

LAW no. 41 of April 25, 1996 (published on May 2, 1996)

## Currency Provisions

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

*Promulgate and make public the following law, passed by the Great and General Council during its session of April 25, 1996*

## **PART I GENERAL PROVISIONS**

### **Art. 1 Definitions**

For the purposes of applying the provisions contained in this part, the following has been agreed:

1) Residents: natural persons having registered their residence with the Registry Office of San Marino, as well juridical persons, entities and businesses having their main office on the territory of the Republic shall be considered as residents of San Marino.

2) National currency: monetary settlements shall be carried out with San Marino legal tender and the Italian Lira. The EURO shall be equally considered as national currency.

3) Foreign currency: any means of payment, security or cash instrument in a currency different from the national one shall be considered as foreign currency.

4) Currency transactions: any transfer of national or foreign currency in a transaction with a foreign country shall be considered as a currency transaction. Any transfer between San Marino residents and natural persons, juridical persons, other entities and businesses, including those without legal personality, residing or having their main office in Italy shall not be considered as currency transactions.

5) Exchange transactions: any spot, forward or option conversion of national or foreign currency against another currency shall be considered as an exchange transaction.

6) Third country: any State different from the Republic of San Marino and the Italian Republic shall be considered as third country.

### **Art. 2 Authorised Subjects**

1. The Istituto di Credito Sammarinese (I.C.S. - Central Bank) is institutionally authorised to conduct all currency and exchange transactions under the terms set forth by the bank legislation in force.

2. The Post Administration is authorised to conduct exchange transactions under the terms set forth in the relevant provisions, as well as to carry out currency transactions in compliance with international Agreements.

3. Having heard the opinion of the Office of Banking Supervision and of the Credit and Savings Committee, the I.C.S. may authorise the other credit institutions of the Republic, both ordinary and special, to conduct currency and/or exchange transactions, under the terms established by it.

With the prior agreement of the Office of Banking Supervision and the Credit and Savings Committee, the I.C.S. may authorise any other residing undertaking meeting the law requirements to perform financial or commercial activities, to conduct exchange transactions according to the terms and conditions established by it.

4. Having heard the opinion of the Office of Banking Supervision and of the Credit and Savings Committee, the I.C.S. may suspend or withdraw the authorisation referred to in paragraph 3 above, with a reasoned and immediately effective order. Against such order an appeal may be filed to the administrative courts within a term of 30 days. The I.C.S. shall promptly inform the Office of Banking Supervision and the Credit and Savings Committee of any suspension or withdrawal.

Art. 3

*Free currency relations  
with foreign countries*

Currency and financial relations with foreign countries are free, without prejudice to the provisions set forth in this law, in other laws and in existing international agreements.

Residents may hold foreign currency both in the Republic of San Marino and abroad.

Art. 4

*Provisions governing currency  
and exchange transactions*

1. In compliance with the provisions of this law, both national and foreign currency can freely circulate between the Republic of San Marino and Italy.

2. Currency transfers from and to third countries are made through the authorised subjects referred to in art. 2, as well as through authorised subjects of the Italian Republic.

3. In addition to the procedure defined in paragraph 2 above, residents can settle transactions with foreign countries by means of:

- clearing transactions between residents and non residents;
- management of accounts abroad;
- delivery of means of payment in the Republic of San Marino and abroad.

4. Currency transfers by the State and Public Sector entities are not subject to any restriction or formality and are made through the I.C.S.

Art. 5

*Statistical survey*

Currency and exchange transactions with third countries conducted by the authorised subjects referred to in art. 2, as well as by any resident operating without the intermediation of the authorised subjects, shall be communicated, only for statistical purposes, to the currency Authority of the

Republic of San Marino, under the terms defined in a subsequent Regency Decree, which shall also indicate the notification forms to be used.

Art. 6

*Financial products and services*

For the purposes of applying the provisions contained in articles 7 and 8 of Law no. 24 of 25 February 1986, the supply of financial products and services on the market in San Marino, also by non residents, shall be subject to the prior authorisation, general or special, of the Office of Banking Supervision.

Art. 7

*Interim measures of protection*

By decision of the Ministry of Finance, the currency Authority of the Republic of San Marino may, at any time, temporarily suspend or limit the freedoms sanctioned in art. 3 for reasons of internal imbalance or in compliance with international commitments requiring measures of protection in monetary and financial matters.

Any change in the definitions contained in paragraph 2 of art. 1 shall be promptly communicated to the Great and General Council (Parliament).

Art. 8

*Trade in unrefined gold*

The buying and selling of unrefined gold is a responsibility of the I.C.S..

San Marino operators intending to buy bar gold in any form for the production of goods in the Republic, shall obtain the prior authorisation by the I.C.S.

On the basis of the supporting evidence and records submitted by the operators, the I.C.S. shall supervise the use and destination of imported unrefined gold and provide to this end the necessary instructions.

The I.C.S. is institutionally authorised to buy and sell unrefined gold.

Art. 9

*Anti money laundering law*

Having heard the Credit and Savings Committee and the Office of Banking Supervision, the Congress of State (Government) may adopt, by means of a Regency Decree, administrative provisions and measures for the purposes of implementing the anti money laundering treaty legislation in force.

The Office of Banking Supervision shall verify compliance by credit and financial intermediaries with the implementation provisions of this article, and punish any infringement pursuant to art. 10.

**PART II  
SANCTIONS**

Art. 10

*Violations of currency rules*

1. Currency and/or exchange transactions carried out without the prior authorisation of the I.C.S., in violation of the restrictions or conditions set forth therein, or despite the suspension or withdrawal of the authorisation, shall be punished with a fine proportional to the amount of currency or the value of goods and rights constituting the object of the violation. In particular:

- a) from 5 to 20 percent of the value not exceeding 15 million lire;
- b) from 15 to 30 percent of the value exceeding 15 but not 40 million lire;
- c) from 25 to 40 percent of the value exceeding 40 but not 75 million lire;
- d) from 50 to 70 percent of the value exceeding 75 million lire.

2. The same sanction shall apply in case of non compliance with:

- a) the provisions on interim measures of protection in art. 7 of this law;
- b) the provisions on trade in unrefined gold in art. 8 of this law.

3. The sanctions envisaged in this article may be increased, in particularly severe cases, up to an amount corresponding to the proceeds

of the violation. However, the fines cannot exceed a fivefold increase of the amount of currency or the value of goods and rights constituting the object of the violation.

4. The fines envisaged in this article shall also be inflicted on anyone facilitating the violation or hindering its detection.

5. Anyone failing to comply with the notification requirement - for statistical purposes - to the currency Authority of the Republic of San Marino, or notifying incorrect or incomplete information, shall be punished with a fine from 400,000 to 4 million lire, in case of a natural person, and with fines from a minimum of 1 million lire to a maximum of 10 million lire, in case of entities or juridical persons.

Art. 11

*Violations of the rules governing the supply  
of financial products or services on the  
market*

The supply of financial products or services on the market, also by non residents, without the prior authorisation of the Office of Banking Supervision, shall be punished with the sanction envisaged article 9.1 of Law no. 24 of February 25, 1986.

Art. 12

*Other offences*

Any other contravention of this law and of the following Regency Decrees, not constituting a severe crime or an administrative offence, shall be punished with a fine from 500,000 to 1 million lire.

Art. 13

*Recurrent violations*

1. In case of recurrent violations, a three- to ninety-day suspension of the business activity, in the exercise of which the offence was committed, shall be applied in addition to the sanctions envisaged in the preceding

articles. Under this law, a recidivist shall be anyone who relapsed twice in the same crime during the three years preceding the last offence.

2. In judicial proceedings against the legal representatives, managing directors or directors of a juridical person, the latter shall have the civil liability with regard to the fines and to the fulfilment of the obligations imposed by the judgement. Liability is joint, without the benefit of discussion.

3. In determining the recurrence of a violation, all established offences, linked to a business activity, committed by legal representatives, managing directors and directors, in charge during the period under consideration, shall be taken into account. The additional sanction of the suspension of the business activity shall be directly inflicted on the juridical person.

### **PART III FINAL PROVISIONS**

#### **Art. 14**

##### *Currency supervising Authority*

1. The Office of Banking Supervision shall be responsible for monitoring and supervising the implementation of this law and of other laws and provisions on currency matters.

2. The Office of Banking Supervision shall act on its own initiative or upon request or indication of the currency Authority of the Republic of San Marino or of the Credit and Savings Committee.

3. To this end, the Office may promote investigations, carry out enquiries, express opinions and adopt measures and provisions which are immediately enforceable.

4. Without prejudice to article 23 of Law no. 21 of 12 February 1986, the Office shall report to the currency Authority of the Republic of San Marino and/or to the Credit and Savings Committee any established infringement concerning currency issues.

5. The Office shall inflict sanctions for administrative offences, pursuant to the

currency legislation, according to the procedures contained in articles 33, 34 and 35 of Law no. 68 of June 28, 1989, and in the following decrees having force of law.

#### **Art. 15**

##### *Quantitative modifications*

The standards in article 10 and the amount of the fines envisaged by this law may be modified by Regency Decree.

#### **Art. 16**

##### *Entry into force*

This law shall enter into force on the fifth day following that of its legal publication.

*Done at San Marino, on April 30, 1996.*

**THE CAPTAINS REGENT**

*Pier Paolo Gasperoni - Pietro Bugli*

**THE MINISTER  
OF THE INTERIOR**

*Antonio Lazzaro Volpinari*