

PAYMENT SYSTEM LAW

(OGM 062/13 of 31 December 2013, 006/14 of 4 February 2014, 111/22 of 7 October 2022, 007/23 of 20 January 2023)

I. BASIC PROVISIONS

Subject Matter

Article 1

- (1) The payment system operations shall be performed in the manner and under the conditions specified under this Law.
- (2) The payment system operations shall include the provision of payment services, the issue of electronic money, the functioning of payment systems and other activities of the payment system.

Payment services

Article 2

- (1) Payment services shall include:
 - 1) services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account;
 - 2) services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account;
 - 3) execution of payment transactions, including transfers of funds on a payment account of the payment service user held with payment service provider or with another payment service provider:
 - execution of direct debits, including one-off direct debits,
 - execution of payment transactions through a payment card or a similar device,
 - execution of credit transfers, including standing orders.
 - 4) execution of payment transactions where the funds are covered by a credit line for a payment service user:
 - execution of direct debits, including one-off direct debits,
 - execution of payment transactions through a payment card or a similar device,
 - execution of credit transfers, including standing orders;
 - 5) issuing of payment instruments and/or acquiring of payment transactions;
 - 6) money remittance;
 - 7) payment initiation services;
 - 8) account information services.

Exclusions

Article 3

Provisions of this Law shall not apply to any of the following:

- 1) payment transactions made exclusively in cash directly from the payer to the payee, without any intermediary intervention;
- 2) payment transactions from the payer to the payee through a commercial agent authorised to negotiate or conclude the sale or purchase of goods or services on behalf of the payer or the payee;
- 3) professional physical transport of banknotes and coins, including their collection, processing and delivery;
- 4) payment transactions consisting of the non-professional cash collection and delivery within the framework of a non-profit or charitable activity;
- 5) services where cash is provided by the payee to the payer as part of a payment transaction following an explicit request by the payment service user just before the execution of the payment transaction through a payment for the purchase of goods or services;
- 6) money exchange business involving cash-to-cash operations, where the funds are not held on a payment account;
- 7) payment transactions based on any of the following documents drawn on the payment service provider with a view to placing funds at the disposal of the payee:
 - a) paper cheques in accordance with the Geneva Convention of 19 March 1931 providing a uniform law for cheques,
 - b) paper cheques similar to those referred to in sub-item a) of this item and governed by the laws of Member States which are not party to the Geneva Convention of 19 March 1931 providing a uniform law for cheques,
 - c) paper-based drafts in accordance with the Geneva Convention of 7 June 1930 providing a uniform law for bills of exchange and promissory notes,
 - d) paper-based drafts similar to those referred to in sub-item c) of this item and governed by the laws of Member States which are not party to the Geneva Convention of 7 June 1930 providing a uniform law for bills of exchange and promissory notes,
 - e) paper-based vouchers,
 - f) paper-based traveller's cheques,
 - g) paper-based postal money orders as defined by the Universal Postal Union;
- 8) payment transactions carried out within a payment or securities settlement system between settlement agents, central counterparties, clearing houses and/or central banks and other participants of the system, and payment service providers, without prejudice to Article 142 of this Law;
- 9) payment transactions related to securities asset servicing, including dividends, income or other distributions, or redemption or sale, carried out by persons allowed to have the custody of financial instruments;
- 10) services provided by technical service providers, which support the provision of payment services, without them entering at any time into possession of the funds to be transferred, including processing and storage of data, trust and privacy protection services, data and entity authentication, information technology and communication network provision, provision and maintenance of terminals and devices used for payment services, with the exclusion of payment initiation services and account information services;
- 11) services based on specific payment instruments that can be used only in a limited way, that meet one of the following conditions:
 - a) instruments allowing the holder to acquire goods or services only in the premises of the issuer or within a limited network of service providers under direct commercial agreement with a professional issuer;
 - b) instruments which can be used only to acquire a very limited range of goods or services;
 - c) instruments provided at the request of a business undertaking or another entity regulated by a competent authority or local self-government body for specific social or tax purposes to acquire specific goods or services from suppliers having a commercial agreement with the issuer of the instrument;

- 12) payment transactions by a provider of electronic communications networks or services provided in addition to electronic communications services for a subscriber to the network or service for purchase of digital content and voice-based services, regardless of the device used for the purchase or consumption of the digital content and charged to the related bill, or performed from or via an electronic device and charged to the related bill within the framework of a charitable activity or for the purchase of tickets provided that:
 - the value of any single payment transaction does not exceed 50 euros;
 - the cumulative value of payment transactions for an individual subscriber does not exceed 300 euros per month, or
 - where a subscriber pre-funds its account with the provider of electronic communications network or service, the cumulative value of payment transactions does not exceed 300 euros per month;
- 13) payment transactions carried out between payment service providers, their agents or branches for their own account;
- 14) payment transactions and related services between a parent undertaking and its subsidiary or between subsidiaries of the same parent undertaking, without any intermediary intervention by a payment service provider other than an undertaking belonging to the same group; and
- 15) cash withdrawal services offered by means of ATM providers, acting on behalf of one or more payment card issuers, which are not a party to the framework contract with the customer withdrawing money from a payment account, on condition that those providers do not conduct other payment services as referred to in Article 2 of this Law, whereby the customer shall be provided with the information on any withdrawal charges referred to in Articles 14 through 17 of this Law before carrying out the cash withdrawal as well as on receipt of cash at the end of the transaction after the cash withdrawal.

Notifying on activities not deemed to be payment services

Article 3a

- (1) Service providers carrying out either of the activities referred to in Article 3 item 11) sub-items a) and/or b) of this Law, for which the total value of payment transactions executed over the preceding 12 months exceeds the amount of EUR 1,000,000, shall send, not later than within one month following the day of the fulfilment of this condition, a notification to the Central Bank of Montenegro (hereinafter: the Central Bank) on total value of payment transactions executed in that period containing a detailed description of the services offered and specifying the service referred to in Article 3 paragraph (1) item 11) sub-items a) and/or b) of this Law.
- (2) The Central Bank shall, on the basis of the notification referred to in paragraph (1) of this Article, determine if the conditions for the service provider to use the exclusions referred to in Article 3 paragraph (1) item 11) sub-items a) and/or b) of this Law are met.
- (3) Where the Central Bank, in the case referred to in paragraph (2) of this Article, assesses that it is no longer justified for the service provider to use the exclusion referred to in Article 3 paragraph (1) item 11) sub-items a) and/or b) of this Law, it shall reach an administrative decision instructing the service provider to submit, within a time limit set by that administrative decision which may not be shorter than 90 days, to the Central Bank an application for granting authorisation to provide payment services referred to in Article 72 of this Law or to comply, within the same time limit, with the limitations referred to in Article 3 paragraph (1) item 11) sub-items a) and/or b) of this Law in the manner specified in the administrative decision.
- (4) The service provider referred to in Article 3 paragraph (1) item 12) of this Law shall notify the Agency for Electronic Communications and Postal Services on the provision of such services and submit to the Agency for Electronic Communications and Postal Services audited annual report confirming the compliance of its activities with the limitations referred to in Article 3 item 12) of this Law.
- (5) The Agency for Electronic Communications and Postal Services shall notify the Central Bank of the service providers referred to in paragraph (4) of this Article which engage in the activity referred to in Article 3 paragraph (1) item 12) of this Law.

- (6) Where the Agency for Electronic Communications and Postal Services assesses that the activity provided by service provider referred to in paragraph (4) of this Article is not compliant with the limitations referred to in Article 3 paragraph (1) item 12) of this Law, it shall immediately notify the Central Bank thereof.
- (7) The Central Bank shall, on the basis of the notification referred to in paragraph (6) of this Article, pass an administrative decision instructing the service provider referred to in paragraph (4) of this Article to submit to the Central Bank, within a time limit set by the Central Bank which may not be shorter than 90 days, an application for granting authorisation to provide payment services referred to in Article 72 of this Law, or to comply, within the same time limit, with the limitations referred to in Article 3 paragraph (1) item 12) of this Law in the manner specified in the administrative decision.
- (8) Service providers referred to in paragraphs (1) to (7) of this Article shall be entered into the registry referred to in Article 89 of this Law.

Payment service providers

Article 4

- (1) Payment services in Montenegro may be provided by:
 - 1) a bank and other credit institution established in Montenegro;
 - 2) a payment institution established in Montenegro;
 - 2a) registered account information service provider with head office in Montenegro;
 - 3) an electronic money institution established in Montenegro;
 - 4) a branch of a third-country credit institution established in Montenegro;
 - 5) the Central Bank;
 - 6) the State of Montenegro and local self-government units when not acting in their capacity as public authority.
- (2) Persons who are not payment service providers, within the meaning of paragraph (1) of this Article, may not provide payment services in Montenegro.
- (3) Payment service providers referred to in paragraph (1) items 1) and 4) of this Article may provide payment services subject to their authorisations granted in accordance with the law governing their establishment and business.
- (4) Payment service providers referred to paragraph (1) items 2) and 3) of this Article may provide payment services pursuant to their approvals issued in accordance with this Law.
- (5) Payment service providers referred to in paragraph (1) item 2a) of this Article may provide payment services after their registration into the registry in accordance with this Law.
- (6) Rights of payment service providers referred to in paragraph (1) items 5) and 6) to provide payment services shall be regulated by separate regulations.

Access to accounts opened by and maintained with a bank or other credit institution

Article 4a

- (1) Banks and other credit institutions shall open and maintain transaction accounts to payment institutions and electronic money institutions, at their request, and provide services associated with such accounts in an objective, non-discriminatory and proportionate manner and in the scope which shall be sufficiently extensive to enable these entities to provide payment services in an unhindered and efficient manner.
- (2) A bank and other credit institution may reject the request referred to in paragraph (1) of this Article when it assesses that there are justified reasons for that rejection and it shall provide the Central Bank with the notification stating the reasons for the rejection.

Payment service agents

Article 5

- (1) A payment service provider may provide payment services through an agent, unless otherwise provided by this Law.

- (2) An agent shall be legal person or an entrepreneur providing payment services in the name and for the account of the payment service provider.
- (3) The payment service provider providing payment services through an agent shall be liable for all agent's actions and failures in the provision of these services.
- (4) The payment service provider providing payment services through an agent shall ensure that the agent acting on its behalf has informed payment service users thereof.

Electronic money

Article 6

- (1) Electronic money, within the meaning of this Law, shall be electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions, and which is accepted by a natural or legal person other than the electronic money issuer.
- (2) Electronic money, within the meaning of this Law, shall not be:
 - 1) monetary value stored on instruments that can be used to acquire goods or services only in the premises used by the issuer or under a commercial agreement with the issuer either within a limited network of service providers or for a limited range of goods or services;
 - 2) monetary value used for payment transactions executed by means of any telecommunication, digital or IT device, where the goods or services purchased are delivered to and are to be used through a telecommunication, digital or IT device, provided that the telecommunication, digital or IT operator does not act only as an intermediary between the payment service user and the supplier of the goods and services.

Payment system

Article 7

- (1) Payment system means a funds transfer system with formal and standardised arrangements and common rules for the processing, clearing and/or settlement of payment transactions between participants in the system.
- (2) The processing of payment transactions, within the meaning of paragraph (1) of this Article, shall mean a process of the submission, reception and verification of transfer order based on payment transactions among the payment system participants.
- (3) The calculation of payment transactions, within the meaning of paragraph (1) of this Article, shall mean the process of converting claims and obligations based on transfer order, which one or several participants send or receive from one or several participants – into one net obligation or one net claim.
- (4) Settlement of payment transactions, within the meaning of paragraph (1) of this Article, shall mean the transfer of funds to settlement accounts for the purpose of executing transfer orders between participants in the system.

Application of other laws

Article 8

- (1) The rights and obligations of payment service providers and payment service users with regard to the provision and use of payment services other than those governed by this Law shall be governed by the provisions of the law governing obligations and torts.
- (2) The relationships between payment service users that are consumers and payment service providers other than those governed by this Law shall be governed by the provisions of the law regulating consumer protection.
- (3) Provisions of laws governing the business undertakings shall apply to the establishment and operations of payment institutions and electronic money institutions unless otherwise specified in this Law.
- (4) Provisions of laws regulating bankruptcy proceedings of business undertakings shall apply to bankruptcy proceedings of payment institutions and electronic money institutions.

- (5) The provisions of the law governing the operations of credit institutions shall apply to the examination of compliance of operations of credit institutions with this Law.

Definitions

Article 9

For the purposes of this Law, the following terms shall have the following meaning:

- 1) payment transaction means the placing, withdrawing or transferring of funds initiated by or on behalf and for the account of the payer or by the payee, regardless of any underlying obligations between the payer and the payee;
- 1a) remote payment transaction means a payment transaction initiated via internet or through a device that can be used for distance communication;
- 1b) acquiring of payment transactions means a payment service provided by a payment service provider contracting with a payee to accept and process payment transactions, which results in a transfer of funds to the payee;
- 2) payer means a natural or legal person who holds a payment account and allows a payment order from that payment account, or, where there is no payment account, a natural or legal person who gives a payment order;
- 3) payee means a natural or legal person who is the intended recipient of funds which have been the subject of a payment transaction;
- 4) payment service user means a legal person, state administration body and a part of a foreign undertaking (hereinafter: a legal person), entrepreneur and other person performing an activity in accordance with the regulations (hereinafter: entrepreneur) and a natural person making use of a payment service in the capacity of payer and/or payee;
- 5) credit institution means an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account;
- 6) consumer means a natural person who, in payment service contracts covered by this Law, is acting for purposes other than his trade, business or profession;
- 7) money remittance means a payment service where funds are received from a payer, without any payment accounts being created in the name of the payer or the payee, for the sole purpose of transferring a corresponding amount to a payee or to another payment service provider acting on behalf of the payee, and/or where such funds are received on behalf of and made available to the payee;
- 8) funds mean cash (banknotes and coins), funds in accounts, and electronic money;
- 9) payment order means any instruction by a payer or payee to his payment service provider requesting the execution of a payment transaction;
- 10) value date means a reference time used by a payment service provider for the calculation of interest on the funds debited from or credited to a payment account;
- 11) reference exchange rate means the exchange rate which is used as the basis to calculate any currency exchange and which is made available by the payment service provider or comes from a publicly available source;
- 12) reference interest rate means the interest rate which is used as the basis for calculating any interest to be applied and which comes from a publicly available source which can be verified by both parties to a payment service contract;
- 12a) authentication means a procedure which allows the payment service provider to verify the identity of a payment service user or the validity of the use of a specific payment instrument, including the use of the user's personalised security credentials;
- 12b) strong customer authentication means an authentication based on the use of two or more elements categorised as knowledge, possession and inherence that are independent and that only user knows and possesses, which means that the breach of one does not compromise the reliability of the others, and is designed in such a way as to protect the confidentiality of the authentication data;
- 12c) personalised security credentials mean personalised features provided by the payment service provider to a payment service user for the purposes of authentication;
- 12d) sensitive payment data means data, including personalised security credentials which can be used to carry out fraud, whereas for the activities of payment initiation service provider and account

- information service provider, the name of the account owner and the account number do not constitute sensitive payment data;
- 13) unique identifier means a combination of letters, numbers or symbols specified to the payment service user by the payment service provider and to be provided by the payment service user to identify unambiguously the other payment service user and/or his payment account for a payment transaction;
 - 14) payment instrument means any personalised device and/or set of procedures agreed between the payment service user and the payment service provider and used by the payment service user in order to initiate a payment order;
 - 14a) issuing of payment instruments means a payment service by a payment service provider contracting to provide a payer with a payment instrument to initiate and process the payer's payment transactions;
 - 15) payment brand means any material or digital name, term, sign, symbol or combination of them, capable of denoting payment card scheme under which card-based payment transactions are carried out;
 - 15a) co-badging means the inclusion of two or more payment brands or payment applications of the same payment brand on the same payment instrument;
 - 16) payment card means a payment instrument enabling its holder to make payments for goods and services either at an accepting device or remotely, and/or to withdraw cash and/or use other services at an automated teller machine or another self-service device;
 - 17) means of distance communication refers to any means which, without the simultaneous physical presence of the payment service provider and the payment service user, may be used for the conclusion of a payment services contract;
 - 18) durable medium means any instrument which enables the payment service user to store information addressed personally to him in a way accessible for future reference for a period of time adequate to the purposes of the information and which allows the unchanged reproduction of the information stored;
 - 18a) electronic communications network means an electronic communications network as defined in accordance with the law governing electronic communications;
 - 18b) electronic communications service means an electronic communications service as defined in accordance with the law governing electronic communications;
 - 18c) electronic payment transaction means a payment transaction initiated and executed in the manner which includes the use of electronic platforms or devices and does not include paper-based payment transactions, mail orders or telephone orders;
 - 18d) digital content means goods or services which are produced and supplied in digital form, the use or consumption of which is restricted to a technical device and which do not include in any way the use or consumption of physical goods or services;
 - 18e) online means the possibility of connecting provider and user of certain service via publicly available communication network (e.g. Internet);
 - 19) business day means a part of the day during which the relevant payment service provider of the payer or the payment service provider of the payee involved in the execution of a payment transaction is open for business and enables the execution of a payment transaction to its payment service user;
 - 20) credit transfer means a payment service for crediting a payee's payment account with a payment transaction or a series of payment transactions from a payer's payment account by the payment service provider which holds the payer's payment account, based on a payment order given by the payer;
 - 21) direct debit means a payment service for debiting a payer's payment account, where a payment transaction is initiated by the payee on the basis of the payer's consent given to the payee, to the payee's payment service provider or to the payer's own payment service provider;
 - 21a) payment initiation service means a payment service to initiate a payment order at the request of the payment service user with respect to a payment account held at another payment service provider;
 - 21b) account information service means an online payment service to provide consolidated information on one or more payment accounts held by the payment service user with either another payment service provider or with more than one payment service providers;
 - 21c) account servicing payment service provider means a payment service provider opening and maintaining payment accounts for a payer;
 - 21d) payment initiation service provider means a payment service provider pursuing business activities as referred to in Article 2 paragraph (1) item 7) of this Law;

- 21e) account information service provider means a payment service provider pursuing business activities exclusively as referred to in Article 2 paragraph (1) item 8) of this Law;
- 22) branch of a payment institution means an organisational part of a payment institution without legal personality which carries out directly some or all of the transactions carried out by the payment institution, and is situated outside the payment institution's registered office or, if the payment institution does not have a registered office, outside the place of its head office, whereas, for the purposes of this Law, all branches established in the same Member State by a payment institution with a head office in another Member State shall be regarded as a single branch;
- 23) group means a group of undertakings, which consists of a parent undertaking and its subsidiaries within the meaning of the law regulating business undertakings, as well as legal persons in which the parent undertaking or its subsidiaries have a holding, as well as undertakings linked to each other by a relationship in the manner that they are managed on a unified basis pursuant to a contract concluded or provisions in the articles of association of those undertakings and/or articles of incorporation or undertakings interconnected in the manner that the management bodies consist for the major part of the same persons in office during the financial year and until the consolidated accounts are drawn up;
- 24) good reputation means the reputation of a person who:
- has by his/her former professional work and personal integrity achieved good results and earned respect in the previous working environment;
 - has not been convicted by a final judgment of a crime that would make him/her unworthy of performing the function or relevant work and/or who has not been appointed member of the management board at the time the undertaking has been the subject to bankruptcy or liquidation proceedings, and/or
 - is not subject to investigation or criminal proceedings for a crime prosecuted ex officio;
- 25) outsourcing means a contractual agreement by which the performance of certain operational activities of a payment institution, an e-money institution or a payment system operator, which would otherwise be performed by them, is entrusted to third parties;
- 26) Member State means a member state of the European Union or a signatory to the Agreement on the European Economic Area;
- 27) home Member State means the Member State in which the registered office of the payment service provider is situated or, if the payment service provider has, under its national law, no registered office, the Member State in which its head office is situated;
- 28) host Member State means the Member State other than the home Member State in which a payment service provider has a branch or an agent or provides payment services;
- 29) third country means, until Montenegro's accession to the European Union, any foreign country, and after the accession, any country other than the Member State;
- 30) national payment transaction means a payment transaction provided by a payer's payment service provider and/or a payee's payment service provider in the territory of Montenegro;
- 31) cross-border payment transaction means a payment transaction the execution of which involves two payment service providers of which one payment service provider provides this service in the territory of Montenegro and the other payment service provider provides the same service in the territory of another Member State, as well as a payment transaction provided by one payment service provider to a payment service user in the territory of Montenegro as well as to the same or another payment service user in the territory of another Member State;
- 32) international payment transaction means a payment transaction the execution of which involves two payment service providers of which one payment service provider provides this service in the territory of Montenegro and the other provides the same service in the territory of a third country, as well as a payment transaction provided by one payment service provider to a payment service user in the territory of Montenegro as well as to the same or another payment service user in the territory of the third country.

II. TRANSPARENCY OF CONDITIONS AND OBLIGATION OF PROVIDING INFORMATION TO PAYMENT SYSTEM USERS

1. Payment service contracts and obligation of providing information

Types of payment service contracts

Article 10

- (1) Payment service contract shall be a contract where the payment service provider undertakes to provide certain payment services or a payment service to the payment service user and the payment service user undertakes to pay a certain fee for that service to the payment service provider.
- (2) A payment service contract shall be concluded either as a single payment transaction contract or as a framework contract on payment services (hereinafter: the framework contract).
- (3) The contract on a single payment transaction shall regulate the execution of one payment transaction not covered under the framework contract.
- (4) The framework contract shall regulate the future execution of individual payment transactions and it may also regulate the conditions for opening and maintaining a payment account pursuant to regulations.
- (5) Provisions of this Law governing the obligation of providing information when providing payment services shall apply to the relationship between the payment service user that is a consumer and its payment service provider and to the relationship between payment service user that is not a consumer and its payment service provider shall be applied if the payment service provider and user that is not a consumer agree otherwise.
- (6) The payment service provider and the payer that is not a consumer may agree to regulate by contract their mutual relationship in a different manner than that provided for in Articles 11 through 27 of this Law.

Information fees

Article 11

- (1) The payment service provider shall not charge the payment service user for the information it is obliged to provide under the provisions of this Law.
- (2) The payment service provider and the payment service user may agree on charges for additional or more frequent information, or its transmission by means of communication other than those specified in the framework contract, provided at the payment service user's request.
- (3) The fees for information referred to in paragraph (2) of this Article shall be appropriate and in line with the payment service provider's actual costs.

Burden of proof

Article 12

In case of a dispute, the payment service provider shall prove that it has fulfilled its information obligations towards the payment service user pursuant to the provisions of this law.

Information on fees or reductions

Article 13

- (1) Where, for the use of a given payment instrument, the payee offers a reduction, the payee shall inform the payer thereof prior to the initiation of the payment transaction.
- (2) Where, for the use of a given payment instrument, a payment service provider or a third party charges a fee, it shall inform the payment service user thereof prior to the initiation of the payment transaction.
- (3) The payer shall pay the fee referred to in paragraphs (1) and (2) of this Article only if informed about the full amount of the fee prior to initiating the payment transaction.

Transaction currency and currency conversion

Article 14

- (1) Payments shall be made in the currency agreed between the parties.
- (2) Where a currency conversion service is offered prior to the initiation of the payment transaction and where that currency conversion service is offered at ATM, at the point of sale or by the payee, the party offering the currency conversion service shall disclose to the payer all fees as well as the exchange rate to be used for currency converting before initiating the payment transaction.

2. Single payment transactions

Prior general information

Article 15

- (1) The payment service provider shall, before the payment service user is bound by any offer or single payment transaction contract, regardless of the form or manner of concluding such a contract, provide or make available to the payment service user the following information and conditions:
 - 1) a specification of the data or unique identifier to be provided by the payment service user for the proper initiation or execution of a payment order;
 - 2) the maximum execution time for the payment service to be provided;
 - 3) all fees payable by the payment service user to the payment service provider and the breakdown of the amounts of such fees;
 - 4) the actual or reference exchange rate to be applied to the payment transaction;
 - 5) any other information and conditions referred to in Article 19 of this Law relating to the payment transaction.
- (2) In addition to information referred to in paragraph (1) of this Article, the payment initiation service provider shall, prior to initiation, provide the payer with, or make available to the payer, the following clear and comprehensive information:
 - 1) the name of the payment initiation service provider, the address of its head office and, where applicable, the address of its agent or branch;
 - 2) other contact details required for communication with payment initiation service provider, including electronic mail address, and
 - 3) information on the competent authority and contact details required for communication with the competent authority.
- (3) The payment service provider shall make available to the payment service user the information referred to in paragraphs (1) and (2) of this Article:
 - 1) in an easily accessible manner;
 - 2) in easily understandable words and in a clear and comprehensible form in Montenegrin language or in any other language agreed between the payment service provider and the payment service user;
 - 3) at the payment service user's request, on paper or on another durable medium.
- (4) If the single payment service contract has been concluded at the request of the payment service user using a means of distance communication which does not enable the payment service provider to fulfil its obligations referred to in paragraphs (1) and (2) of this Article, the payment service provider shall fulfil these obligations immediately after the execution of the payment transaction.
- (5) The obligations referred to in paragraphs (1) and (2) of this Article may also be fulfilled by providing a copy of the draft single payment service contract or the draft payment order including the information and conditions referred to in paragraph (1) of this Article.

Payment initiation service providers' information for the payer and the payee after the initiation of a payment order

Article 15a

In addition to the information referred to in Article 15 of this Law, where a payment order is initiated through a payment initiation service provider, the payment initiation service provider shall, immediately after initiation of the payment order, provide or make available all of the following data to the payer and, where applicable, the payee:

- 1) confirmation of the successful initiation of the payment order with the payer's account servicing payment service provider;
- 2) a reference enabling the payer and the payee to identify the payment transaction and, where applicable, the payee to identify the payer, and any information transferred with the payment transaction;
- 3) the amount of the payment transaction; and
- 4) the total amount of all fees payable by the payment service user to the payment initiation service provider for the payment transaction, and a breakdown of the amounts of such fees.

Information for the payer's account servicing payment service provider in the event of a payment initiation service

Article 15b

Where a payment transaction is initiated through a payment initiation service provider, the payment initiation service provider shall make available to the payer's account servicing payment service provider the reference of the payment transaction.

Information for the payer after receipt of the payment order

Article 16

Immediately after the receipt of the payment order, the payer's payment service provider shall provide or make available to the payer, in the same way as provided for in Article 15 paragraph (3) of this Law, the following information:

- 1) a reference enabling the payer to identify the payment transaction and, where applicable, any information relating to the payee;
- 2) the amount of the payment transaction in the currency used in the payment order;
- 3) the total amount of fees for the payment transaction payable by the payer and a breakdown of the amounts of such charges;
- 4) where the payment transaction involves currency conversion, the exchange rate used in the payment transaction by the payer's payment service provider, or a reference thereto, when different from the rate provided in accordance with Article 15 paragraph (1) item 4) of this Law, and the amount of the payment transaction after that currency conversion,
- 5) the date of receipt of the payment order.

Information for the payee after the execution of a payment transaction

Article 17

Immediately after the execution of a payment transaction, the payee's payment service provider shall provide or make available to the payee, in the manner referred to in Article 15 paragraph (3) of this Law, the following information:

- 1) a reference enabling the payee to identify the payment transaction and, where appropriate, information about the payer and other information transferred with the payment transaction;
- 2) the amount of the payment transaction in the currency in which the funds have been made available to the payee;
- 3) the total amount of any fees for the payment transaction payable by the payee and a breakdown of the amounts of such fees;

- 4) where the payment transaction involves currency conversion, the exchange rate used in the payment transaction by the payee's payment service provider and the amount of the payment transaction before the currency conversion,
- 5) the credit value date.

Avoiding double information

Article 18

When a payment order for a single payment transaction is transmitted to the payment service provider by a payment instrument covered by a framework contract with another payment service provider, the payment service provider shall not be obliged to provide or make available the information which is already given, or which will be given to the payment service user on the basis of a framework contract with another payment service provider.

3. Framework contracts

Prior general information

Article 19

The payment service provider shall, before the payment service user is bound by any offer or framework contract, provide the payment service user with the following information:

- 1) on the payment service provider, in particular:
 - a) the name of the payment service provider, the geographical address of its head office and, where applicable, the geographical address of its agent or branch established in a third country where the payment service is offered, and any other address, including electronic mail address, relevant for communication with the payment service provider;
 - b) the particulars of the relevant supervisory authorities, of the register of banks, payment institutions or electronic money institutions or of any other relevant public register payment service providers and the registration number, or equivalent means of identification of payment service providers in that register;
- 2) on the use of the payment service, in particular:
 - a) a description of the main characteristics of the payment service to be provided;
 - b) a specification of the information or unique identifier that has to be provided by the payment service user in order for a payment order to be properly initiated or executed;
 - c) the form and manner of giving consent to initiate a payment order or execute a payment transaction and withdrawal of such consent in accordance with Articles 30 and 42 of this Law;
 - d) a reference to the point in time of receipt of a payment order pursuant to Article 40 of this Law and the cut-off time, if established by the payment service provider;
 - e) the maximum execution time for the payment service to be provided;
 - f) whether there is a possibility to agree on the spending limits for the use of the payment instruments in accordance with Article 31 paragraph (1) of this Law;
 - g) in the case of co-badged payment instruments, the payment service user's rights in accordance with the regulations governing interchange fees to be charged when executing card-based payment transactions;
- 3) on fees, interest and exchange rates, in particular:
 - a) all fees payable by the payment service user to the payment service provider, including those connected to the manner in and frequency with which information in accordance with this Law is provided or made available and, where applicable, the breakdown of the amounts of any fees,
 - b) where applicable, the interest and exchange rates to be applied or, if reference interest and exchange rates are to be used, the method of calculating the actual interest, and the relevant date and index or base for determining such reference interest or exchange rate;
 - c) if agreed, the immediate application of fees in reference interest or exchange rate and information requirements related to the changes in accordance with Article 22 paragraph (5) of this Law;

- 4) on communication, in particular:
 - a) where applicable, the means of communication, including the technical requirements for the payment service user's equipment and software, agreed between the parties for the transmission of information or notifications under this Law,
 - b) the manner in and frequency with which information under this Law is to be provided or made available,
 - c) the language or languages in which the framework contract will be concluded and communication during this contractual relationship undertaken,
 - d) the payment service user's right to receive the contractual terms of the framework contract and information in accordance with Article 21 paragraph (4) of this Law;
- 5) on safeguards and corrective measures, in particular:
 - a) where applicable, a description of steps that the payment service user is to take in order to keep safe a payment instrument and how to notify the payment service provider for the purposes of Article 32 of this Law,
 - b) if agreed, the conditions under which the payment service provider reserves the right to block a payment instrument in accordance with Article 31 of this Law,
 - c) the liability of the payer in accordance with Article 37 of this Law, including information on the relevant amount,
 - d) how and within what period of time the payment service user is to notify the payment service provider of any unauthorised or incorrectly initiated or executed payment transaction in accordance with Articles 34 and 51 of this Law as well as the payment service provider's liability for unauthorised payment transactions in accordance with Article 36 of this Law,
 - e) the liability of the payment service provider for the initiation or execution of payment transactions in accordance with Articles 49, 50 and 50a of this Law,
 - f) requirements for a refund of funds in line with Articles 38 and 39 of this Law;
 - g) safeguard procedure which the payment service provider uses to inform the payment service user in the event of suspected or actual fraud or security threats;
- 6) on changes to, and termination of, the framework contract, in particular:
 - a) if agreed, information that the payment service user will be deemed to have accepted changes in the conditions in accordance with Article 22 paragraph (2) of this Law, unless the payment service user notifies the payment service provider before their proposed date of entry into force that they are not accepted;
 - b) the duration of the framework contract, and
 - c) the right of the payment service user to terminate the framework contract and any agreements relating to the termination in accordance with Article 22 paragraph (3) and Article 23 of this Law;
- 7) on redress, in particular:
 - a) any contractual clause on the law applicable to the framework contract and/or the competent courts for the settlement of disputes arising from the framework contract,
 - b) the out-of-court settlement and redress procedures available to the payment service user in accordance with this law.

Manner of providing prior information

Article 20

- (1) The payment service provider shall provide the information referred to in Article 19 of this Law:
 - 1) in good time before the payment service user is bound by the framework contract or offer;
 - 2) on paper or on another durable medium;
 - 3) in easily understandable words, and in a clear and comprehensive form in Montenegrin language or in any other language agreed between the payment service provider and the payment service user.
- (2) If the framework contract has been concluded at the request of the payment service user using a means of distance communication which does not enable the payment service provider to meet their obligations referred to in paragraph (1) of this Article, the payment service provider shall fulfil these obligations immediately after the conclusion of the framework contract.

- (3) The payment service provider may also fulfil the obligations referred to in paragraphs (1) and (2) of this Article by supplying a copy of the draft framework contract including the information referred to in Article 19 of this Law.

Format and compulsory elements of the framework contract

Article 21

- (1) The framework contract shall be concluded on paper or on another durable medium.
- (2) The framework contract shall contain all elements and/or information referred to in Article 19 of this Law.
- (3) The payment service provider shall ensure that the payment system user obtains at least one copy of the framework contract.
- (4) The payment service user shall have a right to receive, on request, the contractual terms of the framework contract as well as the information and conditions specified in Article 19 of this Law on paper or on another durable medium.

Changes in the framework contract

Article 22

- (1) Payment service provider shall propose any changes in the framework contract and in the information specified in Article 19 of this Law in the manner as provided for in Article 20 paragraph (1) of this Law and no later than two months before their proposed date of application of that change, and the payment service user can either accept or reject the changes before the proposed date of their entry into force.
- (2) The payment service provider and the payment service user may agree that the payment service user is to be deemed to have accepted changes referred to in paragraph (1) of this Article if it does not notify the payment service provider before the proposed date of their entry into force that they are not accepted.
- (3) In the event referred to in paragraphs (1) and (2) of this Article, the payment service provider shall also specify that the payment service user has the right to terminate the framework contract free of charge and with effect at any time until the date when the changes would have applied.
- (4) The payment service provider and the payment service user may agree that changes in the interest or exchange rates arising from the reference interest rate or the reference exchange rate are to be applied immediately and without notice.
- (5) In the case referred to in paragraph (4) of this Article, the payment service provider shall inform the payment service user of any change in the interest rate at the earliest opportunity in the same way as provided for in Article 20 paragraph (1) of this Law, unless the parties have agreed on a specific frequency or different manner in which such information is to be provided or made available to the payment service user.
- (6) Payment service provider may, without notice, apply changes in interest or exchange rates which are more favourable to the payment service user.
- (7) Changes in the interest or exchange rate used in payment transactions shall be implemented and calculated in a neutral manner that does not discriminate against payment service users.

Termination of the framework contract

Article 23

- (1) The payment service user may terminate the framework contract at any time, unless the parties have agreed on a period of notice which may not exceed one month.
- (2) The payment service provider shall charge to the payment service user a fee for the termination of a framework contract which shall be appropriate and in line with actual costs incurred by the payment service provider.
- (3) By way of derogation from paragraph (2) of this Article, the payment service provider shall not charge the payment service user a fee for the termination of a framework contract, which has been in force for more than six months prior to entry into force of the termination.

- (4) It may be agreed in the framework contract that the payment service provider may terminate a framework contract concluded for an indefinite period by giving at least two months' notice in the same way as provided for in Article 20 paragraph (1) of this Law.
- (5) Where the payment service user terminates the framework contract, it shall pay the fee only for the payment services proportionate to the duration of the contract, and where the payment service user has paid the fee in advance, the payment service provider shall reimburse the part of the fee proportionate to the period between the termination of the contract and the end of the period for which the fee has been paid.

Information before the execution of individual payment transactions

Article 24

In the case of an individual payment transaction under a framework contract initiated by the payer, the payment service provider shall, at the payer's request for this specific payment transaction, provide explicit information on the maximum execution time and the charges payable by the payer and, where applicable, a breakdown of the amounts of any charges.

Information for the payer on individual payment transactions

Article 25

- (1) After the amount of an individual payment transaction is debited from the payer's account or, where the payer does not use a payment account, after the receipt of the payment order, the payer's payment service provider shall provide the payer without undue delay in the same way as laid down in Article 20 paragraph (1) of this Law with the following information:
 - 1) a reference enabling the payer to identify each payment transaction and, where appropriate, information relating to the payee;
 - 2) the amount of the payment transaction in the currency in which the payer's payment account is debited or in the currency used for the payment order;
 - 3) total amount of any fees for the payment transaction and, where applicable, a breakdown thereof and of the interest payable by the payer;
 - 4) where the payment transaction involves currency conversion, the exchange rate used and the amount of the payment transaction after the currency conversion,
 - 5) the debit value date or the date of receipt of the payment order.
- (2) A framework contract may contain a provision that the information referred to in paragraph (1) of this Article is to be provided or made available periodically, at least once a month, free of charge and in an agreed manner which allows the payer to store and reproduce information unchanged.
- (3) The payment service provider shall, at the payer's request, provide the information referred to in paragraph (1) of this Article on paper or on another durable medium at least once a month, free of charge.

Information for the payee on individual payment transactions

Article 26

- (1) After the execution of an individual payment transaction, the payee's payment service provider shall provide the payee without undue delay in the same way as laid down in Article 20 paragraph (1) of this Law with the following information:
 - 1) the reference enabling the payee to identify the payment transaction and, where appropriate, the payer, and any information transferred with the payment transaction;
 - 2) the amount of the payment transaction in the currency in which the payee's payment account is credited;
 - 3) the total amount of fees for the payment transaction and, where applicable, a breakdown of the amounts of such charges, as well as the interest payable by the payee;
 - 4) where the payment transaction involves currency conversion, the exchange rate used in the payment transaction by the payee's payment service provider, and the amount of the payment transaction before the currency conversion;

- 5) the credit value date.
- (2) A framework contract may contain a provision that the information referred to in paragraph (1) of this Article is to be provided or made available periodically at least once a month and in an agreed manner which allows the payee to store and reproduce information unchanged.
- (3) The payment service provider shall, at the payee's request, provide the information referred to in paragraph (1) of this Article on paper or on another durable medium at least once a month, free of charge.

Information requirements for low-value payment instruments and electronic money

Article 27

In cases of payment instruments which, according to the framework contract, concern only individual payment transactions that do not exceed 30 euros or that either have a spending limit of 150 euros or store funds that do not exceed 150 euros at any time:

- 1) by way of derogation from Articles 19, 20 and 24 of this Law, the payment service provider shall provide a payer only with information on the main characteristics of the payment service, including the way in which the payment instrument can be used, liability, charges levied and other relevant information needed by the payment service user to take a decision on entering into a contract, as well as an indication of where any other information laid down in Article 19 of this Law is made available to the payment service user in an easily accessible manner;
- 2) by way of derogation from Article 22 of this Law, the payment service provider and the payment service user may agree that the payment service provider shall not be required to propose changes to the framework contract in the same way as provided for in Article 20 paragraph (1) of this Law,
- 3) by way of derogation from Articles 25 and 26 of this Law, the payment service provider and the payment service user may agree that, after the execution of a payment transaction:
 - the payment service provider shall provide or make available only a reference enabling the payment service user to identify the payment transaction, the amount of the payment transaction and any charges, and in the case of several payment transactions of the same kind made to the same payee, information on the total amount and charges for those payment transactions,
 - the payment service provider shall not be required to provide or make available information referred to in indent 1 of this item if the payment instrument is used anonymously or if the payment service provider is not otherwise technically in a position to provide it, whereby the payment service provider shall provide the payer with a possibility to verify the amount of funds stored upon the transaction execution.

III. RIGHTS AND OBLIGATIONS IN RELATION TO THE PROVISION AND USE OF PAYMENT SERVICES IN MONTENEGRO

1. Fees and exemptions

Fees

Article 28

- (1) The payment service provider may charge a fee to the payment service user for the provision of payment services.
- (2) The payment service provider may charge fee to the payment service user for the fulfilment of obligations referred to in Article 41 paragraph (3), Article 42 paragraph (7) and Article 48 paragraph (6) of this Law, if such fees have been agreed and if they are appropriate and in line with the payment service provider's actual costs.
- (3) The payee's payment service provider may only charge the payee its fees for the execution of payment transactions, and the payer's payment service provider may only charge the payer its fees for the execution of payment transactions.

- (4) The payment service provider shall not prevent or in any other way limit the payee from offering the payer a reduction for the use of a payment card or any other payment instrument or otherwise steer him towards the use of a given payment instrument.
- (5) The payee may not request from the payer any fees for the use of a given payment instrument.
- (6) The payment service provider and the payment service user that is not a consumer may agree by contract on the payment of fees other than that provided for in paragraph (2) of this Article.
- (7) The payment service provider shall post in its premises for the work with the payment service users and on its website the tariff at which it charges fees for payment services.
- (8) The Central Bank may, by way of regulation, prohibit or limit the right of the payee to request charges taking into account the need to encourage competition and/or promote the use of efficient payment instruments.

Derogation for low value payment instruments and electronic money

Article 29

- (1) In the case of payment instruments which, according to the framework contract, solely concern individual payment transactions not exceeding 30 euros or which either have a spending limit of 150 euros or store funds which do not exceed 150 euros at any time, payment service providers may agree with their payment service users that:
 - 1) the provisions of Article 32 paragraph (1) item 2), Article 33 paragraph (1) items 3), 4), 4a) and 5), and Article 37 paragraphs (2), (3) and (5) of this Law do not apply if the payment instrument does not allow its blocking or prevention of its further use;
 - 2) the provisions of Articles 35, 36, and Article 37 paragraph (1) of this Law do not apply if the payment instrument is used anonymously or the payment service provider is not in a position, for other reasons which are intrinsic to the payment instrument, to prove that a payment transaction was authorised;
 - 3) by way of derogation from Article 41 paragraph (1) of this Law, the payment service provider is not required to notify the payment service user of the refusal of a payment order, if the non-execution is apparent from the context;
 - 4) by way of derogation from Article 42 of this Law, the payer may not revoke the payment order after transmitting the payment order or giving his consent to execute the payment transaction to the payee;
 - 5) by way of derogation from Articles 44 and 45 of this Law, other execution periods shall apply.
- (2) The provisions of Articles 36 and 37 of this Law shall not apply to electronic money if the payer's payment service provider does not have the ability to freeze the payment account and/or block the payment instrument.

2. Authorisation of payment transactions

Consent and withdrawal of consent

Article 30

- (1) A payment transaction shall be deemed to be authorised only if the payer has given consent to execute the payment transaction.
- (2) A consent to execute the payment transaction may be given prior to or, if agreed between the payer and the payment service provider, after the execution of the payment transaction.
- (3) Consent to execute a payment transaction or a series of payment transactions shall be given in the form agreed between the payer and the payment service provider, and it may also be given via payee or the payment initiation service provider; in the absence of consent, a payment transaction shall be considered to be unauthorised.
- (4) The payer may withdraw the consent given no later than the point in time of irrevocability of the payment order pursuant to Article 42 of this Law.
- (5) The payer may withdraw consent to execute a series of payment transactions with the effect that any future payment transaction shall be deemed to be unauthorised.
- (6) The procedure for giving the consent or withdrawing the consent given to execute a payment transaction shall be governed by the payment service contract between the payer and the payment service provider(s).

- (7) The payment service provider and the payer that is not a consumer may agree, by way of a payment service contract, to withdraw consent in a manner other than that provided for in paragraphs (4) and (5) of this Article.

Confirmation on the availability of funds

Article 30a

- (1) An account servicing payment service provider shall, upon the request of a payment service provider issuing card-based payment instrument, immediately confirm whether the amount necessary for the execution of a card-based payment transaction is available on the payment account of a payer, provided that:
- 1) the payment account of the payer is accessible online at the time of the request;
 - 2) the payer has given explicit consent to the account servicing payment service provider to respond to requests from a specific payment service provider to confirm that the amount corresponding to a certain card-based payment transaction is available on the payer's payment account;
 - 3) the consent referred to in item 2) of this paragraph has been given before the first request for confirmation is made.
- (2) The payment service provider issuing card-based payment instrument may request the confirmation referred to in paragraph (1) of this Article where:
- 1) the payer has given explicit consent to the payment service provider to request the confirmation referred to in paragraph (1) of this Article;
 - 2) the payer has initiated the payment transaction using a card-based payment instrument issued by the payment service provider;
 - 3) the payment service provider issuing card-based payment instrument authenticates itself towards the account servicing payment service provider before each confirmation request, and securely communicates with the account servicing payment service provider in accordance with Article 56c of this Law.
- (3) The confirmation referred to in paragraph (1) of this Article shall consist only in a simple 'yes' or 'no' answer and not in a statement of the account balance.
- (4) The payment service provider issuing payment instrument may not store confirmation referred to in paragraph (3) of this Article or use it for the purposes other than the execution of the card-based payment transaction.
- (5) The account servicing payment service provider shall not block funds in the payer's payment account based on the confirmation referred to in paragraph (1) of this Article.
- (6) The payer may request the account servicing payment service provider to communicate to the payer the identification of the payment service provider and the answer provided.
- (7) The provisions of this Article shall not apply to payment transactions initiated through card-based payment instruments on which electronic money is stored in accordance with this Law.

Rules on access to a payment account in the case of payment initiation services

Article 30b

- (1) The payer shall have the right to make use of a payment initiation service provider to obtain payment service as referred to in Article 2 paragraph (1) item 7) of this Law.
- (2) By way of derogation from paragraph (1) of this Article, the payer shall not have the right to use payment initiation service provider if its payment account is not accessible online.
- (3) When the payer gives its explicit consent for a payment to be executed in accordance with Article 30 of this Law, the account servicing payment service provider shall perform the actions specified in paragraph (5) of this Article in order to ensure the payer's right to use the payment initiation service.
- (4) The payment initiation service provider shall:
- 1) not hold at any time the payer's funds in connection with the provision of the payment initiation service;
 - 2) ensure that the personalised security credentials of the payment service user are not, with the exception of the payment service user and the issuer of the personalised security credentials, accessible to other party;

- 3) ensure that the personalised security credentials of payment service users are transmitted through safe and efficient channels;
 - 4) ensure that any other information about the payment service user, obtained when providing payment initiation services, is only provided to the payee and only with the payment service user's explicit consent;
 - 5) every time a payment is initiated, identify itself towards the account servicing payment service provider of the payer and communicate securely with the account servicing payment service provider, the payer and the payee in accordance with Article 56c of this Law;
 - 6) not store sensitive payment data of the payment service user;
 - 7) not request from the payment service user any data other than those necessary to provide the payment initiation service;
 - 8) not use, access or store any data for purposes other than for the provision of the payment initiation service as explicitly requested by the payer;
 - 9) not modify the amount, the payee or any other feature of the transaction that is initiated.
- (5) The account servicing payment service provider shall:
- 1) communicate securely with payment initiation service providers in accordance with Article 56c of this Law;
 - 2) provide or make available, immediately after the receipt of the payment order from the payment initiation service provider, all information on the initiation of the payment transaction and all the information accessible to the account servicing payment service provider regarding the execution of the payment transaction to the payment initiation service provider;
 - 3) treat payment orders transmitted through the services of a payment initiation service provider without any discrimination other than for objective reasons, in particular in terms of timing, priority or fees vis-à-vis payment orders transmitted directly by the payer.
- (6) The provision of payment initiation services shall not be dependent on the existence of a contractual relationship between the payment initiation service providers and the account servicing payment service providers for that purpose.

Rules on access to and use of payment account information in the case of the provision of account information services

Article 30c

- (1) The payment service user shall have the right to make use of information service on the account information referred to in Article 2 paragraph (1) item 8) of this Law provided by the account information service provider.
- (2) The payer shall not have the right referred to in paragraph (1) of this Article if its payment account is not accessible online.
- (3) The account information service provider shall:
 - 1) provide services only where based on the payment service user's explicit consent;
 - 2) ensure that the personalised security credentials of the payment service user are not, with the exception of the payment service user and the issuer of the personalised security credentials, accessible to other party;
 - 3) ensure that the personalised security credentials of payment service users are transmitted through safe and efficient channels;
 - 4) for each communication session, identify itself towards the account servicing payment service provider(s) and the payment service user and securely communicate with the account servicing payment service provider(s) and the payment service user in accordance with Article 56c of this Law;
 - 5) access only the information from payment accounts designated by the payment service user and associated payment transactions;
 - 6) not request sensitive payment data linked to the payment accounts;
 - 7) not use, access or store any data for purposes other than for performing the account information services explicitly requested by the payment service user, in accordance with data protection rules.
- (4) The account servicing payment service provider shall:
 - 1) communicate securely with the account information service providers in accordance with Article 56c of this Law;

- 2) treat data requests transmitted through the services of an account information service provider without any discrimination other than for objective reasons.
- (5) The provision of account service information shall not be dependent on the existence of a contractual relationship between the account information service providers and the account servicing payment service provider for that purpose.

Limits on the use of payment instrument and of the access to payment accounts by payment service providers

Article 31

- (1) The payer and the payment service provider may agree on spending limits for payment transactions executed through that payment instrument.
- (2) It may be agreed in the framework contract that the payment service provider has the right to block a payment instrument for objective reasons related to:
 - 1) the security of the payment instrument;
 - 2) the suspicion of unauthorised or fraudulent use of the payment instrument, or
 - 3) in the case of a payment instrument with a credit line, a significantly increased risk that the payer may be unable to fulfil the liability to pay.
- (3) The payment service provider shall inform the payer, in the manner agreed in the contract, of the intention to block the payment instrument and the reasons thereof, where possible, before the payment instrument is blocked.
- (4) Where the payment service provider is unable to inform the payer in accordance with paragraph (3) of this Article, it shall do so immediately after the payment instrument has been blocked.
- (5) The provisions of paragraphs (3) and (4) of this Article shall not apply if giving such information is contrary to objectively justified security reasons or law.
- (6) The payment service provider shall unblock the payment instrument or replace it with a new one once the reasons for blocking this payment instrument no longer exist.
- (7) An account servicing payment service provider may deny an account information service provider or a payment initiation service provider access to the payment account for objectively justified and duly evidenced reasons relating to unauthorised or fraudulent access to the payment account by that account information service provider or that payment initiation service provider, including the unauthorised or fraudulent initiation of a payment transaction.
- (8) In the cases referred to in paragraph (7) of this Article, the account servicing payment service provider shall inform the payer, in the form agreed, about the intention and the reasons for denying access to the payment account before access is denied and at the latest, if possible, immediately after having denied access, unless the provision of the said information would be contrary to objectively justified reasons or contrary to regulations.
- (9) The account servicing payment service provider shall allow access to the payment account once the reasons for denying access referred to in paragraph (7) of this Article no longer exist.
- (10) In the cases referred to in paragraph (7) of this Article, the account servicing payment service provider shall immediately report the incident relating to the account information service provider or the payment initiation service provider to the Central Bank stating relevant details of the case and the reasons for denying access to the payment account.
- (11) Based on the information referred to in paragraph (10) of this Article, the Central Bank shall act in accordance with the powers prescribed by the laws governing individual payment service providers.

Obligations of the payment service user in relation to payment instruments

Article 32

- (1) The payment service user entitled to use a payment instrument shall:
 - 1) use the payment instrument in accordance with the terms of a framework contract, which must be objective, non-discriminatory and proportionate;

- 2) notify the payment service provider, or the entity specified by the payment service provider, without delay of becoming aware of loss, theft or misappropriation of the payment instrument or of its unauthorised use.
- (2) In the case referred to in paragraph (1) item 1) of this Article, the payment service user shall, immediately after receipt of the payment instrument, take all reasonable steps to keep safe the personalised security features of that payment instrument.

Obligations of the payment service provider in relation to payment instruments

Article 33

- (1) The payment service provider issuing a payment instrument shall:
 - 1) make sure that the personalised security features of the payment instrument are not accessible to parties other than the payment service user entitled to use the payment instrument;
 - 2) refrain from sending an unsolicited payment instrument, except where a payment instrument already given to the payment service user is to be replaced;
 - 3) ensure that appropriate means are available at all times to enable the payment service user to make a notification pursuant to Article 32 paragraph (1) item 2) of this Law or request unblocking of the payment instrument pursuant to Article 31 paragraph (6) of this Law;
 - 4) provide the payment service user, upon request submitted by the payment service user within 18 months of the notification, with the appropriate means to prove that it made notification referred to in Article 32 paragraph (1) item 2) of this Law;
 - 4a) ensure that the payment service user may submit the notification referred to in Article 32 paragraph (1) item 2) of this Article free of charge and to charge, if at all, only replacements costs directly attributed to the payment instrument;
 - 5) prevent all use of the payment instrument once notification pursuant to Article 32 paragraph (1) item 2) of this Law has been made.
- (2) The payment service provider shall bear the risk of sending a payment instrument and its personalised security features to the payment service user.

Notification of unauthorised or incorrectly executed payment transactions

Article 34

- (1) The payment service user shall obtain rectification of an unauthorised or incorrectly executed payment transaction from the payment service provider only if the payment service user notifies the payment service provider without undue delay on becoming aware of any such transaction giving rise to a claim, and no later than 13 months after the debit date.
- (2) By way of derogation from paragraph (1) of this Article, should the payment service provider fail to provide or make available to the payment service user the information on the executed payment transaction in accordance with this law, the payment service user shall be entitled to the correction of unauthorised payment transaction or incorrectly executed payment transaction within the deadline longer than 13 months.
- (3) The payment service provider and the payment service user may agree by contract on a time limit other than that provided for in paragraph (1) of this Article.
- (4) When a payment initiation service provider is involved in the execution of a payment transaction, the payment service user shall submit the notification referred to in paragraph (1) of this Article to the account servicing payment service provider, which shall make the correction.

Evidence on authentication and execution of payment transactions

Article 35

- (1) Where a payment service user denies having authorised an executed payment transaction or claims that the payment transaction was not executed correctly, it is for the user's payment service provider to prove that the payment transaction was authenticated, accurately recorded, entered in the accounts and that its execution was not affected by a technical breakdown or some other deficiency of the service provided.
- (2) Where the payment transaction is initiated through a payment initiation service provider, the payment initiation service provider shall prove that within its sphere of competence, the payment transaction was authenticated, accurately recorded and not affected by a technical breakdown or other deficiency linked to the payment service of which it is in charge.
- (3) Where the payment service user denies having authorised an executed payment transaction, the use of a payment instrument recorded by the payment service provider, including, where applicable, the initiation payment service provider, shall in itself not necessarily be sufficient to prove either that the payer has authorised that payment transaction, or that the payer acted fraudulently or failed, intentionally or by gross negligence, to fulfil one or more obligations referred to in Article 32 of this Law, and the payment service provider shall prove fraud or gross negligence on part of the payment service user.
- (4) The payment service provider and the payment service user that is not a consumer may agree by contract to regulate the burden of proof in a different manner than that provided for in paragraphs (1), (2) and (3) of this Article.

Payment service provider's liability for unauthorised payment transactions

Article 36

- (1) In the case of an unauthorised payment transaction, the payer's payment service provider shall refund the payer the amount of the unauthorised payment transaction immediately, and in any event no later than by the end of the following business day, after having found or being notified of the transaction, except where the payer's payment service provider has reasonable grounds for suspecting fraud and communicates those grounds to the Central Bank in writing.
- (2) Where the payer's payment account has been debited for the amount of the unauthorised payment transaction, the payer's payment service provider shall restore, within the time limit referred to in paragraph (1) of this Article the debited payment account to the state in which it would have been had the unauthorised payment transaction not taken place, whereas the credit value date for the payer's payment account shall be no later than the date the amount had been debited.
- (3) Where the payment transaction is initiated through a payment initiation service provider, the account servicing payment service provider shall refund immediately, and in any event no later than by the end of the following business day the amount of the unauthorised payment transaction and, where applicable, restore the debited payment account to the state in which it would have been had the unauthorised payment transaction not taken place.
- (4) Where the payment initiation service provider is liable for the unauthorised payment transaction, it shall immediately compensate the account servicing payment service provider at its request for the losses incurred or sums paid as a result of the refund to the payer, including the amount of the unauthorised payment transaction.
- (5) In the case of execution of an unauthorised payment transaction, the payer shall be entitled to the difference up to the full amount of the damage in accordance with general rules governing liability for damage.

Payer's liability for unauthorised payment transactions

Article 37

- (1) By way of derogation from Article 36 of this Law, where the execution of an unauthorised payment transaction results from the lost or stolen payment instrument or from the misappropriation of a payment instrument, the payer shall bear the losses relating to such unauthorised payment transactions, up to a maximum of EUR 50.

- (2) In the case referred to in paragraph (1) of this Article, the payer shall not bear losses where:
- 1) the loss, theft or misappropriation of a payment instrument was not detectable to the payer prior to the execution of an unauthorised payment transaction;
 - 2) unauthorised payment transactions were caused by acts or lack of action of an employee, agent or branch of a payment service provider or of an entity to which payment service provider's activities were outsourced;
 - 3) the payment service provider has not provided appropriate means for the notification at all times of a lost, stolen or misappropriated payment instrument in accordance with Article 33 paragraph (1) item 3) of this Law;
 - 4) the payer's payment service provider does not require strong customer authentication;
 - 5) the payee's payment service provider does not apply the required strong customer authentication.
- (3) The payee or the payee's payment service provider who fails to apply the required strong customer authentication shall refund the damage suffered by the payer's payment service provider.
- (4) By way of derogation from paragraph (1) of this Article, the payer shall bear all losses related to the unauthorised payment transactions if they were incurred by the payer acting fraudulently or failing to fulfil one or more obligations referred to in Article 32 of this Law intentionally or by gross negligence.
- (5) The payer shall not be liable for the amount of unauthorised payment transactions executed after notification to the payment service provider in accordance with Article 32 paragraph (1) item 2) of this Law, except where the payer has acted fraudulently.
- (6) The payment service provider and the payer that is not a consumer may agree by a contract to regulate the payer's liability in a different manner than that provided for in paragraphs (1) to (5) of this Article.

Payment transactions where the transaction amount is not known in advance

Article 37a

- (1) Where a payment transaction is initiated by or through the payee in the context of a card-based payment transaction and the exact amount is not known at the moment when the payer gives consent to execute the payment transaction, the payer's payment service provider may block funds on the payer's payment account only if the payer has given consent to the exact amount of the funds to be blocked.
- (2) The payer's payment service provider shall release the funds blocked on the payer's payment account established in accordance with paragraph (1) of this Article without delay after the receipt of the information about the exact amount of the payment transaction and at the latest immediately after receipt of the payment order.

Refunds for authorised payment transactions initiated by or through a payee

Article 38

- (1) A payer shall be entitled to a refund from the payment service provider of an authorised payment transaction initiated by or through a payee that has already been executed, if the following conditions are met:
 - 1) the authorisation did not specify the exact amount of the payment transaction when the authorisation was made; and
 - 2) the amount of the payment transaction exceeded the amount the payer could reasonably have expected taking into account his previous spending pattern, the conditions in his framework contract and relevant circumstances of the case.
- (2) At the payment service provider's request, the payer shall provide factual elements relating to conditions referred to in paragraph (1) of this Article.
- (3) The refund pursuant to paragraph (1) of this Article consists of the full amount of the executed payment transaction, whereby the credit value date for the payer's payment account shall be no later than the date the amount was debited.
- (4) For direct debits, the payer and his payment service provider may agree in the framework contract that the payer shall be entitled to a refund from his payment service provider even though the conditions for refund in paragraph (1) item 1) of this Article have not been met.

- (5) The payer may not invoke the right referred to in paragraph (1) of this Article if the reason for realisation of the condition referred to in paragraph (1) item 2) of this Article was due to the application of the reference exchange rate agreed with the payer's payment service provider.
- (6) The payer and the payer's payment service provider may agree in the framework contract that the payer has no right to a refund if the following conditions are met:
 - 1) the payer has given the consent to execute the payment transaction directly to the payment service provider; and
 - 2) where applicable, information on the future payment transaction was provided or made available in an agreed manner to the payer for at least four weeks before the due date by the payment service provider or by the payee.
- (7) The payment service provider and the payer that is not a consumer may agree to regulate by contract the entitlement to refund in a manner different than that provided in the paragraphs (1) to (6) of this Article.

Requests for refunds for authorised payment transactions initiated by or through a payee

Article 39

- (1) The payer can request the refund referred to in Article 38 of this Law of an authorised payment transaction no later than eight weeks from the value date on which the funds were debited.
- (2) Within ten business days of receiving a request for a refund, the payment service provider shall:
 - 1) refund to the payer the full amount of the payment transaction; or
 - 2) provide the payer with justification for refusing the refund, indicating that the payer may, in the case of not accepting the justification provided, submit a proposal for out-of-court settlement of payment system disputes.
- (3) The payment service provider's right to refuse a refund shall not apply in the case set out in Article 38 paragraph (4) of this Law.
- (4) The relationships between the payment service provider and the payer that is not a consumer referred to in paragraphs (1) to (3) of this Article may be regulated by contract in a different manner.

3. Execution of Payment Transactions

a) Payment orders and amounts transferred and amounts received

Receipt of payment orders

Article 40

- (1) The point in time of receipt is the time when the payer's payment service provider receives the order initiated directly by the payer or indirectly by or through a payee.
- (2) If the point in time of receipt is not on a business day for the payer's payment service provider, the payment order shall be deemed to have been received on the following business day.
- (3) The payment service provider may establish a cut-off time near the end of a business day for the receipt of payment orders.
- (4) If the payer's payment service provider receives a payment order after the established cut-off time, the payment order shall be deemed to have been received on the next business day.
- (5) The payment service user initiating a payment order and his payment service provider may agree that the execution of the payment order shall commence:
 - 1) on a specific day;
 - 2) at the end of a certain period;
 - 3) on the day on which the payer has made the necessary funds available to the payer's payment service provider.
- (6) In the case referred to in paragraph (5) of this Article, the point in time of receipt of the payment order shall be deemed to be the agreed day to commence the execution of the payment order, and where the agreed day is not a business day for the payment service provider, the point in time of receipt of the payment order shall be deemed to be the next business day.

(7) Payer's payment service provider shall not debit the payer's payment account before receipt of the payment order.

Refusal of payment orders

Article 41

- (1) Where the payment service provider refuses to execute a payment order or to initiate a payment transaction, it shall, unless otherwise provided for by other regulations, notify the payment service user of:
 - 1) the refusal;
 - 2) if possible, the reasons for refusal, and
 - 3) the procedure for correcting any mistakes that led to the refusal.
- (2) The payment service provider shall provide or make available the notification referred to in paragraph (1) of this Article in an agreed manner at the earliest opportunity, and in any case within the time limits referred to in Article 44 of this Law.
- (3) It may be agreed in the framework contract that the payment service provider may charge for the notification referred to in paragraph (1) of this Article if the refusal of the payment order is objectively justified.
- (4) Where all terms set out in the framework contract between the payer and the payer's payment service provider are met, the payer's payment service provider may not refuse to execute an authorised payment order, irrespective of whether the payment order is initiated by the payer directly, or through a payment initiation service provider, or by or through the payee, unless otherwise provided for by other regulations.
- (5) A payment order of which execution has been refused shall be deemed not to have been received.

Irrevocability of a payment order

Article 42

- (1) The payment service user may not revoke a payment order once it has been received by the payer's payment service provider, except in the cases specified in paragraphs (3), (4), (5) and (8) of this Article.
- (2) Where a payment transaction is initiated by a payment initiation service provider or by or through the payee, the payer shall not revoke the payment order after giving consent to the payment initiation service provider to initiate the payment transaction or after giving consent to execute the payment transaction to the payee.
- (3) By way of derogation from paragraph (2) of this Article, in the case of a direct debit and without prejudice to refund rights, the payer may revoke the payment order at the latest by the end of the business day preceding the agreed debit date.
- (4) In the case referred to in Article 40 paragraph (5) of this Law, the payment service user may revoke a payment order at the latest by the end of the business day preceding the agreed day of commencement of the payment order execution.
- (5) After the time limits specified in paragraphs (1) to (4) of this Article, a payment order may be revoked only if so agreed between the payment service user and relevant payment service provider.
- (6) In the cases referred to in paragraphs (2) and (3) of this Article, the payee's agreement shall also be required.
- (7) It may be agreed in the framework contract that the relevant payment service provider may charge a fee for the revocation of the payment order.
- (8) The payment service provider and the payment service user that is not a consumer may agree by a contract the irrevocability of payment orders in a different manner than those referred to in provisions (1) to (7) of this Article.

Amounts transferred and amounts received

Article 43

- (1) One or more payment service providers of the payer, one or more payment service providers of the payee and any intermediaries of the payment service providers shall transfer the full amount of the payment transaction without deducting any charges from the amount transferred.

- (2) By way of derogation from paragraph (1) of this Article, the payee and the payee's payment service provider may agree that the relevant payment service provider deduct its charges from the amount transferred before crediting it to the payee. In such a case, the full amount of the executed payment transaction and charges levied shall be separated by the payment service provider in the information given to the payee.
- (3) If any amounts other than those referred to in paragraph (2) of this Article are deducted from the amount transferred, the payment service provider of the payer shall ensure that the payee receives the full amount of the payment transaction initiated by the payer. In cases where the payment transaction is initiated by or through the payee, his payment service provider shall ensure that the full amount of the payment transaction is received by the payee.

b) Execution time and value date

Payment transactions to a payment account

Article 44

- (1) The payment service provider shall ensure that, after the point in time of receipt in accordance with Article 40 of this Law, the amount of the payment transaction is credited to the payee's payment service provider's account at the end of the same business day.
- (2) After receiving the amount of a payment transaction, the payee's payment service provider shall credit the payee's payment account with the credit value date and make the funds available to the payee.
- (3) The payee's payment service provider shall transmit a payment order initiated by or through the payee to the payer's payment service provider within the time limits agreed between the payee and the payee's payment service provider, and in the case of a direct debit, within the time limits enabling settlement on the agreed due date of the payer's liability.

Absence of payee's payment account with the payment service provider

Article 45

Where the payee does not have a payment account with the payment service provider, the funds shall be made available to the payee by the payment service provider by the end of the same business day the funds have been received.

Cash placed on a payment account

Article 46

- (1) Where a payment service user places cash on a payment account in the payment account with the payment service provider, the payment service provider shall ensure that the amount is made available immediately after the receipt of the cash and shall credit that account on the value date of cash receipt.
- (2) The provisions of Article 40 of this Law shall apply *mutatis mutandis* to the point of time of the receipt of the funds within the meaning of paragraph (1) of this Article.

Value date and availability of funds

Article 47

- (1) The credit value date for the payee's payment account may be no later than the business day on which the amount of the payment transaction is credited to the payee's payment service provider's account.
- (2) The payment service provider of the payee shall ensure that the amount of the payment transaction is at the payee's disposal without delay after that amount has been credited to the payee's account.
- (3) The debit value date for the payer's payment account shall be no earlier than the point in time at which the amount of the payment transaction is debited to that payment account.

c) Payment service provider's liability for the execution of a payment transaction

Incorrect unique identifiers

Article 48

- (1) Where a payment order is executed in accordance with the unique identifier, the payment order shall be deemed to have been executed correctly with regard to the payee specified by the unique identifier.
- (2) If the unique identifier provided by the payment service user is incorrect, the payment service provider shall not be liable for the non-execution or defective payment transaction in the part relating to the incorrectly provided unique identifier.
- (3) The payer's payment service provider shall, regardless of its liability, take reasonable steps to recover the funds involved in that payment transaction.
- (4) In the case referred to in paragraph (3) of this Article, the payee's payment service provider shall cooperate with the payer's payment service provider and communicate to the payer's payment service provider all relevant information to recover funds from defective payment transaction.
- (5) In the event that the recovery of funds from defective payment transaction is not possible, the payer's payment service provider shall provide to the payer, upon its written request, all information available to the payer's payment service provider and relevant to the payer in order for the payer to initiate court or other proceedings to recover the funds.
- (6) The payment service provider may charge the payment service user for the recovery of funds in accordance with paragraph (3) of this Article, if so agreed in the framework contract.
- (7) If the payment service user provides information additional to that specified in Article 15 paragraph (1) item 1) and Article 19 paragraph (1) item 2) sub-item b) of this Law, the payment service provider shall be liable only for the execution of payment transactions in accordance with the unique identifier provided by the payment service user.

Payment service provider's liability for the execution of a payment transaction initiated by the payer

Article 49

- (1) The payer's payment service provider shall be liable to the payer for proper execution of a payment transaction initiated by the payer, except in the cases referred to in paragraph (3) of this Article, Article 48 paragraphs (2) and (7) and Article 53 of this Law.
- (2) The payer's payment service provider that is liable for the execution of a payment transaction shall, at the payer's request, without undue delay, refund the amount of a non-executed or a defective payment transaction, and, in the case of debiting, restore that payment account to the state in which it would have been had the payment transaction not taken place, whereby the credit value date for the payer's payment account shall be no later than the date on which the account was debited for the amount of non-executed or defective payment transaction.
- (3) Where the payment service provider of the payer proves that the payment service provider of the payee received the amount of the payment transaction in accordance with Article 44 of this Law and with the payment order, the payee's payment service provider shall be liable to the payee for the execution of the payment transaction.
- (4) In the case referred to in paragraph (3) of this Article, the payee's payment service provider shall, without undue delay, make available the amount of the payment transaction to the payee and, in the case of crediting, credit the corresponding amount to the payee's payment account, whereby the credit value date for the payee's payment account shall be no later than the date on which the amount would have been value dated had the transaction been executed in accordance with Article 47 of this Law.
- (5) Where a payment transaction is executed late, the payee's payment service provider shall ensure, upon the request of the payer's payment service provider acting on behalf of the payer, that the credit value date for the payee's payment account is no later than the date the amount would have been dated had the transaction been correctly executed.

- (6) In the case of a non-executed or defectively executed payment transaction initiated by or through the payer, the payer's payment service provider shall, regardless of its liability, on payer's request, take immediate steps to trace the funds and notify the payer of the outcome free of charge.
- (7) The payer's payment service provider that is liable for the non-executed or defective payment transaction shall also be liable to the payer for any fees that the payer has been charged and for any interest resulting from non-executed or defective payment transaction, including late execution of payment transaction.
- (8) The payment service provider and the payer that is not a consumer may agree by a contract the liability for non-executed or defective payment transaction, including liability for late execution of payment transaction otherwise than provided in paragraphs (1) to (7) of this Article.

Payment service provider's liability for the execution of a payment transaction initiated by or through the payee

Article 50

- (1) In the case of a payment transaction initiated by or through the payee, except in the cases referred to in paragraph (5) of this Article, Article 48 paragraph (2) and (7) and Article 53 of this Law, the payee's payment service provider shall be liable to the payee:
 - 1) for the correct transmission of the payment order to the payer's payment service provider in accordance with Article 44 paragraph (3) of this Law, and
 - 2) for proceeding in accordance with Article 47 of this Law.
- (2) Where the payee's payment service provider is liable for a non-executed or defective payment transactions in accordance with paragraph (1) item 1) of this Article, it shall, without undue delay, re-transmit the payment order in question to the payer's payment service provider.
- (3) In the case of a late transmission of a payment order, the payee's payment service provider shall credit the payee's payment account, value dating it at the latest on the date which would have been set as the value date had the transaction been executed on time.
- (4) Where the payee's payment service provider is liable in accordance with paragraph (1) of this Article, it shall ensure that the amount of the payment transaction is placed at the disposal of the payee immediately after that amount has been credited to the payee's payment service provider, whereat the credit value date for the payee's payment account shall be no later than the date that would have been set as the value date for that amount had the transaction been executed correctly.
- (5) Where the payee's payment service provider proves that it has correctly transmitted the payee's payment order to the payer's payment service provider and that it has proceeded in accordance with Article 47 of this Law, the payer's payment service provider shall be liable to the payer for the execution of the payment transaction.
- (6) In the case referred to in paragraph (5) of this Article, the payer's payment service provider liable for the execution of payment transaction shall, at the payer's request and without undue delay, refund to the payer the amount of the non-executed or defective payment transaction and, in the case of debiting of the payment account, restore the debited payment account to the state in which it would have been had that transaction not been executed, whereby the credit value date for the payer's payment account shall be no later than the date on which the account was debited for the amount of non-executed or defective payment transaction.
- (7) The provisions of paragraph (6) of this Article shall not apply if the payer's payment service provider proves that the payee's payment service provider received the amount of the payment transaction with a delay, and in that case, the payee's payment service provider shall credit the payee's payment account, value dating it at the latest on the date which would have been set as the value date for that amount had the transaction been executed on time.
- (8) In the case of a non-executed or defective payment transaction initiated by or through the payee, the payee's payment service provider shall, at the payee's request and regardless of its liability, take immediate steps to trace the funds of the payment transaction and notify the payee of the outcome free of charge.
- (9) The payee's payment service provider that is liable for the non-execution or defective payment transaction shall also be liable to the payee for any fees that the payee has been charged and for any interest resulting from non-executed or defective payment transaction.

- (10) The payment service provider and the payee that is not a consumer may agree by a contract the liability for non-executed or defective payment transaction, including liability for late execution of payment transaction otherwise than provided in paragraphs (1) to (9) of this Article.

Liability for execution of payment transactions in the case of payment initiation through a payment initiation service provider

Article 50a

- (1) In the case of a non-executed or defective payment transaction initiated through a payment initiation service provider, the account servicing payment service provider shall, without prejudice to Article 34 and 48 of this Law, refund to the payer the amount of that payment transaction and, where the payer's account was debited, restore that account to the state in which it would have been had the payment transaction not taken place.
- (2) The payment initiation service provider shall prove that the payer's account servicing payment service provider has confirmed the receipt of the payment order by providing information in accordance with Article 40 of this Law and that, within the framework of the service provided by the payment initiation service provider, the payment transaction was authenticated, accurately recorded and not affected by a technical breakdown or some other deficiency which resulted in a non-execution, defective or late execution of the transaction.
- (3) If the payment initiation service provider is liable for the non-execution, defective or late execution of the payment transaction, it shall immediately compensate the payer's account servicing payment service provider, at its request, for all the amounts paid to the payer and refund any damages suffered by the payer.

Payment service user's rights in case of defective payment transaction

Article 51

- (1) In the case of a defective payment transaction, including a late execution, the payment service user shall be entitled to request from its payment service provider the correct execution of the payment transaction and/or the interest for or refund of the defective payment transaction in accordance with this law.
- (2) The payment service user shall lose the right referred to in paragraph (1) of this Article if it fails to notify its payment service provider without undue delay on becoming aware of any incorrectly executed payment transaction and no later than 13 months following the debit date or credit date.
- (3) By way of derogation from paragraph (2) of this Article, if the payment service provider fails to provide or make available to the payment service user the information on the executed payment transaction in accordance with this law, the payment service user shall be entitled to execute the right referred to in paragraph (1) of this Article also within the time limits longer than 13 months.
- (4) The payment service provider and the payment service user that is not a consumer may agree by contract on a time limits other than that provided for in paragraph (2) of this Article.

Payment service provider's rights and obligations in individual cases of defective payment transactions

Article 51a

- (1) Payment service providers shall have the following rights and obligations in individual cases of defective payment transactions:
 - 1) if the payer's payment service provider transfers to the payee's payment service provider the amount of the payment transaction that is higher than the amount indicated in the payment order or if it by mistake executes the same payment order several times, the payee's payment service provider shall, based on evidence submitted by the payer's payment service provider that made the error, return such funds to the payer's payment service provider without undue delay;
 - 2) if the amount of the payment transaction transferred to the payee's payment service provider is lower than the amount indicated in the payment order, the payer's payment service provider may, within time limits specified in Article 44 of this Law, transfer to the payee's payment service provider the

difference, even without request of the payment service user for correct execution of the payment transaction;

- 3) if funds are transferred by mistake to a payee other than the one indicated in the payment order, the payer's payment service provider may, within time limits specified in Article 44 of this Law, correctly execute the payment transaction even without the request of the payment service user for correct execution of the payment transaction, and the payee's payment service provider to whom the funds are transferred by mistake shall in any case, based on evidence submitted by the payer's payment service provider that made the error, return such funds (as recovery) to the payer's payment service provider without undue delay.
- (2) The return of funds referred to in paragraph 1 items 1) and 3) of this Article shall take precedence over any other payment transaction from the payment account from which the recovery is to be made.

Liability of intermediary or other payment service provider

Article 52

- (1) The payment service provider shall be liable to the payment service user for a non-executed or defective payment transaction, including late execution of payment transaction, even if the liability is attributable to an intermediary or other payment service provider participating in the execution of that payment transaction.
- (2) In the case referred to in paragraph (1) of this Article, the payment service provider shall be entitled to request from the intermediary or other payment service provider the refund of all the amounts paid by that payment service provider to its payment service user in accordance with Articles 36, 49, 50 and 50a of this Law, including the amount paid because other payment service provider has not used strong customer authentication, and compensation for any other damage suffered in accordance with general rules governing liability for damage.

Exclusion of liability

Article 53

The liability of the payment service providers with regard to the execution of the payment transaction shall be excluded in cases of extraordinary and unforeseeable circumstances specified in the enabling regulations that are beyond the control of the payment service provider and in the cases where the payment service provider has been obliged to comply with the law.

Data protection

Article 54

- (1) Information obtained by the payment service provider in the course of its operations regarding its payment service user, including information regarding its personality, as well as data on the payment transactions and the status and changes to its payment account shall be considered confidential.
- (2) The payment service provider, members of its bodies and persons employed or engaged by the payment service provider, as well as other persons who have access to data referred to in paragraph (1) of this Article due to the nature of activities they perform may not disclose or provide these data to third persons, nor may they enable third persons to have access to such data.
- (3) The obligation to keep the business secret referred to in paragraph (2) of this Article shall not cease to exist even after the termination of the status based on which they had access to data subject to secrecy.
- (4) By way of derogation from paragraphs (2) and (3) of this Article, the data constituting a business secret may be disclosed or provided to:
 - 1) the Central Bank;
 - 2) upon the decision or request of a court, the State Prosecutor's Office, the competent authority responsible for police affairs or prevention of money laundering and terrorist financing, and the competent tax authority in accordance with the law;

- 3) other parties, in accordance with the law or upon receipt of a written consent of the payment service user.
- (5) The payment service provider shall have the right to disclose and/or provide the data referred to in paragraph (1) of this Article to the State Prosecutor's Office and courts, as well as to other bodies that have public authorities solely for the purpose of protecting its rights, in accordance with the law.
- (6) Parties and/or persons who have been given access to data constituting business secret of this Article in accordance with paragraphs (4) and (5) of this Article shall use this data exclusively for the purpose for which such data were obtained, and may not disclose such data to third persons or enable third persons to gain access to such data, unless in cases stipulated by the law.
- (7) Provisions of paragraph (6) of this Article shall also apply to persons who are employed or engaged and/or were employed or engaged by persons to whom the data constituting business secret have been disclosed, and to other persons who obtained access to such data due to the nature of activities they perform, in accordance with paragraphs (4) and (5) of this Article.
- (8) In the collection and processing of data on persons that are payment service users, payment service providers, payment system participants and settlement agents shall act in accordance with the law governing personal data protection.
- (9) Payment service providers and payment system participants may collect and process the data referred to in paragraph (8) of this Article with a view to preventing, investigating or detecting fraudulent activities or misuses in payment system transactions.

Data safeguarding and reporting on payment services

Article 55

- (1) Payment service providers shall safeguard documents on payment system users, payment transactions and the condition and changes at the payment account of the payment service user for five years, and electronic data thereof for ten years from the execution of payment transaction, or from the change at the payment account of the payment service user.
- (2) The Central Bank may prescribe for the reporting entities the content, the manner and the deadlines for reporting on payment services.

Favourable position

Article 56

The payment service provider and payment service user may agree more favourable position than those used by the payment service user in accordance with Articles 28 through Article 55 paragraph (1) of this Law.

d) Operational and security risks and authentication

Management of operational and security risks

Article 56a

- (1) Payment service providers shall establish a framework with appropriate mitigation measures and control mechanisms to manage the operational and security risks relating to the payment services they provide and as a part of that framework, they shall establish and maintain effective incident management procedures, including for the detection and classification of major operational and security incidents.
- (2) Payment service providers shall submit to the Central Bank, at least once a year or in shorter time limits determined by the Central Bank, an updated and comprehensive assessment of the operational and security risks relating to the payment services they provide and of the adequacy of risk mitigation measures and control mechanisms implemented in response to those risks.
- (3) Payment service providers shall discharge their obligations referred to in paragraph (1) of this Article in accordance with Central Bank guidelines on security measures for operational and security risks relating to the payment services, or on establishing, implementing and monitoring security measures.

Incident reporting

Article 56b

- (1) In case of a major operational or security incident, payment service providers shall, without undue delay, notify the Central Bank thereof.
- (2) Where the incident referred to in paragraph (1) of this Article has or may have an impact on the financial interests of payment service users, the payment service provider shall, without undue delay, notify its payment service users of the incident and of all measures that they can take to mitigate the adverse effects of the incident.
- (3) After assessing the relevance of the incident referred to in paragraph (1) of this Article, the Central Bank shall, if needed, notify other relevant authorities.
- (4) The Central Bank shall issue guidelines based on which the payment service providers classify major incidents referred to in paragraph (1) of this Article and report on those incidents, and based on which the Central Bank determines criteria for assessing the relevance of the incident and the details of the incident reports to be shared with other relevant authorities.
- (5) The payment service providers shall provide to the Central Bank, at least on an annual basis, statistical data on fraud relating to different means of payment.

Authentication

Article 56c

- (1) A payment service provider shall apply strong customer authentication where the payer:
 - 1) accesses its payment account online;
 - 2) initiates an electronic payment transaction; or
 - 3) carries out any action through a remote channel which may imply a risk of fraud in respect of means of payment or other abuses.
- (2) In the case of initiation of remote electronic payment transactions as referred to in paragraph (1) item 2) of this Article, the payment service provider shall apply strong customer authentication that includes elements which dynamically link the transaction to a specific amount and a specific payee.
- (3) The payment service provider shall, in the cases referred to in paragraph (1) of this Article, set up adequate security measures to protect the confidentiality and integrity of payment service users' personalised security credentials.
- (4) The account servicing payment service provider shall allow the payment initiation service providers and the account information service providers to rely on the authentication procedures provided by the account servicing payment service provider to the payment service user in accordance with paragraphs (1) and (3) of this Article and, where the payment initiation service providers are involved, also in accordance with paragraph (2) of this Article.
- (5) The provisions of paragraphs (2) and (3) of this Article shall also apply where payments are initiated through a payment initiation service provider.
- (6) The provisions of paragraphs (1) and (3) of this Article shall also apply where information is requested through an account information service provider.
- (7) The Central Bank shall prescribe security requirements to be met by the payment service providers for ensuring strong customer authentication and common and secure open standards of communication, as well as exemptions from the application of strong customer authentication requirements in order to:
 - 1) ensure an appropriate level of security for payment service user and payment service providers, through the adoption of effective and risk-based requirements;
 - 2) ensure the safety of payment service users' monetary funds and personal data;
 - 3) secure and maintain fair market competition among all payment service providers;
 - 4) ensure technology and business-model neutrality;
 - 5) allow for the development of user-friendly, accessible and innovative means of payment.

e) Out-of-court settlement of disputes

Complaints to the payment service provider

Article 56d

- (1) Where it is deemed that the payment service provider does not comply with the provisions of Article 10 to 56c of this Law, the payment service user may submit a complaint to the payment service provider.
- (2) A payment service provider shall provide the payment service user with the final reply to all the points raised in the complaint referred to in paragraph (1) of this Article at the latest within 15 days of the date of receipt of the complaint, on paper, or if so agreed between the payment service provider and the user, on another durable medium.
- (3) By way of derogation from paragraph (2) of this Article, where a payment service provider is unable to provide an answer within 15 days following the receipt of the complaint for reasons beyond the control of the payment service provider, it shall be required to send a reply to the payment service user clearly indicating the reasons for a delay in answering to the complaint and specifying the time limit by which the payment service user will receive the reply and which shall not exceed 30 days from the date of receipt of the complaint.
- (4) In the reply to the complaint, the payment service provider shall refer the payment service user to the possibility of submitting a complaint to the Central Bank and also for alternative dispute resolution in accordance with Article 56f of this Law.
- (5) A payment service provider shall develop and apply appropriate and effective procedures for the resolution of complaints of payment service user and make them available to payment service user in Montenegrin language or in another language agreed between the payment service provider and the payment service user.
- (6) The payment service provider shall entrust the operations relating to the complaints of payment service users at least to one person that is employed with that payment service provider.

Complaints to the Central Bank

Article 56e

- (1) Payment service users and other persons with a legitimate interest, including consumer associations, may, upon the receipt of the reply referred to in Article 56d paragraphs (2) and (3) of this Law, or where the payment service provider fails to submit the reply within time limits referred to in Article 56d paragraphs (2) and (3) of this Law, submit complaints to the Central Bank against the payment service provider, if they deem that the payment service provider has acted contrary to the provisions of Articles 10 to 56c of this Law.
- (2) Upon the receipt of the complaint referred to in paragraph (1) of this Article, the Central Bank shall invite the respondent payment service provider to submit its statement and the relevant evidence it invokes unless it follows from the complaint and the information available to the Central Bank that the complaint is not grounded.
- (3) The payment service provider shall, within the time limit set by the Central Bank, but no longer than 15 days after the day of receiving the invitation referred to in paragraph (2) of this Article, submit its statement and the relevant evidence it invokes.
- (4) Upon the consideration of complaints received by the payment service users and the statement of the payment service providers supported by evidence, the Central Bank may:
 - 1) give a recommendation to the payment service provider for improving the relationship with payment service users;
 - 2) provide advice to the payment service user related to the exercising of its rights when using payment services;
 - 3) perform also other actions contributing to the exercising of protection of rights of the payment service user.
- (5) Where, with reference to the complaint, the Central Bank establishes that there are reasonable grounds to suspect that the payment service provider has acted contrary to any of the provisions of Articles 10 to 56c

of this Law and has thus committed a misdemeanour, it shall initiate misdemeanour proceedings before the competent court.

- (6) The Central Bank shall notify the complainant of its findings and, when applicable, of the measures taken.
- (7) The Central Bank shall inform the payment service user in its notification referred to in paragraph (6) of this Article of the possibility to initiate an alternative dispute resolution pursuant to Article 56f of this Law.

Alternative dispute resolution

Article 56f

- (1) The payment service user may apply alternative dispute resolution in accordance with the separate law governing alternative dispute resolution and arbitration for alternative dispute resolution, and payment service user that is a consumer may apply alternative dispute resolution in accordance with the law governing the consumer protection.
- (2) The payment service provider shall provide the payment service user information on at least one authority competent for alternative dispute resolution for consumer disputes.
- (3) The information referred to in paragraph (2) of this Article shall comprise the postal address and website address of the authority competent for alternative dispute resolution for consumer disputes and information on the obligation of the payment service provider referred to in paragraph (5) of this Article.
- (4) The payment service provider shall provide the information referred to in paragraphs (2) and (3) of this Article in a clear, comprehensible and easily accessible manner in its business premises and on its website and provide them to its payment service users in the context of prior information the payment service provider is required to provide in accordance with the provisions of Articles 15 and 19 of this Law.
- (5) A payment service provider shall participate in the alternative dispute resolution procedure initiated by the payment service user before the authority referred to in paragraph (1) of this Article.
- (6) The right of the payment service user referred to in paragraph (1) of this Article shall not affect its right to initiate court proceedings.

IV. INTERNATIONAL PAYMENT TRANSACTIONS

Application of provisions

Article 57

The provisions of Articles 2 through 56 of this Law shall apply to international payment transactions unless Articles 58 through 61 of this Law specify otherwise.

Deadlines for the execution of international payment transactions

Article 58

- (1) The payer's payment service provider shall debit the payer's account no later than by the end of the next business day following the order receipt date, subject to the existence of sufficient funds in the payer's account.
- (2) The payee's payment service provider shall credit the payee's account with funds received from international payment transaction when the payee's account has been indicated in the payment order and when the transfer of funds requires no additional instructions, no later than the next business day following that on which the payee's payment service provider received the notification of crediting its account.
- (3) When the transfer of funds from international payment transaction requires additional instruction with regard to the payer, the payee's payment service provider shall credit the funds to the payee's account no later than the next business day following that of receipt of the relevant additional instruction.
- (4) When the transfer of funds from international payment transaction requires additional instruction from the payee, the payee's payment service provider shall inform the payee on the receipt of funds on the same business day when it has received the notice on the receipt of those funds and credit the payee's account in accordance with the received instruction, no later than by the end of the business days when the instruction has been received.

- (5) Deadlines specified referred to in paragraphs (1) to (4) of this Article shall apply on international payment transactions unless otherwise agreed by the payment service provider and the payment service user, and no later than four business days following the receipt of the payment order and/or additional instruction.

Fees

Article 59

- (1) Where the payment service contract specifies that the payment service provider shall charge the fee to the payment service user for the execution of international payment transaction that is charged by another payment service provider or intermediary participating in the execution of these payment transactions, the payment service provider shall inform the payment service user on the amount of that fee before initiating the international payment transaction.
- (2) In the case the payment service provider has no information referred to in paragraph (1) of this Article at the moment of initiating the international payment transaction it shall take necessary activities to provide the payment system user with the information on the anticipated amount of the relevant fee.
- (3) The payment service provider and the payment service user may agree on charging the fee for international payment transaction in the manner other than that specified under Article 28 paragraph (3) of this Law.

Low-value payment instruments

Article 60

The payment service provider and the payment service user may regulate under the framework contract governing international payment transactions exclusively using low-value payment instruments the derogation from provisions of Article 27 of this Law.

Disposal of received funds

Article 61

After the receipt of funds from an international payment transaction, the payee may order its payment service provider solely to:

- 1) transfer the received funds to the payee's transaction account for the execution of national payment transactions;
- 2) pay the cash to the payee, or
- 3) settle the payee's international payment obligations.

V. PAYMENT ACCOUNTS

Definition

Article 62

- (1) Payment account means an account held in the name of one or more payment service users which is used for the execution of payment transactions.
- (2) The Central Bank may prescribe detailed requirements and the manner of maintaining payment accounts, as well as their unique structure.

Joint payment account

Article 63

- (1) A joint payment account is the account held by the payment service provider on behalf of two or more payment service users, subject to the agreement on keeping the joint payment account.

- (2) Every payment service user that is an individual holder of a joint payment account shall be able to have disposal of total funds in the joint payment account, unless the agreement referred to in paragraph (1) of this Article stipulates restrictions to the disposal of funds in this account.
- (3) Funds in the joint payment account may be entirely used for the settlement of obligations of an individual holder to third persons.
- (4) The agreement referred to in paragraph (1) of this Article shall not restrict the right of third persons in the bankruptcy or liquidation proceedings or enforced collection proceedings against an individual holder of the joint payment account to collect their claims on this holder by debiting the joint payment account for the total amount of claims, unless otherwise prescribed by the law.

Transaction account

Article 64

- (1) A transaction account is a type of the payment account opened and maintained by banks and other credit institutions offering payment services, a branch of a credit institution from a third country with the head office in Montenegro, and by the Central Bank in the name of one or more payment service users for the purpose of executing payment transactions and for other purposes.
- (2) The Central Bank shall open and maintain transaction accounts for banks and other credit institutions offering payment services, as well as for entities specified by law and regulations of the Central Bank to maintain such accounts with the Central Bank.
- (3) Payment institutions and electronic money institutions may not open transaction accounts for payment system users.
- (4) A transaction account shall be opened on the basis of an agreement to be concluded between the payment service provider referred to in paragraph (1) of this Article and a payment service user.
- (5) A payment service user may have more than one transaction account with one payment service provider and transaction accounts with more than one payment services providers referred to in paragraph (1) of this Article.
- (6) A transaction account shall be cancelled in line with the law and other regulations and/or the agreement referred to in paragraph (4) of this Article.
- (7) Funds held on the transaction account shall be considered demand deposits.
- (8) The Central Bank shall prescribe the structure and detailed conditions and manner of opening and closing of a transaction account for the execution of national payment transactions, and it may also prescribe the structure and detailed conditions and manner of opening and closing of a transaction account for the execution of international payment transactions.
- (9) Enabling regulations referred to in paragraph (8) of this Article and other regulations passed by the Central Bank on the basis of its powers laid down in this Law shall be published in the Official Gazette of Montenegro.

Registries of transaction accounts maintained by payment service providers

Article 65

- (1) Payment service providers referred to in Article 64 paragraph (1) of this Law shall maintain a registry of transaction accounts of their payment service users.
- (2) Payment service providers referred to in paragraph (1) of this Article shall submit to the Central Bank the information on opened transaction accounts referred to in Article 65a paragraph (2) of this Law, the data on any change in information on those accounts and the data on cancelling those accounts, no later than by the end of the business day when such an account has been opened, cancelled or the change has been made.
- (3) The payment service providers referred to in paragraph (1) of this Article shall be held liable for the accuracy of data submitted in accordance with paragraph (2) of this Article.
- (4) The Central Bank shall be responsible for equivalence of data referred to in paragraph (2) of this Article with data contained in the Central Registry of Transaction Accounts referred to in Article 65a of this Law.

Central registries of transaction accounts maintained by the Central Bank

Article 65a

- (1) The Central Bank shall maintain the Central Registry of Transaction Accounts as a uniform information database on transaction accounts and their holders.
- (2) The Central Bank shall prescribe a detail information on the content of the Central Registry of Transaction Accounts, data to be submitted for the purpose thereof, the manner of the submission of data and the manner of having an insight in data from such registry.
- (3) The number of transaction account and other data contained in the Central Registry of Transaction Accounts that relate to legal persons and entrepreneurs shall be publicly available, except the data on the balance and turnover on individual transaction accounts of these persons if they are contained in this registry.
- (4) The number of transaction account and other data contained in the Central Registry of Transaction Accounts that relate to natural persons shall not be publicly available and shall be subject to the provisions of Article 54 of this Law and the regulations governing the personal data protection.
- (5) The Central Bank may, for specific purposes, maintain also other registries of transaction accounts, and the manner and content thereof shall be prescribed by the regulation of the Central Bank.

Payment orders through transaction accounts

Article 66

The Central Bank shall prescribe the basic elements and the manner of completion of the payment order for the execution of national payment transactions through transaction accounts and it may prescribe the basic elements and the manner of completion of the payment order for the execution of international payment transactions through transaction accounts.

Debiting payment account without payment order

Article 66a

- (1) A payment service provider shall debit the payment account of the payment service user without payment order in the following cases:
 - 1) in the enforced collection procedure carried out over the payment account of payment service user as judgement debtor, in accordance with the law governing enforcement and securing of claims;
 - 2) for the purpose of collecting due fees for services provided by the payment service provider in accordance with the provisions of this Law, due receivables in respect of loans that the payment service provider granted to the payment service user or other due receivables of the payment service provider from the payment service user, if such collection method has been agreed, and
 - 3) in other cases prescribed by the Law.
- (2) The payment transaction executed in accordance with paragraph (1) of this Article shall not be considered an unauthorised payment transaction.

VI. PAYMENT INSTITUTIONS

1. Status and operations of payment institution

Form of organisation

Article 67

- (1) A payment institution with the registered office in Montenegro shall be a legal person authorised by the Central Bank to provide one or more payment services referred to in Article 2 of this Law, except in case when it provides exclusively a service referred to in Article 2 paragraph (1) item 8) of this Law.
- (2) A payment institution shall not provide payment services before obtaining the authorisation referred to in paragraph (1) of this Article.

Other activities of a payment institution

Article 68

In addition to the provision of payment services referred to in Article 2 of this Law, a payment institution may also engage in:

- 1) the provision of operational and related ancillary services, such as ensuring the execution of payment transactions, provision of currency conversion services required for the execution of payment transactions, provision of safekeeping services and services related to data storage and processing;
- 2) the operation of a payment system other than a payment system in which settlement finality is performed, without prejudice to payment system access in line with provisions of Article 142 of this Law; and/or
- 3) an activity other than the provision of payment services.

Hybrid payment institution

Article 69

- (1) A payment institution that performs activities referred to in Article 68 item 2) and/or 3) of this Law shall be a hybrid payment institution.
- (2) A hybrid payment institution shall perform activities referred to in paragraph (1) of this Article in the manner to avoid jeopardizing stability and safety of the part of the payment institution's operations related to the provision of payment services and hindering the supervision of the payment institution in line with this law.
- (3) Provisions of this Law applying to payment institutions which sole activity is providing payment services shall apply *mutatis mutandis* to hybrid payment institutions, unless otherwise prescribed under this law.

Minimum amount of the initial capital

Article 70

- (1) The initial capital of a payment institution that provides payment services referred to in Article 2 paragraph (1) item 6) of this Law may not be less than 20,000 euros.
- (2) The initial capital of a payment institution providing payment services referred to in Article 2 paragraph (1) item 7) of this Law may not be less than 50,000 euros.
- (3) The initial capital of a payment institution providing one or several payment services referred to in Article 2 paragraph (1) items 1) to 5) of this Law may not be less than 125,000 euros.
- (4) The person submitting the application for authorisation for providing payment services that are subject to different minimum amounts of the initial capital in accordance with paragraphs (1) to (3) of this Article shall provide the minimum initial capital in the highest prescribed amount for the payment service(s) for which it is prescribed.
- (5) The minimum initial capital of a payment institution must be paid in cash.
- (6) By way of derogation from paragraph (5) of this Article, a hybrid payment institution shall allocate earmarked funds at least in the amount of the minimum initial capital.

Acquiring and disposing of qualifying holding

Article 71

- (1) A qualifying holding in a payment institution may be acquired only by a legal or a natural person that has previously obtained the authorisation of the Central Bank to acquire qualifying holding, in the amount for which the authorisation has been granted.
- (2) Any natural or legal person intending to acquire for the first time directly or indirectly 10% or more of the capital or voting rights in a payment institution or intending to acquire a holding of less than 10% of the capital or voting rights in a payment institution which would enable this person to exercise a significant influence over the management of a payment institution, shall submit the application to the Central Bank for granting the authorisation referred to in paragraph (1) of this Article.

- (3) A person who has acquired a qualifying holding in a payment institution shall also, prior to each direct or indirect acquisition of holdings in capital or voting rights of a payment institution which would enable this person to acquire 20%, 30% or 50% or more of holdings in capital or of voting rights in a payment institution, submit the application to the Central Bank for granting the authorisation referred to in paragraph (1) of this Article.
- (4) An indirect acquirer, within the meaning of paragraphs (2) and (3) of this Article, shall be a person for whose account another person (direct acquirer) intends to acquire qualifying holding in a payment institution and/or immediate family members of a direct acquirer: a spouse, a person living in partnership considered by the law as equivalent to the marriage, the children and other children living in household of that person.
- (5) A person who has acquired qualifying holding in a payment institution shall submit a prior notification to the Central Bank on its intention to dispose of qualifying holding in the payment institution or to reduce it to the level below 20%, 30% or 50%, and in case of the reduction of qualifying holding below the level for which the authorisation has been obtained but still exceeds the percentage referred to in paragraphs (2) and (3) of this Article in the part of qualifying holding, the authorisation shall remain valid in the level of the remaining portion of qualifying holding.

Documents and information to be submitted with the application for acquiring qualifying holding

Article 71a

- (1) In addition to the application for granting authorisation to acquire qualifying holding in a payment institution, the following shall be submitted:
 - 1) for a legal person - documents and information to include in particular: a certificate of registration or any other relevant public registry, audited financial statements from the past three years, an overview of connected persons and a description of the connection, including information on persons who, owing to their ownership share or in any other way, have a significant control over the operations of connected persons;
 - 2) for a natural person – documents, and information to include in particular: their names and addresses, permanent and/or temporary place of residence and other identification data, relevant evidence of sources of funds for acquiring qualifying holding, an overview with any connected persons and the description of that connection.
- (2) The Central Bank may, during the procedure of making a decision upon application for granting authorisation to acquire a qualifying holding, request from an applicant and payment institution additional documentation and information that the Central Bank deems necessary for the decision-making process, including the information from the field of prevention of money laundering and terrorist financing.

Deciding on the application for granting authorisation to acquire qualifying holding

Article 71b

- (1) When deciding on the application for granting authorisation to acquire qualifying holding, the Central Bank shall assess if the suitability criteria of a proposed acquirer have been met and the possible impact of the intended acquirer of a qualifying holding on sound and prudent management of a payment institution in accordance with the following criteria:
 - 1) the proposed acquirer's good repute, taking into account the repute of all the qualifying holders of the acquirer's holdings and their influence on the proposed acquirer;
 - 2) good repute, adequate expert knowledge, competences and experience of any person who will direct the business of the payment institution following the acquisition of qualifying holding;
 - 3) the financial situation of the proposed acquirer, in particular with respect to the type of business pursued by the payment institution in which a qualifying holding is acquired;
 - 4) the ability of the payment institution to continue to comply, after the acquisition of a qualifying holding, with the provisions of this Law, enabling regulations and other regulations relating to the operations of payment institutions;

- 5) whether there are reasonable grounds to suspect that, in connection with the subject acquisition, money laundering or terrorist financing is being committed or attempted, or that the subject acquisition could increase the risk thereof of money laundering or terrorist financing taking place.
- (2) The Central Bank may refuse the application for granting the authorisation to acquire a qualifying holding where an applicant fails to submit to the Central Bank documents and information referred to in Article 71a of this Law or where it deems that the conditions referred to in paragraph (1) of this Article have not been met.

Acquiring qualifying holding without authorisation of the Central Bank

Article 71c

- (1) Where a person acquires a qualifying holding in a payment institution without the authorisation of the Central Bank, the Central Bank shall issue an administrative decision ordering such acquirer to sell shares or holdings acquired without authorisation and to submit evidence on executed sale and information on the buyer.
- (2) The Central Bank shall, in the administrative decision referred to in paragraph (1) of this Article, determine the deadline for the sale, which may not be shorter than three months or longer than nine months.
- (3) The Central Bank shall made public announcement on the administrative decision referred to in paragraph (1) of this Law and publish it on its website.

Legal effects of illegal acquisition of qualifying holding

Article 71d

- (1) A person who acquires qualifying holding in a payment institution without authorisation of the Central Bank shall not exercise voting rights above the level of voting rights the acquirer has had before the acquisition or increase of qualifying holding in a payment institution, nor exercise the right to payout of a portion of profit based on shares or holdings so acquired until obtaining appropriate authorisation from the Central Bank.
- (2) Where illegal acquirer of qualifying holding in the payment institution does not dispose of shares or holdings within the period specified by the administrative decision of the Central Bank referred to in Article 71c paragraph (2) of this Law, illegally acquired shares shall become non-voting shares until their disposal.
- (3) In the case of the disposal of shares referred to in paragraph (2) of this Article, the new legal acquirer of these shares or holdings shall be entitled to all rights relating to these shares or holdings.

Withdrawal of authorisation to acquire qualifying holding

Article 71e

- (1) The Central Bank shall withdraw the authorisation granted for acquiring qualifying holding where:
 - 1) it has been granted on the basis of untrue and incorrect data of a person that has acquired qualifying holding;
 - 2) the acquirer of qualifying holding no longer meets the suitability criteria and financial soundness of the proposed acquisition referred to in Article 71b paragraph (1) of this Law, or
 - 3) a person that has acquired qualifying holding uses its influence in such a manner that is contrary to safe and prudent management of payment institution or acts unconsciously and contrary to the diligence of a prudent businessperson.
- (2) The provisions of Article 71d paragraph (2) of this Law shall be applied to a person that has acquired qualifying holding and to whom the authorisation to acquire qualifying holding has been withdrawn in accordance with paragraph (1) of this Article.

Application for authorisation to provide payment services

Article 72

- (1) A legal person intending to provide payment services as a payment institution shall submit an application for granting authorisation to provide payment services to the Central Bank.
- (2) The application referred to in paragraph (1) of this Article shall be accompanied by the following in particular:
 - 1) the Certificate or Articles of Incorporation, the Articles of Association, and the certificate of registration in the Central Registry of Business Entities (hereinafter: the CRPS);
 - 2) a business programme, indicating the types of payment services referred to in Article 2 of this Law for which the authorisation is sought;
 - 3) a business plan, including a financial statement projection for the first three fiscal years that demonstrates the ability of the applicant to operate in a stable manner on the basis of adequate systems, resources and procedures and an appropriate organisational, technical and personnel structure; where such a legal person intends to provide payment services as a hybrid payment institution, it shall also submit financial statements for the past two business years or where it operates shorter than two business years, the financial statements available as of the date of its establishment;
 - 4) evidence of the amount of initial capital paid in or funds earmarked for the initial capital of the hybrid payment institution;
 - 5) a description of the proposed measures to safeguard payment service users' funds in accordance with Article 79 of this Law, including, where applicable, an assessment method for the representative portion of funds assumed to be used for future payment transactions;
 - 6) a description of the envisaged governance framework, including administrative, accounting and risk-management procedures to evaluate whether those procedures are adequate, suitable and reliable;
 - 7) a description of the procedure in place to monitor, handle and follow up a security incident or security related payment service user's complaints, including an incident reporting mechanism which takes account of the notification obligations laid down in Article 56b of this Law;
 - 8) a description of the process in place to file, monitor, track and restrict access to sensitive payment data;
 - 9) a description of business continuity arrangements, including a clear identification of the critical activities, effective contingency plans and a procedure to regularly test and review the adequacy and efficiency of such plans;
 - 10) a description of the principles and definitions applied for the collection of statistical data on performance, transactions and fraud;
 - 11) a security policy document, including a detailed risk assessment in relation to its payment services and a description of security control and mitigation measures taken to adequately protect payment service users against the risks identified, including fraud and illegal use of sensitive and personal data;
 - 12) a description of the internal control mechanism, in line with this Law and the law governing the prevention of money laundering and terrorist financing;
 - 13) a description of the payment institution's organisational structure, including a description of the intended operation through branches and agents, and of the off-site and on-site checks that the applicant undertakes to perform on them at least annually, as well as a description of outsourcing arrangements and their participation in the relevant payment system;
 - 14) for persons that have acquired the qualifying holding in that payment institution, the evidence of the size of their holding and documents referred to in Article 71a of this Law, for the purpose of the assessment of suitability of those persons to ensure safe and sound governance of the payment institution;
 - 15) data of persons who are members of the bodies of the payment institution or persons responsible for managing the payment institution, and, where relevant, of the persons responsible for payment service provision and the evidence that these persons have adequate knowledge and experience to perform the activity of payment service provision, and executive director has also university degree, as well good repute to be proved by evidence that:
 - they have not been convicted for an offence that makes them unworthy of holding a function or performing relevant tasks and duties,
 - they were not holding managerial positions in a business undertaking at the time the business undertaking was subject to bankruptcy or winding up proceedings,

- the evidence that they are not under any investigation or subject to any criminal proceedings for a criminal offence persecuted ex officio;
 - 16) where applicable, the evidence of appointment of the statutory auditor or audit firm to audit financial statements for the business year for which the application is submitted;
 - 17) a list of persons having connections with the payment institution and the description of the manner in which they are connected.
- (3) For the purposes of paragraph (1) items 5), 6), 7) and 13) of this Article, the applicant shall provide a description of its audit arrangements and the organisational arrangements it has set up with a view to taking all reasonable steps to protect the interests of its users and to ensure continuity and reliability in the performance of payment services.
 - (4) The security control and mitigation measures referred to in paragraph (2) item 11) of this Article shall indicate how they ensure a high level of technical security and data protection, including for the software and IT systems used by the applicant or the person to which it outsources the whole or part of its operations, including security measures laid down in Article 56a of this Law.
 - (5) The applicant applying for authorisation to provide only payment service referred to in Article 2 paragraph (1) item 7) of this Law, shall submit, instead a description referred to in paragraph (2) item 5) of this Article, evidence on concluded professional indemnity insurance agreement or some other comparable guarantee against liability to ensure that they can cover their liabilities as specified in provisions of Articles 36, 49, 50a and 52 of this Law.
 - (6) The Central Bank shall determine the minimum monetary amount of the professional indemnity insurance or other comparable guarantee referred to in paragraph (5) of this Article by applying the following criteria:
 - 1) risk profile of the payment institution;
 - 2) whether the payment institution provides other payment services as referred to in Article 2 of this Law or is also engaged in other business;
 - 3) the size of the activity or the value of initiated transactions;
 - 4) the specific characteristics of comparable guarantees and the criteria for their implementation.
 - (7) In addition to information, data and documents referred to in paragraphs (1) to (6) of this Article, the Central Bank may require the applicant to submit additional information, data and documents, including information from the area of the prevention of money laundering and terrorist financing.

Granting authorisation to provide payment services

Article 73

- (1) The Central Bank shall grant an authorisation to provide payment services based on orderly submitted application and documentation referred to in Article 72 of this Law only if, taking into account the need to ensure safe and sound management of the payment institution, it estimates that the payment institution has:
 - 1) robust governance arrangements for its payment services business, which include a clear organisational structure with well-defined, transparent and consistent lines of responsibility,
 - 2) efficient procedures to identify, manage, monitor and report risks to which it is or might be exposed, and
 - 3) adequate internal control mechanisms, including sound administrative and accounting procedures; those arrangements, procedures and mechanisms shall be comprehensive and proportionate to the nature, scale and complexity of the payment services provided by the payment institution.
- (2) Where a legal person providing other payment activities has submitted the application for authorisation to provide payment services specified under Article 2 paragraph (1) items 1) to 7) of this Law, the Central Bank may request the applicant to establish a separate legal person if it assesses that those non-payment services activities of the payment institution may impair either the financial soundness of the payment institution or the ability of the Central Bank to supervise the payment institution in accordance with the law.
- (3) Prior to granting the authorisation to provide payment services, the Central Bank may consult with other central banks or other relevant competent authorities in order to make a complete assessment of the submitted application.

- (4) The decision on granting the authorisation to provide payment services shall be published in the Official Gazette of Montenegro.

Application for authorisation to provide additional payment services

Article 74

- (1) Where a payment institution, after having obtained authorisation referred to Article 73 of this Law, intends to provide payment services other than those covered by the authorisation (hereinafter: additional payment services), it shall submit to the Central Bank an application for authorisation to provide such additional payment services.
- (2) The authorisation referred to in paragraph (1) of this Article shall be supported with the documentation referred to in Article 72 paragraph (2) items 2), 3) and 4) of this Law and a detail explanation on the impact of the additional services on the financial statements, organizational structure, internal control mechanism and system for safeguarding payment service users' funds.
- (3) The decision on granting the authorisation to provide additional payment services shall be published in the Official Gazette of Montenegro.

Refusal of application for authorisation to provide payment services

Article 75

- (1) The Central Bank shall refuse an application for authorisation to provide payment services:
 - 1) where it assesses that any of the conditions referred to in Article 73 of this Law have not been met;
 - 2) where it assesses that the persons who intend to hold qualifying holding in a payment institution are not qualified;
 - 3) where the exercise of supervision of the payment institution's operation pursuant to the provisions of this Law may be made difficult or prevented due to links between the payment institution and other legal or natural persons;
 - 4) where it assesses that the applicant should establish a separate legal person to provide payment services.
- (2) The provisions of paragraph (1) of this Article shall also apply *mutatis mutandis* to the refusal of application referred to in Article 74 of this Law.

Withdrawal of authorisation to provide payment services

Article 76

- (1) The Central Bank shall withdraw authorisation to provide payment services:
 - 1) where a payment institution does not commence providing payment services in accordance with the authorisation within one year following its approval date;
 - 2) where a payment institution submits a written notification to the Central Bank stating that it no longer intends to provide the services for which authorisation has been granted;
 - 3) where a payment institution has not provided payment services for more than six months;
 - 4) where a payment institution obtains authorisation based on false or inaccurate documentation or false presentation of the data relevant to its operation; or
 - 5) where a payment institution no longer meets the conditions under which authorisation has been granted or fails to notify the Central Bank of significant changes thereof.
- (2) The Central Bank may withdraw the authorisation to provide payment services if:
 - 1) any of the reasons referred to in Article 75 items 2), 3) and 4) of this Law arises;
 - 2) a payment institution threatens the stability or confidence of a payment system by continuing to provide payment services;
 - 3) it determines that a payment institution has not maintained own funds in accordance with provisions of this Law;
 - 4) a payment institution, in any manner whatsoever, prevents the supervision of its operation; or
 - 5) a payment institution fails to implement supervisory measures imposed by the Central Bank.

- (3) The decision on withdrawal of authorisation to provide payment services shall be published in the Official Gazette of Montenegro.
- (4) The Central Bank shall submit the decision on withdrawal of authorisation to provide payment services to CRPS and issue public statement thereof in at least two printed media distributed in the territory of Montenegro.

Provision of payment services through agents

Article 77

- (1) A payment institution shall provide payment services through an agent in accordance with Article 5 of this Law and paragraphs (2) to (7) of this Article.
- (2) A payment service provider shall apply to the Central Bank for the listing of the agent in the register of payment institutions.
- (3) The agent may not commence its operations before it has been listed in the register referred to in paragraph (2) of this Article.
- (4) The Central Bank may refuse to list the agent in the register referred to in paragraph (2) of this Article if it has established that the submitted documents contain incomplete or inaccurate information.
- (5) The Central Bank may remove the agent from the register referred to in paragraph (2) of this Article if it no longer meets the prescribed requirements or if it has established that the listing in the register had been made on the basis of incorrect information or documents.
- (6) When the agent has been removed from the register referred to in paragraph (2) of this Article, documentation and funds related to outstanding liabilities and unresolved relationships connected to payment transactions performed by the agent shall be submitted to the payment service provider on whose behalf the agent has been acting.
- (7) The Central Bank shall prescribe detailed requirements for agent operations and the information and documents required for their listing in the register.
- (8) Provisions referred to in paragraphs (1) to (7) of this Article shall apply *mutatis mutandis* to the listing of agents of other payment service providers referred to in Article 4 of this Law in the relevant registers.

2. Payment institution operations

Own funds of payment institution

Article 78

- (1) In order to ensure its safe and sound operations and meet obligations to its creditors, a payment institution shall maintain an adequate level of own funds which may not at any time fall below the initial capital or the amount of own funds specified in accordance with this Law, whichever is higher.
- (2) Own funds referred to in paragraph (1) of this Article shall be the sum of Tier 1 and Tier 2 capital where at least 75% of Tier 1 capital is in the form of Common Equity Tier 1 capital, and Tier 2 capital is equal to or less than one third of Tier 1 capital.
- (3) The amount of own funds of a payment institution shall be calculated in accordance with one of the following methods:
 - 1) fixed overheads method;
 - 2) payment transaction range method;
 - 3) other operating income method.
- (4) The amount of own funds of a hybrid payment institution shall be calculated only for a part of business activities referring to providing payment services.
- (5) The method and manner for calculating own funds shall be specified in more detail in a regulation of the Central Bank, and shall be uniformly applied to all payment institutions.
- (6) The provisions of paragraphs (1) to (5) of this Article shall not apply to payment service providers providing only payment services referred to in Article 2 paragraph (1) items 7) and 8) of this Law.

Safeguarding of payment service users' funds

Article 79

- (1) A payment institution shall safeguard the funds received from payment service users or through another payment service provider for the execution of payment transactions.
- (2) A payment institution shall not commingle the funds of payment service users on whose behalf they are held with the funds of other natural or legal persons received for other purposes.
- (3) Where a payment institution holds the funds of payment service users that have not been delivered to a payee or transferred to another payment service provider by the end of the business day following the day when the funds were received, the payment institution shall protect them in a following manner:
 - 1) deposit them in an account with a bank having its registered office in Montenegro or abroad;
 - 2) invest them in liquid and low-risk property.
- (4) The funds of the payment service users referred to in paragraph (3) of this Article shall not be the property of the payment institution, and shall neither be included in its assets, or winding-up or bankruptcy estate, nor may they be subject to execution or enforced collection against the payment institution.
- (5) A payment institution shall cover the funds of the payment service users by an insurance policy from an insurance company or a bank's guarantee, provided that this insurance company or bank does not belong to the same group as the payment institution itself, whereby the contracted insurance policy or guarantee must be payable in the event that the payment institution is unable to meet its financial obligations incurred by the provision of services related to the execution of payment transactions.
- (6) Where a hybrid payment institution, apart from providing payment services, performs the activities referred to in Article 68 item 3) of this Law and receives funds from payment service users, of which a portion is to be used for future payment transactions, and the remaining portion for the services which the payment institution provides, other than payment services, it shall safeguard the portion of funds to be used for future payment transactions in the manner referred to in paragraph (3) or (5) of this Article.
- (7) If a portion of funds referred to in paragraph (6) of this Article is variable or unknown in advance, the payment institution may determine the portion of funds to be used for future payment transactions based on the representative portion assumed to be used for these purposes, provided that such a representative portion can be reasonably estimated on the basis of historical data on previously executed payment transactions.
- (8) The Central Bank shall prescribe in detail the safeguarding of payment service users' funds referred to in paragraph (3) item 2) of this Article.
- (9) The provisions of paragraphs (1) to (8) of this Article shall not apply to payment service providers providing only payment services referred to in Article 2 paragraph (1) items 7) and 8) of this Law.

Payment institution's accounts

Article 80

- (1) A payment institution which provides one or several payment services may hold only those payment accounts which are used exclusively for the execution of payment transactions.
- (2) Funds received by payment institutions from payment service users for the provision of payment services shall not constitute deposits or any other repayable funds within the meaning of the law governing the establishment and pursuit of the banking business, or electronic money within the meaning of this law.
- (3) A payment institution shall perform payment transactions using funds received from payment service users for the purpose of providing payment services via transaction accounts to be opened with banks.

Granting of credits and prohibition from accepting deposits

Article 81

- (1) A payment institution may grant credits in connection with the provision of the payment services under Article 2 paragraph (1) items 4) and 5) of this Law provided that:

- 1) the credit has been granted exclusively as an ancillary service in connection with the execution of a payment transaction;
 - 2) the credit repayment period does not exceed 12 months;
 - 3) the credit has not been granted from the funds of payment service users received by the payment institution and held for the execution of payment transactions; and
 - 4) own funds of the payment institution, as assessed by the Central Bank, are at all times appropriate with regard to the total amount of the credit granted.
- (2) A payment institution shall not perform activities which consist of accepting deposits or any other repayable funds within the meaning of the law regulating the taking up and pursuit of the banking business.

Business books and financial statements

Article 82

- (1) A payment institution shall keep business books and other business documentation, value assets and liabilities, and compile and publish annual financial statements in accordance with the law and accepted international standards.
- (2) A hybrid payment institution shall keep separate business books and compile separate financial reports for the provision of payment services.
- (3) Payment institutions referred to in paragraphs (1) and (2) of this Article shall keep their business books and other business documentation in accordance with Article 55 of this Law.

Audit requirements

Article 83

- (1) A payment institution shall have its annual financial statements and consolidated financial statements audited in accordance with the law.
- (2) A payment institution shall, at the latest within five months following the expiry of the business year to which the annual financial statements relate, submit the following to the Central Bank:
 - 1) annual and consolidated financial statements, and
 - 2) the audit report on annual financial statements and consolidated financial statements.
- (3) A business year, within the meaning of paragraph (2) of this Article, shall correspond to a calendar year.
- (4) The persons carrying out the audit referred to in paragraph (1) of this Article shall, without undue delay, notify the Central Bank of the following:
 - 1) identified illegalities or facts and circumstances which could in any way jeopardise continued operation of the payment institution; and
 - 2) circumstances which, pursuant to this law, have led to the withdrawal of the authorisation to provide payment services.
- (5) The persons carrying out the audit referred to in paragraph (1) of this Article shall notify the Central Bank in writing of any of the facts referred to in paragraph (4) of this Article of which they became aware while auditing the financial statements of a legal person linked with that payment institution.
- (6) The submission of the information referred to in paragraphs (4) and (5) of this Article to the Central Bank shall not constitute the violation of confidentiality of information and the auditor shall not be held liable for that.

Assessment of the information system

Article 84

- (1) The Central Bank may specify that an assessment of the IT system and the adequacy of the IT system management in a payment institution is a constituent part of the audit report referred to in Article 83 of this Law.
- (2) The persons carrying out an audit of a payment institution shall, at the request of the Central Bank, provide additional information related to the assessment referred to in paragraph (1) of this Article.

Outsourcing

Article 85

- (1) A payment institution may outsource some of its operational activities, including information technology systems, and it shall notify the Central Bank thereof prior to concluding a contract with an outsourcing service provider.
- (2) By way of derogation from paragraph (1) of this Article, where a payment institution intends to outsource materially important operational activities, it shall, within an appropriate time limit and at the latest 90 days prior to concluding a contract with an outsourcing service provider, notify the Central Bank thereof and submit the documentation proving that the conditions referred to in paragraphs (4), (5) and (6) of this Article have been met.
- (3) Materially important operational activities, within the meaning of paragraph (2) of this Article, shall be the activities which, if performed incorrectly or not at all, would significantly impair:
 - 1) the legality of the payment institution's operation;
 - 2) the payment institution's financial stability;
 - 3) the continuity in meeting the requirements based on which the payment institution has been granted the authorisation; or
 - 4) the soundness and continuity of the payment services.
- (4) A payment institution shall ensure that the intended outsourcing:
 - 1) does not alter the relationship and obligations of the payment institution to its payment service users as defined by this Law;
 - 2) does not threaten the legality of the payment institution's operation;
 - 3) does not result in transferring the liability from the responsible persons of the payment institution to an outsourcing service provider; and
 - 4) does not alter the conditions under which the payment institution has been granted authorisation to provide payment services.
- (5) In addition to complying with the requirements referred to in paragraph (4) of this Article, a payment institution shall ensure that the intended outsourcing of materially important operational activities:
 - 1) does not impair the quality of the payment institution's internal controls mechanism, and
 - 2) does not prevent or hinder the exercise of supervision by the Central Bank.
- (6) A payment institution shall ensure that the Central Bank can carry out on-site examination at the location where the services are provided or at the outsourcing service provider's premises and it shall ensure access to the outsourcing-related documentation and data possessed by the outsourcing service provider.
- (7) The Central Bank may prescribe detail requirements for the outsourcing of operational activities of a payment institution.

Liability of payment institution

Article 86

- (1) A payment institution shall be fully liable to third parties for the acts of its employees, agents, branches and outsourcing service providers in connection with the provision of payment services.
- (2) The liability referred to in paragraph (1) of this Article may not be excluded or limited.
- (3) A payment institution shall ensure that the agents acting on its behalf notify the payment service users thereof.
- (4) A payment institution shall notify, without undue delay, the Central Bank of any change of data relating to agents and outsourcing service providers.

Governance arrangements

Article 87

- (1) A payment institution shall establish and implement effective and sound governance arrangements, proportionate to the nature, scope and complexity of the operations it performs, comprising in particular:
 - 1) a clear management framework with well-defined, transparent and consistent lines of powers and responsibilities within the payment institution;
 - 2) efficient risk management, in particular operational risk management;
 - 3) appropriate internal control mechanisms, which also include appropriate administrative and accounting procedures.
- (2) The Central Bank may prescribe in detail the governance arrangements referred to in paragraph (1) of this Article.

Provision of payment services through a branch within the territory of a third country

Article 88

- (1) A payment institution may provide payment services in a third country exclusively through a branch.
- (2) In order to establish a branch in a third country, a payment institution shall submit to the Central Bank an application for granting the authorisation.
- (3) A payment institution shall support the application referred to in paragraph (2) of this Article with the following:
 - 1) name and address of the branch;
 - 2) a description of the branch's organisational structure;
 - 3) a business plan of the branch for the first three financial years with the description of the payment services it intends to provide through the branch.
 - 4) information on the persons who are to manage the branch's operations or directly manage the payment service provision operations in the branch, accompanied with information and evidence that these persons have good reputation as well as adequate professional qualifications, in accordance with Article 72 paragraph (2) item 10) of this Law.
- (4) The provisions of this Law governing the granting of the authorisations, the refusal of application for granting the authorisations, refusal and withdrawal of the authorisation for the provision of payment services for a payment institution shall apply *mutatis mutandis* to the procedure of decision-making on granting, refusal, and withdrawal of the authorisation for the provision of payment services in the territory of a third country.

Register of payment institutions

Article 89

- (1) The Central Bank shall keep a register of payment institutions authorised to provide payment services, and their branches and agents (hereinafter: the register of payment institutions) and update it as appropriate.
- (2) Account information service providers referred to in Article 107a of this Law and service providers referred to in Article 3a of this Law shall be entered into the registry of payment institutions separately.
- (3) The registry of payment institutions shall include a list of payment services which, in accordance with the authorisation granted and the administrative decision on the entry of the account information service provider into that registry, the individual entities referred to in paragraphs (1) and (2) of this Article are authorised to provide also their registration number, as well as the information on the withdrawal of the authorisation from the payment institutions and the removal of the account information service provider from that registry.
- (4) The register of payment institutions shall be publicly available and accessible on the website of the Central Bank.
- (5) The Central Bank shall prescribe the manner of keeping the register and the information contained therein to be made available.

Fees for granting authorisations

Article 90

The Central Bank shall charge fees for granting the authorisations under this Law, and the amount and manner of payment of these fees shall be regulated by the Central Bank.

VII. SUPERVISION OF PAYMENT INSTITUTIONS

Supervision of payment institutions

Article 91

- (1) The Central Bank shall exercise supervision of payment institutions.
- (2) The supervision referred in paragraph (1) of this Article shall mean the verification of whether a payment institution operates in accordance with this Law, and in relation to its provision of payment services and its activities in accordance with Article 68 item 1) of this Law, provided that the supervision of a hybrid payment institution shall be limited to a portion of operations of that institution relating to the provision of payment services and related operational services.
- (3) In establishing the frequency and scope of the supervision under paragraph (1) of this Article, the Central Bank shall take into account the type and complexity of the activities carried out by a payment institution and its risk profile.
- (4) Other competent authorities may also exercise supervision of the operation of payment institutions in accordance with their powers under the law.
- (5) In the case referred to in paragraph (4) of this Article, the Central Bank may participate in the supervision of a payment institution with the respective competent authority or may require from that authority the data and information which would be relevant for the supervision of the payment institution in question.
- (6) The Central Bank may prescribe detailed conditions for and the manner of exercising supervision of payment institutions and the responsibilities of payment institutions in the course of, and following, the supervision.
- (7) The Central Bank may charge a supervision fee, which amount and the manner of calculation and payment shall be prescribed by the Central Bank.

Communicating with payment institutions

Article 91a

The Central Bank shall, as a part of an ongoing supervision process, maintain communication with payment institutions, which includes in particular:

- 1) consultative meetings with the payment institution's bodies prior to the commencement of on-site examination of that payment institution;
- 2) meetings with the payment institution's bodies upon the completion of the on-site examination report;
- 3) preventive warnings to payment institutions with the aim to ensure their operations in accordance with the regulations;
- 4) correspondence with payment institutions in order to monitor implementation of measures imposed to a payment institution.

Manner of exercising supervision

Article 92

- (1) The Central Bank shall exercise the supervision of payment institutions by:
 - 1) analysing reports, information and other data that a payment institution is required to submit to the Central Bank pursuant to this Law and regulations of the Central Bank, information and data that a payment institution is required to submit at the Central Bank's request and within the time limit set by

the Central Bank, and other data on the operations of a payment institution available to the Central Bank;

- 2) directly examining business books, accounting and other documents in a payment institution and another participant in the operations subject to supervision (hereinafter: on-site examination).
- (2) The supervision of payment institutions shall be exercised by employees of the Central Bank authorised by the Central Bank for the performance of these activities.
- (3) By way of derogation from paragraph (2) of this Article, the Central Bank may authorise persons not employed by the Central Bank to carry out specific tasks during the supervision of payment institutions.
- (4) The Central Bank shall notify a payment institution of a planned on-site examination, as a rule, 10 business days prior to the beginning of the on-site examination.
- (5) Notwithstanding paragraph (4) of this Article, if the report and information available to the Central Bank reveal any irregularity that may be important for the safety and stability of the payment institutions' operations, on-site examination may also begin without prior notification.
- (6) The payment institution shall allow the authorised persons of the Central Bank to carry out on-site examination and provide adequate conditions for undisturbed performance of the on-site examination.

On-site examination

Article 93

- (1) A payment institution shall enable authorised person of the Central Bank, at their request, to carry out on-site examination at the registered office of the payment institution and other localities in which the payment institution or another person authorised by the payment institution carries out activities and operations subject to supervision of the Central Bank.
- (2) The payment institution shall enable the authorised person of the Central Bank, at their request, the access to its business books, other business documentation, and administrative or business records, as well as the information and related technologies, to the extent necessary for the supervision.
- (3) The payment institution shall submit to the authorised person of the Central Bank, at their request, computer printouts, copies of business books, other business documentation and administrative or business records, in a paper form or in the form of an electronic record in the medium, and it shall provide the authorised person with a standard interface granting access to the database management system used by the payment institution.
- (4) The on-site examination referred to in paragraph (1) of this Article shall be carried out during payment institution's working hours, and where necessary due to the scope or nature of the examination, the payment institution shall enable that the examination be carried out outside its working hours.

Examination report

Article 94

- (1) A report on examination of the payment institution shall be prepared.
- (2) Notwithstanding paragraph (1) of this Article, the report on examination shall not be prepared where the examination under Article 92 paragraph (1) item 1) of this Law has not disclosed any illegalities or irregularities in the payment institution's operation that would require the imposition of supervisory measures against the payment institution.
- (3) The report on examination shall be confidential and it may not be published partially or in entirety without the Central Bank's consent.
- (4) The payment institution may submit to the Central Bank objections to the examination report within eight business days following that of its reception.
- (5) The Central Bank may directly check statements of the payment institution contained in the objections to the examination report, and, if it deems justifiable, it shall amend the report, to which the payment institution may submit objections within three business days following that of its receipt.
- (6) The Central Bank shall, within eight days following that of receipt of objections to the report and/or objections to amendments to the examination report, consider the objections and inform the payment institution in writing on accepting or rejecting such objections.

Supervisory measures

Article 95

- (1) If a payment institution, within timeframes prescribed by this Law, does not submit objections to the examination report or if it does not objectively dispute examination report findings, or amendments to the report in which irregularities in operations of the payment institution are stated, the Central Bank shall impose measures against the payment institution ordering it to remove the identified irregularities and take timely actions to improve safety and security of the payment institution's operations.
- (2) In the case under paragraph (1) of this Article, the Central Bank may:
 - 1) warn the payment institution in writing on the identified irregularities and request the payment institution to take one or several activities to remove such irregularities;
 - 2) sign with the payment institution a written agreement to oblige the payment institution to remove irregularities disclosed in its operations within a specified timeframe;
 - 3) pass a decision to impose one or several measures under Article 99 of this Law; or
 - 4) withdraw the authorisation for providing payment services.

Written agreement

Article 96

- (1) The Central Bank may, upon completed examination, sign a written agreement with the payment institution if it determines that irregularities identified in the payment institution's operations do not represent acting contrary to regulations and/or if it deems necessary, give recommendations or guidelines to the payment institution to improve its operations.
- (2) The Central Bank may propose the payment institution to sign the written agreement referred to in paragraph (1) of this Article provided that:
 - 1) the payment institution has initiated the removal of irregularities during or immediately after the completion of examination;
 - 2) the payment institution is ready to ensure the removal of irregularities within the proposed timeframes and in the proposed manner;
 - 3) it may be concluded from the current behaviour of the payment institution relative to previous measures, objections and recommendations of the Central Bank, that it will regularly meet obligations from the agreement;
 - 4) it can be concluded from the payment institution's operations and frequency of identified irregularities that the payment institution will provide regularity, safety and stability of its future operations.
- (3) The written agreement shall mandatorily regulate:
 - 1) the deadline and manner of payment institution's acting for the purpose of removing irregularities in the payment institution's operations;
 - 2) the deadline or dynamics for the payment institution's reporting to the Central Bank on fulfilling the obligations under the written agreement.

Consequences of failure to fulfil obligations taken under the written agreement

Article 97

Where a payment institution fails to fulfil the obligations taken under the written agreement within the time limit and in the manner laid down in the agreement, the Central Bank shall pass an administrative decision on imposing measures in line with Article 98 of this Law.

Administrative decision to impose measures

Article 98

- (1) The Central Bank may, by a way of an administrative decision, impose measures on a payment institution if in the course of examination it establishes:

- 1) that by its actions or omission of particular actions the payment institution has acted contrary to the law;
 - 2) irregularities in the payment institution's operations which do not constitute acting contrary to regulations and no written agreement has been signed to regulate the removal of such irregularities, or
 - 3) that it is necessary for the payment institution to take actions and activities to improve its operations.
- (2) The administrative decision referred to in paragraph (1) of this Article shall lay down the deadline for the implementation of the imposed measures.
- (3) The payment institution may, no later than 15 days prior to the expiry of the deadline referred to in paragraph (2) of this Article, apply for an extension of the deadline by submitting a reasoned request, and the Central Bank shall decide on the extension no later than until the expiry of the deadline laid down in the administrative decision to impose measures.

Types of measures imposed by administrative decision

Article 99

- (1) An administrative decision to impose measures may:
- 1) order a payment institution to align its operations with this Law;
 - 2) temporarily prohibit the payment institution to provide one or more payment services;
 - 3) temporarily prohibit a payment institution to extend the loan under Article 81 paragraph (1) of this Law;
 - 4) order the termination of the agreement with an agent or an outsourcing service provider;
 - 5) order the competent body of the payment institution to remove a member of the management board and/or an executive director and/or another person responsible for performing payment services if they no longer meet the requirements prescribed under this Law and/or if they contravene the provisions of this Law;
 - 6) remove the payment institution's branch and/or agent from the register;
 - 7) order the payment institution to take and/or suspend the performance of other activities.
- (2) The Central Bank shall impose the measure referred to in paragraph (1) item 2) of this Article to be in effect for no more than one year, and it shall without undue delay notify the CRPS of the imposition of this measure.
- (3) The Central Bank may order the establishment of a separate legal entity for the provision of payment services if the payment institution performs the activities referred to in Article 68 item 3) of this Law which impair or may impair financial stability of the payment institution or hinder the performance of supervision.
- (4) Where own funds of a payment institution are lower than the amount required under Article 78 of this Law or where own funds of a payment institution are not appropriate with regard to the total amount of loans granted in accordance with Article 81 paragraph (1) of this Law, the administrative decision to impose measures may:
- 1) order the payment institution to adopt and ensure the implementation of a plan of measures to provide for own funds required under the regulation adopted pursuant to Article 78 paragraph (4) of this Law;
 - 2) order the payment institution to adopt and ensure the implementation of a plan of measures to provide that the own funds are appropriate with regard to the total amount of the loans granted in accordance with Article 81 paragraph (1) of this Law;
 - 3) order the payment institution to adopt and implement a decision on recapitalisation; or
 - 4) temporarily prohibit the payment institution to distribute dividends or another form of profit.

Reporting to the Central Bank on administrative decision implementation

Article 100

- (1) The administrative decision to impose measures may specify a time limit by which a payment institution is to report to the Central Bank on the implementation of the imposed measures and provide relevant evidence thereof.

- (2) Where the Central Bank establishes that the measures imposed have not been implemented or have not been implemented within the time limit and in the manner prescribed by the administrative decision, it may impose a new measure on the payment institution in accordance with this Law.

Exemptions from the required minimum of own funds

Article 101

- (1) The Central Bank may order a payment institution to increase own funds up to 20% relative to own funds calculated in accordance with Article 78 of this Law.
- (2) At the payment institution's request, the Central Bank may approve the reduction of own funds up to 20% relative to own funds calculated in accordance with Article 78 of this Law, provided that the payment institution's own funds may not be lower than the minimum amount of the payment institution's initial capital referred to in Article 70 of this Law.
- (3) The Central Bank shall order the measures referred to in paragraphs (1) and (2) of this Article on the basis of the assessment of the payment institution's risk management, database on risk management, and mechanisms for the functioning of the internal controls system, as well as other information on payment institution's performance.

The procedure following the imposing of measures

Article 102

- (1) A payment institution shall, upon the removal of identified irregularities and no later than immediately after the expiry of the deadlines for the removal of identified irregularities, submit to the Central Bank a report on the removal of irregularities, supported by relevant evidence.
- (2) The Central Bank shall pass a conclusion to confirm that the payment institution has removed irregularities in its operations where, based on the report referred to in paragraph (1) of this Article or on-site examination, it determines that the payment institution has removed all identified irregularities in its operations.
- (3) If the payment institution fails to remove the identified irregularities within the deadlines specified under paragraph (1) of this Article, the Central Bank shall, based on available evidence or on-site examination, as appropriate, impose new measures on the payment institution in accordance with this Law.

Supervision of branches and agents of payment institutions

Article 102a

The provisions of Articles 91 to 102 of this Law shall apply *mutatis mutandis* to the branches and agents of payment institutions.

Reporting to the Central Bank

Article 103

- (1) Payment institution shall, without any delay, report to the Central Bank on the following:
 - 1) the submitted request for the changes to be entered into the CRPS and the completed entries of data changes into the CRPS;
 - 2) planned changes of members of the managing body, executive director and/or persons responsible for performing payment services;
 - 3) executed change of qualifying holding of which the board of directors and/or the executive director was aware and/or should have been aware;
 - 4) planned change in the payment institution's initial capital of 10% or more;
 - 5) if the payment institution's financial position changes to the extent that its own funds fall below the minimum amount of own funds calculated in accordance with Article 78 paragraph (4) of this Law;
 - 6) cessation of the provision specific payment services;
 - 7) the intention to stop providing all payment services, as well as the occurrence of circumstances for the withdrawal of the authorisation referred to in Article 76 of this Law;

- 8) changes to facts on the basis of which the Central Bank entered its agent into the register of payment institutions;
 - 9) cessation of the provision of payment services through an agent;
 - 10) activities taken for safeguarding payment service users' funds in accordance with Article 79 of this Law; and
 - 11) all other changes altering the facts on the basis of which the Central Bank has granted the authorisation to provide payment services.
- (2) At the request of the Central Bank, the payment institution shall submit additional reports and information on all matters relevant for the exercise of supervision or performing of other tasks within the competence of the Central Bank.
 - (3) The Central Bank may prescribe the content of the payment institution's report, deadlines and the manner of reporting.

Cooperation between the competent authorities

Article 104

- (1) The Central Bank and other competent authorities in Montenegro, which perform supervision of a payment institution's operations in accordance with the law, shall cooperate and exchange all information on a payment institution necessary for the performance of the supervisory tasks within their competences.
- (2) The authorities referred to in paragraph (1) of this Article shall inform one another of illegalities and/or irregularities identified in the course of supervision if such findings are relevant for the operation of the other authority.
- (3) The submission of the information and notifications referred to in paragraphs (1) and (2) of this Article shall not constitute a violation of confidentiality of information.
- (4) The competent authority that has received the information and notifications referred to in paragraphs (1) and (2) of this Article shall protect their confidentiality and it may use them exclusively for the purpose for which they have been given, and may not divulge them to third parties without the consent of the competent authority which submitted them.

Exchange of information between the Central Bank and competent authorities of Member States

Article 105

- (1) The Central Bank shall cooperate with the competent authorities of the Member States and, where appropriate, with the European Central bank, the European Banking Authority, the national banks of the Member States and other relevant competent authorities by submitting information and notifications.
- (2) The submission of the information and notifications referred to in paragraph (1) of this Article shall not constitute violation of confidentiality.

Forms of cooperation

Article 106

- (1) The Central Bank may conclude an agreement with one or more competent authorities in the Member States or third countries for the purpose of exercising supervision of the operation of payment institutions and establish other forms of cooperation.
- (2) Submission of information and notifications through the forms of cooperation referred to in paragraph (1) of this Article shall not be considered violation of confidentiality.

Notifications to the European Commission

Article 107

The Central Bank shall notify the European Commission of its competences relating to granting the authorisation for the provision of payment services and supervision of payment institutions in accordance with this Law.

VIIa REGISTERED ACCOUNT INFORMATION SERVICE PROVIDERS

Entry into and removal from the register

Article 107a

- (1) Account information service provider shall be a legal person or an entrepreneur that provides exclusively the payment service referred to in Article 2 paragraph (1) item 8) of this Law and that is entered into the registry referred to in Article 89 of this Law.
- (2) A person intending to provide payment service referred to in Article 2 paragraph (1) item 8) of this Law shall submit to the Central Bank an application for registration of the account information service provider, accompanied with the documentation referred to in Article 72 paragraph (2) items 1), 2), 3), 6), 7), 8), 9), 11), 13), and 15) of this Law.
- (3) The person referred to in paragraph (2) of this Article shall, along with the application and the prescribed documentation, submit evidence of a signed professional indemnity insurance contract or a comparable guarantee covering the liability vis-à-vis the account servicing payment service provider or the payment service user resulting from unauthorised or fraudulent access to or unauthorised or fraudulent use of payment account information.
- (4) The Central Bank shall stipulate the minimum monetary amount of the professional indemnity insurance or other comparable guarantee referred to in paragraph (3) of this Article by applying the following criteria:
 - 1) the risk profile of the registered account information service provider;
 - 2) the size of the activity, i.e. the number of payment service users that make use of the account information services;
 - 3) the specific characteristics of comparable guarantees and the criteria for their implementation.
- (5) In addition to the information, data, and documentation referred to in paragraphs (1) and (3) of this Article, the Central Bank may require from the applicant to submit additional information, data, and documentation, including the information relating to the prevention of money laundering and terrorist financing.
- (6) The Central bank shall issue an administrative decision on the entry of the account information service provider into the registry when it assesses that the account information service provider has in place:
 - 1) robust governance arrangements for its payment services business, which include a clear organisational structure with well-defined, transparent and consistent lines of power and responsibility;
 - 2) efficient procedures to identify, manage, monitor and report risks to which it is or might be exposed; and
 - 3) adequate internal control mechanisms, including sound administrative and accounting procedures.
- (7) The Central Bank shall charge a fee for issuing the administrative decision on the entry of the account information service provider into the registry, and the amount and the manner of payment of that fee shall be stipulated by the Central Bank regulation.
- (8) The administrative decision on the entry of the account information service provider into the registry shall be published in the “Official Gazette of Montenegro”.
- (9) The Central Bank shall refuse an application for registration of an account information service provider where:
 - 1) it assesses that any of the conditions under paragraphs (2) and (3) of this Article has not been met;
 - 2) the exercise of supervision of account information service provider’s operations may be made difficult or prevented due to links between the account information service provider and other legal or natural persons.
- (10) The Central Bank shall remove the account information service provider from the registry referred to in paragraph (1) of this Article if such payment service provider:
 - 1) fails to commence providing payment services in accordance with the administrative decision on the entry into the registry within one year following its issuance;

- 2) submits a written notification to the Central Bank stating that it no longer intends to provide the services for which it was entered into the registry;
 - 3) ceases providing the payment services for more than six consecutive months;
 - 4) the entry into the registry was based on false or inaccurate documentation or data vital to its operations;
 - 5) prevents the exercise of supervision of its operations; or
 - 6) fails to implement measures imposed by the Central Bank.
- (11) The administrative decision on the removal of a payment service provider from the registry shall be published in the “Official Gazette of Montenegro”.

Application of other provisions of this Law

Article 107b

- (1) The provisions of Articles 10 and 11, Article 13 and 14, Articles 16, 17 and 18 and Articles 20 to 56f, and provisions of Articles 57 to 90 of this Law shall not apply to the account information service provider.
- (2) The provisions of Articles 30c, 56a, 56b, 56c, Article 91 to 102 and Article 103 to 107 of this Law shall apply mutatis mutandis to the account information service provider.

Transformation of a registered account information service provider into a payment institution

Article 107c

- (1) A registered account information service provider intending to provide, in addition to the services referred to in Article 2 paragraph (1) item 8) of this Law, one or more payment services referred to in Article 2 paragraph (1) items 1) to 7) of this Law as a payment institution, shall submit an application to the Central Bank for granting the authorisation to provide payment services as a payment institution and submit information and documentation referred to in Article 72 of this Law.
- (2) By way of derogation from paragraph (1) of this Article, a registered account information service provider does not have to submit the information and documentation that have already been submitted to the Central Bank and that are relevant at the time of submitting the application.
- (3) On the date when the administrative decision authorising the provision of payment services to a payment institution becomes effective, the entry of the registered account information service provider shall be removed from the registry referred to in Article 89 of this Law and the payment institution shall be entered as such in the registry.

Transformation of a payment institution into a registered account information service provider

Article 107d

- (1) A payment institution that no longer intends to provide payment services listed in the administrative decision authorising the provision of payment services other than the payment service referred to in Article 2 paragraph (1) item 8) of this Law shall submit to the Central Bank an application for its entry in the registry referred to in Article 89 of this Law as an account information service provider.
- (2) Pursuant to the application referred to in paragraph (1) of this Article, the Central Bank shall carry out the procedure based on the available information and documentation, but it may also require additional documentation from the payment institution.
- (3) The provisions of Article 107a of this Law shall apply to decision-making regarding the application referred to in paragraph (1) of this Article.
- (4) On the date when the administrative decision authorising the entry of the account information service provider into the registry referred to in Article 89 of this Law becomes effective, the payment institution shall be removed from that registry and entered as account information service provider into that registry.

- (5) Upon the entry of the account information service provider into the registry all authorisations issued to the payment institution shall cease to be valid.

VIII ELECTRONIC MONEY

1. Electronic money issuers, issuance and redeemability

Electronic money issuers

Article 108

- (1) In Montenegro, the electronic money issuers may be:
- 1) banks and other credit institutions with the registered office in Montenegro;
 - 2) electronic money institutions with the registered office in Montenegro;
 - 3) branches of third-country credit institutions with the registered office in Montenegro;
 - 4) the Central Bank;
 - 5) the State of Montenegro and local self-government units when acting in their capacity as public authorities.
- (2) Persons other than electronic money issuers within the meaning of paragraph (1) of this Article may not issue electronic money in Montenegro.
- (3) Electronic money issuers under paragraph (1) items 1) and 3) of this Article may issue electronic money in accordance with the authorisation granted pursuant to the provisions of the law governing their taking up and pursuit.
- (4) Electronic money issuers under paragraph (1) item 2) of this Article may issue electronic money pursuant to the authorisation granted under the provisions of this Law.
- (5) Rights of the electronic money issuers referred to in paragraph (1) items 4) and 5) of this Article to electronic money issuance shall be regulated under separate regulations.

Electronic money issuance and redemption

Article 109

- (1) Electronic money issuers shall issue electronic money at par value of the received funds.
- (2) Upon a request by the electronic money holder, electronic money issuers shall redeem, at any moment and at par value, the monetary value of the electronic money held.
- (3) Redemption may be subject to a fee only if stated in the contract referred to in Article 110 of this Law and only provided that:
- 1) the redemption is requested before the termination of the contract;
 - 2) the contract provides for a termination date and the electronic money holder terminates the contract before that date; or
 - 3) the redemption is requested one year following the contract expiration date.
- (4) The fee referred to in paragraph (3) of this Article shall be proportionate and commensurate with the actual costs incurred by the electronic money issuer.
- (5) Where redemption is requested before the contract expiration date, an electronic money holder may request redemption of the electronic money in whole or in part.
- (6) Where redemption is requested by an electronic money holder as at or within one year following the contract expiration date:
- 1) the total monetary value of the electronic money held shall be redeemed;
 - 2) where the electronic money institution carries out other activities in addition to electronic money issuance and it is unknown in advance what proportion of funds is to be used as electronic money, all funds requested by the electronic money holder shall be redeemed.
- (7) The electronic money issuer and the electronic money holder that is not a consumer may contract rights to electronic money redemption in the manner other than that specified under paragraphs (3) through (6) of this Article.

Contract on electronic money issuing

Article 110

- (1) Mutual relations of an electronic money issuer and an electronic money holder shall be regulated under a contract.
- (2) The contract referred to in paragraph (1) of this Article shall explicitly specify clear and detail conditions of redemption, including any fees relating thereto.
- (3) The electronic money issuer shall inform the electronic money holder on the conditions referred to in paragraph (2) of this Article before the latter's being bound by any offer or contract.

Prohibition of paying out interest to an electronic money holder

Article 111

Electronic money issuer shall not pay any interest or other benefit during the time in which an electronic money holder holds the electronic money.

2. Electronic money institutions

Organisation

Article 112

- (1) Electronic money institution with its registered office in Montenegro shall be a legal person authorised by the Central Bank to issue electronic money.
- (2) Electronic money institution shall not issue electronic money prior to obtaining the authorisation referred to in paragraph (1) of this Article.

Authorisation to issue electronic money

Article 113

Articles 72 to 76 of this Law shall apply *mutatis mutandis* to the granting, refusal and withdrawal of authorisation to issue electronic money.

Qualifying holding

Article 114

- (1) No natural or legal person shall acquire qualifying holding in an electronic money institution without a prior approval of the Central Bank.
- (2) A person with a qualifying holding in an electronic money institution shall not further increase such qualifying holding as a result of which the proportion of the capital or of the voting rights held would reach or exceed 20%, 30% or 50% without a prior approval of the Central Bank.
- (3) The provisions of Articles 71 to 71e of this Law shall apply *mutatis mutandis* to the acquisition or disposal of the qualifying holding in an electronic money institution, the documentation and information supporting the application for acquiring qualifying holding, deciding upon the application for granting authorisation to acquire qualifying holding, the acquisition of qualifying holding without the Central Bank's authorisation, legal consequences of illegal acquisition of qualifying holding, and the withdrawal of authorisation to acquire qualifying holding.

Operations through agent and other person

Article 115

- (1) An electronic money institution shall not issue electronic money through an agent.

- (2) An electronic money institution may, pursuant to Article 77 of this Law, provide payment services under Article 118 paragraph (1) item 1) of this Law through an agent.
- (3) An electronic money institution may distribute or redeem electronic money through natural or legal persons acting on its behalf, subject to the notification thereof to the Central Bank.

Minimum amount of initial capital

Article 116

- (1) Initial capital of an electronic money institution may not be lower than 350.000 euros at the moment of obtaining the authorisation.
- (2) The minimum initial capital of an electronic money institution shall be paid in cash.
- (3) By way of derogation from paragraph (2) of this Article, the electronic money institution pursuing activities under Article 118 paragraph (1) item 5) of this Law shall allocate earmarked funds at least in the amount of the minimum initial capital.

Own funds of electronic money institution

Article 117

- (1) An electronic money institution shall, for the purpose of safe and sound operations, or the fulfilment of obligations towards its creditors, maintain adequate amount of own funds, which shall not at any time fall below the initial capital or the sum of own funds determined in accordance with paragraphs (2) and (3) of this Article, whichever is higher.
- (2) Own funds of an electronic money institution for the activity of electronic money issuance shall amount to at least 2% of average electronic money in circulation.
- (3) Own funds of an electronic money institution for the activity of providing payment services not connected with the electronic money issuance shall be calculated in accordance with Article 78 of this Law.
- (4) The Central Bank shall prescribe detailed conditions and manner of calculating own funds of electronic money institutions.

Other activities of electronic money institution

Article 118

- (1) In addition to electronic money issuance, electronic money institutions shall be entitled to engage in any of the following activities:
 - 1) the provision of payment services listed in the Article 2 of this Law;
 - 2) the granting of credit related to payment services referred to in Article 2 items 4) or 5) of this Law, provided that the conditions laid down in Article 81 paragraph (1) of this Law have been met;
 - 3) the provision of operational services and related ancillary services in respect of the electronic money issuance or to the provision of payment services referred to in item 1) of this Article;
 - 4) a payment system operator other than the operator of the payment system where settlement finality is performed, notwithstanding access to payment systems in accordance with the provisions of Article 142 of this Law; and/or
 - 5) business activities other than electronic money issuance.
- (2) Provisions of Article 79 of this Law shall apply to the protection of funds received for the provision of payment services laid down in Article 2 of this Law that are not linked to electronic money issuance.
- (3) Where an electronic money institution performs activities other than electronic money issuance and payment services provision, the Central Bank may request the establishment of a separate legal person for performing such activities if it determines that performing such activities may threaten financial stability of the electronic money institution or hinder the supervision of the electronic money institution pursuant to this Law.

Electronic money issuance

Article 119

Any funds received by electronic money institutions from an electronic money holder shall be exchanged for electronic money without delay.

Prohibition of taking deposits

Article 120

- (1) Electronic money institutions shall not take deposits or other repayable funds from the public within the meaning of the law governing the taking up and pursuit of the banking business.
- (2) Funds taken by the electronic money institution in exchange for electronic money from the electronic money holder shall not constitute either a deposit or other repayable funds received from the public within the meaning of the law governing the taking up and pursuit of the banking business.

Accounts of electronic money institution

Article 121

- (1) Where an electronic money institution provides payment services not linked with the electronic money issuance and within which it holds payment accounts, such accounts shall be used solely for the execution of payment transactions.
- (2) Funds received for the purpose under paragraph (1) of this Article shall not constitute a deposit or other redeemable funds within the meaning of the law governing the taking up and pursuit of the banking business.
- (3) An electronic money institution shall perform its business via transaction accounts to be opened with banks.

Prohibition of granting credits

Article 122

Electronic money institutions shall not grant credits from funds received in exchange of electronic money.

Safeguarding of funds

Article 123

- (1) An electronic money institution shall safeguard funds received in exchange for electronic money issued in the manner prescribed in Article 79 of this Law.
- (2) Funds received by an electronic money institution in the form of payment by payment instrument need not be safeguarded in accordance with paragraph (1) of this Article until they are credited to the electronic money institution's payment account or are otherwise made available to the electronic money institution in accordance with this Law.
- (3) Electronic money institution shall ensure the safeguarding of funds referred to in paragraph (2) of this Article in the manner under paragraph (1) of this Article no later than five working days following that of the electronic money issue.
- (4) Electronic money institution shall notify in advance the Central Bank on changes in the manner of safeguarding the funds received in exchange for issued electronic money.
- (5) The Central Bank shall regulate in detail the safeguarding of funds that an electronic money institution has received in exchange of the issued electronic money.

Mutatis mutandis

Article 124

- (1) The provisions of Articles 56d through 56f and Articles 82 through 107 of this Law shall apply *mutatis mutandis* to electronic money institutions.
- (2) Notwithstanding paragraph (1) of this Article, an electronic money institution shall record separately in its books all business changes occurring as a result of electronic money issuance and business changes occurring as a result of the provision of payment services that are not directly related to electronic money issuance.

Article 125

Deleted. (Law amending the Payment System Law OGM 111/22)

Article 126

Deleted. (Law amending the Payment System Law OGM 111/22)

Article 127

Deleted. (Law amending the Payment System Law OGM 111/22)

Article 128

Deleted. (Law amending the Payment System Law OGM 111/22)

Article 129

Deleted. (Law amending the Payment System Law OGM 111/22)

X PAYMENT SYSTEMS IN MONTENEGRO

1. Establishment and operation of payment systems in Montenegro

Payment system establishment

Article 130

- (1) A payment system in Montenegro may be established by a payment system operator referred to in Article 131 paragraph (2) of this Law and at least one participant – a payment service provider authorised to provide payment services by the Central Bank.
- (2) For the purposes of performing activities in the payment system, the payment system operator and payment system participant shall conclude a payment system contract.

Payment system operator

Article 131

- (1) A payment system shall be operated by a payment system operator.
- (2) A payment system operator may be:
 - 1) a bank and other credit institution having its registered office in Montenegro;
 - 2) a payment institution having its registered office in Montenegro;
 - 3) an electronic money institution having its registered office in Montenegro;
 - 4) another legal person having its registered office in Montenegro, established as a joint stock company or as a limited liability company;
 - 5) the Central Bank;
 - 6) a branch of a foreign legal person having its registered office in Montenegro.
- (3) A payment system operator may also perform other activities apart from operating a payment system, in accordance with the law.

Responsibilities of payment system operator

Article 132

- (1) A payment system operator shall ensure an undisturbed, safe and efficient functioning of the payment system.
- (2) A payment system operator shall, proportionate to the nature, scale and complexity of operations arising from the rules of operation of the payment system, ensure in particular:
 - 1) that the payment system has an adequate, reliable and satisfactory information system for performing all functions in accordance with the rules of the payment system operations, as well as its business continuity plan;
 - 2) organisational structure with well defined, articulate and consistent lines of power and responsibility, and
 - 3) management of risks to which the payment system is exposed or might be exposed.
- (3) The Central Bank may prescribe detailed requirements to be met by payment systems and payment system operators.

Payment system participants

Article 133

- (1) Payment system participants may be:
 - 1) payment service providers,
 - 2) payment system operators,
 - 3) another payment system, and
 - 4) another person in accordance with the rules of operation of that payment system.
- (2) A payment service provider may participate in a payment system either directly or indirectly, the latter via another payment service provider.
- (3) The payment service provider referred to in Article 4 paragraph (1) items 1), 2), and 3) of this Law shall notify the Central Bank of each payment system in which it participates directly or indirectly, and of the relevant payment system operator, regardless of whether the payment system operates in the territory of Montenegro or in a third country.
- (4) The Central Bank may, in order to ensure a simple, efficient and secure execution of payment transactions, stimulate the competition in the market and/or reduce costs, oblige specific payment service providers to participate in the payment system operated by the Central Bank.

Authorisation for the operation of a payment system

Article 134

- (1) Central Bank shall grant the authorisation for the operation of a payment system to a payment system operator.
- (2) By way of derogation from paragraph (1) of this Article, the Central Bank authorisation for the operation of a payment system is not required in the following cases:
 - 1) the payment system referred to in Article 142 paragraph (4) item 2) of this Law, or
 - 2) the payment system it operates.
- (3) The payment system referred to in paragraph (1) of this Article shall not commence its operations until it has been granted the authorisation for the operation of a payment system.
- (4) The payment system operator referred to in paragraph (1) of this Article shall notify the Central Bank on the commencement of operations of the payment system it operates within 30 days following the date it has been granted the authorisation for the operation of a payment system.
- (5) The payment system operator referred to in paragraph (2) item 1) of this Article shall notify the Central Bank of the intention to commence the payment system operations no later than within five business days prior to the commencement of operations of that payment system.

Application for authorisation for the operation of a payment system

Article 135

- (1) The entity referred to in Article 131 paragraph (2) of this Law intending to manage the operations of a payment system shall submit to the Central Bank an application for authorisation for the operation of a payment system in writing.
- (2) The application referred to in paragraph (1) of this Article shall be supported by the following:
 - 1) data on the payment system operator (name, registered office and address);
 - 2) documents evidencing that the payment system operator has technical, organisational and functional capacities to operate the payment system and risk management security and control mechanisms in place;
 - 3) a description of its IT system to demonstrate that the respective IT system is adequate, reliable and satisfactory with respect to the operation of all functions envisaged by the rules of operation of a payment system;
 - 4) a description of the organisational, technical and personnel structure of the payment system operator with respect to operating the payment system, and where appropriate, a description of outsourcing arrangements with respect to operating the payment system, as well as a description of its connection with another payment system;
 - 5) data on the members of the board of directors and/or executive directors of the payment system operator, and where the payment system operator engages in other activities, information about the persons responsible for the payment system operation, in accordance with Article 72 paragraph (2) item 10) of this Law;
 - 6) a business plan of the payment system operations for the first three years;
 - 7) information on the participants in the payment system;
 - 8) a draft payment system contract;
 - 9) draft payment system rules of operations;
 - 10) a statement of the authorised person of the payment system operator that the information provided and documentation delivered are accurate, complete and up-to-date;
 - 11) a statement of the payment system operator that it shall notify the Central Bank, without undue delay, on any change in information submitted with the application for authorisation for the operation of a payment system;
 - 12) other documents the Central Bank deems necessary for deciding on the application.
- (3) Where certain documents supporting the application for authorisation for the operation of a payment system under paragraph (1) of this Article are made out in a foreign language, they shall be translated into Montenegrin language by a certified translator and authorised in accordance with the law.

Granting the authorisation for the operation of a payment system

Article 136

- (1) The Central Bank shall grant the authorisation for the operation of a payment system if the rules of operation of the payment system meet the requirements specified in Article 140 of this Law and if, on the basis of the orderly submitted application and documentation specified under Article 135 of this Law and available information, it assesses that the following conditions have been met:
 - 1) the payment system operator has technical, organisational and functional capacities to operate the payment system and control and security mechanisms and risk management mechanism in place;
 - 2) the payment system operator has a business plan of the payment system for the first three years based on realistic economic indicators;
 - 3) the persons proposed to be members of the board of directors and/or executive director of the payment system operator or, in the cases where the payment system operator also engages in other activities, the persons responsible for operating the payment system are of good repute and possess appropriate knowledge and experience required for operating the payment system;
 - 4) the IT system is adequate, reliable and satisfactory in relation to all functions envisaged by the rules of operation of a payment system; and

- 5) there are no financial and/or any other reasons which impair or could impair the safety and stability of the payment system operation.
- (2) During the procedure for granting the authorisation for the operation of a payment system, the Central Bank may consult with other central banks or other competent authorities with a view to making a better consideration of the submitted application.

Refusal of an application for authorisation for the operation of a payment system

Article 137

The Central Bank shall refuse an application for authorisation for the operation of a payment system if it assesses that any of the conditions under Article 136 paragraph (1) of this Law have not been met.

Withdrawal of the authorisation for the operation of a payment system

Article 138

- (1) The Central Bank shall withdraw the authorisation for the operation of a payment system if:
 - 1) the authorisation for the operation of a payment system has been granted based on false or inaccurate information or documentation and/or false presentation of data relevant to the payment system operations;
 - 2) the payment system operator does not make use of the authorisation within one year following the date it has been granted the authorisation for the operation of a payment system;
 - 3) the payment system no longer meets the conditions for granting the authorisation for the operation of a payment system;
 - 4) the payment system has ceased to engage in business for more than 6 months, or
 - 5) bankruptcy or winding up proceedings have been initiated against the payment system operator.
- (2) The Central Bank may withdraw the authorisation for the operation of a payment system where:
 - 1) a continued operation of the payment system would constitute a threat to the safety and efficiency of payment service provision;
 - 2) the payment system operations contravene regulations and/or the payment system rules of operation;
 - 3) the payment system operator, in any manner whatsoever, prevents or hinders the supervision and/or oversight of the payment system; or
 - 4) the payment system operator fails to implement supervisory measures ordered by the Central Bank.

Notification on granting and withdrawing the authorisation for the operation of a payment system

Article 139

The Central Bank shall publish the administrative decision on granting and withdrawing the authorisation for the operation of a payment system in the “Official Gazette of Montenegro” and it shall submit it to the CRPS.

Rules of operation of a payment system

Article 140

- (1) A payment system shall operate in line with the rules of operation of the payment system.
- (2) The rules of operation of a payment system shall govern standardised arrangements and common rules for processing, clearing and/or settlement of payment transactions among the payment system participants.
- (3) In the procedure of granting the authorisation for the operation of a payment system, the Central Bank shall give its approval to the rules of operation of the payment system.
- (4) By way of derogation from paragraph (3) of this Article, the Central Bank shall not approve the rules of operation of the payment system referred to in Article 134 paragraph (2) of this Law.
- (5) The rules of operation of a payment system shall cover in particular:
 - 1) the payment system participants by type and a description of their role in the payment system;
 - 2) conditions for participation and termination of participation in the payment system;

- 3) payment transactions cleared and/or settled in the payment system by the type of payment services;
 - 4) the principles for clearing and/or settlement of payment transactions;
 - 5) the manner of, and conditions for executing payment transactions, their form and content;
 - 6) reporting to participants on clearing and/or settlement;
 - 7) the manner of protection of data against abuse;
 - 8) the moment of acceptance and irrevocability of a transfer order, and procedures in case of the opening of the proceedings specified under Article 151 paragraph (1) of this Law, for payment systems where the settlement finality in payment systems is performed (hereinafter: the payment system where settlement finality is performed).
- (6) The Central Bank shall give its approval for the rules of operation of a payment system where it deems that they cover the elements referred to in paragraph (5) of this Article and that their application ensures the protection from systemic risk and other possible risks relating to the functioning of the payment system.

Authorisation to amend the payment system contract and the payment system rules of operation

Article 141

- (1) The Central Bank shall grant authorisation to amend a payment system contract and payment system rules of operation.
- (2) The payment system operator shall submit to the Central Bank an application for granting the authorisation to amend the payment system contract and the payment system rules of operation.
- (3) The following documents shall support the application referred to in paragraph (2) of this Article:
 - 1) draft amendments to the payment system contract or draft amendments to the payment system rules of operation;
 - 2) a detailed rationale for amendments.
- (4) In the consideration of the application for granting the authorisation under paragraph (1) of this Article, the Central Bank may request additional information.
- (5) In the course of deciding on the application for granting the authorisation under paragraph (1) of this Article, the Central Bank shall particularly consider the impact of the proposed amendments to risk management in the payment system.
- (6) The Central bank may refuse the application for granting the authorisation under paragraph (1) of this Article if, on the basis of available documentation and information, it deems that the proposed amendments would cause disturbances in the payment system, jeopardise compatibility in the functioning of other payment systems, stability and safety of the financial system in Montenegro or if such amendments are not in line with the law and regulations of the Central Bank.

Access to payment systems

Article 142

- (1) The rules of operation of a payment system shall set objective, non-discriminatory and proportionate requirements for the access and/or participation in the payment system.
- (2) The access and/or participation in the payment system may be inhibited only to the extent necessary to safeguard against specific risks (settlement risk, operational risk, business risks and the like) and to protect the financial and operational stability of the payment system.
- (3) The rules of operation of a payment system shall not impose any of the following requirements:
 - 1) restrictive rules on effective participation in other payment systems;
 - 2) rules which discriminate payment service participation in relation to the rights and obligations; and
 - 3) restriction on the basis of institutional status.
- (4) The provisions of paragraphs (1) to (3) of this Article shall not apply to the payment systems:
 - 1) where settlement finality is performed in accordance with this Law;
 - 2) composed exclusively of payment service providers belonging to a group.”.
- (5) Where a participant in a payment system referred to in paragraph (4) item 1) of this Article allows a payment service provider that is not a participant in the system to transmit payment orders through the

system, that participant shall, when requested, give the same opportunity in an objective, proportionate and non-discriminatory manner to other payment service providers.

- (6) The participant in a payment system shall provide full reasons for any rejection of the request referred to in paragraph (5) of this Article.

Outsourcing

Article 143

- (1) A payment system operator may store, from within their competence, its registries and records maintained in electronic format on the information and communication infrastructure outside Montenegro, and it may also outsource some activities related to the payment system operation, and it shall notify the Central Bank thereof prior to concluding a contract with the outsourcing service provider, except in the case when the Central Bank is system operator.
- (2) A payment system operator shall ensure that the intended outsourcing complies with the following conditions:
 - 1) that it does not alter the payment system operator's relationship with, and obligations to, the payment system participants;
 - 2) that it does not threaten the compliance of the payment system's operation with the rules of operation and this Law; and
 - 3) that it does not prevent or impair the exercise of supervision by the Central Bank.
- (3) A payment system operator shall be liable for damages caused by its outsourcing service provider in connection with the provision of the outsourced activity.
- (4) A payment system operator shall ensure that the Central Bank can carry out on-site examination at the location where the services are provided and/or at the outsourcing service provider's premises, and it shall ensure access to the outsourcing-related documentation and data in possession of the outsourcing service provider.
- (5) The Central Bank may prescribe detailed conditions for the outsourcing of activities related to the payment system operation.

Register of payment systems

Article 144

- (1) The Central Bank shall maintain a register of payment systems in Montenegro and disclose it on its website.
- (2) The register of payment systems shall contain in particular, but not limited to the following information:
 - 1) the name of a payment system,
 - 2) the name and registered office of the payment system operator, and
 - 3) the name and registered office of the payment system participants.

2. Settlement finality in payment systems

Settlement account and settlement finality

Article 145

- (1) Settlement account shall mean an account of a payment system participant held with the central bank or a settlement agent and used for settlement in the payment system where settlement finality is performed.
- (2) Settlement finality in the payment system where settlement finality is performed shall occur when accounts of participants in that system are debited and credited.

Requirements to be met by a payment system where settlement finality is performed

Article 146

- (1) A payment system where settlement finality is performed shall meet the following requirements:

- 1) it shall be based on a contract signed between three or more participants, not including the payment system operator, a settlement agent, a clearing house or an indirect participant, where at least one participant shall have its registered office in Montenegro;
 - 2) it shall have in place common rules and standardised arrangements for the execution, clearing and settlement of payment transactions between participants; and
 - 3) the rules of operation of the payment system define the moment of entry and the moment of irrevocability of a transfer order; and
- (2) The Central Bank shall assess the fulfilment of requirements under paragraph (1) of this Article, except for payment systems not subject to the Central Bank granting the authorisation for the operation of a payment system under this Law.

Interoperable system

Article 147

- (1) An interoperable system shall consist of two or more payment systems which operators have concluded an agreement on the execution of transfer orders between these systems.
- (2) The conclusion of the agreement referred to in paragraph (1) of this Article shall not constitute a payment system within the meaning of this Law;

Participants in a payment system where settlement finality is performed

Article 148

- (1) Participants in a payment system where settlement finality is performed shall be institutions, settlement agents, clearing houses, system operators and indirect participants, provided that one participant may act as a settlement agent and/or a clearing house or carry out some or all of these tasks within a system.
- (2) Institutions, within the meaning of paragraph (1) of this Article, shall be the entities which participate in a payment system where settlement finality is performed and which are responsible for discharging financial obligations arising from transfer orders within that system, and in particular the following:
 - 1) banks and other credit institutions;
 - 2) branches of credit institutions having registered offices in Montenegro;
 - 3) government bodies, local self-governments, the Central Bank, legal persons whose liabilities are guaranteed by Montenegro in line with the law, and legal persons entrusted with public authority;
 - 4) the European Central Bank and national central banks of the Member States.
- (3) Settlement agents within the meaning of paragraph (1) of this Article, mean entities providing for institutions participating in the payment system the opening of settlement accounts through which transfer orders are to be settled within the system where settlement finality is performed and, subject to authorisation, extending credits to those participating institutions for settlement purposes.
- (4) Clearing houses, within the meaning of paragraph (1) of this Article, mean entities responsible for the calculation of the net positions of institutions and settlement agents if these are participants in the payment system where settlement finality is performed, which represents the conversion of claims and obligations based on a transfer order, that one or several participants send or receive from one or several participants – into one net obligation or one net claim.
- (5) A system operator. within the meaning of paragraph (1) of this Article. means one or more legal persons responsible for the undisturbed functioning of the system where settlement finality is performed in accordance with the rules of operation of that system.
- (6) An indirect participant, within the meaning of paragraph (1) of this Article, means a settlement agent, a clearing house or a payment system operator having a contractual relationship with a participant in the payment system where settlement finality is performed that enables the indirect participant to execute transfer orders in the system, provided that such an indirect participant is known as such to the system operator.

Transfer order

Article 149

A transfer order means any instruction by a participant of a payment system where settlement finality is performed to place an amount of money at the disposal of a recipient or any instruction which results in the assumption or discharge of a payment obligation between participants in the payment system as defined by the payment system` rules of operation.

Entry and irrevocability of transfer orders

Article 150

- (1) The rules of operations of the payment system where settlement finality is performed shall regulate the moment in which entry into the system of a transfer order issued by either a participant in the system or by a third party shall be deemed accepted by such system.
- (2) The moment of irrevocability of a transfer order shall mean a moment defined by the rules of operation of a payment system where settlement finality is performed from which neither a participant in the system nor a third party may revoke a transfer order.
- (3) In the case of an interoperable system, each payment system determines in its own rules of operation the moment of entry and the moment of irrevocability in such a way as to ensure, to the extent possible, that the rules of all systems participating in the interoperable system are coordinated in this regard.
- (4) Unless otherwise provided for by the rules of operation of all payment systems participating in the interoperable system, one system`s rules prescribing the moment of entry and the moment of irrevocability shall not be affected by any rules of operation of the other participants in the interoperable system.

Insolvency proceedings and the moment of opening of insolvency proceedings

Article 151

- (1) Insolvency proceedings against a participant in the payment system where settlement finality is performed, within the meaning of this Law, shall be considered either the opening of bankruptcy or winding up proceedings against the participant.
- (2) The moment of opening of insolvency proceedings, within the meaning of this Law, shall be the moment when the participant receives the notification from the operator of the payment system where settlement finality is performed on the opening of bankruptcy or winding up proceedings against such participant.
- (3) Insolvency proceedings shall neither affect the exercise of the rights and obligations of a participant in the payment system where settlement finality is performed arising from, or in connection with, its participation in that payment system before the moment of the opening of insolvency proceedings, nor the exercise of the rights and obligations of a participant in an interoperable system or of a system operator of an interoperable system which is not a participant in that system.

Transfer orders in the event of opening of insolvency proceedings

Article 152

- (1) In the event of the opening of insolvency proceedings against a participant in a payment system or a participant in an interoperable system or against an operator of an interoperable system which is not a participant in the system, transfer orders and netting shall be legally enforceable and binding on third parties, provided that the transfer orders were entered into the system before the moment of opening of the insolvency proceedings.
- (2) Notwithstanding paragraph (1) of this Article, transfer orders that were entered into the system after the moment of the opening of insolvency proceedings and which have been carried out in the course of the same business day shall be legally enforceable and binding on third parties only if the payment system operator can prove that it was not aware nor could have been aware of the opening of such proceedings at the time when these transfer orders became irrevocable.

- (3) A business day, within the meaning of paragraph (2) of this Article, shall cover, pursuant to the rules of operations of the system, both day and night-time settlements and shall encompass all events occurring during the business cycle of the system.
- (4) The nullity or voidance of payment transactions and contracts concluded prior to the moment of the opening of insolvency proceedings shall not lead to the unwinding of netting.
- (5) In the event of the opening of insolvency proceedings against a participant or an interoperable system operator, funds available on the settlement account of that participant or operator may be used to fulfil its obligations in the payment system where settlement finality is performed or in the interoperable system on the business day of opening of such proceedings.

Delivery of an administrative decision on the opening of insolvency proceedings

Article 153

- (1) Competent authority responsible for the opening of insolvency proceedings against a participant in the payment system where settlement finality is performed shall immediately submit to the Central Bank an administrative decision on the opening of insolvency proceedings against the participant.
- (2) The Central Bank shall immediately forward the administrative decision referred to in paragraph (1) of this Article to the operator of the payment system whose participant has been subject to the insolvency proceedings.

Applicable law

Article 154

In the event of the opening of insolvency proceedings against a participant in the payment system where settlement finality is performed, the rights and obligations arising from, or in connection with, the participation of that participant in the system shall be governed by the provisions of this Law.

Rights of holders of collateral security in the event of insolvency proceedings against the provider of collateral security

Article 155

- (1) Opening of insolvency proceedings against a participant in the payment system where settlement finality is performed or a participant in an interoperable system or against an operator of an interoperable system which is not a participant in that system or another provider of collateral security shall have no effects on exercising the rights of other participants or system operators to satisfy their rights from collateral security provided with regard to the participation in that payment system or the interoperable system.
- (2) Opening of insolvency proceedings against an entity which is a counterparty to a Member State, the European Central Bank or the national central bank of a Member State shall have no effects on exercising the rights of the Member State, the European Central Bank or national central banks of the Member States to satisfy their rights from the collateral security provided with regard to the participation in the system.

Notification of competent authorities in the European Union

Article 156

The Central Bank shall notify the competent authority in the European Union of payment systems where settlement finality is performed and operators of such systems.

3. Systemically important payment systems

Definition of a systemically important payment system

Article 157

- (1) A systemically important payment system means a payment system whose disruption in operations may cause systemic risk.
- (2) Systemic risk, within the meaning of paragraph (1) of this Article, means the risk caused by a disruption in the operations of the payment system or the inability of the payment system participants to meet their obligations related to the functioning of the payment system, which results in the inability of other system participants to meet their obligations as they become due or it could threaten the stability of the payment system and the financial system as a whole.
- (3) The Central Bank shall notify the competent authority of the European Union of systemically important payment systems.

RTGS system

Article 158

- (1) The Central Bank shall be the owner and operator of, a participant in, and the settlement agent for, the payment system in which the execution of individual payment transactions is made in the real time gross settlement principle (hereinafter: the RTGS system).
- (2) The RTGS system shall be a systemically important payment system.
- (3) The Central bank shall lay down operating rules for the RTGS system.
- (4) Participants in the RTGS system may be legal persons whose accounts are opened and kept by the Central Bank pursuant to the law and a regulation of the Central Bank.
- (5) The Central Bank may, in its operation rules for the RTGS system, bind participants in the RTGS system to be participants also in other payment system which it operates.

Settlement of payment transactions in RTGS system

Article 159

- (1) Payment transactions of banks and other credit institutions providing payment services as well as entities determined under the Central Bank law and regulation to keep accounts with the Central Bank shall be settled in the RTGS system, in accordance with rules of operations of this system.
- (2) The Central Bank shall specify in its regulation the minimum value of payment transactions that must be processed in the RTGS system (large and small payment thresholds).

4. Supervision and oversight of payment systems

Competent authority

Article 160

The Central Bank shall supervise the payment system operators and participants and oversee the payment system operations.

Supervision of payment system operators and participants

Article 161

- (1) The Central Bank shall supervise the payment system operators and participants to verify whether they operate in accordance with this law and the rules of operation of those payment systems, and whether access to the payment system has been ensured in the manner laid down in Article 142 of this Law.

- (2) For the purpose of supervision referred to in paragraph (1) of this Article, a payment system operator and a participant shall provide the Central Bank with all necessary information and documentation.
- (3) The Central Bank shall keep confidential all data and information obtained in the course of supervision, in accordance with the law.
- (4) Provisions of Articles 91 through 94 and Articles 100 and 102 of this Law shall apply *mutatis mutandis* to the supervision of payment system operators or participants.
- (5) Should the supervision referred to in paragraph (1) of this Article identify acting in contravention to the law or violations of the payment system rules of operations, the Central Bank may:
 - 1) send a written warning to the payment system operator;
 - 2) order the payment system operator and/or participant to remove irregularities in the specified timeframe;
 - 3) order the payment system operator to exclude one or more participants if they have failed to meet the requirements for participation in the payment system;
 - 4) prohibit the payment system operator from performing activities until the removal of the identified irregularities;
 - 5) take other appropriate measures.

Payment system oversight

Article 162

- (1) Payment system oversight shall involve a set of activities aimed at providing and promoting safety and efficiency of the functioning of payment systems.
- (2) Within the meaning of paragraph (1) of this Article, safety means the limiting of risks that may threaten or adversely influence adequate and undisturbed functioning of a payment system and financial stability, and efficiency shall mean fast and cost-efficient performance of payment system operations, as well as the level of services that are economically viable for the system participants and their clients and which corresponds to their requirements.
- (3) The Central Bank shall oversee payment systems' operations by assessing their compliance with the principles for the payment system functioning.
- (4) The principles for the payment system functioning shall be determined by applying international standards and principles.
- (5) Based on the payment system oversight, the Central Bank shall assess the level of compliance of the relevant payment system with the principles for the payment system functioning.
- (6) The Central Bank shall regulate the manner of assessing the level of compliance of a payment system with the principles for the payment system functioning.
- (7) By way of derogation from paragraph (1) of this Article, the Central Bank may authorise other relevant institutions to perform the oversight of the payment system it operates.

Reporting to the Central Bank

Article 163

- (1) A payment system operator shall, without undue delay, report the following to the Central Bank:
 - 1) the submitted application for entry of data in the CRPS and completed entries of data changes made in the CRPS;
 - 2) where a payment system operator engages in other activities, all changes regarding persons responsible for operating the payment system;
 - 3) any change in the data on the payment system participants and in the data relating to the inclusion of new participants or the termination of participation in the payment system;
 - 4) the intention to cease the performance of the activity of operating the payment system and the occurrence of circumstances referred to in Article 138 of this Law;
 - 5) any other change relating to the conditions for the payment system operation laid down in this Law and/or altering the facts on the basis of which the Central Bank has granted the payment system the authorisation for the operation of a payment system.

- (2) The payment system operator that is not obliged to obtain the authorisation for the operation of a payment system shall, without undue delay, report to the Central Bank all facts and circumstances referred to in paragraph (1) of this Article and all changes in the rules of operation of the payment system.
- (3) At the request of the Central Bank, the payment system operator shall submit all data on payment transactions executed through the payment system it operates.
- (4) The Central Bank may prescribe the reporting method and deadlines for payment system operators.

Cooperation with competent authorities and exchange of information

Article 164

In the supervision of payment system operators and participants, and in the oversight of payment system operations, the Central Bank may cooperate with other competent authorities in Montenegro and in the Member States and third countries.

Xa DATA PROTECTION

Article 164a

- (1) Payment service providers and payment system operators shall be authorised to process personal data to safeguard the prevention, investigation and detection of fraud in respect of means of payment.
- (2) Payment service providers and payment system operators shall process the personal data referred to in paragraph (1) of this Article and provide information on such processing to the payment service user, and they may also provide such personal information to third parties in accordance with this Law and regulations on personal data protection.
- (3) Except in the cases referred to in paragraphs (1) and (2) of this Article, payment service providers shall only access and process personal data necessary for the provision of payment services, with the explicit consent of the payment service user.

XI. DECISION-MAKING METHODS AND PROCEDURES OF THE CENTRAL BANK

Application of administrative procedure

Article 165

Unless otherwise provided for in this Law, the provisions of the law governing the administrative procedure shall apply to the decision-making procedures of the Central Bank.

Decision-making

Article 166

In the process of rendering a decision, the Central Bank shall decide in an abridged procedure.

Administrative decision

Article 167

- (1) The Central Bank shall decide by way of an administrative decision on any issue within its competences laid down in this Law.
- (2) The administrative decisions of the Central Bank shall be final in the administrative procedure and an administrative dispute may be instigated against them.

Amendments to administrative decision

Article 168

- (1) The Central Bank may amend the administrative decision referred to in Article 167 paragraph (1) of this Law when new circumstances have arisen which influence or could influence the operation of the payment institution, electronic money institution or the activities of the payment system operator.
- (2) In the case referred to in paragraph (1) of this Article, the Central Bank shall take into account all facts and circumstances occurring following the adoption of the original administrative decision.

Deadlines

Article 169

- (1) The Central Bank shall decide on an application for granting authorisation to provide payment services, an application for authorisation for electronic money issuance, and an application for authorisation for the operation of a payment system within 90 days of the submission, or in cases when the submitted application and supporting documents are not complete, within 90 days following the receipt of all required information and documents.
- (2) The Central Bank shall decide on all other applications submitted in accordance with this Law within 60 days of the submission of complete applications and/or in cases when the submitted application and supporting documents are not complete, within 60 days following the receipt of all required information and documents.

Legal protection

Article 170

- (1) The Governor of the Central Bank, a member of the Central Bank Council, an employee of the Central Bank, or any person authorised by the Central Bank to perform operations in respect of executing the functions of the Central Bank pursuant to this Law, shall not be held liable for damages that could be incurred during the performance of duties in accordance with this Law, unless it has been proved that the particular action has been performed deliberately or as an act of gross negligence.
- (2) The Central Bank shall cover the expenses of protection of the persons under paragraph (1) of this Article in court proceedings concerning their performance.

XII. CROSS-BORDER PAYMENT TRANSACTIONS AND PROVISION OF PAYMENT SERVICES AND ELECTRONIC MONEY ISSUANCE TO AND BY A MEMBER STATE

Application

Article 171

- (1) Unless otherwise specified under Articles 172 to 180b of this Law, the provisions of Articles 2 to 129 of this Law shall apply to cross-border payment transactions and the provision of payment services and electronic money issuance to and by a Member State.
- (2) Unless otherwise provided for in this Law, the provisions of Articles 10 to 56f of this Law shall apply, irrespectively of the payment transaction currency, to that part of national and cross-border payment transactions, as well as international payment transactions which takes place in the territory of the Member States.
- (3) In the case of direct debits within the meaning of Article 1 of Regulation (EU) No 260/2012, the payer shall be entitled to a refund of the full amount of the executed authorised payment transaction from the payer's payment service provider within the time limits referred to in Article 39 of this Law, and in the case where the conditions referred to in Article 38 paragraph (1) of this Law are not met.

Fees

Article 172

Fees that a payment service provider charges for payment transactions in euros shall be same for both national and cross-border payment transactions.

Deadlines for executing cross-border payment transactions through payment accounts

Article 173

- (1) When executing cross-border payment transactions in euros, the payer's payment service provider shall ensure that the account of the payee's payment service provider is credited with the amount of the payment transaction at the latest by the end of the next business day after the point in time of receipt of the payment order referred to in Article 40 of this Law.
- (2) The deadline referred to in paragraph (1) of this Article may be extended by one business day for paper-initiated cross-border payment transactions.
- (3) In the case of a cross-border payment transactions in the currency of a Member State other than the euro, the payer's payment service provider shall ensure that the account of the payee's payment service provider is credited with the amount of the payment transaction at the latest by the end of the next business day after the point in time when the payer's payment service provider received the payment order in accordance with Article 40 of this Law.
- (4) A payment service provider and a payment service user may contract a deadline other than that specified under paragraph (3) of this Article that may not exceed four business days following the date of receipt of the payment order.
- (5) In the event that a payee has no payment account with a payment service provider that has received the funds, the payment service provider shall make the funds available to the payee within the deadlines specified under paragraphs (1) to (4) of this Article.

Deadlines for placing cash on a payment account

Article 174

- (1) In case of a cross-border payment transaction where a payment service user that is a consumer places cash on its payment account with the payment service provider servicing that account, in the currency of that payment account, the payment service provider shall make the funds available to the payee and specify the credit value date immediately after the receipt of the cash.
- (2) In the case under paragraph (1) of this Article, where a payment service user is not a consumer, the payment service provider shall make the funds available to the payee and specify the credit value date no later than by the end of the next business day following the receipt of funds.
- (3) By way of derogation from paragraphs (1) and (2) of this Article, where the payment service user places cash in a currency of the Member State other than the euro on its payment account with the payment service provider servicing that account, the payment service user and the payment service provider may agree a deadline other than those specified under paragraphs (1) and (2) of this Article, where such deadline may not exceed four business days following the receipt of the cash.
- (4) Provisions of Article 40 of this Law shall apply *mutatis mutandis* to the point in time of receipt of the cash within the meaning of paragraphs (1) to (3) of this Article.

Payment service providers

Article 175

- (1) In addition to payment service providers specified in Article 4 of this Law, payment services in Montenegro may be provided by:

- 1) a credit institution with a head office in a Member State licensed or authorised for providing payment services by a competent authority in a home Member State, including its branches established in Montenegro;
 - 2) a payment institution with a head office in a Member State, including its branches established in Montenegro;
 - 3) registered account information service provider with a head office in a Member State, including its branches established in Montenegro;
 - 4) an electronic money institution with a head office in a Member State, including its branches established in Montenegro;
 - 5) the European Central Bank and a national central bank of a Member State when not acting in their capacity as monetary authorities or other public authorities.
- (2) A payment institution with a head office in Montenegro shall perform a part of its operations in providing payment services in Montenegro.

Electronic money issuers

Article 176

In addition to issuers specified in Article 108 of this Law, electronic money issuers may be:

- 1) a credit institution having its registered office in a Member State licensed/authorised for issuing electronic money by a competent authority in a home Member State, including its branches established in Montenegro;
- 2) an electronic money institution having its registered office in a Member State, including its branches established in Montenegro;
- 3) the European Central Bank and a national central bank of a Member State when not acting in their capacity as monetary authorities or other public authorities.

Information accompanying the application for granting authorisation

Article 176a

The application for granting authorisation in accordance with this Law submitted by the applicant to the Central Bank shall be accompanied by the information in accordance with the Guidelines of the European Banking Authority specifying the information to be submitted in order to obtain such authorisation.

Provision of payment services by a payment institution in the territory of a Member State

Article 177

- (1) A payment institution authorised in Montenegro for providing payment services, which, exercising the right of establishment or freedom to provide services, intends to provide payment services for which it has been authorised, in the territory of a Member State directly or through a branch or an agent shall notify in advance the Central Bank thereof in writing.
- (2) The notification referred to in paragraph (1) of this Article shall specify in particular:
 - 1) the Member State in the territory of which it intends to provide payment services;
 - 2) the manner of providing payment services – directly or through a branch or an agent;
 - 3) the types of payment services to be provided in the territory of the Member State.
- (3) If the payment institution intends to provide payment services through a branch, in addition to information referred to in paragraph (2) of this Article, it shall provide the Central Bank with the information and documents in accordance with Article 88 of this Law and in case the payment institution intends to provide payment services through an agent, it shall provide the Central Bank with the information and documents specified under Article 77 of this Law.

- (4) The Central Bank shall notify the competent authority of the host Member State of the name and address of the head office of the payment institution which intends to provide payment services through a branch or an agent in the territory of that Member State, on the intention to enter such a branch or an agent into the registry of payment institutions in Montenegro and submit the notification and information referred to in paragraphs (1) to (3) of this Article within one month following the receipt thereof and prior to the registration of such a branch or an agent.
- (5) The notification referred to in paragraph (1) of this Article shall also contain information on the intended outsourcing of operational activities of payment services to an outsourcing service provider in the host Member State.
- (6) The notification referred to in paragraph (1) of this Article shall also contain the information set out in regulations and other acts of the competent bodies of the European Union for the cooperation and exchange of information between competent authorities relating to the exercise of the right of establishment and the freedom to provide services of payment institutions, prescribing the information exchanged between the competent authorities of the home Member State and the host Member State, in the case of the intended provision of payment services in the territory of another Member State through a branch, agent or directly, or, in the case of outsourcing of operational activities of payment services to an outsourcing service provider.
- (7) The payment institution may start providing payment services through a branch or an agent in the host Member State after the competent authority in that state has received the notification and information under paragraphs (1) to (6) of this Article and after their entry into the register of payment institutions in Montenegro.
- (8) The payment institution shall notify the Central Bank of the date of commencement of the provision of payment services through a branch or agent in the host Member State.
- (9) A payment institution shall notify the Central Bank of any change in the information submitted in the notification referred to in paragraph (1) of this Article, including the information on each new branch, agent and outsourcing service provider.
- (10) Where the Central Bank receives a notification from the competent authority of the host Member State that there are reasonable grounds to suspect that the payment institution authorised in Montenegro will use its branch or agent for money laundering or terrorist financing, or that the establishment of such a branch or engaging such an agent may increase the risk of money laundering and terrorist financing, it may refuse the entry of a branch or an agent in the registry or it may remove from the registry such branch or agent if they have been already registered.
- (11) The Central Bank shall cooperate with the competent authority of the host Member State in the course of supervision of the payment institution referred to in paragraph (1) of this Article.
- (12) The Central Bank shall exchange information and documentation with the competent authority of the host Member State required for carrying out supervision of that payment institution or its branch or agent in the territory of that Member State, including the information on or suspicion of acting in contravention to the regulations.
- (13) Where a payment institution established in Montenegro operates in the territory of another Member State, the Central Bank may:
 - 1) carry out on-site examination of the operations of a branch or an agent of that payment institution in the territory of the host Member State after notifying the competent authority of the host Member State thereof, or
 - 2) require the competent authority of the host Member State to carry out on-site examination of the operations of a branch or an agent of that payment institution established in Montenegro.

Provision of payment services by a payment institution from a Member State

Article 178

- (1) A payment institution from a Member State shall be a legal person with a head office in a Member State and which has been licensed or authorised by the competent authority of the home Member State to provide payment services as a payment institution.
- (2) The payment institution from another Member State may, exercising the right of establishment or freedom to provide services, provide the payment services, for which it has been licensed or authorised in the home Member State, in Montenegro directly or through a branch or an agent.
- (3) A payment institution from the Member State may commence providing payment services in Montenegro after the Central Bank has received a notification from the competent authority of that state on the intention of the payment institution to provide such services in Montenegro, and where the payment institution intends to provide payment services through a branch or an agent, after such a branch or an agent has been entered into the registry of payment institutions maintained by the competent authority of the home Member State.
- (4) Information referred to in Article 177 paragraphs (2) to (6) of this Law shall accompany the notification referred to in paragraph (3) of this Article.
- (5) An agent of a payment institution from a Member State that is to operate in the territory of Montenegro may only be a legal person or an entrepreneur with the head office in Montenegro.
- (6) The Central Bank shall cooperate with the competent authority of the home Member State in the course of supervision of a payment institution from a Member State that operates in Montenegro directly or through a branch or an agent.
- (7) The Central Bank shall exchange information and documentation with the competent authority of the home Member State required for carrying out the supervision of that payment institution, including the information on or suspicion of acting in contravention to the regulations.
- (8) Where a payment institution established in another Member State operates in the territory of Montenegro, the competent authority of the home Member State may:
 - 1) carry out on-site examination of the operations of its branches or agents in Montenegro after notifying the Central Bank thereof, or
 - 2) require the Central Bank to carry out on-site examination of the operations of its branches or agents in Montenegro.
- (9) The Central Bank shall notify the competent authority of the home Member State of any reasonable grounds to suspect that the provision of payment services in Montenegro by a payment institution from that Member State involves an act or an attempted act of money laundering or terrorist financing or that the provision of such services could increase the risk of money laundering or terrorist financing.

Implementation of cross-border cooperation

Article 178a

The cooperation and exchange of information between the Central Bank and the competent authorities of the host Member State referred to in Articles 177 and 178 of this Law, particularly with regard to monitoring the compliance with the provisions of Articles 10 to 56f this Law transposing the provisions of Titles III and IV of the Directive (EU) 2015/2366, shall take place in accordance with the provisions of regulations and other acts of the competent bodies of the European Union specifying the method, means and manners of cooperation in the supervision of cross-border payment institutions.

Measures in the case of non-compliant operations of a branch or an agent

Article 178b

- (1) Where the Central Bank receives a notification from the competent authority of a host Member State that a payment institution established in Montenegro and providing payment services in the territory of that

Member State through a branch or an agent does not operate in accordance with the provisions of Title II of Directive (EU) 2015/2366 or that it violates the provisions of national regulations transposing in that Member State the provisions of Titles III or IV of Directive (EU) 2015/2366 and where it establishes such information as justified, the Central Bank shall take appropriate measures without any delay, in accordance with its powers under this Law, to ensure that the payment institution rectifies the established illegalities or irregularities.

- (2) The Central Bank shall, without delay, notify the competent authority of the host Member State and the competent authorities of all other Member States to which it may refer of the measures referred to in paragraph (1) of this Article.
- (3) Where the Central Bank learns that in the course of cross-border provision of payment services in Montenegro through a branch or an agent, the payment institution from another Member State does not operate in accordance with the provisions of Title II of Directive (EU) 2015/2366 or that the agent or the branch from another Member State violates the provisions of Articles 10 to 56f of this Law, the Central Bank shall notify the competent authority of the home Member State thereof without undue delay so that the competent authority can take appropriate measures against such a payment institution.
- (4) In emergency situations, where immediate action is necessary to address a serious threat to the collective interests of the payment service users in Montenegro, the Central Bank may, in parallel to the cross-border cooperation referred to in Article 178a and pending measures by the competent authorities of the home Member State, take precautionary measures.
- (5) Precautionary measures referred to in paragraph (4) of this Article shall be appropriate and proportionate to their purpose referred to in that paragraph, and they shall not result in a preference for payment service users of the payment institution in Montenegro over payment service users of the payment institution in other Member States.
- (6) Precautionary measures referred to in paragraph (4) of this Article shall be temporary and the Central Bank shall terminate them when the serious threats to the collective interests of the payment service users in Montenegro are addressed, including with the assistance of or in cooperation with the home Member State's competent authorities or with the European Banking Authority.
- (7) The Central Bank shall notify the competent authorities of the home Member State and those of any other Member State concerned, the European Commission and the European Banking Authority of the precautionary measures taken in accordance with paragraph (4) of this Article and of their justification.
- (8) The Central Bank shall submit the notification referred to in paragraph (7) of this Article, where appropriate, in advance and at the latest immediately upon the imposition of measures.

European Banking Authority registry

Article 178c

- (1) The Central Bank shall, without undue delay, notify the European Banking Authority of the information entered in the registry of payment institutions in accordance with Article 89 of this Law as well as of the reasons for the withdrawal of the authorisation of a payment institution and for the removal of an account information service provider from that registry.
- (2) The Central bank shall be responsible for the accuracy of the information specified in paragraph (1) of this Article and for keeping that information up-to-date.

Mutatis mutandis

Article 179

Provisions of Articles 176a to 178c of this Law shall apply *mutatis mutandis* to the electronic money institutions and registered account information service providers.

Application to payment transactions

Article 180

The provisions of Articles 173 and 174 of this Law shall apply to:

- 1) payment transactions in euros;
- 2) national payment transactions in currencies of non-euro area Member States;
- 3) payment transactions including only one conversion of currency between euro and the currency of a non-euro area Member State, providing that the required currency conversion is performed in that non-euro area Member State and, in case of cross-border transactions, that the cross-border transfer is performed in euros.

Operational and security risks and authentication

Article 180a

- (1) Payment service providers shall establish security measures for managing operational and security risks relating to the payment services they provide in accordance with the guidelines of the European Banking Authority.
- (2) The Central Bank shall provide the relevant details of the incidents referred to in Article 56b paragraph (1) of this Law to the European Banking Authority and the European Central Bank, without any delay and after receipt of the notification on such incidents.
- (3) The Central Bank shall cooperate with the European Banking Authority and the European Central Bank in their assessment of the significance of the incident to other relevant authorities of the European Union and the competent authorities of other Member States.
- (4) On the basis of notification by the European Central Bank about an incident in another Member State, the Central Bank shall, as appropriate, take all of the necessary measures to protect the immediate safety of the financial system of Montenegro.
- (5) Reporting by the payment service providers and the Central Bank on the incidents referred to in Article 56b paragraph (1) of this Law shall be done in accordance with the guidelines of the European Banking Authority.
- (6) Authentication referred to in Article 56c of this Law shall be carried out in accordance with regulations and other acts of the competent bodies of the European Union for strong customer authentication and common and secure open standards of communication.

Obligation to inform consumers of their rights

Article 180b

- (1) The Central Bank shall publish on its website the electronic leaflet of the European Commission on the rights of consumers - payment service users in accordance with this Law.
- (2) Payment service providers shall ensure that the leaflet referred to in paragraph (1) of this Article is made available free of charge on their websites, and on paper at their branches, their agents and outsourcing providers.
- (3) In respect of persons with disabilities, the provisions of this Article shall apply using appropriate alternative means, allowing the information to be made available in an accessible format.

XIII. PENALTY PROVISIONS

Misdemeanours by payment service providers

Article 181

- (1) A pecuniary fine in the amount ranging from 2.500 euros to 20.000 euros shall be imposed on the payment service provider referred to in Article 4 paragraph (1) items 1) to 4) and Article 175 items 1) to 3) of this Law, if:
- 1) it charges fees for the information it is obliged to provide (Article 11 paragraph (1));
 - 2) it charges fees that are not appropriate or in line with the actual costs (Article 11 paragraph (3));
 - 3) it fails to inform a payment service user of a charge for the use of a given payment instrument prior to the initiation of a payment transaction (Article 13 paragraph (2));
 - 4) it fails to provide general prior information in accordance with the provisions of Article 15 paragraphs (1), (2) and (3) of this Law;
 - 4a) as a payment initiation service provider, it fails to provide or fails to make available information in accordance with Article 15a of this Law to the payer and, where applicable, the payee, immediately after the initiation of a payment order;
 - 4b) as a payment initiation service provider, it fails to make available to the payment service provider servicing the payer's account the reference of the payment transaction initiated through it (Article 15b);
 - 5) after receipt of a payment order, it fails to immediately provide or make available to the payer the information in accordance with Article 16 of this Law;
 - 6) immediately after the execution of a payment transaction, it fails to provide or make available to the payee the information in accordance with Article 17 of this Law;
 - 7) before a payment service user is bound by any offer or framework contract, it fails to provide the payment service user with the general information referred to in Article 19 of this Law;
 - 8) it fails to provide a payment service user with the prior general information in the manner referred to in Article 20 of this Law;
 - 9) it fails to provide a payment user, at its request, with the terms of the framework contract and information in accordance with Article 19 of this Law on paper for on any other durable medium (Article 21 paragraph (4));
 - 10) in the case of changes in the framework contract, interest or exchange rates, it fails to act in accordance with the provisions of Article 22 of this Law;
 - 11) in the case of termination of the framework contract, it charges a fee contrary to the provisions of Article 23 paragraph (2) of this Law or fails to reimburse a fee in accordance with the provisions of Article 23 paragraph 5 of this Law;
 - 12) at the payer's request, it fails to provide information in accordance with Article 24 of this Law prior to the execution of an individual payment transaction;
 - 13) after the amount of an individual payment transaction is debited from the payer's account or, where the payer does not use a payment account, after the receipt of the payment order, it fails to provide the payer with information in accordance with Article 25 of this Law;
 - 14) after the execution of an individual payment transaction, it fails to immediately provide the payee with information in accordance with Article 26 of this Law;
 - 15) it charges a payment service user fees contrary to Article 28 paragraphs (2), (3) and (5) of this Law;
 - 16) it prevents or in any other way limits the payee from offering the payer a reduction for the use of a payment card or any other payment instrument or otherwise steers him towards the use of a given payment instrument (Article 28, paragraph (4));
 - 17) it fails to post in its premises and on its website the tariff at which it charges fees for payment services (Article 28 paragraph (7));
 - 17a) as an account servicing payment service provider confirms to the payment service provider issuing card-based payment instrument that the amount necessary for the execution of a card-based payment transaction is available on the payment account of a payer, without ensuring that the conditions set out in Article 30a paragraph (1) of this Law have been met;

- 17b) as an account servicing payment service provider, at the request of the payment service provider issuing card-based payment instrument, it fails, without delay, to confirm the availability of the requested amount on the payment account of a payer when all of the conditions referred to in Article 30a paragraph (1) of this Law have been met;
- 17c) as an account servicing payment service provider it blocks funds in the payer's payment account (Article 30a paragraph (5));
- 17č) when providing payment initiation service, it holds the payer's funds (Article 30b paragraph (4) item 1));
- 17ć) when providing payment initiation service, it fails to act in accordance with Article 30b paragraph (4) items 2) and 3) of this Law;
- 17d) when providing payment initiation service, it fails to act in accordance with Article 30b paragraph (4) item 4) of this Law;
- 17dž) when providing payment initiation service, it fails to identify itself towards the payer's account servicing payment service provider and fails to communicate securely with the account servicing payment service provider, the payer and the payee in accordance with Article 56c of this Law (Article 30b paragraph (4) item 5));
- 17đ) when providing payment initiation service, it stores sensitive payment data of the payment service user (Article 30b paragraph (4) item 6));
- 17e) when providing payment initiation service, it requests from the payment service user any data other than those necessary to provide the payment initiation service (Article 30b paragraph (4) item 7));
- 17f) when providing payment initiation service, it uses, accesses or stores any data for purposes other than for the provision of the payment initiation service as explicitly requested by the payer (Article 30b paragraph (4) item 8));
- 17g) when providing payment initiation service, it modifies the amount, the payee or any other feature of the payment transaction being initiated (Article 30b paragraph (4) item 9));
- 17h) as an account servicing payment service provider, it fails to communicate securely with payment initiation service providers in accordance with Article 56c of this Law (Article 30b paragraph (5) item 1));
- 17i) as an account servicing payment service provider, it fails, immediately after the receipt of the payment order from the payment initiation service provider, to provide or make available to the payment initiation service provider all information on the initiation of the payment transaction and all information accessible to the account servicing payment service provider regarding the execution of the payment transaction (Article 30b paragraph (5) item 2));
- 17j) as an account servicing payment service provider, it discriminates against payment orders transmitted through the services of a payment initiation service provider, other than for objective reasons, in particular in terms of timing, priority or fees vis-à-vis payment orders transmitted directly by the payer (Article 30b paragraph (5) item 3));
- 17k) when providing an account information service, it provides such service without the payment service user's explicit consent (Article 30c paragraph (3) item 1));
- 17l) when providing an account information service of an account with the personalised security credentials of the payment service user, it fails to act in accordance with Article 30c paragraph (3) items 2) and 3) of this Law;
- 17lj) when providing an account information service, for each communication session, it fails to identify itself towards the account servicing payment service provider or large number of those providers or towards the payment service user in a secure manner in accordance with Article 56c of this Law (Article 30c paragraph (3) item 4));
- 17m) when providing an account information service, it accesses the information from payment accounts that are not designated by the payment service user for such services and that are related to payment transactions associated with that account (Article 30c paragraph (3) item 5));
- 17n) when providing an account information service, it requests sensitive payment data linked to the payment accounts (Article 30c paragraph (3) item 6));

- 17nj) when providing an account information service, it uses, accesses or stores any data for purposes other than for providing the account information service explicitly requested by the payment service user, in accordance with data protection rules (Article 30c paragraph (3) item 7));
- 17o) as an account servicing payment service provider, it fails to communicate securely with the account information service providers in accordance with Article 56c of this Law (Article 30c paragraph (4) item 1));
- 17p) as an account servicing payment service provider, it discriminates against data requests transmitted through the services of an account information service provider, other than for objective reasons (Article 30c paragraph (4) item 2));
- 18) it fails to inform the payer of the blocking of the payment instrument in accordance with Article 31, paragraphs (3) and (4) of this Law;
- 19) it fails to unblock the payment instrument or replace it with a new one once the reasons for blocking this payment instrument no longer exist (Article 31, paragraph (6));
- 19a) as an account servicing payment service provider, it denies an account information service provider or a payment initiation service provider access to the payment account contrary to the provisions of Article 31 paragraphs (7) and (8) of this Law;
- 19b) as an account servicing payment service provider, in cases referred to in Article 31 paragraph (7) of this Law, it fails to report the incident relating to the account information service provider or the payment initiation service provider to the Central Bank stating relevant details of the case and the reasons for denying access to the payment account (Article 31 paragraph (10));
- 20) it, as a payment instrument issuer, acts contrary to the provisions of Article 33 of this Law;
- 21) in the case of execution of an unauthorised payment transaction, it fails to act in accordance with Article 36 of this Law;
- 21a) as a payer's payment service provider, where a card-based payment transaction is initiated by or through the payee and the exact amount of that payment transaction is not known at the moment when the payer gives consent to execute the payment transaction, it blocks funds on the payer's payment account without the payer's consent to the exact amount of the funds to be blocked (Article 37a paragraph (1));
- 21b) as a payer's payment service provider, it fails to release the funds blocked on the payer's payment account in accordance with Article 37a paragraph (2) of this Law;
- 22) at the payer's request for a refund for an authorised payment transaction, it fails to act in accordance with Article 39 paragraph (2) of this Law;
- 23) it fails to refund funds (Article 39 paragraph (3));
- 23a) as a payer's payment service provider, it debits the payer's payment account before the receipt of the payment order (Article 40 paragraph (7));
- 24) it fails to notify the payment service user of the refusal to execute a payment order or a refusal to initiate a payment transaction in accordance with the provisions of Article 41 paragraphs (1) and (2) of this Law;
- 25) it refuses to execute an authorised payment order (Article 41 paragraph (4));
- 26) in executing a payment transaction, it fails to act in accordance with Article 43 of this Law;
- 27) it fails to execute a payment to another payment service provider within the deadlines referred to in Article 44 paragraph (1), Article 58 paragraphs (1), (2), (3), and (4) and Article 174 of this Law;
- 28) it fails to execute a payment order to its payee in accordance with Article 44 paragraph (2), Article 45, and Article 47 paragraphs (1) and (2) of this Law;
- 29) it fails to transmit a payment order to the payer's payment service provider in accordance with Article 44, paragraph (3) of this Law;
- 30) in the case of placing cash it fails to make the funds available or to credit the account in accordance with the provisions of Article 46 and Article 174 of this Law;
- 31) it sets the debit value date for the payer's payment account contrary to Article 47 paragraph (3) of this Law;
- 32) in the case of a defective payment transaction, it fails to take reasonable steps to recover the funds to the payer (Article 48, paragraph (3));

- 33) in the case of a non-executed or defective payment transaction and at the request of the payment service user, it fails to immediately act in accordance with Article 49 paragraph (6) and Article 50 paragraphs (5) and (6) of this Law;
 - 33a) it fails to correct defective payment transaction in accordance with Article 51a paragraph (1) of this Law;
 - 34) it fails to keep the documents on payment service users, payment transactions and the balance and changes in the payment service users` payment accounts for the time periods specified under Article 55 paragraph (1) of this Law;
 - 35) it fails to submit to the Central Bank the payment services report (Article 55 paragraph (2));
 - 35a) it fails to establish a framework to manage the operational and security risks relating to the payment services it provides in accordance with Article 56a of this Law;
 - 35b) it fails to submit to the Central Bank at least once a year or in shorter time limits determined by the Central Bank an updated and comprehensive assessment of the operational and security risks relating to the payment services they provide and of the adequacy of mitigation measures and control mechanisms implemented in response to those risks (Article 56a paragraph (2));
 - 35c) it fails to notify the Central Bank, without undue delay, of a major operational or security incident (Article 56b paragraph (1));
 - 35č) where a major operational or security incident has or may have an impact on the financial interests of payment service users, it fails to, notify its payment service users of the incident and of all measures that the payment service users can take to mitigate the adverse effects of the incident, without undue delay (Article 56b paragraph (2));
 - 35ć) it fails to apply strong customer authentication in accordance with Article 56c paragraphs (1), (3), (4), and (7) of this Law;
 - 35d) in the case of initiation of remote electronic payment transactions, it fails to apply strong customer authentication that includes elements which dynamically link the transaction to a specific amount and a specific payee (Article 56c paragraph (2));
 - 35ď) in the cases referred to in Article 56c paragraph (1) of this Law, it fails to set up adequate security measures to protect the confidentiality and integrity of payment service users` personalised security credentials (Article 56c paragraph (3));
 - 35đ) it fails to submit the reply to all the points raised in the complaint referred to in Article 56d paragraph (1) of this Law, within the time limit and in the manner set out in Article 56d paragraphs (2) and (3) of this Law;
 - 35e) it fails to submit its statement and the relevant evidence it invokes within the time limit set by the Central Bank, but no longer than 15 days after the day of receiving the invitation referred to in Article 56e paragraph (2) of this Law (Article 56e paragraph (3));
 - 36) it fails to inform the payment service user, i.e. fails to undertake appropriate activities in accordance with Article 59 paragraphs (1) and (2) of this Law;
 - 37) after receiving funds on the basis of an international payment transaction, it acts contrary to Article 61 of this Law;
 - 37a) it fails to submit to the Central Bank data on transaction accounts determined by the regulation referred to in Article 65a paragraph (2) of this Law or submits incorrect data;
 - 38) it provides payment services through an agent before the agent has been entered in the register with the Central Bank, i.e. after its deletion from the register (Article 77);
 - 39) it fails to inform the Central Bank about the payment system in which it participates directly or indirectly and about the operator of that payment system (Article 133 paragraph (3)), or
 - 40) for payment transactions in euros, if it charges various fees for the execution of national and cross-border payment transactions (Article 172).
- (2) Exceptionally, the payment service provider shall not be considered to have committed any of the misdemeanours referred to in paragraph (1) of this Article, if, where so provided by this Law, it has agreed with the payment service user otherwise than prescribed by this Law.
 - (3) A responsible person in the payment service provider referred to in paragraph (1) of this Article shall also be fined between 500 euros and 2,000 euros for a misdemeanour referred to in paragraph (1) of this Article.

- (4) The payment service providers referred to in Article 4 paragraph (1) items 1) to 4) of this Law shall not be fined for any of the misdemeanours referred to in paragraph (1) of this Article if they have been committed in the territory of another Member State in the course of providing payment services in that Member State through a branch or an agent.
- (5) Where any of the misdemeanours under paragraph (1) of this Article has been committed by a payment service provider specified under Article 175 items 1) to 3) of this Law providing its services in Montenegro through their branches or agents, the latter shall be fined between 2,500 euros and 20.000 euros.
- (6) A pecuniary fine in the amount ranging from 500 euros to 2.000 euros shall also be imposed on the responsible person of the branch or the agent for a misdemeanour referred to in paragraph (5) of this Article.

Misdemeanours by other persons

Article 182

- (1) A pecuniary fine in the amount ranging from 500 euros to 20.000 euros shall be imposed on a legal person for a misdemeanour if:
 - 1) as a service provider providing one of the services referred to in Article 3 paragraph (1) item 11) sub-item a) and/or b) of this Law, for which the total value of payment transactions executed over the preceding 12 months exceeds the amount of EUR 1,000,000, it fails to submit to the Central Bank a notification on the total value of payment transactions executed over that period, providing a detailed account of the services it offers and indicating which of the activities referred to in Article 3 item 11) sub-items a) and b) of this Law it refers to (Article 3a paragraph (1));
 - 2) as a service provider referred to in Article 3 paragraph (1) item 12) of this Law, fails to notify the Agency for Electronic Communications and Postal Services of the provision of such services, and fails to submit to it an annual audit opinion confirming compliance of the services it provides with the limitations referred to in Article 3 item 12) of this Law (Article 3a paragraph (4));
 - 3) as a service provider referred to in Article 3 item 12) of this Law, it fails to comply with the administrative decision of the Central Bank referred to in Article 3a paragraph (7) of this Law;
 - 4) for the use of a specific payment instrument offers a reduction and fails to inform the payer thereof prior to the initiation of a payment transaction (Article 13 paragraph (1));
 - 5) it offers a currency conversion service prior to the initiation of the payment transaction and offers that currency conversion service at the ATM, at the point of sale or by the payee and fails to disclose to the payer all fees as well as the exchange rate to be used for the currency conversion (Article 14 paragraph (2));
 - 6) it charges a fee for the use of a specific payment instrument to the payer (Article 28 paragraph (5));
 - 7) it acquires qualifying holding in a payment institution or an electronic money institution without a prior authorisation of the Central Bank (Article 71 paragraph (1) and Article 114 paragraph (1));
 - 8) it holds a qualifying holding in a payment institution or an electronic money institution, and it directly or indirectly increases, without authorisation of the Central Bank, such qualifying holding as a result of which the proportion of the capital or of the voting rights held in the payment institution or the electronic money institution would reach or exceed 20%, 30% or 50% (Article 71 paragraph (3) and Article 114 paragraph (3));
 - 9) it holds a qualifying holding in a payment institution or an electronic money institution, and it fails to notify the Central Bank of the intention to dispose of a qualifying holding in a payment institution or an electronic money institution or reduce it to below 20%, 30% or 50% (Article 71 paragraph (5) and Article 114 paragraph (3)).
- (2) A pecuniary fine in the amount ranging from 500 euros and 2.000 euros shall also be imposed on the responsible person of the legal person referred to in paragraph (1) of this Article for any of the misdemeanours referred to in paragraph (1) of this Article.
- (3) A pecuniary fine in the amount ranging from 1.000 euros to 2.000 euros shall also be imposed on a natural person for any of the misdemeanours referred to in paragraph (1) items 7) to 9) of this Article.

Misdemeanours by credit institutions

Article 183

- (1) A pecuniary fine in the amount ranging from 2.500 euros to 20.000 euros shall be imposed on the payment service provider referred to in Article 4 paragraph (1) items 1) and 4) of this Law for a misdemeanour if:
- 1) it fails to open and service a payment account to a payment institution and an electronic money institution, at its request, and provide services associated with such account in an objective, non-discriminatory and proportionate manner in the scope which shall be sufficiently extensive to enable these entities to provide payment services in an unhindered and efficient manner (Article 4a paragraph (1));
 - 2) it refuses the application of a payment institution or an electronic money institution to open and service a payment account without identifying in particular all the justified reasons for doing so, and it fails to submit to the Central Bank a notification of the refusal of such application and state the reasons for the refusal (Article 4a paragraph (2));
 - 3) it opens a transaction account contrary to provisions of Article 64 paragraph (4) of this Law;
 - 4) it fails to maintain a registry of transaction accounts of its payment service users (Article 65 paragraph (1));
 - 5) it fails to submit to the Central Bank the information on an opened transaction account laid down in the regulation referred to in Article 65a paragraph (2) of this Law, the data on any change in information on that account and the data on cancelling that account, no later than by the end of the business day when such an account has been opened, cancelled or the change has been made (Article 65 paragraph (2));
 - 6) the payment order for the execution of payment transactions through transaction accounts does not contain the basic elements or is not completed in accordance with this Law (Article 66).
- (2) A pecuniary fine in the amount ranging from 500 euros to 2.000 euros shall be imposed on a responsible person of the payment service provider referred to in paragraph (1) of this Article for any of the misdemeanours referred to in paragraph (1) of this Article.

Misdemeanours by payment institutions

Article 184

- (1) A pecuniary fine in the amount ranging from 2.500 euros to 20.000 euros shall be imposed on the payment institution, if:
- 1) it provides payment services without the authorisation granted in accordance with this Law (Article 67 paragraph (2));
 - 2) deleted. (Law amending the Payment System Law (OGM 111/22));
 - 3) it provides ancillary payment services without the authorisation of the Central Bank to provide such services (Article 74);
 - 4) it fails to safeguard the funds which have been received for the execution of payment transactions in accordance with Article 79 of this Law;
 - 5) it uses the payment accounts it operates for purposes other than payment transactions (Article 80 paragraph 1);
 - 6) it grants credits connected with the provision of payment services contrary to Article 81 paragraph (1) of this Law;
 - 7) it accepts deposits or any other repayable funds from the public (Article 81 paragraph (2));
 - 8) it fails to keep business books and/or compile financial statements pursuant to Article 82 paragraph (1) of this Law;
 - 9) it fails to keep business books and/or compile financial statements pursuant to Article 82 paragraph (2) of this Law;
 - 10) it fails to store bookkeeping documents and other documentation in accordance with Article 82 paragraph (3) of this Law;

- 11) it fails to have the financial statements and consolidated financial statements audited (Article 83 paragraph (1));
 - 12) it fails to submit to the Central Bank reports in accordance with Article 83 paragraph (2) of this Law;
 - 13) it fails to notify the Central Bank of intended outsourcing in accordance with Article 85 paragraph (1) or (2) of this Law;
 - 14) it outsources its operational activities contrary to the conditions referred to in Article 85 paragraphs (4) and (5) of this Law;
 - 14a) it fails to ensure that agents acting on its behalf notify the payment service users thereof (Article 86 paragraph (3));
 - 14b) it fails to notify the Central Bank of any change in the data relating to agents and outsourcing service providers without undue delay (Article 86 paragraph (4));
 - 15) it fails to establish or implement governance arrangements in the manner laid down in Article 87 of this Law;
 - 16) it establishes a branch in a third country without prior authorisation from the Central Bank (Article 88 paragraph (2));
 - 17) it fails to report to the Central Bank in accordance with Article 103 paragraphs (1) and (2) of this Law;
 - 18) it provides payment services for which it was authorised in the territory of another Member State without notifying in advance the Central Bank thereof in writing (Article 177 paragraph (1));
 - 19) it fails to notify the Central Bank of any change in the information contained in the notification referred to in Article 177 paragraph (1) of this Law, including the information on each new branch, agent and outsourcing service provider (Article 177 paragraph (9)).
- (2) A pecuniary fine in the amount ranging from 500 euros and 2,000 euros shall also be imposed on the responsible person in the payment institution for any of the misdemeanours referred to in paragraph (1) of this Article.

Misdemeanours by account information service providers

Article 184a

- (1) A pecuniary penalty in the amount ranging from 2.500 euros to 20.000 euros shall be imposed on an legal person - account information service provider if:
- 1) it provides a payment service referred to in Article 2 paragraph (1) item 8) of this Law without having been entered into the register referred to in Article 89 of this Law (Article 107a paragraphs (1) and (2));
 - 2) as a registered account information service provider it provides one or more payment services referred to in Article 2 paragraph (1) items 1) to 7) of this Law without the authorisation of the Central Bank to provide payment services as a payment institution (Article 107c paragraph (1)).
- (2) A pecuniary fine in the amount ranging from 500 euros to 6.000 euros shall be imposed on an entrepreneur - account information service provider for a misdemeanour referred to in paragraph (1) of this Article.

Misdemeanours by auditors

Article 185

- (1) A pecuniary fine in the amount ranging from 2.500 euros to 20.000 euros shall be imposed on an audit firm if:
- 1) it fails to inform the Central Bank of the facts and circumstances referred to in Article 83 paragraphs (4) and (5) of this Law;
 - 2) it fails to provide additional information pursuant to Article 84 paragraph (2) of this Law.
- (2) A pecuniary fine in the amount ranging from 500 euros to 2.000 euros shall be imposed on a responsible person in the audit firm for any of the misdemeanours referred to in paragraph (1) of this Article:
- (3) A pecuniary fine in the amount ranging from 2.500 euros to 6.000 euros shall be imposed on a certified auditor performing the audit activities for any of the misdemeanours referred to in paragraph (1) of this Article:

Misdemeanours by electronic money institutions

Article 186

- (1) A pecuniary fine in the amount ranging from 2.500 euros to 20.000 euros shall be imposed on an electronic money institution if:
 - 1) it issues electronic money without obtaining the authorisation from the Central Bank to issue electronic money (Article 112 paragraph (2));
 - 2) it issues electronic money through an agent (Article 115 paragraph (1));
 - 3) it fails to exchange funds received from an electronic money holder for electronic money without delay (Article 119);
 - 4) it accepts deposits or any other repayable funds from the public (Article 120 paragraph (1));
 - 5) in the provision of payment services other than those related to electronic money issuance, it fails to use the funds in payment accounts solely for payment transactions (Article 121);
 - 6) it grants credits from the funds received in exchange for the issued electronic money (Article 122);
 - 7) it fails to safeguard the funds received in exchange for the issued electronic money in accordance with Article 123 of this Law.
- (2) A pecuniary fine in the amount ranging from 500 euros to 2.000 euros shall be imposed on a responsible person in the electronic money institution for any of the misdemeanours referred to in paragraph (1) of this Article.

Misdemeanours by payment system operators

Article 187

- (1) A pecuniary fine in the amount ranging from 2.500 euros to 20.000 euros shall be imposed on the payment system operator referred to in Article 131 paragraph (2), items (1) to (4) of this Law if:
 - 1) it fails to provide functioning of the payment system pursuant to the provisions of Article 132 paragraphs (1) and (2) of this Law;
 - 2) it commences with the payment system operations before having obtained the authorisation for the operation of that system from the Central Bank (Article 134 paragraph (3));
 - 3) it fails to notify the Central Bank of the commencement of operations of the payment system within the time limits referred to in Article 134 paragraph (4) of this Law;
 - 4) it amends the payment system contract and the payment system rules of operation without a prior approval of the Central Bank (Article 141 paragraphs (1) and (2));
 - 5) it fails to provide a prior notice to the Central Bank on concluding a contract with the outsourcing service provider (Article 143 paragraph (1));
 - 6) it outsources activities contrary to the provisions of Article 143 paragraph (2) of this Law;
 - 7) it fails to report to the Central Bank in accordance with Article 163 of this Law.
- (2) A pecuniary fine in the amount ranging from 500 euros to 2.000 euros shall be imposed on a of the payment system operator referred to in paragraph (1) of this Article for any of the misdemeanours referred to in paragraph (1) of this Article:

Statute-barred initiation of misdemeanour proceedings

Article 188

No misdemeanour proceedings may be initiated for misdemeanours referred to in Articles 181 to 187 of this Law after the expiry of three years following the misdemeanour date.

XIV. TRANSITIONAL AND FINAL PROVISIONS

Time limits for the compliance of payment service provision with the provisions of this Law

Article 189

- (1) Banks, which, as at the effective date of this Law, provide payment services based on a license issued in accordance with the law governing the establishment and operations of banks, shall continue to provide payment services referred to in Article 2 of this Law without any special approval of the Central Bank.
- (2) Legal persons, with the exception of banks, which provide payment services referred to in Article 2 of this Law as at the effective date of this Law, shall submit to the Central Bank an application for authorisation to provide payment services within 90 days of the date of entry into force of this Law.
- (3) Legal persons that fail to act in accordance with the provisions of paragraph (2) of this Article shall not provide payment services.

Framework contracts

Article 190

- (1) Framework contracts concluded before the effective date of this Law shall continue applying until their expiration dates.
- (2) Payment service providers shall, within 30 days following the effective date of this Law, submit information referred to in Article 19 of this Law that have not been included in framework contracts or which they have not previously submitted to all payment service users with which they concluded framework contract referred to in paragraph (1) of this Article.

Enabling regulations

Article 191

- (1) The Central Bank shall pass enabling regulations within its competence under this Law until its effective date.
- (2) Regulations and acts adopted based on the Law on National Payment Operations (OGM 61/08, 31/12) shall apply until the passing of enabling regulations referred to in paragraph (1) of this Article.

Enabling regulations

Article 191a

The Central Bank shall adopt enabling regulations for the implementation of this Law by effective date of this Law.

Continuation of the work of the Committee for out-of-court settlement of payment system disputes

Article 192

Members of the Committee for out-of-court settlement of payment system disputes and their deputies elected pursuant to the Law on National Payment Operations (OGM 61/08, 31/12) shall remain in office until the expiry of their respective terms of office.

Deferred application

Article 193

Provisions of Article 155 paragraph (2) and Articles 171 to 180b of this Law shall apply as of Montenegro's accession to the European Union.

Compliance of existing payment service providers and electronic money institutions

Article 193a

- (1) Payment service providers and electronic money institutions that, as at the effective date of this Law, have the authorisation to provide payment services or the authorisation to issue electronic money granted in accordance with the Payment System Law (OGM 62/13), shall bring their internal documents and operations into compliance with the provisions of this Law and notify the Central Bank thereof at the latest within six months of the effective date of this Law.
- (2) The Central Bank shall withdraw the authorisation to provide payment services or the authorisation to issue electronic money from the payment service providers and electronic money institutions that fail to bring their internal documents and operations into compliance with the provisions of this Law within the time limit set out in paragraph (1) of this Article.

Specific activities of the Central Bank as an enforced collection organisation

Article 193b

- (1) Data contained in the Central Registry of Transaction Accounts that the Central Bank has maintained in accordance with Article 65 of the Payment System Law (OGM 62/13) until the effective date of this Law, as a legal person authorised to carry out enforced collection of monetary assets in a transaction account held by the judgment debtor pursuant to the law governing enforcement and securing of claims (hereinafter: the enforced collection organisation), shall become the data of the Central Registry of Transaction Accounts referred to in Article 65a of this Law as at the effective date of this Law.
- (2) In carrying out activities of the enforced collection organisation, the Central Bank shall use the data contained in the Central Registry of Transaction Accounts referred to in Article 65a of this Law to carry out enforced collection of monetary assets in a transaction account held by the judgement debtor pursuant to the law governing enforcement and securing of claims.
- (3) In carrying out activities of the enforced collection organisation, the Central Bank shall publish the names of legal persons and entrepreneurs, their identification numbers or personal identification numbers of persons performing the activity in accordance with the regulations, the amounts of accounts frozen and the number of days of uninterrupted duration of the transaction account being frozen.
- (4) The Central Bank shall publish the information referred to in paragraph (3) of this Article once a month on its website, on the first business day following the expiry of the month, containing the breakdown of the amounts on the last day in the month, given in the alphabetical order of the names of legal person or entrepreneurs.
- (5) In addition to publishing information in line with paragraph (4) of this Article, the Central Bank shall also ensure a daily insight of the information on the freezing of the transaction accounts of each judgement debtor, that may be provided using electronic means of communication.

Cessation of effect of legal provisions

Article 194

The Law on National Payment Operations (OGM 61/08, 31/12), Article 5 of the Law on Foreign Current and Capital Operations (OGRM 45/05 and OGM 62/08), and Article 130 of the Law on Amendments to the Law on Penalties (OGM 40/11) shall cease to have effect as of the date of entry into force of this Law.

Entry into force

Article 195

This Law shall enter into force after the expiry of 12 months following the day of its publishing in the “Official Gazette of Montenegro”.