

BANCA  CENTRALE  
DELLA REPUBBLICA DI SAN MARINO

# STATUTO

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# STATUTES





# **STATUTES OF THE CENTRAL BANK OF THE REPUBLIC OF SAN MARINO**

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## **Law no. 96 of 29 June 2005**

**as amended by Law 179 of 13 December 2005,  
by Law 92 of 17 June 2008,  
by Law 178 of 4 November 2010,  
by Delegated Decree 24 of 4 March 2014,  
by Delegated Decree 77 of 19 May 2014  
and by Law 146 of 19 September 2014.**

### **UNOFFICIAL TEXT**

#### **NOTICE**

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**REPUBLIC OF SAN MARINO**

**STATUTES OF THE CENTRAL BANK  
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**CHAPTER I**

**STATUTES OF THE CENTRAL BANK OF THE REPUBLIC OF SAN MARINO**

**TITLE I**

**GENERAL**

**Article 1**

*(Definitions)*

1. For the purposes of this law, by the following terms are meant:
  - a. “Central Bank”, the Central Bank of the Republic of San Marino;
  - b. “Republic”, the Republic of San Marino;
  - c. “CCR”, the Comitato per il Credito e il Risparmio (Committee for Credit and Savings);
  - d. “Banking Law”, Law 21 of 12 February 1986 as further amended;
  - e. “Law on financial and fiduciary companies”, Law 25 of 25 February 1986 as further amended;
  - f. “Law on the tax collection service”, Law 70 of 25 May 2004 as further amended;
  - g. “authorised intermediaries”, the banking, financial and insurance intermediaries, together with the subsidiaries and representative offices of foreign intermediaries having obtained authorisation to operate in or from the territory of the Republic;
  - h. “supervised parties”, the authorised intermediaries, the groups of enterprises of which the authorised intermediaries form part, and any other party over which the Central Bank performs, in accordance with law, the function of supervision authority;
  - i. “financial system”, the body of authorised intermediaries operating in or from the territory of the Republic.

**TITLE II**  
**DEFINITION AND OBJECTIVES OF THE CENTRAL BANK**

**Article 2**  
*(The Central Bank)*

1. The Central Bank of the Republic of San Marino will be a publicly and privately owned entity having private legal status, unlimited life and its registered office in the territory of the Republic.
2. The Central Bank will assume the roles of a central bank, an authority having supervision of the banking, financial and insurance sector, and the currency authority of the Republic. Future laws may be enacted assigning the Central Bank other functions provided that they are consistent with the objectives of these Statutes.
3. The objectives and functions of the Central Bank will be as established by this Law.

**Article 3**  
*(The Central Bank's objectives)*

1. The Central Bank will exercise its powers for the purpose of:
  - a. promoting the stability of the financial system and protecting savings, whose substantial social value is recognised by the Republic, through supervision of the credit, financial and insurance activities in which authorised intermediaries are engaged;
  - b. providing banking and financial services to the State and to the Public Administration, one purpose being to coordinate the management of liquidity and the choice of forms of financing;
  - c. providing adequate support to the financial system of the Republic, to include performing the functions of incentive and guidance;
  - d. facilitating economic and financial activity, setting up and maintaining efficient and reliable payment systems for the Republic.

**Article 4**  
*(The Central Bank's responsibilities)*

1. The Central Bank will be answerable for the attainment of its objectives to the Grand and General Council.
2. At the time of presenting its Annual Accounts, the Central Bank will present the Grand and General Council, through the Department of the State Secretary for Finance, a final report containing an account of the activities in which it has been engaged over the preceding year and providing information on the progress of the financial system of the Republic. The report will be subject to due cognizance by the Grand and General Council.

**TITLE III**  
**THE ORGANS OF THE CENTRAL BANK**

**Article 5**  
*(The Organs of the Central Bank)*

1. The following are the organs of the Central Bank:
  - a. the General Meeting of Members;
  - b. the Governing Council;
  - c. the Chairman;
  - d. the Director General;
  - e. the Supervision Committee;
  - f. the Board of Auditors.

**SECTION I**  
**THE GENERAL MEETING OF MEMBERS**

**Article 6**  
*(Composition of the General Meeting of Members)*

1. The State will be represented at the General Meeting of Members by the State Secretary for Finance and the Budget and by another member of the Congress of State. In the absence or indisposition of the State Secretary for Finance and the Budget, the Congress of State will designate a substitute representative.
2. The other participating members will be represented by their legal representatives or persons designated thereby.
3. In votes, each member will have one vote per share in the endowment fund which that member is recorded as holding at least one month before the date of the General Meeting.
4. With the exception of the State, every member may arrange to be represented by another participant by a written proxy. No participant may hold more than one proxy.

**Article 7**  
*(Convocation of the General Meeting of Members)*

1. An Ordinary General Meeting shall be convened at least once a year during the first five months of the financial year.
2. The General Meeting will also be convened, on an extraordinary basis, whenever deemed necessary by the Chairman, or the Vice Chairman, if the Chairman is absent, or the Governing Council or when a written request, stating the grounds therefor, is made by members representing at least thirty per cent of the endowment fund; in such cases the General Meeting shall take place within thirty days of presentation of the request.
3. The ordinary General Meeting and extraordinary General Meeting will be convened by registered letter to be forwarded to members, at the address recorded in the company books, at least eight days before the date appointed for the meeting.
4. The letter of convocation shall state the date, time and place of the meeting and contain a list of agenda items.
5. The letter convening the General Meeting may specify the date and time of a meeting held on second call. If the date and time of the second meeting are not stated in the letter, the General Meeting shall be reconvened within thirty days of the date of the first meeting.

**Article 8**  
*(Powers of the General Meeting of Members)*

1. The General Meeting,
  - a. having viewed the report by the Governing Council and the Board of Auditors, will by 31 May approve the Annual Financial Statement, including the report by the Governing Council and the Board of Auditors' report, and will forward it to the Grand and General Council through the Department of the State Secretary for Finance;
  - b. will approve the Final Report on the Central Bank's activities in the previous year and will forward it to the Grand and General Council, through the Department of the State Secretary for Finance;
  - c. will admit new members on the proposal of the Governing Council and after their approval by the Congress of State;
  - d. will resolve on action for which the members of the Governing Council and the Board of Auditors are responsible, where necessary proposing the measures laid down by law; determine the remuneration of the members the Governing Council and Board of Auditors;
  - e. will resolve on increases in the endowment fund; changes to the endowment fund proposed by the General Meeting will come into force after their approval by the Grand and General Council;
  - f. will appoint a firm listed in the specific San Marino Register of Accountant Auditors to certify the accounts;
  - g. will pass resolutions on any other agenda items not falling within the competence of other organs, or the decision on which has been referred by the competent organs to the judgment of the General Meeting in view of the significant nature of the subjects.

**Article 9**  
*(Procedures for General Meetings of Members)*

1. For a General Meeting to be valid, a quorum, at the meeting held at first call, of participants representing at least two thirds of the endowment fund will be required; at a meeting at second call, the quorum required will be participants representing an absolute majority of the endowment fund.
2. The General Meeting will pass resolutions by a majority of the members representing at least two thirds of the endowment fund in the first two votes, and an absolute majority in subsequent votes.
3. Ordinary and extraordinary general meetings will be chaired by the Chairman of the Governing Council.

**SECTION II**  
**THE GOVERNING COUNCIL**

**Article 10**  
*(Composition of the Governing Council)*

1. The Governing Council will consist of the Chairman and five members nominated by the Grand and General Council, chosen from persons with

financial and/or legal expertise and experience of relevance to the management and monitoring of the financial system. The majority of the members of the Governing Council must be San Marino citizens or residents.

2. The members of the Governing Council will remain in office for five years and will be eligible for re-election for one further mandate. If one or more members resigns before the expiry of the term of office, the meeting and voting quorums for the Governing Council shall be determined on the basis of the members still in office. The Governing Council cannot be duly constituted or pass resolutions if there are less than three members remaining in office.
3. The Governing Council will appoint the Vice Chairman from among its own number. It will also appoint a Secretary chosen from among the senior officers and officers of the Central Bank. If the Secretary is absent or indisposed, the functions will be performed by the youngest member.
4. The Director General will attend meetings of the Governing Council without being entitled to vote.

#### **Article 11**

##### *(Convocation of the Governing Council and procedures for their meetings)*

1. Meetings of the Governing Council will be convened by the Chairman or Vice Chairman, by a notice setting out the agenda, to be sent to the members at the address stated by them at least five days before the meeting.
2. In urgent circumstances, notice of the meeting may be given without complying with the period of notice stated in the preceding paragraph, provided that at least one day's notice is given.
3. The Governing Council may however be duly constituted and able to pass resolutions also on items not included on the agenda or when the formalities for calling meetings have not been met, if all of those entitled are present, including the Auditors and Director General, provided those entitled vote agree unanimously to the discussion of the items on the agenda.
4. The Governing Council will meet whenever the Chairman deems appropriate, or whenever requested by at least three of its members, stating the items to be submitted to the Council, although meetings will be held no less than twelve times a year and without allowing more than 45 days to elapse between two successive notices.
5. For meetings to be valid, the presence of the Chairman, or the Vice Chairman if the Chairman is absent or indisposed, and the majority of the of the Governing Council including the Vice Chairman.
6. Resolutions will be passed by an absolute majority of those present. In urgent circumstances, the resolutions may also be passed by an indication of each vote, entered by hand in the document setting out the text of the proposed resolution. The Governing Council meetings may also be held by videoconference or teleconference provided that:
  - a) the role of secretary to the meeting is performed by a notary;
  - b) the Chairman and secretary to the meeting are located in the Republic of San Marino;
  - c) each of the participants is able to identify the other participants and take part in the discussion in real time;
  - d) each of the participants is able view, receive and forward documentation relating to the meeting.
7. If votes are equal in the case of open voting, the Chairman's vote, or the Vice Chairman's vote or, in the absence of the Chairman, the Vice Chairman's vote

will prevail, and in secret voting the proposal will be deemed to have been rejected.

8. The minutes of Governing Council meetings will be signed by the Chairman, or in the absence of the Chairman, by the Vice Chairman, and by the Secretary.
9. The Secretary may issue copies of and extracts from the minutes which, when countersigned by the Chairman, will evidence those minutes in court or before any judicial and administrative authority and vis-à-vis third parties.

## **Article 12**

### *(Powers of the Governing Council)*

The Governing Council will be assigned the powers of direction and management of the Central Bank.

The Governing Council will:

- a. propose the admission of new Members to the General Meeting of Members;
  - b. draw up the Financial Statement and submit it to the General Meeting together with its own report;
  - c. propose changes in the endowment fund to the General Meeting;
  - d. resolve on the taking, modification and disposal of holdings, including those acquired to protect the Central Bank's credit claims;
  - e. designate the representatives of the Central Bank on Boards of Directors, Auditors' Boards and organs of the entities or enterprises in which holdings have been taken;
  - f. appoint the Director General, subject to the approval of the Grand and General Council;
  - g. nominate the Supervision Committee Inspectors, on the proposal of the Director General;
  - h. nominate the Vice Director, senior officers and officers and decide on the recruitment of staff;
  - i. determine the remuneration and allowances of members of the Supervision Committee and other contractual conditions for external inspectors;
  - j. propose any resolution to the General Meeting that it deems appropriate to refer for its consideration;
  - k. pass resolutions on any other matter deemed to be in the interest of the Central Bank.
3. Without prejudice to the provision of the third paragraph of article 30, the Governing Council will be responsible for matters of regulatory supervision. The Supervision Committee will report from time to time to the Governing Council on its work and on its supervision initiatives.
  4. The Governing Council, with the exception of the powers reserved to it under paragraph 2 above, may delegate part of its powers to one or more of its members, the Director General, the Vice Director or other Bank staff, at the same time establishing the procedures for the persons delegated those powers to bring the decisions they have taken to the knowledge of the Council.
  5. The Governing Council will also lay down the criteria for the exercise of the power to sign and may confer special powers of attorney for certain instruments or negotiations to the Central Bank's senior officers, officers and other staff, or also to third parties.

## **SECTION III**



## **THE CHAIRMAN**

### **Article 13** *(Chairman)*

1. The Chairman will have the power of legal representation of the Central Bank.
2. The Chairman will be appointed by the Grand and General Council, remain in office for five years and be eligible for re-election on one further occasion.
3. The Chairman will convene and chair the Governing Council and the General Meeting of Members.
4. In urgent matters, the Chairman will be empowered to pass resolutions, bring legal and administrative actions and defend actions brought against the Central Bank, appointing counsel and attorneys ad litem.
5. The mere fact that the Chairman avails himself of the power conferred on him by the preceding paragraph will constitute the legal proof vis-à-vis third parties of the existence of the grounds of urgency. The Chairman will then inform the Governing Council, at the earliest feasible meeting, that he has availed himself of that power.
6. In the Chairman's absence, his functions will be performed by the Vice Chairman. In dealings with third parties, the Vice Chairman's signature will constitute legal proof of the absence or indisposition of the Chairman.

## **SECTION IV** **THE DIRECTOR GENERAL**

### **Article 14** *(Director General)*

1. The Director General will be appointed by the Governing Council, subject to the approval of the Grand and General Council.
2. The office of Director General will be for a term of six years, which may be renewed.
3. The Director General will attend meetings of the General Meeting of Members, take part in meetings of the Governing Council without being entitled to vote, but with advisory and proposal powers, and chair the Supervision Committee.
4. The Director General will be head of staff and will coordinate and supervise the work to be carried out. Among his duties, the Director General will:
  - a. arrange for the implementation of resolutions of the Governing Council and of measures adopted as a matter of urgency by the Chairman; he will also arrange the implementation of the resolutions passed by the Supervision Committee;
  - b. formulate proposals to protect the interests of the Central Bank;
  - c. issue orders and instructions that will be binding on all staff, including those on the structure of the organisation chart and the allocation of posts and duties;
  - d. sign instruments of ordinary administration; countersign statements, the annual reports and the accounts; sign documents of any other nature concerning the functions of the Central Bank and adopt any other measures that may be required for the conduct and due performance of the Central Bank's functions and services;

- e. propose measures to the Governing Council pertaining to the staff, under the responsibility of the Governing Council.
5. In the absence or indisposition of the Director General, his functions including Supervisory functions, will be performed by the Vice Director. In dealings with third parties, the Vice Director's signature will in itself constitute legal proof of the absence or indisposition of the Director General.
6. The Director General may be removed from office by resolution of the Governing Council, passed by unanimous vote in favour of those present.

## **SECTION V**

### **SUPERVISION COMMITTEE**

#### **Article 15**

*(The Supervision Committee)*

1. The Supervision Committee will consist of the Director General, who will chair the Committee, and the Central Bank inspectors. The inspectors will be appointed by the Governing Council, on the proposal of the Director General.
2. The Supervision Committee will be assigned the authority for management of supervision of the banking, financial and insurance system of the Republic, including inspection, reporting and regulation, and also for the protection of investors.
3. There may be no fewer than two inspectors. They may be internal, in other words members of the Central Bank's own staff, or external, in other words consultants to the Central Bank.
4. External inspectors will be selected from persons of irreproachable integrity who have acquired many years' experience in the work of supervision of the banking, financial or insurance sector.
5. Neither internal nor external inspectors shall have interests that conflict with the performance of their supervision work.
6. Each inspector's term of office will be three years, which may be renewed.
7. The Governing Council, may remove one or more members of the Supervision Committee from their office before the expiration of its term if they fall short of the requirements stated in paragraph 5, or if they are no longer capable of carrying out their work.
8. The Supervision Committee will meet whenever the Director General thinks fit, or at the request of at least two inspectors, and will reach decisions by an absolute majority of those present. If voting is equal, the vote of the Director General will prevail.

**SECTION VI**  
**THE BOARD OF AUDITORS**

**Article 16**  
*(Board of Auditors)*

1. The Board of Auditors will consist of a Chairman and two statutory auditors; the Chairman will be appointed by the Grand and General Council; the two statutory members will be nominated by the minority members and appointed by the general meeting.
2. The Board of Auditors will attend the meetings of the Governing Council.
3. The Board of Auditors will exercise control over management, accounting and compliance with the Central Bank rules and the provisions of law, vouch for the veracity of the financial statements, monitor that the criteria for the valuation of entries in the accounts comply with stringent accounting criteria and present its own report on the annual report.
4. The Board of Auditors will be empowered to inspect the Bank's books and request information on the performance of its duties, with the exception of matters of a confidential nature pertaining to the Bank's duties of Supervision.
5. The Statutory Auditors shall have been entered in the Register of Accountant Auditors regulated by Law 146 of 27 October 2004 and will remain in office for three financial years; their appointment may be reconfirmed for one further term.

**SECTION VII**  
**INCOMPATIBILITY AND SUBSEQUENT PROHIBITIONS**

**Article 17**  
*(Incompatibility and conflict of interest)*

1. The office of member of the Governing Council, Director General or Inspector of the Central Bank will be incompatible with:
  - a. the status of member of the Grand and General Council and the Congress of State;
  - b. the status of judge;
  - c. the status of director, manager, auditor, officer or employee of banks or credit, financial or insurance entities in the territory of the Republic of San Marino or in other countries.
2. The office of Statutory Auditor of the Central Bank will be incompatible with:
  - a. the status of member of the Grand and General Council and the Congress of State;
  - b. the status of judge;
  - c. the status of director, manager, officer or employee of banks or credit, financial or insurance entities in the territory of the Republic of San Marino.
3. Persons falling within any of the situations of ineligibility established in Law no. 47 of 23 February 2006 as further amended may not be elected to the office of member of the Governing Council, Director General, Statutory Auditor or Inspector and, if they are so elected, their office will lapse.
4. The office of member of the Governing Council, Director General or Inspector

of the Central Bank will be incompatible with the ownership of holdings in persons supervised by the Central Bank.

5. Persons may not hold the office of member of the Governing Council, Director General, Statutory Auditor or Inspector of the Central Bank if they are in any way engaged in professional activities that might directly affect their independence and if they do not offer sufficient guarantees of being able to perform their assigned duties freely and independently in compliance with the laws of the Republic and in its sole interest.
6. The members of the Governing Council and the Board of Auditors, may be removed from their office by the Grand and General Council if they no longer satisfy the conditions laid down in the preceding paragraphs of this article, or if they are no longer able to perform their activity.
7. If, at the time of passing a resolution, it is noted that there is a conflict of interest on the part of a member of the Governing Council having regard to the subject of the resolution, that member will be required to abstain from voting.
8. Abstention from voting by the member of the Governing Council will be ruled by the Chairman at the request of the other members of the Council.
9. If the conflict of interest relates to the Chairman, abstention from voting will be ruled by the Vice Chairman further to a request put forward by a majority of the members present at the meeting.

#### **Article 18**

*(Subsequent prohibitions)*

1. Over the twelve month period following the expiry of their office or the tendering of their resignation, the Inspectors and Director General may not hold the office of director or perform any work as an employee of or consultant to parties that are supervised by the Central Bank.

### **TITLE IV**

#### **THE CENTRAL BANK'S FINANCIAL RESOURCES AND OPERATIONS**

#### **Article 19**

*(Composition of the equity)*

1. The equity of the Central Bank will consist of its endowment fund, ordinary reserve, any extraordinary reserve and any other non-earmarked fund.

#### **Article 20**

*(Endowment fund, members and holdings)*

1. The Central Bank's endowment fund shall be € 12,911,425, distributed as indivisible nominative participation quotas of € 5,164.57 each.
2. Ownership of the participation quotas will be reserved for the State, which will be the majority holder, and San Marino companies engaged in credit, financial or insurance business.
3. Participants in the Central Bank endowment fund will assume the status of members of the Central Bank.
4. The endowment fund may be increased or reduced by a resolution of the General Meeting of Members.
5. Decisions to increase or reduce the endowment fund will be taken by a majority of votes representing two thirds of the fund in the first two votes and



an absolute majority in subsequent votes.

6. The liability of members of the Central Bank will be limited to their participation quotas.
7. Members will have an option right to new issues of securities in proportion to those already held.
8. If members fail to exercise their option, the new securities will be temporarily acquired by the Central Bank and be at the disposal of the Governing Council, until such time as it arranges for their further placement.
9. The assignment of quotas will be subject to approval by the General Meeting of Members.
10. The status of member will be forfeited on withdrawal or due to an exclusion measure, stating the reasons therefor, resolved by the Governing Council and ratified by the Congress of State.

#### **Article 21**

*(Charges levied from supervised parties)*

1. The Central Bank will also fund its operations out of contributions made by the supervised parties.
2. The contributions made by the supervised parties will be laid down by a specific decree on the proposal of the Central Bank, based on the principles of objectivity and fairness, and shall be in proportion to the dynamic development and growth of the supervised parties.
3. The amount of contributions may be determined so as to cover the whole of the costs, direct and indirect, incurred by the Central Bank exclusively in the performance of its supervision functions, and shall be evidenced by an annual report that the Central Bank will be required to present to the State Secretary for Finance and the Budget and to the supervised parties.

#### **Article 22**

*(Remuneration for the functions performed by the Central Bank for the State)*

1. The Central Bank will also fund its operations out of fees granted by the State, Public Institutions and Autonomous Authorities to the Central Bank for the functions performed and services rendered.
2. Unless otherwise specified, the functions performed and the services rendered by the Central Bank to the State, Public Institutions and Autonomous Authorities shall be remunerated with due regard also to the costs incurred by the Central Bank.
3. The terms and conditions and remuneration of the treasury and tax collection functions, the function of depository of financial resources and any other service that the Central Bank renders to the State, Public Institutions and Autonomous Authorities, will be established by separate three-year agreements between the Central Bank and the Congress of State through the State Secretary for Finance and the Budget.
4. Should the Central Bank be assigned additional functions that entail an increase in activities, the compensation provide for in the agreement referred to in the previous paragraph will be duly reviewed and adjusted.

#### **Article 23**

*(Financial Statement, profits, reserves)*

1. The financial year will begin on 1 January and close on 31 December each year.
2. The Annual Financial Statement, including the report by the Governing Council and the Board of Auditors' report, will be lodged at the registered office of the Central Bank within the periods laid down by current regulations on capital companies, and at least twenty days before the date of the General Meeting for whose approval it is to be submitted.
3. The Central Bank's Financial Statement will be certified by the auditing firm chosen by the General Meeting. The mandate for the auditing of the Financial Statement may not exceed five years.
4. The General Meeting will determine the distribution of the profits for the year, providing for the allocation of at least 40 per cent to ordinary reserves and at least 25 per cent to the bodies participating in the capital; any residual balance, on the other hand, will be transferred to an extraordinary reserve and to setting up or supplementing other funds contributing towards the formation of the Central Bank's equity.
5. Any losses by the Central Bank will be offset by drawing on reserves; if the funds are insufficient, the loss will be made up by the end of the following year out of resources contributed by members in proportion to the quotas of the endowment fund held by them.

#### **Article 24**

*(Central Bank tax status)*

1. The Central Bank's profits will be exempted from general income tax and will go towards the formation of the taxable base of those receiving the profits if they are distributed.

#### **Article 25**

*(The Central Bank's Operations)*

1. The Central Bank will manage its own financial resources independently and according to principles of prudence and good administration.
2. For the purpose of its own operating requirements, the Central Bank may enter into transactions and maintain relations with both San Marino and foreign credit institutions, International Financial Organisations, Central Banks, Supervision Authorities or similar foreign Authorities.
3. Within the scope of its own functions the Central Bank may, as well as availing itself of its own equity funds, conduct any financial borrowing transactions, to include the issue of bonds and more generally of any financial instrument.
4. Any issue of its own bonds other than as established by law shall have been authorised by the General Meeting, and made known to the Grand and General Council.
5. Bonds issued by the Central Bank may be classified as a compulsory reserve.
6. The Central Bank may also, in compliance with current measures, engage in any transaction promoting the conduct of its own business and the attainment of its objectives, including:
  - a. conducting transactions in financial instruments, gold and precious metals, foreign currencies and derivative instruments;
  - b. taking holdings in organisms, entities and companies whose activities contribute towards and are correlated with the Central Bank's institutional

- objectives;
- c. granting loans or mortgages to the State or Public Entities and Autonomous Authorities;
  - d. purchasing and selling real property and carrying out any act of management to meet its own requirements, as well as becoming the assignee of movable and immovable assets in partial or total satisfaction of its own credit claims;
  - e. receiving escrow deposits for custody or as surety or provided as guarantee in any other manner;
  - f. opening current accounts in foreign currencies and securities deposit accounts;
  - g. signing contracts with the purpose of reducing and managing the financial risks arising from variations in interest or exchange rates or from other factors of an economic and financial nature affecting its institutional activity.
7. Except with its own employees and members of the Bank's organs, and except where strictly necessary in order to achieve its own institutional aims, the Central Bank may not maintain active or passive banking relationships or conclude banking transactions with private persons.

## **TITLE V**

### **THE CENTRAL BANK'S ORGANISATION AND STAFF**

#### **Article 26** *(Administrative organisation)*

1. The Central Bank will enjoy full organisational, management, negotiating and accounting autonomy in due compliance with the provisions of law.
2. The Central Bank will issue its own internal regulations on the organisation of the administrative structure as compatible with its budget and according to the criteria of efficiency, effectiveness and economy.
3. Save as laid down in paragraphs 1 and 2, and without prejudice to the provision of paragraph 4 below, there will be at least the following Departments in the organisation of the Central Bank:
  - a. Supervision Department;
  - b. Treasury Department;
  - c. Tax Collection Department;
  - d. Payments System Department.
4. In defining the internal organisation of its administrative structure, the Central Bank shall however provide for the necessary autonomy for the Supervision Department, without prejudice to the requirement of coordination.

#### **Article 27** *(Regulation of activities)*

1. The activities of the Central Bank will be regulated by the present Law, the internal regulations laid down by the Governing Council and the internal measures issued by the Director General.

**Article 28**  
*(Legal protection)*

1. The members of the Governing Council, the inspectors, management and staff of the Central Bank shall not be liable for acts or omissions in the exercise of the powers and functions of the Central Bank or in compliance with the obligations and duties established in this Law, if said acts or omissions are made in good faith, i.e. in the absence of wilful misconduct or gross negligence. Civil actions for damages shall be brought against the Central Bank, which provides legal protection to the persons identified above in any proceedings, whether civil, criminal or administrative, with the right to pursue remedies against them, in the event of a final judgement establishing their wilful misconduct or gross negligence. This paragraph shall also apply to the staff allocated to the Financial Intelligence Agency.
2. Special administrators and members of the Oversight Committee appointed by the Central Bank pursuant to Articles 79, 84 and 86 of Law no. 165 of 17 November 2005 and subsequent amendments, may be subject, after authorization of the Supervision Committee, to a civil action for damages caused while performing their duties.
3. A judicial appeal may be lodged against a reasoned refusal of authorisation to bring the civil action referred to in the preceding paragraph, on grounds of both legitimacy and content, before the Administrative Judge, in the manner and according to the terms referred to in Title II of Law no. 68 of 28 June 1989, without prejudice to the possibility for the judge to derogate, in the context of such appeal, from the provisions of Article 18, paragraph 4, of the same law. If the appeal is definitively upheld, the damaged person shall be entitled to bring an action for damages against the Central Bank under paragraph 1 above.

**Article 29**  
*(Official secrecy)*

1. The members of all the Central Bank's organs, its consultants and its entire staff will be under an obligation to observe the strictest secrecy on all matters pertaining to the activities of the Central Bank and its relations with third parties. All particulars, information and data in the Central Bank's possession by reason of its activity of supervision over intermediaries will be official secrets. The obligation of observing official secrecy will persist even after leaving office or employment with the Central Bank.
2. In the same way, all those who, on the occasion of any relationship with the Central Bank, acquire - even involuntarily - information on the Central Bank, its activities or the data in its ownership or under its control, will be bound by the ties of secrecy.
3. Such confidentiality may not be relied upon against the judicial authority if the information requested is necessary for investigations into infringements liable to criminal sanctions and to the Financial Intelligence Agency in the exercise of its functions of preventing and countering money laundering and terrorist financing.



**TITLE VI**  
**FUNCTIONS OF THE CENTRAL BANK**

**SECTION I**  
**GENERAL**

**Article 30**  
*(Powers of the Central Bank)*

1. In order to achieve the objectives and carry out the functions it is assigned by the present Law, the Central Bank, through its organs and in its respective areas of competence, may adopt measures, to include those in the form of regulations, orders, circulars, standard letters, recommendations and instructions, which will, besides being of a cogent nature in dealings with supervised parties, also perform the function of explaining and interpreting the tasks assigned to the Central Bank by law.
2. The Central Bank will, adopting the methods regarded as most appropriate, make public the measures referred to in the previous paragraph if they are of general relevance and addressed to the public.
3. Central Bank instruments pertaining to matters of supervision, as resolved by the Supervision Committee, will be issued by the Director General.

**Article 31**  
*(Sanctions)*

1. Without prejudice to criminal sanctions, where applicable, anyone violating the provisions of this Law, those specifically regulating any function assigned to the Central Bank, as well as the provisions in implementing decrees and regulatory measures referred to in Article 30 above, shall be punished with a pecuniary administrative sanction.
2. After having heard the Credit and Savings Committee, upon proposal of the Central Bank, an ad-hoc decree shall identify the following:
  - a) the provisions the violation of which is punished;
  - b) those responsible for the violations;
  - c) minimum and maximum amount of each pecuniary administrative sanction, provided that the minimum amount is not less than € 50.00 and the maximum amount does not exceed € 50,000.00, to ensure that sanctions are adequately effective, proportionate and dissuasive;
  - d) the sanction procedure in its various stages, with special rules concerning the manner and time-limits for notification to the parties concerned.
3. The amount of each sanction shall be established by the Central Bank according to the principle of proportionality. In other words, it shall be fixed in accordance with the limits specified above and based on the seriousness of the violation, having also regard to the following:
  - a) the duration of the violation;
  - b) the dimensions of the legal person and the group to which it belongs;
  - c) the effects, even potential, of the violation on the technical, organisational and management situation of the supervised party and of the group to which it belongs, as well as the possible imposition of prohibitory measures, specific or extraordinary measures on supervised parties;

- d) reliability of the description concerning the business' situation provided to the Central Bank;
  - e) cases where several provisions are violated or the same provision is violated repeatedly through a single action or failure;
  - f) cases of repeated violation;
  - g) the impact, even potential, on customers, other qualified stakeholders or, in general, on the stability and reputation of the national financial system;
  - h) any active repentance, that is to say the activity carried out by responsible persons or by the supervised entity to which they belong to eliminate or lessen the consequences of the infringement;
  - i) the level of personal liability of the parties subject to sanctions, in relation to the information available, such as the structure of powers, the conducts concretely held and the duration of the term of office.
4. Only a sanction shall be applied in case of a single action or failure, also when several provisions are violated or the same provision is violated more than once, without prejudice to the application of the criterion of proportionality referred to in letter e) of paragraph 3 above.
  5. Those specific actions or failures already analysed by the Central Bank during inspections, which were not considered as violations, shall not be subject to sanctions, without prejudice to the subsequent acquisition of new documents or new information referring to the actions or omissions mentioned above. The following persons, if not at fault, shall not be subject to sanctions:
    - a) the director or the auditor who has identified the violation deriving from a collective decision, provided that the findings are included in the corporate books or records and an official and timely report is made to the Central Bank;
    - b) the auditing firm, the external auditor or the actuary who, having identified the violation, has notified such findings in the form envisaged by law and has submitted a formal and timely report to the Central Bank;
    - c) other persons who may be subject to the sanction procedure in accordance with the delegated decree mentioned in paragraph 2 above, who, having identified the violation in the exercise of their functions, have submitted a formal and timely report to the Central Bank.
  6. The sanction procedure shall:
    - a) be initiated by the Central Bank within 9 months following the establishment of the violations by means of a notice of the alleged violations to the persons concerned, in which reference is made to the inspection, the supervisory activity, the unmet deadline or the documents acquired from which the alleged violations have arisen;
    - b) terminate - considering any possible counter-argument presented by the persons concerned within a period of 30 days that might be extended upon provision by the Central Bank - within 60 days following the initial of the procedure itself, i.e. the notification of the alleged violations referred to above by filing the case or applying the administrative sanction by means of a reasoned provision containing the order for payment. Where an extension for the presentation of counter-arguments is granted, the aforesaid time limit of 60 days shall be extended by the number of days of extension granted.
  7. The administrative sanction shall cease to apply when the person sanctioned pays the relevant amount to the Central Bank within 60 days of the notification of the sanction.
  8. The legal persons to which those having committed the violations belong shall be jointly and severally liable with them for the payment of the sanction imposed under an obligation to seek reimbursement from those having

committed the violations.

9. The option of terminating the sanction through voluntary settlement shall be exercised by the violator by paying an amount equivalent to half the sanction applied.
10. A judicial appeal against the sanction measure may be lodged before the Administrative Judge in the manner and according to the time-limits referred to in Title II of Law no. 68 of 28 June 1989, without prejudice to the possibility for the Judge of derogating from Article 18, paragraph 4 of the same Law in the context of appeals against sanctions imposed by the Central Bank.
11. The lodging of a judicial appeal within the meaning of preceding paragraph 10 shall suspend the sanction which, therefore, becomes effective and enforceable when the judgement dismissing the appeal becomes *res judicata*.
12. If neither the sanctioned person nor the jointly and severally liable legal person has paid the sanction which has become unchallengeable, the Central Bank shall resort to the compulsory collection procedure under Law no. 70 of 25 May 2004 to collect the amounts. Pecuniary administrative sanctions shall be collected in accordance with the same procedure envisaged for the collection of taxes, duties, charges, sanctions and any other revenue due to the State (Ecc.ma Camera), Public Entities and the Autonomous State Corporations.
13. The Central Bank shall transfer to the State the amounts collected as payments of sanctions, excluding any lawyers' fees incurred to contest the appeals referred to in paragraph 10 above. Such amounts shall be allocated to a specific chapter of the State Budget, "Banking, Financial and Insurance system interventions".
14. Pecuniary administrative violations defined in this Law and in the Delegated Decree referred to in paragraph 2 shall be included in the list annually proposed by the Administrative Judge of Appeal under Article 32 of Law no. 68 of 28 June 1989.

**Article 32**  
*(Publication of sanctions)*

1. In the cases and in the manner deemed most appropriate, the Central Bank may publish the pecuniary sanction measure and the names of those to whom the sanction applies, only in the event of an unchallengeable measure.

**SECTION II**  
**SUPERVISION AND INVESTOR PROTECTION FUNCTIONS**

**Article 33**  
*(Supervision and investor protection functions)*

1. For the attainment of its objectives, the Central Bank will be assigned the functions of:
  - a. regulation, monitoring and supervision of intermediaries and their activities and services and of financial, banking and insurance instruments;
  - b. management, regulation and administration of the systems of guarantee to protect depositors;
  - c. the custody and administration of deposits in securities and in cash in respect of the compulsory reserve by Banks in escrow;
  - d. the granting of credit to supervised parties operating in the territory of the Republic, provided that it has adequate backing in the form of guarantees.

**Article 34**  
*(Regulation, monitoring and supervision of authorised intermediaries)*

1. The regulation, monitoring and supervision of the activities of authorised intermediaries will include the power to request information and data, the power to examine, supervise and regulate the acts of the supervised parties, and the imposition of restrictions and sanctions on the supervised parties and their Directors and senior officers.
2. In the performance of its functions of regulation, monitoring and supervision of authorised intermediaries, the Central Bank may also:
  - a. issue any normative instrument, regulation, order, circular, standard letter, recommendations and instructions it deems necessary in order to attain its objectives;
  - b. inspect any supervised party in order to examine the status of its accounts, books, funds, documents and any other relevant material, and to access any information that may be deemed necessary by the Central Bank inspectors;
  - c. request periodical information together with the financial statements and any other data and documents deemed necessary to the performance of its functions;
  - d. impose pecuniary sanctions on the supervised parties;
  - e. issue authorisations and formulate the opinions stated in current laws and regulations;
  - f. suspend authorisation for authorised intermediaries in the event of grave irregularities in administration, grave infringements of the laws and



regulations and the articles of association regulating the supervised parties' activities, grave infringements of provisions issued by the Central Bank, serious capital losses and a serious and lasting state of illiquidity. The grounds for the suspension measure shall be stated. The Central Bank will promptly notify the Congress of State of the suspension measures through the Committee for Credit and Savings;

- g. propose to the Congress of State, through the Committee for Credit and Savings, the revocation or dissolution of the administrative and monitoring organs of the banks and financial intermediaries, and the appointment of extraordinary administration bodies in accordance with the procedure specified by the Banking Law.

### **Article 35**

*(Notification of grave irregularities)*

1. The Supervision Committee of the Central Bank, in the person of the Director General, will forward, on a confidential basis, the information and data acquired in the exercise of its supervision function and pertaining to ascertained grave irregularities to the Congress of State, through the Committee for Credit and Savings,
2. The information and data referred to in paragraph 1 will also be forwarded to the judicial authority in those cases specified by law. The exhibits in proceedings brought further to that notification will be treated as strictly confidential.

## **SECTION III**

### **CURRENCY AUTHORITY FUNCTIONS**

### **Article 36**

*(Currency authority functions)*

1. The Central Bank will, in order to achieve its objectives, be assigned the following functions:
  - a. the exclusive management of currency transactions, with the option of delegation to other banks or branches operating in the territory, in compliance with current laws;
  - b. supervision on the application of currency measures.

## **SECTION IV**

### **PAYMENTS SYSTEM MANAGEMENT FUNCTIONS**

### **Article 37**

*(Payments system management functions)*

1. The Central Bank will, in order to achieve its objectives, be assigned the functions of management, regulation and oversight of the Republic's payments system.

### **Article 38**

*(Payments system management functions)*

1. The Central Bank will ensure that the payments system operates in a secure, stable and efficient manner. The Central Bank will adopt all those measures and procedures it deems necessary in order to secure the efficiency and stability of the San Marino payments system.
2. The Central Bank may delegate the management of the information technology infrastructure of the payments system to third parties. In that event, the delegated party will enter into a contract with the Central Bank in which it undertakes to treat the information acquired by virtue of such management with the strictest secrecy, and also to implement and use adequate security systems and procedures.

**SECTION V**  
**CONSULTANCY FUNCTIONS**

**Article 39**  
*(Consultancy functions)*

1. The Central Bank will, in order to achieve its objectives, be assigned the following functions:
  - a. the furnishing of opinions on monetary, credit, finance, currency and economic issues, through the Department of the State Secretary for Finance, to the Grand and General Council and to the Congress of State;
  - b. the identification, when commissioned by the Congress of State through the State Secretary for Finance and the Budget, of the forms of borrowing best suited to cover any funding requirement of the State and the Public Administration.

**SECTION VI**  
**OTHER FUNCTIONS**

**Article 40**  
*(Other functions)*

1. The Central Bank will, in order to achieve its objectives, be assigned the following functions:
  - a. the collection, compilation and publication of monetary, finance, credit and currency statistics;
  - b. the function of State treasurer and tax collector through the management of the treasury and tax collection services on behalf of the State, Public Entities and Autonomous Authorities, regulated by Law 35 of 3 March 1993 and Law 70 of 25 May 2004, both as further amended;
  - c. the role of depository of the available financial assets of the State and of any other Public Entities and Autonomous Authority within the Extended Public Sector of the Republic;
  - d. the function of State agent for the management of public debt securities;
  - e. the coordination and promotion of consortium activities, initiatives and

- services in favour of the San Marino financial system;
- f. the role of institutional reference point, consistent with its own objectives and functions, in relations with International Financial Organisations and foreign Central Banks and Supervision or similar Authorities.
  - g. any other function it may be assigned under the laws of the Republic.

#### **Article 41**

*(Central Bank Publications)*

1. The Central Bank may publish statistical information, reports and studies on legal, economic and institutional issues pertaining to the objectives and functions it is assigned by the present law.

#### **Article 42**

*(Statistics on the financial system)*

1. The Central Bank, operating in accordance with its own autonomy, will be delegated sole competence for the production and publication of statistical data on the parties and activities that it supervises.
2. The Central Bank, in relation to the provision of the preceding paragraph, will maintain direct relations with international and supranational Authorities, Bodies and Agencies, providing them with the data and information permitted by law and its own Articles of Association.
3. To enable the Central Bank to carry out the activities referred to in this article, there will be recognition of its authority to operate, within the limits of the matters and procedures specified in paragraphs 1 and 2, in derogation of the provisions of Laws 70 and 71 of 23 May 1995 as further amended. For all its other activities, the Bank will be required to abide by the provisions of the laws cited in this paragraph.

#### **Article 43**

*(Code of conduct)*

1. Within one year of approval of this law the Central Bank shall draw up its code of conduct addressed to members of its organs and all the staff, which shall be presented by the Governing Council and approved by the General Meeting. The code shall provide for disciplinary and pecuniary sanctions in the event of its infringement, for the purpose inter alia of guaranteeing the independence and proper operation of the Central Bank, as well as settling conflicts of interest.

### **TITLE VII**

#### **THE CENTRAL BANK'S RELATIONS WITH STATE INSTITUTIONAL BODIES AND FOREIGN AND INTERNATIONAL BANKING AND FINANCING BODIES**

#### **Article 44**

*(The Central Bank's Relations with the State)*

1. The Central Bank may, at its own discretion, grant loans or mortgages to the State, Public Institutions and Autonomous Authorities, and buy, hold and sell public securities issued or backed by the Republic of San Marino.

## **Article 45**

*(Provision of information to the Congress of State)*

1. The Central Bank will be entitled to assist and inform the Congress of State, through the Department of the State Secretary for Finance, on economic matters and measures which, in the opinion of the Central Bank, can be associated with and influence the pursuit of the Central Bank's institutional objectives.
2. The Central Bank will be entitled to put forward resolutions and comments on proposed laws and on normative instruments referring directly to the objectives and functions reserved by the present law to the Central Bank, and also to draft proposed bills and normative instruments on matters within its sphere of competence, to be submitted to the Congress of State through the Committee for Credit and Savings.

## **Article 46**

*(Relations with the Congress of State)*

1. The Central Bank, through the Committee for Credit and Savings, will forward information to the Congress of State on the more significant facts noted or obtained in the exercise of its institutional functions.

## **Article 47**

*(Relations with foreign and international bodies)*

1. The Central Bank will have the role of the institutional reference point, as consistent with its own objectives and functions, in dealings with the international Financial Institutions and with foreign Central Banks and Supervision or similar foreign Authorities.
2. Jointly with the representatives of the Congress of State, the Central Bank will represent the Republic of San Marino in all the international financial institutions in which the Republic takes part.
3. The Central Bank, through the Committee for Credit and Savings, will inform the Congress of State of current relations with international financial institutions.

# **CHAPTER II**

## **COORDINATION NORMS AND FINAL AND TRANSITIONAL MEASURES**

### **TITLE I**

#### **COORDINATION NORMS**

## **Article 48**

*(Committee for Credit and Savings)*

1. The Committee for Credit and Savings will be a body consisting of the State Secretary for Finance, by whom it will be chaired, and a minimum of two up to a maximum of four persons appointed by the Congress of State from among its own members.

2. The Committee for Credit and Savings will be assigned the function of directing and guiding the activity of banking, finance and insurance supervision and shall also be responsible for promoting national and International cooperation for the effective prevention and countering of money laundering and terrorist financing.
3. Sitzings of the Committee for Credit and Savings may be attended, but without the right to vote, by the Director General of the Central Bank and a representative of the Supervision Committee; other representatives of the Central Bank may also be invited.
4. For the purpose of promoting national and International cooperation for effectively preventing and countering money laundering and terrorist financing, the Committee for Credit and Savings shall hold regular meetings.
5. A Magistrate appointed by the ordinary meeting of the Judicial Council, the Director of the Financial Intelligence Agency, or one of his delegates, and a representative appointed by the Chiefs of the Police Forces shall attend meetings in terms of article 4 above.
6. The President of the Committee, according to items on the agenda, may invite representatives of Professional Associations, members of the Public Administration and other parties who by law are involved in the prevention and countering of money laundering and terrorist financing, to participate in meetings.

#### **Article 49**

*(Monitoring and supervision of financial activity)*

1. All the functions, powers and prerogatives previously assigned by law to the Supervision Division and the Bank Division of the Central bank of the Republic of San Marino, the Inspectorate for Credit and Currencies and the Istituto di Credito Sammarinese will be deemed, when this law comes into force, to be assigned to the Central Bank.

#### **Article 50**

*(Managerial Staff and Staff of the Supervision Committee)*

1. In order to secure the full operational continuity of the Central Bank, the Director General in office as of the date on which this law comes into force will retain his role within the Bank on the contractual terms already signed at the time of his appointment and up to the natural expiration of the mandate for which he has been appointed.
2. In order to guarantee the continuity of the supervision activity:
  - a. the Coordinator of the Supervision Division in office on the date on which the present law comes into force will retain the existing contractual relations with the Central Bank, up to the time of their natural expiry, in his role as External Inspector within the Supervision Committee;
  - b. the current members of the Supervision Committee not linked to the Central Bank by an indefinite contract of employment will retain their existing contractual relations with the Central Bank, up to the time of their natural expiry.

### **TITLE II**

#### **FINAL AND TRANSITIONAL MEASURES**

**Article 51**  
*(Final provisions)*

1. The present law abrogates:
  - a) Law 34 of 9 March 1988;
  - b) Law 86 of 27 June 2003;
  - c) All other measures conflicting with the present law published at a date prior to the date on which it comes into force.
2. Article 3 of Law 35 of 3 March 1993 will be substituted by the following:
  - a) without prejudice to the provision of article 87 of Law 70 of 9 November 1979, the supervision and monitoring of the proper management of the Sole Treasury service will be assigned to the Board of Auditors of the Central Bank;
  - b) in the quarter following the annual close of the financial year, the Central Bank will be required to present to the State Secretary for Finance and the Budget, the Public Finance Control Commission and the Boards of Auditors of the individual Public Institutions concerned, the annual statement of incoming and outgoing payments made on behalf of the State and Authorities in the Extended Public Sector, together with an analytical illustrative report and opinion as to conformity by the Board of Auditors of the Central Bank.

**Article 52**  
*(Entry into force)*

1. The present law will come into force on the fifteenth day following the day of its legal publication.



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