



REPUBLIC OF SAN MARINO

DECREE-LAW no.186 of 28 November 2011

We the Captains Regent of the Most Serene Republic of San Marino

In view of the necessity and urgency referred to in Article 2, paragraph 2, point b) of Constitutional Law no. 183 of 15 December 2005 and Article 12 of Qualified Law no. 184 of 15 December 2005, and in particular:

- *the need, in cases of suspension of payments of banks in extraordinary administration, to make provision for the possibility for ordinary customers to withdraw, from their cash and cash equivalents, amounts as strictly necessary to meet their essential and urgent needs;*
- *the urgent need to introduce the aforesaid possibility under the scope of existing extraordinary administration;*

In view of Resolution no. 1 of the State Congress adopted at the meeting of 28 November 2011;

In view of Article 5, paragraph 2, of Constitutional Law no. 185/2005 and Articles 9 and 10, paragraph 2, of Qualified Law no. 186/2005;

In view of Article 82 of Law no. 165 of 17 November 2005 and as a supplement to the provisions thereof; are promulgating and ordering the publication of the following decree-law:

URGENT SUPPORT MEASURES FOR DEPOSITORS OF BANKS UNDER SUSPENSION OF PAYMENTS

Art. 1

(Supplementary provisions to Article 82 of Law no. 165 of 17 November 2005)

1. The Supervision Committee, at the behest of the Commissioners and following the approval of the Supervisory Committee, can authorise banks in extraordinary administration that find themselves under suspension of payments, pursuant to Article 82 of Law no. 165/2005, to effect requests for the withdrawal of cash and/or arrangements for payment of their depositors, within the limits of the deposits to which they refer, in order to contribute, during the period of suspension, to satisfying the essential and urgent needs of the person and the business.
2. The Commissioners, following the approval of the Supervisory Committee, establish the availability threshold for depositors, taking into account sustainability, in terms of corporate liquidity, of estimated disbursements and, always within the maximum limit of two thousand Euro on a monthly basis for each depositor, natural person or legal person, recorded among the non-time deposits at the bank, though as co-holder of the relationship and regardless of the number of relationships due to the same subject.
3. The Commissioners, in the presence of excess liquidity in relation to that reserved pursuant to the previous paragraph, can also, following the approval of the Supervisory Committee, make payments notwithstanding the quantitative limits in the previous paragraph, to the spouse if the following conditions occur:
 - a) the depositor is bound to make the payment to carry out his/her obligations resulting from:

- i. an employment contract effective prior to the date of adoption of the provision for suspension of payments in the first paragraph;
 - ii. a contract or commercial agreement for the supply of goods or services signed before the date of adoption of the provision for the suspension of payments in the first paragraph;
 - iii. a court order concerning maintenance obligations towards a spouse and/or children.
- b) the total amount of payments made at the request of the depositor does not exceed, as a percentage in relation to non-time deposits that refer to the latter, the relation between the available liquidity of the bank and the total non-time deposits at the date of the adoption of the suspension of payments.
4. The recipients of the support measure in this Article are all depositors who are recorded by name by the bank as holders, individually or jointly with others, of non-time deposits (in a current account or in a savings account book), with the exception of:
 - a. public administrations;
 - b. banks and other financial undertakings (finance companies, fiduciary companies, investment companies, asset management companies, insurance undertakings, etc.), also in the case of deposits made on behalf of third parties;
 - c. mutual investment funds and other collective investment undertakings;
 - d. company members of the bank and the parent company of the banking group, as well as shareholders of the bank, including deposits made through nominees;
 - e. depositors who have obtained from the bank, on an individual basis, rates and/or conditions and/or financing that have contributed to a deterioration in the financial situation or have surreptitiously increased collection on demand.
5. The Supervision Committee can authorise, notwithstanding the suspension arrangements, access of the bank in extraordinary administration to the payment system in order to carry out the payment arrangements in this Article.

Art. 2

(Moratorium on overdue debts of customers)

1. Beneficiaries of the moratorium in this Article are all customers of the bank in extraordinary administration who, as a result of the provision for the suspension of payments made by the Commissioners, although having sufficient cash sums available, in relation to deposits held or assurances at the actual bank, find it objectively impossible to be able to honour their debts towards the wider Public Administration or towards San Marino financial undertakings (mortgage/loan instalments, lease payments, insurance premiums, etc.), as they do not have alternative sources of funding available at other financial intermediaries, of sufficient amount and immediately available.
2. As far as "institutional" or "professional" creditors in the previous paragraph are concerned, the subjects that come under the projection in paragraph 1, have the right, pursuant to this Decree-law, to an extension of the term of their debt with the duration corresponding to the entire duration of the suspension of payments, without the application of penalties, termination clauses, default interest, surcharges, interruptions in the use of public services and energy supply, or other measures of a sanctioning nature or effect.
3. For the purposes of requesting the moratorium, the customer should sign and send the subjects in paragraph 1 the self-certification drawn up in accordance with the form enclosed with the resolution of the Supervision Committee in the previous Article. For sanction purposes, the provisions of Title VI of Law no. 159 of 5 October 2011 will apply.
4. The individual recipient of the self-certification in the previous paragraph can send a copy of it to the Commissioners of the bank in order to request confirmation, for the part made available to them; the Commissioners, notwithstanding the provision of Article 36 of Law no. 165 of 17 November 2005, can confirm or deny to the requesting creditor that there is at the bank, at the date of the suspension of payments, sufficient cash and cash equivalents for the payment of the debt,

also taking into account any self-certifications already previously received on behalf of the same customer.

5. For creditors other than those identified in paragraph 1, the impossibility of fulfilment, self-certified and verified pursuant to the previous paragraphs, can be validly invoked as due to "force majeure" for all intents and purposes of the provisions in force and/or contracts.

Art. 3
(Final provisions)

1. The discipline of payment suspension of liabilities referred to in Article 82 of Law 165/2005 does not apply to sums received by the Bank and credited to customer deposit accounts, subsequent to the effective date of the actual suspension provision.

Done at our Residence, on 28 November 2011/1711 s.F.R.

THE CAPTAINS REGENT
(Gabriele Gatti – Matteo Fiorini)

THE SECRETARY OF STATE
FOR INTERNAL AFFAIRS
(Valeria Ciavatta)