

DECISION

ON MORE DETAILED METHOD FOR DETERMINING MINIMUM REQUIREMENTS FOR OWN FUNDS AND ELIGIBLE LIABILITIES OF CREDIT INSTITUTIONS AND THE REPORTING METHOD (OGM 029/25 of 21 March 2025, 010/26 of 3 February 2026, 034/26 of 12 March 2026)

Subject Matter

Article 1

This Decision shall prescribe in more detail the method for determining minimum requirements for own funds and eligible liabilities of credit institutions (hereinafter: the MREL), the method for determining additional requirement for own funds and eligible liabilities for the credit institution that is a resolution entity and that is a G-SI credit institution or a part of the G-SI credit institution, more detailed requirements to be met by the eligible liabilities used for the purpose of determining the MREL, the reporting method to the Central Bank of Montenegro (hereinafter: the Central Bank), the disclosure of the MREL amounts, periods to reach the MREL, and the criteria for determining subordinated eligible liabilities for selling to retail investors.

Mutatis mutandis

Article 2

The provisions of this Decision shall apply *mutatis mutandis* to legal persons referred to in Article 3 items 2), 3) and 4) of the Law on Resolution of Credit Institutions (hereinafter: the Law).

Determining the MREL for a credit institution that is not a part of the group and the resolution group that is not cross-border resolution group

Article 3

(1) For the purpose of calculating the MREL expressed as a percentage of the total risk exposure amount of a credit institution in accordance with Article 29 paragraph (6) item 1) of the Law, the amount of the MREL for the credit institution that is not a part of the group and the resolution group that is not a cross-border resolution group shall be determined as the sum of:

- 1) an amount sufficient to absorb losses in the resolution proceedings, which is equal to the sum of the amount of the requirement referred to in Article 114 paragraph (1) item 3) of the Decision on Capital Adequacy of Credit Institutions – (hereinafter: the Decision on Capital Adequacy) and the requirement for additional own funds and eligible liabilities above the minimum prescribed level determined in accordance with the law governing the operations of credit institutions;
- 2) the amount for recapitalisation that allows the resolution entity or resolution group to restore, after the resolution, the compliance with the requirement for the total capital ratio referred to in Article 114 paragraph (1) item 3) of the Decision on Capital Adequacy and the requirement for additional

own funds and eligible liabilities above the minimum prescribed level determined in accordance with the law governing the operations of credit institutions.

- (2) The MREL referred to in paragraph (1) of this Article shall be expressed as a percentage obtained by dividing the amount calculated in accordance with paragraph (1) of this Article by the total risk exposure amount.
- (3) For the purpose of calculating the MREL expressed as a percentage of the total exposure measure of the credit institution in accordance with Article 29 paragraph (6) item 2) of the Law, the amount of the MREL for the credit institution that is not a part of the group and the resolution group that is not a cross-border resolution group shall be determined as the sum of:
 - 1) an amount sufficient to absorb losses in the resolution proceedings, which is equal to the amount of the requirement for the credit institution that is the resolution entity in relation to the leverage ratio referred to in Article 563 paragraph (2) of the Decision on Capital Adequacy at the consolidated level of the resolution group, and
 - 2) the amount for recapitalisation that enables the resolution entity or resolution group to restore, after the resolution, the compliance with the leverage ratio requirement referred to in Article 563 paragraph (2) of the Decision on Capital Adequacy at the consolidated level of the resolution group after the implementation of the preferred resolution strategy.
- (4) The MREL referred to in paragraph (3) of this Article shall be expressed as a percentage obtained by dividing the amount calculated in accordance with paragraph (3) of this Article by the total exposure measure calculated in accordance with Article 563 paragraph (4) of the Decision on Capital Adequacy.
- (5) When determining the individual requirement referred to in paragraph (3) of this Article, the Central Bank shall take into account the requirements referred to in Article 69 paragraph (2) of the Law and the conditions referred to in Article 96 paragraphs (2) and (6) of the Law.
- (6) When determining the amount for recapitalisation referred to in paragraph (1) item 2) and paragraph (3) item 2) of this Article, the Central Bank shall:
 - 1) use the most recently reported values for the corresponding total risk exposure amount or the total exposure measure adjusted on the basis of all changes resulting from the resolution actions determined by the resolution plan, and
 - 2) increase or decrease the amount of the existing requirement for additional own funds and eligible liabilities above the minimum prescribed level determined in accordance with the law governing the operations of credit institutions, for the purpose of harmonising that requirement for the credit institution that is the resolution entity with the balance after the implementation of the preferred resolution strategy.
- (7) The Central Bank may increase the amount for recapitalisation referred to in paragraph (1) item 2) of this Article by an amount sufficient to maintain the market confidence during the appropriate period of no longer than one year following the day of the completion of the resolution proceedings, which corresponds to the combined buffer requirement reduced by the amount of the countercyclical capital buffer, determined in accordance with the law governing the operations of credit institutions, which would apply after the application of resolution tools.
- (8) The Central Bank shall reduce the amount referred to in paragraph (7) of this Article, where it determines that a lower amount would be sufficient to maintain the market confidence during the appropriate period of no longer than one year following the day of the initiation of the resolution proceedings and to ensure the continuity of providing critical functions of the credit institution and its access to financing without the use of extraordinary public financial support, except for contributions

from the Resolution Fund in accordance with Article 96 paragraphs (2) and (6) of the Law and Article 147 paragraphs (3) and (4) of the Law, after the implementation of the resolution strategy.

- (9) The Central Bank shall increase the amount referred to in paragraph (7) of this Article, where it determines that a higher amount is needed to maintain the sufficient market confidence during a corresponding period of no longer than one year following the day of the initiation of the resolution procedure and to ensure the continuity of the provision of critical functions of the credit institution and its access to financing without the use of extraordinary public financial support, except for contributions from the Resolution Fund in accordance with Article 96 paragraphs (2) and (6) of the Law and Article 147 paragraphs (3) and (4) of the Law.
- (10) The Central Bank shall determine the MREL for the credit institution that is a resolution entity that is not subject to Article 117 of the Decision on Capital Adequacy and that is part of a resolution group whose total assets exceed the equivalent of EUR 100 billion at least in the amount of:
- 1) 13.5 % of the total risk exposure amount of the credit institution, when calculated in accordance with Article 29 paragraph (6) item 1) of the Law, and
 - 2) 5% of the total exposure measure of the credit institution, when calculated in accordance with Article 29 paragraph (6) item (2) of the Law.
- (11) Notwithstanding Article 6 of this Decision, the MREL referred to in paragraph (10) of this Article in the amount of 13.5% of the total risk exposure amount of the credit institution, when calculated in accordance with Article 29 paragraph (6) item 1) of the Law or in the amount of 5% of the credit institution's total exposure measure, when calculated in accordance with Article 29 paragraph (6) item 2) of the Law, shall be met by own funds instruments, subordinated eligible instruments or liabilities referred to in Article 6 paragraph (6) of this Decision issued by the subsidiary undertaking.
- (12) The Central Bank may also apply the provisions of paragraphs (10) and (11) of this Article to a credit institution that is resolution entity that is not subject to Article 117 of the Decision on Capital Adequacy and that is part of a resolution group whose total assets do not exceed EUR 100 billion if it assesses that it is likely that its failure would represent a systemic risk.
- (13) In the event referred to in paragraph (12) of this Article, the Central Bank shall take into consideration:
- 1) the share of deposits and lack of debt instruments in financing;
 - 2) the extent to which access to the capital markets for eligible liabilities is limited, and
 - 3) the extent to which the resolution entity relies on Common Equity Tier 1 to meet the requirements referred to in Article 30 paragraph (2), Article 30 paragraph (3) item 1) or Article 32 paragraph (6) item 1) of the Law, whichever is applicable.

Determining MREL for a credit institution in respect of which a resolution plan provides carrying out of bankruptcy proceedings

Article 3a

- (1) Where the Central Bank determines the requirement referred to in Article 29 paragraph (1) of the Law, a credit institution or an entity planned for bankruptcy shall meet that requirement by using one or more of the following:
- 1) own funds;
 - 2) liabilities that fulfil the eligibility criteria, or eligible liabilities items referred to in Article 71 of the Decision on Capital Adequacy, with the exception that the conditions laid down in Article 72 paragraph (2) items 2) and 4), of that Decision shall not apply to the fulfilment of those items;
 - 3) the liabilities referred to in Article 6 paragraph (3) of this Decision.

- (2) Provisions of Article 87 paragraph (2) and Article 95 of the Decision on Capital Adequacy shall not apply to credit institutions or entities planned for bankruptcy for which the Central Bank has not determined the MREL referred to in Article 29 paragraph (1) of the Law.
- (3) Holdings of own funds instruments and eligible liabilities instruments issued by credit institutions that are subsidiary undertakings, which are entities planned for bankruptcy for which the Central Bank has not determined the MREL in accordance with Article 29 paragraph (1) of the Law, shall not be deducted in accordance with Article 75 paragraphs (7) to (10) of the Decision on Capital Adequacy.
- (4) By way of exception from paragraph (3) of this Article, a credit institution or a legal person referred to in Article 3 items 2), 3) and 4) of the Law that is not itself a resolution entity, but is a subsidiary undertaking of a resolution entity or of a third-country entity that would be a resolution entity if it had a head office in Montenegro, shall deduct its holdings of own funds instruments in credit institutions that are subsidiary undertakings that belong to the same resolution group and that are entities planned for bankruptcy for which the Central Bank has not determined the MREL in accordance with Article 29 paragraph (1) of the Law, where the aggregate amount of those holdings is equal to or exceeds 7% of the total amount of its own funds and liabilities that comply with the eligibility criteria specified in Article 7 paragraphs (2) and (3) of this Decision, calculated annually as of 31 December as an average over the previous 12 months.

Determining the MREL for subsidiary undertakings with head office in Montenegro that are not resolution entities

Article 4

- (1) For the purpose of calculating the MREL expressed as a percentage of the total risk exposure amount of a credit institution in accordance with Article 29 paragraph (6) item 1) of the Law, the amount of the MREL for the credit institution that is a subsidiary undertaking with head office in Montenegro and that is not a resolution entity shall be determined as the sum of:
 - 1) an amount sufficient to absorb losses, which is equal to the sum of the amount of the requirement referred to in Article 114 paragraph (1) item 3) of the Decision on Capital Adequacy and the requirement for additional own funds and eligible liabilities above the minimum prescribed level determined in accordance with the law governing the operations of credit institutions, and
 - 2) the amount for recapitalisation that allows the credit institution to re-align with the requirement for the total capital ratio referred to in Article 114 paragraph (1) item 3) of the Decision on Capital Adequacy and the requirement for additional own funds and eligible liabilities above the minimum prescribed level determined in accordance with the law governing operations credit institutions, after the exercising of the power to write down or convert relevant capital instruments and eligible liabilities in accordance with Article 48 of the Law or after the resolution of the resolution group.
- (2) The MREL referred to in paragraph (1) of this Article shall be expressed as a percentage obtained by dividing the amount calculated in accordance with paragraph (1) of this Article by the total risk exposure amount.
- (3) For the purpose of calculating the MREL expressed as a percentage of the total exposure measure of the credit institution in accordance with Article 29 paragraph (6) item 2) of the Law, the amount of the MREL for the credit institution that is a subsidiary undertaking with head office in Montenegro and that is not resolution entity shall be determined as the sum of:

- 1) an amount sufficient to absorb losses, which is equal to the amount of the requirement for the credit institution in connection with the leverage ratio referred to in Article 563 paragraph (2) of the Decision on Capital Adequacy, and
 - 2) the amount for recapitalisation that enables the credit institution to re-align itself with the leverage ratio requirement referred to in Article 563 paragraph (2) of the Decision on Capital Adequacy after the exercising of the power to write down or convert relevant capital instruments and eligible liabilities in accordance with Article 48 of the Law or after the resolution of the resolution group.
- (4) The MREL referred to in paragraph (3) of this Article shall be expressed as a percentage obtained by dividing the amount calculated in accordance with that paragraph by the total exposure measure calculated in accordance with Article 563 paragraph (4) of the Decision on Capital Adequacy.
- (5) When determining the individual requirement referred to in paragraph (3) of this Article, the Central Bank shall take into account the provisions of Article 69 paragraph (2) and Article 96 paragraphs (2) and (6) of the Law.
- (6) When determining the amount for recapitalisation referred to in paragraph (1) item 2) and paragraph (3) item 2) of this Article, the Central Bank shall:
- 1) use the latest reported values for the corresponding total risk exposure amount or the total exposure amount of credit institution adjusted on the basis of all changes resulting from the resolution actions determined by the resolution plan; and
 - 2) increase or decrease the amount of the existing requirement for additional own funds and eligible liabilities above the minimum prescribed level determined in accordance with the law governing the operations of credit institutions for the purpose of harmonising that requirement of the credit institution with the balance after the exercising of the power to write down or convert relevant capital instruments and eligible liabilities in accordance with Article 48 of the Law or after the resolution of the resolution group.
- (7) The Central Bank may increase the amount for recapitalisation referred to in paragraph (1) item 2) of this Article by an amount sufficient to maintain the market confidence during the corresponding period of no longer than one year following the day of exercising the power to write down or convert relevant capital instruments and eligible liabilities in accordance with Article 48 of the Law, which corresponds to the combined buffer requirement reduced by the amount of the countercyclical capital buffer, determined in accordance with the regulation governing the operations of credit institutions, which would apply after exercising that power or after the resolution of the resolution group.
- (8) The Central Bank shall reduce the amount referred to in paragraph (1) item 2) of this Article, if it determines that a lower amount would be sufficient to maintain the market confidence during the appropriate period of no longer than one year following the day of exercising the power referred to in Article 48 of the Law or after the resolution of the resolution group, and to ensure the continuity of the provision of critical functions of the credit institution and its access to financing without the use of extraordinary public financial support, except for the contribution from the Resolution Fund in accordance with Article 96 paragraphs (2) and (6) and Article 147 paragraphs (3) and (4) of the Law.
- (9) The Central Bank shall increase the amount referred to in paragraph (8) of this Article, if it determines that a higher amount is needed to maintain the sufficient market confidence during a corresponding period of no longer than one year following the day of exercising of the power to write down and convert relevant capital instruments and eligible liabilities in accordance with Article 48 of the Law or the resolution of the resolution group, and to ensure the continuity of the provision of critical functions of the credit institution and its access to financing without the use of extraordinary public financial support,

except for the contribution from the Resolution Fund in accordance with Article 96 paragraphs (2) and (6) and Article 147 paragraphs (3) and (4) of the Law.

- (10) Where the application of the bail-in tool to the liabilities of the resolution entity that does not have its head office in Montenegro would include a liability towards a subsidiary undertaking with its head office in Montenegro that is a part of the same resolution group and whose claim is related to that liability in a lower priority ranking in accordance with the law governing the bankruptcy proceedings of credit institutions, in relation to the priority ranking of claims related to other regular unsecured liabilities, the Central Bank shall assess in a timely manner whether the amount of items of eligible liabilities of the subsidiary undertaking with its head office in Montenegro is sufficient, in accordance with Article 6 of this Decision, to implement the preferred resolution strategy.

Determining additional MREL for a credit institution that is a resolution entity and that is a G-SI credit institution or part of a G-SI credit institution

Article 5

- (1) The MREL for a credit institution that is a resolution entity and that is a G-SI credit institution or part of a G-SI credit institution shall consist of:
- 1) requirements referred to in Article 117 of the Decision on Capital Adequacy, and
 - 2) additional requirement for own funds and eligible liabilities referred to in paragraph (4) of this Article, as needed.
- (2) The MREL for an EU material subsidiary undertaking of a non-EU G-SI credit institution shall consist of:
- 1) requirements referred to in the Decision on Capital Adequacy related to the requirements for own funds and eligible liabilities for G-SI credit institutions that do not have their head offices in the European Union, in relation to own funds and eligible liabilities; and
 - 2) additional requirement for own funds and eligible liabilities referred to in paragraph (4) of this Article, which is met using the own funds and eligible liabilities of a credit institution that is not resolution entity referred to in Article 128 paragraph (5) of the Law, as needed.
- (3) A material subsidiary undertaking referred to in paragraph (2) of this Article means a subsidiary undertaking that, on an individual or consolidated basis, meets the following requirements:
- 1) the subsidiary undertaking has more than 5% of the amount of risk-weighted assets of the parent undertaking determined at the consolidated level;
 - 2) the subsidiary undertaking generates more than 5% of the total revenues from the operations of its parent undertaking; or
 - 3) the total exposure measure of the subsidiary undertaking calculated in accordance with the Decision on Capital Adequacy is more than 5% of the total exposure measure of its parent undertaking determined at the consolidated level.
- (4) If the requirement referred to in paragraph (1) item 1) or paragraph (2) item 1) of this Article is not sufficient to meet the conditions referred to in Articles 3 and 4 of this Decision, the Central Bank shall determine the additional requirement for the MREL referred to in paragraph (1) item 2) of this Article to the extent necessary to meet the conditions referred to in Articles 3 and 4 of this Decision.
- (5) Where two or more G-SI credit institutions are at the same time resolution entities, the Central Bank shall calculate the amount of the additional MREL referred to in paragraph (1) item 2) of this Article for each resolution entity with its head office in Montenegro and for the EU parent undertaking as if it is the sole resolution entity of the G-SI credit institution, and it shall agree with the resolution authorities

referred to in Article 32 paragraph (1) of the Law, when it is applicable and coordinated with the resolution strategy of the G-SI credit institution, on the application of:

- 1) deductions from eligible liabilities items in accordance with the Decision on Capital Adequacy, and
 - 2) all adjustments in order to reduce or eliminate the differences between the sum of the amount of the additional MREL and the amount related to the calculation of the amount for G-SI credit institutions with multiple resolution entities on a consolidated basis.
- (6) The adjustment referred to in paragraph (5) item 2) of this Article may be applied in such a manner to adjust the level of the MREL due to a difference in the calculation of the total risk exposure amounts between the EU Member States, but not for the purpose of removing differences arising from the exposure between the resolution groups.
- (7) In the case referred to in paragraph (5) of this Article, the sum of the amount of the additional requirement for the MREL referred to in paragraph (4) of this Article and the amount related to the calculation of the amount for G-SI credit institutions with multiple resolution entities on a consolidated basis in accordance with the Decision on Capital Adequacy, may not be lower for individual resolution entities than the sum of the amount of the additional requirement for the MREL referred to in paragraph (4) of this Article and the amount related to the calculation of the amount for G-SI credit institutions with multiple resolution entities on a consolidated basis in accordance with the Decision on Capital Adequacy for the parent undertaking in the EU or in a third country that would be a resolution entity if it had its head office in the EU.

Eligible liabilities of the resolution entity

Article 6

- (1) For the purpose of meeting the MREL of a credit institution that is the resolution entity, eligible liabilities that meet the conditions referred to in the following Articles shall be included:
- 1) Article 71 of the Decision on Capital Adequacy;
 - 2) Article 72 of the Decision on Capital Adequacy, except for the conditions referred to in paragraph (2) item 4) of the same Article, and
 - 3) Article 73 of the Decision on Capital Adequacy.
- (2) By way of exception from paragraph (1) of this Article, and in the case of the application of the requirements referred to in Article 102 of the Decision on Capital Adequacy or the requirements for own funds and eligible liabilities of the non-EU G-SI credit institutions, eligible liabilities, for the purposes of meeting those requirements for own funds and eligible liabilities, shall consist of eligible liabilities referred to in Articles 71 to 73 of the Decision on Capital Adequacy, after deductions determined in accordance with Articles 75 to 80 of that Decision.
- (3) By way of exception from paragraph (1) item 1) of this Article, liabilities arising from debt instruments with embedded derivatives, which meet the conditions referred to in paragraph (1) of this Article, shall be included in the sum of own funds and eligible liabilities where:
- 1) the principal amount of the liability arising from the debt instrument known at the time of issuance is fixed or increases and is not affected by the feature of the embedded derivative, and the total amount of the liability arising from the debt instrument, including the embedded derivative, may be valued on daily basis in accordance with Articles 121 to 126 of the Decision on Capital Adequacy in relation to an active and liquid two-way market for a similar instrument without credit risk, or

- 2) the debt instrument contains a contractual provision that determines that the value of the claim in case of bankruptcy or resolution of the issuer is fixed or increases and does not exceed the originally paid amount of the liability.
- (4) Debt instruments referred to in paragraph (3) of this Article, including their embedded derivatives, shall not be subject to a netting agreement, and Article 100 paragraph (4) of the Law shall not apply to their valuation.
- (5) Liabilities referred to in paragraph (3) of this Article shall be included in the sum of own funds and eligible liabilities in the part corresponding to the principal amount referred to in paragraph (3) item 1) of this Article or the amount that is fixed or increases referred to in paragraph (3) item 2) of this Article.
- (6) When a subsidiary undertaking with its head office in the European Union that is a part of the same resolution group, as well as the resolution entity with its head office in Montenegro, issues liabilities to an existing shareholder that is not part of that resolution group, the liabilities issued to the existing shareholder shall be included in the sum of own funds and eligible liabilities of the resolution entity for the purpose of meeting the MREL, if the following conditions are met:
 - 1) the liabilities have been issued in accordance with Article 7 paragraph (2) of this Decision;
 - 2) the exercise of the power to write down and convert own funds and eligible liabilities in accordance with Article 48 of the Law does not affect the control that the resolution entity has over the subsidiary undertaking;
 - 3) the amount of liabilities of the subsidiary undertaking issued to the existing shareholder does not exceed the amount of the difference between the amounts of:
 - the MREL of a credit institution that is not the resolution entity, determined in accordance with Article 31 paragraph (1) of the Law; and
 - the sum of liabilities of the subsidiary undertaking issued to the resolution entity, purchased directly or indirectly through other entities of the same resolution group, and own funds referred to in Article 7 paragraph (3) of this Decision.
- (7) Without prejudice to the minimum requirement referred to in Article 3 paragraphs (10) and (12) of this Decision or Article 5 paragraph (1) item 1) of this Decision, the Central Bank shall order the resolution entity that is a G-SI credit institution or the resolution entity referred to in to Article 3 paragraphs (10) and (12) of this Decision, to meet a part of the requirement referred to in Article 30 paragraph (2), Article 30 paragraph (3) item 1) or Article 32 paragraph (6) item 1) of the Law in the amount of 8% of total liabilities, including own funds, by using own funds instruments, subordinated eligible instruments or liabilities referred to in paragraph (6) of this Article issued by a subsidiary undertaking.
- (8) The Central Bank may permit that a resolution entity that is a G-SI credit institution or resolution entity that is subject to Article 3 paragraphs (10) or (12) of this Decision, meets a part of the requirements referred to in Article 30 paragraph (2), Article 30 paragraph (3) item 1) or Article 32 paragraph (6) item 1) of the Law by using own funds instruments, subordinated eligible instruments, or liabilities as referred to in paragraph (6) of this Article issued by a subsidiary undertaking, in the amount that is lower than 8% of the total liabilities, including own funds, but greater than the amount resulting from the application of the formula $(1-(X1/X2)) \times 8 \%$ of the total liabilities, including own funds, provided that the conditions set out in Article 72 paragraph (5) of the Decision on Capital Adequacy are met, where, in light of the reduction that is possible under Article 72 paragraph (5) of the Decision on Capital Adequacy, in the following manner:
 - 1) X1 means 3.5% of the total risk exposure amount calculated in accordance with Article 114 paragraph (3) of the Decision on Capital Adequacy, and

- 2) X2 means the sum of 18% of the total risk exposure amount calculated in accordance with Article 114 paragraph (3) of the Decision on Capital Adequacy and the amount of the combined buffer requirement.
- (9) Where the application of the provisions of paragraph (7) of this Article leads to a requirement greater than 27 % of the total risk exposure amount, for the resolution entity referred to in Article 3 paragraph (10) of this Decision, the Central Bank shall limit the part of the MREL which is to be met using own fund instruments, subordinated eligible instruments, or liabilities issued by the subsidiary undertaking referred to in paragraph (6) of this Article, to an amount equal to 27 % of the total risk exposure amount, if it has been assessed that:
 - 1) access to the Resolution Fund is not considered to be an option for the resolution of the resolution entity in the resolution plan, or
 - 2) the resolution plan of the resolution entity envisages the use of the Resolution Fund, wherein the requirement referred to in Article 30 paragraph (2) or Article 32 paragraph (6) item 1) of the Law envisages the resolution entity to meet the requirements referred to in Article 96 paragraph (2) or (4) of the Law, depending on what is applicable.
- (10) In carrying out the assessment referred to in paragraph (9) of this Article, the Central Bank shall also take into account the risk of a disproportionate impact on the business model of the resolution entity.
- (11) The provision of paragraph (9) of this Article shall not apply to a credit institution that is the resolution entity referred to in Article 3 paragraph (12) of this Decision.
- (12) The Central Bank may order that a resolution entity that is neither a G-SI credit institution nor a resolution entity that is the subject to Article 3 paragraph (10) or (12) of this Decision meets a part of the MREL referred to in Article 30 paragraph (2) or Article 32 paragraph (6) item 1) of the Law using own funds instruments, subordinated eligible instruments or liabilities referred to in paragraph (6) of this Article issued by a subsidiary undertaking, up to the amount of 8% of total liabilities, including own funds or up to the amount obtained by applying the formula referred to in paragraph (16) item 2) of this Article, whichever is higher, provided that the following conditions are met:
 - 1) non-subordinated liabilities referred to in paragraphs (1), (2) and (3) of this Article have the same priority ranking in accordance with the law governing bankruptcy proceedings of credit institutions as liabilities that are excluded from the application of write down and conversion powers in accordance with Article 94 paragraph (3) and Article 95 paragraph (1) of the Law;
 - 2) there is a risk that, as a result of a planned application of write-down and conversion powers to non-subordinated liabilities that are not excluded from the application of write down and conversion powers in accordance with Article 94 paragraph (3) and Article 95 paragraph (1) of the Law, creditors whose claims arise from those liabilities incur greater losses than they would incur if bankruptcy proceedings were initiated against the credit institution; and
 - 3) the amount of own funds and other subordinated liabilities does not exceed the amount necessary to ensure that the creditors referred to in item 2) of this paragraph do not incur losses above the level of losses that they would otherwise have incurred if bankruptcy proceedings were initiated against the credit institution.
- (13) Where the Central Bank determines that within a particular priority ranking for settlement of claims established by the law governing the bankruptcy proceedings of credit institutions, which includes claims related to eligible liabilities, the total amount of liabilities that are excluded or would likely be excluded from the application of write down and conversion powers in accordance with Article 94

- paragraph (3) and Article 95 paragraph (1) of the Law exceeds 10% of the total amount of that priority ranking, the Central Bank shall assess the risk referred to in paragraph (12) item 2) of this Article.
- (14) Within the meaning of paragraphs (7) to (13) and paragraph (16) of this Article, derivative liabilities shall be included in total liabilities on the basis that full recognition is given to counterparty netting rights.
- (15) The own funds of a resolution entity that are used to comply with the combined buffer requirement shall be eligible to comply with the requirements referred to in paragraphs (7), (8), (9), (12) and (16) of this Article.
- (16) By way of exception from paragraph (7) of this Article, the Central Bank may order that the resolution entity that is a G-SI credit institution or a resolution entity referred to in to Article 3 paragraph (10) or (12) of this Decision meets the requirement referred to in Article 30 paragraph (2), Article 30 paragraph (3) item 1) or Article 32 paragraph (6) item 1) of the Law using own funds instruments, subordinated eligible instruments or liabilities referred to in paragraph (6) of this Article issued by a subsidiary undertaking to the extent that, taking into account the obligation of the resolution entity to meet the combined buffer requirements, the requirements referred to in Article 117 of the Decision on Capital Adequacy, Article 3 paragraph (10) of this Decision and the requirements referred to in Article 30 paragraph (2), Article 30 paragraph (3) item 1) of the Law or Article 32 paragraph (6) item 1) of the Law, the sum of own funds, those instruments and liabilities does not exceed greater of:
- 1) 8% of total liabilities, including own funds, or
 - 2) the amount obtained by adding the double amount resulting from the requirement referred to in Article 114 paragraph (1) item 3) of the Decision on Capital Adequacy, the double amount resulting from the requirement for additional own funds and eligible liabilities in accordance with the law governing the operations of credit institutions, and the amount that derives from the combined buffer requirement.
- (17) The Central Bank may apply the provisions of paragraph (16) of this Article to a resolution entity that is a G-SI credit institution or that is subject to Article 3 paragraph (10) or (12) of this Decision and that meets one of the conditions specified in paragraph (18) of this Article, for a maximum of 30 % of the total number of all resolution entities that are G-SI credit institutions or to which Article 3 paragraph (10) or (12) of this Decision applies and for which the requirement referred to in Article 30 paragraph (2), Article 30 paragraph (3) item 1) or Article 32 paragraph (6) item 1) of the Law is determined.
- (18) In the event referred to in paragraph (16), the Central Bank shall take into consideration:
- 1) whether substantive impediments to the resolvability have been identified in the preceding resolvability assessment, for which no remedial actions have been taken by the credit institution following the imposition of measures referred to in Article 25 paragraph (4) of the Law within the time limit required by the Central Bank, or the identified substantive impediments cannot be addressed using any of the measures referred to in Article 25 paragraph (4) of the Law, and the exercise of the power referred to in paragraph (16) of this Article, would partially or fully compensate for the negative impact of the substantive impediments on resolvability;
 - 2) the Central Bank considers that the feasibility and credibility of the resolution entity's preferred resolution strategy is limited, taking into account the size of the resolution entity, its interconnectedness, the nature, scope, risk and complexity of its activities, its legal status and shareholding structure, or
 - 3) the requirement for additional own funds and eligible liabilities in accordance with the law governing the operations of credit institutions reflects the fact that the resolution entity that is a G-

- SI credit institution or that is subject to Article 3 paragraph (10) or (12) of this Decision is among top 20% of the riskiest credit institutions for which the Central Bank determines the MREL.
- (19) For the purposes of determining the percentages referred to in paragraphs (17) and (18) of this Article, the Central Bank shall round the number resulting from the calculation up to the closest whole number.
- (20) When reaching a decision referred to in paragraphs (12) and (16) of this Article, the Central Bank shall also take into account:
- 1) the depth of the market for own funds instruments of the resolution entity and subordinated eligible instruments, the pricing of such instruments, where they exist, and the time needed to execute all transactions necessary to comply with that decision;
 - 2) the amount of eligible liabilities instruments that meet the conditions referred to in Article 71 of the Decision on Capital Adequacy that have a residual maturity below one year as of the effective date of the decision, with view to making quantitative adjustments to the requirements referred to in paragraphs (12) and (16) of this Article;
 - 3) the availability and the amount of instruments that meet the conditions referred to in Article 72 of the Decision on Capital Adequacy other than the conditions referred to in paragraph (2) item 4) of that Article;
 - 4) whether the amount of liabilities that are excluded from the application of write down and conversion powers in accordance with Article 94 paragraph (3) or Article 95 paragraph (1) of the Law and that, in accordance with the law governing the bankruptcy proceedings of credit institutions, rank equally with or below the highest ranking of eligible liabilities, is significant in comparison to the own funds and eligible liabilities of the resolution entity;
 - 5) the business model of the resolution entity, funding model and risk profile, as well as its stability and ability to contribute to the economy, and
 - 6) the effect of possible restructuring costs on the recapitalisation of the resolution entity.
- (21) Within the meaning of the provision of paragraph (20) item 4) of this Article, the amount of excluded liabilities that does not exceed 5% of the amount of own funds and eligible liabilities of the resolution entity shall not be deemed to be significant, and if that amount exceeds 5%, the Central Bank shall assess whether it is significant for that credit institution.

Eligible liabilities of a subsidiary undertaking with head office in Montenegro that is not a resolution entity

Article 7

- (1) A credit institution that is a subsidiary undertaking of the resolution entity or a credit institution or a legal person referred to in Article 3 items 2), 3), and 4) of the Law from a third country, and is not itself a resolution entity, shall meet the MREL using the liabilities referred to in paragraph (2) of this Article or the own funds referred to in paragraph (3) of this Article.
- (2) A credit institution referred to in paragraph (1) of this Article shall meet the MREL by eligible liabilities that meet the following conditions:
- 1) they are issued to and bought by the resolution entity, either directly or indirectly through other members of the same resolution group that bought the liabilities, or are issued to and bought by an existing shareholder that is not part of the same resolution group as long as the exercise of powers to write down or convert own funds instruments and eligible liabilities in accordance with Articles 48 to 52 of the Law does not affect the control of the subsidiary undertaking by the resolution entity;

- 2) conditions for the eligible liabilities items referred to in Article 71 of the Decision on Capital Adequacy, except the conditions set out in Article 72 paragraph (2) items 2), 3), 11), 12), 13) and paragraphs (5) and (6) of the Decision on Capital Adequacy;
 - 3) claims related to those liabilities rank, in the bankruptcy proceedings, in accordance with the law governing the bankruptcy proceedings of credit institutions, below claims related to liabilities that do not meet the condition referred to in item (1) of this paragraph and that are not eligible for own funds requirements in accordance with the Decision on Capital Adequacy;
 - 4) they are subject to the exercise of powers to write down or convert own funds instruments and eligible liabilities in accordance with Articles 48 to 52 of the Law in a manner that is consistent with the resolution strategy of the resolution group, primarily so that the execution of such powers does not affect the control that the resolution entity has over the subsidiary undertaking;
 - 5) their acquisition was not directly or indirectly financed by the credit institution;
 - 6) in the contractual terms governing those liabilities, it is not explicitly or indirectly stated that the credit institution will have the option to call, redeem, repay, repurchase, or repay those liabilities early, other than in the case of the bankruptcy proceedings of the credit institution;
 - 7) the contractual terms governing those liabilities do not give the holder the right to accelerate the future scheduled payment of interest or principal, other than in the case of the bankruptcy or winding-up proceedings of the credit institution, and
 - 8) the amount of interest or dividends does not change depending on the creditworthiness of the credit institution or its parent company.
- (3) Own funds, within the meaning of paragraph (1) of this Article, shall be:
- 1) Common Equity Tier 1 capital, and
 - 2) other own funds issued by the credit institution and bought by members of the same resolution group or not bought by members of the same resolution group, provided that exercising the powers to write down and convert own funds instruments and eligible liabilities in accordance with Articles 48 to 52 of the Law does not affect the control that the resolution entity has over that credit institution.
- (4) Where an entity as referred to in paragraph (1) of this Article complies with the requirement referred to in Article 29 of the Law on a consolidated basis, the amount of own funds and eligible liabilities of that entity shall include the following liabilities issued in accordance with paragraph (2) of this Article by a subsidiary undertaking with a head office in Montenegro included in the consolidation of that entity:
- 1) liabilities issued to and bought by the resolution entity, either directly, or indirectly through other entities in the same resolution group that are not included in the consolidation of the entity complying with the MREL on a consolidated basis;
 - 2) liabilities issued to an existing shareholder that is not part of the same resolution group.
- (5) The liabilities referred to in paragraph (4) of this Article may not exceed the amount determined by subtracting from the amount of the MREL referred to in Article 29 of the Law applicable to the subsidiary undertaking included in the consolidation the sum of all of the following:
- 1) the liabilities issued to and bought by the entity complying with the MREL on a consolidated basis either directly, or indirectly through other entities in the same resolution group that are included in the consolidation of that entity;
 - 2) the amount of own funds that are issued in accordance with paragraph (3) of this Article.

MREL reporting and disclosing

Article 8

- (1) A credit institution shall report to the Central Bank on the following:
 - 1) the amount of own funds which, with regard to an institution that is not a resolution entity, meets the conditions referred to in Article 7 paragraph (3) of this Decision and the amount of eligible liabilities as well as the calculation of those amounts in accordance with Article 29 paragraph (6) of the Law after applicable reductions in accordance with Articles 76 to 80 of the Decision on capital adequacy, and
 - 2) the amount of other bail-inable liabilities.
- (2) When reporting as referred to in paragraph (1) of this Article, the credit institution shall state the following data on the items of bail-inable liabilities:
 - 1) composition of liabilities, including maturity profile;
 - 2) priority ranking in bankruptcy proceedings in accordance with the law governing the bankruptcy proceedings of credit institutions, and
 - 3) whether the third country regulations are applicable to them and, if so, data on such third countries, and whether they contain contractual terms referred to in Article 108 paragraph (1) of the Law and Article 47 paragraph (1) items 16) to 18) and Article 61 paragraph (1) items 13) to 15) of the Decision on Capital Adequacy.
- (3) Notwithstanding paragraph (1) of this Article, the credit institution shall not be required to submit reports to the Central Bank on the amount of other bail-inable liabilities if, on the reporting date, its own funds and eligible liabilities amount to at least 150% of the requirements referred to in Articles 30 to 32 of the Law, after applicable deductions referred to in Articles 76 to 80 of the Decision on Capital Adequacy, and it shall notify the Central Bank thereof.
- (4) The credit institution shall submit reports referred to in paragraph (1) item 1) of this Article on a quarterly basis, and the reports referred to in paragraph (1) item 2) of this Article on a semi-annual basis.
- (5) A credit institution shall submit to the Central Bank reports referred to in paragraph (4) of this Article within 20 days following the expiry of the quarter or half of the year of the respective report.
- (6) Notwithstanding paragraph (4) of this Article, the credit institution shall submit the reports referred to in paragraphs (1) and (2) of this Article without delay at the request of the Central Bank.
- (7) The credit institution shall publish on its website once a year, within 20 days following the expiry of the calendar year, the following:
 - 1) the amount of own funds that meet the conditions referred to in Article 7 paragraph (3) of this Decision and eligible liabilities;
 - 2) the structure of the items referred to in item 1) of this paragraph, including their maturity profile and the priority ranking in bankruptcy proceedings, in accordance with the law governing the bankruptcy proceedings of credit institutions;
 - 3) the requirement referred to in Articles 30 to 32 of the Law, whichever is applicable, expressed in accordance with Article 29 paragraph (6) of the Law.
- (8) Where a resolution action was applied to a credit institution or a write down and conversion power was exercised in accordance with Article 48 of the Law, the obligation referred to in paragraph (7) of this Article shall be applied after the transition period referred to in Articles 9, 10 and 11 of this Decision to comply with the requirements referred to in Articles 30 to 32 of the Law.
- (9) Notwithstanding paragraphs (1) and (7) of this Article, for a credit institution for which the resolution plan provides that, if the conditions under Article 35 paragraph (1) items 1) and 2) of the Law are met,

the resolution proceedings shall not be initiated, but the bankruptcy proceedings shall be opened against it, it shall not be required to submit reports or publicly disclose information, except in the case referred to in Article 3a paragraph (1) of this Decision.

- (10) A legal person referred to in Article 3 items 2), 3) or 4) of the Law to which the Central Bank has ordered the application of the MREL in accordance with Article 33 of the Law shall submit reports and disclose information in accordance with the provisions of this Article.
- (11) The Central Bank shall notify the European Banking Authority of the minimum requirement for own funds and eligible liabilities determined in accordance with Article 30 paragraph (7) and Article 32 paragraph (14) of the Law, and in accordance with the decisions referred to in Article 31 paragraph (4) of the Law.

Criteria for determining subordinated eligible liabilities for selling to retail investors

Article 9

Subordinated eligible liabilities for selling to retail investors shall be instruments that meet all of the requirements referred to in Article 71 of the Decision on Capital Adequacy, except the conditions referred to in Article 72 paragraphs (5) to (7) of the Decision on Capital Adequacy, where the nominal value of those eligible liabilities is not lower than EUR 100,000.

Periods for reaching the MREL

Article 10

- (1) When determining the periods for reaching the MREL in accordance with Articles 29 to 33 of the Law, the Central Bank shall take into consideration:
- 1) the share and significance of deposits and lack of debt instruments in financing;
 - 2) the access to the capital markets for eligible liabilities, and
 - 3) the extent to which the resolution entity relies on Common Equity Tier 1 capital for meeting the requirements referred to in Articles 30, 31, or 32 of the Law.
- (2) The period for reaching the MREL referred to in paragraph (1) of this Article may be determined for a period up to three years.

Time limits for complying with the MREL for G-SI credit institutions and for reaching the MREL after application of resolution actions

Article 11

- (1) The provision of Article 3 paragraph (12) of this Decision shall not apply to the resolution entity referred to in that paragraph within the two-year period following the date:
- 1) on which the Central Bank has applied the bail-in tool to that resolution entity; or
 - 2) on which the resolution entity has put in place an alternative measure referred to in Article 35 paragraph (1) item 2) of the Law, by which capital instruments and other liabilities have been written down or converted into Common Equity Tier 1 instruments or on which the Central Bank has exercised write down or conversion powers in accordance with Article 48 of the Law in respect of that resolution entity, in order to recapitalise the resolution entity without applying resolution tools.

- (2) The requirements referred to in Article 3 paragraphs (10) and (12) of this Decision, and Article 6 paragraphs (7), (8), (9), and (16) of this Decision, whichever is applicable, shall not apply to the resolution entity within the three-year period following the date on which the resolution entity or the group of which the resolution entity is a part has been identified as a G-SI institution, or as of the date on which the resolution entity starts to be in the situation referred to in Article 3 paragraph (10) or (12) of this Decision.
- (3) After applying the resolution tool or exercising the write down and conversion power in accordance with Article 48 of the Law, the Central Bank shall, depending on the individual case, determine a transitional period within which the credit institution to which the resolution tool has been applied or the write down and conversion power has been exercised in accordance with Article 48 of the Law shall comply with the minimum requirement established by the administrative decision referred to in Articles 30 to 33 of the Law, or the requirements referred to in Article 6 paragraphs (7), (8), (9), (12), and (16) of this Decision, whichever is applicable.
- (4) In the case referred to in paragraphs (1) to (3) of this Article, the Central Bank shall notify the credit institution on the planned MREL for each 12-month period during the period for reaching the MREL referred to in Article 10 of this Decision in such a way that at the end of the period for reaching the MREL, the MREL is equal to the amount determined in accordance with the administrative decision referred to in Articles 30 to 33 of the Law, whichever is applicable.

Transitional periods for reaching the MREL

Article 12

- (1) A credit institution shall meet the MREL that the Central Bank has determined for the first time following the effective date of this Decision by 31 December 2028, as follows:
 - 1) at least 20% of the lacking MREL amount to be reached by 31 December 2026;
 - 2) at least 50% of the lacking amount of MREL to be reached by 31 December 2027;
 - 3) total lacking amount to be reached by 31 December 2028.
- (2) By way of exception from paragraph (1) of this Article, the Central Bank may set longer time limit than the time limit referred to in paragraph (1) of this Article, if, based on the criteria referred to in paragraph (5) of this Article, it assesses so appropriate, taking into consideration the following:
 - 1) the development of the financial situation of the credit institution;
 - 2) the probability that the credit institution will be able to ensure the compliance with the requirements laid down in accordance with Articles 30, 31 or 32 of the Law in a reasonable period, and
 - 3) the ability of the credit institution to replace the liabilities that cease to meet the eligibility criteria or maturity for eligible liabilities in accordance with the Decision on Capital Adequacy and Article 29 of the Law, or whether the inability to do so results from the disruptions in the market or is related to that credit institution.
- (3) By way of exception from paragraph (1) of this Article, the Central Bank may determine that the resolution entity that is not a G-SI credit institution, but it is a part of resolution group whose total assets exceeds EUR 100 billion, and the resolution entity that is not a G-SI credit institution whose total assets is below EUR 100 billion, is required to meet the MREL referred to in paragraph (1) of this Article by 31 December 2025, if it assesses that the failure of such resolution entities would pose systemic risk.

(4) In the cases referred to in paragraphs (1) and (2) of this Article, the Central bank shall pass an administrative decision for a credit institution on the amount of the MREL for each year during the transitional period for reaching the MREL so that the MREL is fully reached at the end of the period for reaching the MREL within the time limit referred to in paragraph (1) of this Article.

Transitional period for publishing the MREL

Article 13

Notwithstanding Article 8 paragraph (7) of this Decision, the credit institution shall publish the data referred to in that Article for the first time after the time limit for reaching the MREL referred to in Article 12 paragraph (1) of this Decision, or after the expiration of the period for reaching the MREL referred to in paragraph (2) of that Article.

Transitional period from the Decision on Capital Adequacy

Article 14

Deleted. (Decision Amending the Decision on More Detailed Method for Determining Minimum Requirements for Own Funds and Eligible Liabilities of Credit Institutions and the Reporting Method (OGM 10/26))

Deferred application

Article 15

The provisions of Article 5, Article 6 paragraph (6) and Article 8 paragraph (11) of this Law shall apply as from the day of Montenegro's accession to the European Union.

Repealed regulation

Article 16

On the day this Decision enters into force, the Decision on Detailed Criteria for Determining Minimum Requirements for Own Funds and Eligible Liabilities of Credit Institutions (OGM 126/20) shall be repealed.

Entry into force

Article 17

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

THE COUNCIL OF THE CENTRAL BANK OF MONTENEGRO