

LAW N° 41 of 25 April 1996

CURRENCY REGULATIONS

UNOFFICIAL TEXT

NOTICE

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Title I

General Provisions

Art.1

Definitions

The following terms are considered herein, with regard to application of the provisions established by this law:

- 1) Residents: the natural persons with registered residence in San Marino as well as the juridical persons, the other Bodies and undertakings with registered and effective office in the territory of San Marino.
- 2) National currency: is the currency with which financial obligations are settled and is represented by the standard San Marinese currency and by the Italian lira. The EURO is treated as equivalent to the national currency.
- 3) Foreign currency: any means of payment, credit instrument or ready cash in a currency differing from the ones considered as national currency.
- 4) Currency operation: any transfer of national or foreign currency made in order to accomplish any transaction with a foreign country.

Transactions between San Marinese residents and the natural persons, juridical persons, other Bodies and undertakings, even without legal status, with registered residence, registered office and effective seat in Italy are not considered currency operations.

5) Exchange operation: every conversion of national or foreign currency into another currency, whether it be cash, on a forward covered basis or with option.

6) Third country: every country other than the Republic of San Marino and the Italian Republic.

Art. 2

Empowered parties

1 The San Marinese Credit Institute (I.C.S.) is institutionally empowered, with the competences and

forms established by the current bank legislation, to accomplish currency operations and exchange transactions.

2 The Postal Administration is empowered to accomplish exchange transactions according to the forms and methods established by the relative laws, and to carry out currency operations in accordance with the international Agreements.

3 Having heard the opinion of the Inspectorate for Credit and Currencies and the Committee for Credit and Saving, the I.C.S. may authorize other ordinary and special Institutes of Credit to carry out currency operations and/or exchange transactions, establishing the limits and conditions thereof.

Having heard the favourable opinion of the Inspectorate for Credit and Currencies, the I.C.S. may also authorize every other resident undertaking in possession of the necessary requirements established by law for exercising financial or business activities, to carry out exchange transactions, establishing the limits and conditions thereof.

4 Following the opinion of the Inspectorate for Credit and Currencies and the Committee for Credit and Saving, the I.C.S. may suspend or revoke the authorization indicated in the previous point with a motivated and immediately executive measure, against which an appeal to the administrative court is permitted within the peremptory term of thirty days.

The I.C.S. will immediately notify the Committee for Credit and Saving and the Inspectorate for Credit and Currencies about the suspensions or revocations it has ordered.

Art. 3

Freedom in currency relations with foreign countries

Currency and financial relations with foreign countries can be freely entertained, without prejudice to compliance with the regulations established by this law, by all other provisions and by the international agreements currently in force.

Residents can possess foreign currency both in the Republic of San Marino and abroad.

Art. 4

Regulations governing the currency operations and exchange transactions

1 In accordance with the regulations established by this law, the national and foreign currency can freely circulate between the Republic of San Marino and Italy.

2 Currency transfers to and from third countries are accomplished through the empowered parties indicated in article 2 and through empowered parties of the Italian Republic.

3 Besides the methods indicated in sub-section 2, residents may also settle the operations with foreign countries by:

- balancing of debit and credit items between residents and non-residents;
- transactions on accounts abroad;
- physical consignment of means of payment in the Republic of San Marino or abroad.

4 Currency transfers pertaining to the State or Bodies of the enlarged public sector are not subject to any restriction or any sort of formality and are accomplished through the I.C.S.

Art. 5

Statistical findings

Currency operations and exchange transactions accomplished by the empowered parties indicated in article 2 as well as by any resident who carries out the operation without the intermediation of the empowered parties, must be notified, for exclusively statistical purposes, to the currency Authorities of the Republic of San Marino in accordance with the criteria and methods to be established by a successive governmental decree, which will also provide for the relative notification form.

Art. 6

Financial products and services

Pursuant to the provisions established in articles 7 and 8 of Law N° 24 of 25/2/1986, the offer to the public in San Marino of financial products and services, also by non-residents, is subject to the prior, particular or general, authorization of the Inspectorate for Credit and Currencies.

Art. 7

Temporary safeguarding measures

Following provisions by the Secretary of State for Finance, the currency Authority of the Republic of San Marino may at any time arrange for temporary vetoes and limitations to the freedom of action ratified by article 3 whenever this is necessary owing to imbalances of an internal nature or international commitments that make safeguarding measures in the monetary and financial field imperative.

Modifications to the definitions as of point 2 of article 1 can be made, immediately notifying the Grand and General Council of the matter.

Art. 8

Trading of unrefined gold

Purchasing and selling unrefined gold are reserved to the I.C.S.

San Marinese transactors who intend to purchase unrefined gold in bars, ingots, blocks, powder or scrap to be used for manufacturing commodities in San Marino, must be authorized beforehand by the I.C.S.

According to the evidentiary documentation produced by the transactors, the I.C.S. checks on the intended use and purpose of the imported unrefined gold and gives the necessary instructions.

The I.C.S. is institutionally authorized to purchase and sell unrefined gold.

Art. 9

Anti-money laundering regulations

Having heard the Committee for Credit and Saving and the Inspectorate for Credit and Currency, the I.C.S. is authorized, by means of a specific governmental decree, to adopt the administrative provisions and measures for the purpose of applying the conventional anti-money laundering regulations currently in force.

The Inspectorate for Credit and Currencies checks to make sure that the credit intermediaries and financial brokers comply with the laws issued in application of this article and applies sanctions to any violations according to the formalities established in article 10.

Title II

Sanctions

Art. 10

Violations of the currency regulations

1 Currency operations and/or exchange transactions accomplished without the prescribed authorization from the San Marinese Credit Institute in violation of the limits or conditions envisaged in the authorization, or when this latter has been suspended or revoked, are punished with an administrative money-penalty proportional to the value of the currency, the assets and rights pertaining to the violation. In particular:

- a) from 5 to 20 percent of the value when this does not exceed 15 million lira;
- b) from 15 to 30 percent of the value when this exceeds 15 but not 40 million;
- c) from 25 to 40 percent of the value when this exceeds 40 but not 75 million;
- d) from 50 to 70 percent of the value when this exceeds 75 million;

2 The same sanction also applies in the case of non-observance:

- a) of the provisions concerning the temporary safeguarding measures as of article 7 of this law;
- b) of the provisions concerning the trading of unrefined gold as indicated in the previous article 8.

3 The sanctions established by this article can be increased, when the case is particularly serious, up to an amount equal to the profit obtained with the unlawful dealings but cannot in any case exceed five times as much as the value of the currency, the assets and the rights pertaining to the violation.

4 The administrative money-penalties indicated in this article are also imposed on those who facilitate the accomplishment of the violations or who obstruct their ascertainment.

5 Anyone who neglects to make the prescribed notification for statistical purposes to the currency Authorities of the Republic of San Marino or who makes an incomplete or incorrect notification is punished, if a natural person, with a administrative money-penalty of 400,000= to 4,000,000= lira. When bodies or juridical persons are involved, the sanction applied ranges from 1,000.000= lira to a maximum 10,000,000= lira.

Art. 11

Violation of the regulations concerning offers to the public of financial products or services

Offers to the public of financial products or services, also by non-residents, without the prior authorization of the Inspectorate for Credit and Currencies, are punished with the sanction envisaged by article 9, first sub-section, of Law N° 24 of 25/02/1986.

Art. 12

Other offences

When it no longer constitutes a serious crime or administrative offence, all other non-observance of this law and the consequent governmental decrees is punished with an administrative money-penalty from 500,000= lira to 10,000,000= lira.

Art. 13

Recidivism

1 As well as the sanctions established by the previous articles, the accessory sanction of suspension from three to ninety days of the undertaking during the accomplishment of which the violation was committed, is added in the case of recidivism. Owing to the effects of this law, a party who is found to have committed the same violation twice during the three years prior to the latest violation, is considered recidivist.

2 When legal steps are taken against legal representatives, directors or managers of a juridical person, this latter becomes civilly liable for the execution of the money-penalties and for fulfilling the other obligations resulting from the sentence. Liability is joint and several and without the benefit of preventive examination.

3 To the effects of the recidivist, the ascertained violations of the entrepreneurial activity accomplished by those who, during the considered period, held offices as legal representatives, directors or executives are taken into account and the accessory sanction of suspension of the business of the undertaking is charged directly to the juridical person.

Title III

Final provisions

Art. 14

Currency control and surveillance authority

1 Control and surveillance over the application of this law and the other currency regulations and laws are the competence of the Inspectorate for Credit and Currencies.

2 The Inspectorate proceeds on its own initiative or upon the request or indication of the currency Authority of the Republic of San Marino or the Committee for Credit and Saving.

3 It is thus entitled to carry out investigations, make assessments, formulate opinions, give instructions and issue immediately executive provisions.

4 Without prejudice to the fulfilment as of article 23 of Law N° 21 of 12 February 1986, the Inspectorate is obliged to inform the currency Authority of the Republic of San Marino and/or the Committee for Credit and Saving about the violations to currency matters encountered.

5 The Inspectorate inflicts the sanctions for administrative offences, established by the currency regulations, with the procedures indicated in articles 33, 34 and 35 of Law N° 68 of 28 June 1989 and the consequent decrees with the force of law.

Art. 15

Quantitative modifications

The parameters indicated in article 10 and the amounts of the administrative money-penalties established by this law may be modified with a governmental decree.

Art. 16

Entry into force

This law enters into force on the fifth day after that of its legal publication.

Issued from Our Residence, this day 30 April 1996/1695 d.F.R.

THE CAPTAINS REGENT

Pier Paolo Gasperoni - Pietro Bugli

THE SECRETARY OF STATE

FOR INTERNAL AFFAIRS

Antonio L. Volpinari