

**Government of Montenegro**

**Ministry of Finance**

## **Questionnaire**

Information requested by the European Commission to the Government of Montenegro for the preparation of the Opinion on the application of Montenegro for membership of the European Union

### **04 Free movement of capital**

**Minister: Igor Luksic**

**Podgorica, December 2009**



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**CHAPTERS OF THE ACQUIS – ABILITY TO ASSUME THE  
OBLIGATIONS OF MEMBERSHIP**

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## **Chapter 4: Free movement of capital**

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## **I. CAPITAL MOVEMENTS AND PAYMENTS**

**1. On the basis of the attached table, please indicate the situation for each type of capital transaction (whether the transaction has been liberalised, any conditions attached to the liberalisation, authorisation procedures, applicable domestic legislation, etc.)?**

The answer is provided in the table at the end of this Chapter.

**2. What are the plans and timetables for complete liberalisation of medium and long-term capital movements? Please distinguish between decisions already adopted, measures programmed, and conditional measures.**

By the adoption of the Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08), the general regime for the completely free movement of money and capital in/from the country has been introduced, in terms that all current and capital transactions may be performed freely by residents and non-residents, that there is no limitation on the transfer of property in/from abroad, as well as that there is no limitation regarding currency or foreign exchange control.

Bearing in mind the abovementioned, and since such a regime has already been introduced, we cannot talk about the plans for complete liberalization of the movement of capital.

As regards limitations arising from the Law on Ownership Rights, please see the answer to the question number 12 of this Chapter.

**3. Describe the key features of the current law on foreign exchange operations.**

The Law on Foreign Current and Capital Operations was adopted by the Parliament of Montenegro on 28 July 2005 (Official Gazette of the Republic of Montenegro 45/05). This Law provides the legal basis for the regime of free movement of money and capital in Montenegro and abroad, in terms that all current and capital transactions may be performed freely by residents and non-residents, that there is no limitation on the transfer of property in/from abroad, as well as that there is no limitation regarding currency or foreign exchange control.

Pursuant to the Law, natural and legal persons have the same treatment.

Matters in the area of current payments and movement of capital are defined in the Stabilization and Association Agreement Chapter IV, Articles 62, 63 and 64.

Provisions related to the regulation of matters of free movement of capital and current payments that the Law is harmonized with, are contained in the primary, but also in the secondary sources of the European Union law.

The primary source of the European Union law used in drafting of the Law is the Consolidated Version of the Treaty Establishing the European Community of 24 December 2004. Articles 56 – 60 of the specified Treaty are directly relevant for the area of free movement of capital and current payments, and their fundamental principles are incorporated in the Law.

The secondary source of the European Union law used in drafting of this Law that the Law is harmonized with is the following: Council Directive (88/361/EEC) of 24 June 1988 on capital mobility, Directive 97/5/EC of the European Parliament and of the Council on cross-border credit transfers, , as well as Directive 98/26/EC of the European Parliament and of the Council on settlement finality in payment.

The Law on Amendments to the Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 62/08) was adopted in the second half of 2008. Amendments to the Law have been adopted due to the need to harmonize its provisions with the provisions of the GATS Agreement (General Agreement on Trade in Services), in particular with Article II that prescribes the most-favoured-nation treatment as unconditional obligation for all members, and the prohibition of discrimination between certain members.

**4. Please comment on the strategy for liberalisation of short-term capital movements. How is this strategy linked to other economic developments? How consistent is it with other policy objectives, in particular that of the exchange rate? Given experience elsewhere, are excessive inflows not considered more likely than initial outflows? Which instruments are available to manage inflows?**

By the adoption of the Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08), the general regime for the completely free movement of money and capital in/from the country has been introduced, in terms that all current and capital transactions may be performed freely by residents and non-residents, that there is no limitation on the transfer of property in/from abroad, as well as that there is no limitation regarding currency or foreign exchange control.

Bearing in mind the aforementioned, and since such a regime has already been introduced, we cannot talk about the plans for complete liberalization of short-term capital movements. At the same time, we cannot talk about compliance with the policy of the foreign exchange rate, since Montenegro has implemented the complete euroisation and it uses the Euro as a legal tender and therefore it does not have instruments to manage the foreign exchange rate.

Regarding experiences of transitional countries and developing countries, it is more probable that in the following period there will be larger inflows than outflows, because for the investors it is more profitable to invest into developing countries, which grow at higher rates than the developed EU countries.

As specified in the first paragraph, by the adoption of the Law on Foreign Current and Capital Operations, all flows of capital in Montenegro have been liberalized, and to this regard there are no significant instruments for managing inflows, except for the possibility provided in Article 11.

Article 11 of this Law envisages the following:

“The Central Bank may introduce protective measures, if capital movements seriously jeopardize or threaten to jeopardize monetary policy or financial situation of Montenegro.

The protective measures referred to in paragraph 1 of this Article are:

- 1) Restrict payments based on current and capital operations;
- 2) Prohibit taking and giving loans, sureties or guarantees;
- 3) Restrict cross-border movement of means of payment;
- 4) Restrict payments and collections by using payment cards, traveler’s and banking cheques and securities;
- 5) Restrict purchase and sale of particular foreign currency banknotes.

The Central Bank may introduce the protective measures referred to in paragraph 2 of this Article only with the consent of the Government.

The protective measures referred to in paragraph 2 of this Article shall be applied as long as the disruptions causing them continue to exist, but no longer than six months after being introduced.



**5. On current account convertibility, it is our understanding that IMF Article VIII status was accepted in 2007. In this context, can Montenegro confirm whether there are any remaining technical issues?**

When becoming a member of IMF in 2007, Montenegro accepted Article VIII of the IMF Charter. . IMF Mission visited Montenegro at the beginning of 2009 in order to determine the extent to which the foreign exchange system of Montenegro is harmonized with the obligations assumed in accordance with Article VIII of the IMF Charter. IMF Mission has not submitted the final report yet. During the discussions, the opened question was related to the matters of old foreign currency savings (foreign currency savings of citizens frozen by the disintegration of SFRY in all newly established countries). Namely, during 2004, Montenegro adopted the Law on Settlement of Obligations and Claims Based on Foreign Debt and Citizens' Foreign Currency Savings. The Law from 2004 prescribes the settlement of old foreign exchange accounts of all residents and non-residents in a manner that the old foreign exchange savings (increased for interest) would be converted into bonds that would be paid in annual installments during 13 years. Dilemma opened during these discussions is whether the manner of settlement of the old foreign exchange savings limits the right of non-residents to freely acquire and transfer the funds of principal and interests without any limitations. The position of Montenegro in these discussions was that this matter has been resolved in the same manner in some other former Yugoslav Republics, which received the confirmation that their system was in compliance with Article VIII of the IMF Charter. Since the IMF has not finished its report yet we cannot confirm with certainty whether amendments to the regulations in this or some other area would be necessary.

**6. What are the obligations of the State regarding bonds issued for payment of frozen foreign exchange deposits: principal/interest? What is the market value of these bonds (in percentage)? What can these bonds be used for?**

1) The Law on Settlement of Obligations and Claims Based on Foreign Debt and Citizens' Foreign Currency Savings (Official Gazette of the Republic of Montenegro 55/03 and 11/04) regulates the manner and procedure for assuming the obligations and claims of the banks by Montenegro based on foreign debt and citizens' foreign currency savings and the manner of their settlement. Dynamics of the payment of the foreign currency savings is specified by Article 15 of this Law. Symbol of bonds is OB with different market codes depending on the maturity of the bonds, and nominal value of one bond is EUR 1.

The Law on Payment of Foreign Currency Savings of Citizens Deposited with Authorized Banks Headquartered outside Montenegro (Official Gazette of the Republic of Montenegro 81/06 and Official Gazette of Montenegro 20/09) regulates the payment, terms and procedure for the payment of the foreign currency of citizens with permanent residence in Montenegro who deposited foreign currency savings with authorized banks headquartered outside Montenegro. Dynamics of the payments is specified by Article 8 and 8a of this Law. Symbol of bonds is DOB with different market codes depending on the maturity of the bonds and nominal value of one bond is EUR 1.

2) Depending on maturity of the bonds their average market price for the period from 1 January to 31 August 2009 amounted:

Symbols	Average price in EUR	% of nominal value	Minimum price in EUR	Maximum price in EUR
DO09	0.8677	86.77%	0.7232	0.9100
DO10	0.7024	70.24%	0.4524	0.8700
DO11	0.6040	60.40%	0.3112	0.7350

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DO12	0.3780	37.80%	0.2118	0.5101
DO13	0.3806	38.06%	0.1603	0.4700
Do14	0.3115	31.15%	0.1503	0.4100
DO15	0.2998	29.98%	0.1402	0.3990
DO16	0.5000	50.00%	0.5000	0.5000
DO17	0.5000	50.00%	0.5000	0.5000
OB09	0.8854	88.54%	0.8300	0.9500
OB10	0.7002	70.02%	0.5116	0.8500
OB11	0.5581	55.81%	0.4100	0.6941
OB12	0.5952	59.52%	0.4000	0.6499
OB13	0.4705	47.05%	0.2501	0.5100
OB14	0.3074	30.74%	0.2300	0.3990
OB15	0.2794	27.94%	0.1801	0.3500
OB16	0.5000	50.00%	0.5000	0.5000
OB17	0.5000	50.00%	0.5000	0.5000

Note: Data are provided by Montenegroberza (Montenegro Stock Exchange).

3) The Law on Settlement of Obligations and Claims Based on Foreign Debt and Citizens' Foreign Currency Savings (Articles 17 and 18) and the Law on Payment of Foreign Currency Savings of Citizens Deposited with Authorized Banks Headquartered outside Montenegro (Articles 11 and 12) prescribe that bonds before their maturity may be used:

- for purchase of shares of state-owned companies and companies owned by Development Fund, Pension and Disability Insurance Fund and Employment Office in the privatization process;
- for purchase of apartments, residential premises, business premises, land or other state-owned property;
- for payment of taxes belonging to the Budget of Montenegro for the current year;
- for sale at the stock exchange, through brokers, as well as authorized participants in the securities market.

**7. What has been the contribution of foreign direct investment to the development of the economy? What was the size of FDI inflows (annual, cumulative and per capita) in recent years? What were the originating countries and into which sectors was it mainly channelled? What share has been brown-field (e.g. in the context of privatisation) and what share green-field investment?**

In the period from 2002 to the end of the second trimester of 2009, the total inflow of foreign direct investments amounted EUR 3.4 billion, out of which 46.4% was invested in companies and banks, 38.9% in real estates, 14.2% related to the inter-company debt, and 0.5% to other investments.

FDI inflow is the factor which greatly influenced the fast economic development of Montenegro over the past several years. Montenegro does not have sufficient resources of its own therefore it is oriented to a large extent towards the inflow of foreign resources. Positive effects of the inflow of foreign direct investments are reflected through the increased competition, fast development of

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certain sectors (tourism, banking, construction, telecommunications, etc.), growth of employment, better quality of services, increase in the number of products, new technologies, reduction of prices, etc.

However, foreign direct investments have had some negative effects as well. For example, foreign direct investments directly influenced the growth of balance-of-payments current account deficit. Such movement is largely the consequence of rapid development, because the foreign investors made additional investments in the companies they bought, in order to increase their level of competitiveness. Therefore, for example, foreign investors who bought hotels also imported construction material, furniture, interiors and other in order to reconstruct and modernize the hotel. After certain time, these investments should have significant positive effects on the economic growth. The other flow was consequence of the fact that the large number of individuals, by selling their real estates, significantly increased their living standards. Under such conditions, significant growth of purchase of automobiles, household equipment, etc. occurred. This was related to durable consumer goods which are not produced in Montenegro, therefore the result was the growth of import.

Year	FDI in mil. EUR	FDI in % GDP	FDI per capita (EUR)
2002	76.4	5.6	124.2
2003	43.8	2.9	71.0
2004	52.7	3.2	84.9
2005	392.7	21.6	631.3
2006	644.3	30.0	1 028.7
2007	1 007.7	35.9	1614.2
2008	832.1	24.9	1 317.2
I - VI 2009	396.2	24.9	

Source: Central Bank of Montenegro

Regional structure of gross inflow of foreign direct investments for the period 2002 – June 2009 in percentage:

Russian Federation	12.8%
Hungary	9.9%
Great Britain	9.1%
Cyprus	8.5%
Switzerland	8.1%
Austria	7.3%
Italy	4.4%
Serbia	4.0%
Germany	3.9%
Slovenia	3.7%
USA	2.7%
Greece	2.1%

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Latvia	2.0%
Ireland	1.8%
Virgin Islands (GBP)	1.7%
Denmark	1.6%
Lithuania	1.4%
Netherlands	1.3%
Estonia	1.2%
Croatia	1.1%

**NOTE:** Source of the data is ITRS (International Transaction Reporting System), the system through which commercial banks inform the Central Bank from which country the funds came. The table shows the countries with participation that exceeds 1% of the overall gross inflow.

### Largest projects regarding FDI in Montenegro by the end of 2008 in millions of EUR:

Company	Sector	Investor	Country of origin of foreign investor	Type of investment	Purchase price/ Initial Investments
<b>TELECOMMUNICATIONS</b>					
Telekom of Montenegro	Telecommunication	Matav RT	Hungary	Privatization	136
ProMonte	Telecommunication	Telenor ASA	Norway	'Greenfield'	116
<b>PRIMARY/BASIC INDUSTRY</b>					
Jugopetrol SC	Petroleum, oil and oil derivatives	Hellenic Petroleum	Greece	Privatization	65
KAP – Kombinat aluminijuma Podgorica (Aluminum Plant) and Rudnici boksita (Bauxite mine) Podgorica	Aluminum processing	RusAl	Russia	Privatization	57.8
Željezara (Steel Mill) Nikšić	Steel processing	MN Specialty/Midland Resources	Great Britain	Privatization	5.2
<b>BANKING/FINANCIAL SERVICES</b>					
Crnogorska komercijalna banka (CKB)	Financial services	OTP	Hungary	Privatization	105
Hypo Alpe Adria Bank Montenegro	Banking	Hypo Group	Austria	'Greenfield'	48.0
Podgorička banka	Banking	Societe Generale	France	Privatization	14.2
Montenegro banka	Financial services	Nova Ljubljanska Banka	Slovenia	Privatization	11.1
LB Leasing Podgorica	Financial services	LB Leasing Ljubljana	Slovenia	'Greenfield'	8.1
<b>PRODUCTION</b>					
Nikšička pivara (Brewery Trebjesa)	Beer	Interbrew	Belgium	Privatization	20.5

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Daido Metal Kotor	Production of ball bearing	Daido Metal	Japan	Privatization	1
4. novembar Fabrika metalnih djelova (Metal Parts Factory) AD Mojkovac (FMD) and 4. novembar Fabrika namjenskih proizvoda (Military Products Factory) AD Mojkovac	Production of metal parts and military production	„BT International „ Ltd.	Switzerland	Privatization	7.2
TOURISM					
Maestral Hotel Miločer	Tourism, hospitality	HIT Nova Gorica	Slovenia	Privatization	5
HTP Budvanska rivijera, Avala Hotel	Tourism, hospitality	Beppler & Jacobson	Great Britain	Privatization	3.2
Bianca Hotel	Tourism, hospitality	Beppler & Jacobson	Great Britain	Privatization	1.6
Hotel Grand Lido and Apartments Lido. Ulcinj	Tourism, hospitality	Capital estate	Russia - Montenegro	Privatization	10.8
HTP Budvanska rivijera Montenegro A Hotel	Tourism, hospitality	Unis Tours	Bosnia and Herzegovina	Privatization	4.6
HTP Budvanska rivijera, Rivijera Hotel	Tourism, hospitality	Pemi Bau	Germany	Privatization	2.7
HTP Boka, Topla Hotel	Tourism, hospitality	Hunguest Hotels	Hungary	Privatization	4.1
OTHER					
Public Enterprise Crnagoraput		Strabag AG	Germany	Privatization	8.4

Source: MIPA 2009.

Estimates of MIPA show that for 2006, 2007 and 2008 green-field investments amounted EUR 557 mil or 28.82% of total FDI in the same period (EUR 1,868 billion)

### FDI by quarters

	2005	2006	2007	2008	2009
I quarter	n.a.	91	177	185	104
II quarter	n.a.	139	182	199	197
III quarter	n.a.	127	136	157	(100 prognoses)
IV quarter	n.a.	148	183	144	(310 prognoses)
Total	384	505	678	685	711

Note: projections were given based on the announced investments and expected privatization of EPCG. Source: MIPA

Foreign direct investments in 2008 amounted EUR 685 million and were approximately 1.5% higher than FDI in 2007.

### FDI by regions

	2005	2006	2007	2008
North	n.a.	8.1%	7.6%	7.2%
Center	n.a.	59.0%	43.6%	43.7%

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South	n.a.	32.9%	48.8%	49.1%
Total	384	505	678	685

Source: MIPA

FDI continued the upward trend in the south part of Montenegro. This upward trend did not cause a downward trend of FDI in the north of Montenegro, but the reduction of FDI occurred in the central part of Montenegro.

### FDI by sectors

	2005	2006	2007	2008
Finances	n.a.	33%	30%	28%
Tourism	n.a.	25%	23%	22%
Construction	n.a.	10%	12%	14%
Industry	n.a.	10%	12%	10%
Services	n.a.	8%	9%	11%
Transport and logistics	n.a.	4%	5%	5%
Agriculture	n.a.	2%	2%	2%
Other	n.a.	8%	7%	8%
Total	<b>384</b>	<b>505</b>	<b>678</b>	<b>685</b>

Source: MIPA

**8. Please comment on privatisations of state-owned enterprises in the past and those envisaged in the future? Which sectors are involved? Does the government maintain any special rights (e.g. 'special shares', representation on the board of directors, veto rights on important decisions) in privatised companies? How many residual shares does the State own in privatised companies? Who/which institution is in charge of their management? How is the State represented in companies where it owns shares? Is there a strategy or an action plan for the management of State capital?**

Privatization of enterprises is done based on the annual privatization plans adopted by the Government of Montenegro, at the proposal of the Privatization Council, the authority established in order to manage, control and secure the implementation of privatization. General stand is that the privatization process should be conducted in all enterprises, even in state-owned enterprises, but prior to privatization, the need for restructuring and structuring of transaction should be considered, by selecting privatization method and manner, which would provide for development potential of enterprises. Also, privatization of remaining state-owned enterprises is planned (Željeznica (Railways), Luka (Port of Bar), Montenegro Airlines, etc.), so that all sectors are included in this process, i.e. there is no policy to exclude some sector from the process. So far the legal solution regarding "golden – special shares" has not been used in Montenegro. However, through regulation of the provisions of the privatization contracts, especially regarding realization and control of the obligations of the investor, not longer than five years (business plan, investment obligations, social programs) and through the mechanism of termination clauses, goals of privatization are provided for. Eighty five percent of capital has been privatized so far. There is no specific institution competent for their management.

The state is represented in enterprises in proportion to its shareholding, in the same manner as every other shareholder. Namely, if the State is a shareholder in a company, in accordance with

the Law on Business Organizations (Official Gazette of the Republic of Montenegro 6/02 and Official Gazette of Montenegro 17/07), it is represented by its authorized representatives at the general meeting of shareholders and selected representatives in the company's Board of Directors, in order to manage the state capital. There is no special document (strategy, action plan), but this issue is regulated by separate laws (Law on State Property, Law on Concessions, Law on Coastal Commons, Law on Ports, Law on Railway, Law on Ownership Rights, etc.).

**9. Was there considerable inflow of capital other than FDI (portfolio investment, other)? If so, did it pose problems for the conduct of monetary policy or the exchange rate? How were such problems resolved? If such inflows have not yet taken place, how do the authorities envisage managing their impact in the future?**

In addition to foreign direct investments and portfolio investments, significant capital inflow is noticeable in inter-banking credits between parent bank – daughter bank. These movements did not cause any kind of disorder, and they were particularly important in the crisis period, when parent bank played the role of lender in the final instance which can not be conducted by the Central Bank of Montenegro due to the euroisation and the applicable legal framework. In the euroisation conditions, exchange rate policy is not conducted, therefore these movements do not have impact on exchange rate movement.

**10. Is the financial system sufficiently developed to cope with the greater freedom of capital movements? What are the implications for financial supervision? Is there a clear division of competencies among the authorities that are in charge of financial supervision? Please provide details.**

### Banking system

Capital flows in Montenegro are liberalized and so far banking system has not had any difficulties. Increased inflow of capital into the banking system did not have implications for the conduct of supervisory functions of the Central Bank, and on competences and authorizations of the Central Bank to directly approve the acquisition of the so-called qualified participation in the shareholding structure of the bank, as well as to supervise other forms of capital inflow (for example, increase of deposit potential of the banks, inflow of loans from abroad, payment operations, etc.).

### Capital market

Capital market is sufficiently developed and based on the liberal approach that enables complete freedom of movement of capital. Namely, Article 112 of the Law on Securities prescribes that non-residents may freely purchase and sell domestic and foreign securities in Montenegro, pursuant to the regulations governing transactions with securities. In addition, the same article of the Law prescribes that non-residents may freely issue securities in Montenegro, in the manner determined by regulations governing transactions with securities.

There is no sector regulation governing transactions with securities that contains any limitations or that excludes the possibility for non-residents to invest in the capital market in Montenegro.

The same freedom of movement of capital has been applied, without limitations, to investments of residents in domestic as well as in foreign securities. The Law prescribes that residents may freely purchase and sell domestic and foreign securities abroad; may freely purchase and sell foreign securities in the Republic, in a manner determined by regulations governing transactions with securities. Residents may freely issue securities abroad.

Banks, investment funds, insurance companies, pension funds and other financial institutions, whose operations are governed by separate laws, may purchase securities, in compliance with

separate law. These separate regulations also do not contain any limitations that would disable free movement of capital.

Free movement of capital does not complicate the financial supervision. The Securities Commission signed IOSCO MMoU.

#### Insurance market

Related to the movement of capital at the insurance market, the Law on Insurance prescribes that insurance companies, in addition to the possibility to deposit and invest funds of technical and guarantee reserve in the country, the aforementioned funds may be invested in securities issued by central banks and governments of foreign countries which have at least the A rating, or its equivalent, assigned by generally accepted and internationally recognized rating agencies.

Rulebook on limitations on depositing and investing funds of technical and guarantee reserves of insurance companies (Official Gazette of Montenegro 38/09 of 12 June 2009, 43/09 of 3 July 2009) defines the maximum amounts allowed to be invested in the aforementioned securities, which are further categorized into:

- debt securities issued by foreign country, central bank of foreign country or international financial organization, i.e. securities for which guarantee was issued by foreign country or central bank of foreign country, if they have credit rating of at least “BBB” determined by Standard & Poor's or Fitch – IBCA rating agencies, or at least “Baa3” determined by Moody's;
- debt securities of foreign legal persons traded at the stock exchanges in the countries they are registered in, provided that Standard & Poor's or Fitch – IBCA rating agencies graded them with at least “BBB”, or Moody's with at least “Baa3”; and
- shares of the foreign legal persons if they are listed in the stock exchange for at least last two years and if they have credit rating of at least “BBB” determined by Standard & Poor's or Fitch – IBCA rating agencies, or “Baa3” determined by Moody's.

In Montenegro, there is a clear division of competences among the authorities conducting financial supervision. All authorities competent for financial supervision and their competences are defined by special sector regulations. The Central Bank of Montenegro is authorized to conduct supervision of banking system. Insurance Supervision Agency is authorized to conduct supervision of insurance sector. Securities Commission is competent for supervision of capital market and pension funds. In Montenegro, there is no positive or negative conflict of competencies of authorities performing financial supervision. Legal competences are determined precisely by relevant sector regulations and in practice there has not been conflict of competences.

#### **11. Does a substantial inflow of capital provide the opportunity for a more balanced opening of the capital account, by allowing residents to invest abroad? In this context, what are the investment rules applied to institutional investors (e.g. pension funds) regarding investment in foreign securities?**

As specified in the answer to the previous question regarding investments into securities of domestic as well as foreign issuers, the Law on Securities as separate sector regulation does not contain any balancing regarding opening of the capital account, by allowing residents to invest abroad. Pursuant to Article 112g of the Law, residents may freely buy and sell domestic and foreign securities. Provision contained in Article 112g of the Law is imperative and does not allow any kind of exceptions.

Regarding institutional investors, two sector regulations are applicable in Montenegro, and these are the following: Law on Investment Funds and Law on Voluntary Pension Funds.

The Law on Investment Funds regulates investments of investment funds in foreign securities. The Law on Investment Funds (Official Gazette of the Republic of Montenegro 49/04) completely provides for the possibility to invest the assets of investment funds in foreign securities. The Law prescribes that an investment fund may invest in domestic securities and foreign securities which



are listed in organized markets of the OECD countries, as well as on other markets that fulfill standards of transparency in transactions with securities and which are determined by the supervisory board of that fund (Article 54 paragraph 2 of the Law on Investment Funds). The Law prescribes that an investment fund must hold at least 20% of its assets in Montenegro. This limitation is not applied to the special forms of investment funds: mutual investment funds and privatization investment funds.

The Law on Voluntary Pension Funds (Official Gazette of the Republic of Montenegro 78/06 and 14/07) completely opens the possibility of investing assets of voluntary pension funds in foreign securities. The Law prescribes that the assets of a voluntary pension fund may be invested in the following types of property:

- 1) treasury bills and other short-term securities issued by the Republic and local government units and short-term bank deposits, in a manner determined by the Commission;
- 2) long-term bonds and other long-term securities issued by the Republic and local government units; joint-stock companies registered with the Commission whose shares are traded on Stock Exchanges in the Republic; other states traded on the organized capital markets in the OECD countries and member states of the European Union; foreign non-governmental entities, traded on the organized capital markets in the OECD countries and member states of the European Union;
- 3) shares: issued by joint-stock companies registered with the Commission, traded on Stock Exchanges in the Republic; issued by the foreign joint-stock companies and closed-end investment funds traded on the organized capital markets in the OECD countries and member states of the European Union;
- 4) shares in domestic and foreign open-end investment funds, if these investment funds invest in securities of the issuers registered in the Republic or in some of the OECD countries and member states of the European Union;
- 5) other forms of investment determined by the regulations of the Commission, apart from the investments specified in Article 39 of this Law;
- 6) real estates on the territory of the Republic.

The Law on Voluntary Pension Funds does not prescribe limitations or exclusion of the possibilities to invest the assets of the voluntary pension fund in foreign securities, regardless whether they are bonds, shares or shares in open investment funds.

### **12. Please explain in detail the nature and scope of restrictions on the acquisition of real estate by foreigners (i.e. natural and legal persons from the EU and third countries) in your country.**

The Constitution of Montenegro from 2007, Article 61, prescribes that foreign national may be the holder of ownership rights in accordance with law.

General framework of limitation of ownership rights is prescribed by the provision of Article 10 of the Law on Ownership Rights (Official Gazette of Montenegro 19/09), which defines that ownership right may be limited in compliance with law. No one can be deprived of the ownership right, except when required so by the public interest determined by law or based on law, in return for compensation that cannot be lower than a fair compensation. The owner may, for the purpose that is not prohibited, limit or encumber his right. If the owner, through a legal transaction, determines the prohibition to divest of or encumber the immovable property, this prohibition shall be effective against third persons if it is registered with the cadastre of immovable property.

Limitation of ownership right on movables in order to secure claims shall be effective against third persons if it is registered with appropriate public registry or if the third person knew or might have known about it.

The Law on Ownership Rights regulates rights of foreign persons (natural and legal) as well. In accordance with this Law, a foreign person may acquire ownership right on movables in the same manner a domestic person does.

Foreign person on the territory of Montenegro may acquire ownership right by inheritance in the same manner a domestic person does.

Foreign person may have the right to long-term lease, concessions, BOT and other private public partnership arrangements, on immovable property in the same manner a domestic person does.

Foreign persons may, through a legal transaction, transfer their ownership right to domestic person, as well as to foreign person that may acquire the ownership right.

Regarding foreign countries, for the needs of their diplomatic and consular representative offices as well as organisations and specialized agencies of the UN Organization, they may, with a prior approval of the Ministry of Foreign Affairs, sell the buildings and apartments for official needs, as well as construction land for the purpose of construction of such buildings.

Regarding limitations on acquiring ownership rights by foreign persons, pursuant to this Law, a foreign person cannot have ownership right on natural resources, goods in general use, agricultural land, forests and forest land, cultural monument of exceptional and special significance, immovable property in land-border area within one kilometer of the land-border area and islands, immovable property in the area declared by law as the area on which foreign person cannot have ownership right due to the protection of interests and safety of the country. Exception from the specified is that a foreign person may acquire the ownership right on agricultural land, forests and forest land of the area up to 5000 m<sup>2</sup> only if the subject of the divestiture contract (buying and selling, gift, exchange, etc.) is an apartment building located on such land.

Liberalization in this area will be intensified with entering into force of the Stabilization and Association Agreement. In Article 63 of the Agreement it is specified that by entering into force of this Agreement, Montenegro will provide the national treatment of the citizens of EU member states regarding the acquisition of real estates on its territory. It should be noted that the mentioned Agreement enters into force when all signatories ratify it.

This Law is complied with the European Convention on Human Rights and Fundamental Freedoms, which encompasses the right to dispose with and enjoy the property.

Also, the text of this Law corresponds to the Decision of the Council of Europe on principles, priorities and conditions contained in the European partnership with Montenegro, in stabilization and association process.

**13. Please outline considerations involved in plans for the eventual liberalisation of inward investment in real estate in your country, distinguishing, if appropriate, between agricultural, forest, industrial, residential (urban, rural, coastal), security areas. In this context, what progress has been made on the establishment of a land register?**

Please see the answer to the part of the question regarding plans for liberalization within investments in real estates in Montenegro in the answer to the question 12.

Regarding the establishment of the cadastre of immovable property in Montenegro, in the previous period, the necessary normative and planning conditions have been created for rapid activities towards the fulfilment of obligations in the area of geodesy, cadastre and property rights, therefore, in this direction, in Montenegro the new legislation has been adopted, and with the existing laws this has completed the legal framework applied by the Administration.

By the adoption of the Law on State Survey and Cadastre ([Annex 21](#)) of Immoveable Property in 2007, new activities have been delegated to the Administration, private geodetic practice has been introduced, therefore at the moment we have 54 licensed geodetic organisations in Montenegro. The Real Estate Administration conducts only those affairs determined in Medium-term Program of Works for the Period from 1 January 2008 to 1 January 2013, with special attention to the establishment of the cadastre of immovable property for the non-surveyed part of the territory of Montenegro, in order to provide for data for the Bar – Boljari high-way and Adriatic – Ion high-way.

Pursuant to the obligation prescribed by the Law, the Government of Montenegro adopted Medium-term Program of Works for the Period of Five Years (2008-2013) and in accordance to this annual working plans, in order to provide for reliable data on space necessary for the construction of all infrastructure-related facilities, development of market economy and organization of the state, which will reflect as the contribution to better and faster integration of the space and overall social development of the region.

Bearing in mind that at the territory of Montenegro there are different records on immovable property: cadastre of immovable property, land cadastre and land registry, so that the cadastre of immovable property encompasses 53% of the territory of Montenegro (mostly urban area), for which survey was conducted and for which there are graphic data, as well as ownership structure, while land cadastre encompasses data for which ownership structure needs to be determined again. For the remaining part of the territory, there is land registry, for which the survey has not been conducted, therefore there is no graphic representation and all documents include the drafts of poor accuracy.

Namely, immovable property market is based on data on holders of the rights on immovable property and graphic representation of the immovable property, therefore in order to complete data for unsurveyed part of the territory, the activities are carried out on the establishment of the cadastre of immovable property for the part of the territory covered by land registry for the area of 140 000 ha of around 645 000 ha unsurveyed part and the final product would be merger of alphanumerical and graphic database.

Besides, projects for around 205 000 ha have been prepared.

For the whole territory of Montenegro, there are registered ownership rights on immovable property.

Progress of Montenegro is also reflected through enabling the use of data, electronically via the website of the Real Estate Administration, as follows: data from the network of GNSS stations of MontePos which has been active since 2005, and from 2008, the use of all services, with compensation, is enabled; information related to ownership are available on the Internet, on the website of the Administration since April 2007.

At the end of April 2009, the users are enabled the access to the part of data the Administration has at its disposal, via the website of the Administration. All data are used for informational purposes, they may be downloaded and printed in a certain scale, and the establishment of Geo-Portal is planned in order to provide for the exchange of data electronically. Data are related to the interactive digital map including the data on border of Montenegro with border crossings, names, road network, water flows, buildings, lakes, settlements, municipality borders, digital model of terrain, satellite images, relief, etc. The following data are also available: digital topographic maps in scale of 1:25000 for 70% of the territory of Montenegro (92 paper of map) as well as, for the first time for the whole territory of Montenegro, digital orthophoto of 0,5 m resolution, recorded in 2007, which has particular importance for the unsurveyed part of the territory. All data may be downloaded and printed in the appropriate format.

Also, the works are continued on the development of the map in scale of 1:25000 for the remaining 30% of the territory and the development of digital orthophoto plans of resolution 0,25m for the part of the territory covered by the projects for the establishment of the cadastre of immovable property.

Intensive activities on the implementation of the new software solutions are carried out, necessary for the preparation, processing and presentation of data, for the establishment of the cadastre of immovable property; modernization of software solutions for maintenance of the cadastre of immovable property, development of records on spatial units and establishment of the registry of home numbers, streets and squares.

The Government of Montenegro gave support regarding the provision of hardware infrastructure.

With the aim of cooperation and implementation of the European standards, the Administration has become a member of EuroGeographics in 2007, UNGEGN in 2008 and active participant in the Regional Conference of the neighboring countries.

Loan Project by the World Bank – Land Administration and Management Project (LAMP) has become effective on 24 February 2009, and it envisages that the Administration uses 71% of the loan funds, in order to improve the quality of services being provided within scope of work of the Administration, to modernize information system and survey, and to establish the cadastre of immovable property. The use of funds has not started yet.

The Government of Montenegro adopted the new act on international organization and systematization of the Real Estate Administration of Montenegro that is harmonized with the new activities envisaged by the Law and which would enable a faster and higher quality formation of the cadastre of immovable property.

In order to improve and modernize the existing solutions and for the purpose of further incorporation of the European norms and standards, as well as compliance of procedures with the European standards and introduction of national infrastructure of spatial data in accordance with the INSPIRE directive, amendments to the Law have been planned.

**14. Are there investment agreements with third countries which provide for pre-establishment access of investments? With which countries have investment agreements been concluded? Please provide relevant information on dates of ratification, initial terms of agreements, automatic renewal procedures, and periods for which acquired rights exist. Do such agreements include a regional economic integration organisation clause? Which sectors are normally excluded (e.g. aviation, maritime transport, fishing, audiovisual, etc.) from such agreements?**

The list of bilateral agreements **on promotion and mutual protection of investments** with the third countries is given in the answer to the question number 21, Chapter 30.

## **II. PAYMENT SYSTEMS**

### **15. Are financial institutions required to inform their customers on the conditions for cross-border credit transfers? If yes, which?**

Manner and conditions for performing foreign payment operations are governed by the Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05 and Official Gazette of Montenegro 62/08), whereas the Law on Central Bank of Montenegro (Official Gazette of the Republic of Montenegro 52/00, 53/00, 47/01 and 4/05) prescribes that the Central Bank conducts and supervises payment operations in the country and abroad. However, these and other laws do not provide the possibility that the Central Bank of Montenegro or some other competent authority or institution regulate in more details foreign payment operations by secondary regulations.

The new Law on Central Bank of Montenegro, which is being drafted at the moment, will provide the possibility to adopt the regulations which will in more details define the manner and conditions for performing foreign payment operations. This regulation will completely be complied with the provisions of the directives adopted by the European Parliament and other competent authorities of the European Union (Directive 2007/64/EC and others).

Banks and other financial institutions, based on the applicable regulations and good business practice and ethics, adopt internal decisions on conditions for performing foreign payment operations, which include rate of compensation for each individual operation (tariffs). When opening a foreign currency account for payments towards abroad, the financial institutions conclude a contract with all their clients, defining the rights and obligations of the contracting parties regarding foreign payments and collections. Banks publish internal decisions and other regulations defining conditions for performing cross-border payment operations on their websites, therefore they are available to all clients.

### **16. Are financial institutions required to supply their customers with information subsequent to a cross-border transfer? If yes, which?**

Upon acting on the client's order and executing cross-border payment, the bank in writing informs the client on executed payment, placing at his/her disposal the copy of swift order on executed payment, statement of the foreign exchange account which confirms that the specific payment is executed and other documents (certified payment order, etc.).

In the case of the inflow of money to the account of the client, the bank also informs the client and submits adequate documents, common in banking operations. This is primarily related to the Cross-Border Collection Statement filled by the bank and submitted to the client.

### **17. Is there a time limit for executing a cross-border credit transfer? If yes, how long? Is there compensation to the customer if the deadline limit or the deadline agreed is not complied with?**

Pursuant to Article 5 of the Law on Foreign Current and Capital Operations, the bank is obliged to execute a proper order for cross-border payment immediately and no later than the end of the next business day from the date of receiving the order, if the order issuer has money in the account.

In addition, the same Article prescribes that the bank is obliged to transfer to the beneficiary account the funds received from abroad no later than the end of the business day following the day

of receiving the notice of receiving cross-border funds, in case where the beneficiary account is stated on the payment order, and when the transfer of funds requires no further instruction. In case where further instruction is required for transfer of funds, bank is obliged to inform the recipient of the funds received from abroad on the same working day when it receives the notice of receiving the funds from abroad, and to transfer the received funds to the account in accordance with the received instruction, no later than the business day following the day of receiving the given instruction.

There is no regulation defining the obligation of the bank to indemnify the costs to the client if the cross-border payment order is not realized within specified deadlines. There is possibility that a client who suffered the damage receives the compensation for his costs by extrajudicial settlement or in a regular court procedure.

**18. Is there any compensation to the customer in the case of non-execution of a transfer contrary to the instructions given by the customer? Please explain.**

In the case that the bank does not execute outgoing payments in compliance with the instructions received from the client, based on the applicable regulations, there is no obligation to compensate the client. The client who suffered damage may request indemnification through extrajudicial settlement or in regular court procedure. The Central Bank of Montenegro has a separate organizational unit competent for supervision of banking operations, which, within its regular activities, conducts control of the execution of foreign payment operations by banks. In the previous period, the Central Bank of Montenegro did not receive any complaint for failure to execute cross-border payment operations in compliance with the instructions given by the clients of the banks.

**19. Is an out of court redress system in place for the settlement of disputes between the customers and the institutions? If yes, explain the system.**

Pursuant to Article 92 of the Law on Banks (Official Gazette of Montenegro 17/08), it is envisaged that a client of a bank or any other financial institution may appeal to the banking ombudsman, as an independent party which participates in extrajudicial resolution of disputes between clients and banks or other financial institutions.

Pursuant to Article 17 paragraph 1, item 2 of the Law on Central Bank of Montenegro (Official Gazette of the Republic of Montenegro 52/00 and 47/01), and Article 92, paragraph 8 of the Law on Banks (Official Gazette of Montenegro 17/08) the Council of the Central Bank of Montenegro adopted a decision on banking ombudsman, at the meeting held on 23 and 24 February 2009.

In accordance with a Law on Banks, the banking ombudsman is appointed by the Parliament of Montenegro upon the proposal of the Parliamentary Committee for Economy, Finances and Budget.

**20. When are transfer orders and netting concerning payments and securities legally enforceable? Are there special provisions in the case of insolvency proceedings or in the case of the existence of collateral security?**

Regarding national payment operations, pursuant to the Law on National Payment Operations (Official Gazette of Montenegro 61/08), transfer order is executed on the same banking day, that is on the value date. In addition, order transmitted into RTGS system is final and irrevocable as of the moment of its acceptance for settlement by the system. Characteristics of the inter-bank payment

system in Montenegro are described in details in the answer to the question number 34, Chapter VI Financial markets.

The moment of insolvency is the moment when the competent authority adopts a decision on opens insolvency or liquidation proceedings against the participant. Insolvency of the participant will not prevent the use of funds held in its settlement account in order to meet the obligations of such a participant that arise from its 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.

Insolvency of a participant will not affect the rights of other participants in the system to foreclose the collateral that was pledged by the participant before the moment of insolvency, to secure funds for the execution of obligations arising from its participation in the payment system, if the participant has failed to meet the obligation secured by the collateral.

### **III. FIGHT AGAINST MONEY LAUNDERING**

**21. Regarding alignment with Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, please respond to the following:**

**a) How has money laundering/financing of terrorism been criminalised, which criminal activities are covered by the law and how is money laundering/financing of terrorism defined?**

Criminal Code of Montenegro (Official Gazette of the Republic of Montenegro 70/2003, 13/2004, 47/2006 and 40/2008) prescribes the criminal offences of “money laundering” and “financing of terrorism”.

Criminal offence “money laundering” (Article 268) is done by the person who through banking, financial or other business operations conceals the manner he/she obtained money or other property for which he/she knows are obtained through criminal offence. Prescribed punishment for this form of criminal offence is imprisonment sentence from six months to five years. If the offender committing this crime is at the same time perpetrator or accomplice in a criminal offence through which money or property was gained (predicate criminal offence), he/she will be punished by an imprisonment sentence from one to eight years. More serious form of this criminal offence exists when the money or value of the property subject to money laundering exceeds EUR forty thousands, then the offender will be punished by an imprisonment sentence from one to ten years. Complicity in perpetration of this criminal offence is punishable with an imprisonment sentence from three to twelve years. If person committed the criminal offence of money laundering and he/she could have known or ought to have known that money or property were income gained by criminal activity, he/she will be punished by imprisonment sentence up to three years. The Law prescribes confiscation of money and property that are the subject of laundering.

In order to encompass the widest spectrum of predicate criminal offences, money laundering includes every criminal offence through which money or property subject to the criminal offence of money laundering is gained. Offence of money laundering is not limited by certain categories of predicate criminal offences – all crimes approach.

Incrimination of money laundering in the Criminal Code includes money and any other form of property, regardless of its value, which directly or indirectly represents the profit gained by the criminal offence – without limitation on minimal value of such property.

The Criminal Code, in Article specifying the criminal offence of money laundering (Article 268 paragraph 2), prescribes the punishment also in the case of committing predicate criminal offence (self-laundering), as well as complicity in commitment of the predicate criminal offence. In these cases, prescribed punishment is imprisonment sentence from one to eight years.

In Article 268 of the Criminal Code, incriminating money laundering, in paragraph 4, the punishment is provided in the case of complicity in the criminal offence of money laundering – if the offence is committed by more persons joined together to commit such act, they will be punished by imprisonment sentence from three to twelve years.

For criminal offence of money laundering prescribed sentence is imprisonment sentence from six months to twelve years, depending on the manner of commitment of this offence. The same Article prescribes confiscation of money and property that is subject of “laundering”.

Article 112 of the Criminal Code prescribes that no one may retain any material gain obtained by a criminal offence. In addition, pursuant to Article 268 paragraph 6 (“money laundering”), money and property gained by the criminal offence of money laundering are subject to confiscation.



In addition, the Criminal Code (Article 73) prescribes as security measure prohibition from practicing certain profession, activity or duty. In compliance with this provision, there is legal possibility of imposing this measure for criminal offence of money laundering as well, depending on the nature of predicate offence (for example, abuse of official status, falsifying an official document) – and other offences related to the administration and management of property and performance of official duty.

Pursuant to the provision of Article 5 of the Law on Criminal Liability of Legal Persons (Official Gazette of the Republic of Montenegro 2/2007, 13/2007), legal person may also be held liable for criminal offence of money laundering.

In compliance with the Special Recommendation II of Financial Action Task Force (FATF), “financing of terrorism” is prescribed as separate criminal offence by the Criminal Code of Montenegro. Criminal offence of “financing of terrorism” (Article 449) is committed by a person who provides or raises funds intended for financing of criminal offences of terrorism, international terrorism and taking hostages. All mentioned forms of actions are prescribed as individual criminal offences (Articles 365, 447 and 448 of the Criminal Code). For this criminal offence, prescribed sentence is imprisonment sentence from one to ten years. The Code prescribes obligatory confiscation of funds intended for financing of terrorism.

Criminal offence of financing of terrorism referred to in Article 449 of the Criminal Code is related to every person that “provides or raises funds intended for financing of criminal offences...” of terrorism, international terrorism and taking hostages.

The Criminal Code also prescribes criminal responsibility for commitment of this criminal offence by terrorist organizations, and in these cases provisions related to the following criminal offences are applied: association for unconstitutional activities (Article 372) and criminal association (Article 401).

For existence of this criminal offence it is not necessary for provided or raised funds to be actually used for financing of terrorism, it is sufficient for these funds to be at least once raised or provided with the intention to use them for financing of terrorism. Therefore, the offence exists with the mere provision or raising of funds with intention to finance terrorism therewith.

Having in mind that terrorism often has character of transnational crime, there is no restrictive measure limiting punishment for financing of terrorism if it is not committed in the same country as the one in which organization is situated or in which terrorist act has been committed.

Montenegro ratified the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime from 1990 – The Strasbourg Convention (Official Gazette of the Federal Republic of Yugoslavia - International Treaties 7/2002 and 18/2005), the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism from 2005 – Warsaw Convention (Official Gazette of Montenegro - International Treaties 5/2008), European Convention on the Suppression of Terrorism (Official Gazette of the Federal Republic of Yugoslavia - International Treaties 10/2001), Council of European Convention on the Prevention of Terrorism (Official Gazette of Montenegro - International Treaties 5/2008), Criminal Law Convention on Corruption (Official Gazette of the Federal Republic of Yugoslavia - International Treaties 2/2002 and 18/2005) and Additional Protocol on Criminal Law Convention on Corruption (Official Gazette of Montenegro 11/2007). Montenegro also acceded the relevant conventions of the United Nations: International Convention for the Suppression of Financing of Terrorism (Official Gazette of the Federal Republic of Yugoslavia - International Treaties 7/2002), United Nations Convention against Transnational Organized Crime with Additional Protocols – Palermo Convention (Official Gazette of the Federal Republic of Yugoslavia - International Treaties 6/2001) and United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances from 1988 – Vienna Convention (Official Gazette of the Socialist Federal Republic of Yugoslavia - International Treaties 14/1990).

For the purpose of further compliance of the criminal legislation of Montenegro with legislation of the European Union and relevant international instruments, revision of the Criminal Code of Montenegro is underway. By amendments to the Criminal Code definitions of criminal offences “money laundering” and “financing of terrorism” would be completed in a quality manner, regarding

recommendations of the Committee of the Council of Europe for countering money laundering and financing of terrorism MONEYVAL (recommendations of Financial Action Task Force – FATF) and recommendations of UNODC.

By the Conclusion of the Government of Montenegro from 23 April 2009, the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Interior Affairs and Public Administration, and the Administration for Prevention of Money Laundering and Financing Terrorism, are obliged to oversee the manner of application of Special Resolutions of United Nations Security Council S/RES/1267 (1999), S/RES/1373 (2001) and S/RES/1452 (2002) and to propose to the Government measures for their implementation.

**b) Which institutions and professions are covered by your legislation and with regard to which activities?**

Institutions and professions covered by the Law on Prevention of Money Laundering and Terrorism Financing (Official Gazette of Montenegro 14/07) that are obliged to undertake measures for detection and prevention of money laundering and terrorism financing, before and during the conduct of any business of receiving, investing, exchanging, keeping or other form of disposing of money or other property, or carrying out the transactions for which there are reasonable grounds for suspicion of money laundering or terrorism financing, are specified in Article 4 paragraph 2 of the Law on Prevention of Money Laundering and Terrorism Financing, and these are the following:

- 1) banks and foreign banks' branches and other financial institutions;
- 2) savings-banks and savings and credit institutions;
- 3) organisations performing payment transactions;
- 4) post offices;
- 5) companies for managing investment funds and branches of foreign companies for managing investment funds;
- 6) companies for managing pension funds and branches of foreign companies for managing pension funds;
- 7) stock exchange intermediaries and branches of foreign stock exchange intermediaries;
- 8) insurance companies and branches of foreign insurance companies dealing with life insurances;
- 9) organizers of lottery and special games of chance;
- 10) exchange offices;
- 11) pawnshops;
- 12) audit companies, independent auditors and legal or natural persons providing accounting and tax advice services;
- 13) institutions for issuing electronic money;
- 14) humanitarian, nongovernmental and other non-profit organisations; and
- 15) other business organisations, legal persons, entrepreneurs and natural persons engaged in an activity or business of:
  - sale and purchase of claims;
  - factoring;
  - third persons' property management;
  - issuing and performing operations with payment and credit cards;
  - financial leasing;
  - travel organisations;
  - real estate trade;
  - motor vehicle trade;
  - vessels and aircrafts trade;
  - safekeeping;
  - issuing warranties and other guarantees;
  - crediting and credit agencies;
  - granting loans and brokerage in loan negotiation affairs;
  - brokerage or agency activities in life insurance affairs; and

- organizing and conducting biddings, trading in works of art, precious metals and precious stones and precious metals and precious stones products, as well as other goods, when the payment is made in cash in the amount of EUR 15 000 or more, in one or more interconnected transactions.

The Law envisages that the regulation of the Government of Montenegro may define other persons obliged to take measures to detect and prevent money laundering and terrorism financing, if, considering the nature and manner of carrying out activities or business, there is more significant risk of money laundering or terrorism financing, i.e. define persons that are not obliged to undertake measures, when the risk of money laundering or terrorism financing ceases.

The lawyer and/or notary is obliged to implement measures of detecting and preventing money laundering and terrorism financing, when:

1) he/she assists in planning and executing transactions for a client regarding:

- purchase or sale of real estates or a business organisation;
- managing money, securities or other property of a customer;
- opening and managing a bank account, savings deposit or the account for dealing with securities;
- raising funds for founding, operations or management of a business organisation; and
- founding, operations or management of institution, fund, business organisation or other similar organisation form.

2) he/she executes a financial transaction or transaction concerning immovable property in the name and on behalf of a client.

If a lawyer or a notary, when performing these activities, establishes that there are reasonable grounds for suspicion of money laundering or terrorism financing related to a transaction or a customer, he/she shall be obliged to inform the Administration for Prevention of Money Laundering and Terrorism Financing before the execution of a transaction and to state in the report the deadline within which the transaction is to be executed.

The obligation to inform the Administration is related to planned transactions as well, regardless of whether the transaction has been executed later, or not.

When a client asks for advice on money laundering or terrorism financing, a lawyer or notary is obliged to inform the Administration for Prevention of Money Laundering and Terrorism Financing on the matter without delay.

Exceptionally, lawyer is not obliged to submit to the Administration for Prevention of Money Laundering and Terrorism Financing data he/she obtained from a client or data on a client when establishing his/her legal position or representing in the proceedings conducted before court, which includes providing advice on its proposing or avoiding..

Lawyer is not obliged to report on cash transactions in the amount of EUR 15 000 or more, unless there are reasonable grounds for suspicion of money laundering or terrorism financing related to a transaction or a client.

Comment: Subsidiary – part of a foreign insurance company with the status of a legal entity in Montenegro

Branch – part of a foreign insurance company without the status of a legal entity in Montenegro (applicable after 2012)

**c) How and by which competent authority is the integrity of the institutions and professions mentioned under b) checked?**

Pursuant to the Law on Prevention of Money Laundering and Terrorism Financing, supervision over implementation of this Law and regulations passed on the basis of this Law, within established competences, is carried out by:

1) Central Bank of Montenegro in relation to the following reporting entities: banks and foreign banks' branches and other financial institutions; savings-banks and savings and credit institutions;

organisations performing payment transactions; exchange offices; institutions for issuing electronic money;

2) Agency for Telecommunication and Postal Affairs in relation to the post offices;

3) Securities Commission in relation to the following reporting entities: companies for managing investment funds and branches of foreign companies for managing investment funds; companies for managing pension funds and branches of foreign companies for managing pension funds; stock exchange intermediaries and branches of foreign stock exchange intermediaries;

4) Insurance Supervision Agency in relation to insurance companies and branches of foreign insurance companies dealing with life insurances;

5) Administration body competent for game of chance, through authorized official in accordance with the Law that defines inspection supervision in relation to organizers of lottery and special games of chance;

6) Tax Administration in relation to the pawnshops;

7) Ministry of Finance in relation to the audit companies, independent auditors and legal or natural persons providing accounting and tax advice services; and

8) Administration for Prevention of Money Laundering and Terrorism Financing through authorized official, in accordance with the Law that defines inspection supervision in relation to the following: humanitarian, nongovernmental and other non-profit organisations; and other business organisations, legal persons, entrepreneurs and natural persons engaged in an activity or business of:

- sale and purchase of claims;
- factoring;
- third persons' property management;
- issuing and performing operations with payment and credit cards;
- financial leasing;
- travel organisations;
- real estate trade;
- motor vehicle trade;
- vessels and aircrafts trade;
- safekeeping;
- issuing warranties and other guarantees;
- crediting and credit agencies;
- granting loans and brokerage in loan negotiation affairs;
- brokerage or agency activities in life insurance affairs; and
- organizing and conducting biddings, trading in works of art, precious metals and precious stones, and precious metals and precious stones products, as well as other goods, when the payment is made in cash in the amount of EUR 15 000 or more, in one or more interconnected transactions.

**d) When do customers and beneficial owners have to be identified and verified and which means of identification are accepted? Specify any special measures for non face-to-face account opening or transactions.**

Clients and actual owners need to be identified and verified before initiating business relations or conducting of transaction, pursuant to the Law on Prevention of Money Laundering and Terrorism Financing. In addition, this Law prescribes necessary documents for identification and verification of clients, as well as additional measures the reporting entity undertakes in the procedure of establishment of business relations or conduct of transaction of the client in his/her absence.

Article 14 of the Law on Law on Prevention of Money Laundering and Terrorism Financing sets the procedures for identification and verification of the natural person' identity:

*“Reporting entity shall establish and verify the identity of a customer that is a natural person or of his/her legal representative, entrepreneur, or a natural person performing activities, by checking the personal identification document of a customer in his/her presence and obtain data referred to*

*in Article 71 item 4<sup>1</sup> of this Law. In case the required data cannot be established on the basis of the submitted identification document, the missing data shall be obtained from other valid official document submitted by a customer. Identity of a customer referred to in paragraph 1 of this Article can be established on the basis of a qualified electronic certificate of a customer, issued by a certification service provider in accordance with the regulations on electronic signature and electronic business.*

*Establishing and verifying the identity of a customer by using a qualified electronic certificate is not permitted when:*

- 1) opening accounts at reporting entity referred to in Article 4 paragraph 2 items 1 and 2 of this Law, except in the case of opening a temporary deposit account for paying in the initial capital, and*
- 2) there is suspicion of qualified electronic certificate misuse or when reporting entity determines that the circumstances that have significant effect on the certification validity have changed. “*

Pursuant to Article 15 of the Law on Prevention of Money Laundering and Terrorism Financing, methodology for identification and verification of the identity of the legal person is set up:

*“Reporting entity shall establish and verify the identity of a customer that is a legal person and obtain the data referred to in Article 71 item 1<sup>2</sup> of this Law by checking the original or certified copy of the document from the Central Registry of the Commercial Court (hereinafter referred to as the CRCC) or other appropriate public registry, submitted by an agent on behalf of a legal person. The document referred to in paragraph 1 of this Article must not be older than three months of its issue date. Reporting entity can establish and verify the identity of a legal person and obtain data referred to in Article 71 item 1 of this Law by checking CRCC or other appropriate public registry. On the registry excerpt that has been checked reporting entity shall state date and time and the name of the person that has made the check. An organisation shall keep the excerpt from the register in accordance with law.*

*If a customer is a foreign legal person performing activities in Montenegro through its business unit, reporting entity shall establish and verify the identity of a foreign legal person and its business unit.”*

Article 17 of the Law on Prevention of Money Laundering and Terrorism Financing prescribes the establishment and verification of the identity of the authorized person:

*“If an authorized person establishes a business relationship on behalf of a customer that is a legal person, reporting entity shall establish and verify the identity of an authorized person and obtain data referred to in Article 71 item 2 of this Law by checking the personal identification document of an authorized person and in his/her presence. If the required data cannot be determined from the personal identification document, the missing data shall be obtained from other official document submitted by the authorized person.*

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- 1 Article 71.4 “ name, address of permanent residence or temporary residence, date and place of birth and tax ID number of natural person or tax ID number of his/her representative, entrepreneur or natural person carrying out activities, and that establishes business relationship or executes the transaction, or natural person that business relationship is established for or that transaction is executed for, and number, type and name of the competent body that issued the personal documents”
  - 2 Article 71.1 “name of the company, address, registered office of the company and personal identification number of the legal person, that establishes business relationship or executes transaction, or legal person for whom business relationship or executed transaction is established “  
Article 71.2 “name, address of permanent residence or temporary residence, date and place of birth and tax ID number of a representative or an authorized person, that for a legal person or other entity concludes the business relationship or executes transaction, number, kind and name of the authority that issued the personal documents”  
Article 71.7 “purpose and presumed nature of business relationship, including information on client’s businesses “  
Article 71.9 to 71.14
    - 1.date and time of executing transaction ;
    - 2.the amount of transaction and foreign currency of transaction;
    3. the purpose of transaction and personal name and address of permanent residence or temporary residence, name and registered office of the entity that the transaction is intended for;
    4. method of executing the transaction;
    5. data on assets and income sources, that are or will be the subject of transaction or business relationship, reasons for suspicion about money laundering or terrorism financing”

*Reporting entity shall obtain the data referred to in paragraph 1 of this Article on the agent on whose behalf the authorized person acts, from a certified written power of authorization, issued by the agent.*

*If the transaction referred to in Article 9 paragraph 1 item 2 of this Law is executed by an authorized person on customer's behalf, reporting entity shall verify the identity of the authorized person and obtain the data referred to in Article 71 item 3 of this Law on a customer that is a natural person, entrepreneur or natural person, performing an activity.*

*If reporting entity doubts the accuracy of the obtained data when establishing and verifying the identity of an agent, he/she/it shall obtain agent's written statement."*

**e) Specify if bearer passbooks or other bearer instruments are allowed in your country.**

The Law on Prevention of Money Laundering and Terrorism Financing (Official Gazette of Montenegro 14/07), Article 31, prescribes that reporting entity must not, for a client, open, or keep an anonymous account, a coded or bearer passbook or provide other service (banking product) that can indirectly or directly enable the concealment of the client's identity.

Pursuant to the Law on Securities (Official Gazette of the Republic of Montenegro 59/00, 10/01, 43/05, 28/06), all securities traded on the stock exchange are in the dematerialized form (Article 3 of the Law on Securities) and registered in the name (pursuant to Article 100 of the Law on Securities, it is prescribed that the owner of the dematerialized security shall be considered to be the owner of the account in the Central Depository Agency in which the security is kept, who acquired this status by registration of securities)..

Bearer securities may not be issued pursuant to the Law on Securities (Official Gazette of the Republic of Montenegro 59/00, 10/01, 43/05, 28/06), and bearer securities cannot be traded on the stock exchanges in Montenegro.

Pursuant to the provision of Article 243 of the Law of Obligations (Official Gazette of Montenegro 47/08) securities may be bearer securities, registered in name securities, or by order.

**f) When and what do the institutions and professions mentioned under b) precisely have to report to your FIU (Financial Intelligence Unit) with regard to money laundering/financing of terrorism? Do supervisory or other competent authorities also have to report to the FIU in this respect? Are the reporting institutions forbidden to tip-off clients that information has been or will be reported to the FIU?**

Reporting entity referred to in the item b) is obliged to submit to the Administration for Prevention of Money Laundering and Terrorism Financing data on any transaction carried out in cash in the amount of EUR 15 000 or more, immediately after, and not later than three working days from the day of execution of the transaction.

Reporting entity is obliged to submit data to the Administration for Prevention of Money Laundering and Terrorism Financing without delay when there are reasonable grounds for suspicion of money laundering or terrorism financing related to the transaction (regardless of the amount and type) or client, before the execution of the transaction, and state the deadline within which the transaction is to be executed.

The obligation on informing the Administration on the suspicious transaction refers to announced transaction as well, regardless of whether it is executed later or not.

Lawyer or notary is obliged to inform the Administration for Prevention of Money Laundering and Terrorism Financing on suspicious transactions in a manner and during conducting activities as described in the item b) paragraph 2.

Administration body competent for customs activities is obliged to submit to the Administration for Prevention of Money Laundering and Terrorism Financing data or to enable it to have electronic access to data on every transfer over the state border of money, checks, bearer securities, precious metals and precious stones, in amount or in value of EUR 10 000 or more, at the latest within three days from the day of transfer.

Administration body competent for customs activities is obliged to submit to the Administration for Prevention of Money Laundering and Terrorism Financing data or to enable it to have electronic access to data on every transfer over the state border of money, checks, securities, precious metals and precious stones, in amount and in value smaller than EUR 10 000, if there are reasons for suspicion of money laundering or terrorism financing.

Stock exchanges and clearing – deposit companies are obliged to inform, without delay, in written form the Administration for Prevention of Money Laundering and Terrorism Financing, if during carrying out the activities within the scope of their business, they detect facts indicating possible connection with a money laundering or terrorism financing.

Supervisory authorities referred to in item c) are obliged to inform the competent administration body on measures taken in the process of supervision in accordance with this Law, within 8 days from the day of taking the measures.

Reporting entities and reporting entity's employees, members of managing, supervisory or other governing bodies, or other persons, to which data collected pursuant to the Law on Prevention of Money Laundering and Terrorism Financing (Article 80) were available must not reveal to a customer or third person: that data on the customer or the transaction are submitted or will be submitted to the Administration for Prevention of Money Laundering and Terrorism Financing; that the Administration requested additional data on client or transaction; that the competent administration body temporarily suspended transaction or in accordance with it gave instructions to the reporting entity; that the competent administration body demanded regular supervision of client's financial operations; that investigation is initiated or could be initiated against client or third party due to the money laundering or terrorism financing. These data are the official secret and they are designated as such, in accordance with Law.

**g) Are the institutions and professions mentioned under b) required to keep records? Specify the contents of that requirement.**

Pursuant to the Law on Prevention of Money Laundering and Terrorism Financing, reporting entities are obliged to keep records on clients, business relationships and transactions. Reporting entity must keep data and relevant documents collected pursuant to the Law for ten years from cessation of business relations or performed transaction.

The competent administration body is obliged to keep data and information from records kept pursuant to this Law for 11 years from the day of obtaining them and after expiration of this period these data and documents will be destroyed. The competent administration body must not inform a person about the information and data in its possession relating to such a person, before the expiration of 10 years from the day of recording them. A person that the data relate to shall be entitled to have access to his personal data upon the expiration of 10 years from the day of recording them.

Reporting entities keep the records on transactions in chronological order and in writing, and/or electronic form which enables efficient review and supervision, and data on suspicious transactions are registered in separate records.

**h) Are the institutions and professions mentioned under b) required to apply internal procedures and training of employees with regard to money laundering/financing of terrorism? Specify the measures.**

Pursuant to the Law on Prevention of Money Laundering and Terrorism Financing, reporting entities are obliged to prepare program for professional training and advanced training of employees conducting activities of detecting and preventing money laundering and terrorism financing, at the latest by the end of the first quarter of a business year, as well as to provide regular professional training and advanced training of employees conducting activities of detecting and preventing money laundering and terrorism financing.

Pursuant to the Rulebook on manner of the work of the authorized person, the manner of conducting internal control, keeping and protecting data, keeping records and the training of the employees, reporting entities (referred to in item b) should establish and develop special programs of activities directed against money laundering and terrorism financing through written rules and procedures against money laundering and terrorism financing.

**i) Specify if the institutions and professions mentioned under b) are supervised with regard to the requirements mentioned under c) to h) and to what extent?**

Supervision over reporting entities regarding implementation of the Law on Prevention of Money Laundering and Terrorism Financing and regulations passed on the basis of this Law, within established competences, is carried out by:

- 1) Central Bank of Montenegro;
- 2) Agency for Telecommunications and Postal Services;
- 3) Securities Commission;
- 4) Insurance Supervision Agency;
- 5) Games of Chance Administration;
- 6) Tax Administration;
- 7) Ministry of Finance; and
- 8) Administration for Prevention of Money Laundering and Terrorism Financing.

The Administration for Prevention of Money Laundering and Terrorism Financing, pursuant to the Law on Money Laundering and Terrorism Financing and the Law on Inspection Supervision, conducts the following measures and activities:

- determine the conduct of reporting entity in implementation of the law, other regulations and general documents;
- conduct direct supervision and take administrative measures and activities over certain categories of reporting entities prescribed by the law;
- conduct misdemeanor proceeding against reporting entity and responsible persons of reporting entities;
- collect data gained from other supervision bodies on measures taken against reporting entities; and
- keep records on these measures and perform other activities determined by the regulations.

Supervisory authorities referred to in item c) are obliged to inform the competent administration body on measures taken during the supervision, in compliance with this law, and within eight days from the day of taking the measures.

The Securities Commission conducts the supervision over authorized participants in the securities market (brokers, dealers, investment advisers) and collective investment schemes (investment fund management companies and pension fund management companies and investment funds and pension funds) pursuant to Article 4 of the Law on Prevention of Money Laundering and Terrorism Financing (Official Gazette of Montenegro 14/07, 04/08).



The Commission conducts indirect control over aforementioned persons by the review of their periodical reports as well as direct control, when needed.

**j) In what way do competent authorities have to give feedback to the institutions and professions mentioned under b)?**

Pursuant to the Law on Prevention of Money Laundering and Terrorism Financing, the Administration for Prevention of Money Laundering and Terrorism Financing, informs in writing the reporting entity or another person submitting the initiative on obtaining and analyzing data regarding person or transaction, for which there are reasonable grounds for suspicion of money laundering or terrorism financing, unless it evaluates that this notification may have detrimental effects on the course and outcome of the proceeding.

**k) What penalties exist with regard to infringements of your anti-money laundering/financing of terrorism regulation?**

The Law on Prevention of Money Laundering and Terrorism Financing prescribes fines for legal persons, authorized persons of legal persons, entrepreneurs and natural persons, proportional to the seriousness of committed violation.

For violation of the Law on Prevention of Money Laundering and Terrorism Financing, the prescribed fines are as follows:

- 1) twenty-fold to three-hundred-fold of minimum wage for the legal person, four-fold to twenty-fold of minimum wage for authorized person in the legal person,
- 2) ten-fold to fifty-fold of minimum wage for entrepreneurs,
- 3) sixty-fold to three-hundred-fold of minimum wage for the person registered for certified validation of electronic confirmation,  
- five-fold to ten-fold of minimum wage for responsible person in the entity registered for certified validation of electronic confirmation,
- 4) sixty-fold to three-hundred-fold of minimum wage for the lawyer and notary.

In addition to the punishments implemented by the Administration for Prevention of Money Laundering and Terrorism Financing and other competent bodies, pursuant to the Law on Prevention of Money Laundering and Terrorism Financing, the Central Bank may take measures against the banks acting contrary to regulations:

- 1) *warn the bank in writing about the irregularities found and make it bound to undertake one or more activities to remove irregularities found within a specified time, including the activities that may be imposed by the order referred to in paragraph 1 item 3 of this Article;*
- 2) *conclude a written agreement with the bank making the bank bound to remove the irregularities found within a specified time;*
- 3) *issue an order imposing one or more of the following measures;*
- 4) *institute interim administration in the bank;*
- 5) *revoke the bank's license.*

*When the Central Bank decides to take the measures against the bank in the form of the Decision imposing the measures,, it determines the amount of the fine to be imposed on the bank and the authorized person in the bank, as prescribed in Article 118 of the Law on Banks.*

**22. Please elaborate on the functioning of the FIU, the supervisory authorities and the law enforcement authorities with regard to, inter alia, available resources (staff and budget), operational powers, independence, (inter-)national co-operation between competent authorities and the results achieved in terms of suspicious transactions reports received, supervisory investigations (including detected infringements, sanctions imposed), freezing/seizing orders, confiscations and prosecutions/indictments/convictions.**

The Administration for Prevention of Money Laundering and Terrorism Financing is established by the Decree of the Government of Montenegro on 15 December 2003 and it started to work by mid-2004. The Administration is an independent body and its operations are supervised, from administrative point of view, by the Ministry of Finance. Pursuant to the Law on Prevention of Money Laundering and Terrorism Financing, the Administration, at least once a year, submits the report on its operations to the Government.

The Administration for Prevention of Money Laundering and Terrorism Financing is, pursuant to the Law on Prevention of Money Laundering and Terrorism Financing and international standards, organized as financial intelligence unit of administrative type. It performs activities regarding detection and prevention of money laundering and terrorism financing regarding: collection, analyzing and submitting to the competent authorities data, information and documents necessary for detection of money laundering and terrorism financing; verification of transactions and persons for which there is suspicion on money laundering or terrorism financing; it temporarily suspends transactions; it establishes international cooperation with competent authorities in other countries and international organisations; it supervises the implementation of the Law on Prevention of Money Laundering and Terrorism Financing within determined competences; it initiates and conducts the first instance misdemeanor procedure due to the violation of the provisions of the Law on Prevention of Money Laundering and Terrorism Financing.

If the Administration for Prevention of Money Laundering and Terrorism Financing, based on data, information and documents collected in compliance with the Law on Prevention of Money Laundering and Terrorism Financing, estimates that regarding certain transaction or person there is a reasonable ground of suspicion of money laundering or terrorism financing, it is obliged to inform thereof the competent authority (Police Department and Prosecution) in a written form and to submit all necessary documents.

State Prosecution is unique and independent state body conducting the activities of prosecution of perpetrators of criminal offences and other punishable acts prosecuted ex officio. Activities of the State Prosecution are conducted by the state prosecutor. Within the competences of the Special Prosecutor, there are criminal offences of organized crime, corruption, terrorism and war crimes.

The Police provides for general, personal and property safety and protection of citizens. The Police is the entity in charge of internal security, and it conducts activities regarding prevention and suppression of all forms of crime.

The Administration for Prevention of Money Laundering and Terrorism Financing may, by written order temporarily, but no longer than 72 hours, suspend the transaction, if it estimates that there is a reasonable ground for suspicion of money laundering and terrorism financing, and it informs thereof the competent authorities, Prosecution and Police (with no delay).

Upon received notification of suspension of transaction, competent authorities are obliged to act urgently in accordance with their powers, and at the latest within 72 hours from suspending the transaction.

The Administration for Prevention of Money Laundering and Terrorism Financing may request, in a written form, from the reporting entity to carry out ongoing monitoring of client's or other person's financial operations, for whom it may be concluded that he/she cooperated or participated in transactions or business activities in relation to which there are grounds for reasonable suspicion of money laundering or terrorism financing, and it may determine the deadline within which that client/person is obliged to inform and to provide required data to it.

If the Administration for Prevention of Money Laundering and Terrorism Financing, in the procedure of processing the case, discovers in relation to transaction or person reasonable

grounds for suspicion of criminal offense prosecuted ex officio, it is obliged to submit information thereof, in a written form, to the competent authorities (Prosecution, Police, ANS, Tax Administration, Customs Administration).

The Administration for Prevention of Money Laundering and Terrorism Financing signed the Agreements on Cooperation with the Central Bank of Montenegro, Ministry of Internal Affairs, Tax Administration, Customs Administration, Securities Commission, Basic Court in Podgorica and State Auditing Institution, and the establishment of National Intelligence Office is planned.

Cooperation among authorities included in the system for prevention of money laundering and terrorism financing is conducted through regular working meetings of the representatives of these institutions and common training programs are also carried out.

Pursuant to the Law on Prevention of Money Laundering and Terrorism Financing, the Administration for Prevention of Money Laundering and Terrorism Financing may conclude agreements on exchange of financial and intelligence data, information and documents with authorized competent bodies of the foreign countries and international organisations. The Administration signed the cooperation agreements with: Financial Intelligence Service of the Republic of Bulgaria, Administration for Prevention of Money Laundering of Serbia, Financial Information Center of UNMIK, Department for Prevention of Money Laundering of the Republic of Croatia, Agency for Investigation and Protection Bosnia and Herzegovina, Directorate for Coordination of the Struggle against Money Laundering within the Ministry of Finance of Albania, Directorate for Prevention of Money Laundering of the Republic of Macedonia, FOS Portugal, FIU Slovenia and FIU Russia, FIU Poland, National Office for Prevention of Money Laundering of Romania, with American FinCen, FIC EULEX of the Mission in Kosovo, State Committee for Financial Supervision of Ukraine and Unit for Prevention of Money Laundering and Suspicious Cases of United Arab Emirates.

The Administration may, within its competences, from the competent authority of other country, request data necessary for detection and prevention of money laundering and terrorism financing. It may use the obtained data exclusively for the purposes determined by this Law and it may not, without previously acquired consent of the authority of the country they were obtained from, submit or disclose them to other authority, legal or natural person or use them for the purposes which are not in compliance with the requirements and limitations determined by the requested authority.

The Administration may, on its own initiative or at the request of the competent authority of other country, submit data, documents and information on clients or transactions for which there is reasonable ground of money laundering or terrorism financing, to the authority competent for detection and prevention of money laundering of the other country, under reciprocity condition.

The Administration may, pursuant to the Law on Prevention of Money Laundering and Terrorism Financing, with reciprocity condition, upon the reception of the written initiative of the competent authority of the other county, by written order temporarily, but not longer than 72 hours, suspend transaction and it must inform thereof competent authorities. The Administration may submit written initiative to foreign competent authorities for prevention of money laundering and terrorism financing for temporary suspension of transaction, if it evaluates that there are sufficient grounds for reasonable suspicion of money laundering or terrorism financing.

The Administration is member of the Egmont Group – World Association of Financial Intelligence Units since July 2005.

By the Decision of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) of the Council of Europe for prevention of money laundering and terrorism financing, the Administration has been received in full membership of this organisation at its session on 5 June 2007.

In addition to the specified, the Administration is authorized for the following:

- to initiate changes and amendments to regulations related to prevention of money laundering and terrorism financing;
- to participate in consolidation of and to compile the list of indicators for identifying clients and transactions;

- to participate in training and professional improvement of authorized reporting entity's employees and competent state authorities;
- to initiate publishing of the list of countries that do not apply standards in the area of detection and prevention of money laundering;
- to prepare and publish recommendation or guidelines for unique implementation of this Law and regulations enacted in accordance with this Law, at the reporting entities;
- to publish statistical data from the area of money laundering and terrorism financing, at least once a year and to notify the public, in an appropriate manner, on phenomenon of money laundering and terrorism financing.

Organizational units in the Administration for Prevention of Money Laundering and Terrorism Financing are the following:

1. Department for receiving, processing and analyzing of data

- Analytical Processing Division
- Suspicious Transactions Division
- IT and Data Collection Division

2. Department for control, international and internal cooperation

- Division for control of reporting entities
- Division for international and internal cooperation

3. Desk – for conducting the first instance misdemeanor procedures

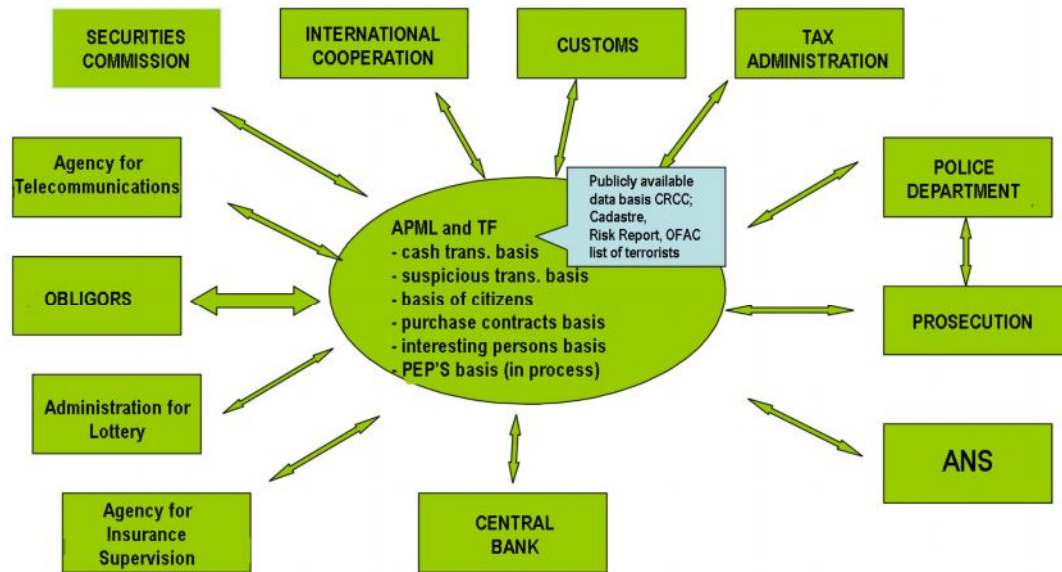
4. Service for General Affairs, Finances and Public Relationship

*In the Administration for Prevention of Money Laundering and Terrorism Financing 34 employees are envisaged. At the moment, the Administration has 25 employees,, out of which 4 are inspectors, 4 employees are administrative personnel and one employee is in charge of conducting misdemeanor procedure. The employees are mainly lawyers, economists, IT experts.*

Pursuant to the Law on Budget of Montenegro for 2009 (Official Gazette of Montenegro 82/08), the Administration for Prevention of Money Laundering and Terrorism Financing was allocated budget funds in the amount of EUR 534 036.21.

*Inspectors in the Division for Control of Reporting Entities conduct inspection supervision of certain categories of reporting entities (answer to the question 21/c of this Chapter). In the period from May 2008 onwards, they conducted 134 controls and submitted 30 requests for initiation of misdemeanor procedure (most often because the obligors did not submit data on cash transactions above the prescribed amount to the Administration for Prevention of Money Laundering and Terrorism Financing within the prescribed deadline).*

*Activities regarding the first instance misdemeanor procedures are conducted by the authorized employee within the Administration for Prevention of Money Laundering and Terrorism Financing. Since mid November 2008, when the authorized employee started to work, the misdemeanor procedure was ended in 20 cases and in 17 cases the defendant was found guilty (total amount of imposed fines is EUR 44 910.00, and costs of the misdemeanor procedure amount EUR 1 020.00). In one instance the misdemeanor procedure was suspended, two were rejected and 10 cases are in progress. There were 14 final and enforceable decisions, 9 decisions are executed, and the amount of the collected fines is EUR 21 310.00.*



*Attachment – picture 1*

**23. Specify to what extent you have implemented the FATF (Financial Action Task Force) 40 Recommendations on money laundering and the FATF 9 Special Recommendations on terrorist financing.**

Most of the recommendations of the FATF regarding money laundering and terrorism financing have been implemented in Montenegrin legislation. Out of 49 recommendations of the FATF, Montenegro has harmonized the system of prevention of money laundering and terrorism financing with 41 recommendations or in percents – 83.67% (9 recommendations – completely harmonized, 18 – mostly harmonized, 14 – partially harmonized). Six recommendations, or around 12%, are not harmonized, and 2 recommendations or around 4% are inapplicable, as estimated in the Report of the Experts of the Council of Europe in the third round of detailed estimate of Montenegro in the area of prevention of money laundering and terrorism financing.

Recommendations which are not complied are related to: Unusual transactions, Non-financial institutions and person determined as reporting entities of DNFBP by law, Special monitoring of the countries marked with the higher risk level.

Since in the Montenegrin laws there are no provisions allowing financial institutions to rely on intermediaries and other third parties in order to conduct marked elements of the CDD process and legal regulations regarding establishment of the foreign or domestic trusts, recommendations 9 and 34 are not applicable.

Competent institutions will in compliance with their competences undertake necessary activities for fulfillment of the recommendations from the Report of MONEYVAL regarding: manner of application of resolutions S/RES/1267 (1999); S/RES/1373 (2001) and S/RES/1452 (2002) and propose measures for their implementation to the Government; the possibility to make

amendments to the Law on Prevention of Money Laundering and Terrorism Financing; considering the legal framework regarding non-profit and non-governmental organizations that may be used for terrorism financing.

**24. Is there a regulation preventing the use of the financial system for the purpose of money laundering/financing of terrorism? Describe the main elements of it.**

Yes.

The new Law on Prevention of Money Laundering and Terrorism Financing, which entered into force in December 2007, is completely complied with:

- Directive 91/308/EEC on the prevention of the use of the financial system for the purpose of money laundering of 10 June 1991;
- Directive 2001/97/EC of the European Parliament and Council of Europe, of 4 December 2001;
- Directive 2005/60/EC of the European Parliament and the Council of 26 October 2005 on prevention of the use of the financial system for the purpose of money laundering and terrorism financing.

By integrating the specified directives in the Montenegrin Law on Prevention of Money Laundering and Terrorism Financing, important elements of prevention of the use of the financial system for the purpose of money laundering and terrorism financing have been incorporated, inter alia:

- making risk analysis for certain categories of clients and types of transactions;
- complete processing and monitoring of clients /CDD/, with different levels of processing (usual, more detailed and reduced) depending on the risk level, determined by the category of client and type of transaction;
- identification of client and actual owner of legal person when conducting each transaction;
- special monitoring of politically exposed persons (domestic and international);
- prohibition of business activities with "quasi" banks or banks doing business with them;
- prohibition of opening and keeping anonymous accounts.

In addition, pursuant to the Law, the following secondary regulations are adopted:

- Rulebook on manner of work of authorized person, manner of conducting internal control, keeping and protection of data, manner of keeping records and training of personnel (Official Gazette of Montenegro 80/08);
- Rulebook on manner of delivery of data on cash transactions in the value of EUR 15 000 and more and suspicious transactions to the Administration for Prevention of Money Laundering and Terrorism Financing (Official Gazette of Montenegro 79/08);
- Rulebook on development of guidelines for risk analysis in order to prevent money laundering and terrorism financing (Official Gazette of Montenegro 20/09).

## **Annex Tables**

Montenegro

Arrangements applicable to Capital movemen

Situation as of (month) 2009

***I. DIRECT INVESTMENTS***



04 Free movement of capital

Type of transaction	Legislation reference	Description of the current regime
<p>A. Direct investments on national territory by non-residents</p>	<p>Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)</p> <p>Foreign Investments Law (Official Gazette of the Republic of Montenegro 52/00, 37/07) (<a href="#">Annex 20</a>)</p>	<p>Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement in current and capital operations.</p> <p>Article 3 item 11 indent 1) includes direct investments by non-residents within the definition of capital operations.</p> <p>National treatment of foreign investors is part of Montenegrin legal system. First and foremost, national treatment of the foreign investors is defined by Foreign Investments Law (Official Gazette of the Republic of Montenegro 52/00, 37/07), according to which foreign investors enjoy identical legal status, rights and obligations as the domestic ones. After amendments made in 2007, the Law is now harmonized with the requirements of the World Trade Organization.</p> <p>There are no limitations regarding the amount of capital invested. Foreign investors are entitled to invest in any type of industry and to freely transfer their financial and other assets, including profit and dividends. The only exception is the industry of arms and military equipment, defined by the Article 7 of the Foreign Investments Law: “Foreign investor shall be entitled to invest funds in domestic business organisation or establish business organisation in Montenegro only jointly with domestic legal or natural person for the purpose of production and trade in arms and military equipment. In business organisations referred to in paragraph 1 of this Article, foreign investor is not allowed to own share exceeding 49% of share capital or ownership rights, i.e. voting right.” In addition, in accordance with the Article 9 of the mentioned Law, foreign investor shall be obliged to acquire permit from the competent ministry for the purpose of participating in establishment of a business organisation, investment into business organisation, or increase of share in the business organisation.</p>
<p>B. Direct investments abroad by residents</p>	<p>Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)</p>	<p>Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes the principle of free movement in current and capital operations.</p> <p>Article 3 item 11 indent 1) includes direct investments by residents in the definition of capital operations.</p>

**I.A.) Restrictions on direct investment by non-residents under sector specific legislation**

Sector	National legislation (reference number, date of entry into force)	Managing authority / competent ministry	Description of relevant provisions / legal citation  (bans, ceilings, authorisation or licensing procedures ... regardless of possible justification)	Comments  (e.g. possible justification for restriction in the light of the reservations set out in the annexes of the Agreement or legislation in the pipeline)
Example: Postal services	Law on Posts, No. year)  Official Gazette page, date of entry into force)	Competent Ministry  Ministry department ...	Chapter x, Article y, of the Law on Posts provides  - Maximum of x % of foreign participation, - Authorisation procedure including the following criteria:...	Draft law provides the following amendments ...It is currently pending before the Parliament.
Agriculture	Law on Agricultural Land (Official Gazette of the Republic of Montenegro 15/92, 59/92)	Ministry of Agriculture, Forestry and Water Management	Article 1 of the Law  Agricultural land, as good of general interest, shall enjoy special protection and it shall be used under conditions and in a manner prescribed by this Law.	No limitations.
Alcohol	Proposal of the Law on Alcoholic Beverages	Ministry of Agriculture, Forestry and Water Management		No limitations
Banking	No legal act	Ministry of Finance  Central Bank of Montenegro	There are no provisions that would limit the rights of non-residents	Legislation governing banking system fully equalizes rights of domestic and foreign legal and natural persons.
Betting (see also gambling, lotteries)	Law on Games of Chance (Official Gazette of the Republic of Montenegro 2/04 and Official Gazette of the	Ministry of Finance  Administration for Games of Chance	Article 10 of the Law on Games of Chance, provides that organisation of games of chance (pursuant to the Law, betting is considered to be a game of chance) may be carried out by joint stock companies and limited liability companies with the seat on the territory of Montenegro. This Law does	

04 Free movement of capital

	Republic of Montenegro 13/07)		not provide limitations with regard to participation of foreign capital in the company engaged in organisation of games of chance.	
Broadcasting	Broadcasting Law (Official Gazette of Montenegro 51/02)	Ministry of Culture, Sports and Media	<p>Broadcasting Law adopted in 2002, provided following classification of electronic media: national public service broadcasters, local public service broadcasters and commercial broadcasters</p> <p>This classification was a result of an intention to, in line with the international standards, implement general distinction of radio broadcasting to public and commercial, with all pertaining specificities in the manner of financing, program structure and the like.</p> <p>Pursuant to the Law on Public Service Broadcasting of Montenegro, there are two public radio-broadcasting services: Radio of Montenegro and Television of Montenegro. Each of these two services have two programs which are broadcasting at the national level. Further on, this Law entitles such services to broadcast their own radio or television program via satellite.</p> <p>Since its establishment Broadcasting Agency of Montenegro implemented four public tenders for award of the right to transmission and broadcasting of radio broadcasting signals (award of broadcasting frequencies). On the basis of this, Agency issued 43 licenses for commercial radio broadcasters and 21 licenses for commercial TV broadcasters. The overview of commercial broadcasters may be found at the web site of the Broadcasting Agency: <a href="http://www.ardcg.org">www.ardcg.org</a>.</p> <p>Pursuant to the Broadcasting Law from 2002, 17 local public service broadcasters were established, out of which 14 are radio stations and 3 are TV stations. Their</p>	

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		<p>founders are parliaments of local self-governments on which territories those stations are broadcasting their program. Overview of public broadcasters may be found at the web site of the Broadcasting Agency: <a href="http://www.ardcg.org">www.ardcg.org</a>.</p> <p>Pursuant to the Article 7 of the Law on Media (Official Gazette of the Republic of Montenegro 51/02), it is provided that the Republic, units of local self-government and legal persons in which the state is a majority owner, or which are either wholly or in major part financed from public revenues may not be founders of the media, except under conditions prescribed by the Broadcasting Law.</p> <p>In the same way, Article 32 of the Broadcasting Law (Official Gazette of the Republic of Montenegro 51/02) provides that the holder of the license for radio transmission and broadcasting may only be domestic or foreign natural or legal person registered for production, transmission and broadcasting of radio and television programs and with a permanent residence or seat on the territory of the Republic.</p> <p>Article 33 of the Law provides that following persons may not be holders of license for radio transmission and broadcasting :</p> <ol style="list-style-type: none"> <li>1. Religious community, or other religious organisation or legal person whose founder is such entity, except for the license for transmission and broadcasting of the radio program at the local level;</li> <li>2. Political party, organisation or coalition, as well as legal person whose founder is a political party, organisation or coalition;</li> </ol> <p>In addition, Broadcasting Agency shall not,</p>	
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			<p>pursuant to the Article 108 paragraph 1, adopt the decision on issuance of license for transmission and broadcasting to an applicant to public tender, if it determines that issuing of such license, would ensue in prohibited media concentration within the meaning of this Law.</p> <p>National legal person, the founders of which are also foreign legal persons registered in the country where it is not allowed or is impossible to establish the origin of the founding capital, may not participate in the public tender for award of license for transmission and broadcasting. If in the capacity of one of the co-owners of a broadcaster to whom the license for transmission and broadcasting has been issued, after the issuance, appear such foreign legal person as referred to in the paragraph 1 of this Article, the provisions of the Broadcasting Law on termination of validity of license prior to expiry of time limit for which it was awarded shall apply (Article 110)</p>	
Brokerage Operations	Law on Securities (Official Gazette of the Republic of Montenegro 59/00 and 28/06)	Ministry of Finance Securities Commission	<p>Operations in securities may be carried out only by licensed participants on the securities market (licensees) as their only business under their licenses.</p> <p>Licensees shall be established as joint stock companies in accordance with provisions of the law governing companies and this Law. (Article 63 paragraphs 1 and 2 of the Law on Securities)</p>	Law on Securities provides no limitations or restrictions for direct investments of the non-residents in the companies engaged in brokerage. Non-residents who want to engage in brokerage may become founders and obtain license for carrying out of brokerage business under the same conditions as those applicable to obtaining of the licenses by residents. In addition, non-residents may establish branches for conduct of brokerage activities, in compliance with the law.
Coffee products		Ministry of Agriculture, Forestry and Water Management		No limitations

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<p>Construction services</p>	<p>1. Law on Spatial Development and Construction of Structures (Official Gazette of the Republic of Montenegro 51/08)</p> <p>2. Law on Property Ownership Relations (Official Gazette of the Republic of Montenegro 19/09) (<a href="#">Annex 22</a>)</p> <p>3. Law on Employment and Work of Foreigners (Official Gazette of the Republic of Montenegro 22/08)</p>	<p>Ministry of Spatial Planning and Environmental Protection</p>	<p>1. Ministry of Spatial Planning and Environmental Protection</p> <p>2. Ministry of finances/Real-Estate Administration</p> <p>3. Ministry of Labour and Social Welfare/Employment Agency</p>	<p><b>1. Law on Spatial Development and Construction of Structures (Official Gazette of the Republic of Montenegro 51/08)</b> regulates the subject matter through certification of licenses of foreign natural and legal persons in the field of planning, project design and execution of works by Article 136, where it is set forth that provisions of the Article 134 paragraph 1 of mentioned Law regarding the procedure and conditions for issuance of licenses shall not be applicable to licenses issued by an authority of foreign person's country.</p> <p>Conditions and procedure of certification and annulment of certified license of foreign persons are provided by sub-regulation: <b>Rulebook on Conditions and Manner of Certification and Annulment of Certification of the License of Foreign Person</b> (Official Gazette of the Republic of Montenegro 68/08).</p> <p>Article 5 of the Rulebook prescribes conditions for certification of license of a natural person, as follows: certified copy of passport, certified copy of license and certified copy of diploma on professional education; while Article 6 of the same Rulebook prescribes conditions for certification of the license of legal persons as follows: evidence on registration in country of origin, certified copy of license and licenses of natural persons on the basis of which legal person's license has been issued, all certified in accordance with the Article 5 of this Rulebook.</p> <p><b>2. Law on Property Ownership Relations (Official Gazette of the Republic of Montenegro 19/09)</b>, prescribes conditions for acquisition of ownership rights on movable and immovable property for foreign persons.</p> <p>Therefore, Article 415 prescribes restrictions</p>
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				<p>with regard to acquisition of ownership right of foreign persons on the following: natural wealth, good in general use, agricultural land, forest and forest land, cultural monument of particular and exceptional importance, immovable property in border area within belt of one kilometre and islands, as well as on immovable property located in the area, which was declared by law, with an aim of protection of interests and security of the country, as an area where foreign persons cannot acquire ownership right.</p> <p>Special law regarding paragraph 1 item 7 of this Article, must be adopted in the same manner and under the same procedure as provided for adoption of this Law.</p> <p>Exceptionally, foreign natural person may acquire ownership right on the agricultural land, forests and foreign land with an area of up to 5.000 m<sup>2</sup>, only if the subject matter of the contract on disposal (sale-purchase, gift, exchange etc.) is a residential building located on such land. Foreign person may have the right of a long-term lease, concession, BOT and other arrangements of public-private partnership on the real estate referred to in paragraph 1 items 1 to 6 of this Article, as well as residents.</p> <p><b>3. Law on Employment and Work of Foreigners (Official Gazette of the Republic of Montenegro 22/08)</b>, prescribes restrictions through the number of work permits for foreigners (quota) introduced by Article 6 and through cross-border services regulated by Article 26 of the same Law.</p> <p>Therefore, the Article 6 prescribes that the Government determines annual number of work permits for foreigners (hereinafter: quota) in accordance with migration policy, situation</p>
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				<p>and trends at the labour market. Quota referred to in the paragraph 1 of this Article is determined by the Government, on proposal of the Ministry in charge for labour (hereinafter: Ministry), upon previously acquired opinions of ministries in charge for specific sectors for which quota is being established as well as the opinion of Social Council. Quota referred to in paragraph 1 of this article is determined, at latest, by 31 October of current year for the following year. Criteria and procedure for determining quota are regulated by special act of the Government, namely <b>Decree on Criteria and Procedure for Determining of the Number of Work Permits for Foreigners (Official Gazette of the Republic of Montenegro 69/08)</b>.</p> <p>According to the Article 5 paragraph 1 indent 2 of the Decision on determining of number of work permits for foreigners for 2009 (Official Gazette of the Republic of Montenegro 70/08) number of 13.500 permits was determined for seasonal jobs in the sector of construction works.</p> <p>Pursuant to the Article 26 of the specified Law, foreign business organisation may provide cross-border services in Montenegro by assigning foreigners in accordance with this Law and other regulations. Cross-border services are carried out on the basis of the contract concluded between foreign legal entity and legal entity with the seat in Montenegro, to which services are provided. Foreign legal entity may provide services through assigned foreigners which have been employees of such entity during at least one year. Work permit may be issued to an assigned foreigner several times but not for a period longer than three months in a calendar year. If, for objective reasons, it becomes</p>
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				impossible to provide services within time limit for which permit was granted, the extension of permit may be requested but for a period not longer than one month. Exceptionally when provision of services is of particular interest for Montenegro, permit may be issued for a longer period, but not exceeding one year. Prior to submission of application for work permit for provision of services referred to in the paragraph 4 of this Article, legal person is obliged, on the basis of written justification, to obtain consent from the Ministry. Ministry decides on justifiability of provision of service, upon obtaining consents of the ministries competent for specific activities.
Energy and power production	Energy Law (Official Gazette of the Republic of Montenegro 39/03)	Ministry of Economy		No limitations.
Fishing	Sea Fisheries and Mariculture Law (Official Gazette of the Republic of Montenegro 56/09)	Ministry of Agriculture, Forestry and Water Management	Fishing vessels sailing under foreign flag are not allowed to fish in the fishing area of the sea of Montenegro. (Article 42)  Foreign fishing vessel may fish in the fishing area of the sea of Montenegro if they obtain permit for fishing issued in accordance with the confirmed international treaty, by administrative body in charge for sea fishery, i.e. by Ministry of Agriculture to establishment of respective administrative body. (Article 95)	

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			<p>Person who is not a citizen of Montenegro may be issued a temporary permit for sport and recreational fisheries, for the period of 30 days at most. (Article 60)</p> <p>Business organisation or entrepreneur may engage in mariculture and processing of mariculture products pursuant to the following conditions: if registered for conduct of mariculture related activities in the Central Registry of the Commercial Court of Montenegro; if acquired previous consent for the Project on technical and technological conditions for mariculture with the study on economic feasibility and if has the license for conduct of mariculture activities. (Article 69)</p>	
Forestry	Law on Forests (Official Gazette of the Republic of Montenegro 55/2000)	Ministry of Agriculture, Forestry and Water Management  Forests Administration	<p>Law on Forests (LoF) does not prescribe investment of non-residents in the area of forestry, and accordingly does not provide potential restrictions.</p> <p>With the aim of ensuring proper management of forests Law on Forests prescribes that the forests owned by state shall be given for use to legal persons registered for conduct of forestry activities, as well as to those registered for conduct of other activities as provided in the Article 16 item 5 of the mentioned Law – forestry companies (Article 5 of the same Law). This, hence, means, that also non-residents that want to engage in use of forests must have legal person registered for such purpose in Montenegro.</p> <p>In the same way, Law on Forests in the Article 47 paragraph 1 provides the pre-emption right (under same conditions) in favour of the Forests Administration, as the state authority competent for forest management, in case when the owner of the forest intends to sell it.</p>	

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Gambling (see also lotteries)	Law on Games of Chance (Official Gazette of the Republic of Montenegro 52/04 and Official Gazette of the Republic of Montenegro 13/07)	Ministry of Finance Administration of Games of Chance	Pursuant to the Article 10 of the Law on Games of Chance, joint stock companies and limited liability companies with the seat on the territory of Montenegro may engage in organization of games of chance (pursuant to the Law, betting is considered to be the game of chance). This Law does not provide any limitations regarding participation of foreign capital in the business organisation engaged in organisation of games of chance.	
Hotels		Ministry of Tourism		Law on Tourism does not address the issue of direct investments by the non-residents in hotel industry or tourism in wider sense.
Hunting	Law on Wildlife and Hunting (Official Gazette of the Republic of Montenegro 52/08)	Ministry of Agriculture, Forestry and Water Management	<p>Law on Wildlife and Hunting (LWH) does not prescribe investments of non-residents in the area of hunting, and accordingly it provides no limitations.</p> <p>With an aim of adequate use of hunting areas Law on Wildlife and Hunting prescribes that hunting areas shall be awarded for use to legal persons meeting conditions set forth in this Law, for the period of up to 10 years (Article 14 of the same Law). This, hence, means that non-residents that want to acquire hunting areas for their use shall also have to have registered legal person in Montenegro, which meets conditions prescribed by the Law.</p> <p>It is prohibited to permanently take away from the country supreme trophies of wildlife (Article 72 paragraph 3 of the Law on Wildlife and Hunting)</p>	
Import of goods and services	Law on Foreign Investments (Official Gazette	Ministry of Economy	Foreign investors have national treatment in Montenegro and there is no discrimination between foreign and domestic investors. The	

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	of the Republic of Montenegro 52/00 as of 3 November 2000, 36/07 as of 15 June 2007)		exception is the production and trade (hence, foreign trade as well) in arms and military equipment. Pursuant to the Article 7 of the Law on Foreign Investments, foreign investor may invest funds in the domestic enterprise, i.e. establish business organisation only jointly with domestic legal or natural person in the Republic for production and trade in arms and military equipment. Foreign investor may not be owner of more than 49% of the share capital or ownership rights, or voting right in the business organisation referred to in the paragraph 1 of this Article.  Therefore, regarding import of goods and services there is no differences between non-residents and residents. Limitations described above relate to the level of the size of share capital, or voting rights.	
Insurance companies	Law on Insurance (Official Gazette of the Republic of Montenegro 78/06 as of 22 December 2006, 19/07 as of 2 April 2007)	Ministry of Finance Insurance Supervision Agency		There are no limitations.
Investment companies	Law on Investment Funds (Official Gazette of the Republic of Montenegro 49/04)	Ministry of Finance Securities Commission	Investment fund is a joint stock company founded for the purpose of public collection of monetary assets and investment of collected assets into securities, money deposits and real estate, in accordance with this Law. Investment fund collect monetary assets by means of public offerings of its shares (Article 4 paragraphs 1 and 2 of the Law on Investment Funds).  Authorized participants are established as joint stock companies in accordance with the	Law on investment funds contains no limitations regarding the possibility of investment of funds of non-residents in the investment funds. On the contrary, the law prescribes that investment fund is established by public offering of the shares, which means that any person is entitled to participate in public offering, regardless of whether it is resident or non-resident.  Authorized participants, i.e. companies engaging in broker's and dealer's business are

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			provisions of the law governing business organisations and in accordance with the provisions of this law (Article 63 paragraphs 1 and 2 of the Securities Law).	established in Montenegro in accordance with the Law on Companies, which provides that founders of the joint stock company may be both domestic and foreign legal persons. Hence, there are no restrictions which would in any manner prevent foreign direct investments by non-residents in the investment companies in Montenegro.
Land development	<p>Law on Spatial Development and Construction of Structures (Official Gazette of the Republic of Montenegro 51/08)</p> <p>Spatial Plan of Montenegro by 2020</p>	Ministry of Spatial Development and Environmental Protection	1. Ministry for Spatial Development and Environmental Protection / Department for Construction of Structures	<p><b>Limitations regarding direct investment by non-residents in protected nature areas are purposes provided by planning documents and protection level for specific areas. These limitations are of general character and applicable to both residents and non-residents.</b></p> <p>On the basis of national legislation in Montenegro, 106,655 ha, or 7.72% of state territory is protected. On the other side, internationally protected nature areas encompass 237,899 ha or 17.2% of the territory of Montenegro. In total, on both mentioned grounds, protected areas of nature cover 19.6% of the overall state territory.</p> <p>Existing nationally protected areas of nature in Montenegro are:</p> <ul style="list-style-type: none"> <li>- <b>National Parks</b> (total area of around 84,000 ha or 6.01% of state territory): Skadar Lake (40,000 ha); Lovcen (6.400 ha); Durmitor (32,000 ha); Biogradska gora (5,400 ha); recently declared National Park Prokletije;</li> <li>- <b>Natural Reserves</b> (total area 500 ha, or around 0.03% of state territory): in the National Park Skadar Lake: Manastirska tapija, Panceva oka, Crni zar, Grmozur and Omerova gorica (total 420 ha), in the National Park Durmitor: Crna Poda (80 ha);</li> <li>- <b>Monuments of Nature</b> (total area of around 7,700 ha, or around 0.6% of state territory):</li> </ul>

				<p>Djalovica Cliff; Caves: Lipska, Magara, Globocica, Spila by Trnovo – Virpazar, Babatusa, Novakovica cave near Tomasevo; Pit Duboki do in Njegusi; Canyons: of the river Piva and of the river Komarnica; Communities of the mountain pine (<i>Pinetum mughi montenegrinum</i>) on Ljubisnja, Durmitor and Bjelasica; community of the “Bosnian pine” (<i>Pinus heldraichii</i>) on mountains Orien, Lovcen and Rumija; trunk of the Skadar common oak in Curioac near Danilovgrad, trunk of the oak “medunac” in Orahovac near Kotor; Beaches: coast of Skadar Lake, Great Ulcinj beach, Small Ulcinj beach, Valdanos, Velji pijesak, Topolica in Bar, Sutomore, Lucice in Petrovac, Canj, Pecin, Buljarica, Petrovacka, Drobnji pijesak, St. Stefan, Milocer, Becici, Slovenska beach in Budva, Mogren, Jaz, Przno, Savinska Dubrava in Herceg Novi; Botanical reserve of laurel and oleander near Risan, Botanical Garden of Mountain Flora in Kolasin, Botanical Garden of General Kovacevic in Grahovo; Park 13<sup>th</sup> July and Njegos Park in Cetinje, Park by hotel “Boka” in Herceg Novi, City Park in Tivat, Park of the Palace in Topolica</p> <p>- <b>Area with outstanding natural features</b> (total area 322.5 ha, or around 0.02% of state territory); hill Spas above Budva, peninsula Ratac with Zukotrljica, island Old Ulcinj, hill Trebjesa in Niksic;</p> <p>- <b>Areas protected by municipal decisions</b> (total area 15,000 ha, or around 1.08% of state territory); Kotor-Risan Bay, Municipality of Kotor</p> <p>- <b>Internationally protected natural areas:</b> Ramsar area (Wetland list of areas of international importance, particularly as habitat for aquatic birds): Skadar Lake; UNESCO’s world natural and cultural heritage: Kotor-Risan Bay in Municipality of Kotor;</p>
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				<p>National Park Durmitor with canyon of Tara; M&amp;B UNESCO biosphere reserve: watershed of river Tara.</p> <p>A limitation for direct investments may be the fact of non existence of spatial planning documents for specific area. Such case is addressed by commencing the development of respective planning document in line with the Law on Spatial Development and Construction of Structures (Official Gazette of the Republic of Montenegro 51/08).</p>
Lotteries	<p>Law on Games of Chance (Official Gazette of the Republic of Montenegro 52/04 and Official Gazette of the Republic of Montenegro 13/07)</p>	<p>Ministry of Finance  Administration for Games of Chance</p>	<p>Pursuant to the Article 10 of the Law on Games of Chance, organisation of games of chance (lottery is considered to be game of chance pursuant to the Law) may be carried out by joint stock companies and limited liability companies with the seat on the territory of Montenegro. This Law does not prescribe any limitations regarding participation of foreign capital in business organisation organising games of chance.</p>	
Legal / Notary services	<p>Law on Legal Profession (Official Gazette of the Republic of Montenegro 79/2006)</p> <p>Law on Notaries (Official Gazette of the Republic of Montenegro 68/2005 and Official Gazette of Montenegro 49/2008)</p>	<p>Ministry of Justice of Montenegro</p>	<p>According to the Article 5 of the Law on Legal Profession, only persons who meet, amongst other conditions, the condition of having Montenegrin citizenship have a right to be registered in the Registry of Lawyers.</p> <p>According to the Article 12 of the Law on Notaries, only persons who meet, amongst other conditions, the condition of having Montenegrin citizenship may be appointed as a notary.</p>	<p>The Law on Legal Profession does not foresee any investments by non-residents.</p> <p>The Law on Notaries does not foresee any investments by non-residents.</p>

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<p>Management companies</p>	<p>Law on Investment Funds (Official Gazette of the Republic of Montenegro 49/04) and Law on Voluntary Pension Funds ( Official Gazette of the Republic of Montenegro 78/06 and 14/07)</p>	<p>Securities Commission</p>	<p>The Managing Company may be established by domestic and foreign legal and natural persons. Founders of the Managing Company may not be: 1) broker or dealer conducting, on the behalf of the Managing Company activities of mediation in trading with securities from the Investment Fund portfolio; 2) insurance company with which the fund is ensured. Domestic legal persons in which capital state capital participates with 50% or more and parties related to it may not be the founder or acquire shares of the managing company (Article 9 paragraphs 1, 2 and 3 of the Law on Investment Funds).</p> <p>Managing Company is organised and conducts business activities as a joint stock company in accordance with the law regulating legal status of business organisations, unless otherwise prescribed (Article 10 paragraph 1 of the Law on Voluntary Pension Funds)</p>	<p>Law on Investment funds does not provide any restrictions with regard to the possibility of the non-residents appearing as founders of the Managing Companies of the investment funds and expressly provides that founders of the Managing Company of the investment fund may be both, domestic and foreign, natural and legal persons.</p> <p>Companies for management of voluntary pension funds are established in accordance with the Law on Companies which prescribes that the founders of a joint stock company may be both domestic and foreign natural and legal persons. Hence, there are no limitations which would, in any manner, prevent foreign direct investments by non-residents in the companies for management of voluntary pension funds in Montenegro.</p>
<p>Media (see also print media)</p>		<p>Ministry of Culture, Sports and Media</p> <p><b>Answer is contained within the answer to the question regarding broadcasting of program.</b></p>		
<p>Mining</p>	<p>Law on Mining (Official Gazette of the Republic of Montenegro 65/08 as of 29 October 2008</p>	<p>Ministry of Economy</p>		<p>There are no discriminating restrictions regarding direct investments of the non-residents. Limitations, to the extent they exist, are applicable to all legal and natural persons and do not constitute discriminatory rules.</p>



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	(entered into force on 6 November 2008)			
Narcotics		Ministry of Health	<p>Article 5 item 9 of the Law on Medicines (Official Gazette of the Republic of Montenegro 80/04; 18/08) defines medicines containing narcotic and psychotropic substances as narcotic drugs and psychotropic substances with specific quantitative and qualitative composition in specific pharmaceutical form, used for medical, veterinarian, teaching, laboratory and scientific purposes.</p> <p>Chapters V and VI of the same Law prescribe conditions for production and trade in medicines.</p>	<p>Ministry of Health prepared Proposal of the Law on Precursors for Narcotics which was adopted by the Government of Montenegro in September 2009 and it is in the procedure in Parliament at the moment. The Law is harmonized with the EU recommendations, INCB recommendations and UN Conventions. The Law provides monitoring in this area.</p> <p>New Law on Medicines is drafted at the moment.</p>
National security & defence	<p>Law on Defence No. 01-411/15 year 2007</p> <p>Official Gazette of the Republic of Montenegro 47/07 page 1-6, 7 August 2008, Published, date of entry into force: 8 days after publication</p>	Ministry of Defence	<p>There are no special limitations except provisions of the Chapter 2 Article 28 of the Law on Defence, that sets forth that construction and development of large technical systems; telecommunications, electric power supply, air- and railroad traffic, information technology, water supplying etc. must be harmonized with the needs of the defence and that there is an obligation to inform this Ministry on the development programs.</p>	
Natural reservations	<p>Law on Protection of Nature (Official Gazette of Montenegro 51/08) entered into force on 22 august 2008</p>	Ministry of Spatial Development and Environmental Protection		<p>According to the Law on Protection of Nature (Official Gazette of the Republic of Montenegro 51/08) procedure for declaring an area as protected natural good is initiated by application for drafting of the technical background – Protection Study. Pursuant to this provision of the Law, there is a restriction, since the Protection Study may be produced only by the Legal person. Agency for Nature</p>

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				<p>Protection is deemed to be the legal person (legal person competent for conduct of technical activities in the field of nature protection). Law prohibits bringing foreign wild species of plants, animals and mushrooms (allochthonous sorts) to ecosystems which they do not naturally inhabit. Bringing in of allochthonous sorts of plants, animals and mushrooms, is allowed if it is scientifically and technically grounded and acceptable in respect of protection of nature, based on the permit of the state administration bodies, which may be issued on the ground of nature risk assessment, upon obtaining previous consent from the ministry competent for agriculture, forestry and water management. Nature risk assessment is carried out by the Legal person, which may be considered as a restriction as well, pursuant this Law.</p> <p>This Law regulates the pre-emption right of the real estate inside borders of protected natural good. Owner, who intends to sell the real estate, is obliged to offer the real estate to the Government, or to unit of local self-government first.</p>
Natural resources	Law on Mining (Official Gazette of the Republic of Montenegro 65/08 as of 29 October 2008), entered into force on 6 November 2008	Ministry of Economy		There are no discriminating limitations regarding direct investments of non-residents. Limitations, if any, are applicable to all legal and natural persons and do not constitute discriminatory treatment.
Postal services	Law on Postal Services (Official Gazette of the Republic of Montenegro	Ministry of Transport, Maritime Affairs and Telecommunications Sector of	There are no legal limitations regulating this area.	Draft of the Amendments of the Law on Postal Services is planned for IV quarter of 2009.

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	46/05 as of 3 August 2005)	Communications, Radio Spectrum and Posts		
Print media (see also media)		Ministry of Culture, Sports and Media <b>Answer is provided within the answer to question regarding broadcasting of program.</b>		
Quarrying	Law on Mining (Official Gazette of the Republic of Montenegro 65/08 as of 29 October 2008) entered into force on 6 November 2008	Ministry of Economy		There are no discriminating limitations regarding direct investments by non-residents. Limitations, if any, are applicable to all legal and natural persons and do not constitute discriminatory treatment.
Security services	Law on Foreign investments (Official Gazette of the Republic of Montenegro, No 52/00 dated 3 November 2000, 36/07 of 15 June 2007)	Ministry of Economy		Pursuant to Article 7 of the Law on Foreign Investments, a foreign investor may invest the funds in a domestic business organization or establish a business organization for production and trade in arms and military equipment in the Republic only with a domestic legal entity or natural person. Also, a foreign investor cannot have a share exceeding 49% of share capital or ownership rights or voting rights in the business organization referred to in paragraph 1 of this Article.
Stock Exchange / Securities	Law on Securities (Official Gazette of the Republic of Montenegro	Securities Commission	Stock Exchange is established as a joint stock company in accordance with the provisions of the Law on Companies and provisions of this Law (Article 47 paragraph 1	Law on Securities provides no limitations for direct investments by non-residents in the stock exchanges as joint stock companies. Non-residents who want to provide services of the stock exchange may establish a joint stock

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	59/00 and 28/06)		of the Law on Securities) Stock exchange may be established by a group of at least 8 founders and it must have at least that number of shareholders. The shareholders of the stock exchange may be members in the exchange and other persons. (Article 50 of the Law on Securities)	company and obtain a license to exercise activities of the stock exchange under the same conditions applicable for obtaining the license by residents as founders.
Telecommunications	Law on Electronic Communications (Official Gazette of the Republic of Montenegro 50/08 as of 19 August 2008)	Ministry of Transport, Maritime Affairs and Telecommunications  Sector of Telecommunications, Radio Spectrum and Post Offices	There are no legal limitations regulating this area.	Amendments of the applicable legislation are not planned.
Tertiary education	Law on Higher Education Official Gazette of the Republic of Montenegro 60/03; entered into force on 5 November 2003	Ministry of Education and Science	Public institution is established and dissolved by Government, while private institution is established by domestic and foreign natural or legal person (Article 41).	There are no limitations.
Tobacco	Law on Tobacco (Official Gazette of the Republic of Montenegro 48/08 as of 11 August 2008 and 76/08 as of 12 December 2008)	Tobacco Agency	Pursuant to the Law on Tobacco there are no limitations discriminating between domestic and foreign investors with regard to direct investment into manufacturing of tobacco products. However for the purpose of conduct of this production Tobacco Agency issues approval (permit) after the legal person registered in Montenegro meets all requirements and procedures prescribed by mentioned Law (Articles 9, 10 and 11). Procedure commences by announcing the public tender on the launching of which and on the number of permits to be issued, the decision is adopted by the Government of Montenegro. After selection of the most	

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			favourable offer under the tender, Tobacco Agency, as an administration body competent for tobacco, issues permit for manufacturing of tobacco products.	
Transport (air-, maritime-, railway- and other) services		Ministry of Transport, Maritime Affairs and Telecommunications		In the area of transport services there are no limitations for direct investments by non-residents based on special regulations of the sector.
Other (e.g. privatised companies/special rights)	Law on Privatization of Economy (Official Gazette of the Republic of Montenegro 23/96, 6/99, 59/00 and 42/04), Law on Foreign Investments (Official Gazette of the Republic of Montenegro 52/00 and 36/07)	Ministry of Economy	Law on Privatization of Economy does not provide limitations for foreign investors. Domestic and foreign legal and natural persons may participate in tenders for purchase of shares and assets under the same conditions. Law on Foreign Investments provides national treatment of foreign investors except for the restriction set forth in the Article 7, according to which foreign investor may not hold majority ownership rights (allowed maximum is 49%) in the companies engaged in production and trade in arms and military equipment.	

**II. INVESTMENTS IN REAL ESTATE (not included under I)**

A. Investments in real estate on national territory by non-residents	<p>Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)</p> <p>Law on Property-Legal Relations (Official Gazette of Montenegro 19/09).</p>	<p>Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement in current and capital operations.</p> <p>Article 3 item 11 indent 2) includes investments in real estate by non residents in the definition of capital operations.</p> <p>Chapter 12 of the Law on Property-Legal Relations regulates issues related to acquiring of property rights by foreign persons (both natural and legal). The Law prescribes national treatment of foreign persons, but in restrictive form. Foreign persons, pursuant to this Law, are not entitled to acquire the property right on real estate in certain areas (natural resources, goods in public use, agricultural land, forest and forest land, cultural monuments of particular importance, immovable property located in the land border area inside one kilometer belt and islands, protected areas).</p> <p>Regarding acquiring of property rights on movable property, foreign persons are equal to nationals. In addition, foreign person is entitled to acquire property right on the real estate by succession under the same conditions as is a national.</p>
B. Investments in real estate abroad by residents	<p>Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)</p>	<p>Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes the principle of free movement in current and capital operations.</p> <p>Article 3 item 11 indent 2) includes investment in real estate abroad by residents in the definition of capital operations.</p>

### **III. OPERATIONS IN SECURITIES NORMALLY TRADED ON THE CAPITAL MARKET (not included under I, IV and V)**

A. Transactions in securities on the capital market	Trade in securities is conducted on the securities markets, established for the purpose of creating the conditions for matching the demand and supply of securities. Stock exchanges conduct securities market activities (Article 45 paragraphs 1 and 2 of the Law on Securities (Official Gazette of the Republic of Montenegro 59/00, 10/01, 43/05, 28/06). Exceptionally, trade in securities is not carried out on the securities market in the following cases: 1) when securities are offered through the closed offering; 2) in the case of implementation of the public offering for takeovers in compliance with special regulations; 3) in implementation of trade in block securities, in accordance with special regulations; 4) when the Commission allows, by its rules, trade in short-term debt securities (Article 45 paragraph 3 of the Law on Securities (Official Gazette of the Republic of Montenegro 59/00, 10/01, 43/05, 28/06).	
1. Acquisition of domestic securities traded on a stock exchange by non-residents	Law on Foreign Current and Capital Transactions (Official Gazette of the Republic of Montenegro 45/05, 62/08)	Article 2 item 1 of the Law on Foreign Current and Capital Transactions establishes the principle of free movement in current and capital operations.  Article 3 item 11 indent 3) includes acquisition of domestic securities traded on the stock exchange by non-residents under definition of capital operations.

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	<p>Non-residents may freely buy and sell domestic and foreign securities in the Republic, in accordance with regulations governing transactions with securities.</p> <p>Non-residents may freely issue securities in the Republic, in the manner determined by regulations governing transactions in securities. (Article 112 v paragraph 1 and 2 of the Law on Securities).</p>	<p>All securities in Montenegro are traded exclusively on the stock exchanges. Secondary trade in securities outside of stock exchange is prohibited and produces no legal effect with regard to transfer of ownership right.</p>
<p>2. Acquisition of foreign securities traded on a stock exchange by residents</p>	<p>Law on Foreign Current and Capital Transactions (Official Gazette of the Republic of Montenegro 45/05, 62/08)</p> <p>Residents may freely buy and sell domestic and foreign securities abroad. Residents may freely buy and sell foreign securities in the Republic in the manner determined by regulations governing transactions in securities. Residents may freely issue securities abroad, under condition that the Commission is previously informed thereof, and they are also obliged to submit to the Commission data on the number of subscribed and paid securities within 8 days as of the</p>	<p>Article 2 item 1 of the Law on Foreign Current and Capital Transactions establishes the principle of free movement in current and capital operations.</p> <p>Article 3 item 11 indent 3) includes acquiring of foreign securities dealt in on stock exchange by residents under definition of capital operations.</p> <p>Residents may freely buy and sell domestic and foreign securities abroad and in Montenegro.</p> <p>Foreign securities are still not traded on stock exchange in Montenegro. Residents may freely acquire foreign securities in accordance with the regulations of foreign law.</p> <p>Detailed regulations governing manner of dealing in foreign securities in Montenegro are not yet adopted. National Program for Integration of Montenegro into EU includes plan to adopt respective secondary regulations within the competence of Securities Commission by the end of 2012.</p>



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	<p>expiration of the deadline for subscription for and payment of securities. Banks, investment funds, insurance companies, pension funds and other financial institutions, the operation of which is regulated by separate laws, may buy securities in accordance with the special law (Article 112 g of the Law on Securities)</p>	
<p>3. Acquisition of domestic securities not traded on a stock exchange by non-residents</p>	<p>Law on Foreign Current and Capital Transactions (Official Gazette of the Republic of Montenegro 45/05, 62/08)</p> <p>Non-residents may freely buy and sell domestic and foreign securities in the Republic in accordance with regulations governing transactions in securities. (Article 112 v paragraph 1 of the Law on Securities).</p>	<p>Article 2 item 1 of the Law on Foreign Current and Capital Transactions establishes system of free movement in current and capital operations</p> <p>Article 3 item 11 indent 9) includes acquiring domestic securities which are not dealt in on stock exchange by non-residents under the definition of capital operations.</p> <p>Entire trade in securities as regulated by Law on Securities is carried out in Montenegro exclusively on securities markets (stock exchanges). However, according to the Article 45 paragraph 3 of the Law on Securities, primary sale of securities through closed offerings, sale of securities in the case of implementation of the public offering for takeover of joint stock companies and implementation of the procedure of trade in block securities are not effected on the stock exchange. In line with the Article 112v of the Law on Securities, non-residents may freely acquire domestic securities, both in primary and secondary sale of securities.</p>
<p>4. Acquisition of foreign securities not traded on a stock exchange by residents</p>	<p>Residents may freely purchase and sell domestic and foreign securities abroad. Residents may freely purchase and sell foreign securities in the Republic, in the manner prescribed by regulations governing transactions with securities. (Article 112 g paragraphs 1 and 2).</p>	<p>According to the legislation, residents may freely acquire securities abroad, in conformity with the regulations of the foreign law. Montenegrin law does not restrict freedom of residents to acquire foreign securities in any manner. Hence, the residents are entitled to acquire foreign securities in line with the foreign law - either on the stock exchange or outside of it. Should, however, foreign securities be offered for trade in Montenegro, they may be acquired either on the stock exchange or OTC, in cases described in the item III 3 above.</p>

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<p>B. Admission of securities to the capital market</p>	<p>Trading of securities and functioning of the stock exchange are determined by stock exchange rules and other acts enacted by the stock exchange. Rules of the stock exchange should enable orderly and efficient regulation and control of the securities market. Rules of the stock exchange regulate in particular the following: membership, listing, range of price changes, capital adequacy, data and periodical reports, transaction notification.</p> <p>Rules of stock exchange also establish the manner of establishment of various prices for trade in securities. Requirements for quotation on stock exchange lists are defined by special quotation rules (Article 57 paragraph 5 paragraphs 1 and 2 of the Law on Securities).</p>	<p>All securities in Montenegro are admitted to the stock exchange, to some of the stock exchange lists. Stock exchange lists are established in accordance with the stock exchange rules, and there currently are: A list, B list, free list, investment funds list and list for trading in bonds. In order that its shares are admitted to A or B lists a company must meet specific requirements for quotation on such lists, while there are no special rules set out for the companies whose shares are admitted to free list.</p>
<p>1. Admission of domestic securities to a foreign capital market</p>	<p>Law on Foreign Current and Capital Transactions (Official Gazette of the Republic of Montenegro 45/05, 62/08)</p> <p>Residents may freely purchase and sell domestic and foreign securities abroad. Residents may freely issue securities abroad, provided that the Commission is previously informed thereof, and they are obliged to submit to the Commission data on the number of subscribed and paid securities</p>	<p>Article 2 item 1 of the Law on Foreign Current and Capital Transactions establishes the principle of free movement in current and capital operations.</p> <p>Article 3 item 11 indent 4) includes admission of domestic securities on foreign capital market within the definition of capital operations.</p> <p>Residents are completely free to list domestic securities on foreign capital market. Admission of domestic securities on foreign market is carried out in the manner and under conditions set out by respective regulations of the foreign law.</p>

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	<p>abroad within 8 days as of the expiration of the deadline for subscription and payment of securities.</p> <p>Article 112g paragraphs 1 and 3 of the Law on Securities).</p>	
<p>2. Admission of foreign securities to the domestic capital market</p>	<p>Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)</p> <p>Non-residents may freely purchase and sell domestic and foreign securities in the Republic in accordance with regulations governing transactions with securities.</p> <p>Non-residents may freely issue securities in the Republic in a manner determined by regulations governing transactions with securities. (Article 112 v of the Law on Securities).</p>	<p>Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement of current and capital operations.</p> <p>Article 3 item 11 indent 4) includes admission of foreign securities to domestic capital markets within the definition of the capital operation.</p> <p>Requirements for admission of domestic securities to foreign market are those prescribed by relevant legislation of the foreign law. Detailed regulations governing admission and procedures of trading in foreign securities in Montenegro have not yet been adopted. By National Program for Integration of Montenegro into European Union, it is planned for this sub-regulation within the competence of the Securities Commission to be adopted by the end of 2012.</p>

#### IV. OPERATIONS IN UNITS OF COLLECTIVE INVESTMENT UNDERTAKINGS

A. Type of transactions in units of collective investment undertakings		
1. Acquisition of units of national undertakings traded on a stock exchange by non-residents	<p>Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)</p> <p>Investment fund is a shareholding company founded for public collection of assets and investment of the collected assets into securities, monetary deposits and real estates in compliance with this Law (Article 4 of the Law on Investment Funds (Official Gazette of the Republic of Montenegro 49/04 of 22 July 2004)</p> <p>Investment fund collects assets by way of public offer of its shares.</p> <p>Investment fund operates on principles of security, reduction and dispersion of risk and professional management in compliance with this law.</p>	<p>Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement in current and capital operations.</p> <p>Article 3 item 11 indent 4) includes admission of foreign securities to domestic capital market within the definition of capital operations.</p> <p>Article 3 item 11 indent 3) is related to the same (transactions on stock exchange) as well.</p> <p>Collective investment schemes in Montenegro are investment funds which are organized as closed joint stock companies, so that the units of collective investment schemes are shares. Shares of collective investment schemes (investment funds) are traded on the stock exchanges in the same manner as are shares of all other joint stock companies registered in Montenegro. Accordingly, mentioned Articles of the Law on Securities, providing that the acquisition of domestic securities by non-residents is free, apply accordingly to acquisition of units of collective investment schemes, i.e. acquisition of shares of investment funds in Montenegro (See above III item 3).</p> <p>Establishment of open investment funds whose units could be redeemed by the open investment fund directly from the holder, upon holder's request and directly from the assets of the collective investment scheme, is not allowed in Montenegro.</p>
2. Acquisition of units of foreign undertakings traded on a stock exchange by residents	<p>Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)</p>	<p>Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement in current and capital operations.</p> <p>Article 3 item 11 indent 5) includes transactions with units of collective investment schemes within the definition of capital transactions.</p> <p>Article 3 item 11 indent 3) is related to the same issue (transactions in stock exchange)</p>

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	<p>Transactions with international element are:</p> <p>1)issuing, admission on organized and regulated market and sale of domestic securities abroad;</p> <p>2)issuing, admission on stock exchange and sale of foreign securities in the Republic;</p> <p>3)investment of residents in securities abroad;</p> <p>4) investment of non-residents in securities in the Republic (Article 112b of the Law on Securities).</p> <p>Provisions of the Articles 112v to 112d of this Law shall apply accordingly to transactions with international elements of units of investment funds, unless Law on Investment Funds provides otherwise. (Article 112d of the Law on Securities).</p>	<p>as well.</p> <p>According to the above mentioned provisions of the law, residents may freely acquire units of foreign collective investment schemes, without limitations of any kind provided by regulations of Montenegro, since there are no restrictions i.e. distinction in treatment of residents and non-residents related to the right on acquisition.</p> <p>Units of foreign collective investment schemes are not traded on the stock exchanges in Montenegro. Regulations prescribing the procedures of trade of units of foreign collective investment schemes in Montenegro have not yet been adopted. National Program for Integration of Montenegro into European Union plans the adoption of this sub-law within the competence of the Securities Commission to take place by the end of 2012.</p>
<p>3. Acquisition of units of national undertakings not traded on a stock exchange by non-residents</p>	<p>Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)</p> <p>Investment fund is a joint stock company founded for public collection of assets and investment of the collected assets into securities, monetary deposits</p>	<p>Article 2 item 1 of the Law on Foreign Current and Capital Transactions establishes principle of free movement in current and capital operations.</p> <p>Article 3 item 11 indent 5) includes transactions with units of collective investment schemes in the definition of capital operations.</p> <p>Considering the fact that investment funds as collective investment schemes, in accordance with the law, are obliged to collect funds through public offerings of their shares, acquisition of units of the collective investment schemes on the market may</p>

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	and real estates in compliance with this Law (Article 4 paragraphs 1 and 2 of the Law on Investment Funds ) (Official Gazette of the Republic of Montenegro 49/04 of 22 July 2004).	take place only at the stock exchanges. Units of investment funds as collective investment schemes are traded exclusively at the stock exchanges.
4. Acquisition of units of foreign undertakings not traded on a stock exchange by residents	Securities are documents granting rights to its owners in relation to the issuers in accordance with the Law and under the terms of issuance. (Article 2 paragraph 1 of the Law on Securities). Residents may freely purchase and sell domestic and foreign securities abroad. Residents may freely purchase and sell foreign securities in the Republic in the manner prescribed by regulations governing transactions with securities. (Article 112 g paragraphs 1 and 2 of the Law on Securities).	In accordance with the legislation governing securities, residents may acquire units of foreign collective investment schemes abroad on the stock exchanges or outside of them, under procedures regulated by the foreign law. Units of foreign collective investment schemes in Montenegro may be traded solely at the stock exchange (see above IV item 3).
B. Admission of units of collective investment undertakings to the capital market	Manner of trading of securities and functioning of stock exchange is determined by rules and other acts adopted by stock exchange. Stock exchange rules ensure orderly and efficient regulation and control of the securities market. Stock exchange rules specify in particular: membership, listing, range of price changes, capital adequacy, data and periodical reports, transactions notification. Stock exchange rules regulate the manner of forming of various	All securities in Montenegro are admitted to stock exchange, to some of the stock exchange lists. Units of collective investment schemes in Montenegro are shares. Stock exchange lists are formed according to the rules of the stock exchange, and there currently are: A list, B list, free list, investment funds list, list for trading in bonds.

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	lists for trading in securities. Requirements for quotation on the lists are regulated by quotation rules. (Article 57 paragraph 5 paragraphs 1 and 2 of the Law on Securities).	
1. Admission of units of national collective investment undertakings to a foreign capital market		Collective investment schemes may be quoted and traded abroad, on the basis of regulations of the foreign law.
2. Admission of units of foreign collective investment undertakings to the domestic capital market	<p>Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)</p> <p>Non-residents may freely issue securities in the Republic in the manner set out by regulations governing transactions in securities.</p>	<p>Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement in current and capital operations.</p> <p>Article 3 item 11 indent 5) includes transactions with units of collective investment schemes in the definition of capital operations.</p> <p>Article 3 item 11 indent 3) is related to the same (stock exchange operations) as well.</p> <p>Admission of units of foreign investment undertakings to domestic capital market is carried out in accordance with the rules of the stock exchange and under the same requirements applicable to admission of domestic collective investment schemes.</p>

## **V. OPERATIONS IN SECURITIES AND OTHER INSTRUMENTS NORMALLY TRADED ON THE MONEY MARKET**

A. Transactions in securities and other instruments at the money market		
1. Acquisition of domestic money market securities and instruments by non-residents	<p>Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)</p> <p>Securities are documents granting rights to its owners in relation to the issuers in accordance with the Law and under the terms of issuance.</p> <p>Depending on the rights granted thereunder, securities may be equity and debt securities.</p> <p>Debt securities may be long- and short- term; as follows: short-term if their maturity rate is shorter than one year from the date of issuance and long-term if their maturity date exceeds one year from the date of issuance (Article 2 paragraphs 1, 2 and 5 of the Law on Securities).</p> <p>Non-residents may freely purchase and sell domestic and foreign securities in the Republic, in accordance with the regulations governing transactions in securities (Article 112 v paragraph 1 of the Law on Securities).</p>	<p>Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes the principle of free movement in current and capital operations.</p> <p>Article 3 item 11 indent 4) includes acquisition of domestic short-term securities and instruments on money market by non-residents within the definition of capital operations.</p> <p>Acquisition of short-term securities is regulated by provisions of the Law on Securities. Considering that the Article 112 v paragraph 1 of the Law on securities provides that non-residents may freely purchase and sell domestic and foreign securities in the Republic, there are no limitations for non-residents to acquire both domestic and foreign short-term debt securities.</p>



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<p>2. Acquisition of foreign money market securities and instruments by residents</p>	<p>Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)</p> <p>Residents may freely purchase and sell domestic and foreign securities abroad. Residents may freely purchase and sell foreign securities in the Republic in the manner set out by regulations governing transactions with securities. (Article 112g paragraphs 1 and 2 of the Law on Securities).</p>	<p>Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement in current and capital operations.</p> <p>Article 3 item 11 indent 4) includes acquisition by residents of foreign short-term securities and instruments on money market within the definition of capital operations.</p> <p>Acquisition of short-term securities is regulated by provisions of the Law on Securities. Taking into account that Article 112g paragraph 1 of the Law on Securities provides that residents may freely purchase and sell domestic and foreign securities abroad, it may be concluded that there are no limitations for residents to acquire either domestic or foreign short-term debt securities.</p>
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<p>B. Admission of securities and other instruments to the money market</p>		
<p>1. Admission of domestic securities and instruments to a foreign money market</p>	<p>Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)</p> <p>Commission is competent for: regulating details of issuance and trade in short-term securities. (Article 8 paragraph 1 item 13b of the Law on Securities); Commission prescribes more detailed requirements for issuance, registration and trade in short-term securities (Article 44g of the Law on Securities). Exceptionally, trade in securities does not take place at securities market when Commission allows, by its rules, trade in short-term debt securities (Article 45 paragraph 3 item 4).</p> <p>Article 2 paragraphs 2 of the Rules on Establishing of Detailed Requirements for Issuance, Registration and Trade in Short-Term Debt Securities (Official Gazette of the Republic of Montenegro 34/07 as of 8 June 2007): "Issuance of short-term securities shall be carried out through public bidding."</p>	<p>Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes the principle of free movement in current and capital operations.</p> <p>Article 3 item 11 indent 4) includes access of domestic securities and instruments to foreign money market within the definition of capital operations.</p> <p>Instructions related to establishment of special list for trade in securities of the Republic of Montenegro and units of local self-government (Official Gazette of the Republic of Montenegro 07/07 as of 5 February 2007) adopted by the Securities Commission provide the following: "For the purpose of trading in bonds issued by the Republic of Montenegro and units of local self-government, stock exchanges shall be obliged to form special list within their free lists. 2. Bonds referred to in the item 1 of these Instructions may not be quoted on lists A and B of stock exchanges."</p>

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<p>2. Admission of domestic securities and instruments to foreign money market</p>	<p>Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)</p> <p>Residents may freely purchase and sell domestic and foreign securities abroad. (Article 112 g of the Law on Securities.)</p>	<p>Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement in current and capital operations.</p> <p>Article 3 item 11 indent 4) includes access of domestic securities and instruments to foreign money market within the definition of capital transactions.</p> <p>Montenegrin Law on Securities permits for the domestic securities and instruments to be sold at the foreign market. Admission to foreign market is not regulated by Montenegrin law, but by relevant provisions of the respective foreign law.</p>
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**VI. OPERATIONS IN CURRENT AND DEPOSIT ACCOUNTS WITH FINANCIAL INSTITUTIONS**

A. Transactions with domestic financial institutions carried out by non-residents	Law on Banks (Official Gazette of the Republic of Montenegro 17/08)	Rights of foreign legal and natural persons are equal to those of domestic legal and natural persons in relation to current and deposit accounts transactions with banks and financial institutions. There are no restrictions for foreign persons.
B. Transactions with foreign financial institutions carried out by residents	Law on Banks ( Official Gazette of the Republic of Montenegro 17/08)  Law on Foreign Current and Capital Operations ( Official Gazette of the Republic of Montenegro 45/05, 62/08)	There are no restrictions provided by the legal document regarding domestic legal and natural persons in relation to current and deposit accounts transactions with foreign financial institutions.

**VII. CREDITS RELATED TO COMMERCIAL TRANSACTIONS OR TO THE PROVISION OF SERVICES IN WHICH A RESIDENT IS PARTICIPATING**

A. Credits granted by non-residents to residents	Law on Banks (Official Gazette of Montenegro 17/08) Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, Official Gazette of Montenegro 62/08)	Universal principles of free trade are applicable, without any restrictions of the rights of residents to use credits and carry out transactions with non-residents, with the obligation to notify Central Bank of Montenegro. With the consent of Government, Central Bank may introduce limitations only in case if the capital movement would seriously endanger monetary policy and financial position of the country.
1. Short-term (less than one year)	Same regulatory framework.	Universal principle related to in previous item is applicable.
2. Medium-term (from one to five years)	Same regulatory framework.	Universal principle related to in previous item is applicable.
3. Long-term (five years or more)	Same regulatory framework.	Universal principle related to in previous item is applicable.
B. Credits granted by residents to non-residents	Law on Banks (Official Gazette of the Republic of Montenegro 17/08) Law on Foreign Current and Capital Transactions (Official Gazette of the Republic of Montenegro 45/05, 62/08)	There are universal principles of free trade, without any restrictions on the rights of residents to use credits and carry out transactions with non-residents, with the obligation to inform the Central Bank of Montenegro on such transactions. With the consent of the Government, the Central Bank may set limitations only if the movement of capital seriously jeopardizes monetary policy and financial condition of the country.
1. Short-term (less than one year)	Same regulatory framework	Universal principle referred to in the previous item is applicable.
2. Medium-term (from one to five years)	Same regulatory framework	Universal principle referred to in the previous item is applicable.
3. Long-term (five years or more)	Same regulatory framework	Universal principle referred to in the previous item is applicable.

**VIII. FINANCIAL LOANS AND CREDITS**

A. Loans and credits granted by non-residents to residents	Law on Banks (Official Gazette of the Republic of Montenegro 17/08) Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)	Universal principles of free trade are applicable in foreign exchange regime in Montenegro, without legal restrictions imposed upon residents with regard to use of loans and credits from non-residents, with an obligation to inform Central Bank of Montenegro. With the consent of Government, Central Bank may introduce limitations only if movement of capital seriously endangers monetary policy and financial position of the country.
1. Short-term (less than one year)	Same regulatory framework	Universal principle referred to in the previous item is applicable.
2. Medium-term (from one to five years)	Same regulatory framework	Universal principle referred to in the previous item is applicable.
3. Long-term (five years or more)	Same regulatory framework.	Universal principle referred to in the previous item is applicable.
B. Loans and credits granted by residents to non-residents	Law on Banks (Official Gazette of the Republic of Montenegro 17/08) Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)	Universal principle of free trade is applicable without limitations for residents in procedures of granting of loans and credits to non-residents with the duty to inform the Central Bank and authority of Central Bank to control credit and other risks in banks resulting from such activities.
1. Short-term (less than one year.	Same regulatory framework	Universal principle referred to in the previous item is applicable.
2. Medium-term (from one to five years)	Same regulatory framework	Universal principle referred to in the previous item is applicable.
3. Long-term (five years or more)	Same regulatory framework	Universal principle referred to in the previous item is applicable.

**IX. SURETIES, OTHER GUARANTEES AND RIGHTS OF PLEDGE**

A. Granted by non-residents to residents	<p>Law on Banks (Official Gazette of Montenegro 17/08)</p> <p>Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)</p>	<p>Universal principle of free trade is applicable in this type of activity as well, without limitations or prohibitions imposed by legislation which could prevent residents from obtaining guarantees or deposits from non-residents. Central Bank exercises control of these activities with regard to credit and other risks on the basis of its supervisory authority. Restrictions of these activities may be introduced by Central Bank, with the consent of the Government, only in case when movement of capital seriously endangers monetary policy and financial position of the country.</p>
B. Granted by residents to non-residents	<p>Law on Banks (Official Gazette of Montenegro 17/08)</p> <p>Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)</p> <p>Law on Property Ownership Relations (Official Gazette of Montenegro 19/09).</p>	<p>The same principles referred to in the previous item are applicable.</p> <p>Chapter 10 regulates security rights (mortgage, pledge and right of fiduciary ownership) - no restrictions.</p>

**X. TRANSFERS IN PERFORMANCE OF INSURANCE CONTRACTS**

A. Premiums and payments in respect to life insurance	Law on Insurance (Official Gazette of the Republic of Montenegro 78/06 of 22 December 2006, 19/07 of 02 April 2007) – Article 6	<p>Property and persons in the Republic may be insured only by an insurance company established in accordance with this law.</p> <p>Notwithstanding paragraph 1 of this Article, the following may be insured with a foreign insurance company:</p> <ol style="list-style-type: none"> <li>1) aircraft and sea transportation above compulsory traffic insurance;</li> <li>2) foreign persons with permanent and temporary residence in the Republic, and their property, except for compulsory insurance.</li> </ol> <p>Insurance brokerage activities, insurance agency activities and provision of insurance ancillary services for the insurance referred to in paragraph 2 of this Article may be performed also by foreign companies.</p> <p>Insurance company may be reinsured with domestic and foreign reinsurance company.</p> <p>The Government of the Republic of Montenegro (hereinafter: the Government) may prescribe other conditions under which the property and persons referred to in the paragraph 1 of this Article may be insured with a foreign insurance company.</p>
1. Contracts concluded between domestic life insurance companies and non-residents	<p>Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)</p> <p>Law on Insurance, Article 6 (Official Gazette of the Republic of Montenegro 78/08)</p>	<p>Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement in current and capital operations.</p> <p>Article 3 item 11 indent 10) includes premiums and payments of life insurance within the definition of capital operations.</p> <p>Introduction to 3.11) addresses issues related to residents/non-residents</p> <p>Non-residents are entitled to conclude contracts with domestic life insurance companies under the same terms and conditions as residents.</p>
2. Contracts concluded between foreign life insurance companies and residents	Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)	<p>Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement of capital in current and capital operations.</p> <p>Article 3 item 11 indent 10) includes premiums and payments of life insurance within</p>



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	Law on Insurance, Article 6 (Official Gazette of the Republic of Montenegro 78/08)	<p>the definition of capital operations.</p> <p>Introduction to 3.11) addresses issues related to residents/non-residents.</p> <p>Residents may be insured only with insurance companies established in Montenegro, which have operative license issued by the Insurance Supervision Agency of Montenegro.</p>
B. Premiums and payments in respect of credit insurance	Law on Insurance – Article 6.	<p>Property and persons in the Republic may be insured only by an insurance company established in accordance with this law.</p> <p>Notwithstanding paragraph 1 of this Article, the following may be insured with a foreign insurance company:</p> <p>1) aircraft and sea transportation above compulsory traffic insurance;</p> <p>2) foreign persons with permanent and temporary residence in the Republic, and their property, except for compulsory insurance.</p> <p>Insurance brokerage activities, insurance agency activities and provision of insurance ancillary services for the insurance referred to in paragraph 2 of this Article may be performed also by foreign companies.</p> <p>Insurance company may be reinsured with domestic and foreign reinsurance company.</p> <p>The Government of the Republic of Montenegro (hereinafter: the Government) may prescribe other conditions under which the property and persons referred to in paragraph 1 of this Article may be insured with a foreign insurance company.</p>
1. Contracts concluded between domestic credit insurance companies and non-residents	<p>Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)</p> <p>Law on Insurance, Articles 6 and 9 (Official Gazette of the Republic of Montenegro 78/08)</p>	<p>Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement of current and capital operations.</p> <p>Article 3 item 11, indent 10) includes premiums and payment of life insurance within the definition of capital operations.</p> <p>Introduction to 3.11) addresses topic related to residents/non-residents.</p> <p>Non-residents may conclude contracts with domestic companies for credit insurance under the same terms and conditions as residents.</p>

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<p>2. Contracts concluded between foreign credit insurance companies and residents</p>	<p>Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)</p> <p>Law on Insurance, Article 6 (Official Gazette of the Republic of Montenegro 78/08)</p>	<p>Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement in current and capital operations.</p> <p>Article 3 item 11 indent 10) includes premiums and payments of life insurance within the definition of capital operations</p> <p>Introduction to 3.11) addresses topics related to residents/non-residents.</p> <p>Credits may be insured only with insurance companies established in Montenegro, which have operative license issued by Insurance Supervision Agency of Montenegro.</p>
<p>C. Other transfers of capital in respect of insurance contracts</p>	<p>Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)</p> <p>Law on Insurance, Article 6 (Official Gazette of the Republic of Montenegro 78/08)</p>	<p>Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement in current and capital operations</p> <p>Article 3 item 11 indent 10) includes premiums and payment of life insurance within the definition of capital operations.</p> <p>Property and persons in the Republic may be insured only by an insurance company established in accordance with this law.</p> <p>Notwithstanding paragraph 1 of this Article, the following may be insured with a foreign insurance company:</p> <ol style="list-style-type: none"> <li>1) aircraft and sea transportation above compulsory traffic insurance;</li> <li>2) foreign persons with permanent and temporary residence in the Republic, and their property, except for compulsory insurance.</li> </ol> <p>Insurance brokerage activities, insurance agency activities and provision of insurance ancillary services for the insurance referred to in paragraph 2 of this Article may be performed also by foreign companies.</p> <p>Insurance company may be reinsured with domestic and foreign reinsurance company.</p> <p>The Government of the Republic of Montenegro (hereinafter: the Government) may prescribe other conditions under which the property and persons referred to in</p>

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		paragraph 1 of this Article may be insured with a foreign insurance company.
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**XI. PERSONAL CAPITAL MOVEMENTS**

A. Loans	Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)	Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement of current and capital operations. Article 3 item 11 indent 11 includes personal loans within the definition of capital operations.
B. Gifts and donations	Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)	Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement of current and capital operations. Article 3 item 11 indent 11) includes gifts and donations within the definition of capital operations.
C. Dowries	Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)	Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement of current and capital operations. Article 3 item 11 indent 11) includes gifts and donations in the definition of capital transactions.
D. Inheritances and legacies	Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)	Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement of current and capital operations. Article 3 item 11 indent 11) includes inheritance within the definition of capital transactions.
E. Settlements of debts by immigrants in their previous country of residence	Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)	Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement in current and capital operations. Article 3 item 11 indent 11) includes settlement of immigrant's debt in the mother country within the definition of capital operations.
F. Transfers of assets constituted by residents, in the event of emigration, at the time of their installation or during their stay abroad	Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)	Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement in current and capital operations Article 3 item 11 indent 11) includes settlement of immigrant's debt in the mother country in the definition of capital operations

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G. Transfers, during their stay abroad, of immigrants' savings to their previous country of residence	Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)	Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement in current and capital operations Article 3 item 11 indent 11) includes transfers of emigrants' funds abroad within the definition of capital operations.
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**XII. PHYSICAL IMPORT AND EXPORT OF FINANCIAL ASSETS**

A. Securities	Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)	Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement in current and capital operations Article 3 item 11 indent 12 includes physical import and export of securities within the definition of capital operations.
B. Means of payment of all kinds	Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)	Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement in current and capital operations Article 3 item 11 indent 12) includes physical import and export of “other means of payment” within the definition of capital operations.

**XIII. OTHER CAPITAL MOVEMENTS**

A. Compensation in the event of death	Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)	Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement in current and capital operations Article 3 item 11 indent 13) includes "compensation in the event of death" within the definition of capital operations.
B. Compensations (where these can be considered as capital)	Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)	Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement in current and capital operations Article 3 item 11 indent 13) includes "compensations" within the definition of capital operations.
C. Refund in the event of cancellation of contracts and refund of uncalled payments (where these can be considered as capital)	Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)	Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement in current and capital operations Article 3 item 11 indent 13) include "refunds" within the definition of capital operations
D. Copyrights: patents, designs, trade marks, etc.	Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)	Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement in current and capital operations Article 3 item 11 indent 13) includes transfers related to "copyrights, patents, designs, trade marks and inventions" within the definition of capital operations
E. Transfer of the money funds required for the provision of services (not included under VI)	Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)	Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement in current and capital operations Article 3 item 11 indent 13) includes transfers in respect of other "services" within the definition of capital operations
F. Miscellaneous	Law on Foreign Current and Capital Operations (Official Gazette of the Republic of Montenegro 45/05, 62/08)	Article 2 item 1 of the Law on Foreign Current and Capital Operations establishes principle of free movement in current and capital operations Article 3 item 11 indent 13) includes transfers as "other capital transfers" within the definition of capital operations





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