

LAW
ON PAYMENT TRANSACTIONS

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I. BASIC PROVISIONS

Subject

Article 1

- (1) Payment transactions are carried out in the manner and under the conditions prescribed by this Act.
- (2) Payment services include the provision of payment services, the issuance of electronic money, the operation of payment systems and other activities related to payment services.

Payment

services

- (1) Payment services include:

Article 2

- 1) services which enable the deposit of cash into a payment account, as well as all activities necessary for the operation of a payment account;
- 2) services enabling the withdrawal of cash from a payment account, as well as all activities necessary for the management of the payment account;
- 3) execution of payment transactions, including the transfer of funds to a payment account of a user of payment services with their payment service provider or with another payment service provider, and this:
 - execution of direct debits, including single direct debits,
 - execution of payment transactions by means of payment cards or similar instruments,
 - execution of credit transfers, including standing orders;
- 4) execution of payment transactions where the funds are financed by a credit facility granted to the payment service user, and this:
 - execution of direct debits, including single direct debits,
 - execution of payment transactions by means of payment cards or a similar instrument,
 - execution of credit transfers, including standing orders;
- 5) issuing payment instruments and/or accepting payment transactions;
- 6) execution of money remittances;
- 7) payment initiation services;
- 8) account information services.

Excepti

ons

Article

3

The following are not considered payment services for the purposes of this Act:

- 1) payment transactions carried out exclusively in cash directly between the payer and the payee, without an intermediary;
- 2) payment transactions between the payer and the payee via a merchant intermediary authorised to negotiate or conclude contracts for the sale or purchase of goods or services on behalf of either only the payer or only the payee;
- 3) transport of banknotes and coins, including their collection, processing and delivery;
- 4) payment transactions consisting of the collection and delivery of cash for non-profit or charitable purposes;

- 5) services where the payment service provider provides the payer with cash as part of a payment transaction at the explicit request of the payment service user, immediately before the execution of the payment transaction by means of a payment for the purchase of goods or services;
- 6) exchange of cash for cash, where the cash is not held on a payment account;
- 7) payment transactions based on any of the following documents, whereby the payment service provider makes funds available to the payee:
 - a) paper cheques in accordance with the Geneva Convention on Uniform Law for Cheques of 19 March 1931,
 - b) paper cheques similar to the cheques referred to in sub-paragraph (a) of this paragraph which are governed by the law of Member States which are not parties to the Geneva Convention of 19 March 1931 on Uniform Law for Cheques,
 - c) paper bills of exchange in accordance with the Geneva Convention of 7 June 1930 on the Uniform Law for Drafts and Bills of Exchange,
 - d) paper bills of exchange similar to the bills of exchange referred to in sub-paragraph (c) of this paragraph which are governed by the law of Member States that are not parties to the Geneva Convention of 7 June 1930 on the Uniform Law for Drafts and Bills of Exchange,
 - e) paper vouchers,
 - f) paper travellers' cheques,
 - g) paper postal money orders as defined by the Universal Postal Union;
- 8) payment transactions carried out within a payment system or a securities settlement system between settlement agents, central counterparties, clearing organisations and/or central banks and other participants in that system and payment service providers, without prejudice to the application of Article 142 of this Act;
- 9) payment transactions in connection with securities management, including the distribution of dividends and income and other distributions or the repurchase or sale of securities, carried out by entities authorised to perform custody business;
- 10) services provided by technical service providers that support the provision of payment services, and who at no point hold the funds being transferred, including data processing and storage, privacy protection services, authentication of data and entities, provision of information technology and communication networks, and maintenance of terminals and devices used for payment services, except for payment initiation services and account information services;
- 11) services based on certain payment instruments which can only be used to a limited extent and which meet one of the following conditions:
 - a) instruments which enable the holder to acquire goods or services only on the premises of the issuer or within a limited network of service providers under a direct commercial relationship with the professional issuer;
 - b) instruments which can only be used to acquire a very limited selection of goods or services;
 - c) instruments which are valid only in a single state and which are made available on the request of a company or other entity and are regulated by a competent authority or a local authority for special social or tax purposes for the acquisition of certain goods or services from suppliers who have a commercial agreement with the issuer of the instrument;
- 12) payment transactions carried out by the provider of electronic communications networks or the provider of an electronic communications service for a subscriber to the network or service for the purchase of digital content and services based on voice technologies, regardless of the device used for the purchase or consumption of digital content charged to that account, or for services provided from or via an electronic device and charged to that account in the context of activities carried out for charitable purposes or for the purchase of tickets, if:
 - the value of any single payment transaction does not exceed €50;
 - the total value of the payment transactions for an individual subscriber does not exceed €300 per month; or
 - the subscriber has prepaid funds on their account with the provider for the use of the electronic communications network or services, and the total value of the payment transactions does not exceed €300 per month;
- 13) payment transactions between payment service providers, their agents or branches for their own account;
- 14) payment transactions and related services between a parent undertaking and a subsidiary or between subsidiaries of the same parent undertaking, where these payment transactions are executed exclusively through the payment service provider which is a member of the same group;

15) services in relation to the cash withdrawal at cash machines of third parties acting on behalf of one or more payment card issuers, who are not parties to the framework agreement with the payment service user withdrawing funds from a payment account, provided that such third parties do not perform other payment services under Article 2 of this Act, and that they are obliged to provide their customers with information on the charges referred to in Articles 14 to 17 of this Act before the cash withdrawal, as well as on the confirmation after the cash withdrawal transaction has been completed.

Notification on services not considered payment services Article 3a

- (1) Service providers who provide services from Article 3(1)(11) sub-paragraph. a and/or b of this Act, for which the total value of payment transactions carried out during the previous 12 months exceeds the amount of 1,000,000 euros, are obliged to submit a notification to the Central Bank of Montenegro no later than one month from the date on which this condition is met. (hereinafter: the Central Bank) on the total value of payment transactions carried out during that period, with a detailed description of the services they provide and an indication of the service from Article 3(1)(11)(a) and/or (b) of this Act.
- (2) The Central Bank, on the basis of the notification from paragraph 1 of this article, determines whether the conditions are met for the service provider to use the exemption from Article 3(1)(11)(a) and/or (b) of this law.
- (3) If the Central Bank, in the case referred to in paragraph 2 of this article, determines that it is not justified for the service provider to continue to benefit from the exemption under Article 3(1)(11) sub-paragraph a and/or b of this Act, it shall issue a decision ordering the service provider to cease using the exemption within a specified period, which may not be shorter than 90 days. a and/or b of this Act, shall issue a decision ordering the service provider to, within a period specified in that decision, which may not be shorter than 90 days, to submit an application to the Central Bank for the authorisation to provide payment services under Article 72 of this Act, or to comply, within the same period, with the restrictions set out in Article 3(1)(11)(a) and/or (b) of this Act in the manner specified in the decision.
- (4) A service provider as defined in Article 3(1)(12) of this Act, is obliged to notify the Agency for Electronic Communications and Postal Services of the provision of such services and to submit to it, in accordance with regulations, an annual auditor's report confirming that the service it provides complies with the restrictions set out in Article 3, point 12 of this Act.
- (5) The Agency for Electronic Communications and Postal Services notifies the Central Bank of the service providers referred to in paragraph 4 of this article that provide the service referred to in Article 3, paragraph 1, point 12 of this Act.
- (6) If the Agency for Electronic Communications and Postal Services determines that the service provided by the service provider referred to in paragraph 4 of this article is not in accordance with the limitations set out in Article 3(1)(12) of this Act, it shall immediately notify the Central Bank.
- (7) The Central Bank, on the basis of the notification from paragraph 6 of this article, shall issue a decision ordering the service provider referred to in paragraph 4 of this article to, within a period determined by the Central Bank, which may not be shorter than 90 days, submit an application to the Central Bank for the authorisation to provide payment services under Article 72 of this Act, or to comply, within the same period, with the restrictions under Article 3(1)(12) of this Act in the manner specified in the decision.
- (8) Service providers referred to in paragraphs 1 to 7 of this article shall be entered in the register referred to in Article 89 of this Act.

Payment service providers

Article 4

- (1) Payment service providers in Montenegro may be:
 - 1) a bank and another credit institution with its registered office in Montenegro;
 - 2) a payment institution with its registered office in Montenegro;
 - 2a) a registered account information service provider with its registered office in Montenegro;
 - 3) electronic money institution with its registered office in Montenegro;
 - 4) a branch of a credit institution from a third country with its head office in Montenegro;
 - 5) Central bank;
 - 6) The State of Montenegro and units of local self-government when they are not acting in an authority capacity.
- (2) Persons who are not payment service providers within the meaning of paragraph 1 of this article shall not provide payment services in Montenegro.
- (3) Exceptionally from paragraphs 1 and 2 of this article, the Development Bank of Montenegro provides payment services in accordance with the law regulating the establishment, activities, operations, organisation and control of the Development Bank of Montenegro.
- (4) Articles 10(5) and (6) and 11 to 61 of this Act shall not apply to the provision of payment services in accordance with paragraph 3 of this article.
- (5) Payment service providers referred to in paragraph 1, points 1 and 4 of this article may provide payment services on the basis of a licence or authorisation issued in accordance with the law governing their establishment and operations.
- (6) Payment service providers referred to in paragraph 1, points 2 and 3 of this article, may provide payment services on the basis of authorisations issued in accordance with this Act.

- (7) Payment service providers referred to in paragraph 2a of this Article may provide payment services after being entered in the register in accordance with this Act.
- (8) The rights of payment service providers referred to in paragraph 5 and 6 of this Article to provide payment services shall be governed by separate regulations.

Access to accounts opened and maintained by a bank and other credit institutions

Article 4a

- (1) Banks and other credit institutions shall, upon request, open and maintain current accounts for payment institutions and electronic money institutions and provide services related to those accounts in an objective, non-discriminatory and proportionate manner, and to an extent that enables these entities to provide payment services in an uninterrupted and efficient manner.
- (2) A bank or other credit institution may refuse a request under paragraph 1 of this article when it considers that there are justified reasons for doing so, of which it must notify the Central Bank with a reasoned explanation.

Agents of payment service providers

Article 5

- (1) A payment service provider may also provide payment services through an agent, unless otherwise provided for by this Act.
- (2) An agent is a legal person or an entrepreneur who, on behalf of and for the account of a payment service provider, provides payment services.
- (3) A payment service provider that provides payment services through an agent is responsible for all acts and omissions of the agent in the performance of those tasks.
- (4) A payment service provider that provides payment services through an agent must ensure that the agent acting on its behalf informs the users of the payment services of this.

Electronic money

Article 6

- (1) Electronic money, for the purposes of this Act, is electronic, including magnetic, stored monetary value issued upon receipt of funds for the execution of payment transactions, which constitutes a monetary claim against the issuer of that electronic money and which is accepted by a natural or legal person other than the issuer of that electronic money.
- (2) Electronic money, for the purposes of this Act, does not include:
 - 1) monetary value stored on instruments which can be used to purchase goods or services only on the premises used by the issuer of that instrument, or under a commercial agreement with the issuer, within a limited network of payment service providers or for a limited range of goods or services;
 - 2) monetary value used for payment transactions carried out via a telecommunications, digital or information technology device, where the goods or services purchased are delivered and used via the telecommunications, digital or information technology device, provided that the telecommunications, the telecommunications, digital or information technology operator does not act solely as an intermediary between the user of the payment service and the supplier of goods and services.

Payment

System

Article 7

- (1) A payment system is a system for the transfer of funds with formal and standardised procedures and common rules for the processing, settlement and/or clearing of payment transactions between participants in the payment system.
- (2) The processing of payment transactions, for the purposes of paragraph 1 of this Article, is the process of delivering, receiving and verifying payment orders in respect of payment transactions between participants in the payment system.
- (3) The settlement of payment transactions, for the purposes of paragraph 1 of this Article, is the process of converting the claims and liabilities arising from payment orders sent or received by one or more participants from one or more other participants into a single net liability or a single net claim.
- (4) Settlement of payment transactions, for the purposes of paragraph 1 of this Article, is the transfer of funds to a settlement account for the execution of transfer orders between participants in that system.

Application of other laws

Article 8

- (1) The rights and obligations of payment service providers and payment service users in relation to the provision and use of payment services which are not governed by this Act shall be governed by the provisions of the law governing obligations.
- (2) Provisions of the law governing consumer protection apply to relations between users of payment services as consumers and payment service providers which are not regulated by this Act.
- (3) The establishment and operation of a payment institution and an electronic money institution shall be governed by the provisions of the law on commercial companies, unless otherwise provided for by this Act.
- (4) The provisions of the law governing the insolvency of commercial companies apply to the insolvency of payment institutions and electronic money institutions.
- (5) The procedure for the supervision of the compliance of the business of credit institutions with this Act shall be governed by the provisions of the Act regulating the business of credit institutions.

Meaning of terms

Article 9

Certain terms used in this Act have the following meanings:

- 1) a payment transaction is the deposit, withdrawal or transfer of funds initiated by the payer, on their behalf or by the payee, irrespective of the obligations between the payer and the payee;
 - 1a) a remote payment transaction is a payment transaction initiated via the internet or a device that can be used for remote communication;
 - 1b) acceptance of payment transactions is a payment service whereby a payment service provider, on the basis of a contract with a payee for the acceptance and processing of payment transactions, transfers funds to the payee;
- 2) the payer is a natural or legal person who holds a payment account and gives an order or consent for a payment from that account or a natural or legal person who does not hold a payment account and gives a payment order;
- 3) the payee is a natural or legal person to whom the funds which are the subject of the payment transaction are intended;
- 4) a user of payment services is a legal entity, a body of the public administration and a part of a foreign company (hereinafter: legal entity), an entrepreneur and another person who carries out an activity in accordance with regulations (hereinafter: entrepreneur) and a natural person, who uses a payment service in the capacity of a payer and/or payee;
- 5) a credit institution is a legal entity which is engaged in the business of receiving monetary deposits and other repayable funds and granting credit for its own account;
- 6) consumer is a natural person who concludes a contract for payment services covered by this Act for purposes that can be attributed neither to their business, nor to their self-employed activity;
- 7) a money remittance is a payment service whereby monetary funds are received from a payer, without opening a payment account in the name of the payer or the payee, solely for the transfer of the corresponding amount of funds to the payee or to another payment service provider acting on behalf of the payee and/or the funds are received for the payee and made available to that payee;
- 8) monetary funds are cash (banknotes and coins), funds on account and electronic money;
- 9) a payment order is an instruction given by a payer or a payee to a payment service provider to execute a payment transaction;
- 10) the date of value is the reference time used by the payment service provider for the calculation of interest on funds debited or credited to the payment account;
- 11) reference rate is the rate used as a basis for currency conversion, which the payment service provider makes available or which stems from a publicly available source;
- 12) reference interest rate is an interest rate used as a basis for calculating the interest to be applied, which originates from a publicly available source;
 - 12a) authentication is a procedure that enables the payment service provider to verify the identity of the payment service user or the validity of the use of a given payment instrument, including the use of the user's personalised security details;
 - 12b) strong customer authentication is the authentication based on the use of two or more elements from the categories of knowledge, possession and inherence which are mutually independent, and which

- only the user knows and possesses, meaning that a breach of one does not compromise the reliability of the others, and which is designed in such a way as to protect the confidentiality of the data whose authenticity is being verified;
- 12c) personal security credentials are personalised features provided by the payment service provider to the payment service user for the purpose of authenticating;
- 12d) sensitive payment data is data that can be used to commit fraud, including personal security data, provided that, for the activities of a payment initiation service provider and an account information service provider, the account holder's name and the account number do not constitute sensitive payment data;
- 13) a unique identifier is a combination of letters, numbers or symbols assigned by the payment service provider to the payment service user, which the payment service user must provide in order to clearly identify another payment service user and/or their payment account used in the payment transaction;
- 14) a payment instrument is a personalised means and/or set of procedures agreed between the payment service user and the payment service provider which the payment service user applies to initiate a payment order;
- 14a) the issuance of payment instruments is a payment service whereby a payment service provider, on the basis of a contract with a payer, undertakes to issue the payer with a payment instrument for initiating and processing their payment transactions;
- 15) a payment brand is a physical or digital name, term, sign, symbol or their combination, which denotes a card payment scheme within which payment transactions are carried out on the basis of a payment card;
- 15a) co-badging - the inclusion of two or more payment brands or payment applications of the same payment brand on the same payment instrument;
- 16) a payment card is a payment instrument that enables its holder to pay for goods and services via an acceptance device or remotely and/or enables the withdrawal of cash, or the use of other services at a cash machine or another self-service device;
- 17) a remote communication means is a means which can be used to conclude a payment service agreement without the simultaneous physical presence of the payment service provider and the payment service user;
- 18) permanent medium is a means which enables the user of payment services to store data addressed personally to them in such a way that the data is retained accessible to them for future use for a period appropriate to the purpose of the data and which allows for the reproduction of the stored data in an unchanged form;
- 18a) electronic communications network means an electronic communications network in accordance with the law governing electronic communications;
- 18b) electronic communications service is an electronic communications service in accordance with the law governing electronic communications;
- 18c) electronic payment transaction means a payment transaction initiated and carried out in a manner involving the use of an electronic platform or device, and does not include payment transactions initiated by a paper-based payment order, by post or by telephone;
- 18d) digital content means goods or services produced and supplied in digital form, the use or consumption of which is restricted to a technical device and which in no way involves the use or consumption of physical goods or services;
- 18e) online connection is the connection via a publicly available communication network (e.g. the internet) between the provider and the user of a specific service;
- 19) working day is the part of the day during which the payer's payment service provider or the payee's payment service provider, which is involved in the execution of the payment transaction, is open and enables the execution of the payment transaction for the user of the payment service;
- 20) a credit transfer is a payment service whereby the payment account of the payee is credited with a payment transaction or a series of payment transactions, debited from the payment account of the payer, by the payment service provider with which the payment account of the payer is held, on the basis of a payment order given by the payer;
- 21) direct debit is a payment service for debiting a payer's payment account, where the payment transaction is initiated by the payee on the basis of the payer's consent given to the payee, the payee's payment service provider or the payer's payment service provider;
- 21a) a payment initiation service is a payment service for initiating a payment order at the request of a payment service user relating to a payment account held with another payment service provider;
- 21b) account information service is a payment service provided via online access, which provides consolidated information on one or more payment accounts held by the payment service user with another payment service provider or with multiple payment service providers;

- 21c) account-holding payment service provider means a payment service provider which opens and holds payment accounts for a payer;
- 21d) payment initiation service provider means a payment service provider which, as a payment institution, performs the services referred to in Article 2(1)(7) of this Act;
- 21e) account information service provider is a payment service provider which exclusively performs the services referred to in Article 2(1)(8) of this Act;
- 22) a branch of a payment institution is an organisational part of the payment institution which does not have legal personality and which directly provides some or all of the payment services provided by the payment institution, and which is located outside the registered office of the payment institution, and where it has no registered office, outside the place from which its business is managed, provided that all branches established in the same Member State by a payment institution with its registered office in another Member State are, for the purposes of this Act, considered to be a single branch;
- 23) a group is a set of legal entities comprising the parent undertaking and its subsidiary undertakings for the purposes of the law governing commercial companies and legal entities in which the legal entity or its subsidiary undertakings have a participation, as well as legal entities which are interconnected in such a way that they are jointly managed on the basis of a contract or articles of association, or a founding decision, or which are interconnected in such a way that the majority of the members of the management body consist of the same persons throughout the financial year until the financial statements are drawn up;
- 23a) a qualifying holding is a direct or indirect holding in a legal entity of 10% or more of its capital or voting rights, or a holding which enables significant influence over the management of that legal entity, regardless of the size of the holding;
- 23b) a collaborator is a natural person who is associated with the potential acquirer of a qualifying stake, or the potential member of the management body of a payment institution, in such a way that:
- a) holds a senior management position in the legal entity in which the potential acquirer of a qualifying stake, or the member of the management body of the payment institution, holds a senior management position or is a beneficial owner;
 - b) is the beneficial owner of a legal entity in which the potential acquirer of a qualifying holding, or a member of the management body of the payment institution, holds a senior management position;
 - c) with that person and the potential acquirer of a qualifying participation, or member of the management body of the payment institution, has joint beneficial ownership of another legal entity;
- 24) Deleted. (Law on Amendments and Supplementations of the Law on Payment Transfers, "Official Gazette of Montenegro", no. 15/25)
- 25) outsourcing is the contractual entrustment to third parties of the performance of certain operational tasks of a payment institution, an electronic money institution or a payment system operator;
- 26) Member State means a Member State of the European Union or a State party to the Agreement on the European Economic Area;
- 27) home Member State is the Member State in which the payment service provider has its registered office, and if the payment service provider does not have a registered office under its national law, the Member State from which the payment service provider's business is directed;
- 28) the host Member State is a Member State which is not the home Member State, in which the payment service provider has a branch or an agent or in which it directly provides payment services;
- 29) a third country is, until the accession of Montenegro to the European Union, any foreign state, and after accession, a state which is not a member state;
- 30) a national payment transaction is a payment transaction in which the execution involves a payer's payment service provider and/or a payer's payment service provider and a payment service provider of the payee which provide payment services on the territory of Montenegro;
- 31) cross-border payment transaction is a payment transaction in which one payment service provider provides a payment service on the territory of Montenegro, and another payment service provider on the territory of another Member State, as well as a payment transaction where the same payment service provider provides a payment service for one payment service user on the territory of Montenegro, and for the same or another payment service user on the territory of another Member State;
- 32) an international payment transaction is a payment transaction where one payment service provider provides a payment service on the territory of Montenegro, and another payment service provider on the territory of a third country, as well as a payment transaction where the same payment service provider provides a payment service for one payment service user on the territory of Montenegro, and for the same or another payment service user on the territory of a third country;
- 33) SEPA payments are all types of credit transfers and direct debits which are carried out in the Single Euro Payments Area (SEPA) through SEPA payment schemes.

II. TRANSPARENCY OF TERMS AND INFORMATION DUTIES WHEN PROVIDING PAYMENT SERVICES IN MONTENEGRO

1. Payment service agreements and information requirements

Types of payment service agreements

Article 10

- (1) A payment service agreement is a contract whereby a payment service provider undertakes to provide a user of payment services with certain payment services, or a payment service, and the user of payment services undertakes to pay them a specified fee for this.
- (2) A payment service agreement is concluded as a single payment transaction agreement or as a framework payment service agreement (hereinafter: framework agreement).
- (3) A contract for a single payment transaction governs the execution of a single payment transaction that is not covered by a framework agreement.
- (4) A framework agreement governs the execution of future individual payment transactions, and may also govern the conditions for opening and maintaining a payment account in accordance with special regulations.
- (5) The provisions of this Act relating to information requirements for the provision of payment services apply to the relationship between a consumer payment service user and their payment service provider, and on the relationship between a user of payment services who is not a consumer and their payment service provider apply unless the payment service provider and the user who is not a consumer agree otherwise.
- (6) The payment service provider and the payment service user may agree on more favourable terms than those to which the payment service user is entitled in accordance with Articles 11 to 27 of this Act.

Fees for providing information Article

11

- (1) The payment service provider shall not charge the payment service user for providing information which it is obliged to provide under this Act.
- (2) The payment service provider and the payment service user may agree on fees for the provision of information that is additional to, or more frequent than, that agreed in the framework agreement, or for its transmission by communication means not specified in the framework agreement, where it is provided at the request of the payment service user.
- (3) The amount of the fees referred to in paragraph 2 of this article must be reasonable and in accordance with the actual costs of the payment service provider.

Burden of proof

Article 12

In the event of a dispute, the burden of proof that it has fulfilled its obligation to inform payment service users in accordance with this Act lies with the payment service provider.

Information on fees or discounts Article 13

- (1) A payee who charges a fee for the use of a specific payment instrument, or offers a discount, must inform the payer of this before the payment transaction is initiated.
- (2) A payment service provider or a third party which charges a fee for the use of a specific payment instrument shall inform the payment service user of this before the payment transaction is initiated.
- (3) The payer is only obliged to pay the fees referred to in paragraphs 1 and 2 of this article if they were informed of the full amount of those fees before initiating the payment transaction.

Transaction currency and currency conversion Article

14

- (1) A payment transaction is executed in the currency agreed between the contracting parties.

- (2) If the currency conversion service is offered before the payment transaction is initiated and if that service is offered at a cash machine, a point of sale or by the payee, the party offering the currency conversion service must inform the payer of all fees, as well as the exchange rate that will be applied when converting the currency.

2. Single payment transaction Previous

general information

Article 15

- (1) The payment service provider shall provide the payment service user, before accepting an offer or concluding a contract for a single payment transaction, regardless of the form or means of concluding that contract, with the following information:
- 1) the specification of the data or the unique identification code that the payment service user must provide in order to correctly initiate or execute a payment order;
 - 2) the maximum execution time for the payment service provided;
 - 3) all fees that the payment service user is required to pay to the payment service provider and a specification of the amount of any charges;
 - 4) the actual or reference exchange rate, if that payment transaction involves currency conversion;
 - 5) other information and conditions from Article 19 of this Act which relate to that payment transaction.
- (2) The payment initiation service provider shall, in addition to the information referred to in paragraph 1 of this article, before initiating the payment to the payer, provide or make available in a clear and comprehensive manner the following information:
- 1) the name of the payment initiation service provider, the precise address of its registered office and, where applicable, the address of its agent or branch;
 - 2) other contact information important for communication with the payment initiation service provider, including an e-mail address, and
 - 3) contact details for the competent authority and the information necessary to communicate with that competent authority.
- (3) The payment service provider shall provide the information referred to in paragraphs 1 and 2 of this article:
- 1) make available to the user of payment services in an easily accessible manner;
 - 2) to be clear, comprehensible and comprehensive, in the Montenegrin language or in another language agreed between the provider and the user of payment services,
 - 3) at the request of the payment service user, in paper form or on another durable medium.
- (4) If the contract for a one-off payment transaction, at the request of the payment service user, is concluded using remote communication means which do not allow the payment service provider to fulfil the obligations under paragraphs 1 and 2 of this article, the payment service provider shall fulfil those obligations immediately after the payment transaction is executed.
- (5) The payment service provider may also fulfil the obligations under paragraphs 1 and 2 of this article by providing a draft of the contract for the one-off payment transaction or a draft of the payment order containing the information referred to in paragraph 1 of this article.

Information from the payment initiation service provider to the payer and the payee after the payment order has been given

Article 15a

When a payment order is initiated via a payment initiation service provider, that provider shall, in addition to the information from Article 15 of this Act, immediately after initiating the payment order, provide or make available to the payer and, where applicable, to the payee the following:

- 1) a confirmation of the successful initiation of the payment order with the payment service provider holding the payer's account;
- 2) a reference enabling the payer and the payee to identify the payment transaction and, where applicable, enabling the payee to identify the payer and any information transmitted with that payment transaction;
- 3) the amount of the payment transaction, and
- 4) the total amount of all fees paid by the user of the payment service to the payment initiation service provider for the payment transaction and the amount of each individual fee.

Information for the payment service provider holding the payer's account when using the payment initiation service

Article 15b

The payment initiation service provider shall make the reference number of the payment transaction initiated via its service available to the account holder's payment service provider.

Information for the payer upon receipt of a payment order Article 16

The payer's payment service provider shall, immediately upon receipt of the payment order, provide or make available to the payer, in the manner referred to in Article 15(3) of this Act, the following information:

- 1) a reference number that enables the payer to identify the payment transaction and, where applicable, information relating to the payee;
- 2) the amount of the payment transaction in the currency stated in the payment order;
- 3) the total amount of all fees for the payment transaction borne by the payer and, where applicable, the amount of each individual fee;
- 4) if the payment transaction involves currency conversion, the exchange rate applied by the payer's payment service provider or the relevant information on the change of that rate if it differs from the rate referred to in Article 15(1)(4) of this Act and the amount of the payment transaction after currency conversion,
- 5) the date of receipt of the payment order.

Information for the payee after the execution of the payment transaction Article 17

The payment service provider of the payee shall provide the payee, immediately after the execution of the payment transaction, with or make available, in the manner referred to in Article 15(3) of this Act, the following information:

- 1) a reference number that enables the payee to identify the payment transaction, the information transmitted with the payment transaction and information about the payer in accordance with the law;
- 2) the amount of the payment transaction in the currency in which the funds are made available to the payee;
- 3) the total amount of all fees for the payment transaction borne by the payment recipient and, where applicable, the amount of each individual fee;
- 4) if the payment transaction involves currency conversion, the exchange rate applied by the payment service provider of the payee and the amount of the payment transaction before currency conversion,
- 5) the date of the authorisation's currency.

Avoidance of duplicate provision of information

Article 18

If the payment order for a single payment transaction is submitted to the payment service provider via a payment instrument which is covered by a framework agreement with another payment service provider, the payment service provider is not obliged to provide or make available information that has already been provided or will be provided to the payment service user under the framework agreement with another payment service provider.

3. Framework agreements

Previous general information

Article 19

The payment service provider shall provide the payment service user, before accepting an offer or concluding a framework agreement, with the following information on:

- 1) to the payment service provider, and that is:
 - a) the name, registered office and, where applicable, the address of its agent or branch established in a third country where the payment service is offered and any other address, including an e-mail address, used for communication with the payment service provider,

- b) the supervisory authority and the register of banks and other credit institutions, payment institutions or electronic money institutions, or another relevant public register in which the payment service provider is entered, and the registration number, or other appropriate identifying code of the payment service provider in that register;
- 2) the use of the payment service, namely:
- a) a description of the main characteristics of the payment service provided,
 - b) the specification of the data or the unique identifier that the payment service user must provide for the correct initiation or execution of a payment order,
 - c) the form and procedure for giving consent for the initiation of a payment order or the execution of a payment transaction and the revocation of that consent, in accordance with Articles 30 and 42 of this Act;
 - d) the time of receipt of a payment order in accordance with Article 40 of this Act and the cut-off time for the receipt of a payment order if specified by the payment service provider,
 - e) the deadline for executing the payment service,
 - f) the possibility of agreeing a spending limit when using payment instruments in accordance with Article 31(1) of this Act,
 - g) in the case of payment instruments with associated payment brands (co-badged), the rights of payment service users in accordance with regulations governing interchange fees charged for the execution of payment transactions on the basis of payment cards;
- 3) fees, interest rates and the exchange rate, and:
- a) the fees that the user of payment services is required to pay to the payment service provider, including fees related to the manner and frequency in which information is provided or made available in accordance with this Act, and, where applicable, the amount of each individual fee,
 - b) where applicable, the interest rate and exchange rate to be applied or, where a reference interest rate and a reference exchange rate are applied, the method for calculating the interest rate and the reference date and index, or the basis for determining the reference interest rate or the reference exchange rate,
 - c) the application, without delay, of the changed reference interest rate or reference exchange rate, where agreed, which is notified in accordance with Article 22(5) of this Act;
- 4) in the communication, namely:
- a) where applicable, by means of communication, including the technical requirements relating to the equipment and software of the payment service user agreed between the contracting parties for the transmission of information or notifications in accordance with this Act,
 - b) the manner and frequency of provision, or availability, of information in accordance with this Act,
 - c) one or more languages in which the framework agreement will be concluded and communication will be carried out during the term of the framework agreement,
 - d) the right of the user of payment services to receive the contractual terms of the framework agreement and information in accordance with Article 21 paragraph 4 of this Act;
- 5) protective and corrective measures, and:
- a) where applicable, the measures the payment service user must take to protect the payment instrument and the method of notifying the payment service provider in accordance with Article 32 of this Act
 - b) if contracted, the conditions under which the payment service provider has the right to block the payment instrument in accordance with Article 31 of this Act,
 - c) the payer's liability in accordance with Article 37 of this Act, including information on the relevant amount,
 - d) the manner and time limit within which the payment service user must notify the payment service provider of an unauthorised or incorrectly executed payment transaction in accordance with art. 34 and 51 of this Act, as well as the responsibility of the payment service provider for unauthorised payment transactions in accordance with Article 36 of this Act,
 - e) responsibilities of the payment service provider for initiating or executing a payment transaction in accordance with Articles 49, 50 and 50a of this Act,
 - f) the conditions for refunds in accordance with Articles 38 and 39 of this Act,
 - g) the secure procedure used by the payment service provider to notify the payment service user in the event of suspected or actual fraud or a security threat;
- 6) amendments and termination of the framework agreement, and:

a) if agreed, the information that the payment service user will be deemed to have accepted the change of terms in accordance with Article 22(2) of this Act, unless they notify the payment service provider of their non-acceptance before the proposed effective date of those changes,

b) the duration of the framework agreement,

c) the right of the payment service user to terminate the framework agreement and the conditions for terminating the framework agreement in accordance with Article 22 paragraph 3 and Article 23 of this Act;

7) legal protection, and:

a) a contractual provision on the applicable law to the framework agreement and/or on the jurisdiction for the resolution of a dispute arising from the framework agreement,

b) extrajudicial resolution of disputes and claims for compensation available to the payment service user in accordance with this Act.

Mode of providing prior information Article

20

(1) The payment service provider is obliged to provide the information from Article 19 of this Act to:

1) in a reasonable period of time before the payment service user accepts an offer or concludes a frame agreement;

2) in paper form or on another durable medium;

3) clearly, concisely and comprehensively, in Montenegrin or in another language agreed between the provider and the payment service user.

(2) If the framework agreement is concluded at the request of the payment service user using remote communication means that do not allow the payment service provider to fulfil the obligations under paragraph 1 of this article, the payment service provider is obliged to fulfil those obligations immediately after the conclusion of the framework agreement.

(3) The payment service provider may also fulfil the obligations under paragraph 1 of this article by providing a draft of the framework agreement containing the information from Article 19 of this Act.

Form and mandatory elements of the framework

agreement Article 21

(1) The framework agreement is concluded in paper form or on another durable medium.

(2) The framework agreement must contain all the elements, or information, from Article 19 of this Act.

(3) The payment service provider is obliged to ensure that the payment service user receives at least one copy of the framework agreement.

(4) The payment service user has the right, during the term of the contractual relationship, to request copies of the framework agreement, or the information referred to in Article 19 of this Act, in paper form or on another durable medium.

Amendments to the framework

contract Article 22

(1) The payment service provider is obliged to propose the amendment to the framework agreement and the information referred to in Article 19 of this Act in the manner set out in Article 20(1) of this Act, at least two months before the proposed date of application of such amendments, and the payment service user may accept or reject them until 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 shall be deemed to have accepted the amendments referred to in paragraph 1 of this article if they do not notify the payment service provider that they do not accept them before the proposed date of their coming into force.

(3) In the case of paragraphs 1 and 2 of this article, the payment service provider must state that the payment service user has the right to terminate the framework agreement without delay and free of charge, before the amendments to the framework agreement take effect.

(4) The payment service provider and the payment service user may agree that changes to interest rates or exchange rates resulting from a reference interest rate or a reference exchange rate may be applied without delay and without prior notification.

(5) In the case referred to in paragraph 4, the payment service provider shall notify the payment service user of each change in the interest rate as soon as possible and in the manner referred to in Article 20(1) of this Act, unless the provider and the user of payment services have agreed on a different period or manner in which the information will be given or made available.

(6) The payment service provider may, without notifying the payment service user, apply changes to the interest rate or exchange rate that are more favourable to the payment service user.

- (7) Changes to the interest rate or exchange rate used when executing a payment transaction shall be applied and calculated in a way that does not put payment service users at a disadvantage.

Termination of the

framework

agreement Article

23

- (1) The payment service user has the right to terminate the framework agreement at any time, unless the framework agreement provides for a notice period which may not exceed one month.
- (2) For the termination of the framework agreement, the payment service provider charges the payment service user a fee which must be reasonable and based on the actual costs of the payment service provider.
- (3) Exceptionally from paragraph 2 of this article, the payment service provider may not charge the payment service user a fee for the termination of a framework agreement that has been in force for more than six months before the termination.
- (4) The framework agreement may provide for the right of the payment service provider to terminate a framework agreement concluded for an indefinite period, with a notice period of at least two months and provided that the termination notice is given in the manner referred to in Article 20(1) of this Act.
- (5) If the payment service user terminates the framework agreement, they are only obliged to pay the fee for payment services provided up to the date of termination of that agreement, and if that fee has been paid in advance, the payment service provider is obliged to refund the payment service user a proportionate part of the fee paid.

Information before the execution of a single payment transaction Article

24

The payment service provider shall, before executing an individual payment transaction under a framework agreement initiated by the payer, upon the payer's request, to provide clear and precise information on the deadline for the execution of the payment transaction and on the amount of the fees payable by the payer and, where applicable, on the amount of each individual fee.

Information for the payer on individual payment transactions Article 25

- (1) After the payer's account has been debited with the amount of the individual payment transaction or, in the case where the payer does not use a payment account after receiving the payment order, the payer's payment service provider shall provide the payer, without undue delay and in accordance with Article 20(1) of this Act, with the following information:
 - 1) a reference number that allows the payer to identify each payment transaction and, where applicable, information relating to the payee;
 - 2) the amount of the payment transaction in the currency in which the payer's account is debited or in the currency specified on the payment order;
 - 3) the total amount of all fees for that payment transaction and, where applicable, the amount of each individual fee and interest paid by the payer;
 - 4) if the payment transaction involves currency conversion, the exchange rate used by the payer's payment service provider and the amount of the payment transaction after currency conversion;
 - 5) the date of charge of the debit or the date of receipt of the payment order.
- (2) The framework agreement may stipulate 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 a manner that enables the payer to store and reproduce the information in an unchanged form.
- (3) The payment service provider shall, at the payer's request, provide the information referred to in paragraph 1 of this article in paper form or on another durable medium at least once a month free of charge.

Information for the payee on individual payment transactions Article 26

- (1) The payment service provider of the payee shall, after executing an individual payment transaction, provide the payee, without undue delay and in the manner referred to in Article 20(1) of this Act, with the following information:
 - 1) a reference enabling the payee to identify the payment transaction and, where applicable, information relating to the payer and any other information transmitted with the payment transaction;
 - 2) the amount of the payment transaction in the currency in which the payer's payment account was debited;

- 3) the total amount of all fees for that payment transaction and, where applicable, the amount of each individual fee and interest paid by the payment recipient;
 - 4) where the payment transaction involves currency conversion, the exchange rate used by the payment service provider of the payee and the amount of the payment transaction before currency conversion,
 - 5) the date of currency of the account credit.
- (2) It may be agreed in the framework contract that the information referred to in paragraph 1 shall be provided or made available periodically, at least once a month, and in a manner that enables the payee to store and reproduce the information in an unaltered form.
 - (3) The payment service provider shall, upon the request of the payee, provide the information referred to in paragraph 1 of this article in paper form or on another durable medium at least once a month free of charge.

Information requirement for low-value payment instruments and electronic money Article 27

In the case of payment instruments which, in accordance with a framework agreement, are used only for individual payment transactions not exceeding an amount of 30 euros, or which have a spending limit of a maximum total of 150 euros, or on which monetary funds are stored which never exceed an amount of 150 euros:

- 1) derogating from Articles 19, 20 and 24 of this Act, the payment service provider shall provide the payer with only information on the main characteristics of the payment service, including information on how to use the payment instruments, on liability in relation to the use of payment instruments, on fees and other information relevant to the payment service user's decision to enter into a contract, as well as information on where the payment service user can obtain other information from Article 19 of this Act in an easily accessible manner;
- 2) by way of derogation from Article 22 of this Act, the payment service provider and the payment service user may agree that the payment service provider is not obliged to propose amendments to the framework agreement in the manner set out in Article 20(1) of this Act;
- 3) notwithstanding Articles 25 and 26 of this Act, the payment service provider and the payment service user may agree that, after the payment transaction has been executed:
 - the payment service provider provides or makes available only a reference number to enable the payment service user to identify the payment transaction, its amount and fees, and in the case of multiple payment transactions of the same type to the same payee, reference numbers and information on the total amount and fees for those payment transactions,
 - the payment service provider is not obliged to provide the information from paragraph 1 of this point if the payment instrument is used anonymously or if the payment service provider is unable to provide the payment service user with such information for technical reasons, provided that the payment service provider is obliged to enable the payer to verify the amount of funds stored on the payment instrument after the payment transaction has been executed.

III. RIGHTS AND OBLIGATIONS OF PAYMENT SERVICE PROVIDERS AND USERS IN MONTENEGRO

1. Fees and

Exemptions Fees

Article 28

- (1) The payment service provider may charge the payment service user a fee for the provision of payment services.
- (2) The payment service provider may charge the payment service user fees for the fulfilment of the obligations under Article 41(3), Article 42(7) and Article 48(6) of this Act, provided that such fees are agreed, reasonable and in accordance with the actual costs of the payment service provider.
- (3) The payment service provider of the payee may charge fees for the performance of payment transactions only to the payee, and the payment service provider of the payer may charge fees for the performance of a payment transaction only to the payer.
- (4) A payment service provider must not prevent or restrict a payee from offering a discount to a payer for using a payment card or other payment instrument, or otherwise directing them to use a specific payment instrument.
- (5) The payee must not charge the payer a fee for using a specific payment instrument.

- (6) The payment service provider and the payment service user who is not a consumer may agree on the payment of fees differently from paragraph 2 of this article.
- (7) The payment service provider shall publish, in its premises intended for dealing with payment service users and on its website, the fee schedule for the charges it levies for the provision of payment services.
- (8) The Central Bank may, by its regulation, prohibit or limit the right of the payee to charge fees, in order to encourage market competition and/or promote the use of payment instruments.

Exemptions for low-value payment instruments and electronic money Article 29

- (1) In the case of payment instruments whereby, in accordance with a framework agreement, only individual payment transactions are carried out which do not exceed an amount of 30 euros or which have a limited spending facility of a maximum total of 150 euros or on which monetary funds are stored which never exceed an amount of 150 euros, the payment service provider and the payment service user may agree:
 - 1) that the provisions of Article 32(1)(2), Article 33(1)(3), (4), (4a) and (5), and Article 37(2), (3) and (5) of this Act shall not apply if the payment instrument cannot be blocked or its further use cannot be prevented;
 - 2) that the provisions of Articles 35 and 36 and Article 37 paragraph 1 of this Act shall not apply if the payment instrument is used anonymously or if the payment service provider cannot, for other reasons inherent to that payment instrument, prove that the payment transaction was authorised;
 - 3) that, by way of derogation from Article 41(1) of this Act, the payment service provider is not obliged to notify the payment service user of the refusal of a payment order, if the non-execution of the payment order is obvious from the circumstances of the case;
 - 4) that, notwithstanding Article 42 of this Act, the payer may not revoke a payment order after initiating the payment order or giving consent for the execution of the payment transaction to the payee;
 - 5) that different execution deadlines for a payment transaction apply than those laid down in Articles 44 and 45 of this Act.
- (2) The provisions of Articles 36 and 37 of this Act do not apply to electronic money if the payer's payment service provider is not able to block the payment account, or block the payment instrument.

2. Authorisation of a payment transaction Consent and withdrawal of consent

Article 30

- (1) A payment transaction is considered authorised only if the payer has given consent for the execution of the payment transaction.
- (2) Consent for the execution of a payment transaction may be given before or, if agreed between the payer and their payment service provider, after the execution of the payment transaction.
- (3) Consent to carry out a payment transaction or a series of payment transactions must be given in the manner agreed between the payer and their payment service provider. It may also be given via the payee or a payment initiation service provider; otherwise, the payment transaction is deemed not to be authorised.
- (4) The payer may revoke the consent given no later than when the payment order becomes irrevocable in accordance with Article 42 of this Act.
- (5) The payer may revoke consent for a series of payment transactions, in which case every future payment transaction in that series is considered unauthorised.
- (6) The manner of giving consent, or of withdrawing consent for the execution of a payment transaction, is governed by the payment service agreement between the payer and their payment service provider, or between payment service providers.
- (7) The payment service provider and the payer who is not a consumer may, by the payment service agreement, arrange for the revocation of consent differently from paragraphs 4 and 5 of this article.

Confirmation of funds availability Article

30a

- (1) The payment service provider maintaining the account, at the request of the payment service provider issuing the payment instrument based on a payment card, shall without delay confirm that the amount of funds required to execute the payment transaction based on the payment card is available in the payer's payment account, if:
 - 1) the payer's payment account is available for online connection at the time of receipt of the request;

- 2) the payer has given the account-holding payment service provider explicit consent to respond to a request from the payment service provider that issued the payment instrument, on the basis of the payment card, to confirm that the amount corresponding to a specific payment transaction made with the payment card is available in the payer's payment account;
 - 3) the consent referred to in point 2 of this paragraph was given before the first authorisation request was submitted.
- (2) A payment service provider issuing a payment instrument based on a payment card may request the confirmation referred to in paragraph 1 of this article, if:
- 1) the payer has given the payment service provider explicit consent to request the confirmation referred to in paragraph 1 of this article;
 - 2) the payer initiated the payment transaction using the payment instrument based on the payment card issued by the payment service provider;
 - 3) the payment service provider issuing the payment instrument based on the payment card has identified itself to the payment service provider maintaining the account, before each request for confirmation, and communicates securely with the payment service provider maintaining the account in accordance with Article 56c of this Act.
- (3) The confirmation referred to in paragraph 1 of this article shall consist of a simple response in the form of 'yes' or 'no' and shall not contain any information on the account's balance.
- (4) The payment service provider issuing the payment instrument shall not retain the confirmation referred to in paragraph 3 of this article, nor use it for any purpose other than executing the payment transaction on the basis of the payment card.
- (5) Upon confirmation in accordance with paragraph 1 of this article, the payment service provider holding the account shall not prevent the payer from having access to the funds in the account for the payment.
- (6) The payer may request the account-holding payment service provider to identify the payment service provider that requested the confirmation and to provide the response.
- (7) The provisions of this article shall not apply to payment transactions initiated via payment instruments based on payment cards which store electronic money in accordance with this Act.

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

30b

- (1) The payer has the right to use the payment initiation service referred to in Article 2(1)(7) of this Act, provided by a payment initiation service provider.
- (2) Exceptionally from paragraph 1 of this article, the payer shall not be entitled to use the services of a payment initiation service provider if their payment account is not available via online connectivity.
- (3) When the payer gives explicit consent for the execution of a payment transaction in accordance with Article 30 of this Act, the payment service provider holding the account shall take the actions set out in paragraph 5 of this Article to ensure the payer's right to use the payment initiation service is realised.
- (4) Payment initiation service provider:
- 1) must not at any time hold the payer's funds in order to provide the payment initiation service;
 - 2) must ensure that the personalised security credentials of the payment service user are not made available to any other person, other than the payment service user and the issuer of the personalised security credentials;
 - 3) must ensure that the payment service user's personalised security data is transmitted by secure and efficient means;
 - 4) must ensure that any other information about the payment service user, obtained when providing payment initiation services, is provided only to the payee and with the express consent of the payment service user;
 - 5) must, for each payment initiation, confirm its identity to the payment service provider holding the payer's account and communicate with the account holding payment service provider, the payer and the payee in a secure manner, in accordance with Article 56c of this Act;
 - 6) must not store sensitive payment data of payment service users;
 - 7) must not ask the user of payment services for any data other than the data necessary to provide the payment initiation service as explicitly requested by the payer;
 - 8) must not use, access or store the data for any other purpose than providing the payment initiation service as explicitly requested by the payer;
 - 9) must not alter the amount, the payee or any other data of the payment transaction being initiated.
- (5) A payment service provider holding an account shall:
- 1) communicate in a secure manner with payment initiation service providers in accordance with Article 56c of this Act;

- 2) immediately upon receipt of the payment order from the payment initiation service provider, shall provide or make available to the payment initiation service provider all information on the initiation of the payment transaction and all information available to the account servicing payment service provider in relation to the execution of the payment transaction;
 - 3) treats payment orders submitted via a payment initiation service provider in a non-discriminatory manner, in particular with regard to the time of receipt of the order, prioritisation or fees, compared with payment orders submitted directly by the payer, unless there is an objective justification for such a difference.
- (6) The provision of payment initiation services does not depend on the existence of a contractual relationship for this purpose between payment initiation service providers and account-holding payment service providers.

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 has the right to use the account information service referred to in Article 2(1)(8) of this Act, provided by an account information service provider.
- (2) The payment service user does not have the right under paragraph 1 if their payment account is not available via online connectivity.
- (3) Account information service provider:
 - 1) may only provide services on the basis of the express consent of the payment service user;
 - 2) must ensure that the payment service user's personalised security data is not made available to any other person, other than that payment service user and the issuer of the personalised security data;
 - 3) must ensure that the payment service user's personalised security data is transmitted by secure and efficient means;
 - 4) is required to confirm its identity to the payment service provider holding the account or to a greater number of such providers and to the payment service user in a secure manner, in accordance with Article 56c of this Act;
 - 5) may only access the information from the payment account that the payment service user has designated for the use of this service and the information on payment transactions linked to those accounts;
 - 6) must not request sensitive payment account data;
 - 7) must not use, access, or store the data for any other purpose than to perform the account information service explicitly requested by the payment service user, in accordance with data protection rules.
- (4) The payment service provider holding the account shall:
 - 1) communicate securely with account information service providers, in accordance with Article 56c of this Act;
 - 2) deal with requests for the provision of information submitted via an account information service provider in a non-discriminatory manner, unless there is an objective justification for a difference in treatment.
- (5) The provision of account information services does not depend on the existence of a contractual relationship for this purpose between the providers of those services and the payment service providers who hold the accounts.

Restrictions on the use of payment instruments and on payment service providers' access to payment accounts

Article 31

- (1) The payer and their payment service provider may agree spending limits for payment transactions carried out with a payment instrument.
- (2) The framework agreement may provide for the right of the payment service provider to block the payment instrument for objectively justified reasons related to:
 - 1) the security of the payment instrument;
 - 2) suspicion of unauthorised use or use of the payment instrument with intent to defraud, or
 - 3) in the case of a payment instrument with a credit line, due to a significant increase in the risk that the payer will be unable to meet their payment obligation.
- (3) The payment service provider shall, in the manner provided for in the contract, inform the payer of its intention and the reasons for blocking the payment instrument before blocking it.

- (4) If the payment service provider is unable to notify the payer in accordance with paragraph 3 of this article, it shall do so immediately after blocking the payment instrument.
- (5) The provisions of paragraphs 3 and 4 of this article shall not apply if giving the notification is contrary to objectively justified security reasons or is not in accordance with the law.
- (6) The payment service provider shall unblock the payment instrument or replace the blocked payment instrument with a new one when the reasons for its blocking cease.
- (7) A payment service provider which holds an account shall not refuse access to the payment account to an account information service provider or a payment initiation service provider, except on proven and objectively justified grounds relating to that service provider's unauthorised access or its access for fraudulent purposes, including the unauthorised initiation of a payment transaction or the initiation of a payment transaction with fraudulent intent.
- (8) In the cases referred to in paragraph 7 of this Article, the payment service provider managing the account shall, in an agreed form, notify the payer of the refusal of access to the payment account and the reasons for the refusal, provided that, where possible, this information is given to the payer before access is denied, and at the latest immediately after access has been denied, unless providing this information would compromise objectively justified security reasons or is not in accordance with the law.
- (9) The payment service provider holding the account shall grant access to the payment account immediately after the reasons for refusing access under paragraph 7 of this Article cease to apply.
- (10) In the cases referred to in paragraph 7 of this article, the payment account holder service provider shall, without delay, notify the Central Bank of the incident relating to the account information service provider or the payment initiation service provider, providing details of the incident and the reasons for denying access to the payment account.
- (11) On the basis of the notification referred to in paragraph 10 of this article, the Central Bank shall act in accordance with the powers conferred by the laws governing the operations of the respective payment service providers.

Obligations of payment service users in relation to payment instruments Article

32

- (1) The payment service user authorised to use the payment instrument shall:
 - 1) use the payment instrument in accordance with the terms for its issue and use set out in the framework agreement, which must be objective, non-discriminatory and proportionate;
 - 2) immediately upon becoming aware of the loss, theft or misuse of the payment instrument, or of any unauthorised use thereof, notify the payment service provider or a person designated by the payment service provider.
- (2) The payment service user shall, in the case referred to in paragraph 1(1) of this article, immediately after receiving the payment instrument, take all reasonable measures to safeguard the personalised security features of that payment instrument.

Obligations of the payment service provider in relation to payment instruments

Article 33

- (1) A payment service provider issuing a payment instrument shall:
 - 1) ensure that the personalised security features of the payment instrument are available only to the payment service user authorised to use that payment instrument;
 - 2) refrain from sending a payment instrument that the payment service user has not requested, except in the case of replacing a payment instrument already issued;
 - 3) ensure that appropriate means are available at all times to enable the payment service user to provide the notification in accordance with Article 32(1)(2) of this Act or to request the unblocking of the payment instrument in accordance with Article 31(6) of this Act;
 - 4) at the request of the payment service user, provide appropriate proof that the user has given the notification referred to in Article 32(1)(2) of this Act, provided that the request is made within 18 months of receipt of that notification;
 - 4a) ensure that the payment service user can provide the notification referred to in Article 32(1)(2) of this Act free of charge, provided that it may charge the user for the cost of replacing the lost or stolen payment instrument;
 - 5) prevent any use of the payment instrument after receiving the notification referred to in Article 32(1)(2) of this Act.

- (2) The payment service provider bears the risk of delivering the payment instrument and the personalised security features of the payment instrument to the payment service user.

Notification of unauthorised or incorrectly executed payment transactions Article 34

- (1) The payment service user is entitled to a correction of an unauthorised payment transaction or a mis-executed payment transaction only if they notify their payment service provider of such transactions immediately upon becoming aware of them, and no later than 13 months from the date the account was debited.
- (2) Deviation from paragraph 1 of this article, if the payment service provider has failed to provide or make available to the payment service user information on a payment transaction which it was obliged to provide in accordance with this Act, the payment service user is entitled to the correction of an unauthorised payment transaction or a mis-executed payment transaction and for a period longer than 13 months.
- (3) The payment service provider and the payment service user who is not a consumer may agree a different deadline than the deadline referred to in paragraph 1 of this article.
- (4) Where a payment initiation service provider is involved in the execution of a payment transaction, the payment service user shall provide the notification referred to in paragraph 1 of this Article to the payment service provider holding the account, who is obliged to make the correction.

Proof of authenticity and execution of a payment transaction

Article 35

- (1) If the payment service user disputes that they authorised the payment transaction or claims that the payment transaction was not executed correctly, their payment service provider must prove that the authentication of the payment transaction was carried out, that the payment transaction has been correctly recorded and accounted for, and that the execution of the payment transaction was not affected by a technical fault or other deficiency.
- (2) If a payment transaction is initiated via a payment initiation service provider, the payment initiation service provider must prove that, within its remit, an authentication of the payment transaction has been carried out, that the payment transaction has been correctly recorded and that the execution of the payment transaction has not been affected by a technical failure or other deficiency related to the payment service it provides.
- (3) If a payment service user disputes that they authorised a payment transaction, the payment service provider's records of the use of the payment instrument alone shall not be conclusive evidence that the payer authorised the payment transaction or that the payment instrument was used fraudulently, including, where applicable, the payment initiation service provider, is not sufficient evidence that the payer authorised that payment transaction or that they acted with intent to defraud or that they intentionally or with gross negligence failed to fulfil one or more obligations under Article 32 of this Act, but the payment service provider must prove the fraud or gross negligence of the payment service user.
- (4) The payment service provider and the payment service user who is not a consumer may by contract agree on the burden of proof differently from that laid down in paragraphs 1, 2 and 3 of this article.

Liability of the payment service provider for unauthorised payment transactions Article

36

- (1) In the event of an unauthorised payment transaction, the payer's payment service provider shall refund the amount of the unauthorised payment transaction to the payer without undue delay, and no later than the end of the next business day after becoming aware of or being notified of the transaction, unless the payer's payment service provider has justified grounds to suspect fraud and notifies the Central Bank in writing of such grounds.
- (2) If the payer's payment account has been debited for the amount of the unauthorised payment transaction, the payer's payment service provider shall, within the period referred to in paragraph 1 of this article, restore the balance of the debited payment account to the state it would have been in had the unauthorised payment transaction not been carried out, where the date of value of the crediting of the payer's payment account must not be later than the date on which that account was debited with the amount of the unauthorised payment transaction.
- (3) If the payment transaction was initiated via a payment initiation service provider, the payment service provider holding the account shall refund the amount of the unauthorised payment transaction without undue delay, and no later than by the end of the next business day, and shall restore the payment account to the state it would have been in had the unauthorised payment transaction not taken place.
- (4) If the payment initiation service provider is responsible for the unauthorised payment transaction, it must, at the account holder payment service provider's request, without delay reimburse all losses incurred from

refunds or losses based on the refunded amounts paid to the payer, including the amount of the unauthorised payment transaction.

- (5) In the event of an unauthorised payment transaction, the payer shall also be entitled to compensation in excess of the minimum amount provided for in this Article, in accordance with the general rules on liability for damages.

Liability of the payer for unauthorised payment transactions Article

37

- (1) Exceptionally from Article 36 of this Act, if the execution of unauthorised payment transactions is the result of the use of a lost or stolen payment instrument or the misuse of a payment instrument, the payer may be required to bear the losses associated with those unauthorised payment transactions up to a maximum of 50 euros.
- (2) The payer is not obliged to bear the losses even up to the amount referred to in paragraph 1 of this article, if:
- 1) could not have discovered the loss, theft or misuse of the payment instrument before the unauthorised payment transaction was carried out;
 - 2) the unauthorised payment transaction is the result of an act or omission of an employee, agent or branch of the payment service provider, or of a person to whom the activities of the payment service provider have been outsourced;
 - 3) the payment service provider has not provided appropriate means for the notification of the loss, theft or misuse of the payment instrument, in accordance with Article 33(1)(3) of this Act;
 - 4) the payer's payment service provider does not require reliable authentication of the client;
 - 5) the payment service provider of the payee fails to apply the required strong customer authentication.
- (3) A payment recipient or the payment service provider of the payment recipient who fails to apply the required strong customer authentication shall compensate the payment service provider of the payer for the loss suffered as a result.
- (4) Exceptionally from paragraph 1 of this article, the payer shall bear all losses related to unauthorised payment transactions if the payer acted fraudulently, or intentionally or with gross negligence failed to fulfil one or more of the obligations under Article 32 of this Act.
- (5) The payer is not liable for the amount of unauthorised payment transactions carried out after they have notified the payment service provider in accordance with Article 32(1)(2) of this Act, unless they have acted fraudulently.
- (6) The payment service provider and the payer who is not a consumer may by agreement arrange the payer's liability differently from that set out in paragraphs 1 to 5 of this article.

Payment transactions where the transaction amount is not known in advance

Article 37a

- (1) If, in the case of a payment transaction by means of a payment card initiated by, or via, the payee, the exact amount of the payment transaction is not known at the time the payer gives consent for the payment transaction to be executed, the payer's payment service provider may reserve funds on the payer's payment account only if the payer has given consent for the exact amount of funds to be reserved.
- (2) The payer's payment service provider shall release the reservation of funds on the payer's payment account established in accordance with paragraph 1 of this article, without delay after receiving information on the exact amount of the payment transaction, and no later than immediately after receiving the payment order.

Refund of funds for authorised payment transactions initiated by or via the payee

Article 38

- (1) The payer shall be entitled to a refund from their payment service provider for an authorised payment transaction which has been executed, and which was initiated by or via the payee, provided that:
- 1) the exact amount of the payment transaction was not specified at the time of authorisation,
 - 2) the amount of the payment transaction is higher than the amount the payer could reasonably have expected, taking into account their previous spending habits, the terms of the frame agreement and the relevant circumstances of the case.
- (2) At the request of the payment service provider, the payer is obliged to provide proof that the conditions of paragraph 1 of this article are met.
- (3) The refund in accordance with paragraph 1 of this article shall be made in the full amount of the payment transaction, provided that the account-to-payment date of the payer's payment account shall not be later than the date on which that account is debited with the amount the payer is requesting to be refunded.

- (4) In the case of a direct debit, the payer and their payment service provider may agree by way of a framework agreement that the payer is entitled to a refund of funds from their payment service provider even if the conditions set out in paragraph 1, point 1 of this article are not met.
- (5) In the case of a SEPA payment, the payer is entitled to a refund from their payment service provider even if the conditions in paragraph 1 of this article are not met.
- (6) The payer may not invoke the right under paragraph 1 of this Article if the higher amount of the payment transaction referred to in paragraph 1(2) of this Article is the result of a currency conversion based on the application of a reference exchange rate agreed with their payment service provider.
- (7) The payer and their payment service provider may agree by way of a framework agreement that the payer shall not be entitled to a refund of funds, provided:
 - 1) that the payer has given consent for the payment transaction to be executed directly to their payment service provider;
 - 2) where applicable, that the payment service provider or the payee has provided or made available to the payer information on the future payment transaction in the agreed manner, at least four weeks before the due date.
- (8) The payment service provider and the payer who is not a consumer may contractually agree on a right of refund that differs from paragraphs 1 to 6 of this article.

Request for refund of funds for authorised payment transactions initiated by or via the payee

Article 39

- (1) The payer has the right to request a refund in accordance with Article 38 of this Act, no later than eight weeks from the date of the debit.
- (2) Within ten working days of the date of receipt of the refund request, the payment service provider shall:
 - 1) refund the full amount of the payment transaction, or
 - 2) provide a reasoned explanation for the refusal to refund the funds, stating that, if the payer does not accept the explanation, they may submit a proposal for out-of-court dispute resolution in payment transactions in accordance with this Act.
- (3) The payment service provider shall not refuse a refund in the case referred to in Article 38(4) and (5) of this Act.
- (4) The payment service provider and the payer who is not a consumer may agree otherwise by contract regarding the rights and obligations under paragraphs 1 to 3 of this article.

3. Execution of a payment transaction

a) Payment orders and amounts transferred and received

Receipt of a payment order

Article 40

- (1) The moment of receipt of the payment order is the moment when the payer's payment service provider receives the payment order, initiated directly by the payer or indirectly by or through the payee.
- (2) If the time of receipt of the payment order is not during the payer's payment service provider's business day, the payment order shall be deemed to have been received on the next business day.
- (3) The payment service provider may determine a cut-off time at the end of the working day for the receipt of payment orders.
- (4) If the payer's payment service provider receives a payment order after the cut-off time for receiving payment orders, the payment order is deemed to have been received on the next business day.
- (5) The payment service user who initiates a payment order and their payment service provider may agree that the payment order is to be initiated:
 - 1) on a specified day;
 - 2) at the end of a specified period;
 - 3) on the day the payer makes the necessary funds available to their payment service provider.

- (6) In the case referred to in paragraph 5 of this article, the time of receipt of the payment order is deemed to be the day agreed for the commencement of its execution, and if the agreed day is not a business day of the payment service provider, the time of receipt of the payment order is deemed to be the next business day.
- (7) The payer's payment service provider shall not debit the payer's payment account before receiving the payment order.

Refusal to execute a payment

order Article 41

- (1) If the payment service provider refuses to execute a payment order or to initiate a payment transaction, they shall, unless otherwise provided for by a specific regulation, notify the user of the payment services of:
 - 1) the refusal to execute the payment order;
 - 2) the reasons for the refusal to execute the payment order, where applicable;
 - 3) the procedure for correcting the errors that led to the refusal to execute the payment order.
- (2) The payment service provider shall provide or make available the notification referred to in paragraph 1 of this article in the manner stipulated in the contract, without undue delay, and no later than the deadlines set out in Article 44 of this Act.
- (3) A framework agreement may provide that the payment service provider may charge a fee for providing the notification referred to in paragraph 1 of this article if the refusal to execute the payment order was objectively justified.
- (4) If all the conditions set out in the framework agreement between the payer and their payment service provider are met, the payer's payment service provider must not refuse to execute an authorised payment order, regardless of whether the payment order was initiated by the payer directly or via a payment initiation service provider, or was initiated by or via the payee, unless otherwise provided for by a specific regulation.
- (5) If the execution of the payment order is refused, the order shall be deemed not to have been received.

Revocability of a payment order

Article 42

- (1) The payment order cannot be revoked by the payment service user after it has been received by the payer's payment service provider, except in the cases provided for in paragraphs 3, 4, 5 and 8 of this article.
- (2) If the payment transaction is initiated by a payment initiation service provider or by or via the payee, the payer cannot revoke the payment order after giving consent to the payment initiation service provider to initiate the payment transaction or after giving consent for the execution of the payment transaction to the payee.
- (3) Exceptionally from paragraph 2 of this article, in the case of a direct debit, the payer may revoke the payment order no later than the close of business on the working day preceding the agreed date of the debit, without prejudice to the payer's right to a refund of the funds.
- (4) In the case referred to in Article 40, paragraph 5 of this Act, the payment service user may revoke the payment order no later than the end of the working day preceding the agreed date for execution of the order.
- (5) After the expiry of the period referred to in paragraphs 1 to 4 of this article, the payment order may only be revoked if this has been agreed with the relevant payment service provider.
- (6) In the cases referred to in paragraphs 2 and 3 of this article, the revocation of the payment order may only be carried out with the consent of the payee.
- (7) The framework agreement may stipulate that the relevant payment service provider may charge a fee for the revocation of a payment order.
- (8) The payment service provider and the non-consumer payment service user may contractually provide for the revocation of payment orders in a manner different from paragraphs 1 to 7 of this article.

Transferred and received

amounts Article 43

- (1) One or more payment service providers of the payer, one or more payment service providers of the payee and intermediaries of payment service providers shall transmit the full amount of the payment transaction, without reduction for the amount of the fee.
- (2) Deviation from paragraph 1 of this article, the payee and their payment service provider may agree that the relevant payment service provider, before crediting the amount of the payment transaction to the payee, shall reduce that amount

by the amount of its fees, in which case it shall, in the information on the payment transaction, display the full amount of the payment transaction to the payee, separately from the amount of fees charged.

- (3) If any fee amounts, other than the fees referred to in paragraph 2 of this article, are deducted from the amount of the payment transaction, the payer's payment service provider must ensure that the payee receives the full amount of the payment transaction initiated by the payer, and in cases where the payment transaction is initiated by or via the payee, its payment service provider must ensure that the payee receives the full amount of the payment transaction initiated by the payer, and in cases where the payment transaction is initiated by or via the payee,

b) Execution deadline and date of value

Execution of payment transactions via a payment account Article 44

- (1) The payer's payment service provider shall ensure that the amount of the payment transaction is credited to the payment service provider's account of the payee by the end of the business day on which the receipt of the payment order in accordance with Article 40 of this Act has taken place.
- (2) Once the payment service provider of the payee receives the amount of the payment transaction, it shall credit the payee's payment account with the approval date of the transaction and make the funds available.
- (3) The payment service provider of the payee shall forward to the payment service provider of the payer the payment order initiated by or via the payee within the timeframes agreed between the payee and their payment service provider, and in the case of a direct debit, within a timeframe that allows for settlement on the agreed due date of the payer's monetary obligation.

Execution of payment in the absence of an account Article 45

The payment service provider shall make the funds available to the payee who does not have a payment account by the end of the working day on which it received the funds.

Deposit of cash into a payment account Article 46

- (1) If a payment service user deposits cash into their payment account with the payment service provider, the payment service provider shall make those funds available to the payment service user immediately after receipt of the funds, with a date of value of the day the funds are received.
- (2) Exceptionally from paragraph 1 of this article, where the user of payment services is not a consumer, the funds referred to in paragraph 1 of this article may be made available no later than the next business day following receipt of the funds, with a valuation date of no later than that following business day.
- (3) The moment of receipt of cash, for the purposes of paragraphs 1 and 2 of this article, the provisions of Article 40 of this Act shall apply accordingly.

Date of value and availability of funds Article 47

- (1) The date of value for the payment account of the payee shall not be later than the working day following the working day on which the payment service provider's account of the payee was credited with the amount of the payment transaction.
- (2) The payment service provider of the payee shall make the amount of the payment transaction available to the payee without undue delay, after the account of the payment service provider of the payee has been credited with that amount.
- (3) The date of debit to the payer's payment account cannot be earlier than the date on which that account is debited for the amount of the payment transaction.

c) Liability of the payment service provider in relation to the execution of a payment transaction

Incorrect unique identification code

Article 48

- (1) If a payment order has been executed in accordance with a unique identifier, it is deemed to have been executed correctly with regard to the payee as identified by that unique identifier.
- (2) The payment service provider is not liable for a non-executed or incorrectly executed payment transaction if the payment service user provides an incorrect unique identifier.
- (3) The payer's payment service provider shall take reasonable measures to recover the funds from the incorrectly executed payment transaction.
- (4) In the case referred to in paragraph 3 of this article, the payment service provider of the payee shall cooperate with the payment service provider of the payer and provide them with all relevant information in order to recover the funds from the mis-executed payment transaction.
- (5) If a refund of funds from a mis-executed payment transaction is not possible, the payer's payment service provider is obliged to provide the payer, upon their written request, with the information available to it that the payer needs to initiate legal or other proceedings for the recovery of the funds.
- (6) The payment service provider may charge the payment service user a fee for the refund of funds made in accordance with paragraph 3 of this article if this is stipulated in the framework agreement.
- (7) If the payment service user, in addition to the unique identification code, provides the payment service provider with other information from Article 15(1)(1) and Article 19(1)(2)(b) of this Act, the payment service provider is only responsible for executing the payment transaction in accordance with the unique identification code provided by the payment service user.

Liability of the payment service provider for the execution of a payment transaction initiated by the payer Article

49

- (1) The payer's payment service provider is liable to the payer for the proper execution of the 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 Act.
- (2) The payment service provider of the payer responsible for executing the payment transaction shall, at the payer's request, without undue delay, refund the amount of the non-executed or incorrectly executed payment transaction, and in the case of a charge to the payment account, restore the payment account to the state it would have been in had that payment transaction not been carried out, provided that the date of value for the crediting of the payer's payment account shall not be later than the date on which the account is debited with the amount of the non-executed or incorrectly executed payment transaction.
- (3) If the payer's payment service provider proves that the payee's payment service provider received the amount of the payment transaction in accordance with Article 44 of this Act and the payment order, the payee's payment service provider is responsible for the correct execution of the payment transaction, and this to the payee.
- (4) In the case referred to in paragraph 3, the payment service provider of the payee shall, without undue delay, make the amount of the payment transaction available to the payee, and in the case of a payment into the payee's payment account, credit the corresponding amount to the payee's account, provided that the date of value of the payment account of the payee shall not be later than the date which would have been determined as the date of value for that amount had the transaction been executed in accordance with Article 47 of this Act.
- (5) If the payment transaction was executed with a delay, the payment service provider of the payee shall, at the request of the payment service provider of the payer submitted on behalf of the payer, determine the date of value of the payee's payment account credit as no later than the date that would have been determined as the date of value for that amount had the transaction been executed in accordance with Article 47 of this Act.
- (6) The payer's payment service provider shall, in the case of an unsuccessful or incorrectly executed payment transaction initiated by the payer, at the payer's request and irrespective of its own liability, without undue delay and free of charge, take measures to trace the payment transaction and inform the payer of the outcome.
- (7) The payer's payment service provider responsible for the non-executed or incorrectly executed payment transaction is liable to the payer for any fees charged and for any interest due to the payer in connection with the non-executed or incorrectly executed payment transaction, including the performance of the payment transaction with a delay.

- (8) The payment service provider and the payer who is not a consumer may by agreement arrange the liability for a non-executed or incorrectly executed payment transaction, including liability for the late execution of a payment transaction, in a manner that is different from paragraphs 1 to 7 of this article.

Liability of the payment service provider for the execution of a payment transaction initiated by the payee or via the payee

Article 50

- (1) In the case of a payment transaction initiated by or via the payee, except in the cases referred to in paragraph 5 of this article, Article 48 paragraphs 2 and 7 and Article 53 of this Act, the payee's payment service provider is liable to the payee for:
- 1) the correct transmission of the payment order to the payer's payment service provider in accordance with Article 44(3) of this Act;
 - 2) acting in accordance with Article 47 of this Act.
- (2) The payment service provider of the payee who is responsible for the non-execution or incorrect execution of a payment transaction in accordance with paragraph 1 point 1 of this article shall, without undue delay, forward the payment order to the payment service provider of the payer.
- (3) In the event of a delay in transmitting the payment order, the payee's payment service provider shall credit the payee's payment account with a date of value that is no later than the date of value that would have been applied to the amount had the transaction been executed on time.
- (4) If the payment service provider of the payee is liable in accordance with paragraph 1 of this article, it shall ensure that the amount of the payment transaction is made available to the payee immediately after that amount has been credited to the payment service provider's account, provided that the date of value for the amount credited to the payer's payment account shall not be later than the date which would have been determined as the date of value for that amount had the transaction been duly executed.
- (5) If the payment service provider of the payee proves that it has correctly transmitted the payee's payment order to the payment service provider of the payer and has complied with Article 47 of this Act, the payment service provider of the payer is responsible for the execution of the payment transaction, and this responsibility lies with the payer.
- (6) In the case referred to in paragraph 5, the payer's payment service provider responsible for executing the payment transaction shall, at the payer's request, without undue delay, refund the amount of the non-executed or incorrectly executed payment transaction, and in the case of a debit to the payment account, restore the payment account to the state it would have been in had that payment transaction not been carried out, provided that the date of value of the crediting of the payer's payment account shall not be later than the date on which that account was debited with the amount of the non-executed or incorrectly executed payment transaction.
- (7) The provision of paragraph 6 of this article does not apply if the payer's payment service provider proves that the payee's payment service provider has received the amount of the payment transaction, even in the event of a minor delay in the execution of the payment transaction, in which case the payment service provider of the payee shall credit the payee's account with a date of value that is no later than the date that would have been applied to that amount had the transaction been duly executed.
- (8) The payment service provider of the payee shall, in the case of a non-executed or incorrectly executed payment transaction initiated by or via the payee, at the request of the payee and irrespective of its liability, without undue delay and free of charge, take measures to ascertain the trace of the payment transaction and inform the payee of the outcome.
- (9) The payment service provider of the payee who is responsible for the non-executed or incorrectly executed payment transaction is liable to the payee for any fees charged and for any interest due to the payee in connection with the non-executed or incorrectly executed payment transaction.
- (10) The payment service provider and the non-consumer payee may contractually arrange the liability for a non-executed or incorrectly executed payment transaction, including liability for the late execution of a payment transaction, in a manner different from that provided for in paragraphs 1 to 9 of this article.

Liability for the execution of a payment transaction where the payment is initiated via a payment initiation service provider

Article 50a

- (1) If the payer initiates a payment order via a payment initiation service provider, the payment service provider holding the account shall, in addition to complying with Articles 34 and 48 of this Act, refund to the payer the amount of the non-executed or

the payment transaction that was not executed or was executed incorrectly, and to restore the payment account to the state it would have been in had that payment transaction not been carried out.

- (2) The payment initiation service provider shall prove that the payment account holder's payment service provider has received the payment order in accordance with Article 40 of this Act and that, within its powers, the authenticity of the payment transaction has been verified, that the payment transaction has been properly recorded and has not been affected by a technical failure or other deficiency related to the non-execution or incorrect execution of the payment transaction, including the delayed execution of the payment transaction.
- (3) If the payment initiation service provider is responsible for the non-execution or incorrect execution of a payment transaction, including the execution of a payment transaction with a delay, is obliged to reimburse the payment service provider holding the account, at its request, without undue delay, all amounts it has paid to the payer and any other damage suffered.

Rights of the user of payment services in the event of a payment transaction being executed

incorrectly Article 51

- (1) The payment service user has the right to, in the event of a mis-executed payment transaction, including delay in executing a payment transaction, require their payment service provider to execute the payment transaction correctly, or to pay interest or refund the amount of the incorrectly executed payment transaction, in accordance with this Act.
- (2) The payment service user loses the rights under paragraph 1 of this article if they do not notify their payment service provider of the incorrect execution of the payment transaction immediately upon becoming aware of it, and no later than within 13 months of the date of the debit, or the date the account was credited.
- (3) Exceptionally from paragraph 2 of this article, if the payment service provider failed to provide or make available to the payment service user the information on the payment transaction which it was obliged to provide in accordance with this Act, the payment service user may exercise the right under paragraph 1 of this article even after a period longer than 13 months.
- (4) The payment service provider and the payment service user who is not a consumer may agree a different period from the period referred to in paragraph 2 of this article.

Rights and obligations of payment service providers in certain cases of incorrect execution of a payment transaction

Article 51a

- (1) Payment service providers have the following rights and obligations in the event of the incorrect execution of a payment transaction, namely:
 - 1) if the payer's payment service provider transmits to the payee's payment service provider an amount of the payment transaction that exceeds the amount specified in the payment order, or if it mistakenly executes the payment order multiple times, the payment service provider of the payee shall, on the basis of evidence from the payment service provider of the payer who made this error, refund the excess amount transferred without undue delay;
 - 2) if the payment service provider of the payee has received an amount lower than the payment transaction amount specified in the payment order, the payer's payment service provider may, within the time limit set out in Article 44 of this Act, transfer to the payee's payment service provider the amount required to complete the payment transaction in accordance with the payment order given and without a request from the user of the payment service for the correct execution of the payment transaction;
 - 3) if the funds have been mistakenly transferred to another payee who was not specified in the payment order, the payer's payment service provider may, within the time limit set out in Article 44 of this Act, execute the payment transaction correctly even without a request from the payment service user for the correct execution of that payment transaction, and the payment service provider of the payee to whom the funds were mistakenly transferred is obliged to, on the basis of evidence from the payer's payment service provider who made the mistake, without delay return (reverse) the received funds to the payer's payment service provider.
- (2) The return of funds under paragraphs 1 and 3 of paragraph 1 of this article shall take priority over the execution of all other payment transactions from the payment account to which those funds were transferred.

Liability of an intermediary or another payment service provider

Article 52

- (1) The payment service provider is liable to the payment service user even when an unpaid or incorrectly executed payment transaction, including the execution of a payment transaction with a delay, has been caused by an intermediary or another payment service provider involved in the execution of that payment transaction.

- (2) In the case referred to in paragraph 1 of this article, the payment service provider shall have the right to require the intermediary or other payment service provider to reimburse it for all amounts it has paid to the payment service user in accordance with articles 36, 49, 50 and 50a of this Act, including the amount paid out because another payment service provider did not use a reliable customer authentication, as well as compensation for damages suffered under the general rules on liability for damages.

Exclusion of liability Article

53

The liability of the payment service provider in relation to the execution of a payment transaction is excluded in extraordinary and unforeseeable circumstances defined by regulations, over which the payment service provider could not have had any influence and the consequences of which could not have been avoided, as well as in cases where the payment service provider was obliged to act in accordance with the law.

Processing of data Article 54

- (1) Data obtained by the payment service provider in the course of its business, relating to the payment service user, including their personal data, as well as data on the payment transaction and on the payment service user's payment account balance and changes, shall constitute a trade secret.
- (2) The payment service provider, members of its bodies and employees or engaged persons of the payment service provider, as well as other persons who by the nature of their work have access to the data from paragraph 1 of this article, must not disclose, provide, or otherwise enable third parties to access that data.
- (3) The obligation to maintain business secrecy for the persons referred to in paragraph 2 of this article does not cease even after the termination of the status under which they gained access to data constituting a business secret.
- (4) Exceptionally from paragraphs 2 and 3 of this article, data constituting a trade secret may be disclosed or provided to:
- 1) the Central Bank;
 - 2) on the basis of a decision or request from a court, the public prosecutor's office, a government body responsible for police matters, or for the prevention of money laundering and the financing of terrorism, as well as the administrative body responsible for tax matters, in accordance with the law;
 - 3) other persons, in accordance with the law or on the basis of the payment service user's prior written consent.
- (5) The payment service provider may disclose or provide the data from paragraph 1 of this article to the public prosecutor and the courts, as well as to other bodies exercising public authority, exclusively for the purpose of protecting its rights, in accordance with the law.
- (6) The bodies, or persons, to whom data constituting a trade secret is made available in accordance with paragraphs 4 and 5 of this article are obliged to use that data exclusively for the purpose for which it was obtained and must not disclose or provide it to third parties, except in cases provided for by law.
- (7) The provision of paragraph 6 of this article also applies to persons employed or engaged, or who were employed or engaged, by the body, as well as to persons to whom data constituting a trade secret have been made available in accordance with paragraphs 4 and 5 of this article.
- (8) Payment service providers, participants in a payment system and the settlement agent are required to process personal data of payment service users in accordance with the law governing the protection of personal data.
- (9) Payment service providers and payment system participants established by this Act may collect and process the data referred to in paragraph 8 of this article for the purpose of preventing, investigating or detecting fraudulent acts or abuses in payment transactions.

Retention of data and reporting on payment services Article 55

- (1) Payment service providers shall retain documentation relating to payment service users, payment transactions and the balance and changes to the payment service user's payment account for five years, and electronic data concerning this for ten years from the execution of the payment transaction, or from the change to the payment account of the payment service user, unless a longer retention period is prescribed by a special law.
- (2) The central bank may prescribe the reporting obligations, content, method and deadlines for reporting on payment services.

More favourable position

Article 56

The payment service provider and the payment service user may agree on a more favourable position than the position to which the payment service user is entitled in accordance with Articles 28 to 55(1) of this Act.

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 for managing the operational and security risks associated with the payment services they provide, and as part of that framework they shall establish and maintain effective incident management procedures, including the detection and classification of significant operational and security incidents.
- (2) Payment service providers are required to submit to the Central Bank an updated and comprehensive assessment of the operational and security risks associated with the payment services they provide and the adequacy of the mitigation measures. submit an up-to-date and comprehensive assessment of the operational and security risks associated with the payment services they provide and the adequacy of the risk mitigation measures and control mechanisms implemented in response to those risks.
- (3) Payment service providers are obliged to fulfil the obligations from paragraph 1 of this article in accordance with the act of the Central Bank on security measures for operational and security risks associated with payment services, i.e. on the establishment, implementation and monitoring of security measures.

Reporting of incidents Article

56b

- (1) In the event of a significant operational or security incident, payment service providers are obliged to notify the Central Bank of the incident without delay.
- (2) If an incident referred to in paragraph 1 of this Article, affects or could affect the financial interests of payment service users, the payment service provider is obliged to, without delay, inform the payment service users of the incident and of any available measures that payment service users can take to mitigate the adverse effects of the incident.
- (3) After assessing the significance of the incident referred to in paragraph 1 of this article, the Central Bank shall, where necessary, notify the competent authorities.
- (4) The Central Bank shall establish a regulation whereby payment service providers classify significant incidents as referred to in paragraph 1 of this article and report on such incidents, and whereby the Central Bank establishes the criteria for assessing the significance of an incident and the details from incident reports which it exchanges with the competent authorities.
- (5) Payment service providers submit statistical data on fraud related to various payment instruments to the Central Bank at least once a year.

Authentication Article 56c

- (1) The payment service provider shall apply strong customer authentication when the payer:
 - 1) accesses their payment account with online connectivity;
 - 2) initiates an electronic payment transaction, or;
 - 3) performs any action at a distance which may entail a risk of payment fraud or other forms of misuse.
- (2) Where, in the case referred to in paragraph 1 point 2 of this article, the electronic payment transaction is a remote transaction, the payment service provider shall apply strong customer authentication with elements that 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, establish appropriate security measures to protect the confidentiality and integrity of the personalised security data of the payment service user.
- (4) The payment service provider holding the account shall enable payment initiation service providers and account information service providers to rely on the authentication procedures determined by the payment service provider holding the account for the user of payment services in accordance with paragraphs 1 and 3 of this article, and payment initiation service providers in accordance with paragraph 2 of this article.

- (5) The provisions of paragraphs 2 and 3 of this Article also apply when a payment is initiated via a payment initiation service provider.
- (6) The provisions of paragraphs 1 and 3 of this Article also apply when information is requested via an account information service provider.
- (7) The security requirements that payment service providers must meet to ensure strong customer authentication and common and secure open communication standards, as well as the exemptions from the application of the strong customer authentication requirements, are prescribed by the Central Bank, in order to:
 - 1) ensuring an appropriate level of security for users of payment services and payment service providers, by adopting effective and risk-based requirements;
 - 2) ensuring the protection of the funds and personal data of payment service users;
 - 3) ensuring and maintaining fair market competition between payment service providers;
 - 4) ensuring technological neutrality and business model neutrality;
 - 5) enabling payment instruments that are user-friendly, accessible and innovative.

e) Out-of-court dispute resolution

Complaint to the payment service provider

Article 56d

- (1) If the user of payment services considers that the payment service provider has acted in breach of the provisions of Articles 10 to 56c and Articles 58 to 61 of this Act, the user of payment services may lodge a complaint with the payment service provider.
- (2) The payment service provider shall provide the payment service user with a response to the objections stated in the complaint referred to in paragraph 1 of this article no later than 15 working days from the date of receipt of the complaint, on paper or, if so agreed between the payment service provider and its user, on another durable medium.
- (3) If the payment service provider fails to provide a response within the period referred to in paragraph 2 of this article for reasons beyond its control, is obliged to provide the payment service user, within 15 working days of receiving the complaint, with a notification explaining the reasons for the delay in responding to the complaint and a deadline for providing the requested response, which must not be longer than 35 working days from the date of receipt of the complaint.
- (4) In its response to the complaint, the payment service provider must inform the payment service user of the possibility of submitting a complaint to the Central Bank and of alternative dispute resolution in accordance with Article 56f of this Act.
- (5) The payment service provider shall establish and implement appropriate and effective procedures for the handling of complaints from payment service users and make them available to the payment service user in the Montenegrin language or in another language agreed between the payment service provider and its payment service user.
- (6) The payment service provider shall assign the handling of a payment service user's complaint to at least one person who is employed by that payment service provider.

Complaint to the Central Bank

Article 56e

- (1) Payments service users and other persons with a legitimate interest, including consumer associations, may, after receiving the response referred to in Article 56d(2) and (3) of this Act, or in the event that the payments service provider fails to provide a response within the deadlines referred to in Article 56d(2) and (3), lodge a complaint with the Central Bank, if they consider that the payments service provider has failed to act in accordance with this Act. 2 and 3 of this Act and in other cases when applying this Act, may lodge a complaint with the Central Bank against the payment service provider, if they consider that the provider has not complied with the provisions of this Act.
- (2) Upon receipt of the complaint referred to in paragraph 1 of this article, the Central Bank shall request the payment service provider concerned to submit their statement and the evidence on which they rely, unless it is clear from the complaint itself and the information available to the Central Bank that the complaint is unfounded.
- (3) The payment service provider shall, within a period determined by the Central Bank, which may not exceed 15 working days from the date of receipt of the request referred to in paragraph 2 of this article, submit its statement and the evidence on which it relies.
- (4) After considering the payment service user's complaint and the payment service provider's statement with evidence, the Central Bank may:
 - 1) make a recommendation to the payment service provider for the improvement of its relationship with payment service users;
 - 2) provide advice to the payment service user regarding the exercise of their rights when using payment services;
 - 3) take other actions that contribute to the protection of the rights of payment service users.

- (5) If, upon receiving a complaint, the Central Bank establishes that there are grounds to suspect that the payment service provider has acted in breach of the provisions of this Act for which criminal liability is prescribed, it shall file a request to initiate criminal proceedings before the competent court.
- (6) The Central Bank shall inform the complainant of its handling of the complaint and, where applicable, of the measures taken.
- (7) In the notification referred to in paragraph 6 of this article, the Central Bank is obliged to inform the payment service user of the possibility of alternative dispute resolution in accordance with Article 56f of this Act.

Alternative dispute resolution Article

56f

- (1) The payment service user may resort to alternative dispute resolution in accordance with the special laws governing alternative dispute resolution and arbitration, and where the payment service user is a consumer, in accordance with the law governing consumer protection.
- (2) The payment service provider shall provide the payment service user with information on at least one body competent for alternative dispute resolution for consumer disputes.
- (3) The information referred to in paragraph 2 must include the postal address and website address of the body competent for alternative dispute resolution, as well as information on the obligation of the payment service provider referred to in paragraph 5 of this article.
- (4) The payment service provider shall display the information from paragraphs 2 and 3 of this article in a clear, comprehensible and easily accessible manner in its business premises and on its website, and shall provide it to its payment service users. 2 and 3 of this article in a clear, understandable and easily accessible manner in its business premises and on its website, and to provide them to its payment service users as part of the pre-contractual information it is required to provide in accordance with Articles 15 and 19 of this Act.
- (5) The payment service provider is obliged to participate in the alternative dispute resolution procedure initiated by the payment service user in accordance with paragraph 1 of this article.
- (6) The right of the user of payment services under paragraph 1 of this article does not affect their right to initiate court proceedings, in accordance with the law.

IV. INTERNATIONAL PAYMENT TRANSACTIONS

Application

n Article

57

The provisions of Articles 2 to 56f of this Act apply to international payment transactions, unless otherwise provided for in Articles 58 to 61 of this Act.

Time limits for executing international payment transactions Article

58

- (1) The payer's payment service provider is obliged to execute the payment order for an international payment transaction, if the payer has sufficient funds in their account, no later than the end of the next business day from the day the payment order is received.
- (2) If the payee's account is indicated on the payment order and no additional instruction is required for the transfer of the funds received from the international payment transaction, the payment service provider of the payee shall credit the funds to the payee's account no later than the next business day after the day of receipt of the notification of receipt of those funds.
- (3) If additional instruction relating to the payer is required for the transfer of funds received from an international payment transaction, the payee's payment service provider is obliged to transfer the funds to the payee's account no later than the next business day from the day of receiving the additional instruction about the payer.
- (4) If additional instructions from the payee are required for the transfer of funds received in respect of an international payment transaction, the payment service provider of the payee shall notify the payee of the receipt of the funds on the same working day it receives notification of their receipt and shall credit the received funds to the payee's account in accordance with the instruction received, no later than the end of the next working day from the day of receipt of that instruction.
- (5) The deadlines in paragraphs 1 to 4 of this article shall not apply if the payment service provider and the payment service user agree on different deadlines for executing the international payment transaction, which may not be longer than four business days from the date of receipt of the payment order, or from the date of receipt of additional instructions.

Fees

Article 59

- (1) If the payment service agreement provides that the payment service provider charges the payment service user a fee for the execution of an international payment transaction, which is the fee charged by another payment service provider or an intermediary involved in the execution of that payment transaction, the payment service provider shall inform the payment service user of the amount of that charge before the international payment transaction is initiated.
- (2) If the payment service provider does not have the information on the fee referred to in paragraph 1 at the time the international payment transaction is initiated, it shall take appropriate steps to provide the payment service user with information on the expected amount of that fee.
- (3) The provisions of Article 28 of this Act shall apply mutatis mutandis to the determination of the fee for the execution of international payment transactions.
- (4) When executing international payment transactions, the payment service provider and the payment service user may agree on a method of charging the fee that is different from the method set out in Article 28, paragraph 3 of this Act.
- (5) The Central Bank may, by regulation, limit the amount of the fee charged by a payment service provider for the execution of SEPA payments, in order to encourage market competition and/or promote SEPA payments.

Low-value payment instruments Article

60

A payment service provider and a payment service user may agree in a framework agreement governing the execution of international payment transactions exclusively by means of low-value payment instruments that the provisions of Article 27 of this Act shall not apply.

Disposal of received funds Article 61

Upon receipt of funds from an international payment transaction, the payment service provider of the payee may exclusively:

- 1) transfer the received funds to the payee's transaction account for the execution of national payment transactions;
- 2) make a cash payment to the payee, or
- 3) make payments of the payee's liabilities abroad.

Special rules for the execution of SEPA payments Article

61a

The Central Bank may prescribe the obligation for payment service providers to participate in SEPA payment schemes, as well as special rules for the execution of SEPA payments, in order to ensure that payment service providers operate in accordance with the rules applicable to payments within the Single Euro Payment Area.

National Payments Board Article 61b

- (1) The Central Bank establishes the National Payments Board to promote standards for safe and efficient payment services and to foster cooperation in the provision of payment services, including SEPA payments.
- (2) The National Payments Board acts as an inter-institutional body on a voluntary basis.
- (3) The Central Bank shall regulate the composition, remit and working methods of the National Payments Board.
- (4) The act referred to in paragraph 3 of this article is published on the Central Bank's website.

V. PAYMENT ACCOUNTS

Term

Article

62

- (1) A payment account is an account maintained by a payment service provider in the name of one or more payment service users, which is used to carry out payment transactions.

- (2) The Central Bank may prescribe the detailed conditions, the method of operation and the uniform structure of payment accounts.

Joint payment account Article 63

- (1) A joint payment account is an account opened and maintained by a payment service provider for two or more payment service users, in accordance with a framework agreement for the maintenance of a joint payment account.
- (2) Each payment service user who is an individual joint account holder may dispose of the entire funds in that account, unless the agreement referred to in paragraph 1 of this Article provides for restrictions on the disposal of funds on the joint account.
- (3) The funds in the joint payment account may be used in their entirety to settle the obligations of an individual joint account holder towards third parties.
- (4) An agreement under paragraph 1 may not restrict the right of a third party, in bankruptcy, liquidation or enforcement proceedings against an individual holder of a joint payment account, satisfy the claim it has against that holder out of the entire monetary funds in the joint payment account, unless otherwise provided by law.

Transaction account

Article 64

- (1) A transaction account is a type of payment account opened and maintained by banks and other credit institutions providing payment services, a branch of a third-country credit institution established in Montenegro, and the Central Bank, in the name of one or more payment service users for the execution of a payment transaction and for other purposes.
- (2) The Central Bank opens and maintains transaction accounts for banks and other credit institutions that provide payment services, as well as for entities required by law and Central Bank regulations to maintain such accounts with the Central Bank.
- (3) Payment institutions and electronic money institutions may not open transaction accounts for users of payment services.
- (4) A transaction account is opened on the basis of a contract, which is concluded by the payment service provider referred to in paragraph 1 of this article and the payment service user.
- (5) A payment service user may hold multiple current accounts with a single payment service provider and current accounts with multiple payment service providers referred to in paragraph 1 of this article.
- (6) A transaction account is closed under the conditions established by law or other regulation, or by the contract referred to in paragraph 4 of this article.
- (7) The funds held in a transaction account are considered a demand deposit.
- (8) The Central Bank shall prescribe the structure of transaction accounts and the detailed conditions and procedure for opening and closing such accounts for the execution of domestic payment transactions, and may also prescribe the structure of transaction accounts and the detailed conditions and procedure for opening and closing such accounts for the execution of international payment transactions.
- (9) The regulations referred to in paragraph 8 of this article, and other regulations that the Central Bank adopts pursuant to the authorisations set out in this law, shall be published in the "Official Gazette of Montenegro".

Registers of transaction accounts maintained by payment service providers

Article 65

- (1) Payment service providers referred to in Article 64(1) of this Act are obliged to keep proper records of the transaction accounts of their payment service users.
- (2) The proper keeping of the register of transaction accounts for the purposes of paragraph 1 of this article is considered to be the keeping of that register in a manner that contains data on all open transaction accounts, at least to the extent specified in the regulation referred to in Article 65a(2) of this Act.
- (3) Payment service providers referred to in paragraph 1 of this article are required to submit to the Central Bank data on opened transaction accounts in accordance with Article 65a, paragraph 2 of this Act, on changes to the data for those accounts, and on the closure of those accounts, no later than the end of the working day on which the account is opened, closed, or the change is made.
- (4) The payment service providers referred to in paragraph 1 of this article are responsible for the accuracy of the data they provide in accordance with paragraph 2 of this article.
- (5) The Central Bank is responsible for the conformity of the data from paragraph 2 of this article with the data in the Central Register of Transaction Accounts from Article 65a of this Act.

Central registers of transaction accounts maintained by the Central Bank

Article 65a

- (1) The Central Bank maintains the Central Register of Transaction Accounts, as a single information database on transaction accounts and their owners.
- (2) The Central Bank shall regulate the content of the Central Register of Transaction Accounts, the data to be submitted for the purposes of that register, the method of submission, and the method of accessing the data in that register.
- (3) The transaction account number and other data from the Central Register of Transaction Accounts relating to legal entities and entrepreneurs are public, except for data on the balance and transactions on the individual transaction accounts of these entities, if such data are contained in the register.
- (4) The transaction account number and other data from the Central Register of Transaction Accounts relating to natural persons are not publicly available, and the provisions of Article 54 of this Act and regulations governing the protection of personal data apply to them.
- (5) The Central Bank may also maintain registers of transaction accounts for special purposes, the content and manner of operation of which are regulated by its act.

Payment orders via transaction accounts Article 66

The Central Bank shall prescribe the essential elements of a payment order for transactions accounts and the manner of completing that order for the execution of domestic payment transactions, and may also prescribe the essential elements of a payment order for transactions accounts and the manner of completing that order for the execution of international payment transactions.

Debiting a payment account without a payment order Article

66a

- (1) The payment service provider shall debit the payment account of the payment service user without a payment order in the following cases:
 - 1) when enforcement is carried out on the payment account of the payment service user as the debtor, in accordance with the law governing enforcement and security;
 - 2) for the collection of overdue fees for services provided by the payment service provider in accordance with the provisions of this Act, of overdue claims arising from a credit granted by the payment service provider to the payment service user or other overdue claims of the payment service provider against the payment service user, if such a method of collection has been agreed, and
 - 3) in other cases prescribed by law.
- (2) A payment transaction carried out in accordance with paragraph 1 of this article shall not be considered an unauthorised payment transaction.

VI. PAYMENT INSTITUTIONS

1. Status and business of the payment

institution Organisational form

Article 67

- (1) A payment institution with its registered office in Montenegro is a legal entity which has been granted authorisation by the Central Bank to provide one or more payment services under Article 2 of this Act, except in the case where it provides exclusively the service under Article 2, paragraph 1, point 8 of this Act.
- (2) Persons who do not have an authorisation under paragraph 1 of this article to provide payment services must not provide payment services in Montenegro.
- (3) If there are indications that a person is engaged in activities under this Act without the authorisation issued in accordance with this Act, the Central Bank may, in order to collect the necessary information, conduct an inspection of that person's business by examining their business books and other documentation.
- (4) The person referred to in paragraph 3 of this article is obliged to allow the authorised person from Article 92, paragraphs 2 and 3 of this Act to have unrestricted access to all business books and other documentation.

Other activities of the payment institution

Article 68

In addition to providing the payment services referred to in Article 2 of this Act, a payment institution may:

- 1) carry out operational tasks and provide related ancillary services, such as ensuring the execution of payment transactions, currency conversion services necessary for the execution of payment transactions, safekeeping services, as well as data storage and processing services;
- 2) act as an operator of a payment system, other than a payment system in which final settlement is carried out, without prejudice to access to payment systems in accordance with Article 142 of this Act, and/or
- 3) performs another activity which is not the provision of payment services.

Hybrid payment institution

Article 69

- (1) A payment institution which also carries out activities referred to in Article 68(2) and/or (3) of this Act is a hybrid payment institution.
- (2) A hybrid payment institution shall carry out the activities referred to in paragraph 1 of this article in a manner that does not jeopardise its stability and security in providing payment services, nor impede the supervision of the payment institution, in accordance with this Act.
- (3) The provisions of this Act which apply to payment institutions whose sole activity is the provision of payment services shall apply *mutatis mutandis* to hybrid payment institutions, unless otherwise provided for by this Act.

Minimum amount of share capital Article

70

- (1) The minimum share capital of a payment institution providing payment services under Article 2(6) of this Act shall not be less than 20,000 euros.
- (2) The founding capital of a payment institution providing payment services under Article 2(7) of this Act shall not be less than 50,000 euros.
- (3) The share capital of a payment institution providing one or more payment services from Article 2(1) to (5) of this Act shall not be less than €125,000.
- (4) An applicant for an authorisation to provide payment services for which different minimum amounts of share capital are prescribed in accordance with paragraphs 1 to 3 of this article, shall provide the minimum share capital only for the payment service, or services, for which the highest amount of that capital is prescribed. 1 to 3 of this article is required to provide the minimum share capital only for the payment service, or services, for which the highest amount of that capital is prescribed.
- (5) The minimum share capital of a payment institution must be paid up in cash.

Acquisition and disposal of a qualifying

participation Article 71

- (1) A qualified participation in a payment institution may only be acquired by a legal or natural person who has obtained prior authorisation from the Central Bank to acquire a qualified participation, and to the extent for which that authorisation was granted.
- (2) A natural or legal person who intends to acquire, for the first time, directly or indirectly, 10% or more of the capital or voting rights in a payment institution, or who intends to acquire a stake of less than 10% of the capital or voting rights in a payment institution which enables them to exercise significant influence over the management of the payment institution, is required to submit an application to the Central Bank for the grant of approval referred to in paragraph 1 of this article.
- (3) A person who holds a qualifying participation in a payment institution shall, before any further direct or indirect acquisition of a participation in the capital or voting rights of the payment institution which would increase their participation in the capital or voting rights in the payment institution to 20%, 30%, 50% or more, shall submit an application to the Central Bank for the grant of the approval referred to in paragraph 1 of this article.
- (4) An indirect acquirer, for the purposes of paragraphs 2 and 3 of this article, shall be deemed to be a person on whose account another person (the direct acquirer) expresses the intention to acquire a qualifying participation in the payment institution and/or the direct acquirer's close family members, namely: a spouse, a person who lives with that person in a community that is legally equivalent to a marriage, children and other persons who live with that person in the same household.
- (5) A person who holds a qualifying participation in a payment institution must notify the Central Bank of their intention to dispose of the qualifying participation in the payment institution or to reduce it to a level below 20%, 30% or 50%, must previously notify the Central Bank, and in the case of a reduction of the qualifying holding below the level for which the Central Bank's approval was obtained, but which still

for the part of the qualifying holding that exceeds the percentage set out in paragraphs 2 and 3 of this article, the approval shall remain valid for the remaining qualifying holding.

Documentation and information to be submitted with the application for the acquisition of a qualifying participation Article 71a

- (1) The application for authorisation to acquire a qualifying stake in a payment institution shall be accompanied in particular by:
 - 1) for legal entities - a certificate of registration or other appropriate extract from a public register and financial statements for the last three years with an auditor's opinion, or for the period for which this is applicable;
 - 2) for natural persons - first name, surname and address of permanent or temporary residence, and other personal data;
 - 3) data and information on the reputation of the person intending to acquire a qualifying participation;
 - 4) information on the source of the funds for acquiring the qualified participation;
 - 5) a review of the persons closely associated with the person who intends to acquire a qualifying stake, with a detailed description of the nature of the association.
- (2) A close association for the purposes of this Act is a relationship in which two or more natural or legal persons are connected on the basis of:
 - participation in the form of ownership, direct or indirect through control, of 20% or more of the company's voting rights or capital;
 - a relationship of control;
 - the fact that both or all of the persons are permanently connected to the same third person by a relationship of control.
- (3) If the request under paragraph 1 of this article seeks approval for an acquisition, or an increase in a qualifying holding, such that the applicant reaches or exceeds 20% of the capital or voting rights, the applicant must also attach to the request:
 - 1) the strategy for the intended acquisition of a qualifying holding, including planned changes to the organisation, management and personnel structure of the payment institution, the period during which the prospective acquirer intends to hold their stake, as well as the intention to further increase or decrease the level of the qualifying holding in the medium term;
 - 2) a justification for the intended acquisition, and in particular where the intended acquisition does not result in control of the payment institution;
 - 3) information on the financial position of the proposed acquirer and their willingness to support the payment institution's business with their own funds, if necessary for the development of business activities or in the event of financial difficulties.
- (4) During the decision-making process on the application for approval of the acquisition of a qualifying stake, the Central Bank may require the applicant and the payment institution to provide additional documentation and information which the Central Bank deems necessary for its decision on the application, including information on the prevention of money laundering and the financing of terrorism.
- (5) The Central Bank shall prescribe the detailed content and the manner of submission of the information, data and documentation to be attached to the application for the acquisition of a qualifying participation.

Decision on an application for approval to acquire a qualifying participation Article 71b

- (1) When deciding on the application for a permit to acquire a qualifying stake, the Central Bank assesses whether the potential acquirer's eligibility conditions are met and the impact of the intended acquisition on the sound and prudent management of the payment institution, based on the following criteria:
 - 1) the reputation of the potential acquirer, taking into account the reputation of all its qualified holders and their influence on the potential acquirer;
 - 2) the reputation, appropriate professional knowledge, skills and experience of the persons who will, following the acquisition of the qualifying stake, manage the affairs of the payment institution;
 - 3) the financial situation of the potential acquirer, particularly in relation to the type of business conducted by the payment institution in which the qualifying stake is being acquired;
 - 4) the ability of the payment institution, after acquiring a qualifying participation, to continue to comply with the provisions of this Act, regulations adopted pursuant to this Act, and other regulations relating to the business of payment institutions;

- 5) existence of reasonable grounds for suspicion that money laundering or terrorist financing is being or is attempted to be carried out in connection with the acquisition in question, or that the acquisition in question may increase the risk of money laundering or terrorist financing.
- (2) The Central Bank shall refuse an application for authorisation to acquire a qualifying stake if the applicant fails to provide the Central Bank with the documentation and information referred to in Article 71a of this Act, or if it determines that the conditions set out in paragraph 1 of this Article are not met.

Acquisition of a qualifying stake without the authorisation of the Central

Bank Article 71c

- (1) If a person acquires a qualifying participation in a payment institution without the authorisation of the Central Bank, the Central Bank shall, by decision, order that person to sell the shares or participations acquired without authorisation, with the obligation to provide proof of the sale and details of the purchaser.
- (2) By its decision under paragraph 1 of this article, the Central Bank shall set a deadline for the sale, which may not be shorter than three months nor longer than nine months.
- (3) The Central Bank publishes notification of the decision referred to in paragraph 1 of this article on its website.

Legal consequences of unlawful acquisition of a qualifying participation

Article 71d

- (1) A person who acquires a qualifying participation in a payment institution without the approval of the Central Bank may not exercise voting rights in excess of the level of voting rights they held prior to the acquisition, or the increase, of the qualifying participation in the payment institution, nor shall they be entitled to a distribution of profits in respect of such acquired shares or holdings, until the appropriate approval has been obtained from the Central Bank.
- (2) If the unlawful acquirer of a qualifying stake in the payment institution does not dispose of the shares or interests within the period specified in the decision of the Central Bank under Article 71c, paragraph 2 of this Act, the unlawfully acquired shares shall become non-voting shares until their disposal.
- (3) In the event of the transfer of shares referred to in paragraph 2 of this article, the new lawful holder of those shares or interests acquires all rights attached to those shares or interests.

Revocation of approval for the acquisition of a qualifying stake

Article 71e

- (1) The Central Bank shall revoke the approval for the acquisition of a qualifying participation if:
- 1) the approval was issued on the basis of false and inaccurate information provided by the person who acquired the qualifying holding;
 - 2) the conditions for the eligibility of the acquirer of the qualifying participation and the financial soundness of the proposed acquisition under Article 71b(1) of this Act are no longer met, or
 - 3) the person who acquired the qualifying participation exercises their influence in a manner that is contrary to the stable and secure management of the payment institution or fails to act in good faith and with the care of a prudent businessman.
- (2) A person who, in accordance with paragraph 1 of this article, has had their authorisation to acquire a qualifying participation revoked shall be subject to the provisions of Article 71d, paragraph 2 of this Act.

Application for a licence to provide payment services Article 72

- (1) A legal entity that intends to provide payment services as a payment institution shall submit an application to the Central Bank for a payment services authorisation.
- (2) The application under paragraph 1 of this article shall be accompanied in particular by:
- 1) the decision or contract for the establishment of the legal entity, the articles of association and the decision on registration in the Central Register of Business Entities (hereinafter: CRBE);
 - 2) a business programme, specifying the type of payment services referred to in Article 2 of this Act for which authorisation is sought;
 - 3) a business plan, including projected financial statements for the first three fiscal years, for the purpose of assessing whether the applicant can provide adequate and appropriate systems, resources and procedures for stable operations and has an appropriate organisational, technical and personnel structure, and if the legal entity intends

to provide payment services as a hybrid payment institution, and financial statements for the last two business years, or from the date of its establishment if it has been operating for less than two business years;

- 4) proof of the amount of subscribed capital paid up;
 - 5) a description of the planned measures for the protection of the funds of users of payment services in accordance with Article 79 of this Act, including, where applicable, the method for assessing a representative portion of the funds intended for the execution of future payment transactions;
 - 6) a description of the proposed governance structure, including administrative, accounting and risk management procedures, for the purpose of assessing whether they are adequate, appropriate and reliable;
 - 7) a description of the procedures established for monitoring, resolving and following up on security incidents or complaints from payment service users related to security, including an incident reporting mechanism that takes into account the reporting obligation under Article 56b of this Act;
 - 8) a description of the process established for storing, supervising, monitoring and restricting access to sensitive payment data;
 - 9) a description of the mechanisms for ensuring business continuity, including the clear identification of critical activities, effective contingency plans and procedures for regularly testing and reviewing the adequacy and effectiveness of those 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 with a detailed risk assessment in respect of payment services and a description of the security controls and risk mitigation measures undertaken to adequately protect users of payment services, including from fraud and the unlawful use of sensitive and personal data;
 - 12) a description of the planned internal control mechanisms in accordance with this Act and the Act on the Prevention of Money Laundering and the Financing of Terrorism;
 - 13) a description of the organisational structure, including a description of the planned business through branches and agents and a description of direct and indirect checks on the business of the branches and agents at least once a year, as well as plans for outsourcing services and for participation in a specific payment system;
 - 14) information on persons holding a qualifying participation, with evidence of the size of their participation and the documentation referred to in Article 71a of this Act, for the purpose of assessing the suitability of those persons to ensure the sound and prudent management of the payment institution;
 - 15) information on the persons who are members of the payment institution's management body, or who manage the business of the payment institution, on the persons responsible for the management of the payment institution and, where relevant, on the persons responsible for carrying out the payment institution's payment service activities, together with evidence that these persons have a good reputation, appropriate knowledge and experience for carrying out the business of providing payment services, and the managing director and senior management have higher education;
 - 15a) information on whether the person referred to in points 14 and 15 of this paragraph is a close associate of a person who has been convicted by a final judgment for a criminal offence which is prosecuted of office;
 - 16) where applicable, proof of the appointment of an authorised auditor, or an audit firm, which will carry out the audit of the financial statements for the business year in which the application is submitted;
 - 17) a list of closely related persons to the payment institution and a description of the nature of the relationship.
- (3) For the purposes of paragraphs 5, 6, 7 and 13 of paragraph 2 of this article, the applicant shall provide descriptions of the audit and organisational programmes established with the aim of taking all reasonable measures to protect the interests of its users and to ensure continuity and reliability when providing payment services.
 - (4) The security controls and risk mitigation measures referred to in paragraph 11 of paragraph 2 of this article shall establish the manner of ensuring a high level of technical security and data protection, in particular for the software and IT systems used by the applicant or by a person to which it has outsourced its operational activities, including the security measures from Article 56a of this Act.
 - (5) An applicant seeking authorisation to provide a payment service as referred to in Article 2(1)(7) of this Act, instead of the description referred to in paragraph 2, point 5 of this article, shall submit proof of a professional liability insurance contract or a comparable guarantee, which covers the liability established by the provisions of Articles 36, 49, 50a and 52 of this Act.
 - (6) The minimum monetary amount for professional liability insurance or a comparable guarantee referred to in paragraph 5 of this article shall be determined by the Central Bank by applying the following criteria:
 - 1) the risk profile of the payment institution;
 - 2) whether the payment institution also provides other payment services under Article 2 of this Act or carries out other business activities;

- 3) the scope of activities, or the value of transactions initiated;
 - 4) the specific characteristics of comparable guarantees and the criteria for their implementation.
- (7) In addition to the information, data and documentation from paragraphs 1 to 6 of this article, the Central Bank may require the applicant to provide further information, data and documentation, including information from the field of anti-money laundering and counter-terrorism financing.
- (8) The Central Bank shall prescribe the detailed content and the manner of submission of the information, data and documentation referred to in paragraph 2 of this Article.

Issue of authorisation for the provision of payment

services Article 73

- (1) The Central Bank shall issue an authorisation to provide payment services on the basis of a duly submitted application and the documentation from Article 72 of this Act, taking into account the need to ensure the stable and secure management of the payment institution, if it particularly assesses that the payment institution has:
- 1) an established effective and robust system of governance which includes a governance structure with clearly defined, transparent and consistent lines of authority and responsibility;
 - 2) an effective procedure for identifying, managing, monitoring and reporting on all risks to which the payment institution is or could be exposed, and
 - 3) appropriate internal control mechanisms which include adequate administrative and accounting procedures, which must be comprehensive and appropriate to the nature, scale and complexity of the payment services provided by the payment institution.
- (2) If a legal entity which carries on activities other than the provision of payment services applies for an authorisation to provide payment services under Article 2(1) points. 1 to 7 of this Act, the Central Bank may require the applicant to establish a separate legal entity for the provision of payment services, if it assesses that activities which are not payment services may jeopardise the financial stability of the payment institution or hinder the supervision of the payment institution in accordance with this Act.
- (3) The Central Bank may, before issuing the authorisation to provide payment services, cooperate with other central banks or other competent authorities, in order to carry out a comprehensive assessment of the application submitted.
- (4) The decision to grant authorisation to a payment institution to provide payment services shall be published in the "Official Gazette of Montenegro".

Application for the grant of an authorisation to provide additional payment

services Article 74

- (1) If a payment institution authorised under Article 73 of this Act intends to provide other payment services not covered by that authorisation (hereinafter: additional payment services), it shall be obliged to submit an application to the Central Bank for the authorisation to provide the additional payment services.
- (2) The application under paragraph 1 of this article shall be accompanied by the documentation referred to in Article 72(2) points. 2, 3, 4, 5, 7, 8, 9, 11 and 12 of this Act, as well as a justification of the impact of the additional payment services on the payment institution's financial operations, organisational structure, internal control mechanism and system for the protection of users' funds.
- (3) The decision on granting authorisation to a payment institution to provide additional payment services is published in the "Official Gazette of Montenegro".

Refusal of an application for authorisation to provide payment services Article 75

- (1) The Central Bank shall refuse an application for authorisation to provide payment services if:
- 1) deems that any of the conditions set out in Article 73 of this Act are not met;
 - 2) deems that the persons intending to hold a qualifying participation in the payment institution are not suitable;
 - 3) the supervision of the payment institution's business under this Act could be made difficult or impossible due to the payment institution's close association with other legal or natural persons;
 - 3a) the effective supervision of the payment institution's business could be prevented due to the regulations of another state governing the activities of one or more natural or legal persons with whom the applicant is closely associated, or due to difficulties in enforcing those regulations;

3b) considers that the proposed members of the payment institution's management body and, where relevant, the persons directly responsible for providing payment services, do not have a good reputation and the appropriate knowledge and experience to carry on the business of providing payment services;

4) deems that the applicant should establish a separate legal entity for the provision of payment services.

(2) The provision of paragraph 1 of this article shall apply mutatis mutandis to the refusal of an application under Article 74 of this Act.

Revocation of authorisation to provide payment services

Article 76

(1) The Central Bank revokes the authorisation to provide payment services if the payment institution:

- 1) does not commence providing the payment services in accordance with the issued authorisation within one year from the date of its issuance;
- 2) submits a written notification to the Central Bank that it will no longer provide the payment services for which the authorisation was granted;
- 3) fails to provide payment services for more than six months;
- 4) obtains the authorisation on the basis of false or inaccurate documentation, or data that are material to the payment institution's business, or
- 5) no longer meets the conditions on which the authorisation was granted or fails to notify the Central Bank of significant changes relating to those conditions.

(2) The Central Bank may revoke the authorisation to provide payment services if:

1) one of the grounds set out in Article 75(1)(2) to (4) of this Act applies;

2) deems that the payment institution would jeopardise the stability or confidence in the operation of payment systems by continuing to provide payment services;

3) determines that the payment institution does not maintain regulatory capital in accordance with this Act;

4) the payment institution prevents the exercise of supervision over its business, or

5) the payment institution fails to implement the measures ordered by the Central Bank.

(3) The decision to revoke a payment institution's authorisation to provide payment services is published in the "Official Gazette of Montenegro".

(4) The Central Bank is obliged to forward the decision on the revocation of the authorisation for a payment institution to provide payment services to the CRPS and to publish it in at least two daily print media distributed on the territory of Montenegro.

Provision of payment services through an agent

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) The payment institution shall submit an application with the necessary documentation to the Central Bank for the registration of the agent in the register of payment institutions.

(3) A legal entity or self-employed person with whom a payment institution concludes a contract for the delegation of the provision of payment services may not commence providing payment services as an agent before being entered in the register referred to in paragraph 2 of this article.

(4) The Central Bank may refuse to register an agent in the register referred to in paragraph 2 of this article, if:

- determines that the submitted documentation contains incomplete or inaccurate information;

- determines that members of the management body and/or persons who are directly responsible for providing payment services at the agent's, do not meet the requirement from Article 72, paragraph 2, point 15 of this Act, or

- deems that the internal control mechanism established to fulfil the obligations under the law on the prevention of money laundering and the financing of terrorism is not adequate.

(5) The Central Bank may remove an agent from the register referred to in paragraph 2 of this article if it no longer meets the prescribed conditions, or if it determines that the entry in the register was made on the basis of inaccurate information or documentation, as well as if the payment institution ceases to provide payment services through that agent.

(6) The documentation and funds relating to outstanding obligations and unresolved matters arising from the execution of payment transactions by an agent who has been deleted from the register in accordance with paragraph 2 of this article shall be handed over to the payment institution for which the agent was acting.

- (7) The Central Bank shall prescribe the detailed conditions for the performance of the agent's duties and the documentation required for registration in the register of payment institutions.
- (8) The provisions of paragraphs 1 to 7 of this article shall apply mutatis mutandis to the registration of agents of other payment service providers referred to in Article 4 of this Act in the relevant registers.

2. Operations of a payment institution

Regulatory capital of a payment institution

Article 78

- (1) A payment institution shall, for the purpose of safe and sound operation, or for meeting its obligations to its creditors, maintain a level of regulatory capital which at no time may be less than the amount of the subscribed capital or the amount of the regulatory capital determined in accordance with this Act, whichever is the greater.
- (2) The regulatory capital referred to in paragraph 1 of this article is the sum of core and supplementary capital, of which at least 75% of the core capital is in the form of ordinary core capital, and the supplementary capital is equal to or less than one-third of the core capital.
- (3) The amount of a payment institution's regulatory capital is calculated by applying one of the following methods:
 - 1) the fixed cost method;
 - 2) the range method for payment transactions;
 - 3) operating income method.
- (4) The amount of the hybrid payment institution's regulatory capital is calculated only for the part of its business activities relating to the provision of payment services.
- (5) The method for calculating regulatory capital and the method that is uniformly applied to all payment institutions are further regulated by a Central Bank regulation.
- (6) The provisions of paragraphs 1 to 5 of this article do not apply to payment service providers that provide only the payment services referred to in Article 2(1)(7) and (8) of this Act.

Protection of users' funds of payment services Article 79

- (1) A payment institution shall protect the funds received from payment service users or through another payment service provider for the execution of payment transactions.
- (2) A payment institution shall hold the funds of all payment service users on whose behalf it holds those funds separately from its own funds and from the funds of other natural or legal persons which it receives for other purposes.
- (3) The payment institution shall protect the funds of the payment service user which have not been transferred to the payee or another payment service provider by the end of the next working day from the day of receipt of those funds:
 - 1) by depositing them in an account with a bank established in Montenegro or abroad;
 - 2) by investing in liquid and low-risk assets.
- (4) The payment service users' funds referred to in paragraph 3 of this article are not the property of the payment institution, do not form part of its assets, nor of its liquidation or bankruptcy estate, and may not be subject to enforcement or compulsory collection proceedings against the payment institution.
- (5) A payment institution is not required to apply the provisions of paragraphs 2 and 3 of this article if the payment service users' funds are covered by an insurance policy from an insurance company or secured by a bank guarantee, provided that such insurance company or bank does not belong to the same group as the payment institution, and that the agreed insurance policy or bank guarantee is payable if the payment institution is unable to meet its financial obligations arising from the provision of payment services.
- (6) A hybrid payment institution which carries out activities under Article 68(3) of this Act and, in doing so, receives funds from payment service users, part of which are intended for the execution of future payment transactions, and for other activities which are not payment services, is obliged to protect the part of the funds intended for the execution of future payment transactions in the manner set out in paragraphs 3 or 5 of this article.
- (7) If the part of the funds referred to in paragraph 6 of this article, which is intended for the execution of future payment transactions, is not predetermined or is variable, the payment institution shall determine those funds based on

a representative portion that is presumed to be used for the provision of payment services, provided that this representative portion can be realistically estimated based on data on previously executed payment transactions.

- (8) The protection of the funds of users of payment services referred to in paragraph 3, point 2 of this article is further regulated by a regulation of the Central Bank.
- (9) The provisions of paragraphs 1 to 8 of this article do not apply to payment service providers that provide only the payment services referred to in Article 2(1)(7) and (8) of this Act.

Payments Institution

Accounts Article

80

- (1) A payment institution providing one or more payment services may only hold payment accounts used exclusively for payment transactions.
- (2) Funds received by a payment institution from payment service users for the provision of payment services do not constitute a deposit or other repayable funds for the purposes of the law governing the establishment and operation of banks, nor do they constitute electronic money for the purposes of this Act.
- (3) A payment institution shall execute payment transactions using funds received from payment service users for the provision of payment services through transaction accounts opened with banks.

Granting of credit and prohibition on accepting deposits

Article 81

- (1) A payment institution may grant credit in connection with the provision of payment services under Article 2(4) and (5) of this Act, provided that:
 - 1) the credit is granted exclusively as an ancillary service related to the execution of a payment transaction;
 - 2) the repayment period for the loan does not exceed 12 months;
 - 3) the credit is not granted from the funds of the payment service user received by, or held by, the payment institution for the purpose of executing a payment transaction, and
 - 4) the payment institution's regulatory capital is, in the assessment of the Central Bank, at all times adequate in relation to the total amount of the credit granted.
- (2) A payment institution shall not carry on business which involves receiving deposits or other repayable funds within the meaning of the law governing the establishment and business of banks.

Business Books and Financial Statements

Article 82

- (1) A payment institution shall keep business records and other business documentation, value its assets and liabilities, and prepare and publish annual financial statements in accordance with the law and accepted international standards.
- (2) A hybrid payment institution shall keep separate accounts and prepare separate financial statements for its payment services activity.
- (3) The payment institution referred to in paragraphs 1 and 2 of this article is obliged to keep its business books and other business documentation in accordance with article 55 of this Act.

Obligation to carry out an audit

Article 83

- (1) A payment institution shall ensure an audit of its annual financial statements and consolidated financial statements, in accordance with the law.
- (2) The payment institution shall submit to the Central Bank, no later than five months after the end of the business year to which the annual financial statement relates:
 - 1) the annual financial statement and the consolidated financial statement;
 - 2) a report on the audit of the annual financial statements and the consolidated financial statements.
- (3) The business year, for the purposes of paragraph 2 of this article, is the calendar year.
- (4) The persons conducting the audit referred to in paragraph 1 of this article shall, without delay, notify the Central Bank of:
 - 1) established irregularities or facts and circumstances that may jeopardise the business of the payment institution;

- 2) circumstances which, in accordance with this Act, are grounds for revoking the authorisation to provide payment services.
- (5) The persons conducting the audit referred to in paragraph 1 of this article shall also notify the Central Bank in writing of any fact referred to in paragraph 4 of this article which they become aware of during the audit of the financial statements of a legal entity that is associated with the payment institution.
- (6) The provision of data to the Central Bank under paragraphs 4 and 5 of this article shall not be considered a breach of data confidentiality, and the person conducting the audit shall not be held liable for this reason.

Assessment of the state of the information

system Article 84

- (1) The Central Bank may require that an assessment of the state of the payment institution's information system and the adequacy of its management be included in the audit report referred to in Article 83 of this Act.
- (2) The persons conducting the audit of the payment institution shall, upon request by the Central Bank, also provide additional information regarding the assessment of the information system's state from paragraph 1 of this article.

Outsourcing

Article 85

- (1) The payment institution may outsource certain operational tasks, including information technology systems, of which it is obliged to notify the Central Bank before concluding a contract with the outsourcing service provider.
- (2) Exceptionally from paragraph 1 of this article, if the payment institution intends to outsource materially significant operational functions, it must, within a reasonable period and no later than 90 days before concluding the contract with the outsourcing service provider, notify the Central Bank of this and provide documentation proving compliance with the conditions from paragraphs 4, 5 and 6 of this article.
- (3) Materially significant operational activities, for the purposes of paragraph 2 of this article, are those activities the incorrect or non-performance of which would materially impair:
 - 1) the legality of the payment institution's operations;
 - 2) the financial stability of the payment institution;
 - 3) the continuity of meeting the conditions on the basis of which the payment institution was granted authorisation to provide payment services, or
 - 4) the secure and continuous provision of payment services.
- (4) A payment institution shall ensure that the intended outsourcing:
 - 1) does not alter the relationship and obligations of the payment institution towards its users of payment services as established by this Act;
 - 2) does not call into question the legality of the payment institution's operations;
 - 3) does not result in a transfer of responsibility from the responsible persons of the payment institution to the outsourcing service provider, and
 - 4) does not change the conditions under which the payment institution was authorised to provide payment services.
- (5) If a payment institution intends to outsource materially significant operational functions, it must ensure that, in addition to the obligations under paragraph 4 of this article, the intended outsourcing:
 - 1) does not impair the quality of the payment institution's internal control mechanism, and
 - 2) does not prevent or hinder the Central Bank from carrying out its supervision.
- (6) The payment institution shall ensure that the Central Bank can carry out immediate on-site supervision at the location where the services are provided, or with the external service provider, as well as provide access to documentation and data related to the outsourcing, which are in the possession of that service provider.
- (7) The Central Bank may prescribe further conditions for the outsourcing of the payment institution's operational activities.

Liability of the payment institution

Article 86

- (1) The payment institution is liable to third parties for the actions of its employees, agents, branches and service providers, in connection with the provision of payment services.

- (2) The liability under paragraph 1 of this Article may not be excluded or limited.
- (3) The payment institution shall ensure that agents acting on its behalf inform the users of payment services of this.
- (4) The payment institution shall, without delay, notify the Central Bank of any changes to the data relating to agents and outsourcing service providers.

Management System

Article 87

- (1) The payment institution shall, in proportion to the type, scale and complexity of the business it conducts, establish and implement an effective and robust system of management, which shall include in particular:
 - 1) an organisational structure with clearly defined, transparent and consistent powers and responsibilities within the payment institution;
 - 2) risk management, and in particular operational risk;
 - 3) appropriate internal control mechanisms, including appropriate administrative and accounting procedures.
- (2) The central bank may further prescribe the management system referred to in paragraph 1 of this article.

Provision of payment services through a branch in a third country

Article 88

- (1) A payment institution may provide payment services in a third country only through a branch.
- (2) In order to establish a branch in a third country, the payment institution shall submit an application for authorisation to the Central Bank.
- (3) Along with the request referred to in paragraph 2 of this article, the payment institution shall provide the following information:
 - 1) the name and address of the branch;
 - 2) a description of the branch's organisational structure;
 - 3) the branch's business plan for the first three business years, with a description of the payment services it intends to provide through the branch;
 - 4) information on the persons who will manage the branch's business, or directly manage the provision of payment services at the branch, together with data and evidence that these persons have a good reputation, as well as the appropriate professional qualifications and experience, in accordance with Article 72(2)(10) of this Act.
- (4) In the procedure for deciding on an application for authorisation and for the withdrawal of authorisation to provide payment services in a third country, the provisions of this Act relating to the granting of authorisation shall apply mutatis mutandis, refusal of an application for authorisation and withdrawal of authorisation for the provision of payment services to a payment institution.

Register of payment institutions

Article 89

- (1) The Central Bank shall maintain a register of payment institutions to which it has granted a licence to provide payment services, and of their branches and agents (hereinafter: the register of payment institutions), and shall update it in accordance with any subsequent changes.
- (2) The register of payment institutions shall separately record account information service providers within the meaning of Article 107a of this Act and service providers within the meaning of Article 3a of this Act.
- (3) The register of payment institutions shall include a list of the payment services which a particular entity from paragraphs 1 and 2 of this article is authorised to provide, in accordance with the authorisation granted and the decision to register account information service providers in that register. 1 and 2 of this article is authorised to provide the registration number of that entity, as well as information on the revocation of authorisations for payment institutions and the deletion of account information service providers from that register.
- (4) The register of payment institutions is public and the data from the register are published on the Central Bank's website.
- (5) The method for maintaining the register of payment institutions and the data from the register to be published are prescribed by the Central Bank.

Fees for the issuance of a licence

Article 90

The Central Bank charges fees for the issuance of authorisations in accordance with this Act, the amount and method of payment of which are regulated by a regulation of the Central Bank.

VII. SUPERVISION OF PAYMENT INSTITUTIONS

Supervision of payment

institutions Article

91

- (1) The Central Bank supervises the operations of payment institutions.
- (2) The supervision referred to in paragraph 1 of this article includes the verification of the payment institution's operations in accordance with this Act, in relation to the provision of payment services, as well as the activities referred to in Article 68(1) of this Act, provided that the supervision of a hybrid payment institution covers only that part of the institution's business which relates to the provision of payment services and their associated operational activities.
- (3) The Central Bank determines the frequency and scope of the supervision under paragraph 1 of this article, taking into account the type and complexity of the business conducted by the payment institution and the degree of risk of its operations.
- (4) The business of payment institutions may also be subject to supervision by other competent authorities in accordance with the powers conferred on them by law.
- (5) In the case referred to in paragraph 4 of this article, the Central Bank may participate in the supervision of the payment institution's operations together with another competent authority, or may request the necessary data and information from that authority for the purpose of supervising the payment institution.
- (6) The Central Bank may prescribe the detailed conditions and procedure for conducting the supervision of payment institutions' operations, and the obligations of a payment institution during and after the supervision.
- (7) The Central Bank may charge a fee for conducting an inspection of a payment institution, the amount of which and the method of calculation and payment are regulated by a Central Bank regulation.

Communication with payment institutions

Article 91a

The Central Bank, as part of the ongoing supervision process, maintains communication with payment institutions, which includes in particular:

- 1) consultative meetings with the bodies of the payment institution before the start of the immediate supervision of that payment institution;
- 2) meetings with the bodies of the payment institution after the minutes of the inspection have been drawn up;
- 3) preventive warnings to payment institutions, to ensure their compliance with regulations;
- 4) correspondence with payment institutions, to monitor the implementation of measures imposed on the payment institution.

Mode of Inspection Article 92

- (1) The Central Bank carries out the supervision of payment institutions' operations:
 - 1) by analysing reports, information and other data submitted by the payment institution in accordance with this Act and the regulations of the Central Bank, information and data submitted by the payment institution upon request and within the deadline determined by the Central Bank, and other data on the payment institution's operations of which the Central Bank is in possession;
 - 2) by an on-site inspection of the business books, accounting and other documentation at the payment institution and with another party to the transaction under inspection (hereinafter: on-site inspection).
- (2) The supervision of the business of payment institutions is carried out by employees of the Central Bank whom the Central Bank has authorised to carry out these tasks.
- (3) Deviating from paragraph 2 of this article, the Central Bank may also authorise persons who are not employed by the Central Bank to carry out specific tasks in the procedure for the supervision of payment institutions.
- (4) The Central Bank shall notify the payment institution of a planned on-site inspection, as a rule, ten working days before the start of the inspection.
- (5) Exceptionally, in deviation from paragraph 4 of this article, if reports and information held by the Central Bank indicate that there are irregularities which may be significant for the safety and stability of the operations of payment institutions, an on-site inspection may commence without prior notice.
- (6) The payment institution shall enable the authorised officials of the Central Bank to carry out the on-site inspection without hindrance and shall provide appropriate conditions for its conduct.

Immediate inspection

Article 93

- (1) A payment institution shall, upon request, allow an authorised official of the Central Bank to conduct an on-site inspection at the payment institution's registered office and at other locations where the payment institution, or another person authorised by the payment institution, carries out activities and business in relation to which the inspection is being conducted.
- (2) The payment institution shall, upon request by an authorised official of the Central Bank, allow them to inspect its books of account, other business documentation and administrative or business records, as well as to audit its information technology and other supporting technologies, to the extent necessary for the audit.
- (3) The payment institution shall, upon request, make available to an authorised official of the Central Bank make available electronic records, copies of business books, other business documentation and administrative or business records in paper form or in the form of an electronic record on a medium, and to provide appropriate access to the database management system used by the payment institution.
- (4) The inspection referred to in paragraph 1 of this article shall be carried out during the payment institution's working hours, and if necessary due to the scope or nature of the inspection, the payment institution shall allow the inspection to be carried out outside its working hours.

Inspection Report

Article 94

- (1) A report shall be drawn up on the inspection.
- (2) Deviating from paragraph 1 of this article, if the inspection under Article 92, paragraph 1, point 1 of this Act does not establish any illegalities or irregularities in the operations of the payment institution that require the imposition of measures against the payment institution, a report shall not be drawn up.
- (3) The report of the inspection is confidential in nature and may not be published in whole or in part without the consent of the Central Bank.
- (4) The payment institution may submit comments to the Central Bank on the minutes of the inspection within eight working days of receipt.
- (5) The Central Bank may directly verify the statements of the payment institution contained in the comments on the report of the inspection and, if it deems them justified, shall draw up a supplement to the report, to which the payment institution may submit comments within three working days of its receipt.
- (6) The Central Bank, within eight days of receiving the observations on the minutes, or the supplement to the minutes of the inspection, shall consider those observations and, in writing, shall inform the payment institution of its acceptance or rejection.

Measures in the course of an

inspection Article 95

- (1) If the payment institution fails to submit observations on the report of the inspection within the deadlines prescribed by this Act, or fails to reasonably dispute the findings of the report, or the supplements to the report which have established irregularities in the payment institution's operations, The Central Bank shall impose measures on the payment institution to remedy the identified irregularities and to take timely action to improve the safety and stability of its operations.
- (2) In the case referred to in paragraph 1 of this article, the Central Bank may:
 - 1) to issue a written warning to the payment institution regarding the identified irregularities and to require the undertaking of one or more actions to rectify them;
 - 2) enter into a written agreement with the payment institution, whereby the payment institution undertakes to remedy the identified irregularities in its operations within a specified period;
 - 3) issue a decision imposing one or more measures under Article 99 of this Act, or
 - 4) revoke the authorisation to provide payment services.

Written agreement

Article 96

- (1) If, upon inspection, the Central Bank determines that the irregularities in the payment institution's operations do not constitute a breach of regulations, or deems it necessary to provide the payment institution with recommendations or guidelines for improving its operations, it may enter into a written agreement with the payment institution.
- (2) The Central Bank may propose the conclusion of an agreement referred to in paragraph 1 of this Article, provided that:
 - 1) the payment institution has commenced to remedy the irregularities during or immediately after the inspection;
 - 2) the payment institution has expressed its willingness to commit to rectifying the irregularities within the proposed deadlines and in the proposed manner;
 - 3) from the payment institution's attitude towards previously imposed measures, comments and recommendations of the Central Bank, it can be concluded that it will duly fulfil the obligations it will assume under the agreement;
 - 4) from the payment institution's business operations and the frequency of the irregularities identified in its operations, it can be concluded that the payment institution will ensure the soundness, safety and stability of its future operations.
- (3) The written agreement shall specify:
 - 1) the deadline and procedure for the payment institution to remedy irregularities in its operations;
 - 2) the deadline, or the timetable, for reporting to the Central Bank on the fulfilment of obligations under the written agreement.

Consequences of failure to fulfil obligations undertaken in a written agreement

Article 97

If the payment institution fails to fulfil the obligations under the written agreement within the time and in the manner stipulated by that agreement, the Central Bank shall issue a decision imposing measures in accordance with Article 98 of this Act.

Decision on the Imposition of

Measures Article 98

- (1) The Central Bank may, by decision, order measures against a payment institution if a check reveals:
 - 1) that the payment institution has, by its actions or omissions, acted in breach of the law;
 - 2) irregularities in the payment institution's operations which do not constitute a breach of regulations, and for which a written agreement has not been concluded for their rectification, or
 - 3) that the payment institution needs to take appropriate actions and activities to improve its operations.
- (2) The decision referred to in paragraph 1 of this article shall specify a deadline for implementing the measures ordered therein.
- (3) The decision referred to in paragraph 1 of this article shall determine the amount of funds that the payment institution is required to pay to the Central Bank, provided that this amount may be set at up to 10% of the total annual income according to the latest available audited financial statements of that payment institution.
- (4) The decision referred to in paragraph 1 of this article may determine the amount of funds that a responsible person in the payment institution is required to pay to the Central Bank, provided that this amount may be set at up to twelve times the average amount of fees, or salary, that person has earned in the payment institution over the last three months.
- (5) A payment institution may, no later than 15 days before the expiry of the deadline in paragraph 2 of this article, request an extension of that deadline with a reasoned request, on which the Central Bank shall decide no later than the expiry of the deadline specified in the decision imposing the measures.

Types of measures imposed by decision

Article 99

- (1) By a decision imposing measures, it may be:
 - 1) order a payment institution to bring its operations into compliance with this Act;
 - 2) temporarily prohibit the payment institution from providing one or more payment services;
 - 3) temporarily prohibit the payment institution from granting credit pursuant to Article 81(1) of this Act;
 - 4) order the termination of the contract with an agent or an outsourcing service provider;
 - 5) order the competent body of the payment institution to dismiss a member of the board of directors and/or a managing director and/or another person responsible for carrying out payment service activities, if they cease to meet the requirements laid down in this Act, or act in contravention of its provisions;

- 6) to delete a branch of a payment institution and/or an agent from the register, or
 - 7) order the payment institution to undertake, or cease undertaking, other activities.
- (2) The Central Bank shall impose the measure under point 2 of paragraph 1 of this article for a period not exceeding one year, of which it shall notify the CRPS without delay.
 - (3) The Central Bank may order the establishment of a separate legal entity for the provision of payment services if the payment institution also carries out activities under Article 68, paragraph 3 of this Act, which impair or could impair the financial stability of the payment institution or hinder the exercise of supervision.
 - (4) If the amount of a payment institution's regulatory capital is less than the amount calculated in accordance with Article 78 of this Act, or if the payment institution's regulatory capital is not adequate in relation to the total amount of credit granted in accordance with Article 81(1) of this Act, a decision imposing measures may:
 - 1) order the payment institution to adopt and implement a plan of measures to ensure the amount of regulatory capital calculated in accordance with the regulation referred to in Article 78(4) of this Act;
 - 2) to instruct the payment institution to establish and implement a plan of measures to ensure regulatory capital adequate in relation to the total amount of credit granted in accordance with Article 81(1) of this Act;
 - 3) order the payment institution to resolve and implement a capital increase, or
 - 4) temporarily prohibit the payment institution from paying dividends or other form of profit distribution.

Reporting to the Central Bank on the implementation of the decision

Article 100

- (1) The decision imposing measures may specify a deadline by which the payment institution must notify the Central Bank of the implementation of the ordered measures and provide appropriate evidence.
- (2) If the Central Bank determines that the ordered measures have not been implemented, or have not been implemented within the timeframe and in the manner specified in the decision, it may impose a new measure on the payment institution in accordance with this Act.

Exemptions from the minimum required amount of regulatory capital Article

101

- (1) The Central Bank may order a payment institution to increase its regulatory capital by up to 20% of the amount of regulatory capital calculated in accordance with Article 78 of this Act.
- (2) At the request of the payment institution, The Central Bank may approve a reduction of the regulatory capital requirement by up to 20% of the amount calculated in accordance with Article 78 of this Act, provided that the payment institution's regulatory capital cannot be lower than the minimum share capital requirement set out in Article 70 of this Act.
- (3) The Central Bank shall adopt the measures under paragraphs 1 and 2 of this article based on an assessment of risk management, risk management databases and mechanisms for the operation of the internal control system, as well as other data on the payment institution's operations.

Procedure following the imposition of

measures Article 102

- (1) The payment institution shall, upon rectifying the identified irregularities, and no later than immediately after the deadlines for their rectification have expired, submit a report to the Central Bank on the rectification of the irregularities, together with the relevant evidence.
- (2) If, on the basis of the report referred to in paragraph 1 of this Article or through direct inspection, it determines that all identified irregularities in operations have been rectified, the Central Bank shall issue a conclusion confirming that the payment institution has rectified the irregularities in its operations.
- (3) If the payment institution fails to remedy the identified irregularities within the deadlines set out in paragraph 1 of this article, the Central Bank shall, on the basis of available evidence or, where necessary, following an on-site inspection, take further measures against the payment institution in accordance with this Act.

Supervision of branches and agents of payment

institutions Article 102a

- (1) The provisions of Articles 91 to 102 of this Act shall apply mutatis mutandis to the branches and agents of payment institutions.

- (2) The supervision of the operations of branches and agents of a payment institution may be carried out as part of the supervision of the payment institution of which they are branches or agents, or independently.

Reporting to the Central Bank Article

103

- (1) A payment institution shall, without delay, notify the Central Bank of:
- 1) the submission of an application for a change of data in the CRPS and the registration of the change of data in the CRPS;
 - 2) planned change of a member of the management body, an executive director, or a person responsible for the performance of payment services activities;
 - 3) a change in qualified participation in the capital which the board of directors, or the executive director, knew or ought to have known about;
 - 4) a planned change in the capital of the payment institution of 10% or more;
 - 5) a change in the financial position of the payment institution whereby the amount of regulatory capital falls below the minimum amount of regulatory capital calculated in accordance with the regulation referred to in Article 78(4) of this Act;
 - 6) cessation of the provision of certain payment services;
 - 7) intention to cease providing all payment services, as well as the occurrence of circumstances for the withdrawal of authorisation under Article 76 of this Act;
 - 8) changes to the facts on the basis of which the Central Bank entered its agent in the register of payment institutions;
 - 9) cessation of the provision of payment services through an agent;
 - 10) activities undertaken to protect the funds of users of payment services in accordance with Article 79 of this Act;
 - 11) other changes which alter the facts on the basis of which the Central Bank issued the authorisation to provide payment services.
- (2) When reporting in accordance with paragraph 1 of this article, the payment institution shall provide the relevant documentation.
- (3) The payment institution is obliged to provide additional reports and information, upon request by the Central Bank, which are relevant for the exercise of supervision or for the performance of other tasks within the remit of the Central Bank.
- (4) The Central Bank may prescribe the content of the payment institution's reports, the deadlines and the method of reporting.

Cooperation between authorities

Article 104

- (1) The Central Bank and other competent authorities in Montenegro which, in accordance with the law, carry out the supervision of the payment institution shall cooperate and exchange the necessary information on the payment institution required for the exercise of their supervisory powers.
- (2) The bodies referred to in paragraph 1 of this Article are obliged to notify each other of any illegality or irregularities identified during the course of their inspections if it is relevant to the work of the other body.
- (3) The provision of information and notifications under paragraphs 1 and 2 of this article shall not be considered a breach of data confidentiality.
- (4) The competent authority shall treat as confidential the information and notifications it receives in accordance with paragraphs 1 and 2 of this article and may use them only for the purpose for which they were provided. They may be disclosed to third parties only with the consent of the competent authority that provided them.

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

Member States Article 105

- (1) The Central Bank cooperates with the competent authorities of the Member States and, where necessary, with the European Central Bank, the European Banking Authority, the national central banks of the Member States and with other relevant competent authorities by providing information and notifications.
- (2) The provision of information and notifications under paragraph 1 of this article shall not be considered a breach of data secrecy.

Forms of cooperation

Article 106

- (1) The central bank may conclude an agreement with one or more competent authorities of Member States or third countries for the purpose of conducting supervision of payment institutions and establish other forms of cooperation.
- (2) The provision of information and notifications through the forms of cooperation referred to in paragraph 1 of this article shall not be considered a breach of data secrecy.

Notification to the European Commission

Article 107

The Central Bank shall notify the European Commission of its competences concerning the granting of authorisations to provide payment services and the supervision of payment institutions in accordance with this Act.

VIIa REGISTERED ACCOUNT INFORMATION SERVICE PROVIDERS

Registration and removal from the register

Article 107a

- (1) An account information service provider is a legal person or a sole trader who provides exclusively the payment service referred to in Article 2(1)(8) of this Act and who is entered in the register referred to in Article 89 of this Act.
- (2) A person intending to provide a payment service within the meaning of Article 2(1)(8) of this Act shall submit an application to the Central Bank for the registration of an account information service provider, together with the documentation referred to in Article 72(2), 1, 2, 3, 6, 7, 8, 9, 11, 13 and 15 of this Act.
- (3) The person referred to in paragraph 2 of this article shall also submit, with the application and the prescribed documentation, proof of a professional liability insurance policy or an equivalent guarantee to cover liability towards the payment service provider holding the account or the user of payment services, arising from unauthorised access, fraudulent access, and unauthorised use of payment account information or the fraudulent use of such information.
- (4) The minimum monetary amount for professional indemnity insurance or a comparable guarantee referred to in paragraph 3 of this article shall be determined by the Central Bank by applying the following criteria:
 - 1) the risk profile of the registered account information service provider;
 - 2) the scope of activity, i.e. the number of users of payment services who use 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 from paragraphs 1 and 3 of this article, the Central Bank may require the applicant to provide further information, data and documentation, including information from the field of anti-money laundering and counter-terrorism financing.
- (6) The central bank shall issue a decision for the registration of an account information service provider in the register when it assesses that the account information service provider has:
 - 1) an established effective and robust governance system which includes a governance structure with clearly defined, transparent and consistent lines of authority and responsibility;
 - 2) an effective process for identifying, managing, monitoring and reporting on the risks to which the account information service provider is or could be exposed, and
 - 3) appropriate internal control mechanisms which include adequate administrative and accounting procedures.
- (7) The Central Bank charges a fee for the registration of an account information service provider, the amount and method of payment of which are regulated by a Central Bank regulation.
- (8) The decision on the registration of an account information service provider in the register is published in the "Official Gazette of Montenegro".
- (9) The Central Bank shall refuse an application for the registration of an account information service provider if:
 - 1) determines that any of the conditions set out in paragraphs 2 and 3 of this article are not met;
 - 2) control over the business of the account information service provider could be made difficult or impossible due to the provider's affiliation with other legal or natural persons.
- (10) The Central Bank shall remove an account information service provider from the register referred to in paragraph 1 of this article if that provider:
 - 1) does not commence providing the payment service for which it is entered in the register within one year of the date of its issuance;

- 2) submits a written notification to the Central Bank that it will no longer provide the payment service for which it is registered;
 - 3) fails to provide a payment service for more than six months;
 - 4) the entry on the register was made on the basis of false or inaccurate documentation, or data relevant to its business;
 - 5) prevents the carrying out of an inspection of its business, or
 - 6) does not implement the measures ordered by the Central Bank.
- (11) The decision to delete an account information service provider from the register is published in the "Official Gazette of Montenegro".

Application of other provisions of this Act

Article 107b

- (1) The provisions of Articles 10 and 11, Articles 13 and 14, Articles 16, 17 and 18 and Articles 20 to 56f and the provisions of Articles 57 to 90 of this Act shall not apply to the account information service provider.
- (2) The provisions of Article 30c, Articles 56a, 56b and 56c, Article 69, Articles 91 to 102 and Articles 103 to 107 of this Act shall apply mutatis mutandis to the account information service provider.

Conversion of a registered account information service provider into a payment institution Article

107c

- (1) A registered account information service provider which intends to provide, in addition to the services referred to in Article 2(1)(8) of this Act, one or more payment services referred to in Article 2(1)(a) to (d) of this Act, is required to submit an application to the Central Bank for authorisation to provide payment services as a payment institution and to provide the following information: 1 to 7 of this Act as a payment institution, shall submit an application to the Central Bank for authorisation to provide payment services as a payment institution and provide the information and documentation from Article 72 of this Act.
- (2) Deviating from paragraph 1 of this article, a registered account information service provider is not required to submit information and documentation that have already been submitted to the Central Bank and which are still relevant at the time of the application.
- (3) Upon the entry into force of the decision granting authorisation to provide payment services as a payment institution, the registered account information service provider is removed from the register referred to in Article 89 of this Act and is entered into that register as a payment institution.

Conversion of a payment institution into a registered account information service provider Article

107d

- (1) A payment institution which no longer intends to provide payment services that are included in the decision authorising the provision of payment services, other than the payment service referred to in Article 2(1)(8) of this Act, shall submit an application to the Central Bank for entry into the register referred to in Article 89 of this Act as an account information service provider.
- (2) Upon a request under paragraph 1 of this article, the Central Bank shall conduct the procedure based on the information and documentation at its disposal, and may also request further information and documentation from the payment institution.
- (3) The provisions of Article 107a of this Act shall apply to the decision on the request referred to in paragraph 1 of this Article.
- (4) Upon the entry into force of the decision to register the payment institution in the register under Article 89 of this Act, the payment institution shall be removed from that register and registered in it as an account information service provider.
- (5) Upon registration as an account information service provider, all authorisations issued to the payment institution shall cease to have effect.

VIII. ELECTRONIC MONEY

1. Electronic money issuers, issuance and redemption of electronic money Electronic money issuers

Article 108

- (1) Issuers of electronic money in Montenegro may be:
 - 1) banks and other credit institutions with their registered office in Montenegro;
 - 2) electronic money institutions with their registered office in Montenegro;
 - 3) a branch of a credit institution from a third country with its seat in Montenegro;

- 4) the Central Bank;
 - 5) The State of Montenegro and units of local self-government when acting in their capacity as authorities.
- (2) Persons who are not electronic money issuers, within the meaning of paragraph 1 of this article, shall not issue electronic money in Montenegro.
 - (3) E-money issuers referred to in paragraphs 1 and 3 of paragraph 1 of this article may issue e-money on the basis of authorisations granted in accordance with the law regulating their establishment and operations.
 - (4) Issuers of electronic money referred to in paragraph 1, point 2 of this article may issue electronic money on the basis of a licence issued in accordance with this Act.
 - (5) The rights of electronic money issuers referred to in paragraphs 4 and 5 of paragraph 1 of this article to issue electronic money shall be governed by separate regulations.

Issue and redemption of electronic money

Article 109

- (1) E-money issuers shall issue e-money in a nominal value equal to the funds received.
- (2) E-money issuers are obliged, at the request of the e-money holder, to make immediate repayment of the monetary value of the e-money at its nominal value.
- (3) The electronic money issuer may charge a fee for the redemption of the monetary value of the electronic money only if it is provided for in the contract under Article 110 of this Act and provided that:
 - 1) the redemption is requested before the expiry of the contract;
 - 2) the contract provides for an expiry date, and the electronic money holder terminates the contract before that date, or
 - 3) the payout is required after one year has elapsed from the date of the contract's termination.
- (4) The fee referred to in paragraph 3 must be proportionate and reasonable in relation to the actual costs incurred by the electronic money issuer.
- (5) In cases where redemption is requested before the expiry of the contract, the electronic money holder may request the redemption of the electronic money in whole or in part.
- (6) In cases where the holder of electronic money requests a refund on the contract expiry date or within one year of the contract expiry date:
 - 1) the total monetary value of the electronic money is paid out;
 - 2) where the electronic money institution also carries on business other than the issue of electronic money, and it is not known in advance what proportion of the funds will be used as electronic money, all the funds requested by the holder of electronic money shall be repaid.
- (7) The electronic money issuer and a holder of electronic money who is not a consumer may contractually agree on the rights to redemption of electronic money in a manner different from paragraphs 3 to 6 of this article.

Issuance of electronic money Agreement

Article 110

- (1) The contractual relationship between the issuer and the holder of electronic money is governed by contract.
- (2) The contract referred to in paragraph 1 of this article must contain clear and detailed terms for the redemption of the monetary value of the electronic money, including any fees charged by the electronic money issuer to the electronic money holder.
- (3) The electronic money issuer is obliged to inform the electronic money holder of the conditions referred to in paragraph 2 of this article before accepting the offer or concluding the contract.

Prohibition on the payment of interest to the holder of electronic

money Article 111

An electronic money issuer shall not pay interest or provide any other pecuniary benefit to the holder of electronic money for the period during which the electronic money is held.

2. Electronic money institutions

Organisational form

Article 112

- (1) An electronic money institution with its registered office in Montenegro is a legal entity which has received authorisation from the Central Bank to issue electronic money.
- (2) An electronic money institution shall not issue electronic money without the authorisation referred to in paragraph 1 of this article.

Authorisation to issue electronic money Article 113

- (1) The issuance, refusal and revocation of authorisation to issue electronic money shall be subject to the provisions of Articles 72 to 76 of this Act.
- (2) If a payment institution obtains authorisation to issue electronic money, it becomes an electronic money institution, and the authorisation to provide payment services which it held until then shall cease to have effect on the next working day following the delivery to the electronic money institution of the decision granting the authorisation to issue electronic money and, where applicable, the authorisation to provide payment services.

Qualified participation

Article 114

- (1) A legal or natural person shall not acquire a qualifying participation in an electronic money institution without the prior authorisation of the Central Bank.
- (2) A person who holds a qualifying participation in an electronic money institution must not increase their participation in the capital or voting rights in the electronic money institution in such a way as to acquire or exceed 20%, 30% or 50% of the electronic money institution's capital or voting rights, without the prior authorisation of the Central Bank.
- (3) On the acquisition and disposal of a qualifying participation in an electronic money institution, the documentation and information to be submitted with the application for a qualifying participation, the provisions of Articles 71 to 71e of this Act apply mutatis mutandis to the decision on an application for authorisation to acquire a qualifying participation, the acquisition of a qualifying participation without the authorisation of the Central Bank, the legal consequences of an unlawful acquisition of a qualifying participation and the revocation of authorisation to acquire a qualifying participation. Articles 71 to 71e of this Act shall apply mutatis mutandis. 115. Business through an agent and another person 71. The provisions of Articles 71 to 71e of this Act shall apply mutatis mutandis.

Business through an agent and another

person Article 115

- (1) An electronic money institution shall not issue electronic money through an agent.
- (2) An electronic money institution may, in accordance with Article 77 of this Act, provide the payment services referred to in Article 118(1)(1) of this Act through an agent.
- (3) An electronic money institution may carry out the distribution or redemption of electronic money through legal or natural persons acting on its behalf, of which it must give prior notice to the Central Bank.

Minimum amount of share capital Article

116

- (1) The initial capital of an electronic money institution must not, at the time of obtaining authorisation, be less than €350,000.
- (2) The minimum share capital of an electronic money institution must be paid up in cash.
- (3) Exceptionally from paragraph 2 of this article, an electronic money institution which carries on the activities referred to in Article 118(1)(5) of this Act must have dedicated cash funds of at least the minimum amount of its paid-up capital.

Regulatory capital of an electronic money institution Article

117

- (1) An electronic money institution shall, for the purpose of safe and sound operation, and of meeting its obligations to its creditors, maintain a level of regulatory capital which at no time shall be less than

of the amount of the subscribed capital or of the sum of the amounts of the regulatory capital determined in accordance with paragraphs 2 and 3 of this article, whichever is the greater.

- (2) The regulatory capital of an electronic money institution for the activity of issuing electronic money shall be at least 2% of the average electronic money in circulation.
- (3) The regulatory capital of an electronic money institution for the provision of payment services not related to the issuance of electronic money is calculated in accordance with Article 78 of this Act.
- (4) The Central Bank shall prescribe the detailed conditions and the method for calculating the regulatory capital of electronic money institutions.

Other business of an electronic money institution Article

118

- (1) In addition to issuing electronic money, an electronic money institution has the right to:
 - 1) provide payment services within the meaning of Article 2 of this Act;
 - 2) grant loans in connection with payment services under Article 2(4) or (5) of this Act, provided the conditions set out in Article 81(1) of this Act are met;
 - 3) carry out operational tasks and related ancillary services in connection with the issuance of electronic money or the provision of payment services referred to in point 1 of this paragraph;
 - 4) is an operator of a payment system, other than a payment system in which final settlement is carried out, without prejudice to access to payment systems in accordance with Article 142 of this Act, and/or
 - 5) performs another activity which is not the activity of issuing electronic money.
- (2) The provisions of Article 79 of this Act shall apply to the protection of funds received for the provision of payment services under Article 2 of this Act, which are not related to the issuance of electronic money.
- (3) If an electronic money institution also carries out other activities besides issuing electronic money and providing payment services, The Central Bank may require it to establish a separate legal entity for the performance of those activities, if it considers that their performance may jeopardise the financial stability of the electronic money institution or hinder the supervision of the electronic money institution in accordance with this Act.

Issuing electronic money Article

119

An electronic money institution shall exchange the monetary funds it receives from the holder of electronic money for electronic money without delay.

Prohibition on accepting deposits

Article 120

- (1) An electronic money institution shall not accept deposits or other repayable funds within the meaning of the laws governing the establishment and business of banks.
- (2) Monetary funds which an electronic money institution receives in exchange for electronic money from an electronic money holder shall not be considered a deposit or other repayable funds within the meaning of the law governing the establishment and business of banks.

E-money institution accounts Article 121

- (1) Where an electronic money institution provides payment services which are not related to the issuance of electronic money and in the course of which it maintains payment accounts, such accounts may only be used for the execution of a payment transaction.
- (2) The monetary funds received in accordance with paragraph 1 of this Article shall not be considered deposits or other repayable funds for the purposes of the law regulating the establishment and operation of banks.
- (3) An electronic money institution carries on its business through transaction accounts opened with banks.

Prohibition on granting credit

Article 122

An electronic money institution shall not grant credit from the funds received in exchange for electronic money issued.

Protection of funds

Article 123

- (1) An electronic money institution shall safeguard the funds it receives in exchange for issued electronic money in accordance with Article 79 of this Act.
- (2) The electronic money institution is not required to protect funds received via a payment instrument in accordance with paragraph 1 of this article until they have been authorised for the payment account or otherwise made available to the electronic money institution in accordance with this Act.
- (3) The electronic money institution shall protect the funds referred to in paragraph 2 of this article in the manner set out in paragraph 1 of this article, no later than five working days from the date of issuance of the electronic money.
- (4) The electronic money institution shall notify the Central Bank in advance of any change to the method of safeguarding the funds it has received in exchange for issued electronic money.
- (5) The protection of monetary funds received by an electronic money institution in exchange for issued electronic money is further regulated by a regulation of the Central Bank.

Corresponding

application of

Article 124

- (1) The provisions of Articles 56d to 56f and Articles 82 to 107 of this Act shall apply mutatis mutandis to electronic money institutions.
- (2) Except ionally, an electronic money institution shall separately record in its business books the business transactions arising from the issuance of electronic money and the business transactions arising from the provision of payment services that are not related to the issuance of electronic money.

Article 125

Repealed. (Law on Amendments and Supplementations to the Law on Payment Transactions, "Official Gazette of Montenegro", no. 111/22)

Article 126

Deleted. (Law on Amendments and Supplementations of the Law on Payment Transactions, "Official Gazette of Montenegro", no. 111/22)

Article 127

Deleted. (Law on Amendments and Supplementations to the Law on Payment Transactions, "Official Gazette of Montenegro", no. 111/22)

Article 128

Deleted. (Law on Amendments and Supplementations to the Law on Payment Transactions, "Official Gazette of Montenegro", no. 111/22)

Article 129

Repealed. (Law on Amendments and Supplementations to the Law on Payment Transfers, "Official Gazette of Montenegro", no. 111/22)

X. PAYMENT SYSTEMS IN MONTENEGRO

1. Establishment and operation of

payment systems Establishment of

a payment system

Article 130

- (1) A payment system in Montenegro may be established by an operator referred to in Article 131, paragraph 2 of this Act and at least one participant, a payment service provider which has obtained authorisation to provide payment services from the Central Bank.
- (2) For the establishment and operation of the payment system, the operator and the participant in the payment system conclude a payment system agreement.

Payment system operator

Article 131

- (1) The payment system is operated by the payment system operator.
- (2) The operator of a payment system may be:
 - 1) a bank and another credit institution with its registered office in Montenegro;
 - 2) a payment institution with its registered office in Montenegro;
 - 3) an electronic money institution with its registered office in Montenegro;
 - 4) another legal entity with its registered office in Montenegro, established as a public limited company or a limited liability company;
 - 5) Central bank;
 - 6) a branch of a foreign legal entity with its registered office in Montenegro.
- (3) The operator of a payment system may, in addition to managing the payment system, carry out other activities, in accordance with the law.

Duties of the payment system operator Article

132

- (1) The payment system operator shall ensure the continuous, secure and efficient operation of the payment system.
- (2) The payment system operator shall, in a manner proportionate to the nature, scale and complexity of the operations arising from the rules of operation of the payment system, ensure:
 - 1) that the payment system has an appropriate, reliable and adequate information system for performing all functions in accordance with the rules of operation of the payment system, as well as a business continuity plan;
 - 2) an organisational structure with clearly defined, transparent and consistent powers and responsibilities, and
 - 3) management of the risks to which the payment system is or could be exposed.
- (3) The central bank may prescribe the detailed conditions to be met by a payment system and a payment system operator.

Participants in the payment system

Article 133

- (1) Participants in a payment system may be:
 - 1) a payment service provider;
 - 2) operator of the payment system;
 - 3) another payment system;
 - 4) another party in accordance with the operating rules of that payment system.
- (2) A payment service provider may participate in the payment system as a direct participant or an indirect one – via another payment service provider.
- (3) A payment service provider referred to in Article 4(1)(1), (2) and (3) of this Law is obliged to notify the Central Bank of every payment system in which it participates, directly or indirectly, and of the operator of that payment system, regardless of whether that system operates in Montenegro or in a third country.
- (4) In order to ensure the simple, efficient and secure execution of payment transactions, to promote market competitiveness and/or reduce costs, the Central Bank may require certain payment service providers to become participants in a payment system operated by the Central Bank.

Authorisation of a payment system

Article 134

- (1) The operating licence for a payment system is issued by the Central Bank.
- (2) Exceptionally from paragraph 1 of this article, the Central Bank shall not issue an operating licence:
 - 1) a payment system under Article 142(4)(2) of this Act;
 - 2) a payment system of which it is the operator.
- (3) The payment system referred to in paragraph 1 of this article may not commence operations before a licence to operate is issued.

- (4) The operator of the payment system referred to in paragraph 1 of this article shall notify the Central Bank of the commencement of the payment system's operations within 30 days of obtaining the operating licence.
- (5) The operator of the payment system referred to in paragraph 2, point 1 of this article shall notify the Central Bank of its intention to commence operations, no later than five working days before the commencement of that payment system.

Application for a Payment System Operating Licence Article

135

- (1) A person referred to in Article 131(2) of this Act who intends to manage the operation of a payment system shall submit a written application to the Central Bank for the issuance of a licence to operate the payment system.
- (2) The application under paragraph 1 of this article shall be accompanied by:
 - 1) information on the payment system operator (name, registered office and address);
 - 2) documentation proving that the operator of the payment system is technically, organisationally and functionally competent to operate the payment system and has control and risk management security mechanisms;
 - 3) a description of the information system demonstrating whether the system is appropriate, reliable and adequate for carrying out all the operations envisaged by the rules of operation of the payment system;
 - 4) a description of the organisational, technical and personnel structure of the payment system operator in relation to the management of the payment system, and, where applicable, a description of the use of outsourcing services in relation to the management of the payment system, as well as a description of the connection to another payment system;
 - 5) information on the members of the board of directors, or the executive director, and, where the payment system operator also carries out other activities, information on the persons responsible for the management of the payment system in accordance with Article 72(2)(10) of this Act;
 - 6) business plan for the operation of the payment system for the first three years of operation;
 - 7) information on participants in the payment system;
 - 8) a draft agreement on the payment system;
 - 9) a draft of the operating rules of the payment system;
 - 10) a declaration by the authorised representative of the payment system operator that the information and documentation provided are true, complete and up to date;
 - 11) a statement by the operator of the payment system that they will, without delay, notify the Central Bank of any changes to the data submitted with the application for the authorisation to operate the payment system;
 - 12) other documentation which the Central Bank deems necessary for the decision on the application.
- (3) If any documents submitted with the application referred to in paragraph 1 of this article are in a foreign language, a certified translation into the Montenegrin language must also be provided.

Issuance of a licence for the operation of a

payment system Article 136

- (1) The Central Bank shall grant a licence for the operation of a payment system if the rules of operation of the payment system comply with the requirements of Article 140 of this Act and if, on the basis of a duly submitted application and documentation in accordance with Article 135 of this Act and the information at its disposal, it assesses that the following conditions are met:
 - 1) that the operator of the payment system is technically, organisationally and functionally capable of operating the payment system and has control, security and risk management mechanisms;
 - 2) that the payment system operator has a business plan for the first three years of operation, based on realistic economic indicators;
 - 3) that the persons proposed for appointment to the board of directors, or as the executive director of the payment system operator, and, where the payment system operator also carries out other activities, the persons responsible for the management of the payment system have a good reputation and the appropriate knowledge and experience for managing the payment system;
 - 4) that the information system is appropriate, reliable and adequate for carrying out all the tasks provided for in the rules of operation of the payment system;
 - 5) that there are no financial and/or other reasons that jeopardise or could jeopardise the safe and efficient operation of the payment system.
- (2) The Central Bank may, in the procedure for issuing a licence for the operation of a payment system, cooperate with other central banks or other competent authorities, in order to carry out a comprehensive assessment of the application submitted.

Refusal of an application for a licence to operate a payment system

Article 137

The Central Bank shall refuse an application for a payment system operating licence if it determines that any of the conditions set out in Article 136(1) of this Act have not been met.

Revocation of a payment system operator's licence

Article 138

- (1) The Central Bank shall revoke the operating licence of a payment system if:
- 1) the operating licence was issued on the basis of inaccurate information or documentation, or false representations of facts that are essential for the operation of the payment system;
 - 2) the operator of the payment system does not commence the operation of the payment system within one year from the date of the issuance of the operating licence;
 - 3) in the event that any of the conditions on which the operating licence was issued are no longer met;
 - 4) the payment system ceases to operate for more than six consecutive months, or
 - 5) in the event of the opening of bankruptcy or liquidation proceedings against the payment system operator.
- (2) The Central Bank may revoke the authorisation to operate a payment system if:
- 1) the further operation of the payment system could jeopardise the safety and efficiency of the provision of payment services;
 - 2) the operation of the payment system is carried out in contravention of the regulations and/or rules of the payment system;
 - 3) the operator of the payment system prevents or hinders the performance of controls and/or supervision of the payment system's operations, or
 - 4) the operator of the payment system fails to implement measures ordered by the Central Bank.

Notice on the Issuance and Revocation of an Operating Licence

Article 139

The decision on the issuance and revocation of a licence for the operation of a payment system is published by the Central Bank in the 'Official Gazette of Montenegro' and forwarded to the CRPS.

Rules of operation of the payment

system Article 140

- (1) The payment system operates in accordance with the rules of operation of that payment system.
- (2) The rules of operation of the payment system shall govern the standardised procedures and common rules for the processing, settlement and/or clearing of payment transactions between the participants of the payment system.
- (3) The Central Bank approves the rules of operation of a payment system in the procedure for issuing the licence for the operation of the payment system.
- (4) Exceptionally from paragraph 3 of this article, the Central Bank does not approve the rules of operation of the payment systems referred to in Article 134, paragraph 2 of this Act.
- (5) The rules governing the operation of the payment system shall in particular establish:
- 1) participants in the payment system by type and description of their role in the payment system;
 - 2) conditions for participation and withdrawal from the payment system;
 - 3) payment transactions that are settled and/or cleared in the payment system by type of payment service;
 - 4) principles of the settlement and/or clearing of payment transactions;
 - 5) the manner and conditions for the execution of payment transactions, their form and content;
 - 6) the manner of reporting to participants on settlement and/or clearing;
 - 7) the manner of protecting data from misuse;
 - 8) the moment of acceptance and the moment of irrevocability of the payment order and the procedure in the event of the opening of proceedings under Article 151(1) of this Act, where payment systems in which final settlement of a payment transaction is effected are concerned (hereinafter: a payment system with final settlement).
- (6) The Central Bank shall approve the operating rules of a payment system if it determines that they contain the elements from paragraph 5 of this article and if it assesses that their application ensures protection against possible risks related to the functioning of the payment system.

Approval for the amendment of a payment system agreement and the amendment of the operating rules of a payment system

Article 141

- (1) The central bank issues approval for the amendment of the payment system agreement and the amendment of the rules of operation of the payment system.
- (2) The operator of a payment system shall submit an application to the Central Bank for approval of amendments to the payment system's contract, or amendments to the rules of operation of the payment system.
- (3) The following shall be attached to the request referred to in paragraph 2 of this article:
 - 1) a proposal for amendments to the payment system agreement, or a proposal for amendments to the operating rules of the payment system;
 - 2) a detailed justification for the reasons for the proposed amendments.
- (4) In the procedure for the application for authorisation under paragraph 1 of this article, the Central Bank may request additional information.
- (5) In the procedure for the application for authorisation under paragraph 1 of this article, the Central Bank shall in particular assess the impact of the proposed amendments on risk management in the payment system.
- (6) The Central Bank may refuse the request for authorisation under paragraph 1 of this article if, from the documentation and information at its disposal, it assesses that the proposed amendments would cause a disruption to the payment system, jeopardised the compatibility of other payment systems, the stability and security of the financial system in Montenegro, or if those amendments are contrary to the law and regulations of the Central Bank.

Access to payment systems

Article 142

- (1) The rules of operation of the payment system shall establish objective, non-discriminatory and appropriate conditions for access to, or participation in, the payment system.
- (2) Access to, or participation in, a payment system may be restricted only to the extent necessary to protect against specific risks (settlement risk, operational risk, business risk, etc.) and to preserve the financial and operational stability of the payment system.
- (3) The rules of operation of a payment system may not establish:
 - 1) restrictions on the effective participation in other payment systems;
 - 2) rules which, in a discriminatory manner, establish the rights and obligations relating to participation in the payment system;
 - 3) restrictions based on the type of payment service providers.
- (4) The provisions of paragraphs 1 to 3 of this article do not apply to payment systems:
 - 1) in which final settlement is carried out in accordance with this Act;
 - 2) which consist exclusively of payment service providers belonging to a group.
- (5) A participant in a payment system referred to in paragraph 4(1) of this article who has enabled a payment service provider that is not a participant in that payment system to send payment orders via that system, is obliged to provide that possibility in an objective, proportionate and non-discriminatory manner to another payment service provider that requests it.
- (6) A payment system participant shall provide a detailed explanation for any refusal of a request under paragraph 5 of this article.

Outsourcing

Article 143

- (1) The operator of a payment system may store the registers and records within its remit, which it maintains in electronic form, on an information and communication infrastructure outside Montenegro, and may also outsource certain activities related to the operation of the payment system, of which it must notify the Central Bank before concluding a contract with the outsourcing service provider, except in the case where the Central Bank is the system operator.
- (2) The operator of a payment system must ensure that by outsourcing:
 - 1) the relationship and obligations of the payment system operator towards the participants in the payment system are not changed;
 - 2) does not call into question the compliance of the payment system's operation with its rules of operation and this Act, and
 - 3) does not prevent or hinder the exercise of supervision by the Central Bank.
- (3) The payment system operator is liable for damage caused by the outsourcing service provider in connection with the provision of the outsourced activity.

- (4) The operator of the payment system shall enable the Central Bank to carry out on-site inspections at the location where the services are provided, or at the outsourcing service provider's premises, as well as provide access to documentation and data related to the outsourcing that are in the possession of the outsourcing service provider.
- (5) The Central Bank may prescribe further conditions for the outsourcing of activities related to the operation of the payment system.

Register of payment systems

Article 144

- (1) The Central Bank maintains a register of payment systems in Montenegro and publishes it on its website.
- (2) The register of payment systems shall contain, in particular:
 - 1) the name of the payment system;
 - 2) the name and registered office of the operator of the payment system;
 - 3) name and address of the participant in the payment system.

2. Finality of settlement in payment systems

Settlement account and finality of settlement

Article 145

- (1) A settlement account is an account held by a participant with a central bank or a settlement agent, which is used for settlement in a payment system in which final settlement is carried out.
- (2) Settlement finality in a payment system in which settlement finality occurs arises when a debit and a credit to a participant's account in that payment system are executed.

Requirements for a payment system with final settlement Article 146

- (1) A payment system with final settlement must meet the following conditions:
 - 1) that it is based on a contract between three or more participants, excluding the payment system operator, the settlement agent, the clearing organisation or an indirect participant, of which at least one participant is established in Montenegro;
 - 2) to have established rules and standardised procedures for the execution, calculation and settlement of payment transactions between participants;
 - 3) that the rules of operation establish the moment of acceptance and the moment of irrevocability of the payment order.
- (2) The central bank determines whether the conditions set out in paragraph 1 of this article are met, except for payment systems for which this Act provides that it does not issue an operating licence.

Interoperable system

Article 147

- (1) An interoperable system consists of two or more payment systems whose operators have concluded an agreement on the execution of payment orders between those systems.
- (2) The conclusion of the agreement referred to in paragraph 1 of this article does not constitute a payment system for the purposes of this Act.

Participants in a payment system in which final settlement is carried out

Article 148

- (1) Participants in a payment system in which final settlement is carried out are institutions, settlement agents, clearing organisations, system operators and indirect participants, provided that a single participant in the system may act as a settlement agent and/or a clearing organisation, or may perform some or all of these functions.
- (2) Institutions, for the purposes of paragraph 1 of this Article, are the entities participating in a payment system in which final settlement is carried out and which are responsible for meeting the financial obligations arising from payment orders in that system, in particular:
 - 1) banks and other credit institutions;
 - 2) branches of credit institutions with their registered office in Montenegro;

- 3) state bodies, local government bodies, the Central Bank, legal entities whose liabilities are guaranteed by Montenegro under the law, and legal entities exercising public powers;
 - 4) The European Central Bank and the national central banks of the Member States.
- (3) Clearing agents, for the purposes of paragraph 1 of this Article, are entities that open clearing accounts for institutions, through which transfer orders are executed within the payment system in which final settlement is carried out, and, if authorised, grant credit to those participants for the purpose of settlement.
 - (4) Clearing organisations, for the purposes of paragraph 1 of this Article, are entities responsible for calculating the net positions of institutions and settlement agents if they participate in a payment system in which final settlement is carried out, which consists of converting claims and obligations arising from payment orders that one or more participants send or receive from one or more participants into a single net obligation or a single net claim.
 - (5) The system operator, for the purposes of paragraph 1 of this article, is one or more legal entities which are responsible for the smooth operation of the payment system in which final settlement is carried out in accordance with the rules of operation of that system.
 - (6) Indirect participants, for the purposes of paragraph 1 of this article, are the settlement agent, a clearing organisation or operator of a payment system, which is in a contractual relationship with a participant in the payment system in which final settlement takes place, enabling it to execute payment orders in that system, provided that such indirect participant is known to the system operator in that capacity.

Payment Order

Article 149

A payment order is an instruction from a participant in a payment system in which final settlement takes place to make a specified amount of funds available to the payee or which gives rise to or performs payment obligations between participants in the payment system, in accordance with the rules of operation of that system.

Acceptance and irrevocability of the transfer order

Article 150

- (1) The rules of operation of the payment system in which final settlement is carried out shall govern the moment at which a transfer order, given by a participant in that system or via a third party, is deemed accepted by that system.
- (2) The moment of irrevocability of the payment order denotes the moment determined by the rules of operation of the payment system in which final settlement is carried out, from which neither the system participant nor a third party can revoke the payment order.
- (3) In the case of interoperable systems, each payment system, through its operating rules, determines the moment of acceptance and the moment of irrevocability of the payment order, in a manner that ensures these rules are as closely aligned as possible with the operating rules of the other participants in the interoperable system.
- (4) The moment of acceptance and the moment of irrevocability of a transfer order, as determined by the rules of operation of the payment system of which a participant in the interoperable system is a member, are not affected by the rules of operation of other participants in that interoperable system, unless otherwise provided for by the rules of operation of all payment systems participating in that interoperable system.

Insolvency proceedings and the moment of opening the insolvency proceedings Article 151

- (1) Insolvency proceedings against a participant in a payment system in which final settlement is carried out, for the purposes of this Act, shall be deemed to be the opening of bankruptcy or liquidation proceedings against that participant.
- (2) The moment of opening the insolvency proceedings, for the purposes of this Act, shall be deemed to be the moment of receipt by the operator of the payment system in which final settlement is carried out of the decision opening bankruptcy or liquidation proceedings against a participant in that payment system.
- (3) The opening of insolvency proceedings does not affect the exercise of the rights and obligations of a participant in the payment system in which final settlement takes place, which arise from, or are in connection with, its participation in that payment system, and which arose before the moment of the opening of the insolvency proceedings, nor on the exercise of those rights and obligations by participants in an interoperable system or by the operator of an interoperable system who is not a participant in that system.

Transfer orders in the event of the opening of insolvency proceedings

Article 152

- (1) In the event of the opening of insolvency proceedings against a participant in a payment system, participant in an interoperable system or over the operator of an interoperable system who is not a participant in that system, transfer orders and settlements are valid and have legal effect against third parties provided that they were accepted into the payment system before the moment of the opening of insolvency proceedings.
- (2) Exceptionally from paragraph 1 of this article, payment orders accepted into the payment system after the commencement of insolvency proceedings and executed on the same business day shall also be valid and have legal effect against third parties, and only if the operator of the payment system can prove that at the time those transfer orders became irrevocable, they did not know and could not have known of the opening of that procedure.
- (3) A business day, for the purposes of paragraph 2 of this article, is a day which, in accordance with the operating rules of the payment system, covers daily and nightly settlements and encompasses all events during that system's business cycle.
- (4) The annulment of payment transactions and contracts concluded before the commencement of insolvency proceedings cannot result in the invalidation of the settlement that has been carried out.
- (5) In the event of insolvency proceedings being opened against a participant or operator of an interoperable system, the available cash on the settlement account of that participant or operator may be used to fulfil its obligations in the payment system in which final settlement is carried out or in the interoperable system, during the business day on which the insolvency proceedings are opened.

Service of the decision on the opening of insolvency proceedings Article 153

- (1) The authority competent to open insolvency proceedings against a participant in a payment system in which final settlement is carried out shall, without delay, forward to the Central Bank the decision opening the insolvency proceedings against that participant.
- (2) The decision referred to in paragraph 1 of this Article shall be forwarded by the Central Bank without delay to the operator of the payment system whose participant has had insolvency proceedings opened against them.

Governing Law

Article 154

In the event of the opening of insolvency proceedings against a participant in a payment system in which final settlement is carried out, the rights and obligations arising from or in connection with participation in that payment system shall be governed by the provisions of this Act.

Rights of the recipient of collateral in the event of the opening of insolvency proceedings against the provider of collateral

Article 155

- (1) The opening of insolvency proceedings against a participant in a payment system in which final settlement is carried out or by a participant in an interoperable system, against the operator of an interoperable system who is not a participant in that system or against another provider of collateral does not affect the right of other participants or system operators to be paid from the collateral provided in connection with participation in that payment system or interoperable system.
- (2) The opening of insolvency proceedings against a contracting party, a Member State, the European Central Bank or a national central bank of a Member State which has provided collateral shall not affect the right of the Member State, the European Central Bank or the national central bank of a Member State to be satisfied from that collateral.

Notification to the competent authorities of the European

Union Article 156

The central bank notifies the relevant Union authority of payment systems in which final settlement is carried out and of the operators of those systems.

3. Systemically important payment systems

Concept of a systemically important payment system

Article 157

- (1) A systemically significant payment system is a payment system whose disruption could cause systemic risk.
- (2) Systemic risk, for the purposes of paragraph 1 of this article, is the risk arising from a disruption in the operation of a payment system or the inability of a participant in a payment system to meet its obligations related to the functioning of the payment system, the consequence of which is the inability of other participants in the payment system to meet their obligations or a disruption to the security of payment transactions and the financial system as a whole.
- (3) The central bank notifies the competent authority of the European Union of systemically important payment systems.

RTGS System

Article 158

- (1) The Central Bank is the owner, operator, participant and clearing agent of the payment system in which the execution of individual payment transactions is carried out on a gross basis in real time (hereinafter: RTGS system).
- (2) The RTGS system is a systemically significant payment system.
- (3) The Central Bank establishes the rules of operation of the RTGS system.
- (4) Participants in the RTGS system may be legal entities whose accounts are opened and maintained with the Central Bank, in accordance with the law and regulations of the Central Bank.
- (5) The Central Bank may, through the operating rules of its payment system, require participants in the RTGS system to be participants in another payment system as well.

Settlement of payment transactions in the RTGS system

Article 159

- (1) The RTGS system settles payment transactions of banks and other credit institutions providing payment services, as well as of entities which are required by law and a Central Bank regulation to hold their accounts with the Central Bank.
- (2) The minimum value of payment transactions that must be processed in the RTGS system (the threshold for large and small payments) is determined by a regulation of the Central Bank.

4. Control and supervision of payment systems

Competent authority

Article 160

The Central Bank supervises operators and participants in the payment system and monitors its operation.

Supervision of operators and participants in the payment system

Article 161

- (1) By supervising the operator and participants in the payment system, the Central Bank verifies their operations in accordance with this Act and the rules of operation of the payment system, including verifying the provision of access to the payment system in accordance with Article 142 of this Act.
- (2) The operator and participant of the payment system are obliged to provide the Central Bank with the necessary information and documentation for the purpose of the inspection referred to in paragraph 1 of this article.
- (3) The Central Bank shall treat the data and information obtained during the course of the inspection as confidential, in accordance with the law.
- (4) The provisions of Articles 91 to 94 and Articles 100 and 102 of this Act shall apply mutatis mutandis to the supervision of an operator or a participant in a payment system.
- (5) If the inspection under paragraph 1 of this article establishes conduct contrary to the law or the rules of operation of the payment system, the Central Bank may:
 - 1) give a written warning to the operator of the payment system;
 - 2) order the operator and/or a participant of the payment system to remedy irregularities within a specified period;

- 3) order the payment system operator to exclude one or more participants if they do not meet the conditions for participation in the payment system;
- 4) prohibit the payment system operator from carrying out activities until the identified irregularities are rectified;
- 5) take other appropriate measures.

Supervision of the operation of the payment

system Article 162

- (1) The supervision of the operation of the payment system includes activities aimed at ensuring and improving the security and efficiency of the payment system's functioning.
- (2) For the purposes of paragraph 1 of this Article, safety means limiting risks that may jeopardise or negatively affect the proper and continuous functioning of the payment system and financial stability, and efficiency means the prompt and cost-effective execution of operations in the payment system, as well as a level of service that is cost-effective for the system participants and their users and which meets their needs.
- (3) The central bank supervises the operation of payment systems by assessing their compliance with the principles for their functioning.
- (4) The principles for the operation of payment systems are established by applying international standards and principles.
- (5) Based on the monitoring of the payment system's operation, the Central Bank assesses the level of compliance of a specific payment system with the principles for the operation of payment systems.
- (6) The method for assessing the level of compliance of a specific payment system with the principles for the operation of payment systems is determined by a regulation of the Central Bank.
- (7) Exceptionally from paragraph 1 of this article, for the supervision of a payment system of which it is the operator, the Central Bank may authorise other relevant institutions.

Notification to the Central Bank Article

163

- (1) The operator of a payment system shall, without delay, notify the Central Bank:
 - 1) on the submission of data to the CRPS and on the registration of a change of data in the CRPS;
 - 2) if it also carries out other activities which are not the management of the payment system, of all changes relating to the persons responsible for the management of the payment system;
 - 3) of any change to the data on participants in the payment system and of the data relating to the inclusion of new participants or the cessation of participation in that payment system;
 - 4) of its intention to cease carrying out the activity of managing the payment system, as well as of the occurrence of circumstances under Article 138 of this Act;
 - 5) all other changes relating to the operating conditions of the payment system in accordance with this Act and/or which alter the facts on which the operating licence for the payment system was issued.
- (2) The operator of a payment system who is not required to obtain a licence to operate a payment system shall, without delay, notify the Central Bank of the facts and circumstances referred to in paragraph 1 of this article, as well as of any change to the operating rules of that payment system.
- (3) The operator of a payment system is obliged to provide the Central Bank, upon its request, with data on payment transactions carried out via the payment system it operates.
- (4) The Central Bank may prescribe the manner and deadlines for notification by the operator of the payment system.

Cooperation with competent authorities and exchange of

information Article 164

In carrying out the supervision of payment system operators and participants and the monitoring of the operation of the payment system, the Central Bank may cooperate with other competent authorities in Montenegro and with the competent authorities of Member States and third States.

Xa. DATA PROTECTION

Article 164a

- (1) Payment service providers and payment system operators are authorised to process personal data for the prevention, investigation and detection of payment-related fraud.

- (2) Payment service providers and payment system operators carry out the processing of personal data referred to in paragraph 1 of this article and provide information on this to the payment service user, and may also provide this data to third parties in accordance with this Act and personal data protection regulations.
- (3) 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, except in the cases referred to in paragraphs 1 and 2 of this article.

XI. METHOD AND PROCEDURE FOR THE CENTRAL BANK'S DECISIONS

Application of administrative

procedure Article 165

The procedure for decision-making by the Central Bank shall be governed by the provisions of the law regulating administrative procedure, unless otherwise provided for by this Act.

Decision-

making

Article 166

In the decision-making procedure, the Central Bank shall decide in an abridged procedure.

Decision

Article 167

- (1) The Central Bank decides on matters within its jurisdiction as determined by this Act by means of a decision.
- (2) Decisions of the Central Bank are final in administrative proceedings and may be challenged in administrative litigation.

Amendment of the

decision

Article 168

- (1) The Central Bank may amend the decision from Article 167, paragraph 1 of this Act, if new circumstances arise that affect or could affect the business of a payment institution, an electronic money institution, or the operation of a payment system operator.
- (2) In the case referred to in paragraph 1 of this article, the Central Bank takes into account all facts and circumstances that have arisen since the original decision was made.

Time

limits

Article 169

- (1) The Central Bank is obliged, upon a request for authorisation to provide payment services, permission to issue electronic money and an operating licence for a payment system, the Central Bank shall decide within 90 days from the date of submission of the application, or within 90 days from the date of submission of all the necessary data and documentation in the event that the application and the accompanying documentation are incomplete.
- (2) Upon other requests submitted in accordance with this law, the Central Bank is obliged to make a decision within 60 days of the date the request was submitted, or within 60 days of the date all the necessary data and documentation were submitted, in the event that the request and the accompanying documentation are incomplete.

Legal Protection

Article 170

- (1) the Governor of the Central Bank, a member of the Council of the Central Bank, an employee or any person authorised by the Central Bank to perform the tasks within its competence as established by this Act, shall not be liable for any damage that may arise in the performance of their duties under this Act, unless it is proven that they have acted intentionally or with gross negligence.
- (2) The costs of the legal protection of the persons referred to in paragraph 1 of this article, in legal proceedings relating to the performance of their duties, shall be borne by the Central Bank.

XII. CROSS-BORDER PAYMENT TRANSACTIONS AND THE PROVISION OF PAYMENT SERVICES AND THE ISSUANCE OF ELECTRONIC MONEY IN A MEMBER STATE AND FROM A MEMBER STATE

Application

n Article

171

- (1) The provisions of Articles 2 to 129 of this Act apply to cross-border payment transactions and to the provision of payment services and the issuance of electronic money in a Member State and from a Member State, unless Articles 172 to 180b of this Act and by a European Union regulation governing cross-border payment transactions, unless otherwise provided.
- (2) The provisions of Articles 10 to 56f of this Act apply, irrespective of the currency of the payment transaction, to domestic and cross-border payment transactions, as well as to international payment transactions insofar as they are carried out within the territory of the Member States, unless otherwise provided for by this Act.

Fees

Article 172

The fees charged by a payment service provider for euro payment transactions must be the same for national and cross-border payment transactions.

Deadlines for executing cross-border payment transactions via payment accounts Article 173

- (1) In the case of executing a cross-border payment transaction in euros, the payer's payment service provider is obliged to ensure that the amount of the payment transaction is credited to the payment service provider of the payee's account no later than the end of the next business day from the day on which the payer's payment service provider received the order for payment in accordance with Article 40 of this Act.
- (2) The deadline in paragraph 1 of this article may be extended by one working day if the cross-border payment transaction is initiated in paper form.
- (3) In the case of executing a cross-border payment transaction in the currency of another Member State which is not the euro, the payer's payment service provider shall ensure that the amount of the payment transaction is credited to the payment service provider of the payee's account no later than the end of the next business day following the day on which the payer's payment service provider received the payment order in accordance with Article 40 of this Act.
- (4) The payment service provider and the payment service user may agree a different deadline from the one in paragraph 3 of this article, which may not be longer than four business days from the date of receipt of the payment order.
- (5) If the payee does not hold a payment account with the payment service provider that received the funds, that payment service provider is obliged to make the funds available to the payee within the timeframes set out in paragraphs 1 to 4 of this article.

Deadlines in the case of the deposit of cash into a payment account

Article 174

- (1) In the case of a cross-border payment transaction, if the payment service user who is a consumer deposits cash into their payment account with the payment service provider in the currency in which that account is denominated, the payment service provider shall make the funds available to the payment service user and determine the date of value of the credit immediately after receipt of the cash.
- (2) In the case referred to in paragraph 1 of this article, if the payment service user is not a consumer, the payment service provider shall make the funds available to the payment service user and determine the date of value of the credit no later than the end of the next business day following the day of receipt of the funds.
- (3) Deviating from paragraphs 1 and 2 of this article, if the payment service user deposits cash in the currency of a Member State which is not the euro into their payment account with the payment service provider in the currency in which that account is held, the payment service user and the payment service provider may agree a different deadline from the one in paragraphs 1 and 2. 1 and 2 of this article, which may not be longer than four business days from the day of receipt of the cash.
- (4) For the purposes of the time of receipt of cash, within the meaning of paragraphs 1 to 3 of this article, the provisions of Article 40 of this Act shall apply *mutatis mutandis*.

Payment service providers

Article 175

- (1) Payment services in Montenegro may also be provided by:
- 1) a credit institution with its registered office in a Member State which has a licence, or an authorisation, from the competent authority of its home Member State to provide payment services, including its branches established in Montenegro;
 - 2) a payment institution with its registered office in a Member State, including its branches established in Montenegro;
 - 3) a registered account information service provider established in a Member State, including its branches established in Montenegro;
 - 4) an electronic money institution established in a Member State, including its branches established in Montenegro;
 - 5) The European Central Bank and the national central bank of a Member State when not acting in their capacity as monetary or other public authority.
- (2) A payment institution with its registered office in Montenegro is obliged to carry out part of its business of providing payment services in Montenegro.

E-money issuers Article 176

In addition to the issuers referred to in Article 108 of this Act, electronic money issuers in Montenegro may also be:

- 1) a credit institution with its registered office in a Member State which has a licence, or an authorisation, from the competent authority of its home Member State to issue electronic money, including its branches established in Montenegro;
- 2) an electronic money institution with its registered office in a Member State, including its branches established in Montenegro;
- 3) The European Central Bank and the national central bank of a Member State when not acting in their capacity as monetary or other public authority.

Information to be submitted with the application for authorisation Article 176a

Along with the application for a licence under this Act, applicants must provide the Central Bank with information in accordance with the guidelines of the European Banking Authority which determine the information to be submitted for the purpose of obtaining such licences.

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

Member State Article 177

- (1) A payment institution which has a payment services authorisation issued in Montenegro and which, by way of the freedom of establishment or the freedom to provide services, intends to provide the payment services for which it is authorised, directly or through a branch or an agent in the territory of a Member State, must notify the Central Bank of its intention, in writing, notify the Central Bank.
- (2) The notification referred to in paragraph 1 of this Article shall in particular state:
- 1) the Member State in whose territory the provision of payment services is intended;
 - 2) the manner of providing payment services - directly or through a branch or an agent;
 - 3) the types of payment services intended to be provided in the territory of the Member State.
- (3) If a payment institution intends to provide payment services through a branch, in addition to the information from paragraph 2 of this article, it shall also submit information and documentation to the Central Bank in accordance with Article 88 of this Act, and if it intends to provide payment services through an agent, it shall also submit documentation in accordance with Article 77 of this Act.
- (4) The Central Bank shall notify the competent authority of the host Member State of the name and registered office of the payment institution that intends to provide payment services on the territory of that Member State through a branch or agent, of its intention to register that branch or agent in the register of payment institutions in Montenegro, as well as to forward the notification and information from paragraphs 1 to 3 of this article, within one month of receiving them, and before the branch or agent is entered in the register of payment institutions.
- (5) The notification referred to in paragraph 1 of this Article also contains information on the intended outsourcing of certain operational tasks to outsourcing service providers in the host Member State.

- (6) The notification referred to in paragraph 1 also contains the information laid down in regulations and other acts of the competent authorities of the European Union on cooperation and the exchange of information between competent authorities relating to the right of establishment and the freedom to provide services of payment institutions, which lay down the information to be exchanged between the competent authorities of the home Member State and the host Member State in the event of an intention to provide payment services in another Member State through a branch, an agent or directly, or in the event of intended outsourcing of operational activities to outsourcing service providers.
- (7) A payment institution may commence providing payment services through a branch or agent in the host Member State after the competent authority in that State has received the notification and information from paragraphs 1 to 6 of this article and following their entry in the register of payment institutions in Montenegro.
- (8) The payment institution shall notify the Central Bank of the date on which it commences providing payment services through a branch or agent in the host Member State.
- (9) The payment institution shall notify the Central Bank of any change to the data provided in the notification referred to in paragraph 1 of this article, including details of any new branch, agent and outsourcing service provider.
- (10) If the Central Bank receives notification from the competent authority of the host Member State that there are grounds for suspicion that the payment institution to which authorisation was granted in Montenegro will use or is using a branch, or a money laundering or terrorist financing agent, or that the establishment of a branch or the appointment of an agent may increase the risk of money laundering or terrorist financing, may refuse to register the branch or agent, or may delete the branch or agent from the register, if they have already been registered.
- (11) The Central Bank cooperates with the competent authority of the host Member State in the procedure for supervising the payment institution referred to in paragraph 1 of this article.
- (12) The Central Bank shall exchange with the competent authority of the host Member State the information and documentation necessary for the supervision of the activities of a payment institution or its branch, or agent, in the territory of that Member State, including information or suspicions of non-compliance with the regulations.
- (13) When a payment institution established in Montenegro operates in the territory of another Member State, the Central Bank may:
 - 1) carry out on-site supervision of the activities of that payment institution's branch or agent in the host Member State, after having previously notified the competent authority of the host Member State, or
 - 2) request that the competent authority of the host Member State carry out on-site inspections of the activities of the branch or agent of the 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 is a legal person with its registered office in a Member State which has a licence, or an authorisation, from the competent authority of its home Member State to provide payment services as a payment institution.
- (2) A payment institution from a Member State may, by way of the right of establishment or the freedom to provide services, provide in Montenegro the payment services for which it has a licence or authorisation issued in its home Member State, either directly or through a branch or an agent.
- (3) A payment institution from a Member State may commence providing payment services in Montenegro after the Central Bank has received notification from the competent authority of that state of the payment institution's intention to provide payment services in Montenegro, and if that payment institution intends to provide payment services through a branch or an agent, after the registration of that branch or agent in the register of payment institutions maintained by the competent authority of the home Member State.
- (4) The notification referred to in paragraph 3 of this article shall be accompanied by the information set out in Article 177, paragraphs 2 to 6 of this Act.
- (5) An agent of a payment institution from a Member State in Montenegro may only be a legal person or a sole trader with its registered office in Montenegro.
- (6) The Central Bank, in the process of supervising a payment institution from a Member State that operates in Montenegro, either directly or through a branch or agent, cooperates with the competent authority of its home Member State.
- (7) The Central Bank exchanges information and documentation with the competent authorities of the home Member State necessary for the supervision of the payment institution, including information or suspicion of non-compliance with regulations.
- (8) When a payment institution established in another Member State operates in Montenegro, the competent authority of the home Member State may:
 - 1) to carry out direct supervision over the operations of its branches or agents in Montenegro, after having previously notified the Central Bank, or
 - 2) request that the Central Bank carry out direct supervision of the business of its branches or agents in Montenegro.

- (9) The Central Bank notifies the competent authority of the home Member State of the grounds for suspicion that the provision of payment services by a payment institution from that Member State in Montenegro is in connection with the commission or attempted commission of money laundering or terrorist financing, or that the provision of these services could increase the risk of money laundering or terrorist financing.

Implementation of cross-border cooperation

Article 178a

Cooperation and exchange of information between the Central Bank and the competent authorities of the host Member State under Articles 177 and 178 of this Act and monitoring of compliance with the provisions of Articles 10 to 56f of this Act, which implement the provisions of Chapters III and IV of the Directive (EU) 2015/2366, are carried out in accordance with the provisions of regulations and other acts of the competent authorities of the European Union which establish the method, means and modalities of cooperation in the supervision of payment institutions operating cross-border.

Measures in the event of non-compliant conduct of a branch or agent

Article 178b

- (1) When the Central Bank receives notification from the competent authority of the host Member State that a payment institution established in Montenegro which provides payment services in that Member State through a branch or an agent, is not operating in accordance with the provisions of Chapter II of the Directive (EU) 2015/2366 or is breaching the provisions of that state's national regulations implementing the provisions of Title III or IV of Directive (EU) 2015/2366, and where the information received is deemed substantiated, the Central Bank shall without delay take appropriate measures in accordance with its powers under this Act, to ensure that the payment institution rectifies the established illegality or irregularity.
- (2) The Central Bank shall, without delay, notify the competent authority of the host Member State and the competent authorities of any other Member States which may be concerned of the measures taken under paragraph 1 of this article.
- (3) When the Central Bank becomes aware that a payment institution from another Member State, when providing payment services in Montenegro through a branch or an agent, is not operating in accordance with the provisions of Chapter II of Directive (EU) 2015/2366 or that such branch or agent from another Member State is breaching the provisions of Articles 10 to 56f of this Act, the Central Bank shall without delay notify the competent authority of its home Member State, with a view to that competent authority taking appropriate measures against that payment institution.
- (4) In exceptional circumstances, where it is necessary to take urgent measures to address serious threats to the common interests of users of payment services in Montenegro, The Central Bank may take preventive measures against a branch or agent of a payment institution from another Member State, in parallel with the cross-border cooperation under Article 178a of this Act and until the measures are implemented by the competent authorities of the home Member State.
- (5) The preventive measures from paragraph 4 of this article must be appropriate and proportionate to the objective of that paragraph and must not place the users of payment services of that payment institution in Montenegro in a more favourable position than its users of payment services in other Member States.
- (6) The preventive measures referred to in paragraph 4 of this article are temporary and the Central Bank is obliged to lift them as soon as the serious threat to the common interests of payment service users in Montenegro ceases, in which case it may use the assistance of, or cooperate with, the competent authorities of the home Member State or the European Banking Regulator.
- (7) The Central Bank notifies the competent authority of the Member State of origin, and the competent authorities of any other Member State concerned, the European Commission and the European Banking Authority of the imposition of the preventive measures referred to in paragraph 4 and of the reasons for their imposition.
- (8) The Central Bank shall deliver the notification referred to in paragraph 7 of this Article, where possible, in advance, and in any event immediately after the measures have been imposed.

European Banking Authority Register Article 178c

- (1) The Central Bank shall, without delay, notify the European Banking Authority of the data it holds in the register of payment institutions in accordance with Article 89 of this Act, as well as the reasons for revoking the authorisation of a payment institution and for deleting an account information service provider from that register.
- (2) The Central Bank is responsible for the accuracy of the information referred to in paragraph 1 of this article and for its updating.

Applicable

provisions

Article 179

The provisions of Articles 176a to 178c of this Act shall apply mutatis mutandis to electronic money institutions and registered account information service providers.

Application to payment transactions

Article 180

The provisions of Articles 173 and 174 of this Act apply to:

- 1) payment transactions in euros;
- 2) national payment transactions in the currencies of Member States outside the euro area;
- 3) payment transactions involving only a single currency conversion between the euro and the currency of a non-euro area Member State, provided that the necessary currency conversion is carried out in that non-euro area Member State and, in the case of cross-border transactions, the cross-border transfer is carried out in euros.

Operational and security risks and authentication Article 180a

- (1) Payment service providers are required to establish security measures to manage the operational and security risks associated with the payment services they provide, in accordance with the guidelines of the European Banking Authority.
- (2) The Central Bank shall provide the European Banking Authority and the European Central Bank with the relevant details of incidents referred to in Article 56b(1) of this Act, without delay upon receipt of notification of such an incident from a payment service provider.
- (3) The Central Bank shall cooperate with the European Banking Authority and the European Central Bank in their assessment of the incident's significance for other relevant European Union bodies and the competent authorities of other Member States.
- (4) Upon notification from the European Central Bank of an incident in another Member State, the Central Bank shall, where necessary, take all necessary measures to safeguard the security of Montenegro's financial system.
- (5) Reporting by payment service providers and the Central Bank on incidents referred to in Article 56b, paragraph 1 of this Act is carried out in accordance with the guidelines of the European Banking Authority.
- (6) Authentication as referred to in Article 56c of this Law is carried out in accordance with the regulations and other acts of the competent bodies of the European Union on strong customer authentication and on common and secure open standards for communication.

Obligation to inform consumers of their rights Article 180b

- (1) The Central Bank publishes the European Commission's electronic brochure on consumer rights on its website.
- users of payment services in accordance with this Act.
- (2) Payment service providers are required to make the brochure referred to in paragraph 1 of this article available free of charge on their websites and in paper form at their branches, through their agents and service providers.
- (3) With regard to persons with disabilities, the provisions of this article shall apply through appropriate alternative means to make the information available in an accessible form.

XIII. CRIMINAL SANCTIONS

Offences by payment service providers

Article 181

- (1) A payment service provider referred to in Article 4(1)(1) to (4) and Article 175(1) to (3) of this Act shall be liable for an offence to a fine of between €10,000 and €40,000, if:
 - 1) charges fees for providing information which it is obliged to provide (Article 11(1));
 - 2) charges fees that are not reasonable or are not in accordance with its actual costs (Article 11(3));
 - 3) fails to inform the user of payment services of the charge for using a specific payment instrument before initiating the payment transaction (Article 13(2));
 - 4) does not provide or make available to the payment service user prior general information in accordance with Article 15(1), (2) and (3) of this Act;
 - 4a) as a payment initiation service provider, immediately after initiating the payment order, fails to provide or make available to the payer and, where applicable, the payee, the information in accordance with Article 15a of this Act;

- 4b) as a payment initiation service provider, fails to make available to the account-holding payment service provider the reference for the payment transaction initiated via its service (Article 15b);
- 5) immediately after receiving the payment order, fails to provide or make available information to the payer in accordance with Article 16 of this Act;
- 6) immediately after the payment transaction has been completed, does not provide or make available information to the payee in accordance with Article 17 of this Act;
- 7) to a payment service user, before accepting an application or concluding a framework agreement, does not provide prior general information in accordance with Article 19 of this Act;
- 8) does not provide the user of payment services with the prior general information in the manner laid down in Article 20 of this Act;
- 9) during the term of the contractual relationship, does not provide the payment service user, upon their request, with a copy of the framework contract or the information referred to in Article 19 of this Act in paper form or on another durable medium (Article 21(4));
- 10) upon amending the framework agreement, fails to act in accordance with Article 22 of this Act with regard to interest rates or exchange rates;
- 11) in the event of termination of the framework agreement, charges a fee in contravention of article 23(2) or (3) of this Act, or fails to refund the fee in accordance with article 23(5) of this Act;
- 12) at the request of the payer, fails to provide information in accordance with Article 24 of this Act before executing an individual payment transaction;
- 13) after debiting the payment account for the amount of an individual payment transaction, or, where the payer does not use an account, after receiving the payment order, fails to provide the payer with information in accordance with Article 25 of this Act;
- 14) after executing the individual payment transaction, without undue delay, does not provide information to the payee in accordance with Article 26 of this Act;
- 15) charge the user of payment services fees in contravention of Article 28(2), (3) and (5) of this Act;
- 16) prevents or restricts the payee from offering the payer a discount for using a payment card or other payment instrument, or otherwise directs them to use a specific payment instrument (Article 28, paragraph 4);
- 17) fails to publish in its business premises intended for dealings with users of payment services and on its website the fee schedule by which it charges fees for the provision of payment services (Article 28, paragraph 7);
- 17a) as a payment service provider which maintains an account, confirms to the payment service provider issuing the payment instrument on the basis of a payment card that the amount of funds required to execute the payment transaction on the basis of the payment card is available on the payer's payment account, whilst all the conditions set out in Article 30a(1) of this Act are not met;
- 17b) as an account-holding payment service provider, upon the request of a payment service provider issuing a payment instrument on the basis of a payment card, does not, without delay, confirm the availability of the requested amount of funds in the payer's payment account when all the conditions set out in Article 30a(1) of this Act are met;
- 17c) as an account-holding payment service provider, prevents the payer from disposing of the funds in their payment account (Article 30a(5));
- 17d) when providing the payment initiation service, comes into possession of the payer's funds at any time (Article 30b(4)(1));
- 17c) when providing the payment initiation service, fails to comply with Article 30b(4)(2) and (3) of this Act; 17d) when providing the payment initiation service, fails to comply with Article 30b(4)(4) of this Act;
- 17g) when providing the payment initiation service, fails to confirm its identity to the payment service provider holding the payer's account and fails to communicate securely with the payment service provider holding the account, the payer and the payee, in accordance with Article 56c of this Act (Article 30b(4)(5));
- 17d) when providing the payment initiation service, retains sensitive payment data of the payment service user (Article 30b(4)(6));
- 17e) when providing the payment initiation service, requests from the payment service user any information other than that which is necessary to provide the payment initiation service (Article 30b(4)(7));
- 17f) when providing the payment initiation service, uses, accesses or stores the data for any purpose other than providing the payment initiation service as explicitly requested by the payer (Article 30b(4)(8));
- 17g) when providing the payment initiation service, modifies the amount, the payee or any other data of the payment transaction being initiated (Article 30b(4)(9));
- 17h) as a payment service provider holding an account, fails to communicate securely with payment initiation service providers in accordance with Article 56c of this Act (Article 30b(5)(1));

- 17i) as an account-holding payment service provider, immediately after receiving a payment order from a payment initiation service provider, does not provide or make available to the payment initiation service provider all information on the initiation of the payment transaction and all information available to it concerning the execution of the payment transaction (Article 30b(5)(2));
- 17j) as a payment service provider holding an account, treats payment orders submitted via a payment initiation service provider in a discriminatory manner, in particular with regard to the time of receipt of the order, priority or fees, compared with payment orders submitted directly by the payer, unless there is an objective reason for it (Article 30b(5)(3));
- 17k) provides the account information service without the explicit consent of the payment service user (Article 30c(3)(1));
- 17l) when providing an account information service with personalised security credentials of the user of payment services, fails to comply with Article 30c, paragraph 3, points 2 and 3 of this Act;
- 17lj) when providing the account information service, does not confirm its identity to the payment service provider holding the account, or to a greater number of such providers, and to the payment service user in a secure manner, in accordance with Article 56c of this Act (Article 30c(3)(4));
- 17m) when providing the account information service, accesses payment account information that the payment service user has not designated for the use of this service and which is not related to payment transactions linked to that account (Article 30c(3)(5));
- 17n) when providing the account information service, requires sensitive payment account data (Article 30c(3)(6));
- 17nj) in the course of providing an account information service, uses, accesses, or retains data for any purpose other than to perform the account information service explicitly requested by the payment service user, in accordance with data protection rules (Article 30c(3)(7));
- 17o) as a payment service provider holding an account, fails to communicate securely with account information service providers, in accordance with Article 56c of this Act (Article 30c(4)(1));
- 17p) as an account-holding payment service provider, acts in a discriminatory manner with respect to requests for the provision of data made by an account information service provider, unless there is an objective justification for this (Article 30c(4)(2));
- 18) failure to notify the payer of the blocking of the payment instrument in accordance with Article 31(3) and (4) of this Act;
- 19) does not unblock the payment instrument or replace it with a new one after the reasons for blocking that instrument cease to exist (Article 31(6));
- 19a) as an account-holding payment service provider, denies access to the payment account to an account information service provider or a payment initiation service provider in contravention of the provisions of Article 31(7) and (8) of this Act;
- 19b) as an account-holding payment service provider, in the cases referred to in Article 31(7) of this Act, fails to notify the Central Bank of an incident relating to an account information service provider or a payment initiation service provider, stating the relevant details of the case and the reasons for denying access to the payment account (Article 31, paragraph 10);
- 20) as an issuer of a payment instrument, acts in breach of Article 33 of this Act;
- 21) in the case of executing an unauthorised payment transaction, fails to act in accordance with Article 36 of this Act;
- 21a) as a provider of payment services to the payer, in the context of a payment transaction initiated by or via the payee by means of a payment card, a where the exact amount of that payment transaction is not known at the time the payer gives consent for its execution, reserves funds on the payer's payment account without the payer's consent for the exact amount of funds to be reserved (Article 37a(1));
- 21b) as a payment service provider of the payer, does not release the reservation of funds on the payer's payment account in accordance with Article 37a paragraph 2 of this Act;
- 22) on a request by the payer for the refund of funds for an authorised payment transaction, acts in breach of Article 39(2) of this Act;
- 23) refuses a refund of funds (Article 39(3));
- 23a) as a payment service provider, debit the payer's payment account before receiving the payment order (Article 40(7));
- 24) in the case of refusal to execute a payment order or refusal to initiate a payment transaction, fails to notify the payment service user accordingly in accordance with Article 41(1) and (2) of this Act;
- 25) refuses to execute an authorised payment order (Article 41, paragraph 4);

- 26) when executing a payment transaction, acts in breach of Article 43 of this Act;
- 27) fails to make payment to the payment service provider of another payment user within the time limits set out in Article 44(1), Article 58(1), (2), (3) and (4) and Article 174 of this Act;
- 28) fails to make payment to its payment recipient in accordance with Article 44(2), Article 45 and Article 47(1) and (2) of this Act;
- 29) the payer does not transmit the payment order to the payment service provider in accordance with Article 44(3) of this Act;
- 30) in the case of a cash payment, fails to make the funds available, or fails to credit the account in accordance with Article 46 and Article 174 of this Act;
- 31) determines the date of debit of the payer's payment account in contravention of Article 47(3) of this Act;
- 32) in the case of a mis-executed payment transaction, does not take reasonable measures to recover the funds for the payer (Article 48(3));
- 33) in the case of a non-executed or incorrectly executed payment transaction, fails to act without undue delay in accordance with Article 49(6) and Article 50(5) and (6) of this Act, at the request of the payment service user;
- 33a) fails to rectify a payment transaction that has been executed incorrectly in accordance with Article 51a(1) of this Act;
- 34) does not keep documentation on payment service users, the payment transaction and the balance and changes to the payment service user's payment account for the periods specified in Article 55(1) of this Act;
- 35) fails to submit a report on payment services to the Central Bank (Article 55, paragraph 2);
- 35a) fails to establish management of the operational and security risks associated with the payment services it provides in accordance with Article 56a of this Act;
- 35b) fails to provide the Central Bank, once a year or at shorter intervals as determined by the Central Bank, with an updated and comprehensive assessment of the operational and security risks associated with the payment services they provide, and of the adequacy of the risk mitigation measures and control mechanisms implemented in response to those risks (Article 56a paragraph 2);
- 35c) fails to notify the Central Bank without delay of a significant operational or security incident (Article 56b(1));
- 35d) where a significant operational or security incident affects or could affect the financial interests of payment service users, fails to notify, without delay, its payment service users of that incident and of all available measures that payment service users can take to mitigate the adverse effects of that incident (Article 56b paragraph 2);
- 35c) fails to apply strong authentication in accordance with Article 56c paragraphs 1, 3, 4 and 7 of this Act;
- 35d) in the case of a remote electronic payment transaction, does not apply reliable authentication of the customer with elements that dynamically link the transaction to a specific amount and a specific payee (Article 56c paragraph 2);
- 35e) in the cases referred to in Article 56c paragraph 1 of this Act, does not establish appropriate security measures to protect the confidentiality and integrity of the personalised security data of payment service users (Article 56c paragraph 3);
- 35d) fails to provide the payment service user with a response to the objections stated in the complaint under Article 56d(1) of this Act within the deadlines and in the manner laid down in Article 56d(2) and (3) of this Act;
- 35e) fails to submit its statement and the evidence on which it relies (Article 56e(3)) within the deadline set by the Central Bank, which may not exceed 15 working days from the date of receipt of the request under Article 56e(2) of this Act;
- 36) fails to notify the user of payment services, or fails to take appropriate action in accordance with Article 59 paragraphs 1 and 2 of this Act;
- 36a) for the execution of SEPA payments, charges a fee higher than the fee prescribed by the Central Bank in accordance with Article 59, paragraph 5 of this Act;
- 36b) breaches the obligation to participate in SEPA payment schemes and/or the special rules for executing SEPA payments prescribed by the Central Bank in accordance with Article 61a of this Act;
- 37) after receiving funds in respect of an international payment transaction, acts in contravention of Article 61 of this Act;
- 38) provides payment services through an agent before the agent has been entered in the register of the Central Bank, or after their deletion from the register (Article 77);
- 39) fails to notify the Central Bank of a payment system in which it participates, directly or indirectly, and of the operator of that payment system (Article 133, paragraph 3), or
- 40) for payment transactions in euros charge different fees for the execution of domestic and cross-border payment transactions (Article 172).

- (2) Exceptionally, a payment service provider does not commit an offence under paragraph 1 of this article if, in cases where permitted by this Act, it has contracted with the payment service user in a manner different from that prescribed by this Act.
- (3) For an offence under paragraph 1 of this article, the responsible person of the payment service provider referred to in paragraph 1 of this article shall also be liable to a fine of between 2,000 euros and 4,000 euros.
- (4) A payment service provider referred to in Article 4(1)(1) to (4) of this Act shall not be liable for the offence referred to in paragraph 1 of this Article if the act was committed in the territory of another Member State by providing payment services through a branch or an agent in that Member State.
- (5) If the offence under paragraph 1 of this article is committed by a payment service provider referred to in Article 175 para. 1 to 3 of this Act who provides payment services in Montenegro through a branch or agent, the branch or agent shall be fined between €10,000 and €40,000.
- (6) For the offence under paragraph 5 of this article, the responsible person of the branch, or the agent, shall also be fined an amount of 2,000 euros to 4,000 euros.
- (7) For the most serious offences under paragraph 1. 17a to 17c, 17h to 17j, 17o, 17p, 19a, 19b and 35 to 35d of this Act, a monetary penalty of between 1% and 10% of the protected value breached may also be imposed on the payment service provider.
- (8) The protected value breached for the purposes of this article is deemed to be the preservation of the safe and efficient operation of payment systems and the protection of users of payment services, which for the purposes of the infringement proceedings is expressed as the net income realised in the business year preceding the year in which the infringement was committed and which has been published in the annual financial statement of the payment service provider referred to in paragraph 7 of this article.
- (9) For the most serious infringements under paragraph 1, points 17a to 17c, 17h to 17j, 17o, 17p, 19a, 19b and 35 to 35d of this article, a fine of between €5,000 and €20,000 may be imposed on the responsible person of the payment service provider referred to in Article 4, paragraph 1, points. 1 and 4 and Article 175(1) of this Act, a fine of between €5,000 and €20,000 may also be imposed on the responsible person of the payment service provider referred to in Article 4(1)(2) and (4) and Article 175(1) of this Act.

**Offences by other
persons Article**

182

- (1) A legal entity shall be fined from 10,000 to 40,000 euros for an offence, if:
 - 1) as a service provider providing one of the services referred to in Article 3(1)(11) sub-paragraph. a and/or b of this Act, for which the total value of payment transactions carried out during the previous 12 months exceeds the amount of 1,000,000 euros, fails to send, no later than within one month from the date of fulfilling this requirement, a notification to the Central Bank of the total value of payment transactions carried out during that period, with a detailed description of the services it provides and an indication of which service under Article 3(11)(a) and (b) of this Act is concerned (Article 3a(1));
 - 2) as a provider of services under Article 3(1)(12) of this Act, fails to notify the Agency for Electronic Communications and Postal Services of the provision of such services and fails to submit to it, in accordance with regulations, the annual audit opinion confirming that the service it provides complies with the limitations set out in Article 3(12) of this Act (Article 3a(4));
 - 3) as a provider of services under Article 3(1)(12) of this Act, fails to comply with a decision of the Central Bank under Article 3a(7) of this Act;
 - 4) requires payment for the use of a specific payment instrument or offers a discount, and fails to inform the payer of this before the payment transaction is initiated (Article 13(1));
 - 5) offers a currency conversion service before initiating the payment transaction and, if this service is offered at a cash machine, a point of sale or by the payee, fails to inform the payer of all fees, as well as the exchange rate that will be applied when converting the currency (Article 14(2));
 - 6) charges the payer a fee for using a specific payment instrument (Article 28, paragraph 5); 6a) provides payment services in Montenegro without the approval of the Central Bank (Article 67, paragraph 2);
 - 7) acquires a qualifying participation in a payment institution or an electronic money institution without the approval of the Central Bank (Article 71(1) and Article 114(1));
 - 8) holds a qualifying participation in a payment institution or an electronic money institution, and directly or indirectly, without the approval of the Central Bank, increases the qualifying participation in the capital or voting rights in the payment institution or electronic money institution to a level of 20%, 30%, 50% or more (Article 71(3) and Article 114(3));
 - 9) holds a qualifying participation in a payment institution or an electronic money institution, and intends to dispose of the qualifying participation in the payment institution or electronic money institution or to reduce it to a level below 20%, 30% or 50% without previously notifying the Central Bank (Article 71(5) and Article 114(3)).
- (2) For an offence under paragraph 1 of this article, a responsible person of the legal entity referred to in paragraph 1 of this article shall be liable to a fine of between €2,000 and €4,000.

- (3) For an offence under paragraph 7 to 9 of paragraph 1 of this article, a natural person shall also be fined a monetary penalty of between 2,000 euros and 4,000 euros.

Offences of credit institutions

Article 183

- (1) A payment service provider referred to in Article 4(1)(1) and (4) of this Act shall be liable for an offence to a fine of between €5,000 and €40,000 if:
- 1) does not open and maintain a payment account for a payment institution or an electronic money institution, at its request, and provide services related to that account in an objective, in a non-discriminatory and proportionate manner and to an extent that enables these entities to provide payment services in an uninterrupted and efficient manner (Article 4a(1));
 - 2) refuses a payment institution's or an electronic money institution's request to open and maintain a payment account without establishing that there are particularly justified reasons for doing so and fails to notify the Central Bank of the refusal, with reasons, (Article 4a paragraph 2);
 - 3) opens a payment account in contravention of Article 64(4) of this Act;
 - 4) does not properly maintain the register of payment account holders' transaction accounts (Article 65(1));
 - 5) fails to provide the Central Bank with the information on the opening of a transaction account as specified by the regulation referred to in Article 65(3) of this Act, on any change to the information on that account, and on the closure of that account, or fails to provide it by the end of the working day on which the account was opened, closed, or the change was made (Article 65(3));
 - 6) a payment order for executing payment transactions via transaction accounts does not contain the essential elements or has not been completed in accordance with this Act (Article 66).
- (2) For an offence under paragraph 1 of this article, the responsible person of the payment service provider referred to in paragraph 1 of this article shall also be liable to a fine of between €2,000 and €4,000.

Offences of payment institutions

Article 184

- (1) A monetary institution shall be liable for an offence to a fine of between €20,000 and €40,000 if:
- 1) provides payment services in Montenegro without the authorisation of the Central Bank (Article 67 paragraph 2);
 - 2) Deleted. (Law on Amendments and Supplementations to the Law on Payment Transfers, "Official Gazette of Montenegro", no. 111/22)
 - 3) provides additional payment services without the authorisation of the Central Bank to provide those payment services (Article 74);
 - 4) fails to protect the funds received for the execution of payment transactions in accordance with Article 79 of this Act;
 - 5) payment accounts it holds are not used exclusively for the execution of payment transactions (Article 80(1));
 - 6) approves credit in connection with the provision of payment services in contravention of Article 81(1) of this Act;
 - 7) performs activities involving the acceptance of deposits or other repayable funds (Article 81(2));
 - 8) does not keep business accounts and/or does not prepare financial statements in accordance with Article 82, paragraph 1 of this Act;
 - 9) does not keep business accounts and/or prepare financial statements in accordance with Article 82, paragraph 2 of this Act;
 - 10) fails to keep accounting records and other documentation in accordance with Article 82, paragraph 3 of this Act;
 - 11) fails to ensure the carrying out of an audit of the annual financial statements and consolidated financial statements (Article 83(1));
 - 12) fails to submit reports to the Central Bank in accordance with Article 83(2) of this Act;
 - 13) fails to notify the Central Bank of an intended outsourcing in accordance with Article 85(1) or (2) of this Act;
 - 14) externalises operational activities in contravention of the conditions set out in Article 85(4) and (5) of this Act;
 - 14a) fails to ensure that agents acting on its behalf notify payment service users (Article 86(3));
 - 14b) fails to notify the Central Bank without delay of any changes to the data relating to agents and outsourcing service providers (Article 86, paragraph 4);
 - 15) fails to establish or implement a management system in accordance with Article 87 of this Act;
 - 16) establishes a branch in a third country without the prior authorisation of the Central Bank (Article 88(2));
 - 17) fails to report to the Central Bank in accordance with Article 103(1) and (3) of this Act;
 - 18) in another Member State, provides payment services for which it has obtained authorisation, before notifying the Central Bank thereof in writing (Article 177(1));

- 19) fails to notify the Central Bank of any change to the data provided in the notification under Article 177(1) of this Act, including details of any new branch, agent and outsourcing service provider (Article 177(9)).
- (2) For an offence under paragraph 1 of this article, the responsible person of the payment institution shall be liable to a fine of between €2,000 and 4,000 euros.

Offences by account information service providers Article

184a

- (1) A legal entity - an account information service provider, shall be liable for an offence to a fine of between 20,000 and 40,000 euros, if:
- 1) provides a payment service from Article 2(1)(8) of this Act without being entered in the register under Article 89 of this Act (Article 107a(1) and (2));
 - 2) as a registered account information service provider, provides one or more payment services from Article 2(1)(1) to (7) of this Act without authorisation from the Central Bank to provide payment services as a payment institution (Article 107c(1)).
- (2) For an offence under paragraph 1 of this article, a self-employed information service provider shall be liable to a fine of 6,000 euros to 12,000 euros.

Offences of persons conducting an audit

Article 185

- (1) A fine of 10,000 euros to 40,000 euros shall be imposed for an offence on a audit firm, if:
- 1) fails to notify the Central Bank of the facts and circumstances referred to in Article 83(4) and (5) of this Act;
 - 2) fails to provide additional information in accordance with Article 84(2) of this Act.
- (2) For an offence under paragraph 1 of this article, a responsible person of the audit firm shall also be liable to a fine of between 2,000 euros and 4,000 euros.
- (3) For an offence under paragraph 1 of this article, an authorised auditor carrying out audit activities as a sole trader shall be liable to a fine of between €6,000 and €12,000.

Offences of electronic money institutions Article 186

- (1) An electronic money institution shall be liable for an offence if it:
- 1) issues electronic money without authorisation from the Central Bank to issue electronic money (Article 112, paragraph 2);
 - 2) issues electronic money through an agent (Article 115(1));
 - 3) fails to exchange the monetary funds it receives from the holder of electronic money for electronic money without undue delay (Article 119);
 - 4) receives deposits or other repayments (Article 120(1));
 - 5) when providing payment services that are not related to the issuance of electronic money, does not use the funds from the payment account exclusively for payment transactions (Article 121);
 - 6) grant credit from funds received in exchange for issued electronic money (Article 122);
 - 7) fails to protect the funds received in exchange for issued electronic money in accordance with Article 123 of this Act.
- (2) For an offence under paragraph 1 of this article, the person responsible for the electronic money institution shall be liable to a fine of 2,000 euros to 4,000 euros.

Offences of payment system operators

Article 187

- (1) The operator of a payment system referred to in Article 131(2)(1) to (4) of this Act shall be liable for an offence and fined an amount of between 1% and 10% of the protected value breached, if:
- 1) fails to ensure the operation of the payment system in accordance with Article 132 paragraphs 1 and 2 of this Act;
 - 2) starts operating a payment system before the Central Bank issues a licence for that system (Article 134, paragraph 3);

- 3) fails to notify the Central Bank of the commencement of the payment system's operation within the deadlines set out in Article 134, paragraph 4 of this Act;
 - 4) amends the payment system agreement and the rules of operation of the payment system without the approval of the Central Bank (Article 141, paragraphs 1 and 2);
 - 5) fails to notify the Central Bank before entering into a contract with an outsourcing service provider (Article 143, paragraph 1);
 - 6) outsources activities in contravention of Article 143(2) of this Act;
 - 7) fails to notify the Central Bank in accordance with Article 163 of this Act.
- (2) For the offence referred to in paragraph 1 of this article, the responsible person of the payment system operator referred to in paragraph 1 of this article shall be liable to a fine of between 5,000 euros and 20,000 euros.
 - (3) the protected value referred to in this article, is considered to be the preservation of the safe and efficient operation of payment systems and the protection of users of payment services, which for the purposes of the infringement proceedings is expressed as the net income realised in the business year preceding the year in which the infringement was committed and which has been published in the annual financial statement of the payment system operator referred to in paragraph 1 of this article.ana.

Limitation period for initiating infringement

proceedings Article 188

For offences under Articles 181 to 187 of this Act, proceedings may not be initiated or conducted if three years have elapsed from the date on which the offence was committed.

XIV. TRANSITIONAL AND FINAL PROVISIONS

Deadlines for aligning the provision of payment services

Article 189

- (1) Banks which, on the date this Act enters into force, carry out payment transactions on the basis of a licence issued in accordance with the law governing the establishment and operation of banks, shall continue to provide the payment services referred to in Article 2 of this Act, without a separate authorisation from the Central Bank.
- (2) Legal persons, other than banks, which on the date of entry into force of this Act provide payment services under Article 2 of this Act are obliged to submit an application to the Central Bank for the issuance of a licence to provide payment services in accordance with this Act, within 90 days of the date of entry into force of this Act.
- (3) Legal entities which fail to comply with paragraph 2 of this article shall not provide payment services.

Framework

contracts

Article 190

- (1) Framework contracts concluded before the commencement of this Act shall continue to apply until their expiry.
- (2) Payment service providers are obliged to, within 30 days of the date of the entry into force of this Act, provide all payment service users with whom they have entered into a framework agreement as referred to in paragraph 1 of this article with the information from Article 19 of this Act which is not covered by the framework agreement or which they have not previously provided to those users.

Amendments to the framework

agreement Article

190a

Payment service providers who, on the date of entry into force of this Act, are authorised to provide payment services, are required, within six months of the date of entry into force of this Act, to provide all users of payment services with whom they have entered into a framework agreement with information from this Act which is not covered by the existing framework agreement.

Regulatory Acts

Article 191

- (1) The Central Bank shall adopt the regulations for which it is authorised by this Act by the date on which this Act enters into force.
- (2) Until the subordinate acts referred to in paragraph 1 of this article are adopted, the subordinate acts issued pursuant to the Law on Domestic Payments ("Official Gazette of Montenegro", no. 61/08 and 31/12) shall apply.

Regulatory Acts

Article 191a

The Central Bank shall adopt the implementing regulations for this law by the date of its entry into force.

Deadline for the adoption of implementing

regulations Article

191aImplementing

regulationsArticle 191aThe

Central Bank shall adopt the

implementing regulations for

this Law by the date of its

entry into force.

The Central Bank shall adopt the implementing regulations within six months of the date this Law enters into force.

Continuation of the work of the Commission for Extrajudicial Resolution of Disputes in

Payment Transfers Article 192

Members of the Commission for Extrajudicial Resolution of Payment Disputes and their deputies, elected pursuant to the Law on Domestic Payment Transfers ("Official Gazette of Montenegro", no. 61/08 and 31/12), shall continue to serve until the expiry of their term of office.

Deferred Application

Article 193

The provisions of Article 155 paragraph 2, Article 156, Article 157 paragraph 3 and Articles 171 to 180b of this Law shall apply from the date of accession of Montenegro to the European Union.

Bringing existing payment service providers and electronic money institutions into compliance Article 193a

- (1) Payment service providers and electronic money institutions which, on the date of entry into force of this Act, have a licence to provide payment services, or a licence to issue electronic money, issued in accordance with the Law on Payment Transactions ("Official Gazette of Montenegro, no. 62/13), shall align their articles of association and operations with the provisions of this Act and notify the Central Bank accordingly, no later than six months from the date of entry into force of this Act.
- (2) The Central Bank shall revoke the authorisation to provide payment services, or the authorisation to issue electronic money, from payment service providers and electronic money institutions that fail to align their articles of association and operations with the provisions of this Law within the period specified in paragraph 1 of this article.

Certain tasks performed by the Central Bank as a collection enforcement organisation Article 193b

- (1) Data from the Central Register of Transaction Accounts, which the Central Bank, in accordance with Article 65 of the Law on Payment Transfers ("Official Gazette of Montenegro, no. 62/13), maintained until the date of the entry into force of this Law as a legal entity authorised to carry out compulsory collection of funds held on the transaction account of an executing debtor in accordance with the law governing enforcement and security (hereinafter: collection agency), on the day this Act enters into force, become the data from the Central Register of Transaction Accounts referred to in Article 65a of this Act.
- (2) During the performance of the duties of the organisation for compulsory collection, The Central Bank shall use the data from the Central Register of Transaction Accounts, pursuant to Article 65a of this Act, to enforce the compulsory collection of funds held in the execution debtor's transaction account, in accordance with the law governing enforcement and security.
- (3) Whilst performing the duties of the debt collection organisation, the Central Bank publishes the names of legal entities and sole traders, their registration numbers, or the unique registration numbers of entities operating in accordance with regulations, the amounts of the account block and the number of consecutive days the transaction account has been blocked.
- (4) The Central Bank publishes the data from paragraph 3 of this article once a month on its website, on the first working day after the end of the month, as of the last day of the month, in alphabetical order by the name of the legal entity or entrepreneur.
- (5) In addition to publishing the data in accordance with paragraph 4 of this article, the Central Bank also provides a daily overview of the data on the blocking of transaction accounts of each individual executive debtor, which may also be provided by electronic means of communication.

Reconciliation of business operations

Article 193c

Payment service providers who, on the date of entry into force of this Act, are authorised to provide payment services, are obliged to align their articles of association and business operations with the provisions of this Act and to notify the Central Bank thereof, within six months of the date of entry into force of this Act.

Submission of data Article

193d

Payment institutions and electronic money institutions shall provide the Central Bank with proof that persons holding a qualifying participation and members of the management body meet the conditions prescribed by this law, within one year of the date of entry into force of this law.

Repeal of provision of this law on the day of Montenegro's accession to the European Union Article 193e

The provision of Article 61a of this Law shall apply until the day of Montenegro's accession to the European Union.

Pending proceedings

Article 193f

Proceedings which were commenced before the date of the coming into force of this Act shall be concluded in accordance with the regulations under which they were commenced.

Repeal of statutory provisions Article 194

On the day this Act enters into force, the Law on Domestic Payment Transfers ("Official Gazette of Montenegro", no. 61/08 and 31/12), Article 5 of the Law on Current and Capital Transactions with the Abroad ("Official Gazette of the Republic of Montenegro, no. 45/05 and Official Gazette of Montenegro, no. 62/08) and Article 130 of the Law on Amendments and Supplements to Laws Prescribing Monetary Penalties ("Official Gazette of Montenegro", no. 40/11).

Entry into force Article

195

This Law shall enter into force on the eighth day from the date of its publication in the "Official Gazette of Montenegro".