

Pursuant to Article 209 paragraph 5 of the Law on Enforcement and Securing of Claims (OGM 36/11), the Ministry of Finance, passed the following

## **Instructions**

### **for detailed manner of carrying out the enforcement on monetary assets held on the account of the judgment debtor**

#### **Article 1**

The Instructions shall govern in more detail the manner of carrying out the enforcement on monetary assets of a legal person or an entrepreneur, as a judgment debtor, held at the accounts with banks (hereinafter: the enforced collection).

#### **Article 2**

A legal person authorised to carry out the enforced collection (hereinafter: the enforced collection organisation) shall record received writs of enforcement by date and time of receipt, and shall open a file for the judgment debtor based on its identification number.

#### **Article 3**

The enforced collection organisation shall issue orders for carrying out the enforced collection in accordance with daily schedule for carrying out the enforced collection, determined and submitted to banks.

#### **Article 4**

Where it has been determined during the enforced collection that the judgment debtor has the account opened for foreign payment operations, and it does not have the account for domestic payment operations, the funds from the account of judgment debtor for performing foreign payment operations shall be transferred to special account for performing domestic payment system operations opened exclusively for that purpose.

A bank shall use the special account referred to in paragraph 1 above for transferring the funds from the account for performing foreign payment system operations of all judgment debtors that do not have account opened with that banks for performing domestic payment system operations.

The bank shall not report special account referred to in paragraph 1 above to the Central Registry of Accounts, and upon the transfer of funds from such account for the purpose of carrying out the enforced collection pursuant to the Law on enforcement and securing of claims, the balance must equal zero at that account.

#### **Article 5**

When carrying out the enforced collection, a bank may, in accordance with the law, exempt from the enforcement the judgment debtor's accounts which do not contain funds of such a judgment debtor.

In the event referred to in paragraph 1 above, the judgment debtor shall submit the bank a certificate that its funds are not kept at such an account.

The bank shall submit to the enforced collection organisation the notification in writing on the account that was exempted from the enforced collection in accordance with paragraphs 1 and 2 above, no later than the first business day following that of the account exemption.

#### **Article 6**

Upon completion of the enforcement against the account of the judgment debtor, in accordance with the order of the enforced collection organisation, the bank shall de-block the accounts of the judgment debtor, without any delay.

#### **Article 7**

Where in the process of carrying out the enforced collection the enforced collection organisation make an error, it shall carry out the process to correct such an error.

#### **Article 8**

Issuing orders and exchanging of information between the enforced collection organisation and banks during the enforced collection as well as issuing orders for correcting errors of the enforced collection organisation shall be performed using electronic SWIFT messages determined by the enforced collection organisation in accordance with the software application.

The electronic messages referred to in paragraph 1 above the part of the message: "Identification number of judgment debtor" shall contain the following:

- for legal person – identification number;
- for entrepreneur – uniform identification number of a natural person performing registered activity.

#### **Article 9**

Banks shall determine and report to the enforced collection organisation the following:

- 1) a person authorised for contacting the enforced collection organisation with respect to the enforced collection affairs, and
- 2) a person authorised for contacting the enforced collection organisation with respect to technical aspect of the functioning of enforced collection.

#### **Article 10**

The enforced collection organisation shall keep documents on the enforced collection in the manner and within the deadlines specified in accordance with the law governing archive affairs.

#### **Article 11**

The enforced collection organisation shall carry out the enforced collection based on the enforceable document of the competent authorities prescribed by the law to carry out the enforced collection in accordance with the law and these Instructions.

**Article 12**

The Instructions shall enter into force on the eighth day following that of its publication in the Official Gazette of Montenegro, and they shall be applied from 27 March 2012.

Number: 02-2991

Podgorica, 16 March 2012

MINISTER,  
**Milorad Katnić**, m.p.