

Delegated Decree no. 49 of 16 March 2010

OFFICE OF PROFESSIONAL TRUSTEE

UNOFFICIAL TEXT

NOTICE

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Art. 1
(Definitions)

1. Any term used in this Delegated Decree and already defined by Law no. 42 of 1 March 2010 (Trust Act) shall have the meaning assigned to it in the aforesaid Law.

Art. 2
(Professional exercise of the office of trustee in the Republic of San Marino)

1. The professional exercise of the office of trustee in the Republic of San Marino shall be subject to the authorization of the Supervisory Authority. This office shall also be subjected to the Supervisory Authority's control of the maintenance of requirements.

2. The professional exercise of the office of trustee shall mean the holding of the office of trustee in a plurality of trusts.

3. The authorization referred to in paragraph 1 of this Article shall be granted:

- a) to companies exercising the activities listed in Attachment 1 of Law no. 165 of 17 November 2005, having their registered office and administrative seat in the Republic of San Marino, which apply for it and whose ownership structure is identified by the Supervisory Authority;
- b) joint-stock companies, having their registered office and administrative seat in the Republic of San Marino, which apply for it, their ownership structure is identified by the Supervisory Authority and they have taken out a relevant insurance policy as security for third parties with a minimum limit of € 1,000,000.00;
- c) members of the Bar Association (including both lawyers and notaries), or the Accountants' Association (holding a university degree or a high-school certificate) in the Republic of San Marino, who apply for it and have taken out a relevant insurance policy as security for third parties with a minimum limit of € 1,000,000.00.

4. With a view to avoiding conflicts of interest, authorized parties cannot provide advice on the enactment of a trust of which they subsequently hold the office of trustee.

5. The authorization shall be revoked by the Supervisory Authority:

- a) when bogus trusts of which the authorised party is the trustee and takes part in the simulation are recognised by a final judgement;
- b) when the annual hours of professional training are not completed;
- c) when the prohibition referred to in paragraph 4 of this Article is violated.

6. The authorization shall not be granted to companies where one or more members or directors are or were members or directors of companies to which the authorization has been revoked.

7. The Supervisory Authority shall establish, by adopting a relevant measure:

- a) the terms and conditions to grant the authorization;
- b) the requirements of good repute and professionalism requested to the parties dealing with the administration, direction and control of joint-stock companies exercising or aiming to exercise the office of professional trustee, referred to in Article 2, paragraph 3, letter b);
- c) the requirements of good repute of the parties which hold a shareholding in the capital of companies exercising or aiming to exercise the office of professional trustee referred to in Article 2, paragraph 3, letter b);
- d) conditions for the rejection of the authorization;
- e) additional grounds for revocation and reasons for the suspension of the authorization;
- f) provisions on mandatory annual training;
- g) procedures for keeping and consulting the register of authorized trustees.

Art. 3

(Abusive exercise of the office of professional trustee)

1. Anyone exercising the office of trustee without any requirements shall be punished with second-degree arrest and a fine from € 8,000.00 to € 12,000.00.

Art. 4

(Anti-money laundering provisions)

1. Anyone exercising, in any form, the office of professional trustee in the Republic of San Marino shall be an obliged party under Article 19 of Law no. 92 of 17 June 2008, unless they are already obliged parties under Article 18 or Article 20 of Law no. 92 of 17 June 2008.

2. Anyone exercising, in any form, the office of non-professional trustee in the Republic of San Marino shall be required to keep any document relating to the trust of which they hold the office for five years from the termination of the office. Upon request of the Financial Intelligence Agency, this documentation shall be immediately made available to the Agency itself.

3. Anyone exercising, in any form, the office of non-professional trustee in the Republic of San Marino shall also be required to fulfil reporting obligations under Article 36 of Law no. 92 of 17 June 2008.

4. Any trustee that does not comply with the provisions of preceding paragraphs 2 and 3 shall be subject to sanctions under Law no. 92 of 17 June 2008.

Art. 5

(Coordination provisions)

1. Parties already authorized under Law no. 165 of 17 November 2005 and subsequent amendments, listed in the register established under Article 19 of Law no. 37 of 17 March 2005, shall be officially authorized under Article 2 of this Delegated Decree.

Done at Our Residence, on 16 March 2010.

THE CAPTAINS REGENT
Francesco Mussoni – Stefano Palmieri

THE SECRETARY OF STATE
FOR INTERNAL AFFAIRS
Valeria Ciavatta