

# LAW ON PAYMENT OPERATIONS<sup>1</sup>

(revised text - unofficial)

## I. GENERAL PROVISIONS

### Article 1

This Law shall regulate the payment operations in the country (hereinafter: payment operations), relations between payment operations carriers and payment operations participants, relations between payment operations carriers and the National Bank of the Republic of Macedonia concerning payment operations, payment systems, payment settlement, issuance of electronic money and oversight of payment systems.

### Article 2

Certain terms used in this Law shall denote the following:

1. **"Payment operations"** shall denote payments in Denars made by the participants in the payment operations through the payment operations carriers;
2. **"Participant in the payment operations"** shall denote a domestic or foreign legal entity or natural person performing a registered activity or other natural person who makes Denar payments through the payment operations carriers;
3. **"Payment"** shall denote cash payment in transaction account, transfer of funds from one transaction account to another and cash disbursement from transaction account;
4. **"Transaction account"** shall denote a unique and unrepeatable numeric data identifying the participant in the payment operations, and serves for such participant to make payments;
5. **"Blocked transaction account"** shall denote a transaction account of a participant in the payment operations against whom there has been a non-executed decision on forced collection;
6. **"Payment instrument"** shall denote an order of the participant in the payment operations directing the payment operations carrier to make payment;
7. **"Contents of a payment instrument"** shall denote a set of elements of the payment instrument that carry information on its identification and execution;
8. **"Transfer medium"** shall denote carrier of information which contains a payment instrument and provides for the payment instrument to be available within a defined time period;

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<sup>1</sup> This revised text consists of the Law on Payment Operations ("Official Gazette of the Republic of Macedonia" no. 113/2007) and the Law on amending the Law on Payment Operations ("Official Gazette of the Republic of Macedonia" no. 22/2008, 159/2008, 133/2009, 145/2010, 35/2011, 11/2012, 59/12, 166/2012, 170/13, 153/15 and 199/15).

9. **"Form of a payment instrument"** shall denote a layout of the payment instrument elements;
10. **"Decision on forced collection"** shall denote an execution order by a bailiff, effective court decision on approval of execution, debenture, executive decision on misdemeanor penalty, executive decision on collection of public fees or decision of other authorities empowered by law<sup>2</sup>;
11. **"Payment with calculation"** shall denote a mutual settlement of monetary liabilities and claims between participants in the payment operations through compensation, assignation, cession, debt assumption and other forms of mutual settlement of liabilities and claims;
  12. **"Micropayment"** shall denote payment of products and services in a single amount not exceeding Denar 1,000, with the approval for making the payment being issued through telecommunication, digital or IT devices;
  13. **"Micropayment intermediary"** shall denote a telecommunication or network operator or an IT system operator through which micropayments are made and which meets the requirements specified by this law;
  14. **"Micropayment user"** shall denote a natural person or a legal entity that concluded micropayment contract with a micropayment intermediary, and when a legal entity has concluded micropayment contracts on behalf of several natural persons, a micropayment user shall denote each natural person individually, i.e. each subscriber line individually;
  15. **"Calculation cycle"** shall denote a period when micropayment intermediary calculates the transactions executed by a payment user that may neither be shorter than 28 days nor longer than 31 day;
  16. **"Completion of payment"** shall denote the moment when the funds are available to the recipient;
17. **"Available funds"** shall denote all funds on the Denar and foreign currency transaction accounts of the participant in the payment operations-debtor, with the payment operations carrier, used for executing the decisions on forced collection, other than funds on special purpose accounts separated under law or regulation adopted on the basis of law and funds credited on the basis of an account overdraft agreement concluded with the bank;
18. **"Electronic money"** shall denote money value recognized as claim on issuer placed on an electronic device, issued on the basis of a receipt of money in the amount not less than the value of issued electronic money, accepted as a means of payment by entities which are not issuers of such money;
15. **"Treasury account"** shall denote transaction account containing account system maintained in the Treasury Ledger;

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<sup>2</sup> Pursuant to the Law on amending the Law on Payment Operations ("Official Gazette of the Republic of Macedonia" no. 59/12) the term "debenture" stated in Article 2 item (10) shall be effective from September 1, 2012.

16. **"Health treasury account"** shall denote a transaction account containing account system maintained in the Health Ledger and

17. **"Payment system oversight"** shall denote a function aimed at reaching the objectives related to the payment system security and efficiency by monitoring the existing and scheduled arrangements, evaluating them by a comparison with the objectives and the policies.<sup>3</sup>

## **II. PAYMENT OPERATIONS CARRIERS**

### Article 3

Payment operations carriers shall be the National Bank of the Republic of Macedonia (hereinafter: National Bank), banks that were granted a license to perform payment operations pursuant to law and foreign bank branches and the Treasury at the Ministry of Finance (hereinafter: Treasury), as a special payment operations carrier for budget users and individual users and the Treasury of the Health Insurance Fund of Macedonia as a special carrier of the payment operations of the health institutions (hereinafter referred to as: the Fund's Treasury).

### Article 4

Payment operations carrier shall provide:

- 1) single transaction settlement account at the National Bank;
- 2) sorting code for its identification;
- 3) intraday settlement of the payment instruments of the participants in the payment operations, and at least by the end of the day according to the forward schedule of the National Bank's settlement system;
- 4) rules and procedures for using services it offers to the payment operations participants;
- 5) equality and identical treatment of all the participants in the payment operations;
- 6) security and operational accessibility;
- 7) procedures for timely completion of the processing, in case of technical problems;
- 8) confidentiality of data on the transaction account balance, as stated by law;
- 9) protection of data on the transaction account holder;
- 10) safe and efficient transfer of funds among the payment operations participants, and
- 11) notification to the participants in the payment operations on the balance and the changes in their transaction accounts, not later than the next business day after the occurrence of the change.

### Article 5

The National Bank, as payment operations carrier, shall perform the following activities:

- 1) organize a settlement system among the payment operations carriers;
- 2) open and maintain transaction accounts of banks, deposit accounts of broker associations and other accounts that, as specified by law, are to be maintained at the National Bank and shall make payments from accounts;
- 3) open and maintain other transaction accounts, unless otherwise stipulated by law;

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<sup>3</sup> The other items (15,16 and 17) have been omitted in the amendment published in the "Official Gazette of the Republic of Macedonia" no. 166/2012.

- 4) open and maintain a Treasury account;
- 5) maintain accrual transaction accounts for the payment system operators;
- 6) prescribe account construction standards for the participants in payment operations;
- 7) assign sorting code to payment operations carriers;
- 8) determine the amount of payment which is a small-scale inter-bank payment;
- 9) keep a transaction accounts registry within its system;
- 10) enforce decisions on forced collection related to transaction accounts it maintains and
- 11) regulate the manner of maintaining and the contents of the Single Transaction Account Registry.

#### Article 6

The banks and foreign bank branches, as payment operations carriers, shall:

- 1) open and maintain transaction accounts of the participants in the payment operations and shall make payments from accounts;
- 2) keep transaction accounts registry within their system and
- 3) enforce decisions on forced collection related to transaction accounts they maintain.

#### Article 7

(1) The treasury, as a special payment operations carrier, other than operations listed under Article 38 of the Budget Law, shall also:

- 1) open and maintain accounts of budget users, individual users and other institutions as defined by the law;
- 2) keep account registry in its system;
- 3) execute payments from accounts within the Treasury Ledger through the treasury account;
- 4) debit accounts within the treasury account based on contractual authorizations and
- 5) debit accounts within the treasury account in the case of correction of error by the Treasury.

(2) The form and the contents of the payment forms used by the budget users and individual users, and the procedure for correction of error made during payment operations shall be defined by the Minister of Finance.

#### Article 7-a

(1) The Fund's Treasury, as a special carrier of the payment operations of the health institutions, except the operations set forth in Article 69-f of the Health Insurance Law shall perform the following operations:

- 1) open and maintain accounts of the health institutions;
- 2) maintain account registry in its system;
- 3) make payment from the accounts within the frames of the Health Ledger through the Health treasury account;
- 4) debit accounts within the frames of the Health treasury account on the basis of agreed authorizations and
- 5) debit accounts within the frames of the Health treasury account in case of error correction by the Fund's Treasury.

- (2) The format and the contents of the payment forms used by the health institutions, as well as the procedure for error correction made during the execution of the payment operations shall be prescribed by the Minister of Finance.

#### Article 8

- (1) The decisions on forced collection debiting the Treasury account or Health treasury account, i.e. the debtor account housed in the Treasury Ledger or in the Health Ledger shall be enforced by the National Bank by preparing execution orders submitted to the Treasury or the Fund's Treasury for execution.
- (2) The manner of execution of orders under paragraph (1) of this Article in the case of debiting the Treasury account or the Health treasury account, i.e. debtor account housed in the Treasury account, or in the Health treasury account, shall be prescribed by the Minister of Finance.

#### Article 9

- (1) The Treasury, or the Fund's Treasury shall inform the payment system operators on the accounts maintained in the Treasury Ledger, or in the Health Ledger.
- (2) Clearing house that maintains the single transaction account registry shall submit data thereof to the Treasury or the Fund's Treasury.

### **III. CONDUCT OF PAYMENT OPERATIONS**

#### Article 10

- (1) The payment operations shall be executed only through transaction accounts registered in the single transaction account registry.
- (2) Payment operations participants shall not be allowed to execute payments among each other through means other than transaction accounts.

#### Article 11

The payment operations carrier shall allow payment of salary to the payment system participant only if it has been already cleared from any tax and contributions.

#### Article 12

- (1) Payment operations carrier, in order to perform payment operations, shall open transaction account of the payment operations participant upon their written request.
- (2) Any participant in the payment operations may have several transaction accounts with one payment operations carrier.
- (3) Any participant in the payment operations may have transaction accounts with several payment operations carriers.

- (4) The manner and the procedure for opening and closing the transaction account referred to in paragraph (1) of this Article shall be prescribed by the Governor of the National Bank.

#### Article 13

- (1) Payment operations carrier shall close the transaction account of the participant in the payment operations upon its written request, as specified in Article 12 paragraph (4) of this Law.
- (2) By derogation from paragraph (1) of this Article the payment operations carrier shall close any transaction account of the participant in the payment operations without their written request, as well, if the participant in the payment operations is an inactive entity the closure of which, pursuant to the law, has been published on the web site of the Central Registry of the Republic of Macedonia.
- (3) Provided that the participant in the payment operations ceases to exist as a legal entity pursuant to law, court decision or by order of a competent authority, the payment operations carrier shall close the transaction account of the participant in the payment operations.
- (4) The payment operations carrier shall close any transaction account without balance and that has not registered any change over the last two years and has not been blocked, and shall notify the payment operation participant thereon.

#### Article 14

The participant in the payment operations shall notify, in writing, all payment operations carriers with which it holds transaction account on all status and other changes, within three days after the date of adoption of the decision on status and other changes.

#### Article 15

- (1) Payment operations carrier shall submit the data on changes in its transaction account registry to the Single Registry of Account Holders the same day, not later than the end of the working hours of the single transaction account registry.
- (2) The single transaction account registry shall submit data on changes in the transaction account registry to the Central Registry of the Republic of Macedonia within the period set under paragraph (1) of this Article.
- (3) The single transaction account registry shall be maintained by a clearing house appointed by the Ministry of Finance.

#### Article 16

The data from the single transaction account registry may be used under the terms stipulated by this and other law.

#### Article 17

- (1) Payment instruments shall be used for performing payment operations.
- (2) The form of the transfer media of payment instrument shall be a subject of agreement between payment operations carrier and the participant in the payment operations.
- (3) The payment instruments and their form and contents, other than the form of payment instruments contained in the transfer media, shall be prescribed by the Minister of Finance.

#### Article 18

- (1) The payment through transaction accounts shall be made on the basis of payment instrument.
- (2) A payment instrument debited from the account may be issued by:
  - 1) participant in the payment operations - accountholder;
  - 2) payment operations carrier on the basis of contractual authorizations and decisions on forced collection;
  - 3) payment operations carrier for error correction made by payment operations carrier, except for the Treasury account;
  - 4) Treasury at the Ministry of Finance, for accounts within the Treasury account, and
  - 5) the Fund's Treasury for accounts within the frames of the Health treasury account.
- (3) The error correction procedure made by payment operations carriers referred to in paragraph (2) item 3 of this Article shall be prescribed by the Governor of the National Bank.

#### Article 19

- (1) Payment instrument shall be paid only if the transaction account debited for issuance of the payment instrument has a coverage.
- (2) Transaction account coverage shall denote balance on transaction account from the preceding day increased by the inflow during the day and by the funds credited on the basis of an account overdraft agreement concluded with the bank, less the payments during the day to the moment of determining the coverage.

#### Article 20

- (1) For cash payment purposes, the participant in the payment operations may withdraw cash from its accounts and keep it in its vault, to the maximum amount of cash in vaults.
- (2) The maximum amount of cash in vaults shall be determined by the participant in the payment operations by a special act.

- (3) The participant in the payment operations - legal entity shall pay-in all cash it received from the trade conducted that day on any basis, not later than the next business day, on its transaction account.
- (4) The cash payment for goods and services by legal entities may not exceed Denar 6,000, each.

#### Article 21

- (1) Payment operations carrier shall enforce the decisions on forced collection pursuant to law. The payment operations carrier shall execute the decisions on forced collection not later than the next business day after the date of receiving the decision.
- (2) The decisions on forced collection shall be entered into records and executed according to the date and the time of their arrival.

#### Article 22

- (1) The decision on forced collection shall be submitted to payment operations carrier indicated in the decision on forced collection.
- (2) Payment operations carrier shall enforce the decision on forced collection only if the indicated data that reliably identify all elements of the decision are accurate. Otherwise, it shall send it back to the issuing authority i.e. fiduciary that has submitted the decision for further clarification<sup>4</sup>.
- (3) Payment operations carrier shall enforce the decision on forced collection using all available funds of the participant in the payment operations – debtor with the payment operations carrier.
- (4) In the case the participants in the payment operations – debtors lack funds on their Denar accounts for complete enforcement of the decision on forced collection, payment operations carrier shall carry out a conversion of funds from the foreign currency accounts into Denars by applying the middle exchange rate of the National Bank applicable on the transaction date and transfer them to the Denar account of the participant in the payment operations – debtor to the amount necessary for complete enforcement of the decision on forced collection.
- (5) In the case of lack of funds for complete enforcement of the decision on forced collection, the payment operations carrier shall enforce the decision to the amount available and shall block the account, and by submitting the tax number of the participant - debtor shall notify, through the single transaction account registry, all other payment operations carriers that they must not make payments using the funds on the Denar and foreign currency accounts of the participant – debtor until the complete enforcement of the decision, except for orders for transferring funds to

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<sup>4</sup> Pursuant to the Law on amending the Law on Payment Operations ("Official Gazette of the Republic of Macedonia" no. 59/12) the term "fiduciary that has submitted" stated in Article 22 paragraph (2) shall be effective from September 1, 2012

the account with payment operations carrier, which is to enforce the decision on forced collection.

- (6) Upon settling the liabilities on the basis of the decision on forced collection, the payment operations carrier shall unblock the transaction account and shall notify all payment operations carriers through the single transaction account registry thereon.
- (7) The payment operations carrier may conduct payment operations for the participant - debtor if there are no other registered decisions on forced collection.

#### Article 23

If the payment operations participant, on the date of expiration of the agreement on making their deposits fixed-term, has a blocked transaction account, the bank may not pursue with the agreement on making fixed-term deposits. The bank keeping the fixed-term deposit of the payment operations participant whose account is blocked, shall, on the date of expiration on the agreement on making fixed-term deposits, transfer such deposit on the transaction account of the payment operations participant.

#### Article 24

If the transaction account of the participant in payment operations is blocked for a subsequent period exceeding 45 days, the payment operations carrier shall notify the Central Registry of the Republic of Macedonia through the single transaction account registry.

#### Article 25

- (1) Any participant in payment operations who has blocked transaction account may not make payment with calculation.<sup>5</sup>
- (2) Any budget user, individual user and other institutions which hold accounts in the Treasury Ledger and which have blocked transaction account may not make payment with calculation.
- (3) Any public health institutions which hold accounts in the Health Ledger and which have blocked transaction account may not make payments with calculation.

#### Article 26

- (1) Payment operations carrier may charge fee for performing the payment operations, at a rate fixed by the payment operations carrier.
- (2) The payment operations carrier shall display the rate list on the noticeable place on its premises and on its website.

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<sup>5</sup> Pursuant to the Law on amending the Law on Payment Operations ("Official Gazette of Republic of Macedonia" no. 199/15), the provision under Article 25 paragraph (1) shall be implemented from December 31, 2017.

## Article 27

The payment operations carrier, on request of participant and potential participants in payment operations shall, in advance, issue information on the requirements for conducting payment operations. The information shall be in comprehensible form and contain at least the following:

- 1) method of determining transaction fees charged by the bank to the participant in payment operations (cash deposit, cash withdrawal or transfer from or to the account);
- 2) time within which the bank of transfer user will be credited upon obtaining the order, in the case of remittance, i.e. the time within which the bank would be credited, in the case of inflow on account and
- 3) manner and procedure for exercising a right of complaint and default compensation available to the participant in payment operations and the manner of exercising such rights.

### III-a. MICROPAYMENTS

#### 1. Terms and conditions for providing micropayment service

##### Article 27-a

(1) Micropayment intermediary shall hold a core principal that at any moment equals at least Denar 3,000,000 and meet technical standards for performing micropayment.

(2) Micropayment order shall be provided via telecommunication, digital or IT device and the payment shall be made by a micropayment intermediary who acts solely as an intermediary between the micropayment user and the supplier of goods and service provider with whom the micropayment intermediary has concluded a contract.

(3) The total transactions in a settlement cycle per user of a micropayment made by a micropayment intermediary shall not exceed Denar 6,000.

(4) Total monthly transactions of all users of micropayment made by a micropayment intermediary shall not exceed Denar 100,000,000.

(5) Funds paid-in by the micropayment user to the micropayment intermediary shall neither be considered a deposit under the Banking Law, nor shall be considered electronic money under this law.

(6) Micropayment shall be conducted as specified by a contract signed by micropayment user and micropayment intermediary.

(7) Micropayment intermediary shall, at least once a month, submit to the micropayment user, free of charge, a report on conducted micropayments and on costs of each micropayment in a manner and a form defined by the contract under paragraph (6) of this Article.

#### 2. Micropayment intermediary license

##### Article 27-b

(1) Any entity/person seeking to become a micropayment intermediary under this law shall submit an application to the National Bank for issuing a micropayment license.

(2) The application referred to in paragraph (1) of this Article shall also enclose the following documents, data and information:

1) name, seat and address of the person/entity seeking to become a micropayment intermediary and data on the responsible officer of the legal entity;

2) Evidence that the legal entity intending to become a micropayment intermediary holds core principal of at least Denar 3,000,000;

3) Evidence that micropayment technical standards concerning at least the security and operational availability, secure and efficient transfer of funds between the micropayment user and the supplier of goods and service provider with whom the micropayment intermediary has concluded a contract, have been met;

4) Rules and procedures for conducting micropayment and for monitoring and observing micropayment amount limits;

5) Procedures for timely completion of processing in case of technical problems  
and

6) anti-money laundering and terrorism financing program developed under the Law on Anti-Money Laundering and Terrorism Financing.

(3) The Governor shall decide on the application for issuing micropayment license within 60 days of the application submission date.

(4) The Governor shall reject any incomplete application for issuing the license referred to in paragraph (1) of this Article.

(5) The Governor shall reject the application for issuing the license referred to in paragraph (1) of this Article provided that:

- 1) The application is not accompanied by the documentation specified by paragraph (2) of this Article;
- 2) The application contains inaccurate or false data and
- 3) The submitted documents, data and information show that the micropayment technical standards or the requirements concerning micropayment amount limits defined by this law have not been fulfilled.

(6) The technical standards referred to in paragraph (2) item 3 of this Article shall be specified by the National Bank Council, in more details.

(7) Documentation, data and information confirming the fulfillment of requirements referred to in paragraph (2) of this Article, the manner of their submission and the manner of their evaluation shall be defined by the National Bank Council.

#### Article 27-c

(1) Micropayment intermediary shall notify the National Bank in writing on each modification in the documentation, information and data referred to in Article 27-b paragraph (2) of this law explaining the reasons behind the modification.

### 3. Micropayment Intermediary Registry

#### Article 27-d

(1) The National Bank shall maintain a Micropayment Intermediary Registry.

(2) The Governor of the National Bank shall define the form, the contents and the manner of maintaining the Micropayment Intermediary Registry.

### 4. Notification

#### Article 27-e

(1) The National Bank shall notify the Ministry of Finance in writing on issuance or revocation of micropayment license, within five working days of the date of license issuance/revocation.

(2) The notification referred to in paragraph (1) of this Article shall contain:

- 1) Name, seat and address of micropayment intermediary;
- 2) Data on the responsible officer of the micropayment intermediary;
- 3) Date of issuance/revocation of the license of micropayment intermediary and
- 4) reasons behind the revocation of the license of micropayment intermediary.

### 5. Oversight of micropayment intermediaries

#### Article 27-f

(1) The National Bank shall conduct oversight of the micropayment intermediary operations in terms of:

- 1) Fulfillment of micropayment technical standards referred to in Article 27-b of this law and
- 2) Observance of the limits on a single transaction and on total monthly micropayment transactions.

(2) The National Bank may conduct the oversight referred to in paragraph (1) of this Article through offsite surveillance of the micropayment intermediary operations or through onsite inspection of the micropayment intermediary, as specified by the National Bank's internal acts.

(3) Micropayment intermediary shall submit micropayment reports to the National Bank.

(4) The report form, contents and submission frequency shall be specified by the National Bank Council.

#### Article 27-g

During onsite inspection, the micropayment intermediary shall enable the National Bank's authorized officer to conduct smooth oversight and insight in activities and to make available, on their request, the overall documentation, information and data.

#### Article 27-h

(1) The National Bank's authorized officer shall draft a report on the activities undertaken during the onsite inspection.

(2) Micropayment intermediary shall have the right to raise objections to the report within eight days of the date of receipt of the report by the National Bank.

#### Article 27-i

The National Bank may undertake the following activities against any micropayment intermediary considered to have operated contrary to the provisions of this law:

- 1) submit written warning or written recommendation;
- 2) issue written order or specify a period for compliance of activities and acts with the provision of this law and regulations developed under the provisions of this law and
- 3) revoke the micropayment intermediary license.

#### Article 27-j

The Governor of the National Bank shall revoke, by a decision, the micropayment intermediary license if considered that such micropayment intermediary:

- 1) fails to provide micropayment intermediary service for more than six months;
- 2) obtained micropayment intermediary service license on the basis of forged and false documents, data and information;
- 3) no longer meets the terms and conditions for providing micropayment intermediary service defined by this law and regulations adopted on the basis of this law, thus jeopardizing the micropayment security;
- 4) fails to observe or acts contrary to the provisions of this law and regulations derived from this law, thus jeopardizing the micropayment security and
- 5) obstructs the oversight of the National Bank.

#### Article 27-k

(1) If the National Bank or oversight authority empowered by law, learn that legal entities and natural persons provide micropayment intermediary services without being licensed by the National Bank, they shall forthwith notify the Financial Police Office.

(2) Once the Financial Police Office receives the notification referred to in paragraph (1) of this Article it shall immediately inspect the operations of persons/entities referred to in paragraph (1) of this Article and undertake measures within their responsibilities.

## **IV. ELECTRONIC MONEY**

### Article 28

- (1) Electronic money issuer may be only:
  - 1) bank, having a head office in the Republic of Macedonia, granted a prior approval for issuing electronic money by the Governor of the Republic of Macedonia;
  - 2) branch of a bank from the EU member-states, in consistence with the Banking Law;
  - 3) foreign bank branch which, according to the Banking Law, was granted a founding and operating license by the Governor of the National Bank and
  - 4) electronic money issuing company, which, according to this law was granted a founding and operating license by the Governor of the National Bank.
- (2) The receiving of cash for issuing electronic money shall not denote accepting deposit or other repayable sources of funds in the light of the provisions of the Banking Law, provided that the electronic money are issued immediately after receiving such cash.

### Article 29

- (1) Electronic money shall be issued on a basis of agreement on issuing electronic money concluded between electronic money issuer and natural person - electronic money owner (hereinafter: owner).
- (2) Subject to the agreement referred to in paragraph (1) of this Article, an upon payment of the specified amount of cash, the owner shall be issued electronic money that serve for making payments up to the amount of the coverage of issued electronic money.
- (3) The issuer shall charge a fee to the owner for the issued electronic money. No fee or other costs shall be charged in the case of payment with electronic money.
- (4) The coverage of issued electronic money shall be in the amount of the cash paid-in, less the amount of executed payments and charged fees.

### Article 30

Unless otherwise specified by this law, the relations between the electronic money issuer and owner shall be regulated by the provisions of the Law on Contracts.

## **2. Rights and obligations of the issuer and the owner**

### Article 31

- (1) The owner may at any time within the validity period of the agreement of issuing electronic money to request from the issuer to pay the full value of the electronic money coverage, in cash or by transfer to their transaction account. The payment must be made within eight days upon receiving the payment request.
- (2) The electronic money issuer shall not be entitled to charge fee and other costs for the payment referred to in paragraph (1) of this Article.

- (3) The liability for damage that might arise in relation to paragraphs (1) and (2) of this Article may not be subject to contractual exclusion or restriction.
- (4) The agreement on electronic money issuance shall set forth the terms of payment, possibly including the minimum amount of payment that may not be less than Denar 700.

#### Article 32

The electronic money issuer shall make the information on the electronic money coverage accessible to the owner.

#### Article 33

- (1) The electronic money issuer shall be liable to the owner for the lost coverage and for the inaccurate payment, even if the reason behind such loss of coverage or inaccurate payment resulted from defected device storing the electronic money or defected equipment which is not under direct or exclusive control of the electronic money issuer.
- (2) The electronic money issuer may be released from the liability referred to in paragraph (1) of this Article if it proves that the loss of the coverage or the inaccurate payment was caused due to negligence or bad faith of the owner.

### **3. Electronic money issuing company**

#### Article 34

- (1) The provisions of the Banking Law that regulate the founding a bank (shareholder, initial capital, preference shares, founding and operating license, license for status changes and registration in trade registry), qualified participation in a bank and approvals of shareholders, opening branches of banks of the Republic of Macedonia abroad, bank's general meeting of shareholders, management and supervisory board of a bank (approvals, number of members, appointment and responsibilities), Internal Audit Department of banks, measures (regular and additional, revocation of approvals, revocation of license for founding and operating and status changes), opening and administering a liquidation in a bank, opening and administering bankruptcy in a bank, and the provisions concerning reports, accounting and audit and misdemeanor sanctions shall apply to electronic money issuing company, unless otherwise stipulated by this law.
- (2) The method of applying the provisions of paragraph (1) of this Article to the electronic money issuing companies shall be prescribed in detail by the National Bank Council.

### **3.1. Founding**

#### Article 35

- (1) The electronic money issuing company shall be incorporated as a joint-stock company, on prior approval granted by the Governor of the National Bank.
- (2) The founding of electronic money issuing company shall require initial capital of at least Denar 70 million.
- (3) The electronic money issuing company shall maintain the value of initial capital referred to in paragraph (2) of this Article.

### **3.2. Risk management**

#### Article 36

The electronic money issuing company must hold its own funds as defined in the Banking Law. The own funds shall not drop below the amount of initial capital referred to in Article 35 paragraph (2) of this law and must, at any time, equal at least 2% of whichever higher of the following:

- 1) current balance of all payment liabilities arising from electronic money issuance or
- 2) average balance of all payment liabilities arising from electronic money issuance over the last six months.

#### Article 37

- (1) The electronic money issuing company shall invest funds at least to the amount on the current balance of all liabilities arising from electronic money issued. They shall be invested only in low-risk and highly liquid assets.
- (2) The type of assets in which the electronic money issuing company may invest, the investment volume, aggregately and in individual type of assets, the methodology for managing risks arising from electronic money issuance and investment, the methodology for evaluating the assets and the method and contents of reporting related to the investments and exposure to risk shall be specified by the National Bank Council.

### **3.3. Activities**

#### Article 38

- (1) The electronic money issuing company shall not perform other activities other than electronic money issuance.
- (2) As an exception to paragraph (1) of this Article, the electronic money issuing company may also perform:
  - 1) financial and non-financial services related to electronic money issuance, such as administering electronic money through operational and other ancillary services

related to electronic money issuance and issuing and administering other means of payment, except for lending of any kind and

- 2) data storage on electronic devices on behalf of other legal entities.
- (3) The electronic money issuing company shall not hold and acquire capital holdings in legal entities, other than in legal entities performing services referred to in paragraph (2) of this Article.

## **V. PAYMENT SYSTEMS**

### Article 39

Payment system shall denote a system for transferring funds established on formal and standardized agreements and mutual rules for processing, netting and/or settlement among participants in the payment system.

### Article 40

- (1) The payment system participants shall be payment operations carriers, clearing house and settlement agent.
- (2) The payment system participants within the payment system shall perform the following activities:
  - payment operations carrier shall execute financial liabilities arising from payment instruments within the payment system,
  - settlement agent shall maintain settlement accounts of payment system participants and
  - clearing house shall calculate and determine the liabilities and claims of the participants in the payment system.
- (3) Payment system participant may perform the activities of the payment operations carrier and/or settlement agent and/or clearing house in the payment system.
- (4) One of the payment system participants shall be appointed a payment system operator. The payment system operator shall manage and govern the payment system.
- (5) Any payment system participant may take part in several payment systems.

### Article 41

- (1) Payment system shall be established by written agreement on participation in payment system among all participants, or between the payment system operator and each participant.
- (2) The payment system operator shall report the establishment of payment system to the National Bank before it becomes operational.
- (3) The National Bank may maintain settlement accounts of the participants in other payment systems.

- (4) The payment system participants may establish a clearing house registered in the Trade Registry of the Republic of Macedonia as a joint-stock company.

#### Article 42

- (1) The payment system shall have rules set by the payment system operator.
- (2) The payment system rules shall be a part of the agreement referred to in Article 41 of this law and shall stipulate at least the following:
  - 1) payment system operator;
  - 2) who may be payment system participant;
  - 3) the method of calculation and settlement;
  - 4) rights and obligations of the payment system participants;
  - 5) forward schedule used by the payment system;
  - 6) time when the orders in the system are complete and may not be revoked;
  - 7) methods of exchange of orders in the payment system and
  - 8) type and amount of payments as a basis of the work of the payment system.

#### Article 43

- (1) The clearing house may calculate the liabilities as follows:
  - 1) through a sum of all liabilities of one participant to another in accounting period (gross principle) or
  - 2) as a difference of all liabilities of one participant and all claims of one participant on other participants in the system in the accounting period (net principle).
- (2) The calculation referred to in paragraph (1) item 2 of this Article may be made:
  - 1) as a difference from one participant to another (bilateral net principle) or
  - 2) as a difference from one participant to all other participants (multilateral net principle).

#### Article 44

- (1) The National Bank shall oversight the payment systems.
- (2) The method and methodology of oversight of the payment system shall be set by the National Bank Council.

#### Article 45

- (1) The criteria and standards for operating the payment systems, in line with the internationally accepted standards shall be prescribed by the National Bank Council.
- (2) For efficient functioning of the payment systems, the National Bank may issue written recommendations - advice to the payment system participants or payment system operator for its functioning in line with the set standards and determine deadlines within which they are to implement the recommendations.
- (3) The National Bank may prohibit the payment system operator to provide services in the payment system unless it observes the standards and recommendations defined by this Article.

#### Article 46

- (1) Legal entities included in the payment system operations or which provide other payment services shall submit data on performed activities in the payment operations to the National Bank.
- (2) The contents, method and deadlines for submitting the data referred to in paragraph (1) of this Article shall be defined by the National Bank Council.

### **VI. SETTLEMENT AMONG PAYMENT OPERATIONS CARRIERS**

#### Article 47

The settlement among the payment operations carriers shall be made through the National Bank settlement system.

#### Article 48

The payments among the participants in payment operations with different payment operations carriers shall be regarded as complete when the payment operations carrier settles the result of the calculation of liabilities arising from these payments in the National Bank settlement system.

### **VII. KEEPING DOCUMENTS**

#### Article 49

- (1) The payment operations carrier shall keep the payment instruments and other documents underlying the recording of changes in transaction accounts at least five years after the end of the calendar year in which the changes have been registered.
- (2) The data from the transaction account registry shall be kept permanently. The documentation underlying the opening and closing of transaction account shall be kept for five years after the end of the year in which the transaction account has been closed.
- (3) The documents and data referred to in paragraphs (1) and (2) of this Article may be kept in original form or other suitable manner.

## VIII. MISDEMEANOR PROVISIONS

### Article 50

- (1) Payment operations carrier shall be fined with Denar equivalent of Euro 10,000 for a misdemeanor if it:
- 1) fails to provide for the conditions stipulated under Article 4 of this law;
  - 2) fails to keep a transaction account registry in its system (Article 6 item 2);
  - 3) allows for payment which is not executed through transaction account (Article 10 paragraph (2));
  - 4) acts contrary to the manner and procedure for opening transaction account (Article 12 paragraph (4));
  - 5) fails to close the transaction account if the requirements have been met, fails to notify the participant in payment operations for annulment of the transaction account and fails to observe the manner and procedure for opening and closing transaction account (Articles 12 and 13);
  - 6) fails to submit data on changes in its transaction account registry to the single transaction account registry, in line with Article 15 paragraph (1) of this law;
  - 7) makes payment based on payment instrument from transaction account which does not have a coverage (Article 19 paragraph (1));
  - 8) fails to act according to a decision on forced collection not later than the next day after the date of receiving the decision on forced collection, fails to record the decisions on forced collection by the date and time of their arrival or fails to implement the decision on forced collection by their order (Article 21);
  - 9) fails to make conversion of funds on foreign currency accounts into Denars by applying the middle exchange rate of the National Bank of the Republic of Macedonia applicable on the transaction date or fails to transfer to the Denar account of the participant in payment operations - debtor to the amount necessary for full execution of the decision on forced collection (Article 22 paragraph (4));
  - 10) fails to block the account or fails to submit the tax number of the participant - debtor through the single transaction account registry to other payment operations carriers that they are not allowed to make payments from the funds on Denar and foreign currency account of the participant - debtor to the full execution of the decision on forced collection (Article 22 paragraph (5));
  - 11) after settling the liabilities based on the decision on forced collection, fails to unblock the account or fails to notify other payment operations carriers on the unblocking through the single transaction account registry (Article 22 paragraph (6));
  - 12) fails to notify the Central Registry on transaction account which has been blocked for a subsequent period exceeding 45 days (Article 24);
  - 13) fails to display the fee rate for performing payment operations on a noticeable place on its premises and on its website (Article 26 paragraph (2));
  - 14) on request of a participant in payment operations fails to make them available all information on the requirements for performing payment operations or the requirements for performing payment operations do not contain the minimum required information (Article 27);
  - 15) fails to execute the decisions on forced collection that debit the treasury account by preparing execution orders submitted to the Treasury for execution (Article 8 paragraph (1));

- 16) fails to settle financial liabilities arising from payment instruments within the payment system (Article 40 paragraph (2) indent 1) and
  - 17) has been a participant in payment system without concluding agreement on establishing payment system or has been a participant in payment system without concluding agreement with the payment system operator (Article 41 paragraph (1)).
- (2) Besides the fine for the misdemeanors referred to in paragraph (1) items 1, 6 and 8 of this Article, the payment operations carrier shall be imposed a misdemeanor sanction - ban on performing activity up to 30 days.
  - (3) Fine in the amount of 30% of the set fine for the payment operations carrier shall be imposed to the responsible person for the misdemeanors referred to in paragraph (1) of this Article.
  - (4) Besides the fine for misdemeanors referred to in paragraph (1) items 1, 6 and 8 of this Article, the responsible person with the payment operations carrier shall also be imposed misdemeanor sanction ban on performing duty up to 30 days.

#### Article 51

- (1) Fine in Denar equivalent of Euro 4,000 shall be imposed to a participant in payment operations - legal entity for a misdemeanor if it:
  - 1) fails to notify in writing the payment operations carrier who holds its transaction account, on status and other changes (Article 14);
  - 2) fails to pay-in any cash received on any basis not later than the next business day to its transaction account (Article 20 paragraph (3)) and
  - 3) has a blocked transaction account, and makes payments by calculation (Article 25 paragraph (1)).
- (2) Besides the fine for misdemeanors referred to in paragraph (1) items 1 and 3 of this Article, the participant in payment operations - legal entity shall be imposed a misdemeanor sanction ban on performing activity up to three years.
- (3) Fine in the amount of 30% of the set fine for the payment operations participant shall be imposed to the responsible person of the legal entity for the misdemeanors referred to in paragraph (1) of this Article..
- (4) Besides the fine for misdemeanors referred to in paragraph (1) items 1 and 3 of this Article, the responsible person with the participant in payment operations - legal entity shall also be imposed misdemeanor sanction - ban on performing duty up to one year.

#### Article 52

- (1) Fine in Denar equivalent of Euro 10,000 shall be imposed to a legal entity, i.e. sole proprietor for a misdemeanor if they issue electronic money, while they fail to fulfill the requirements for issuing electronic money defined by this law.
- (2) Besides the fine for misdemeanor referred to in paragraph (1) of this Article, the legal entity, i.e. the sole proprietor shall be imposed a misdemeanor sanction - ban on performing activity up to three years.
- (3) For the misdemeanor referred to in paragraph (1) committed of self-interest,

- or which cause larger property damage, the legal entity, i.e. the sole proprietor shall be imposed a misdemeanor sanction - fine to the double amount referred to in paragraph (1) of this Article, or in proportion to the amount of the caused or acquired property benefit.
- (4) Fine in the amount of 30% of the set fine for the legal entity, i.e. the sole proprietor shall be imposed to the responsible person with the legal entity, i.e. responsible person with the sole proprietor for the misdemeanor referred to in paragraph (1) of this Article.
  - (5) Besides the fine for misdemeanor referred to in paragraph (1) of this Article, the responsible person with the legal entity, i.e. the the responsible person with the sole proprietor shall be imposed a misdemeanor sanction - ban on performing duty up to one year.
  - (6) For the misdemeanor referred to in paragraph (1) committed of self-interest, or which cause larger property damage, the responsible person with the legal entity, or the responsible person with the sole proprietor shall be imposed misdemeanor sanction, fine to the double amount referred to in paragraph (4) of this Article, or in proportion to the amount of the caused or acquired property benefit.
  - (7) Fine in the amount of Denar equivalent of Euro 1,000 to 1,500 shall be imposed to the natural person for the misdemeanor referred to in paragraph (1) of this Article.
  - (8) Besides the fine for the misdemeanor referred to in paragraph (1) of this Article, the natural person shall be imposed a misdemeanor sanction - ban on performing activity up to one year.
  - (9) For the misdemeanor referred to in paragraph (1) committed of self-interest, or which cause larger property damage, the natural person shall be imposed misdemeanor sanction fine to the double amount referred to in paragraph (7) of this Article, or in proportion to the amount of the caused or acquired property benefit.

#### Article 53

- (1) Fine in Denar equivalent of Euro 10,000 shall be imposed to electronic money issuer for a misdemeanor if it:
  - 1) issues electronic money without concluding agreement on electronic money issuance (Article 29 paragraph (1));
  - 2) fails to pay to the electronic money owner, the coverage of the issued electronic money or fail to make such payment within eight days after the receiving of the request for payment (Article 31 paragraph (1));
  - 3) charges fee and other costs for the payment referred to in Article 31 paragraph (1) of this law (Article 31 paragraph (2));
  - 4) fails to make available to the electronic money owner all information on the balance and coverage for the issued electronic money (Article 32);
  - 5) fails to invest funds in the amount of at least to the current liabilities based on issued electronic money or makes investments in high risk and/or low liquid assets (Article 37 paragraph (1)) and
  - 6) performs activities other than issuing electronic money (Article 38 paragraph (1)).
- (2) Besides the fine for misdemeanors referred to in paragraph (1) items 1, 3 and 5 of this Article, the electronic money issuer shall be imposed a misdemeanor sanction - ban on performing activity up to 30 days.

- (3) Fine in the amount of 30% of the set fine for the electronic money issuer shall be imposed to the responsible person with the electronic money issuer for the misdemeanors referred to in paragraph (1) of this Article.
- (4) Besides the fine for misdemeanors referred to in paragraph (1) items 1, 3 and 5 of this Article, the responsible person with the electronic money issuer shall also be imposed misdemeanor sanction - ban on performing duty up to 30 days.

#### Article 54

- (1) Fine in Denar equivalent of Euro 10,000 shall be imposed to a clearing house if it:
  - 1) fails to maintain the single transaction account registry (Article 15 paragraph (2));
  - 2) fails to submit the transaction accounts from the single registry it maintains to the Treasury (Article 9 paragraph (2));
  - 3) fails to perform activities of calculation and determination of liabilities and claims of the participants in payment operations (Article 40 paragraph (2) indent 3);
  - 4) has been a participant in payment system without concluding agreement on establishing payment system or has been a participant in payment system without concluding agreement with the payment system operator (Article 41 paragraph (1)) and
  - 5) fails to make the calculation for determining liabilities in consistence with Article 43 of this law.
- (2) Besides the fine for misdemeanors referred to in paragraph (1) items 1 of this Article, the clearing house shall be imposed a misdemeanor sanction - ban on performing activity up to 30 days.
- (3) Fine in the amount of 30% of the set fine for the clearing houses shall be imposed to the responsible person with the clearing house for the misdemeanors referred to in paragraph (1) of this Article.
- (4) Besides the fine for misdemeanors referred to in paragraph (1) item 1 of this Article, the responsible person with the clearing house shall also be imposed misdemeanor sanction - ban on performing duty up to 30 days.

#### Article 55

- (1) Fine in Denar equivalent of Euro 4,000 shall be imposed to a payment system operator if it:
  - 1) fails to notify the National Bank on launching the operations (Article 41 paragraph (2));
  - 2) fails to set the payment system rules (Article 42 paragraph (1)) and
  - 3) fails to observe the ban imposed by the National Bank (Article 45 paragraph (3)).
- (2) Fine in the amount of 30% of the set fine for payment system operator shall be imposed to the responsible person with the payment system operator for the misdemeanors referred to in paragraph (1) of this Article.

## Article 56

- (1) Fine in the amount of Denar equivalent of Euro 4,000 shall be imposed to the legal entity involved in the payment system operations or legal entity that performs other payment-related services, if they fail to submit data to the National Bank on activities performed in the payment operations (Article 46 paragraph (1)).
- (2) Fine in the amount of 30% of the set fine for the legal entity referred to in paragraph (1) of this Article shall be imposed to the legal entity for the misdemeanor referred to in paragraph (1) of this Article.

### Article 56-a

(1) Fine in the amount of Denar equivalent of Euro 5,000 shall be imposed to the micropayment intermediary if it:

- 1) fails to notify the National Bank as required by Article 27-c of this law,
- 2) violates the limits specified by this law.

(2) Fine in the amount of 30% of the set fine for the micropayment intermediary shall be imposed to the responsible person with the micropayment intermediary for the misdemeanors referred to in paragraph (1) of this Article.

(3) In addition to the fine referred to in paragraph (2) of this Article, the responsible officer of micropayment intermediary shall be imposed a misdemeanor sanction of ban on performing duty up to 30 days.

### Article 56-b

(1) Fine in the amount of Denar equivalent of Euro 15,000 shall be imposed to a legal entity, i.e. sole proprietor that performs intermediary micropayment services without being licensed by the Governor of the National Bank.

(2) Besides the fine, the legal entity, i.e. sole proprietor shall be imposed a misdemeanor sanction of ban on performing activity up to three years.

(3) Fine in the amount of 30% of the set fine for the legal entity, i.e. sole proprietor shall be imposed to the responsible person with the legal entity i.e. sole proprietor for the misdemeanor referred to in paragraph (1) of this Article.

(4) Besides the fine for activity referred to in paragraph (1) of this Article, the responsible person with the legal entity, i.e. sole proprietor shall be imposed a misdemeanor sanction - ban on performing activity up to one year.

(5) Fine in the amount of Denar equivalent of Euro 1,500 to 2,250 shall be imposed to the natural person for the misdemeanor referred to in paragraph (1) of this Article.

(6) Besides the fine for for the misdemeanor referred to in paragraph (1) of this Article, the natural person shall be imposed a misdemeanor sanction - ban on performing activity up to one year.

### Article 56-c

For the misdemeanors referred to in Articles 50, 53, 54, 55, 56 and 56-a of this Law, misdemeanor procedure shall be conducted and misdemeanor measure shall be imposed by the National Bank of the Republic of Macedonia, pursuant to the Banking Law.

### Article 56-d

For the misdemeanors referred to in Articles 51, 52 and 56-b of this Law, misdemeanor procedure shall be conducted and misdemeanor sanction shall be imposed

by the competent court.

#### Article 56-e

(1) For the misdemeanors referred to in Articles 50, 53, 54, 55, 56 and 56-a of this Law, before initiating a request for misdemeanor procedure, the oversight officers shall propose to the perpetrator of misdemeanor a settlement procedure by issuing a misdemeanor payment order, pursuant to the Law on Misdemeanors.

(2) The authorized officers shall keep a record of the issued misdemeanor payment orders and the result of the initiated procedures.

(3) The following data shall be processed and maintained in the record referred to in paragraph (2) of this Article: name and surname, i.e. title of the perpetrator of the misdemeanor, address, i.e. residence, the head office, type of misdemeanor, number of the misdemeanor payment order issued and the procedure outcome.

(4) The personal data referred to in paragraph (3) of this Article shall be maintained five years from the day they are entered in the record.

(5) The National Bank of the Republic of Macedonia Council shall prescribe the form and the contents of the misdemeanor payment order.

#### Article 56-f

The amount of the fine for the legal entity, i.e. sole proprietor shall be set pursuant to the Law on Misdemeanors.

### **IX. TRANSITIONAL AND CLOSING PROVISIONS**

#### Article 57

The payment operations carriers shall report all transaction accounts to the Single Transaction Account Registry by December 31, 2007.

#### Article 58

The acceptance orders issued by 30 June 2001 shall be executed until they are completely collected.

#### Article 59

The banks shall fulfill the obligation referred to in Article 11 of this law by December 31 2008.

#### Article 60

The participants in payment system and payment system operators which have already been operating shall report their operations to the National Bank within 30 days after the effectiveness of this law.

#### Article 61

Any bylaw arising from this law shall be adopted by December 31, 2007.

## Article 62

Once this law enters into force, the Law on Payment Operations ("Official Gazette of the Republic of Macedonia" no. 32/2001, 50/2001, 52/2001, 103/2001, 37/2002, 41/2002, 61/2002, 42/2003 and 13/2006) ceases being effective.

## Article 63

This law enters into force the eighth day after the date of its publishing in the "Official Gazette of the Republic of Macedonia", and shall start being applied on January 1, 2008.

The provisions of this Law shall not apply to payment of administrative and court government stamps via mobile operators and to payments in a single amount of up to Denar 300.

Bylaws specified by this law shall be adopted within 90 of the date of entrance of this law into force.<sup>6</sup>

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<sup>6</sup> These provisions represent Article 4 and Article 5 of the Law on Amendments to the Law on Payment Operations ("Official Gazette of the Republic of Macedonia" no. 166/2012) and refer to the provisions amended by the indicated amendment.