

**Normative Regulation No. 85 of the Financial and Capital Market Commission**

Riga, 14 July 2020

(Minutes No. 23, Clause 5 of the Meeting of the Council of  
the Financial and Capital Market Commission)

# **Normative Regulations for Calculating the Minimum Liability Limit for Professional Liability Insurance of Payment Initiation Service Providers and Account Information Service Providers**

*Issued in accordance with Section 35.1, Part seven of  
the Law on Payment Service  
and Electronic Money*

## **I. General provisions**

1. "Normative Regulations for Calculating the Minimum Liability Limit for Professional Liability Insurance of Payment Initiation Service Providers and Account Information Service Providers" (hereinafter referred to as – the Regulations) prescribe:

1.1. the criteria and indicators according to which to determine the minimum liability limit of professional indemnity insurance or the minimum amount of a guarantee issued by a credit institution equivalent thereto to a payment institution or electronic money institution (hereinafter referred to as – the institution) which has the right to provide a payment initiation service or account information service;

1.2. the procedure for calculating the minimum liability limit of professional indemnity insurance or the minimum amount of a guarantee issued by a credit institution equivalent thereto.

2. The regulations are developed to apply the same regulations regarding the minimum liability limits for professional indemnity insurance to all institutions that provide a payment initiation service or an account information service.

3. The Regulations are binding on natural and legal persons who, in accordance with the requirements of the [Law on Payment Services and Electronic Money](#) (hereinafter referred to as – the Law), wish to receive or have received a license issued by the Financial and Capital Market Commission (hereinafter referred to as – the Commission) for the operation of a payment institution with the right to provide:

3.1. payment initiation service;

3.2. account information service;

3.3. payment initiation service and account information service.

4. Terms used in this Regulation:

4.1. company – a natural or legal person who has submitted an application for the receipt of a license to provide a payment initiation service, an account information service or both of these services within the meaning of Section 1 (1) (h) and (i) of the Law;

4.2. the use of other terms corresponds to the terms used in the Law and the [Insurance Contract Law](#).

5. The minimum liability limit for professional indemnity insurance shall be fully covered either by insurance or by a guarantee issued by a credit institution.

6. An institution providing the payment initiation service or the account information service shall, at least once a year, review and, if necessary, recalculate the minimum liability limit for its professional indemnity insurance.

## II. Criteria and indicators

7. When determining the minimum liability limit of professional liability insurance, the following criteria and their indicators shall be used:

7.1. risk profile criterion and indicators used for its calculation:

7.1.1. total amount of claims for compensation received by the institution for liability obligations specified in [Section 35.1](#) Parts one and two of the Law;

7.1.2. the number of initiated payments made by the institution providing the payment initiation service;

7.1.3. the number of payment accounts to which the institution providing the account information service has access;

7.2. activity type criterion and indicators used for its calculation:

7.2.1. whether an institution provides only a payment initiation service, an account information service, or both;

7.2.2. whether an institution provides other payment services specified in [Section 1](#) (1) of the Law;

7.2.3. whether an institution carries out other types of commercial activities in addition to the provision of payment services or the provision of electronic money services;

7.3. activity scope criterion and indicators used for its calculation:

7.3.1. in the case of an institution providing a payment initiation service, the amount of the initiated payments;

7.3.2. in the case of an institution providing the account information service, the number of users of the account information service.

## III. Formula

8. The following formula is used to calculate the minimum liability limit for professional indemnity insurance:

$$\begin{array}{ccccccc} \text{an amount that} & & \text{an amount that} & & \text{an amount that} & & \text{Minimum liability limit for} \\ \text{reflects the risk} & + & \text{reflects the type of} & + & \text{reflects the criterion} & = & \text{professional indemnity} \\ \text{profile criterion} & & \text{activity criterion} & & \text{of the scope of the} & & \text{insurance (per year)} \\ & & & & \text{activity} & & \end{array}$$

9. Each criterion indicators are calculated separately, as defined in [Paragraphs 11– - 16](#) of these Regulations.

10. In these Regulations, the values are expressed in the *euros*.

## IV. Calculation of the risk profile criterion

11. The risk profile criterion is calculated by adding together the amount of claims for compensation received and:

11.1. the calculated amount of interest of the number of initiated payments, if the company provides a payment initiation service;

11.2. the calculated amount of interest of the number of payment accounts to which the company has access, if the company provides an account information service;

11.3. the amount of the calculated interest referred to in Paragraphs 11.1 and 11.2 of these Regulations, if the company provides both the payment initiation service and the account information service.

12. The amount of claims for compensation received consists of all the total compensation amount requested by the institution payment service users and account servicing payment service providers within the preceding 12 calendar months for the losses incurred from one or several liability obligations referred to in [Section 35.1](#), Part one and two of the Law;

12.1. if no claim for compensation has been submitted to an institution in the previous 12 months, the total value of the sum of the risk profile criterion in the formula shall be zero ("0");

12.2. if the company has not provided services in the last 12 months, it shall use the expected amount of possible claims for compensation which it has indicated in the commercial activities plan submitted to the Commission when obtaining the license;

12.3. if the company has not provided for the total expected amount of possible claims for compensation in the commercial activities plan submitted to the Commission or the expected amount of possible claims for compensation is less than EUR 50 000, the amount of claims for compensation received in the formula shall be equal to 50 000.

13. The number of payments initiated consists of the sum of the elements where N is the number of payments initiated by the institution in the previous 12 months:

40% of N up to and including 10 000 initiated payments

plus

25% of N more than 10 000 initiated payments up to and including 100 000 initiated payments

plus

10% of N more than 100 000 initiated payments up to and including 1 million initiated payments

plus

5% of N more than 1 million initiated payments up to and including 10 million initiated payments

plus

0.025% of N more than 10 million initiated payments;

13.1. if the company has not provided services in the last 12 months, it shall use the number of planned initiated payments which it has indicated in the commercial activities plan submitted to the Commission when obtaining the license;

13.2. if the company has not indicated the planned number of initiated payments in the commercial activities plan submitted to the Commission or the planned number of initiated payments is less than 50,000, the value of the indicator in the formula shall be equal to 50,000.

14. The number of payment accounts to which the company has access is the sum of the elements, where N is the number of different payment accounts to which the institution providing the account information service has had access in the previous 12 months:

40% of N up to and including 10 000 accounts to which the institution has access,

plus

25% of N more than 10 000 accounts to which the institution has access up to and including 100 000 accounts to which the institution has access,

plus

10% of N more than 100 000 accounts to which the institution has access, up to and including 1 million accounts to which the institution has access,

plus

5% of N more than 1 million accounts to which the institution has access up to and including 10 million accounts to which the institution has access,

plus

0.025% of N more than 10 million accounts to which the institution has access;

14.1. if the company has not provided services in the last 12 months, it shall use the number of payment accounts to which the company will have access which it has indicated in the commercial activities plan submitted to the Commission when obtaining the license;

14.2. if the company has not indicated the planned number of payment accounts to which it will have access in the commercial activities plan submitted to the Commission or the planned number of payment accounts to which it will have access is less than 50 000, the value of the indicator in the formula shall be 50 000.

## **V. Calculation of the activity criterion**

15. The sum of the activity criterion to be reflected in the formula is:

15.1. 0 – if the company plans to provide only the payment initiation service;

15.2. 0 – if the company plans to provide only the account information service;

15.3. 50,000 – if the company performs other types of commercial activities in addition to the provision of payment services or the provision of electronic money services;

15.4. 0 – if the company's involvement in other types of commercial activities does not affect the provision of the payment initiation service and the account information service;

15.5. 0 – if the company provides any other payment service specified in [Section 1 \(1\)](#) of the Law in addition to the payment initiation service or the account information service, or both.

## **VI. Calculation of the scope criterion**

16. The sum of the scope criterion consists of the following indicators:

16.1. the indicator of the amount of all initiated payments to the company providing the payment initiation service shall consist of the sum of the elements, where N is the total amount of all payments initiated by the institution during the previous 12 months:

40% of N up to and including EUR 500 000

plus

25% of N more than EUR 500 000 up to and including EUR 1 million

plus

10% of N more than EUR 1 million up to and including EUR 5 million

plus

5% of N more than EUR 5 million up to and including EUR 10 million

plus

0.025% of N more than EUR 10 million;

16.2. the number of account information service users to the company providing the account information service consists of the sum of the elements, where N is the number of account information service users, where each customer who has used the account information service in the previous 12 months is counted separately:

40% of N up to and including 100 customers

plus

25% of N more than 100 customers up to and including 10,000 customers

plus

10% of N more than 10,000 customers up to and including 100,000 customers

plus

5% of N more than 100,000 customers up to and including 1 million customers

plus

0.025% of N more than 1 million customers;

16.3. if the company has not offered payment initiation or account information services in the last 12 months, it shall use the following in the commercial activities plan submitted to the Commission when obtaining the license:

16.3.1. the planned amount of all initiated payments, if a payment initiation service is provided;

16.3.2. the planned number of customers, if the account information service is provided;

16.4. the value of the indicator in the formula is equal to 50 000 if the company which:

16.4.1. provides a payment initiation service, has not indicated the planned amount of the initiated payments in the commercial activities plan which it has submitted to the Commission upon receipt of the license or the planned amount of the initiated payments is less than 50,000 euros;

16.4.2. provides an account information service, has not indicated the planned number of customers in the commercial activities plan which it has submitted to the Commission upon receipt of the license or the planned number of customers is less than 50 000.

## **VII. Final provisions**

17. With the entry into force of these Regulations, the normative regulations of the Commission of 28 August 2018 No. 141 “Normative Regulations for Calculating the Minimum Liability Limit for Professional Liability Insurance of Payment Initiation Service Providers and Account Information Service Providers” shall become void.

### **Informative reference to the European Union legislation**

The Regulations include legal norms that derive from the European Banking Authority Guideline No. EBA/GL/2017/08 of 12 September 2017 “On the criteria on how to stipulate the minimum monetary amount of the professional indemnity insurance or other comparable guarantee under Section 5(4) of Directive (EU)2015/2366”.

Chairperson of the Financial and Capital Market Commission *S. Purgaile*