the Central Bank within 15 days, including detailed information on the course of negotiation and reasons why an agreement or contract was not concluded, including information on measures for restructuring the bank and the debtor have proposed during consideration of the initiative or during negotiations to conclude a contract.

The Central Bank shall use the information referred to in paragraph 1 of this Article to control credit risk management in banks, including also an assessment of adequacy of potential loan loss provisioning for claims for which the financial restructuring was initiated.

III FINANCIAL RESTRUCTURING OF MORTGAGE LOAN BENEFICIARIES

Eligibility for financial restructuring

Article 40

Financial restructuring of loans secured by mortgage or fiduciary transfer of ownership rights on immovable property (hereinafter: mortgage loan) may be carried out for the loans which were classified in the classification categories B and C following the procedure of credit risk assessment prescribed by the Central Bank regulations, excluding the loans from these classification categories that were sold and bought back.

Banks may carry out the financial restructuring of a mortgage loan beneficiary who is eligible for financial restructuring.

A mortgage loan beneficiary shall be eligible for financial restructuring if such a beneficiary is financially distressed and if the assessment of financial capacity of mortgage loan beneficiary performed by the bank shows that the mortgage loan beneficiary, after the financial restructuring, would be financially capable to repay the loan within the contractual time limits.

Financial distress, within the meaning of paragraph 3 herein, shall be the delay in repayment of the loan due to high indebtedness, reduction in income, increased expenses, as well as due to other reasons which decreased its financial capacity to repay the loan.

Course of the procedure

Article 41

Prior to taking certain measures and actions against the mortgage loan beneficiary that is in financial distress, a bank shall inform the mortgage loan beneficiary about the possibility to participate in the financial restructuring of the mortgage loan in accordance with this Law and submit

a the request form filled in in with data that are of importance for assessing the future financial capacity of the mortgage loan beneficiary.

The mortgage loan beneficiary that wants to participate in financial restructuring shall submit to the bank, after the reception of notification referred to in paragraph 1 above, a written request for financial restructuring of the mortgage loan.

A mortgage loan beneficiary shall submit to the bank, together with the request referred to in paragraph 2 above, data and information that are of importance for assessing the future financial capacity of the mortgage loan beneficiary and members of its household.

The bank shall determine the request form and more detailed data to be submitted to the bank for the purpose of initiating the financial restructuring procedure.

Assessment of financial capacity

Article 42

When assessing financial capacity of a mortgage loan beneficiary, a bank shall analyse all data and information referred to in Article 41 paragraph 1 of this Law, as well as the impact of incentives that the bank is willing to provide to the mortgage loan beneficiary in the financial restructuring procedure.

If the bank assesses that the mortgage loan beneficiary is eligible for financial restructuring, the bank shall adopt a mortgage loan restructuring plan containing possible options for financial restructuring of that loan.

A mortgage loan restructuring plan shall be determined with the approval of the mortgage loan beneficiary.

Once they have reached an agreement on the mortgage loan restructuring plan, the mortgage loan beneficiary and the bank shall conclude a mortgage loan financial restructuring agreement.

The mortgage loan financial restructuring agreement referred to in paragraph 4 above shall include a note that the agreement was concluded in accordance with this Law.

The bank shall submit the mortgage loan financial restructuring agreement to the Central Bank, at the latest within two working days following that of its conclusion.

Refusal to participate in the financial restructuring

Article 43

If the mortgage loan beneficiary chooses not to participate in the financial restructuring or rejects the restructuring plan, the bank shall promptly inform in writing the mortgage loan beneficiary of the consequences of such a choice and of other options that are available to the mortgage loan beneficiary.

Safeguard measures

Article 44

From the date of submitting the request referred to in Article 41 paragraph 2 of this Law until the date of conclusion of the financial restructuring agreement or rejection of the mortgage loan restructuring plan, the bank shall discontinue all actions for the purpose of enforced debt collection by virtue of a mortgage loan.

During the period referred to in paragraph 1 above, the bank shall not charge any default interests, fees or commissions to the mortgage loan beneficiary, which are set forth in the original mortgage loan agreement.

Termination of safeguard measures

Article 45

A bank may initiate or continue activities related to a mortgage loan debt collection or to re-start charging all default interests, fees and commissions set forth in the original mortgage loan agreement, if the mortgage loan beneficiary:

- 1) acts contrary to the mortgage loan financial restructuring agreement;
- 2) does not cooperate with the bank in the following manner:
 - fails to provide the bank with complete and accurate information that would have a significant impact on the assessment of its financial situation;
 - fails to provide the information required by the bank that are relevant for the assessment of its financial situation; or
 - fails to respond to any communication with the bank in connection with the mortgage loan.

Incentives for banks

Article 46

During the period referred to in Article 44 paragraph 1 of this Law, the bank may keep the mortgage loan that is the subject of negotiations on financial restructuring in accordance with this Law in the same classification category into which it was classified before the start of that period, but not longer than for two months.

During the asset classification and the calculation of potential loss provisions, the bank may treat the mortgage loan restructured by concluding the financial restructuring agreement in line with this Law as a new loan.

The incentives specified in provisions of paragraphs 1 and 2 above may be exercised only for the first financial restructuring of a certain mortgage loan.

Treatment of guarantors

Article 47

A guarantee given by virtue of the original mortgage loan agreement may not be the subject of a mortgage loan financial restructuring agreement without the consent of the person who gave the guarantee.

Where the bank requests the repayment of a debt by virtue of the original mortgage loan agreement from the guarantor, the rights and obligations of the mortgage loan beneficiary set forth in the provisions of Articles 40 to 46 of this Law shall also apply to the guarantor.

IV TRANSITIONAL AND FINAL PROVISIONS

Debtor-creditor relations

Article 48

The subject matter of the financial restructuring, within the meaning of this Law, may also be the debtor-creditor relations resulting from the contracts between the debtors and/or mortgage loan beneficiaries and the creditors concluded before the entry into force of this Law.

Finalising Initiated Procedures

Article 48a

Initiated procedures of debtors' financial restructuring shall be finalised in accordance with provisions of this Law.

Application of the Law

Article 49

Financial restructuring in accordance with this Law may be carried out if the debtor and creditors conclude the agreement on the consent to participate in financial restructuring and/or if mortgage loan beneficiaries provide the bank with the request for financial restructuring within four years following the day of the entry into force of this Law.

Entry into force

Article 50

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