BANCA CENTRALE
DELLA REPUBBLICA DI SAN MARINO

MISCELLANY OF MEASURES AIMED AT REVIEWING THE SUPERVISORY PROVISIONS CURRENTLY IN FORCE

year 2016 / number 03

Article 1 - Amendments to Regulations no. 2007-07, 2011-03 and 2014-04

1. In article III.III.4, paragraph 2 is amended as follows:

"2. Contributions to the initial share capital other than contributions in cash are not allowed. On the contrary, contributions in kind are allowed for the subsequent increases or reconstructions of the share capital, in compliance with the provisions of the CORPORATIONS ACT, and subject to the prior verification, by the CENTRAL BANK, of the instrumentality of the assets to be contributed compared to the economic activity resulting from the corporate purpose of the receiving company."

2. In article VI.II.5, paragraph 1 is amended as follows:

"1. With reference to the content of the explanatory notes, the templates for the balance sheet and income statement, and the valuation and preparation criteria of corporate and consolidated financial statements, reference is made to the Regulation no. 2016-02, which should be regarded as a special rule, and thus prevailing, compared to the general provisions referred to in this Part. "

3. The following second paragraph is added to article V.II.8:

"2. The certificates and/or documents referred to in the previous paragraph, if issued abroad, are subject to the same principle of "substantial equivalence" referred to in articles V.II.2 and V.II.3."

4. The following second paragraph is added to article VII.XII.1, for Regulations no. 2007-07 and 2011-03 and article VII.VII.1 for Regulation no. 2014-04:

"2. The provisions referred to in this Title are applicable, to the extent compatible and in compliance with the provisions of Chapters I and II of Title IV of the CORPORATIONS ACT, also to the other extraordinary transactions of merger and demerger, which, absent any provision on the threshold of significance under article 52 paragraph 2 of the LISF, are always subordinated to the prior authorisation by the CENTRAL BANK."

Article 2 - Amendments to Regulation no. 2006-03

1. In Article 7, paragraph 2, letter f) is replaced as follows:

"f) the assets brought in by shareholders to the initial share capital may be exclusively pecuniary. On the contrary, assets in kind are allowed for the subsequent increases or reconstructions of the share capital, in compliance with the provisions of the CORPORATIONS ACT, and subject to the prior verification, by the CENTRAL BANK, of the instrumentality of the assets to be contributed compared to the economic activity resulting from the corporate purpose of the receiving company."

2. The following third paragraph is added to Article 18:

"3. The SG, pursuant to article 23 of the LISF, must notify to the CENTRAL BANK, on an annual basis and within sixty days from the approval of the financial statement, the list of the shareholders with voting rights as evidenced in the Shareholder Register as at the specified date. The communication regarding the shareholders' base must specify, with reference to each shareholder, the number of shares owned, their aggregate face value and the percentage of share capital they represent, using, for such purpose, the specific form available in the reserved area of the internet web site of the CENTRAL BANK."

3. The following third paragraph is added to Article 20:

"3. In the cases referred to in the previous paragraph, a notice prior to the date of finalisation of the transfer of the shareholding must also be transmitted to the CENTRAL BANK, with at least 15 days prior notice."

4. In Article 125, paragraph 1 is replaced as follows:

"1. The management regulations of the COLLECTIVE INVESTMENT FUNDS are subject to the approval of the CENTRAL BANK. Applications for approval of management regulations for COLLECTIVE INVESTMENT FUNDS shall be appended with the following:

a) text of the FUND regulations along with the record of approval by the competent corporate body;

b) regulations drafted according to the STANDARD TEMPLATE shall require a certification from the competent corporate bodies of the SG on conformity of the regulations with the selected scheme;

c) text of the template for subscription of shares of the FUND;

d) copy of the agreement authorizing the depositary bank and the party responsible for calculating the value of shares in the FUND.

Specific contact details for immediate communications shall also be provided."

5. In Article 128, paragraph 1 is replaced as follows:

"1. Any amendments to the management regulations of COLLECTIVE INVESTMENT FUNDS are subject to the approval of the CENTRAL BANK, except for those representing only an update of the information and data contained therein, and thus not subject to the intervention of the CENTRAL BANK, in which case it is sufficient to have the new version of the regulations promptly transmitted to the CENTRAL BANK, evidencing the changes from the previous wording. Applications for approval of amendments to the management regulations shall be appended with the following:

a) copy of the record from the corporate body that has approved the amendments to the regulations with indication of the reasons underlying the initiative;

b) the text of the amended sections of the regulations compared with the current text. The full text will be submitted only if the revision is sufficiently extensive to merit a total review of the text;

c) when the depositary bank or party responsible for calculating the value of shares changes, a certificate of acceptance of that position."

6. In Article 45, paragraph 1 is replaced as follows:

"1. The fiscal year begins January 1, and ends December 31. The SG shall prepare the operating and consolidated balance sheet in compliance with the provisions of Regulation no. 2016-02."

7. Article 64 is replaced as follows:

*"**Article 64 – Corporate officers and minutes of the meetings***

1. Within 30 days of the date on which the appointments are accepted, SG shall report to the CENTRAL BANK any changes in the individuals who perform management, senior management, and supervisory functions.

2. The SG should also transmit to the CENTRAL BANK a certified and complete copy of the minutes of each meeting of the shareholders, even if they do not contain any resolutions subject to notification or authorisation requirements, together with an up to date certificate of good standing, when the resolutions of the meeting have determined an updating of the data contained therein. Such transmission should be made within ten days from the date of completion of the legal procedure for the execution of the deed, that is to say from the last, in chronological order, of the dates of celebration, registration, filing and entering in the Register of Companies."

8. In Article 13, paragraph 1 is replaced as follows:

"1. The CENTRAL BANK shall enter the SG in the Register of authorized entities according to the provisions of Regulation no. 2006-01."

Article 3 - Amendments to Regulation no. 2008-01

1. In Article 9, paragraph 2, letter f) is replaced as follows:

"f) the contributions of the shareholders to the initial share capital must be made only in cash. On the contrary, contributions in kind are allowed for the subsequent increases or reconstructions of the share capital, in compliance with the provisions of the CORPORATIONS ACT, and subject to the prior verification, by the CENTRAL BANK, of the instrumentality of the assets to be contributed compared to the economic activity resulting from the corporate purpose of the receiving company."

Article 4 - Amendments to Regulation no. 2014-04

1. In Article XI.I.1, paragraph 2 is replaced as follows:

"2. Foreign PSPs already operating in the Republic of San Marino at the date of entry into force of this Regulation on the basis of previous agreements with the sammarinese financial operators, may continue to provide such services provided that within 6 months from the demand for regularisation transmitted by the CENTRAL BANK, they obtain the permits referred to in Part III, Title VI above."

2. Article VII.IV.19 is replaced as follows:

*"**Article VII.IV.19 - Procedure for preliminary announcing the outsourcing operation***

1. In all cases of outsourcing of strategic operational functions, the INSTITUTION shall - at least 60 days in advance to the date on which the outsourcing contract is entered into with the OUTSOURCER - forward to the CENTRAL BANK a copy of the decision by which the INSTITUTION's Board of Directors has specified:

a) the reasons behind the choice of outsourcing;

b) the objectives of outsourcing, both in relation to the overall business strategy and to the qualitative and quantitative standards expected from the process;

c) criteria and procedures to guide the evaluation and selection of potential outsourcers and the ensuing relation with the chosen OUTSOURCER;

d) the reasons for choosing the OUTSOURCER, particularly with regard to capital adequacy, professionalism and organisational adequacy;

e) the instruments and procedures to intervene promptly in case of inadequacy of the services provided;

f) any other relations, including with the GROUP, which bind the INSTITUTION to the OUTSOURCER."

Article 5 - Amendments to Regulation no. 2010-01

1. In Article II.I.1, paragraph 1 is replaced as follows:

"*1. With a view to obtaining the authorisation to exercise the OFFICE OF PROFESSIONAL TRUSTEES, the APPLICANT FINANCIAL BUSINESS shall:*

a) be incorporated as joint-stock companies;

b) not have suffered, in the last 12 months, any SIGNIFICANT ADMINISTRATIVE SANCTIONS;

c) appoint, by means of a decision adopted by the Board of Directors, a person holding the qualification referred to in Article IV.I.2 hereunder as the PERSON RESPONSIBLE FOR THE OFFICE OF TRUSTEE whether the legal representative, another member of the Board of Directors, the General Manager or an employee thereof;

d) provide for "the OFFICE OF PROFESSIONAL TRUSTEE, where authorised by the CENTRAL BANK" as the corporate purpose specified in their articles of association."

2. Paragraph 4 of Article III.I.2 is repealed.

3. In Article I.I.2, paragraph 1, point 11 is replaced as follows:

"11. "Person responsible for the office of trustee": a person appointed within a company to hold the office of trustee and vested with the powers, including that of signature, relating to said office, and with the related responsibilities also pursuant to and under the provisions of article 22, paragraph 2, letter b) of the Decree no. 76/2006;"

4. In Article I.I.2, paragraph 1, point 12 is replaced as follows:

"12. "Significant administrative sanctions": administrative sanctions applied pursuant to one of the laws and decrees listed below (and subsequent amendments thereof):

- Law no. 99 dated 29 July 2013;

- Law no. 92 dated 17 June 2008;

- Decree no. 76 dated 30 May 2006;

- Law no. 42 dated 1 March 2010;

the amount of which exceeds at least one of the following thresholds:

- for a single sanction: EUR 10,000.00 (EUR ten thousand);

- on an annual overall and cumulative basis:

- EUR 50,000.00 for legal persons and representatives thereof;

- EUR 20,000.00 for self-employed persons;".

5. In Article II.II.2, paragraph 1 letter i), the first subsection is repealed.

Article 6 - Amendments to Regulation no. 2014-01

1. In Article 7, paragraph 3 is replaced as follows:

"3. A specific section of the REGISTER is dedicated to the employees of AUTHORISED PARTIES who possess the requirements referred to in Article 10 and the professional skills equivalent to those provided for in Article 11, required for the professional practice of FINANCIAL PROMOTER activities, whose evaluation of equivalence is the responsibility of the same AUTHORISED PARTY exercising OUT-OF-OFFICE CANVASSING. The registration of employees of AUTHORISED PARTIES in the specific section of the REGISTER, as well as the maintenance of such registration, is also subject to the compatibility and relevance of the role played by such employees in the corporate structure of the AUTHORISED PARTY, with the actual performance of OUT-OF OFFICE CANVASSING . The satisfaction of this requirement, as well as when it is no longer met, should be notified by the AUTHORISED PARTY."

2. In Article 11, paragraph 3 is replaced as follows:

"3. *In order to verify the requirements mentioned in the previous paragraphs, the following documents must be produced:*

a) education qualification certificate or a certified copy thereof;

b) curriculum vitae;

c) a statement made by the entity or entities where the functions envisaged in paragraph 1, letter b) were performed, certifying the professional experience of the applicant, specifically with regard to the role and tasks actually performed and the period of time in which they were performed, specifying the function characterising the performance of investment services with a role of responsibility, the type of financial products and/or investment services placed or distributed; the CENTRAL BANK reserves the right to assess other certificates, even if not issued by the entity indicated in this letter, from which the same circumstances may be inferred;

d) as an alternative to the document referred to under point c):

- *certification of a pass in the evaluation required for the registration in the records or registers referred to in letter a) of paragraph 2 above, or a certificate proving the registration in such records or registers;*
- *professional certification in the cases referred to under letter b) of paragraph 2 above;*

e) a declaration stating that, in the two years before the filing of the application, he/she was not subject to the proceedings specified in paragraph 1, letter c) above."

3. Annexes B and C are adjusted based on the amendments introduced by the two preceding paragraphs.

Article 7 - Amendments to Regulation no. 2016-01

1. In Article III.I.2, paragraph 1, letter i) is modified as follows:

"i) DEPOSITS, even if made through a third party, by the shareholders of the banks, that control the said banks pursuant to article 2 of the LISF;"

2. In Article II.I.1, paragraph 1 is modified as follows:

"1. The FUND has the nature of an asset with its own independent purpose, that is to say, it has complete financial autonomy from the CENTRAL BANK, being liable for the guarantee of the DEPOSITORS, within the extent of its assets, except for the possibility to resort to extraordinary contributions and/or other forms of loan, in the cases of COMPULSORY WINDING-UP of the participant.

The FUND has no legal personality, separate from that of the CENTRAL BANK, which manages the fund directly through the MANAGEMENT BODY appointed from amongst its members pursuant to article II.II.3 and within the context of the regulations on the structure and staff of the CENTRAL BANK referred to in Chapter I, Title V, of Law no. 96 of 29 June 2005, as subsequently amended."

3. In article IV.I.1 paragraph 1, the words "*the end of this financial year"* are replaced by "*15 February 2017, subject to prior consultation procedure"*.

Article 8 - Amendments to Regulation no. 2007-07

1. In Article X.V.1, paragraph 1 is replaced as follows:

"1. Banks may not enter into contracts with customers through recourse to LONG-DISTANCE COMMUNICATION TECHNOLOGIES, except for the opening of passive current accounts by electronic means pursuant to, and in compliance with, the provisions of article 2 bis of the Decree-Law no. 4 of 21 January 2016."

2. In Article X.V.2, paragraph 1 is replaced as follows:

"1. Except as provided for in the previous article, banks may, however, avail themselves of LONG-DISTANCE COMMUNICATION TECHNOLOGIES in their dealings with their customers for purposes of executing transactions and delivering services, provided that:

a) this takes place in the context of contracts that have already been executed in writing;

b) the banks are equipped with organizational and IT systems that are sufficient to ensure CUSTOMER confidentiality and safeguard the security of operations."

Article 9 - Amendments to Regulations no. 2007-07 and 2011-03

1. In Article VII.VII.1, paragraph 1 is replaced as follows:

"1. Other than in case of acquisitions aimed at protecting their claims, [banks/FINANCIAL COMPANIES] may acquire real estate assets solely for the purpose of ACTIVE FINANCIAL LEASING or, within the limits set forth in article VII.VI.1, for their own use in connection with their own operations."

2. In Article VII.VII.2, paragraph 1 is replaced as follows:

"1. [banks/FINANCIAL COMPANIES] are allowed to exceed the general limit referred to in article VII.VI.1 only in those cases in which the acquisition of the real estate properties is attributable to their efforts to safeguard their own claims. Real estate properties acquired under those circumstances must be always divested, except where used for their own use in connection with their own operations or for ACTIVE FINANCIAL LEASING, not later than:

- *24 months from their acquisition, if vacant or in any case not used;*
- *36 months from their acquisition, if for residential use or used as office of the enterprise.*

The divestment requirement, even if expired, is suspended until the capital requirement referred to in article VII.VI.1 is satisfied, and without prejudice to the power of intervention of the CENTRAL BANK, pursuant to article 44 of the LISF."

3. In Article VII.VIII.4, paragraph 2 is replaced as follows:

"2. They shall, however, divest themselves of these interests within 18 months of date on which they are acquired. The divestment requirement, even if expired, is suspended until the capital requirement referred to in article VII.VI.1 is

satisfied, and without prejudice to the power of intervention of the CENTRAL BANK, pursuant to article 44 of the LISF."

4. In Article I.I.2, paragraph 1, the definition of "bad loans" is replaced as follows:

"bad loans: the entire exposure of cash loans and off-balance sheet loans towards insolvent parties, even if the insolvency has not been ascertained in court, or who are in substantially comparable situations, regardless of the expected losses and any restructuring of such loans. The existence of any guarantees (collateral or personal) to protect the exposure is disregarded. Exposures to public entities in financial distress are included, as well as those resulting from lease agreements terminated due to breach by the lessee, until the new financial leasing of such assets to another lessee or the sale of such assets to third parties, with the subsequent recovery of the credit within the limits of the sum collected from the sale or calculated in a new lease agreement, regardless of the repurchase of the full possession of the asset and without prejudice to any termination of any claim by means of a settlement agreement, which would provide for the datio in solutum, by the former lessee in favour of the former lessor, of the economic counter value, determined by an expert, of its right to the repayment of any capital gains resulting from the sale or leaseback of the asset, with full and mutual settlement effect. The entire exposure includes interest recognised and any costs incurred for the collection activities;"

Article 10 - Amendments to Regulation no. 2015-01

1. In Article II.III.4, paragraph 3 is replaced as follows:

"3. For the purposes of the correct use of the above-mentioned categories, it should be noted that, regardless of residence and unless otherwise indicated in the specific REGULATORY SOURCES OF REFERENCE:

- *Government and public sector cover central and local governments, as well as entities of the public sector;*
- *non-banking financial undertakings means the parties who perform in their capacity as businesses and for the general public, activities included in the list referred to in annex 1 (letter B and subsequent letters) of LISF, or activities equivalent to these;*
- *postal administrations providing financial services are included in letter b) contained in paragraph 2;*
- *households include both consumer and producer households as well as not-for-profit institutions servicing households;*
- *the residual category "Other sources" is to be used for parties not covered by the previous categories;*
- *the recognition of the undertakings under the categories of authorised parties ("banks" or "non-banking financial undertakings") should be carried out only during the phase of actual registration of such undertakings in the Register of Authorised Parties referred to in Regulation no. 2006-01, thus the undertakings not yet entered in the register or already cancelled must be conventionally classified under the category "Non-financial companies", only for the purposes of this paragraph.*

Further information details may be requested in the REGULATORY SOURCES OF REFERENCE if it is deemed necessary for supervisory purposes."

2. In Article II.III.1, paragraph 5 is replaced as follows:

"5. Unless otherwise stated in the specific REGULATORY SOURCE OF REFERENCE, the accounting items expressed in currencies other than the Euro are stated in Euro according to the reference spot exchange rates published by the European Central Bank on the REFERENCE DATE or, if not available, those of the previous last available date."

Article 11 - Amendments to Circular no. 2015-01

1. In paragraph 4 letter c) second subsection, number 11 is replaced by number 12.

Article 12 - Amendments to Circular no. 2015-02

1. Paragraph 11.1 is replaced as follows:

"Except as provided for in the third indent of paragraph 1.3, in order to complete the impact analysis following the general asset quality review process carried out on the assets of the banks prior to the disclosure of the data by the CCR, the return flows, except for those referred to in chapter 9, shall be made available starting from the report referred to in paragraph no. 2.4, related to the first month following that in which the Central Bank will transmit the appropriate notice."

2. Paragraph 11.2 is replaced as follows:

"The service referred to in paragraph 2.10.1 will be available from the first consolidation of the risk positions following the periodical report referred to in paragraph 11.1 above."

3. Paragraph 11.3 is replaced as follows:

"The first report for the purposes of the obligation to inform the customer and the jointly liable parties, if any, referred to in paragraph 4.1.5, sixth indent, is to be regarded as coinciding with the monthly report referred to in paragraph 11.1 above, as regards to all of such customers and jointly liable parties, if any, registered as non performing on the first day of the month following that in which the Central Bank will transmit the notice referred to in paragraph 11.1 above, regardless of when the information was notified by the reporting intermediary to the CCR for the first time."

4. Paragraph 2.15 is replaced as follows:

"2.15. Criteria for the quantification and distribution of costs for the Central Credit Register

The intermediaries participating in the CCR are required to contribute to the reimbursement of the costs incurred by the Central Bank for the institution, annual maintenance and management of the risk centralisation service, in accordance with the criteria and procedures listed below.

During the first phase, known as "start-up", the contribution by the participating intermediaries to all costs incurred by CBSM for the CCR (both direct and indirect), is made through:

- *a fixed amount to be charged to each participating intermediary (excluding the CBSM participating party), which takes into account the different sizes and capital capabilities of the various types of parties;*
- *a variable amount, to be paid by each participating intermediary (excluding the CBSM participating party), calculated based on the number of the relevant reported parties of each participant, on the first reference date after the date of completion of the project.*

The one-off fixed amount charged to each participant is given in the following table:

Participating intermediary	*Fixed amount*
Banks enrolled in the Register of Authorised Entities and resident branches of non-resident banking undertakings	*€ 7,500.00*
Financial companies enrolled in the Register of Authorised Entities and resident branches of non-resident financial undertakings	*€ 1,000.00*
Mutual investment funds	*€ 1,000.00*

The participating intermediaries who, even if they are not operational, are, on 31 December 2015, authorised and enrolled in the Register of Authorised Entities, and who on the same date have not submitted a formal voluntary liquidation application or relinquished loan granting activities, are nonetheless required to pay the fixed amount indicated above.

The fixed and variable amounts payable by each participating intermediary, which contribute to the determination of the aggregate individual amount of refund of costs payable by the CCR during the "start-up" phase, will be notified by the Central Bank, together with the procedures and payment dates, within 90 days from the termination of the aforementioned "start-up" phase, which is also subject to a specific notice transmitted by the Central Bank to each participating intermediary.

As from this latter notice, the so called "maintenance" phase commences, in which each participating intermediary, except for CBSM, is required to contribute to all costs incurred by CBSM for the CCR (both direct and indirect, to be regarded, in any case, as including any development costs or other related costs, also of a non-recurring nature, after the start-up phase) through the annual payment of the variable amount only, calculated based on the average number of persons entered in the database and linked to each participating intermediary. The average number is calculated based on the reference dates of the relevant reports of the same calendar year.

The contribution share borne by each participating party, will be notified by the Central Bank by 31 March of the year following the reference year, together with the procedures and times for payment.

The Central Bank charges the costs incurred for responding to the requests submitted by the participating intermediaries. For the calculation of the rates, the level of detail and historical depth of the information provided, are also taken into account. Any changes to the aforementioned rates applied by the Central Bank shall be notified to the intermediaries effective from the calendar quarter following that of the notice.

5. In the definition of "Default Status", letter b) at the beginning is replaced as follows:
"b) the debtor is in arrears for more than 90 days on a relevant credit obligation towards the reporting intermediary, its parent company or one of its subsidiaries. This period is extended to 180 days for exposures guaranteed by residential property as well as for exposures towards public sector bodies."

Article 13 – Amendments to Circular no. 2012-01

1. In the paragraph "Reporting Attributes" third indent, the last two subsections are replaced as follows:

- *"families include both consumer and producer families as well as not-for-profit institutions servicing households;*
- *the residual category "Other" is to be used for parties not covered by the previous categories."*

Article 14 – Final and transitional rules

1. The deadlines referred to in articles VII.VII.2 paragraphs 1 and 2, and VII.VIII.4, paragraph 2 of the Regulations no, 2007-07 and no. 2011-03, previously extended to 31 December 2016, pursuant to article 14 paragraph 3 of Regulation no. 2015-03, are further extended to 31 December 2017, without prejudice to the suspension of the divestment requirement referred to in article 9, paragraphs 2 and 3 above.

2. As regards the amendments to Statutes resulting from the changes introduced by the first paragraph of articles 1, 2 and 3 above, the authorisation referred to in article 47 of Law no. 165/2005 is regarded as released generally under this paragraph:

- provided the amendment regards only the elimination of the restrictions to the contributions in kind, where already provided for by the Statutes, and/or the provision for such possibility, if not already provided for, and the right to make a contribution in kind is introduced in the Statutes within the limits provided for by the supervisory provisions;

-without prejudice to the requirement for the authorised entity to transmit to the Supervisory Authority, in the forms and within the deadlines provided for, the updated text of the Statute evidencing the changes made for the purposes referred to above.

3. The change referred to in article 11 above is effective as from the report with reference date 31 December 2016.

Article 15 – Entry into force

1. This Regulation shall enter into force on 1 November 2016.

Article 16 – Consolidated texts

1. The texts consolidated to include the amendments introduced by this Regulation, shall be made available on the web site of the Central Bank of the Republic of San Marino (www.bcsm.sm).