

Pursuant to Article 44 paragraph 2 item 3 of the Central Bank of Montenegro Law (OGM 40/10, 6/13, 70/17) and Article 78 paragraph 5 of the Payment System Law (OGM 62/13, 111/22), the Council of the Central Bank of Montenegro, at its meeting held on 22 September 2023, passed the following

DECISION ON OWN FUNDS OF PAYMENT INSTITUTIONS

BASIC PROVISION

Subject matter Article 1

This Decision shall prescribe the manner of calculating own funds of payment institutions and the method for calculating minimum amount of own funds that a payment institution shall maintain for the purpose of ensuring safe and sound operations or for meeting obligations to its creditors.

II CALCULATION OF OWN FUNDS OF PAYMENT INSTITUTION

Own funds of a payment institution Article 2

Own funds of a payment institution shall be the sum of Tier 1 and Tier 2 capital.

1. Tier 1 capital of a payment institution

Tier 1 capital Article 3

Tier 1 capital of a payment institution shall be the sum of Common Equity Tier 1 capital and Additional Tier 1 capital of a payment institution.

Common Equity Tier 1 capital Article 4

Common Equity Tier 1 capital of a payment institution shall be the items referred to in paragraph 2 of this Article reduced by the deductions referred to in Article 5 of this Decision.

Items of a payment institution's Common Equity Tier 1 capital shall be:

- 1) paid-in share capital at nominal value excluding cumulative preferred shares or paid-in contributions;
- 2) paid-up issue premiums, excluding issue premiums based on cumulative preferred shares or the amount paid above the par value during the payment of the contributions;
- 3) reserves established against profit after tax (legal, statutory and other reserves);
- 4) unrealised gains on value adjustment of available-for-sale financial assets, at fair value;
- 5) retained profit from prior years for which the competent authority of a payment institution has passed a decision to be included in Tier 1 capital, reduced by profit tax and other expected costs;
- 6) current year profit, if the following conditions are met:

- competent authority of a payment institution passed a decision to allocate the profit realized in the current year in the whole or in part into reserves, capital increase, to cover prior year losses and/or in retained profit, expressed as percentage,
- profit is reduced by corresponding profit tax and other expected costs,
- external auditor has verified the profit,
- the Central Bank of Montenegro (hereinafter: the Central Bank) has granted the authorisation to a payment institution to include the profit into Common Equity Tier 1 capital.

A payment institution shall submit an application to the Central Bank for granting authorisation to include the profit into Common Equity Tier 1 capital, supported by the decision of the competent authority and external auditor's report confirming the profit referred to in paragraph 2 item 6 indents 1 and 3 of this Article, and financial statements verifying the data on current year profit in the amount planned for the inclusion in the calculation of Common Equity Tier 1 capital.

A payment institution may include items referred to in paragraph 2 of this Article into Common Equity Tier 1 capital, only if the following conditions are met:

- 1) those items are unconditionally, irrevocably and fully at the disposal to cover risks or losses during the entire period of a payment institution's operations;
- 2) in the case of opening of the bankruptcy proceedings or winding-up of a payment institution, those items are fully and without limitations at the disposal for settlement of losses of the payment institution after all obligations to all other creditors of a payment institution have been met;
- 3) those items are reduced by the expected amount of tax liability.

A payment institution may not include in the calculation of Common Equity Tier 1 capital the following:

- 1) profit and loss on liabilities carried at fair value arising from changes in credit rating of a payment institution;
- 2) cash flow hedging reserves initially measured at amortised cost and cash flow hedging that refers to unplanned transactions;

Deductions when calculating Common Equity Tier 1 capital

Article 5

When calculating Common Equity Tier 1 capital of a payment institution, deductions shall be:

- 1) prior year loss;
- 2) current year loss;
- 3) intangible assets in the form of goodwill, licenses, patents, trademarks and concessions;
- 4) nominal amount of acquired own shares, excluding cumulative preferred shares or acquired own contributions;
- 5) unrealised losses on value adjustment of available-for-sale financial assets, at fair value;

Additional Tier 1 capital

Article 6

Additional Tier 1 capital shall be capital instruments increased by the issue premiums that cannot be classified as Common Equity Tier 1 instruments and that meet the following conditions:

- 1) instruments are issued by a payment institution and are fully paid-up;
- 2) instruments are ranked below Tier 2 instruments in the event of insolvency of the payment institution;
- 3) instruments can be converted into the Common Equity Tier 1 instrument;
- 4) instruments contain precisely defined trigger event upon which the conversion into Common Equity Tier 1 capital depends;
- 5) instruments are perpetual and the provisions governing those instruments include no incentive for the payment institution to redeem them;
- 6) where the instruments include one or more early redemption options, including call options, the options are exercisable at the sole discretion of the issuer;

Where a payment institution acquires own Additional Tier 1 instruments, it shall exclude them from the calculation of the Additional Tier 1 capital.

2. Tier 2 capital of a payment institution

Tier 2 capital

Article 7

Tier 2 capital of a payment institution shall be capital instruments meeting the conditions referred to in paragraph 2 of this Article and Article 8 of this Decision and share premium accounts related to those instruments.

Tier 2 instruments must meet the following conditions:

- 1) instruments are issued by a payment institution and are fully paid-up;
- 2) instruments have maturity of at least five years;
- 3) payment institution does not guarantee the payment of such debt by its own pledge, mortgage or in any other way;
- 4) in the event of bankruptcy proceedings or winding up of the payment institution, the instrument is subordinated to other obligations and is paid only after the settlement of obligations to other creditors;
- 5) the instrument may be used only for the payment of claims of creditors in bankruptcy proceedings and/or winding-up of the payment institution;
- 6) the payment of the instrument to creditors or redemption by the payment institution before maturity may be executed only:
 - in the case of the conversion of instrument into shares, excluding cumulative preferred shares or into contributions,
 - in other cases, with the authorisation of the Central Bank, if, in the following three business years, the payment of instrument will not deteriorate operations of the payment institution in accordance with the law.

The payment institution shall submit to the Central Bank an application for granting the authorisation referred to in paragraph 2 item 6 indent 2 of this Article, supported by an evidence identifying the conditions for issuing Tier 2 capital instruments and the projection of financial statements for the following three business years.

Where a payment institution acquires own Tier 2 instruments, it shall exclude them from the calculation of the Tier 2 capital.

Amortisation of Tier 2 instruments

Article 8

Tier 2 capital instruments with the residual maturity of more than five years may be included in the calculation of Tier 2 capital in full amount.

Tier 2 capital instruments with a residual maturity of less than five years shall be recognised in the amount to be calculated in the manner that the carrying amount of the instruments on the first day of the final five-year period of their contractual maturity, divided by the number of days in that period is multiplied by the number of the remaining days of the contractual maturity of the instrument.

3. Additional deductions from own funds of a payment institution

Deductions of holdings of non-financial sector entities

Article 9

Holdings of Common Equity Tier 1 instruments (contributions or shares) of the non-financial sector entities, within the meaning of the law governing the establishment and operations of credit institutions, where the payment institution has a significant investment exceeding the threshold referred to in paragraph 2 of this Article, shall be a deduction from Common Equity Tier 1 capital.

The amount higher than that calculated in accordance with items 1 and 2 of this paragraph shall be taken as a deduction as follows:

- 1) the amount of individual investment in an entity referred to in paragraph 1 of this Article exceeding 15% of own funds of the payment institution;
- 2) aggregated amount of all investments in entities referred to in paragraph 1 of this Article exceeding 60% of own funds of the payment institution.

For the purposes of calculating deductions referred to in this Article and Articles 10 and 11 of this Decision, a significant investment means an investment in a non-financial sector entity or a financial sector entity in the amount higher than 10% of Common Equity Tier 1 capital of that entity (shares or contributions).

Deductions of holdings of financial sector entities where a payment institution does not have significant investment

Article 10

The amount of holdings of Common Equity Tier 1 instruments, Additional Tier 1 instruments and Tier 2 instruments of financial sector entities, within the meaning of the law governing the establishment and operations of credit institutions, where the payment institution does not have a significant investment, shall be a deduction from Common Equity Tier 1 capital, Additional Tier 1 capital and Tier 2 capital, if aggregate amount of those investments exceeds 10% of Common Equity Tier 1 capital of payment institution as identified in accordance with Article 4 paragraph 1 of this Decision.

The aggregate amount of the deduction referred to in paragraph 1 of this Article, which is subtracted from Common Equity Tier 1 capital, shall be determined by multiplying the aggregate amount of all investments referred to in paragraph 1 of this Article exceeding

10% of Common Equity Tier 1 capital of the payment institution by the proportional participation of holdings of Common Equity Tier 1 capital instruments of financial sector entities where the payment institution does not have a significant investment in the total investments in all financial sector entities.

The aggregate amount of the deduction referred to in paragraph 1 of this Article, which is subtracted from Additional Tier 1 capital, shall be determined by multiplying the aggregate amount of all investments referred to in paragraph 1 of this Article exceeding 10% of Common Equity Tier 1 capital of the payment institution by the proportional participation of holdings of Additional Tier 1 instruments of financial sector entities where the payment institution does not have a significant investment in the total investments in all financial sector entities.

The aggregate amount of the deduction referred to in paragraph 1 of this Article, which is subtracted from Tier 2 capital shall be determined by multiplying aggregate amount of all investments referred to in paragraph 1 of this Article exceeding 10% of Common Equity Tier 1 capital of the payment institution by the proportional participation of holdings of Tier 2 instruments of financial sector entities where the payment institution does not have a significant investment in total investments in all financial sector entities.

Deductions of holdings of financial sector entities where a payment institution does not have a significant investment

Article 11

The amount of holdings of Common Equity Tier 1 instruments of financial sector entities, where the payment institution has a significant investment, shall be a deduction from Common Equity Tier 1 capital, if aggregate amount of those investments exceeds 10% of Common Equity Tier 1 capital of payment institution as identified in accordance with Article 4 paragraph 1 of this Decision.

The amount of holdings of Additional Tier 1 instruments or Tier 2 instruments of financial sector entities, where the payment institution has a significant investment, shall be a deduction from Additional Tier 1 capital or Tier 2 capital of the payment institution in the full amount of investment, unless the requirements referred to in paragraph 3 of this Article have been met.

By way of derogation from paragraph 2 of this Article, the amount of holdings of Additional Tier 1 instruments or Tier 2 instruments of financial sector entities, where the payment institution has a significant investment, shall be a deduction from Additional Tier 1 capital or Tier 2 capital of the payment institution in the amount exceeding the amount of Additional Tier 1 capital or Tier 2 capital of the payment institution, provided that one of the following two conditions has been met:

- 1) the maturity of Additional Tier 1 instrument or Tier 2 instrument of the payment institution is equal to or shorter than the maturity of the holding of Additional Tier 1 instrument or Tier 2 instrument of financial sector entity where the payment institution has a significant investment;
- 2) the residual maturity of Additional Tier 1 instrument or Tier 2 instrument of a payment institution is shorter than one year.

Temporary exemptions from applying deductions of holdings of financial sector entities

Article 12

A payment institution may request an authorisation from the Central Bank to exclude holdings referred to in Articles 10 and 11 of this Decision from the calculation of deductions when calculating Common Equity Tier 1 capital, where such holdings are of temporary nature and the payment institution holds them to provide financial assistance in order to reorganise or improve the financial situation of persons with the respective investments.

A payment institution shall submit documents evidencing the fulfilment of the requirements for exclusion of such a holding from the calculation of Common Equity Tier 1 capital, supported by the application for granting authorisation referred to in paragraph 1 of this Article.

III MINIMUM OWN FUNDS REQUIREMENTS FOR PAYMENT INSTITUTION

Minimum amount of own funds

Article 13

Own funds of a payment institution calculated in accordance with Articles 2 to 10 of this Decision shall not at any time fall below the amount of minimum initial capital of a payment institution set forth in Article 70 of the Payment System Law (OGM 62/13, 111/22) or the amount calculated by applying payment transaction range method referred to in Article 14 of this Decision, whichever is higher.

In the calculation of own funds, the payment institution must ensure that:

- Common Equity Tier 1 capital of a payment institution makes at least 75% of total Tier 1 capital of the payment institution;
- Tier 2 capital may be included in the calculation of Tier 1 capital up to the amount of one third of Tier 1 capital, at a maximum.

Application of payment transaction range method

Article 14

Own funds shall be calculated applying the payment transaction range method by multiplying the amount representing the result of factor “k” referred in paragraph 3 of this Article and the sum of the following elements:

- 1) 4% of the part of the volume of payment transactions up to the amount of EUR 5,000.000.00;
- 2) 2.5% of the part of the volume of payment transactions above the amount of EUR 5,000.000.00 up to the amount of EUR 10,000.000.00;
- 3) 1% of the part of the volume of payment transactions above the amount of EUR 10,000.000.00 up to the amount of EUR 100,000.000.00;
- 4) 0.5% of the part of the volume of payment transactions above the amount of EUR 100,000.000.00 up to the amount of EUR 250,000.000.00, plus
- 5) 0.25% of the part of the volume of payment transactions above the amount of EUR 250,000.000.00.

The volume of payment transactions referred to in paragraph 1 of this Article shall represent one twelfth of total value of payment transactions which the payment institution executed in the previous year

Factor “k” referred to in paragraph 1 of this Article shall amount to:

- 1) 0.5 if the payment institution provides only payment services referred to in Article 2 item 6 of the Payment System Law;
- 2) 1.0 if the payment institution provides any of the payment services referred to in Article 2 items 1 to 5 of the Payment System Law.

IV REPORTING ON OWN FUNDS AND MINIMUM OWN FUNDS REQUIREMENTS OF PAYMENT INSTITUTION

Quarterly reports

Article 15

For the purpose of ensuring the monitoring of the level of own funds and minimum own funds requirements, the payment institution shall submit to the Central Bank the following quarterly reports:

- 1) Report on own funds of payment institution (Template PI-RK),
- 2) Report on the minimum own funds requirements of payment institution (Template PI-MRK).

The payment institution shall submit the reports referred to in paragraph 1 of this Article to the Central Bank in electronic form, using the templates attached to this Decision and which make an integral part thereof.

The Central Bank may provide guidelines for filling in the positions of the reporting templates referred to in paragraph 2 of this Article.

Deadlines for submitting quarterly reports

Article 16

A payment institution shall submit quarterly reports referred to in Article 15 paragraph 1 of this Decision to the Central Bank no later than 20 days following the end of the quarter to which those reports refer.

Notwithstanding paragraph 1 of this Article, a payment institution shall submit to the Central Bank the reports referred to in Article 15 paragraph 1 of this Decision for the last quarter of the business year on the basis of final data no later than 1 April of the following year.

Method of submitting quarterly reports

Article 17

A payment institution shall submit the reports referred to in Article 15 paragraph 1 of this Decision in electronic form, and at the request of the Central Bank also in hard copy.

V. TRANSITIONAL AND FINAL PROVISION

Repealed regulation

Article 18

As from the entry into force of this Decision, the Decision on own funds of payment institutions (OGM 48/14, 80/20) shall be repealed.

Entry into force

Article 19

This Decision shall be published in the "Official Gazette of Montenegro", and it shall enter 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

Decision number: 0101-6883-2/2023
Podgorica, 22 September 2023

**CHAIRPERSON
GOVERNOR,**

Radoje Žugić, m.p.

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/name of the payment institution/

REPORT ON OWN FUNDS OF PAYMENT INSTITUTION

No.	POSITION	AMOUNT
1=1.1+1.2	<u>OWN FUNDS</u>	
1.1 = 1.1.1+1.1.2	TIER 1 CAPITAL	
1.1.1	COMMON EQUITY TIER 1 CAPITAL (CET1)	
1.1.1.1	Capital instruments recognised as CET1 (paid-in share capital or contributions)	
1.1.1.1.1	paid-in capital instruments	
1.1.1.1.2	issue premium (premium on shares or contributions)	
1.1.1.1.3	(-) acquired own CET1 instruments (direct, indirect and synthetic holdings of shares or contributions)	
1.1.1.2	Retained profit or accumulated loss from prior period	
1.1.1.3	Current year profit if the requirements referred to in Article 4 of the Decision on own funds of payment institution have been met	
1.1.1.4	(-) Current year loss	
1.1.1.5	Accumulated other comprehensive income (FVOCI)	
1.1.1.6	Reserves established against profit after tax (legal, statutory and other reserves)	
1.1.1.7	(-) Intangible assets	
1.1.1.8	(-) Deductions from Additional Tier 1 capital items exceeding Additional Tier 1 capital	
1.1.1.9	(-) CET1 instruments of the non-financial sector entities where a payment institution has a significant investment in those entities	
1.1.1.10	(-) CET1 instruments of the financial sector entities where a payment institution does not have a significant investment in those entities	
1.1.1.11	(-) CET1 instruments of the financial sector entities where a payment institution has a significant investment in those entities	
1.1.1.12	Other items or deductions from CET1	
1.1.2	ADDITIONAL TIER 1 CAPITAL (AT1)	
1.1.2.1	Capital instruments recognised as AT1	
1.1.2.1.1	paid-in capital instruments	
1.1.2.1.2	issue premium (premium on shares)	
1.1.2.1.3	(-) acquired own AT1 instrument (direct, indirect and synthetic holdings)	
1.1.2.2	(-) AT1 instruments of the financial sector entities where a payment institution does not have a significant investment in those entities	

1.1.2.3	(-) AT1 instruments of the financial sector entities where a payment institution has a significant investment in those entities	
1.1.2.4	(-) Deduction from Tier 2 items exceeding Tier 2 capital	
1.1.2.5	(-) Deduction from AT1 items exceeding AT1 (deducted in CET1)	
1.1.2.6	Other items or deductions from AT1	
1.2	TIER 2 CAPITAL	
1.2.1	Capital instruments recognised as Tier 2 capital	
1.2.1.1	paid-in capital instruments	
1.2.1.2	issue premium (premium on shares)	
1.2.1.3	(-) acquired own Tier 2 instrument (direct, indirect and synthetic holdings)	
1.2.2	(-) Tier 2 instruments of the financial sector entities where a payment institution does not have a significant investment in those entities	
1.2.3	(-) Tier 2 instruments of the financial sector entities where a payment institution has a significant investment	
1.2.4	(-) Deduction from Tier 2 items exceeding Tier 2 capital (deducted in AT1)	
1.2.5	Other items or deductions from Tier 2 capital	

In _____, _____ 20____

Report composed by:

Telephone and e-mail:

/name of the payment institution/

REPORT ON MINIMUM OWN FUNDS OF PAYMENT INSTITUTION

in EUR 000

No.	POSITION	AMOUNT	MINIMUM REQUIRED OWN FUNDS	SURPLUS / DEFICIT OF OWN FUNDS
1.	Common Equity Tier 1 capital			
2.	Additional Tier 1 capital			
3.	Tier 1 capital			
4.	Tier 2 capital			
5.	Own funds			

6.	Minimum initial capital prescribed by the Payment System Law	
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PAYMENT TRANSACTIONS VOLUME

Amounts in EUR 000

7.	cumulative value of payment transactions	
8.	payment transactions volume	

9.	factor k	
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10.	MINIMUM OWN FUNDS REQUIREMENTS using payment transaction range method	
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11.	Own funds adjustment in the cases envisaged by the Payment System Law (+/- up to 20%)	
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In _____, _____ 20____

Report composed by:

Telephone and e-mail: