

## **LAW ON CENTRAL BANK OF MONTENEGRO**

### ***I GENERAL PROVISIONS***

#### **Article 1**

This Law establishes the Central Bank of Montenegro (hereinafter: the Central Bank).

The Central Bank is an independent institution of the Republic of Montenegro (hereinafter: the Republic) and it is solely responsible for monetary policy, establishing and maintaining a sound banking system and efficient payment system in the Republic.

Monetary policy of the Central Bank is based on Deutsche Mark (DEM) as a monetary unit, payment instrument as well as a reserves currency, until the introduction of Euro.

#### **Article 2**

The Central Bank acts independently within the limits of its authorities determined by this Law.

#### **Article 3**

The Central Bank may not issue money.

The Central Bank may not grant loans to the Government of the Republic of Montenegro (hereinafter: the Government) or to other legal entities and private individuals, except under the conditions prescribed by this Law.

#### **Article 4**

The Central Bank is a legal entity.

The Head Office of the Central Bank is in Podgorica.

#### **Article 5**

The Central Bank shall use and dispose of its property in a manner determined by this Law.

## **Article 6**

The Central Bank shall be released of taxes, all tariffs and duties, in accordance with the Law.

## **Article 7**

The Republic shall not guarantee for the Central Bank's obligations nor shall the Central Bank guarantee for the Republic's obligations.

## **Article 8**

The Central Bank shall submit, as needed, but at least annually, the report of its operations to the Parliament of the Republic of Montenegro (hereinafter: the Parliament).

## **Article 9**

The Central Bank has its own seal that contains the title: "The Central Bank of Montenegro Podgorica" and the coat of arms of the Republic.

## **Article 10**

The Central Bank shall have its By-laws.

The By-laws of the Central Bank shall be published in "The Official Gazette of the Republic of Montenegro".

## **Article 11**

In the process of performing its functions determined in Article 1 of this Law, the Central Bank shall have following authorities:

- 1) grant and revoke licenses for operation of banks and financial institutions, regulate and supervise their operations and carry out the bankruptcy and liquidation proceedings of banks and financial institutions in the Republic;
- 2) grant loans from its reserves to banks licensed to operate in the Republic, under the conditions determined by this Law;
- 3) prescribe and perform measures, regulate and supervise payment system, settlement and inter-bank clearing in the Republic;
- 4) perform and supervise payment system in the country and with foreign countries;

5) act as a banker, adviser and fiscal agent of bodies and organizations of the Republic;

6) purchase and sell currencies and precious metals for its own account or for the account of the Republic;

6a) buy and sell securities, at the secondary market, issued by the Republic, a European Union member-state, or other state designated in a regulation of the Central Bank of Montenegro;

7) perform regular macroeconomic analysis, including monetary, fiscal, financial and balance of payments' analysis of the economy of the Republic, and give recommendations to the Government in the field of economic policy;

8) prepare and participate in the preparation of laws and other regulations from monetary, foreign exchange and banking system, in accordance with the international standards, including determination of reserves for different types of deposits;

9) provide banking services on behalf of foreign governments, foreign central banks, as well as on behalf of international organizations and other international institutions in which the Central Bank or the Republic participate;

10) accept deposits from banks, state bodies and organizations;

11) open and maintain accounts for the needs of state bodies and organizations, domestic and foreign banks, international financial institutions and donor organizations;

12) prescribe the manner of performing activities of dealers and banks in foreign exchange transactions, determine limits on foreign exchange positions of dealers and banks and supervise them;

13) may own and manage one or more payment systems including one system of real time gross settlement of big payments;

14) may manage a system of net settlement of small value payments;

15) provide notes and coins in quantities adequate for fulfilling the needs of financial transactions;

16) perform other operations determined by this and other laws.

## **Article 12**

Individual terms used in this Law shall have following meanings:

1) "bank" is a legal entity, the activity of which is acceptance of deposits of legal entities and private individuals and use of such funds, whether in whole or partially, for granting loans or investing for its own account and risk;

2) "deposits" represent money deposited in a bank which should be paid on demand (at sight or in other way), with or without interest, which leads to a debtor-creditor relationship that is not based on turnover of goods or provision of services;

3) "credit" means a loan or a commitment to lend money or renew the loan, a guarantee for payment of debt, as well as an activity aimed at acquiring the right to collection of certain amount of money: the term "credit" does not

include deposits in banks and purchase of bonds and other similar (debt) securities at the secondary market;

4) “security” means a company share, bond, certificate of financial obligation, including Government’s certificates of its financial obligations, as well as other investment or commercial papers accepted at developed capital markets (as well as derivatives of those securities) that are sold either at the Stock Exchange or over-the-counter and regardless of whether they are in paper or non-materialized (electronic) form;

5) “financial institution” means a legal entity engaged primarily in granting loans or investing for its own account and on its own risk or dealing with other financial services;

6) “fiscal agent” means a function of the Central Bank whereby it acts as a depository and performs activities related to the allocation of public revenue funds and shall make payments of principal and interest by order of agencies and organizations of the Republic and perform administrative operations related to the public debt;

7) “recommendation” means unbinding guideline or statement of policies established and published by the Central Bank for the purpose of notifying banks, financial institutions and other entities;

8) “International Accounting Standards” mean the latest international accounting standards issued by the Board for International Accounting Standards (IASB);

9) “order” means a binding guideline for action that the Central Bank issues in order to provide enforcement of the provisions of this Law, that is regulations enacted under the basis of this Law;

10) “clearing house” performs activities of real time gross settlement of large payments (RTGS) and/or activities of net settlement of small value payments;

11) “real time gross settlement of large payments (RTGS)” means payment system that requires definite payment be covered by sufficient funds at the account of bank-participant;

12) “small value payments net settlement” means payment system with settlement deferred in time;

13) “intra-day credit” means a credit provided by the Central Bank to a commercial bank, that must be repaid by the end of the same working day when it was provided and must be fully secured by a pledge.

## ***II MANAGEMENT OF THE CENTRAL BANK***

### **Article 13**

The Council of the Central Bank (hereinafter: the Council) manages the Central Bank.

## **Article 14**

The Council has seven members.

Members of the Council are: president of the Council, general manager and two deputies of the general manager, that are executive officers of the Central Bank and are nominated by a working body of the Parliament competent for appointments and elections, and three members nominated by the Government.

The members of the Council shall be appointed by the Parliament.

## **Article 15**

Member of the Council must have special professional knowledge in the area of monetary, credit and foreign exchange systems.

An officer or an employee of a bank that operates in the Republic or a person that owes more than 5% of shares of any bank may not be a member of the Council.

Member of the Council must have moral qualities and cannot be elected if he/she was convicted for criminal offences, that is, if there are legal proceedings against him/her for criminal offences that would make him/her not a proper person to perform function of a member of the Council.

Member of the Council must be a person with recognized integrity who shall perform his/her duty in the Central Bank in such manner he/she that shall not put his/her personal interests or interests of related parties in front of interests of the Central Bank and its clients.

Member of the Council shall be obliged, at least once annually, to submit the report to the Council on realizing his/her direct and indirect financial interests, as well as interests of his/her related parties, in a manner prescribed by the Central Bank.

## **Article 16**

Member of the Council is appointed for the time period of six years and may be appointed twice at most.

## **Article 17**

The Council has authorities to:

- 1) establish policies in accordance with provisions of Article 11 of this Law;
- 2) enact regulations, recommendations and orders that the Central Bank issues;
- 3) approve reports and recommendations that the Central Bank delivers to the Parliament or Government;

- 4) decide on presence of the Central Bank in international organizations;
- 5) enact the Central Bank's By-laws and determine general guidelines for operations of the Central Bank;
- 6) reach the financial plan and annual account of the Central Bank;
- 7) decide upon applications for granting and revoking licenses of banks, financial institutions and payment systems;

Other activities, manner of operation and other issues related to the operation of the Council shall be determined by Central Bank's By-laws and the Rules of Procedure of the Council.

Decisions of the Council that have the character of general acts shall be published in the "Official Gazette of the Republic of Montenegro".

### **Article 18**

President of the Council shall preside at sessions of the Council, represent the Central Bank and take care of implementing decisions of the Council.

If the President of the Council considers that an act of the Council is contrary to the Law, By-laws of the Central Bank or other general act, he shall warn the Council thereof. If even after such warning the Council still keeps to its act, the President shall inform the Parliament of it.

The general manager shall replace the President of the Council if he is prevented from attending.

In case when the general manager is prevented from attending too, the deputy general manager for banking system supervision shall replace the President of the Council.

### **Article 19**

General manager is an executive officer of the Central Bank in charge of daily business operation of the Central Bank.

General manager shall report to the Council, at least once a month, on business operation and activities of the Central Bank, on managing monetary policy, on soundness of the financial system, on money supply, capital and foreign exchange market, including all movements that have or shall have significant influence on management or business operation of the Central Bank, on enforcement of its policies, on the financial system or on the mentioned markets.

In the case that the general manager is absent or prevented from attending, he shall be replaced by deputy general manager for banking system supervision, or if he is prevented too, then by deputy general manager for payment system operation.

## **Article 20**

One deputy general manager shall be appointed for banking system supervision and shall be responsible for granting licenses, regulating and supervision of banks and financial institutions.

In performing his function, the deputy general manager mentioned in paragraph 1 above shall have powers to undertake all necessary measures against a bank and financial institution, including appointment of interim administrator, as well as implementation of the procedure of closing a bank or financial institution.

## **Article 21**

Another deputy general manager shall be appointed for payments system operation and shall be responsible for management, regulation and supervision of payment systems, including functioning of the real time gross settlement of large payments (RTGS).

## **Article 22**

The Central Bank shall have a Chief Economist, as an executive officer who shall manage the statistic and research department, and who shall be responsible for macroeconomic analysis, including monetary, fiscal, financial and balance of payment's analysis of the economy of the Republic.

The Council shall appoint the Chief Economist upon the nomination by President of the Council.

The Chief Economist shall give advise to the President of the Council, Council and executive officers of the Central Bank on macroeconomic and monetary issues that are under competence of the Central Bank and shall submit monthly reports to the Council on the condition of the economy of the Republic.

## **Article 23**

Member of the Council shall be relieved of duty if:

- 1) he is not fit and proper to be a member of the Council in the sense of Article 15 of this Law;
- 2) he was debtor in a bankruptcy procedure;
- 3) he has been convicted to an unconditional prison term or convicted for an offence which makes him unworthy of position of the Council's member;
- 4) he performs his function of the Council member unprofessionally and unconscientiously;
- 5) he permanently loses his abilities for performing the function of the Council member.

No officer, employee or adviser in the Central Bank shall be personally responsible, either in criminal or civil cases for any action or non-action, or for giving or failing to give a statement, if it was done in good faith and in the course of regular performance of his/her duties.

#### **Article 24**

The Council may decide that a member of the Council, against whom charges have been brought, cannot perform his function during the course of the proceedings.

#### **Article 25**

Member of the Council may submit a written resignation to the Parliament, upon a prior announcement thereof, made at least one month in advance.

#### **Article 26**

A vacancy in the Council shall be filled by appointment of a new member of the Council in accordance with provisions of Article 14 of this Law.

#### **Article 27**

Member of the Council may not be an officer or an employee in a bank operating in the Republic a year after his term in the Council has ended.

#### **Article 28**

The Council shall decide upon the activities from its scope at sessions that shall be held at least once monthly.

The Council may take decisions if there are at least five members of the Council present at the session.

The Council shall make decisions by majority vote of the Council members.

#### **Article 29**

The Secretary of the Council shall take minutes of the Council's sessions.

The Council shall appoint the Secretary upon nomination by the President of the Council.



The Secretary shall make the minutes available to the President of the Republic, to the Parliament and the Government for their review, after the minutes have been adopted by the Council on its first next session.

### ***III BUSINESS OPERATIONS OF THE CENTRAL BANK***

#### **Article 30**

The Central Bank may grant to a bank licenced in the Republic, for the purpose of maintaining its daily liquidity:

- 1) permission to use its Statutory Reserve Deposits held at the Central Bank, that the bank must restore to the prescribed level by the end of the same working day;
- 2) an intra-day credit from its own resources;
- 3) a credit from its own resources, provided that the amount of the loan is fully secured by securities issued by the Republic, a European Union member-state or other state determined in a regulation of the Central Bank.

The credit referred to in line 3 above shall be granted or renewed for a period of one business day.

The securities used as pledge for intra-day credits and for the credits referred to in line 3 above, must be pledged on the basis of a pledge contract and delivered by the borrowing bank to the Central Bank.

The conditions and manner of the use of the funds referred to in paragraph 1 above shall be prescribed in more detail by the Central Bank.

#### **Article 31**

The Central Bank has the right of priority in the collection of its claims for any credit balance and other assets held on its account or on the account of its appropriate debtors, whether in the form of a collateral for securing its claims or in other form, after such claim becomes due and payable.

The Central Bank may use the right from paragraph 1 of this Article only if it has a credit balance or has performed the sale of other assets at a fair price and reimbursed itself from the sale proceeds after the deduction of the sale costs.

#### **Article 32**

For the sake of maintaining liquidity in foreign payments, the Central Bank shall purchase and sell foreign exchange in the form of notes or securities that

have been issued and/or guaranteed by the European Union or a European Union member-state or other state designated in a regulation of the Central Bank.

### **Article 33**

The Central Bank shall handle foreign exchange reserves of the Republic, except for the part that is handled by licensed banks.

The Central Bank may open accounts in foreign countries.

#### **Article 33a**

The Central Bank may buy and sell securities in the secondary market that are issued by the Republic.

The Central Bank may buy and sell securities issued in either the primary or secondary market that are issued by a member state of the European Union or other state designated in a regulation of the Central Bank.

### **Article 34**

For maintaining the liquidity in foreign payments, the Central Bank may occasionally prescribe that the licensed banks must hold, as a minimum reserve, a certain percentage of foreign exchange deposits freely available at the accounts in foreign banks or in the Central Bank.

### **Article 35**

The Central Bank shall supervise the compliance with the regulations on foreign exchange business operations and foreign exchange reserves management enacted by itself, or, as a representative of the Republic, with the regulations in this field enacted by the Republic.

### **Article 36**

The Central Bank shall perform payment operations with foreign countries in accordance with the principles of banking operations.

The Central Bank may enter, for its own account or for the account and upon the order of a competent Republic authority, into clearing or payment agreements or sign contracts for the same purpose with public or private Central Clearing Houses domiciled in foreign countries.

### **Article 37**

The Central Bank may organize, own, manage, perform control and prescribe the manner of operating the payments system, settlement and inter-bank settlements, in currencies determined by the Central Bank, including payments by checks and other payment instruments.

### **Article 38**

The Central Bank shall grant a license and perform supervision of private clearing houses and private payment systems.

The rules for granting licenses for and manner of operating payment systems shall be determined by the Central Bank's special regulation.

### **Article 39**

The bank licensed for operating in the Republic, that wishes to participate in payment operations, must have an opened account with the Central Bank, under the conditions stipulated by the Central Bank, including maintaining minimum assets.

### **Article 40**

The Central Bank shall organize the supply of notes and coins for the Republic.

### **Article 41**

Banks and financial institutions, that deal with treasury operations, shall be supplied with notes and coins from the Central Bank and shall bear costs of the supply.

The costs of withdrawal of worn-out notes and replacement of damaged notes and coins shall be borne by the Central Bank.

#### ***IV SUPERVISION FUNCTION OF THE CENTRAL BANK***

##### **Article 42**

The Central Bank shall grant and revoke operation licenses of banks and financial institutions, under the conditions prescribed by the law.

##### **Article 43**

The Central Bank shall perform control of creditworthiness and legality of banks' and financial institutions' business operations.

In the performance of the control specified in paragraph 1 above, the Central Bank shall have the right to review books and other documentation of banks and financial institutions, as well as all other participants in the activity that is subjected to the control.

##### **Article 44**

If the control specified in Article 43 above finds that a bank or financial institution has acted contrary to the regulations in the manner that endangers their creditworthiness, the Central Bank shall issue an order to the bank or financial institution to correct the found irregularity and shall at the same time undertake measures towards them as prescribed by the Law.

##### **Article 45**

The licensed banks and financial institutions are obliged, upon the requirement of the Central Bank, to deliver, without delay, any information related to their business operation and financial position, in the manner prescribed by the Central Bank.

##### **Article 46**

The Central Bank shall hold the Register of banks and financial institutions that were granted licenses as well as of their organizational parts, the Register of banks authorized for performing payment operations and credit operations with foreign countries, the Register of individual ownership or mixed ownership banks and financial institutions in foreign countries with Montenegrin capital, and the

Register of representative offices of organizational parts and other forms of financial activities of foreign banks and other financial institutions in the Republic.

## ***V INFORMATION SYSTEM OF THE CENTRAL BANK***

### **Article 47**

The Central Bank shall perform bookkeeping and processing of data and reports in accordance with accepted international standards, including international accounting standards.

### **Article 48**

The Central Bank shall gather data on macroeconomic, monetary, fiscal, financial and current account developments, necessary for realizing the powers set forth in Article 11 above.

### **Article 49**

The Central Bank shall gather the data from banks and other users on all export-import operations, foreign exchange used in those transactions and the manner of payment of obligations, for the purpose of establishing the existing debts and obligations toward foreign countries that are outstanding.

### **Article 50**

The Central Bank shall prescribe the format and the content for records, for the processing of data, reports and transfer of data necessary for application of this Law.

## ***VI PROPERTY, INCOME AND EXPENSES OF THE CENTRAL BANK***

### **Article 51**

The Central Bank shall use the property for performing its activities determined by this Law.

The property in the sense of the paragraph 1 of this article consists of ownership rights related to: immovable and movable items, founding capital and other financial funds, precious metals and other titles.

The Council shall enact more detailed regulations for the acquisition, use and disposal of property.

## **Article 52**

The founding capital of the Central Bank shall be five million DEM.

In a period within six months as of the payment of this amount of capital, capital and amounts at the accounts of general reserves of the Central Bank must be equal to at least five percent of the total amount of credit balances of all accounts, that are presented as liabilities in the balance sheet at the end of the financial year. The level of this aggregate minimal amount of funds must be at least five percent (5%) of the total amount of such credit balances. The capital may be increased for an amount determined by the Central Bank and approved by the Government.

The capital of the Central Bank may not be pledged, or burdened in any other way.

## **Article 53**

The Government shall allocate from available funds, within a month as of the day of publishing the balance sheet of the Central Bank, amounts necessary to cover the shown deficits, whenever:

1) a monthly interim balance sheet of the Central Bank shows that the value of its property has fallen below the total amount of its liabilities and unimpaired founding capital, or

2) the amount of net income for any financial year is not sufficient to increase amount of founding capital and general reserves of the Central Bank that is equivalent to five percent (5%) of the total amount of credit balance of all accounts kept by the Central Bank, presented in the balance sheet of the Central Bank as liabilities at the end of a specific financial year.

## **Article 54**

Net income or net loss of the Central Bank shall be calculated for each financial year in accordance with accepted international accounting standards.

Net income shall be allocated each year to the account of general reserves, until amounts of founding capital and general reserves get even with the amount specified in Article 52, paragraph 2, above.

The rest of net income represents the income of the budget of the Republic and it shall be transferred to the account of the Ministry of Finance that has been established with the Central Bank.

Net loss shall be covered from general reserves or at the expense of the founding capital, in that order.

#### **Article 55**

Beside income that the Central Bank earns on the basis of Article 51 above, it shall also earn income from:

- 1) fees for bank licenses;
- 2) fees that banks pay for examination of their business operations; and
- 3) other fees for performing activities from the Central Bank's scope.

The decision on the amount of fees specified in paragraph 1 above shall be made by the Council.

#### **Article 56**

Material expenses of the Central Bank shall be determined by annual financial plan adopted by the Council and furnished to the Government only for information only.

#### **Article 57**

The funds for "Fixed Assets Fund", "Special Reserves Fund", "Non-Operating Assets Fund" and "Employee's Salaries Fund" in the Central Bank shall be anticipated by the financial plan and finally determined in annual financial statement.

The Council shall decide, upon the proposal of president of the Council, on the use of special reserve funds during the year.

#### **Article 58**

The financial year of the Central Bank starts on the first day of January and ends on the last day of December.

#### **Article 59**

Annual financial statement of the Central Bank for previous year shall be prepared in accordance with accepted international accounting standards.

The annual financial statement, with the report and the opinion of an independent external auditor, shall be considered and enacted by the Council by May 31<sup>st</sup> of a current year and shall be delivered to the Parliament for information purposes.

The financial plan of the Central Bank for the next year shall be enacted by the Council, by not later than 30<sup>th</sup> September of the current year.

## **Article 60**

The audit of accounts, records and financial statements of the Central Bank shall be performed by internationally recognized auditors appointed by the Council, with an approval of the Government.

## ***VII CONTROL OVER THE CENTRAL BANK'S BUSINESS OPERATIONS***

## **Article 61**

The Central Bank shall have a General Inspector, who shall be appointed by the Council upon the proposal of the General Manager, for a six-year period, with a possibility for another term.

The General Inspector shall report to the Council.

The General Inspector may resign, but under at least 2-month written notice to the Council.

The General Manager shall be relieved of duty under the conditions prescribed by Article 23 above relating to relieving of duty members of the Council.

## **Article 62**

Duties of the General Inspector are:

1) assessment of the quality of existing and proposed management systems and systems of financial control and testing the functioning of those systems, as well as the reliability and protection of information and transactions;

2) establishment and maintenance of adequate procedures and instruments for risk control in the Central Bank;

3) performing periodical control of administration and business operations of the Central Bank, in the manner that should ensure strict implementation of the Law and regulations related to the Central Bank;

4) performing control and submitting reports and recommendations to the Council about accounts and reports as well as budgetary and accounting procedures and controls of the Central Bank, and



5) reviewing periodical financial records and adequate documents of the Central Bank.

## ***VIII ORGANIZATION OF WORK AND STATUS OF EMPLOYEES IN THE CENTRAL BANK***

### **Article 63**

The fundamentals of organization of work and business operations, as well as the rights, obligations and responsibilities of employees in the Central Bank shall be regulated in more details in the Bylaws.

### **Article 64**

The General Manager shall perform hiring for the Central Bank in accordance with the general regulations.

Employees of the Central Bank may, exceptionally, subject to the approval of the General Manager, work in another legal entity beyond the working hours, if it is not contrary to interests of the Central Bank.

#### **Article 64a**

While holding office, members of the Council and Inspector General shall not occupy any other office or employment, duty or function, except upon special approval of the Council.

While holding office, no member of the Council nor any employee of the Central Bank shall accept any gift or credit or other kinds of benefits from any persons with whom he has business or financial interests, if the acceptance thereof would result in diminishment of his impartial devotion to his duties.

### **Article 65**

Employees of the Central Bank may not be guided by their political affiliations in the performance of their duties.

### **Article 66**

Members of the Council and employees of the Central Bank are obliged not to disclose business and official secret regardless of the manner it has come to their knowledge.

The confidentiality obligation stipulated in paragraph 1 above shall last for five years after the function, i.e., the employment with the Central Bank has been ended.

## ***IX PENALTY PROVISIONS***

### **Article 67**

A responsible person in the bank or financial institution or other legal entity that disable the Central Bank in the performance of its examination from reviewing their business books and other documentation, shall be punished for the offence by a fine equal to up to twenty minimal wages in the Republic (Article 43).

### **Article 68**

A bank or financial institution that does not provide or deliver to the Central Bank in prescribed time limit information related to its business operations and financial position shall be punished for the offence by a fine in the amount of ten up to three hundreds minimal wages in the Republic (Article 45).

For the offence specified in paragraph 1 above even the responsible person in the bank or the financial institution shall be punished by a fine in the amount of ten up to twenty minimal wages in the Republic.

## ***X CLOSING AND FINAL PROVISIONS***

### **Article 69**

The Central Bank shall start operating in accordance with this Law as of the day of appointment of members of the Council.

### **Article 70**

The Central Bank shall enact the Bylaws and other general regulations facilitating the implementation of this Law within three months as of the day of enforcement of this Law and it shall arrange its organization and business operations within six months as of the day of enforcement of this Law.

### **Article 71**

As of the day of enforcement of this Law, the Central Bank shall take over the property and employees of the National Bank of Montenegro, including the Settlement and Payments Institute (ZOP) - Podgorica.

Employees not reassigned in accordance with the job classification scheme of the Central Bank shall realize their rights derived from employment in accordance with general regulations on employment relationships.

### **Article 72**

The Central Bank shall coordinate activities related to payment of foreign debt and collection of claims against foreign countries, originating before the effectiveness of this Law.

### **Article 73**

This Law shall come into force eight days after the day of publication in the "Official Gazette of the Republic of Montenegro".