

UNOFFICIAL TRANSLATION

LAW No. 86 of 27 June 2003

REPUBLIC OF SAN MARINO

FUNCTIONAL INTEGRATION BETWEEN THE OFFICE OF BANKING SUPERVISION (OBS - ISPETTORATO PER IL CREDITO E LE VALUTE) AND THE SAN MARINO CREDIT INSTITUTE (ICS - ISTITUTO DI CREDITO SAMMARINESE)

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

*Promulgate and order the publication of this Law approved by the Great and General Council
during its sitting of 27 June 2003.*

Art. 1 *Integration*

An integration between the Office of Banking Supervision (OBS) and the San Marino Credit Institute (ICS) is hereby established. Such integration shall be fulfilled in two steps: the first one shall be immediate and completed under this Law, the second one shall be implemented under special legislative provisions to be issued by the expiration of the ICS Board of Directors and in any case no later than April 2005.

In this connection, the Congress of State shall submit, by September 2004, a special draft bill defining all interventions, as appropriate, to the existing banking and financial legislation.

Such legislative provisions shall indicate, *inter alia*:

- the replacement of the Board of Directors of the Central Bank of the Republic of San Marino with a Joint Board defining and coordinating the strategies of the Central Bank and assessing the attainment of goals. Such Joint Board shall be made of at least three members, including the President, appointed by the Great and General Council and preferably meeting fit and proper requirements, i.e. long-standing and proven high-level experience in the banking and financial sector. At least one of them shall have direct experience in central banks, supervision authorities or institutions of a similar nature;
- in the framework of the strategies defined by the Joint Board, the autonomy and liability of the Manager in terms of decision-making and operation of the Central Bank. The Manager shall take part in the meetings of the Credit and Savings Committee.

Art. 2 *Change of name of the ICS*

Following the integration between the OBS and the ICS, the first paragraph of Article 1 of Law No. 34 of 9 March 1988 is superseded by the following:

“The Central Bank of the Republic of San Marino, a joint public and private institution, has its registered office in San Marino. The Central Bank shall fulfil the functions and pursue the goals set forth by the law in accordance with the principles of autonomy and independence.”.

Art. 3

Aims of the Central Bank of the Republic of San Marino

Article 2 of Law No. 34 of 9 March 1988 is superseded by the following:

“The aims of the Central Bank of the Republic of San Marino are:

- a) to provide banking and financial services to the State and to the Public Administration also for the purposes of coordinating the management of assets at hand and the selection of forms of financing;
- b) to act as Currency Authority of the Republic of San Marino and supervise compliance with currency provisions;
- c) to supervise credit and financial activities carried on by licensed intermediaries, for the purpose of protecting banking and savings stability – to which considerable social value is attached – in the Republic of San Marino;
- d) to help create favourable conditions for the supply of modern and competitive banking services and financial instruments;
- e) to adequately support, promote and guide the banking system of the Republic;
- f) to facilitate economic and financial business by arranging and maintaining payment systems of the Republic.

As a rule, the Central Bank of the Republic of San Marino shall maintain direct relations with supranational financial organizations, central banks and supervisory authorities, bank and non-bank financial intermediaries, insurance companies and other entities consistently with its aims and functions.”.

Art. 4

Functions of the Central Bank of the Republic of San Marino

Article 6 of Law No. 34 of 9 March 1988 is superseded by the following:

“The functions of the Central Bank of the Republic of San Marino are:

1. the control and supervision of banking, financial and credit activities carried on by licensed intermediaries, savings protection and control over financial services and instruments;
2. the sole management of currency relations with the possibility of delegating other banks or branches operating on the territory in accordance with the laws in force;
3. the operation and supervision of the clearing service and payment system;
4. the collection and compilation of monetary, credit and currency statistics;
5. last resort lending to banks licensed to operate on the territory of the Republic under the terms and criteria fixed by the Central Bank and on condition of adequate security;
6. the custody and management of deposits on behalf of and secured by the State, both in cash and securities, charged by the banks as a legal reserve, by ensuring immediate liquidity in accordance with the banking law;
7. the management and administration – with possibility of delegation – of guarantee systems for depositor protection;
8. the coordination and promotion of syndicate activities, initiatives and services benefiting the financial system of San Marino;
9. acting as institutional counterpart in banking, financial and currency matters vis-à-vis foreign central banks, supervisory authorities or authorities of a similar nature and international organizations;
10. the direct issue of securities for the purposes to be specified by the Board of Directors;
11. the management – with possibility of delegation – of treasury and tax collection services on behalf of the State and public entities;
12. the submission, upon request, of opinions to the Congress of State on issues related to government finance and assets;
13. the identification, on behalf of the Congress of State or of the Minister of Finance and the Budget, of forms of financing most appropriate to meet the potential borrowing requirement of the State and Public Administration;
14. the issue of public debt on behalf of the State, subject to an authorising law;

15. the sole right –with possibility of delegating other banks or branches operating on the territory – to conduct transactions in bullion and precious metals;
16. any other task entrusted to it by the laws of the Republic.

To reach the goals fixed by the law the Central Bank of the Republic of San Marino may – through its bodies and according to the area of competence – adopt measures even in the form of Circulars and Standard Letters which shall be regulatory in nature, but also explanatory and interpretative of the functions attributed by the law to the Central Bank of the Republic of San Marino.”.

Art. 5

Structure of the Central Bank of the Republic of San Marino

The Central Bank of the Republic of San Marino shall be made up of two autonomous Departments: the Supervision Department and the Bank Department.

The Supervision Department shall keep the prerogatives, functional relations, competencies, functions and powers currently stipulated for the OBS, thus representing its natural continuation; the Bank Department shall keep those originally attributed to the ICS.

Following the integration under Article 1 of this Law and the provisions in the preceding paragraph, all references to the OBS in the existing legislation shall be understood as references to the Supervision Department of the Central Bank of the Republic of San Marino.

Subsequent to the entry into force of the legislative provisions referred to in the second paragraph of Article 1 of this Law, and in accordance with the autonomy principle referred to in the first paragraph of this article, the Joint Board may adjust both Departments according to the organizational and operational needs of the Central Bank.

Following the integration provided for by this Law, the Central Bank of the Republic of San Marino shall not be subject to prudential supervision by the Supervision Department.

In order to safeguard its own stability, the Central Bank of the Republic of San Marino shall adopt appropriate structures and internal models for analysis and auditing consistent with the principles of prudential supervision set forth by the laws and regulations in force.

Art. 6

Bodies of the Central Bank of the Republic of San Marino

Article 29 of Law No. 21 of 12 February 1986, as amended by Article 17 of Law No. 33 of 8 March 1988, and Article 8 of Law No. 34 of 9 March 1988 are amended as follows:

“Art. 29

The bodies of the ICS are: the Meeting, the President, the Board of Directors, the Board of Auditors, the Manager and the Supervision Coordination.

The President shall be the legal representative of the Central Bank of the Republic of San Marino, convene and preside over the Board of Directors and implement their decisions.

The Board of Directors shall be made up of 5 to 7 members and decide by the majority of its members on the issues put on the agenda by the President, either *ex officio* or upon request of at least two members.

The Board of Directors may, under its own responsibility, delegate some of its powers to single directors.

Art. 8

The bodies of the Central Bank are:

- the Meeting;
- the Board of Directors;
- the President;
- the Board of Auditors;

- the Manager;
- the Supervision Coordination.”.

Art. 7

Vesting of powers and functions in the Central Bank of the Republic of San Marino

The powers and functions set forth by the existing legislation for the OBS and the ICS shall be attributed respectively to the Supervision Department and the Bank Department of the Central Bank of the Republic of San Marino.

The Manager of the Central Bank of the Republic of San Marino, besides being entrusted with functions and powers for the Bank Department under the articles of association, shall also bear administrative responsibility for the Supervision Department.

For the purpose of ensuring the continuity of supervision, the Coordination of the Supervision Department shall be made up of Inspectors appointed under Article 21 of Law No. 21 of 12 February 1986, as amended by Article 11 of Law No. 33 of 8 March 1988. One of the Inspectors, appointed by the Congress of State, shall act as Supervision Coordinator.

Art. 8

Supervision Coordination

The following Article is added to Law No. 34 of 9 March 1988:

“Art. 19 bis Supervision Coordination

The Supervision Coordination shall be made up of the members of the OBS appointed under Law No. 21 of 12 February 1986 and subsequent amendments.

All the functions, powers, tasks and responsibilities previously attributed to the members of the OBS under the existing legislation shall be vested in the Supervision Coordination.

The Supervision Coordination shall be headed by the Coordinator of the OBS, or, in his absence, by the Deputy Coordinator appointed by the Credit and Savings Committee.

As a rule, the Supervision Coordination shall also act in cooperation with the Manager of the Central Bank of the Republic of San Marino. To this end, the latter may be invited to take part in the meetings of the Supervision Coordination and in the sittings of the Credit and Savings Committee; any data or information so acquired shall be kept strictly confidential under Article 23 of Law No. 21 of 12 February 1986 and subsequent amendments even in respect of the administrative and auditing bodies of the Central Bank of the Republic of San Marino.

No delegate for the Manager shall be allowed either with regard to the preceding paragraph or under Article 19 of Law No. 34 of 9 March 1988.

Under the existing legislation and until the entry into force of the legislative provisions referred to in the second paragraph of Article 1 of this Law, the Credit and Savings Committee and – where specified by the laws in force – the Congress of State, shall be the reporting body for the prudential supervision conducted by the Supervision Coordination.”.

Art. 9

Board of Auditors

The following paragraph is added to Article 18 of Law No. 34 of 9 March 1988:

“In respect of the Supervision Department and without prejudice to related provisions set forth in the preceding paragraphs, the Board of Auditors shall not exercise control over the functions of the OBS referred to in Article 12 of Law No. 33 of 8 March 1988.”.

Art. 10

Costs of supervision

Article 26 of Law No. 21 of 12 February 1986, amended by Article 13 of Law No. 33 of 8 March 1988 is superseded by the following:

“All direct and indirect costs related to supervision and control shall be borne by the Central Bank of the Republic of San Marino.

An *ad hoc* Regency Decree, on proposal of the Central Bank of the Republic of San Marino, shall periodically fix the criteria and terms of recourse for the costs referred to in the preceding paragraph in respect of the persons subject to prudential supervision by the Supervision Department.”.

Art. 11

Legal protection of acts concerning the Supervision Department

Legal protection and related costs for the acts inherent to the fulfilment of professional tasks by both the Supervision Department and the members of the Supervision Coordination shall be borne by the Central Bank of the Republic of San Marino.

Where an aggrieved party brings suit against the subjects referred to in the preceding paragraph, any compensation shall be paid for by the Central Bank of the Republic of San Marino, except for cases of deceit or gross negligence.

Art. 12

Official secrecy

The members of administrative and auditing bodies, the staff and any employee of the Central Bank of the Republic of San Marino shall be subject to official secrecy in accordance with Article 23 of Law No. 21 of 12 February 1986 and subsequent amendments.

Art. 13

Staff of the Office of Banking Supervision

For the purpose of ensuring the continuity of supervision, all staff working at the OBS shall receive from the Central Bank of the Republic of San Marino, within 15 days from the entry into force of this Law, an offer to work for the Supervision Department with an open-end contract, under the terms to be fixed by the Board of Directors on joint proposal of the Supervision Coordination and the Management, due account being taken of professional roles and skills acquired. Interested parties shall notify acceptance or rejection within 30 days from receiving the job offer.

Public employees who wish to keep their current working contract with the Public Administration shall be posted to another Office or Service of the Public Administration, in accordance with the relevant legislation on job mobility and acquired rights.

The staff of the Supervision Department shall be answerable to the Supervision Coordination; staff management of the Supervision Department shall be coordinated by the Manager of the Central Bank of the Republic of San Marino.

Art. 14

Duration of terms of office

For the purpose of defining the final arrangement of the Central Bank of the Republic of San Marino, to be implemented through the legislative provisions referred to in the second paragraph of Article 1

of this Law, the terms of office of all members of the statutory bodies of the Bank Department and Supervision Coordination is hereby confirmed and extended to 30 April 2005.

The preceding paragraph shall not apply either to the Manager of the Central Bank of the Republic of San Marino or the Supervision Coordinator, who shall remain in office until the natural expiration of their mandates.

Art. 15

International cooperation

The Supervision Department shall maintain direct relations with the bodies and authorities of other States entrusted with similar tasks and functions with which it may cooperate and conclude special cooperation agreements, subject to the prior mandate of the Credit and Savings Committee.

The Manager shall report to the Credit and Savings Committee on the international relations maintained by the Central Bank under Article 6, paragraph 9, of Law No. 34 of 9 March 1988, as amended by Art. 4 of this Law, not falling within the scope of the preceding paragraph.

Art. 16

Fines

Without prejudice to the provisions of Section IX of Law No. 21 of 12 February 1986 and subsequent amendments, and of Section III of Law No. 24 of 25 February 1986, directors, auditors, managers, proxies and liquidators failing to comply with the provisions of the Supervision Department shall be fined a minimum of EUR 1,000.00 and a maximum of EUR 15,000.00.

Fines inflicted by the Supervision Department which have become enforceable shall be immediately paid to the Central Bank of the Republic of San Marino.

Fines may be appealed against under the terms of the law.

An *ad hoc* Regency Decree, on proposal of the Central Bank of the Republic of San Marino and having heard the opinion of the Credit and Savings Committee, shall identify violations liable to fines under this Article.

Art. 17

Code of Conduct

For the purpose of ensuring the necessary independence of the Central Bank of the Republic of San Marino, keeping public confidence and safeguarding its reputation, a code of conduct shall be adopted for the management and staff of the Central Bank to guide their work in line with the principles of autonomy, independence and impartiality.

Art. 18

Entry into force

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

Done at Our Residence on 30 June 2003

THE CAPTAINS REGENT

Pier Marino Menicucci – Giovanni Giannoni

THE MINISTER OF THE INTERIOR

Loris Francini