

Pursuant to Article 44 paragraph 2 item 3 of the Central Bank of Montenegro Law (OGM 40/10, 06/13, 70/17), Article 72 paragraph 6 and Article 107a paragraph 4 of the Payment System Law (OGM 62/13/, 111/22), the Council of the Central Bank of Montenegro, at its meeting held on 21 August 2023, passed the following

DECISION

on minimum monetary amount of the professional indemnity insurance or other comparable guarantee covering the liability for providing specific payment services

I. BASIC PROVISIONS

Subject matter

Article 1

This Decision specifies minimum monetary amount of the professional indemnity insurance or comparable guarantee covering the liability for providing payment initiation and/or account information services.

Professional indemnity insurance, or comparable guarantee referred to in paragraph 1 of this Article shall cover:

- for providers of payment initiation services - liability specified by provisions of Articles 36, 49, 50a and 52 of the Payment System Law (OGM 62/13 and 111/22) - (hereinafter: the Law);
- for providers of account information services - liability towards the payment services provider or the payment service user resulting from unauthorised access, fraudulent access and unauthorised or fraudulent use of payment account information.

Professional indemnity insurance, or comparable guarantee cover liability for providing payment initiation service and/or providing account information service in the territory in which those services are offered, or provide in line with the authorisation for the provision of those services, or certificate of registration.

Limitations and scope

Article 2

For the purpose of providing coverage of liabilities referred to in Article 1 paragraph 2 of this Decision, professional indemnity insurance, or comparable guarantee may not have any limitation that may lead to reduction of the fee to which the payment service user or other person is entitled in accordance with the Law.

Where a payment institution, in addition to providing payment initiation service and/or account information service, provides other payment service specified by the Law, the minimum monetary amount of the professional indemnity insurance or comparable guarantee for covering liability for providing these services shall be calculated in line

with this Decision, without prejudice to requirements related to Tier 1 capital and/or own funds specified for the provision of other payment services in line with the Law.

**Review of the minimum amount
for professional indemnity insurance or comparable guarantee**

Article 3

The minimum monetary amount of the professional indemnity insurance or comparable guarantee for providing payment initiation and/or account information services shall be reviewed and recalculate at least once a year.

**II. PROFESSIONAL INDEMNITY INSURANCE AND COMPARABLE
GUARANTEE FOR PROVIDING PAYMENT INITIATION SERVICE**

**1. Professional indemnity insurance for providing payment initiation
service**

**Determining the minimum amount of the professional indemnity insurance
for providing payment initiation service**

Article 4

Minimum monetary amount of the professional indemnity insurance for providing payment initiation service shall be determined by applying criteria referred to in 72 paragraph 6 of the Law, as the sum of the amounts that reflect the following criteria:

- 1) payment institution risk profile,
- 2) provision of other payment services or other business activities,
- 3) size of activity, or the value of transactions initiated,

according to the following formula:

minimum monetary amount of the professional indemnity insurance	=	amount reflective of payment institution's risk profile criterion	+	amount reflective of criterion of provision of other payment services, or other business activities	+	amount reflective of criterion of size of activity, or the value of transactions initiated
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1.1. Payment institution risk profile criterion

Calculation of payment institution risk profile criterion

Article 5

Payment institution risk profile criterion shall be calculated as the sum of the:

- 1) value of requests for refunds received, and
- 2) number of initiated payment transactions.

Value of requests for refunds received

Article 6

When calculating the value of the requests for refunds received, the aggregated value of all requests for refunds made by users of payment services and payment services providers in the previous 12 months, for losses resulting from liabilities for the provision of payment initiation services shall be used.

If no requests for refunds have been made to the payment institution in the previous 12 months, the value of this indicator shall be set to 0.

In case of submission of requests for issuing an authorisation for the provision of payment initiation service, the forecasted value of all requests for refunds submitted with the request for issuing an authorisation shall be used.

If the information referred to in paragraph 3 of this Article is not provided with the request or the forecasted total value of requests for refunds is lower than EUR 50 000, the value of EUR 50 000 shall be set for calculating the value of received requests for refunds.

Number of initiated payment transactions

Article 7

The number of initiated payment transactions shall be calculated as the sum of the following elements:

- a) 40% of the slice of N up to and including 10,000 initiated payments;
- b) 25% of the slice of N above 10,000 initiated payments up to and including 100,000 initiated payments;
- c) 10% of the slice of N above 100,000 initiated payments up to and including 1,000,000 initiated payments;
- d) 5% of the slice of N above 1,000,000 initiated payments up to and including 10,000,000 initiated payments, and
- e) 0.025% of the slice of N above 10,000,000 initiated payments.

where N represents the number of payment transactions initiated in the previous 12 months.

In case of submission of a request for issuing an authorisation for the provision of payment initiation service, the forecasted number of payment transactions whose initiation is planned shall be used and submitted with the request for issuing that authorisation.

If the information referred to in paragraph 2 of this Article is not submitted with the request or the forecasted number of initiated payment transactions is lower than 50,000, the value of 50,000 shall be set for calculating the number of initiated transactions.

1.2. Criterion of the provision of other payment services or other business activities

Calculation of type of other payment services criterion or other business activities

Article 8

In case of providing only payment initiation services, the value of the criterion of the type of other payment services or other business activities shall be set to 0.

In case of performing business activities other than payment services, the minimum monetary amount of the professional indemnity insurance shall be increased by EUR 50,000, unless:

- person performing other business activities may prove that the provision of other business activities does not affect the provision of payment initiation service due to having a guarantee that covers liabilities from those other business activities,
- the Central Bank of Montenegro requested a separate legal entity to be established for the provision of payment services in line with the Law.

1.3. Criterion of the size of activity, or the value of transactions initiated,

Calculation of size of activity criterion, or the value of transactions initiated

Article 9

Criterion of the size of activity, or the value of transactions initiated, shall be calculated as the sum of the following elements:

- a) 40% of the slice of N up to and including EUR 500,000;
- b) 25% of the slice of N above EUR 500,000 up to and including EUR 1,000,000;
- c) 10% of the slice of N above EUR 1,000,000 up to and including EUR 5,000,000;
- d) 5% of the slice of N above EUR 5,000,000 up to and including EUR 10,000,000;
- e) 0.025% of the slice of N above EUR 10,000,000.

where N represents the total value of transactions initiated in the previous 12 months.

In case of submission of a requests for issuing an authorisation for the provision of payment initiation service, the forecasted value of transactions whose initiation is planed shall be used and submitted with the request for issuing that authorisation.

In case the information referred to paragraph 2 of this Article is not provided with the request or the forecasted value of all initiated transactions is lower than EUR 50,000, the value of this criterion shall be set to EUR 50,000.

2. Comparable guarantee for providing payment initiation service

Comparable guarantee features

Article 10

Guarantee for providing payment initiation service for covering liability in line with the Law shall be at least the amount that would be the amount of the professional indemnity insurance calculated in line with Articles 4 to 9 of this Decision.

The Guarantee referred to in Article 1 of this Decision shall be irrevocable and payable on first demand.

III. PROFESSIONAL INDEMNITY INSURANCE AND COMPARABLE GUARANTEE FOR PROVIDING ACCOUNT INFORMATION SERVICE

1. Professional indemnity insurance for providing account information service

Determining the minimum amount of the professional indemnity insurance for providing account information service

Article 11

Minimum monetary amount of the professional indemnity insurance for providing account information service shall be determined by applying criteria referred to in 107 paragraph 6 of the Law, as the sum of the amounts that reflect the following criteria:

- 1) risk profile criterion of the provider of the account information service,
- 2) size of activity criterion, or the number of users of the account information service,

according to the following formula:

minimum monetary amount of the professional indemnity insurance	=	amount that reflects risk profile criterion of the provider of the account information service	+	amount that reflects the size of activity criterion, or the number of users of the account information service
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Calculating the risk profile criterion of the provider of account information service provider

Article 12

Risk profile criterion of the provider of the account information service shall be calculated as the sum of,

- 1) the amount that represents the value of received refund requests determined in accordance with Article 6 of this Decision, and
- 2) the number of payment accounts accessed by the provider of account information determined in accordance with Article 13 of this Decision.

Number of payment accounts accessed by the provider of account information service

Article 13

Number of payment accounts accessed by the provider of account information service shall be calculated as the sum of the following elements:

- a) 40% of the slice of N up to and including 10,000 accessed accounts;
- b) 25% of the slice of N above 10,000 accessed accounts up to and including 100,000 accessed accounts;
- c) 10% of the slice of N above 100,000 accessed accounts up to and including 1.000.000 accessed accounts;
- d) 5% of the slice of N above 1,000,000 accessed accounts up to and including 10,000,000 accessed accounts;
- e) 0.025% of the slice of N above 10,000,000 accessed accounts,

where N represents the number of payment accounts accessed in the previous 12 months.

In case of the submission of the application for the registration of the provider of account information service, a forecasted number of payment accounts that the applicant intends to access shall be used, submitted together with the application for registration.

Where information referred to in paragraph 2 of this Article is not provided with the application or the forecasted number of accessed payment accounts is lower than 50,000, the number of 50,000 shall be used when calculating payment accounts.

Size of activity criterion, or the number of users of the account information service

Article 14

Size of activity criterion, or the number of users of the account information service shall be calculated as the sum of the following elements:

- a) 40% of the slice of N up to and including 100 users;
- b) 25% of the slice of N above 100 users up to and including 10,000 users;
- c) 10% of the slice of N above 10,000 clients up to and including 100,000 users;
- d) 5% of the slice of N above 100,000 clients up to and including 1 million users;
- e) 0.025% of the slice of N above 1 million users,

where N represents the number of users of account information service in the previous 12 months, taking into account each individual user.

In case of the submission of the application for the registration of the provider of account information service, a forecasted number of number of users of the account

information service shall be used, submitted together with the application for registration.

Where information referred to in paragraph 2 of this Article is not provided with the application or the forecasted number of the number of users is lower than 50,000, the number of 50,000 shall be used as the value of this criterion.

2. Comparable guarantee for providing account information service

Article 15

Calculation of the value of guarantee for the provision of the account information service shall be performed in line with Article 10 of this Decision.

IV. PROFESSIONAL INDEMNITY INSURANCE AND COMPARABLE GUARANTEE FOR PROVIDING PAYMENT INITIATION SERVICE AND ACCOUNT INFORMATION SERVICE

Article 16

In the case when one provider of payment services provides payment initiation service and account information service, the minimum monetary amount of the professional indemnity insurance, or the comparable guarantee shall be determined in line with the provisions of this Decision separately for each service, and the amounts thus obtained shall be summed up.

In the case referred to in paragraph 1 of this Article, the contract on professional indemnity insurance, or the comparable guarantee must contain provisions on professional indemnity insurance for the provision of payment initiation services and account information services that cover the liability referred to in Article 1 paragraph 2 of this Decision.

V. FINAL PROVISION

Entry into force

Article 17

This Decision shall be published in the "Official Gazette of Montenegro" and it shall come into force on the day of entry into force of the Law amending the Payment System Law (OGM 111/22).

THE COUNCIL OF THE CENTRAL BANK OF MONTENEGRO

**CHAIRMAN
GOVERNOR,**

Decision number: 0101- 6222-13/2023

Podgorica, 21 August 2023

Radoje Žugić, m.p.