



REPUBLIC OF SAN MARINO

DECREE-LAW NO. 65 OF 14 MAY 2009

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

Having regard to the conditions of necessity and urgency referred to in Article 2, paragraph 2, point b) of Constitutional Law no. 183 of 15 December 2005 and in Article 12 of Qualified Law no. 184 of 12 December 2005 and, more precisely, the necessity and urgency to implement an efficient information exchange system between San Marino and Italian banks in suitable times to continue, without interruption, to have access to the Italian payment system;

Having regard to Decision no. 2 of the Congress of State, adopted in the sitting of 11 May 2009;

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

Promulgate and order the publication of the following decree-law:

INTERMEDIATION OF THE CENTRAL BANK FOR THE PURPOSES OF INTERBANK DATA TRANSMISSION BETWEEN SAN MARINO AND ITALY

Art. 1

(Purposes and definitions)

1. This Decree shall be adopted in order to allow Italian intermediaries to continue providing payment services to San Marino banks, considering the need for Italian counterparts to fulfil customer due diligence requirements in relation to customers of San Marino banks who carry out transactions settled in the Italian payment system.

2. For the purposes of this Decree, the following meanings shall be applied to the expressions used herein:

- a. "Customer Database": a computer database created, managed and maintained by the Supervisory Authority and containing the identification data of customers of San Marino banks;
- b. "banking activity": the activity referred to in section A of Attachment 1 to Law no. 165/2005;
- c. "Supervisory Authority": the Central Bank of the Republic of San Marino;
- d. "intermediary banks": Italian banks having an agreement with the Supervisory Authority, which provide, on an agreement basis, payment services to San Marino banks and customers thereof;
- e. "Implementing Regulation": a regulation issued by the Supervisory Authority to implement the provisions enshrined in this Decree;
- f. "payment services": transmission and execution of payment orders by means of money transfers, checks, direct debit, as well as issue of bank drafts and payment cards on the Italian payment system;
- g. "customer due diligence": due diligence conducted under Article 18 and, when the conditions apply, under Article 28 of Italian Legislative Decree no. 231 of 21 November 2007.

Art. 2
(Scope)

1. The provisions of this Decree shall apply to the parties authorised to undertake banking activity in the Republic of San Marino.

Art. 3
(Establishment and management of the Customer Database containing identification data)

1. The Supervisory Authority shall be responsible for the management of a Customer Database containing the identification data of customers, their beneficial owners (if they are different from the customers), and any delegated parties which request San Marino banks to provide payment services relying on the Italian payment system for amounts exceeding the threshold specified in the Implementing Regulation issued by the Supervisory Authority under following paragraph 3. The Customer Database shall also contain identification data regarding any party to be qualified as a mere bearer of the above-mentioned requests.

2. The service shall consist in establishing the Customer Database, obtaining identification data from San Marino banks, updating the database, keeping the data recorded for a period of ten years and sending such data to the intermediary banks requiring them to fulfil customer due diligence obligations.

3. By issuing the Implementing Regulation, the Supervisory Authority shall regulate the organisation and functioning of the service referred to in this Decree. The issued provisions shall be aimed at ensuring the proper acquisition, management, consultation, maintenance and security of data, as well as the traceability of data corrections made by San Marino banks.

4. The San Marino bank having sent the data shall be the only responsible for the correctness, completeness and timeliness of the information forwarded to the Supervisory Authority.

Art. 4
(Obligations of data transmission)

1. Beginning from 20 May 2009, San Marino banks shall be required to send to the Supervisory Authority all data referred to in paragraph 1 of the preceding Article, in compliance with the procedures and time limits laid down by the Implementing Regulation.

2. San Marino banks shall be required, however, to directly provide intermediary banks with any additional information and/or document requested by intermediary banks themselves to supplement the identification data contained in the Customer Database, provided that the request is consistent with the fulfilment of customer due diligence obligations and in line with what established in the agreements and convention concluded between intermediary banks and the Supervisory Authority.

3. The Supervisory Authority may carry out on-site inspections and checks in order to ascertain San Marino banks' compliance with this Decree and the Implementing Regulation.

4. Failure to comply with these provisions and the Implementing Regulation shall be punished in accordance with Law no. 165/2005 and subsequent implementing acts.

Art. 5
(Transmission of data from the Supervisory Authority to intermediary banks)

1. The Supervisory Authority shall forward to intermediary banks the identification data received by San Marino banks. Data shall be transmitted in compliance with the specific techniques agreed between the Supervisory Authority and intermediary banks.

2. If data are incomplete or they have not been received within the time limits envisaged in the Implementing Regulation, without prejudice to Article 4, paragraph 3, the Supervisory Authority shall inform the San Marino bank, which shall make the relevant corrections.

Art. 6

(Costs)

1. The Implementing Regulation shall set forth the criteria for the reallocation of the costs due to the establishment and management of the Customer Database to San Marino banks, within the limits of the direct costs borne by the Supervisory Authority.

Art. 7

(Outsourcing of functions)

1. For the technical IT part being instrumental to the management of the Customer Database, the Supervisory Authority may rely on qualified computer suppliers who shall meet the necessary professional requirements and be able to ensure adequate levels of service and confidentiality of the identification data contained in the Customer Database.

Art. 8

(Performance of functions)

1. The Supervisory Authority shall not stop the service referred to in this Decree unless previously decided by the Committee for Credit and Savings.

Art. 9

(Final provision)

1. All activities involving the collection, processing, transmission – even outside the territory of the Republic of San Marino – and keeping of personal data, which are carried out by San Marino banks, the Supervisory Authority and intermediary banks and are related to the implementation of this Decree, shall be excluded from the application of the provisions referred to in Law no. 70 of 23 May 1995.

Done at Our Residence, on 14 May 2009

THE CAPTAINS REGENT
Massimo Cenci – Oscar Mina

THE SECRETARY OF STATE
FOR INTERNAL AFFAIRS
Valeria Ciavatta