

17 Annex - Economic and monetary policy

138. NATIONAL PAYMENT SYSTEM LAW

NATIONAL PAYMENT SYSTEMS LAW

I. BASIC PROVISIONS

Subject Matter of the Law

Article 1

This Law regulates payment systems in the country, particularly the following: transfers of funds, settlement of inter-bank transfers, electronic payment instruments and payment systems and out-of-court settlement of payment system-related disputes.

Terms and Expressions

Article 2

Specific terms and expressions used in this Law shall have the following meanings:

- 1) **settlement agent** is the institution managing the settlement process in the system of transfers;
- 2) **a banking day** is a part of the day when a performing institution is open for accepting, processing and transferring of orders for execution of transfers and other notifications related to transfers;
- 3) **value date** is a banking day on which the transfer is executed in accordance with instructions of the originator;
- 4) **electronic payment instrument** is payment instrument enabling its holder to dispose of electronic funds and executes their transfer using electronic or other technical means available
- 5) **originator of the transfer** (hereinafter referred to as the originator) is an entity that issues an order to the performing institution to execute a transfer;
- 6) **client** is an entity, including a bank, having an account in a bank or an entity having no account in the bank and for whom the bank provides the payment transfer services;
- 7) **collateral** are assets that a payment system participant (hereinafter: a participant) pledges in order to secure the loan taken for liquidity maintenance, that is, for the purpose of fulfilling the obligations arising from their participation in the payment system;
- 8) **beneficiary** is an entity that is the final recipient of the transferred funds;
- 9) **payment system control** is the activity of the Central Bank aimed at the transfer system itself and not at individual participants in the payment system, primarily intended for the promotion of safe and efficient payment system functioning ;
- 10) **payment system operator** is the legal person responsible for the payment system functioning in accordance with the payment system rules;
- 11) **positive balance on the settlement account** are funds available on the a participant's settlement account held in the Central Bank ;
- 12) **positive balance on a client's account** are funds available for the execution of transfers from and to a client's account in a bank;
- 13) **settlement of inter-bank transfers** is offsetting of the participants mutual obligations arising from payment transfers between two or more participants.

- 14) **electronic payment instrument acceptor** (hereinafter referred to as the acceptor) is an entity that accepts payments through the electronic payment instrument in accordance with the agreement concluded with the electronic payment instrument issuer;

II. TRANSFER OF FUNDS

Definition of Transfer of Funds

Article 3

- (1) Transfer of funds (hereinafter: the transfer) shall be a transfer of monetary assets executed at the originator's order by the performing institution referred to in Article 4 of the Law hereof.
- (2) A postal transfer executed through a post office shall not be considered a transfer within the meaning of this Law.

Performing Institution

Article 4

Performing institutions within the meaning of this Law shall be:

- 1) the Central Bank;
- 2) banks, foreign bank branches and other legal persons licensed or approved by the Central Bank to execute.

Agent

Article 5

- (1) A performing institution may, in accordance with appropriate agreement, entrust certain activities related to the execution of a transfer to an agent.
- (2) The agent shall perform the activities referred to in paragraph 1 of this Article in the name of and for the account of the performing institution that shall be responsible for all the agent's procedures and failures arising from the performance of the aforesaid activities.
- (3) The Central Bank shall prescribe the details of the activities, conditions and the manner of performing the activities under paragraph 1 of this Article.

Types of Transfers

Article 6

- (1) A transfer may be a credit or a debit transfer.
- (2) A credit transfer is the transfer executed at the originator's order issued to the performing institution to:
 1. transfer funds from his account to the account of the beneficiary or to payout cash to the beneficiary;
 2. transfer his cash payment to the account of the beneficiary.

- (3) A debit transfer is the transfer that is executed on the basis of an originator's order issued to the performing institution to transfer funds from a debtor's account to the originator's account or to disburse cash to the originator with the previous written consent of the debtor for such a transfer.
- (4) Credit transfer and debit transfer may be intra-bank or inter-bank.
- (5) Intra-bank transfer is the transfer of funds within one performing institution.
- (6) Inter-bank transfer is the transfer of funds between two performing institutions in the payment system.

Transfer Execution Order

Article 7

- (1) A transfer execution order (hereinafter: the order) is instruction which the originator issues to the performing institution for the execution of a transfer.
- (2) The order may be in written or electronic form.
- (3) The order shall be issued in payment instruments (credit orders, debit orders, payment cards).
- (4) The Central Bank shall prescribe the minimum requirements for credit and debit orders.

Conditions for Transfer Execution

Article 8

- (1) The conditions for transfer execution are:
 1. a properly issued order by the originator;
 2. positive balance on the account to be debited at the originator's order, and in the inter-bank transfer, positive balance on the settlement account of the performing institution where the payment is initiated;
 3. a written consent of the debtor in reference to the debit transfer;
 4. documents required by the performing institution.
- (2) Transfer may be executed without the originator's order in the following cases:
 1. execution against account of the client in order to collect the monetary claim in accordance with the law;
 2. in order to correct errors;
 3. where account debiting without the order issuing has been previously agreed between the client and the performing institution.

Time Limits for Transfer Execution

Article 9

- (1) In the intra-bank credit transfer, the performing institution is obliged to credit the beneficiary's account or to pay cash to the beneficiary on the same banking day when it accepted the order from the originator, i.e. on the value date.

- (2) In the intra-bank debit transfer, the performing institution is obliged to credit the account of the beneficiary or to pay cash to the beneficiary on the same banking day when it accepted the order from the originator, i.e. on the value date.
- (3) In the inter-bank credit transfer, the performing institution of the originator is obliged to transfer funds to the performing institution of the beneficiary on the same banking day when the originator has issued the order and/or on the value date, and the performing institution of the beneficiary shall credit the account of the beneficiary or pay cash to the beneficiary on the same banking day it has received the funds on its account.
- (4) In the inter-bank debit transfer, the performing institution of the debtor is obliged to transfer funds to the performing institution of the originator on the same banking day it has received the order from the originator and/or the value date, and the performing institution of the originator is obliged to credit the account of the originator on the same banking day it has received the funds on its account.

Interdiction of Deductions from the Transfer Amount

Article 10

The performing institution is obliged to execute a transfer of the full amount indicated in the order, without any deductions.

Transfer Execution Account

Article 11

- (1) The transfer execution account (hereinafter: the account) shall be opened in line with a contract concluded between the performing institution and a client.
- (2) A client may have several accounts in one performing institution and accounts with several performing institutions.
- (3) The account shall be closed under conditions stipulated in the Law or other applicable regulation or the contract referred to in paragraph 1 of this Article.
- (4) The account of the client that is frozen based on a decision of the competent authority cannot be closed, unless otherwise stipulated by the law.
- (5) The Central Bank shall prescribe the structure of the account and more detailed conditions and the manner of opening and closing the account.

Registry of Accounts

Article 12

- (1) The Central Bank shall maintain the Central Registry of Accounts as a unique information database on the accounts and their holders.
- (2) The data in the Central Registry of Accounts shall be confidential, unless otherwise stipulated by the law.
- (3) The performing institution is obliged to maintain the registry of accounts of its clients.
- (4) The performing institution shall furnish the Central Bank with information on opened accounts, changes in information on the account and information referring to the closing of the account no later than by the end of the banking day when the account has been opened, closed or when the change has occurred.

- (5) The Central Bank shall prescribe the contents of the Central Registry of Accounts.

Obligations and Responsibilities of the Performing Institution

Article 13

- (1) The performing institution is obliged to:
1. provide any interested party with written information on general conditions and procedures with regard to effecting transfer;
 2. act with due care in effecting transfers;
 3. deliver a report to a client on the balance, all changes in the account and the amount of fee charged to the client;
 4. examine every complaint made by a client and, should it be proved justifiable, make any necessary reconciliations and corrections.
 5. announce rates of charged transfer fees on its working premises and on its website.
 6. submit to the Central Bank the rates of charged transfer fees within three days following the day of adoption of internal regulation on the amount of transfer fees to be charged.
- (2) The performing institution shall be liable to the client for any damages incurred due to the non-execution of transfer order, improper execution or delay in the execution of the order.
- (3) Should the performing institution fail in executing the order or should it execute it on behalf of an erroneous beneficiary and thus reduce the balance on the client's account by the amount indicated in the order, the performing institution shall be obliged to act at the client's request or when detecting the error as follows:
1. to return to the client the amount of funds by which the balance on their account has been reduced, including any costs that may have been incurred by the client;
 2. to pay consideration to the amount of penalty interest that would accrue on the order amount in the period from the day of the reduced balance on the client's account until the day of return of the lacking funds.
- (4) In the event of delay in execution of the order, the performing institution shall be obliged to pay to the client the legal penalty interest on the amount of untimely executed order, for the period from the day when the order was supposed to be executed until the day of actual execution of the order.
- (5) If a client has incurred damages in cases referred to in paragraphs 2, 3 and 4 of this Article, the client shall be entitled to demand the difference to the full amount of the damage in accordance with the provisions of the law of contracts.

Exoneration from Liability

Article 14

The performing institution shall be exonerated from liability for the non-execution of the transfer or delay in the execution of a transfer in the following cases: force majeure or circumstances it could not prevent, eliminate or avoid; undertaking measures and actions to prevent money laundering or terrorism financing; as well as in other cases envisaged by the law.

Correction of Errors

Article 15

- (1) In a case of an erroneous transfer, the performing institution shall be obliged to correct the error.
- (2) The costs of the correction of the error shall be borne by the performing institution.
- (3) If there are no funds or there are insufficient funds in the account to which the funds were erroneously transferred, the performing institution shall be obliged to correct the error at its own expense.
- (4) The performing institution shall be obliged to establish adequate procedures for the correction of errors and to maintain a log of complaints and errors indicating their status and the manner of their resolving.
- (5) A transfer of funds caused by a client's failure shall not be considered an erroneous transfer.

Filing and Safekeeping of Documentation

Article 16

The performing institution shall be obliged to archive the documentation on executed transfers and store them for five years, and to keep the electronic data on executed transfers for ten years from the date of the execution of the transfer.

III. SETTLEMENT OF INTER-BANK TRANSFERS

Settlement of Inter-Bank Transfers

Article 17

- (1) Settlement shall be performed for every inter-bank transfer between the performing institutions.
- (2) Settlement of all inter-bank transfers shall be performed in RTGS payment system, wherein every individual transfer is executed at gross principle in real time (hereinafter referred to as the RTGS system).
- (3) An order transmitted into the RTGS system shall be final and irrevocable as of the moment of its acceptance for settlement by the system.
- (4) An order is considered accepted for settlement by the RTGS system when the system has confirmed its validity and identified the existence of positive balance on the settlement account.
- (5) The Central Bank shall establish, by means of regulation, the minimum value of inter-bank transfers in the country that must be processed in the RTGS system (demarcation between low-value and large-value payments).

RTGS System

Article 18

- (1) The Central Bank is the owner and the operator of, a participant in, and the settlement agent of the RTGS system in Montenegro.
- (2) Participants in the RTGS system may be legal persons which accounts, in accordance with the law, are opened and maintained by the Central Bank.

- (3) Other legal persons may also be participants in the RTGS system in accordance with the regulation of the Central Bank.

Insolvency of an RTGS System Participant

Article 19

- (1) Insolvency of a participant, within the meaning of this law, shall be considered the commencing of bankruptcy or liquidation proceedings against the participant.
- (2) The moment of insolvency shall be considered the moment when the competent authority has adopted a decision on commencing the bankruptcy or liquidation proceedings against the participant.
- (3) Insolvency of the participant shall not prevent the use of funds held in their settlement account in order to meet the obligations of such a participant that arise from his participation in the payment system in reference to the finalization of the settlement in the payment system on the day of insolvency, provided that such orders have been accepted by the payment system in accordance with the payment system rules:
1. before the moment of insolvency;
 2. after the moment of insolvency if the order has been received on the day of insolvency and the payment system operator has not been aware or could not have been aware of the participant's insolvency.
- (4) Insolvency of a participant shall not affect the rights of other participants in the system to realize the collateral that was pledged by the participant before the moment of insolvency, to secure funds for the execution of obligations arising from his/her participation in the payment system, if the participant has failed to meet his obligation secured by the collateral.

Notification

Article 20

The Central Bank shall inform the Central Registry of the Commercial Court about the payment system participants on the day immediately following the day of issuing the licence referred to in Article 33 of this Law. .

IV. ELECTRONIC PAYMENT INSTRUMENTS

Types of Electronic Payment Instruments

Article 21

For the purpose of this Law, the electronic payment instruments shall be: banking payment cards and electronic banking payment applications (hereinafter referred to as the remote access payment instruments).

Remote Access Payment Instrument Issuer

Article 22

- (1) The issuer of remote access payment instruments shall be banks and foreign bank branches which license or approval covers the issuing of remote access payment instruments.

Obligations and Liabilities of the Issuer of Remote Access Payment Instruments

Article 23

- (1) The issuer of remote access payment instruments is obliged to:
1. create the conditions for the holder of a remote access payment instrument (hereinafter referred to as the holder) to timely inform the issuer of the remote access payment instrument about loss, theft or misuse of the remote access payment instrument or the means that enable it to be used, an unauthorized transfer registered on the holder's account and an error or irregularity in maintaining of the holder's account by the issuer of the remote access payment instrument;
 2. upon the receipt of notification under paragraph 1, point 1 of this Article, undertake all measures in order to prevent the use of the remote access payment instrument;
 3. provide the holder with a report on transfers executed with the remote access payment instrument ;
- (2) The issuer of remote access payment instruments shall not be allowed to:
1. issue a remote access payment instrument without the holder's request, except in cases for the purpose of replacing the existing remote access instrument held by the holder;
 2. disclose the personal identification number (PIN) or any other codes to any third party other than the holder.
- (3) The issuer of remote access payment instruments shall be liable for:
1. proper and complete execution of the holder's transfers of, even if a transfer is executed using the means and equipment that is not under direct or exclusive control of the issuer of the remote access payment instrument, provided that the issuer of remote access payment instrument has approved their use;
 2. a transfer that has not been authorised by the holder, as well as for any errors and irregularities made by the issuer of the remote access payment instrument in maintaining the holder's account;
 3. loss incurred by the holder from the moment of notifying the issuer of the remote access payment instrument in accordance with paragraph 1 point 3 of this Article, except in case when the holder has committed an act of gross negligence or fraud.
- (4) Within the meaning of paragraph 3 points 1-3 of this Article, the issuer of the remote access payment instrument shall be liable for the amount recovered for the holder to recover the balance on the account that existed before the unauthorized or erroneously executed transfer, as well as for caused damage.

Contract on the Acceptance of Payments with Remote Access Payment Instruments

Article 24

Mutual rights and obligations of the issuer of remote access payment instrument and acceptor are regulated in a written contract on the acceptance of payments via remote access payment instruments that must contain the following:

1. types of remote access payment instruments to be used for transfers with the acceptor;
2. description of obligations and responsibilities of the issuer of remote access payment instrument and the acceptor, including the security procedures;

3. the period and the manner of payment by the issuer of remote access instrument to the acceptor;
4. reasons allowing the acceptor to reject the payment via remote access payment instrument.

General Terms and Conditions of the Issuer of Remote Access Payment Instrument

Article 25

- (1) The issuer of remote access payment instrument is obliged to prepare, in writing, the general terms and conditions referring to the issuing and use of the remote access payment instruments that constitute an integral part of the contract on the issuing and use of remote access payment instruments.
- (2) General terms and conditions under paragraph 1 of this Article must include the following:
 1. description of the remote access payment instruments and the manner of their use, including the financial limit that refers to their use;
 2. description of obligations and responsibilities of the issuer of the remote access payment instruments and the holder and time limits referring to their fulfilment, including the security procedure for the remote access payment instruments;
 3. information on technical requirements for communication equipment which use is authorised, as well as the manner of its use;
 4. types and amounts of fees to be paid by the holder in reference to the use of the remote access payment instruments;
 5. procedures related to complaints and resolving disputes.
- (3) If the remote access payment instrument is used outside of the territory of Montenegro, the integral part of the general terms and conditions from paragraph 1 of this Article must also contain the information on:
 1. the amount of each fee that is to be paid for the transfer in foreign currency;
 2. the exchange rate for the conversion of foreign currency in a transfer, including the relevant date referring to determination of the exchange rate.
- (4) The issuer of the remote access payment instrument is obliged to inform the holder of any change referring to the general terms and conditions under paragraph 1 above, no later than one month prior to the change coming into force.
- (5) The issuer of the remote access payment instrument is obliged to deliver the general terms and conditions under paragraph 1 of this Article and any amendments thereof to the Central Bank within 3 days from the day of their adoption.

Detailed Regulation of the Issuing and Use of Remote Access Payment Instrument

Article 26

The Central Bank shall, by means of a regulation, prescribe in details the issuing and use of remote access payment instruments.

Reporting to the Central Bank on Remote Access Payment Instruments

Article 27

- (1) The Central Bank shall prescribe the structure, contents and timeframes for reporting to the Central Bank on the volume and type of issued remote access payment instruments and other information with regard to the issuing and use of remote access payment instruments.
- (2) The issuer of remote access payment instruments is obliged to submit the report referred to in paragraph 1 of this Article to the Central Bank, in the manner and within the timeframes as prescribed by the Central Bank.

Issuing of Remote Access Payment Instruments

Article 28

Services related to the issuing of remote access payment instruments may be performed only by persons referred to in Article 22 of this Law.

V. PAYMENT SYSTEMS

Definition of Payment System

Article 29

Payment system is a legal relationship based on a contract among three or more participants, not including the settlement agent and payment system operator, containing the established rules and standardized procedures for the execution of transfers among the participants.

Payment System Participants

Article 30

- (1) Participants in the payment system may be:
 1. the Central Bank;
 2. banks and foreign bank branches;
 3. state authority and bearer of public authorizations;
 4. central banks of other countries;
 5. the European Central Bank;
 6. the Central Depository Agency;
 7. authorized participants in the securities market.
- (2) Payment system participants may be other legal persons, in accordance with the regulation of the Central Bank.

Payment System Rules

Article 31

- (1) The rules of the payment system shall regulate:
 1. the payment system operator ;

2. participants, the conditions referring to the participation, suspension and exclusion from the payment system;
 3. the rights and the liabilities of the participants and the operator of the payment system;
 4. the form, elements and the manner of issuing orders in the payment system;
 5. the manner of transfer, validation and ensuring finality of orders;
 6. the procedure to be followed in case of a participant's illiquidity;
 7. technical standards applied in the payment system;
 8. business day and work time schedule;
 9. the security procedures applied in the payment system;
 10. the manner of reporting to the payment system participants on transfers;
 11. the manner of filing hard copy and electronic documentation and the period of their keeping;
 12. the manner of reporting to the Central Bank;
 13. disaster recovery procedures;
 14. other rules of importance for secure and efficient functioning of the payment system.
- (2) The payment system operator is obliged to submit a request to the Central Bank to seek approval for any amendments to the payment system contract or the rules of the payment system.

Payment System Operator

Article 32

- (1) Payment system operator may be:
1. the Central Bank,
 2. bank indicated as a payment system operator in the payment system license.
- (2) No other person other than those referred to in paragraph 1 of this Article may perform operations of a payment system operator.

Payment System License

Article 33

The Central Bank shall issue payment system license (hereinafter: the license) to a bank operator of the payment system.

Requirements for the License Issuing

Article 34

The Central Bank shall issue the license provided that the following requirements have been met:

- (1) The payment system operator is technically, organizationally and functionally capacitated to operationally manage the payment system and disposes of the control, security and risk management mechanisms;

- (2) the payment system operator has a business plan for the first three years of the payment system functioning that is based on sensible economic indicators;
- (3) the payment system operations do not jeopardize the compatibility of other payment systems' functioning and the stability and safety of the financial system in Montenegro.

Procedure for Licence Issuing

Article 35

- (1) The licence application shall be submitted in writing, together with the proof referring to the fulfilment of the requirements for the license issuing referred to in Articles 31 and 34 of this Law.
- (2) The Central Bank shall issue a decision on application from paragraph 1 of this Article within 90 days as of the application submission.
- (3) The decision under paragraph 2 of this Article shall be final.
- (4) The decision under paragraph 2 of this Article may be subject to administrative dispute.
- (5) The Central Bank shall prescribe detailed requirements for documentation to be submitted together with the licence application.

Corrective Measures

Article 36

- (1) Should any irregularities be identified in the payment system functioning or any acting contrary to the applicable regulations, the Central Bank may:
 1. send a written warning to the payment system operator;
 2. require from the payment system operator to eliminate the identified deficiencies within the specified time period;
 3. require the payment system operator to provide external audit of the payment system and its participants;
 4. order the payment system operator to eliminate one or several participants from the payment system if they do not meet the requirements for participating in the payment system;
 5. forbid the payment system operator to perform activities determined by the license, until the elimination of the deficiencies.
- (2) The Central Bank shall decide on the corrective measures referred to under points 2, 3, 4 and 5 of this Article in the form of a decision.
- (3) The decision referred to in paragraph 2 of this Article shall be final.
- (4) The decision referred to in paragraph 2 of this Article may be subject to administrative dispute.

Licence Revocation

Article 37

The Central Bank shall revoke the license issued to a payment system operator:

- (1) if the license has been issued on the basis of incorrect information provided by the operator;

- (2) if the payment system operator has not commenced payment system operations within six months following the day of the license issuing;
- (3) in case any of the requirements related to the license issuing cease to be met;
- (4) in case of the payment system operator's acting contrary to the regulations and the payment system rules;
- (5) in case of preventing payment system control or rejecting to create the conditions for performing the payment system control;
- (6) in case the payment system operator has not performed its activity in the period exceeding six months;
- (7) in case of commencing the bankruptcy or liquidation proceedings against the payment system operator.

Decision on Licence Revocation

Article 38

- (1) The Central Bank shall decide on revocation of license issued to a payment system operator by issuing a decision.
- (2) The decision referred to in paragraph 1 of this Article shall be final.
- (3) The decision referred to in paragraph 1 of this Article may be subject to administrative dispute.

Notification on License Issuing and Revocation

Article 39

The Central Bank shall publish in the Official Gazette of Montenegro and deliver to the Central Registry of the Commercial Court the decision on license issuing and revocation.

Payment Systems Control

Article 40

- (1) The Central Bank shall perform the control of the payment operations in accordance with this Law, regulations of the Central Bank and the payment system rules.
- (2) Payment system operator and participant are obliged to provide all the required information and documents with regard to the payment system operations.
- (3) The Central Bank shall prescribe the manner of payment system control.

Payment System Control Confidentiality

Article 41

The Central Bank is obliged to provide for confidentiality of data and information obtained during the payment system control, in line with the law.

VI. OUT-OF-COURT SETTLEMENT OF PAYMENT SYSTEM RELATED DISPUTES

Committee for Out-of-Court Settlement of Payment System Related Disputes

Article 42

Out-of-court settlement of disputes related to payment system shall be performed by the Committee for Out-of-Court Settlement of Payment System Related Disputes (hereinafter referred to as the Committee).

Payment System Disputes

Article 43

- (1) Payment system disputes within the meaning of this Law shall be considered the disputes between a client and a performing institution with regard to the execution of transfers and the issuing and use of electronic payment instruments.
- (2) The Committee referred to in Article 42 of this Law shall not resolve disputes that are already subject to litigation and shall terminate any out-of-court settlement of a dispute if such a dispute has been subject to litigation initiated during the procedure of settlement.

Establishment of the Committee

Article 44

The Committee referred to in Article 42 of this Law shall be established at the Association of Banks and Financial Institutions of Montenegro.

Requirements for Work of the Committee

Article 45

The Association of Banks and Financial Institutions of Montenegro shall perform technical and administrative services for the Committee and provide the premises and technical requirements necessary for the work of the Committee.

Composition of the Committee

Article 46

- (1) The Committee under Article 42 of this Law shall consist of five members, whereby the Association of Banks and Financial Institutions of Montenegro and the organisations for consumer protection shall each appoint and release from duty two members and one member shall be appointed and released from duty by the Central Bank.
- (2) The Chairman of the Committee shall be the member that is appointed and released from duty by the Central Bank.
- (3) Each member of the Committee shall have a deputy to be appointed and released from duty in the manner specified in paragraph 1 of this Article.
- (4) Members of the Committee shall be appointed for the period of three years, with the opportunity for reappointment to one additional term.

The Committee Membership

Article 47

A member of the Committee may be a person holding a university degree and at least five years of the pertinent professional experience, provided that such a person has legal capacity and has not been convicted of a criminal offence that would make him/her unworthy of performing activities related to the out-of-court settlement of payment system related disputes.

Cessation of the Committee Membership

Article 48

- (1) Membership of the Committee shall cease:
 1. with the termination of term of office of a member;
 2. at a member's requests;
 3. if it is determined that a member does not meet the requirements under Article 47 of this Law;
 4. if it is legally determined that a member has lost legal capacity to perform his/her duty;
 5. with a member's death.
- (2) In case of cessation of membership of the Committee, a new member shall be appointed with 30 (thirty) days following the day of the occurred cessation of membership.

Restrictions to the Committee Membership

Article 49

- (1) A member of the Committee having personal or other interests in out-of-court settlement of disputes or is in any way related to any of the parties in a dispute may not participate in the settlement of the aforesaid dispute.
- (2) A member of the Committee who cannot be impartial for any of the reasons whatsoever is obliged to immediately inform the entity authorized for the appointment or release from duty of the Committee member with a view to designating his/her deputy to participate in the work of the Committee.

Work of the Committee

Article 50

- (1) Work of the Committee shall be regulated in the Rules of procedure to be passed by the Committee.
- (2) The Central Bank shall approve the Rules of procedure under paragraph 1 of this Article.

Confidentiality

Article 51

Members of the Committee and their deputies are obliged to keep confidential any information obtained during the performance of their duty.

Funding of the Committee

Article 52

Funds required for the work of the Committee shall be provided by the Central Bank and the Association of Banks and Financial Institutions of Montenegro in the 50%:50% ratio.

VII. PENALTY PROVISIONS

Article 53

- (1) Pecuniary fine ranging from tenfold to three hundredfold the minimum wage in Montenegro shall be imposed for a violation on a legal person in case:
1. it fails to credit the beneficiary's account in an intra-bank credit transfer, or to make a cash payment to the beneficiary on the same banking day when it has received the originator's order, i.e. on the value date (Article 9 paragraph 1);
 2. it fails to credit the beneficiary's account in an intra-bank debit transfer, or to make a cash payment to the beneficiary on the same banking day when it received the originator's order, i.e. on the value date (Article 9 paragraph 2);
 3. if in an inter-bank credit transfer, the performing institution of the originator fails to transfer funds to the performing institution of the beneficiary on the same banking day the originator has issued the order, i.e. on the value date, and the beneficiary's performing institution fails to credit the account of the beneficiary or make cash payment to the beneficiary on the same banking day it has received the funds on its account (Article 9 paragraph 3);
 4. if in an inter-bank debit transfer, the performing institution of the debtor fails to transfer funds to the performing institution of the originator on the same banking day when it has received the order from the originator, i.e. on the value date, and the performing institution of the originator fails to credit the account of the originator on the same banking day it received funds on its account (Article 9 paragraph 4);
 5. it fails to execute a transfer in the full amount indicated in the order, without any deductions (Article 10);
 6. it opens an account without prior concluding of a contract with a client (Article 11 paragraph 1);
 7. it cancels an account under the conditions that are not stipulated by the law or other regulation and/or the contract referred to in Article 11 paragraph 1 of this Law (Article 11 paragraph 3);
 8. it closes the account of the client that has been frozen in line with a decision passed by the competent authority, unless otherwise stipulated in the law (Article 11 paragraph 4);
 9. it fails to maintain the registry of accounts of its clients (Article 12 paragraph 3);
 10. it fails to deliver to the Central Bank information on opened accounts, changes of account data and information on the closing of accounts no later than by the end of the banking day on which an account has been opened, closed or when the pertinent change has occurred (Article 12 paragraph 4);
 11. it fails to provide any interested party with written information on general terms and conditions related to the execution of a transfer (Article 13 paragraph 1 point 1);

12. it fails to furnish a client with the report on balance, any changes on the account and the amount of the fee to be paid by the client (Article 13, paragraph 1 point 3);
 13. it fails to examine any complaint of a client and, if it should find that such a complaint is justified, fails to make immediate adjustments and corrections (Article 13 paragraph 1, point 4);
 14. it fails to announce the rates of the charged fees for transfer-related services on its premises and website (Article 13 paragraph 1 point 5);
 15. it fails to submit to the Central Bank the rates of the charges fees for transfer-related services within three days following the day of adoption of the internal regulation on the amount of transfer fees to be charged (Article 13 paragraph 1 point 6);
 16. it fails to correct the error in case of an incorrect transfer (Article 15 paragraph 1);
 17. it fails to make the correction at its own expense if there are no funds or there are insufficient funds in the account to which the funds were erroneously transferred (Article 15, paragraph 3);
 18. it fails to archive the documentation on executed transfers and store them for five years and to keep the electronic data on executed transfers for ten years from the date of the execution of the transfer (Article 16).
- (2) Pecuniary fine from tenfold to twentyfold the amount of the minimum wage in Montenegro shall also be imposed for the violation referred to in paragraph 1 of this Article on the responsible person of the legal person.

Article 54

- (1) Pecuniary fine from tenfold to three hundredfold amount of the minimum wage in Montenegro shall be imposed on the legal person for a violation if:
1. it fails to create the conditions for the holder of a remote access payment instrument to timely inform the issuer of the remote access payment instrument about loss, theft or misuse of the remote access payment instrument or the means that enable it to be used, an unauthorised transfer registered on the holder's account and an error or irregularity in maintaining of the holder's account by the issuer of the remote access payment instrument (Article 23, paragraph 1, point 1);
 2. upon the receipt of notification under Article 23 paragraph 1, point 1, it does not undertake all measures in order to prevent the use of the remote access payment instrument (Article 23 paragraph 1 point 2);
 3. it fails to provide the holder with the report on transfers executed using the remote access payment instrument (Article 23, paragraph 1, point 3);
 4. it issues a remote access payment instrument contrary to the prohibition under Article 23 paragraph 2 point 1 of this Law;
 5. it discloses the holder's personal identification number (PIN) or any other code contrary to the prohibition under Article 23 paragraph 2 point 2 of this Law;
 6. it fails to prepare the general terms and conditions in writing (Article 25 paragraph 1);
 7. it fails to inform the holder on any amendments to the general terms and conditions no later than thirty days before their coming into force (Article 25 paragraph 4);
 8. it fails to deliver to the Central Bank the general terms and conditions and their amendments within three days following the day of their adoption (Article 25 paragraph 5);
 9. it fails to submit to the Central Bank the report referred to in Article 27 paragraph 1 of this Law in the manner and within the timeframes prescribed by the Central Bank (Article 27 paragraph 2).

- (2) Pecuniary fine ranging from tenfold to twentyfold amount of the minimum wage in Montenegro shall also be imposed on the responsible person of the legal person for the violation referred to in paragraph 1 of this Article.

Article 55

- (1) Pecuniary fine from tenfold to three hundredfold amount of the minimum wage in Montenegro shall be imposed for a violation on the body and/or legal person if:
1. it fails to submit a request to the Central Bank to seek approval for any amendments to the payment system contract or the payment system rules (Article 31, paragraph 2);
 2. it fails to provide any required information and documents with regard to the payment system functioning (Article 40, paragraph 2).
- (2) Pecuniary fine ranging from tenfold to twentyfold amount of the minimum wage in Montenegro shall also be imposed on the responsible person of the body and/or legal person for the violation referred to in paragraph 1 of this Article.

Article 56

- (1) Pecuniary fine ranging from tenfold to three hundredfold amount of the minimum wage in Montenegro shall be imposed for a violation of the legal person that does not hold the valid licence or approval for issuing remote access payment instruments (Article 28).
- (2) Pecuniary fine ranging from tenfold to three hundredfold amount of the minimum wage in Montenegro shall be imposed for a violation of the legal person performing the activity of a payment system operator contrary to the prohibition referred to in Article 32 paragraph 2 of this Law.
- (3) Pecuniary fine ranging from tenfold to twentyfold amount of the minimum wage in Montenegro shall also be imposed on the responsible person of the legal person for violations under paragraphs 1 and 2 of this Article.

VIII. TRANSITIONAL AND FINAL PROVISIONS

Passing and Implementation of Regulations

Article 57

- (1) Regulations prescribing the enforcement of this Law shall be adopted within six months following the day this Law comes into force.
- (2) The regulations valid on the day of coming into force of this Law shall remain in force until the passing of regulations referred to in paragraph 1 of this Article, provided that they are not in conflict with this Law.

Rescinding of Regulations

Article 58

The Decision on Domestic Payment Operations shall cease to be valid as of the day this Law comes into force (Official Gazette of the Republic of Montenegro 78/04, 6/05 and 33/05).

Entry into Force

Article 59

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

SU-SK No. 01-813/9

Podgorica, 8 October 2008

PARLIAMENT OF MONTENEGRO

PRESIDENT

Ranko Krivokapić