REPUBLIC OF SAN MARINO

The Italian text shall be legally binding

DECREE – LAW no. 134 of 26 July 2010
(ratifying Decree – Law no. 126 of 15 July 2010)

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

Having regard to Decree – Law no. 126 of 15 July 2010 "Urgent provisions modifying the legislation on the prevention and combating of money laundering and terrorist financing", which has been promulgated:

Having regard to the conditions of need and urgency referred to in Article 2, paragraph 2, letter b) of Constitutional Law no. 183 of 15 December 2005 and in Article 12 of Qualified Law no. 184 of 12 December 2005, with particular reference to the need and urgency:

- to transpose into the San Marino legal order some important guidelines on preventing and combating money laundering and terrorist financing;

- to solve some interpretative and operational problems identified in application of Law no. 92 of 17 June 2008 and subsequent measures amending and implementing said Law;

- to introduce specific requirements or protections concerning "delicate" parties or activities not previously disciplined;

- to appropriately modify the criminal law system in view of the ratification of the Council of Europe Warsaw Convention (CETS 198);

Having regard to Decision no. 23 of the State Congress, adopted in its sitting of 12 July 2010;

Having regard to the amendments made to the above-mentioned Decree during its ratification by the Great and General Council in its sitting of 22 July 2010;

Having regard to Articles 8 and 9, paragraph 5 of Qualified Law 186/2005;

Promulgate and order the publication of the final text of Decree-Law no. 126 of 15 July 2010 as modified following the amendments approved by the Great and General Council during its ratification:

URGENT PROVISIONS MODIFYING THE LEGISLATION ON THE PREVENTION AND COMBATING OF MONEY LAUNDERING AND TERRORIST FINANCING

TITLE I
COMPLIANCE OF THE NATIONAL LEGISLATION WITH INTERNATIONAL CONVENTIONS AND STANDARDS ON THE PREVENTION AND COMBATING OF MONEY LAUNDERING AND TERRORIST FINANCING

Art. 1

1. Article 1, paragraph 1, letter n) of Law no. 92 of 17 June 2010 shall be modified as follows:
"n) "politically exposed persons": individuals, residing in a foreign State, who are or have been entrusted, during the year preceding the establishment of the business relationship, the carrying out of the transaction or the provision of the professional service, with prominent public functions, as well as their immediate family members or persons known to be close associates of such persons, as provided for in the Technical Annex to this Law;".

Art. 2

1. The following shall be added after the third paragraph of Article 12 of Law no. 92 of 17 June 2010:
"4. Whenever, in the exercise of its functions, the Police Authority has reasonable grounds to believe that the funds are proceeds of crime, it may request the cooperation of the Financial Intelligence Agency with a view to carrying out financial investigations. This cooperation may be requested also with regard to investigations involving crimes that could be the predicate offences for money laundering or terrorist financing.
5. The investigations carried out by the Police Authority shall be focused on identifying the offender, detecting the crime and seeking the destination of the funds in order to establish whether they have been used to commit other crimes.
6. For the purposes of this Law, the Police Authority shall have unlimited access, also through electronic means, to data and information contained in registers, archives, professional registers, acts and documents kept by Public Administration offices.
7. For the purposes of this Law, the Police Authority shall cooperate with foreign counterparts also by exchanging information, on the basis of specific cooperation agreements.".

Art. 3

1. In Article 8, paragraph 1 of Law no. 92 of 17 June 2008, the term "publicly" shall be eliminated.
2. In Article 8, paragraph 2 of Law no. 92 of 17 June 2008, the expression "Except as provided in the previous paragraph" shall be eliminated.

Art. 4

1. The following article shall be added after Article 15 of Law no. 92 of 17 June 2010:

"Art. 15 – bis
(Technical Commission for National Coordination)

1. The Technical Commission for National Coordination shall be established. Such Commission shall be composed of:

a) the Magistrate appointed by the Judicial Council in an ordinary session to attend the meetings of the Credit and Savings Committee referred to in Article 48, paragraph 5 of Law no. 96 of 29 June 2005, who shall preside over the meetings of the Commission;
b) the Head Magistrate of the Single Court;
c) the Director and the Vice Director of the Financial Intelligence Agency or their delegated representatives;
d) a member of the Supervision Committee of the Central Bank;
e) a representative of the On-Site Inspection Service of the Central Bank;
f) the Commanders of the Police Forces;
g) two members of the Police Forces responsible for combating money laundering and terrorist financing;
h) a representative of the Secretariats of State for Foreign Affairs, Finance and Justice when the Commission meets to perform the tasks referred to in letter b) of paragraph 3 hereunder.
2. The Commission shall meet periodically upon request of the President or of another member. A verbatim record of the meeting shall be duly taken.
3. The Commission shall perform the following tasks:
a) coordinate the activity of combating money laundering and terrorist financing carried out by the above indicated authorities;
b) effect the communications referred to in Article 49, paragraph 7 of Law no. 92 of 17 June 2008;
c) report to the Credit and Savings Committee referred to in Article 48, paragraph 4 of Law no. 96 of 29 June 2005 about the tasks performed;
d) propose to the Credit and Savings Committee any useful initiative aimed at effectively preventing and combating money laundering and terrorist financing;
e) monitor financial activities carried out on a limited basis, not required to fulfil the obligations referred to in Title III of this Law, according to a specific law provision.
4. According to the items on the agenda, the Commission may invite other representatives of Public Authorities or Offices to attend the meetings.
5. The seat of the Commission shall be at the Financial Intelligence Agency, which shall take care of all the administrative aspects of its functioning.".

Art. 5

1. The first paragraph of Article 14 of Law no. 92 of 17 June 2008 shall be replaced by the following:

"Art. 14
(Competence of the Central Bank)

1. Whenever the Central Bank, in performing its supervision tasks over the financial parties referred to in Article 18, paragraph 1, letters a), d) and e), or in performing its other statutory functions, detects violations of this Law, or facts or circumstances that might be related to money laundering or terrorist financing, it shall immediately inform the Agency thereof in written form.".

Art. 6

1. Article 19 of Law no. 92 of 17 June 2008 shall be replaced by the following:

"Art. 19
(Non-financial parties)

1. Non-financial parties shall mean parties professionally carrying out the following activities:
a) professional office of the trustee in conformity with the trust legislation;

b) assistance and advice concerning investment services;
c) assistance and advice on administrative, tax, financial and commercial matters;
d) credit mediation services;
e) real estate mediation services;
f) running of gambling houses and games of chance as set forth in Law no 67 of 25 July 2000 and subsequent amendments;
f-bis) offer of games, betting or contests with prizes in money through the Internet and other electronic and telecommunication networks;
g) custody and transport of cash, securities or values;
h) management of auction houses or art galleries;
i) trade in antiques;
j) purchase of unrefined gold;
k) manufacturing, mediation and trade in precious stones and metals, including export and import thereof;
l) selling and rental of registered movable goods.
2. In case a non-financial party professionally carries out more than one activity, but not all of these activities are included in paragraph 1 above, the requirements provided for in this Law shall apply only to activities referred to in such paragraph.
3. With its own instructions, the Agency may establish what kind of transactions, services or relationships are included among the activities referred to in paragraph 1 above or may be excluded from such activities on the basis of the degree of risk of money laundering or terrorist financing.".

Art. 7

1. Article 20, paragraph 1, letter c) of Law no. 92 of 17 June 2008 shall be replaced by the following:

"c) those enrolled in the register of Lawyers and Notaries of the Republic of San Marino, when they carry out, on behalf of or for their client, any financial or real estate transaction, or when they assist in the planning or carrying out of transactions for their client concerning the:
1) transfer at any title of rights in rem in relation to real estate or companies;
2) managing of client money, securities or other assets;
3) opening or management of bank, savings and securities accounts;
4) creation, operation or management of companies, trusts or similar arrangements, with or without legal personality;
5) organisation of contributions necessary for the creation, operation or management of companies;
6) transfer at any title of shares in a company.".

Art. 8

1. Article 22, paragraph 1, letter b) of Law no. 92 of 17 June 2008 shall be modified as follows:

"b) identification of the beneficial owner and adoption of adequate and risk-based measures to verify his/her identity;".

Art. 9

1. The first paragraph of Article 23 of Law no. 92 of 17 June 2008 shall be modified as follows:

"Art. 23
(Identifying and verifying the identity of customers and beneficial owners)

1. The obliged parties shall identify and verify, also through their employees or collaborators, the identity of customers and beneficial owners before establishing a business relationship or carrying out a transaction.".

Art. 10

1. Article 24 of Law no. 92 of 17 June 2008 shall be modified as follows:

"Art. 24
(Abstention requirements)

1. If the obliged parties are not able to meet the customer due diligence requirements provided for in Articles 22, 23 and 25, they shall abstain from establishing new business relationships or carrying out occasional transactions, and they shall interrupt already established relationships at the earliest convenience. In any case, the obliged parties shall decide whether to send a report to the Agency.
2. Those enrolled in the registers of Lawyers and Notaries and of Accountants shall not be required to comply with the provision contained in the previous paragraph in the course of ascertaining the legal position of their client or in performing their task of defending or representing that client in, or concerning judicial or administrative proceedings, including advice on instituting or avoiding proceedings.
3. The obliged parties shall abstain from carrying out transactions when there are reasonable grounds to believe that these transactions could be related to money laundering or terrorist financing. Abstention shall not give rise to any civil and contractual liability towards clients or third parties. In these cases, a report shall be promptly sent to the Agency. Where abstention is not possible because there is a legal requirement to receive the act, or the carrying out of the transaction by its nature cannot be postponed, the obliged parties shall inform the Agency immediately after carrying out the transaction, by taking every precaution to identify the destination of the funds involved in the transaction. The judicial authority shall authorise the carrying out of transactions when abstention might hinder ongoing investigations.".

Art. 11

1. The first paragraph of Article 25 of Law no. 92 of 17 June 2008 shall be modified as follows:

"1. The obliged parties shall be required to apply customer due diligence procedures to all clients. With regard to existing customers, the above procedures shall be applied at the earliest convenience on a risk-sensitive basis.".

Art. 12

1. Article 27 of Law no. 92 of 17 June 2008 shall be replaced by the following:

"Art. 27
(Enhanced customer due diligence)

1. The obliged parties shall take, on a risk-sensitive basis, enhanced customer due diligence measures in situations which, by their nature, may entail a higher risk of money laundering or terrorist financing. With its own instructions, the Financial Intelligence Agency shall establish what

degrees of risk require the adoption of enhanced customer due diligence measures, as well as the contents of such enhanced customer due diligence.
2. The obliged parties shall take enhanced customer due diligence measures when:
a) the customer is not physically present;
b) the customer is a politically exposed person. The obliged parties shall adopt adequate procedures in relation to the activity carried out in order to determine whether the potential customer, the customer or the beneficial owner is a politically exposed person.
3. In the case referred to in letter a) of paragraph 2, the obliged parties shall compensate for the higher risk by adopting at least one of the following measures:
a) ensuring that the first transfer of funds in relation to the establishment of the business relationship or to the occasional transaction is carried out through an account opened in the customer's name with a financial party referred to in Article 26, paragraph 1, letters a) and b);
b) verifying the identity of the customer through additional documents or information to complement those required for face-to-face customers;
c) taking supplementary measures to verify the documents presented;
d) requiring the certification of information or documents presented;
e) requiring confirmatory certification by a financial party referred to in Article 26, paragraph 1, letters a) and b) that it has already met customer due diligence requirements.
4. In the case referred to in letter b) of paragraph 2, the obliged parties shall:
a) when the obliged parties are incorporated businesses, obtain the authorisation from the Director General, or equivalent, or from a person delegated by the Director General, before establishing a business relationship or carrying out an occasional transaction. This authorisation shall be obtained even where the customer or beneficial owner becomes or is found to be a politically exposed person after he/she has been accepted;
b) take any appropriate measure to establish the source of the funds and wealth of the customer or beneficial owner identified as politically exposed person, which have been used in the business relationship or in carrying out the occasional transaction;
c) ensure an ongoing and enhanced control over the relationship with the customer.
5. The financial parties referred to in Article 18, letters a), b) and c) that maintain business relationships or carry out occasional transactions with foreign financial parties located in States not imposing obligations equivalent to those set forth in this Law and not providing for any supervision and control of compliance with such obligations, shall adopt the following enhanced customer due diligence measures:
a) gather sufficient information about a respondent foreign party to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the respondent and the quality of supervision;
b) assess the adequacy and effectiveness of controls carried out by the respondent party in relation to the prevention and combating of money laundering and terrorist financing;
c) obtain the authorisation from the Director General, or equivalent, or from a person delegated by the Director General, before establishing a business relationship or carrying out an occasional transaction;
d) specify in written form the respective obligations and responsibilities concerning the prevention and combating of money laundering and terrorist financing.
6. The financial parties referred to in Article 18, letters a) and b) shall ensure that the respondent party located in a State, which is not a member of the European Union (I) has verified the identity of customers having direct access to payable-through accounts, (II) has constantly met customer due diligence requirements, and (III) is able to provide, upon request, the financial party with information obtained following the meeting of such requirements.
7. The obliged parties shall pay special attention to any money laundering or terrorist financing threat that may arise from products or transactions that might favour anonymity, and take measures, if needed, to prevent their use for money laundering or terrorist financing purposes.

Art. 13

1. The first paragraph of Article 29 of Law no. 92 of 17 June 2008 shall be replaced by the following:

"Art. 29
(Customer due diligence performed by third parties)

1. In order to meet the requirements laid down in Article 22, paragraph 1, letters a), b) and c), the obliged parties may rely on third parties with whom the customers have business relationships or whom have been tasked by the customers with carrying out an occasional transaction. For this purpose, third parties shall issue, if requested by the customer, a document attesting that they have met customer due diligence requirements. Also in this case, the ultimate responsibility for meeting customer due diligence requirements shall remain with the obliged parties.".

Art. 14

1. Article 34 of Law no. 92 of 17 June 2008 shall be replaced by the following:

"Art. 34
(Information and record keeping and registration requirements)

1. The obliged parties shall register the data and information obtained to meet customer due diligence requirements and shall keep the records and copies of the documents obtained for a period of at least five years following the end of the business relationship or the carrying out of the occasional transaction.
2. The obliged parties shall register and keep the supporting evidence and records of business relationships and occasional transactions or of services provided. In particular, they shall register and keep original documents or copies admissible in court proceedings for a period of at least five years following the carrying out of the transaction or the provision of the service.
3. The data and information referred to in the preceding paragraphs shall be registered no later than the fifth day following their obtaining.
4. All data, information and documents registered and kept by the obliged parties shall be made available to the Agency without delay in order to enable it to perform its tasks of preventing and combating money laundering and terrorist financing.
5. In case of financial parties, keeping and registration requirements referred to in paragraphs 1 and 2 above shall apply to all transactions, both domestic and international, concerning existing and terminated business relationships, as well as to occasional transactions.
6. The Agency may order that data, documents and information referred to in the preceding paragraphs be kept for more than five years for the purposes of this Law.".

Art. 15

1. The following shall be added after Article 34 of Law no. 92 of 17 June 2008:

"Art. 34 bis
(Management of registrations and documents concerning financial parties that have ceased to carry out reserved activities)

1. Following withdrawal, waiver or lapse of the authorisation to carry out a reserved activity, the financial party shall, even if in ordinary or compulsory winding-up, appoint a person responsible for keeping, for the purposes of this Law, documents and electronic archives for at least five years, or

more if requested by the Agency.
The person referred to in the preceding paragraph shall satisfy the requests made by the Financial Intelligence Agency concerning existing relationships and/or movements and submit, if requested, the necessary documents.
The remuneration due to the person referred to in paragraph 1 above for performing his/her tasks shall be paid by the obliged party. The obliged party shall provide the above-mentioned person with appropriate premises to keep documents and electronic and paper-based archives.
The functions performed by the above-mentioned person shall not be incompatible with those of liquidator or commissioner.".

Art. 16

1. Article 36 of Law no. 92 of 17 June 2008 shall be replaced by the following:

"Art. 36
(Reporting requirements)

1**.** The obliged parties shall report the following to the Agency without delay:
a) any transaction - even if not carried out – which, because of its nature, characteristics, size or in relation to the economic capacity and activity carried out by the customer to which it is referred, or for any other known circumstance, arouses suspicion that the economic resources, money or assets involved in said transaction may derive from offences of money laundering or terrorist financing or may be used to commit such offences;
b) anyone or any fact that, for any circumstance known on the basis of the activity carried out, may be related to money laundering or terrorist financing;
c) the funds that the obliged parties know, suspect or have grounds to suspect to be related to terrorism or may be used for purposes of terrorism, terrorist acts, terrorist organisations and by those financing terrorism or by an individual terrorist.
2. If the report is made orally, the obliged party shall forward a written report to the Agency without delay providing all data and information required to conduct the financial investigation.".

Art. 17

1. Paragraph 1 of Article 42 of Law no. 92 of 17 July 2008 shall be replaced by the following:

"1. When the financial parties are incorporated businesses, they shall internally appoint a compliance officer in charge of receiving internal suspicious transaction reports, further analysing such reports and forwarding them to the Agency, in case he/she considers that they are well-grounded on the basis of all elements in his/her possession, also inferred from other sources. The suspicious transaction reports shall be forwarded to the Agency without the name of the individual who has detected the suspicious transaction in accordance with Article 36.".

Art. 18

1. Paragraph 4 of Article 42 of Law no. 92 of 17 July 2008 shall be replaced by the following:

"4. Until the appointment of the compliance officer, all duties and responsibilities related to said function shall be assigned to the legal representative. In case the compliance officer is absent, even temporarily, all duties and responsibilities related to said function may be assigned to a substitute. The substitute shall be appointed according to what envisaged in paragraphs 2 and 3 of this Article for the compliance officer. In case both the compliance officer and the appointed substitute are

absent, all duties and responsibilities related to said function shall be assigned to the legal representative.".

Art. 19

1. Article 44 of Law no. 92 of 17 July 2008 shall be replaced by the following:

"Art. 44
(Internal procedures and controls)

1. The obliged parties shall adopt policies and procedures in compliance with the requirements of this Law and with the instructions issued by the Agency with a view to preventing and combating money laundering and terrorist financing. In particular, they shall adopt policies and procedures to prevent the misuse of technological developments, related to the activities carried out, in money laundering or terrorist financing schemes. Moreover, they shall adopt policies and procedures to address any risks associated with non-face to face business relationships or transactions.
2. The obliged parties shall communicate to all employees and collaborators the requirements set forth in this Law and in the instructions issued by the Agency. The obliged parties shall communicate to all employees and collaborators the measures and procedures adopted for the purpose of preventing and combating money laundering and terrorist financing.
3. The obliged parties shall promote ongoing employee training also through participation in specific training programmes concerning the prevention and combating of money laundering and terrorist financing.
4. The obliged parties shall develop and organise adequate internal controls to prevent and combat the involvement in business relationships or transactions relating to money laundering or terrorist financing.
5. The obliged parties shall be equipped with information technology or electronic means necessary to guarantee that reports are sent to the Agency in a prompt and confidential manner. The reports sent to the Agency shall be accessible only to the obliged parties.
6. The financial parties shall extend the requirements referred to in this Article to foreign branches.
7. The financial parties shall put in place screening procedures to ensure high standards when hiring employees and collaborators, taking into account their role and functions.".

Art. 20

1. The first paragraph of Article 53 of Law no. 92 of 17 July 2008 shall be replaced by the following:

"Art. 53
(Violation of secrecy requirements regarding suspicious transaction reports)

1. Unless the fact constitutes a more serious crime, anyone revealing – outside the cases provided for by law - that a report has been forwarded or that a money laundering or terrorist financing investigation is ongoing or may be initiated, shall be punished with first degree imprisonment, third degree interdiction and second degree daily fine.".

Art. 21

1. The first paragraph of Article 54 of Law no. 92 of 17 July 2008 shall be replaced by the following:

"Art. 54
(False or non-declarations regarding customers)

1. Unless the fact constitutes a more serious crime, anyone failing to provide the particulars of the person on behalf of whom the transaction is carried out or providing false particulars, or anyone failing to indicate the beneficial owner or providing false indications about the beneficial owner, shall be punished with second degree imprisonment or second degree daily fine.".

Art. 22

1. Article 55 of Law no. 92 of 17 July 2008 shall be replaced by the following:

"Art. 55
(Non-compliance with reporting requirements)

1. Unless the fact constitutes a more serious crime, anyone not complying with the reporting requirements set forth in Article 36 shall be punished with first degree imprisonment, third degree interdiction and second degree daily fine.".

Art. 23

1. Article 61 of Law no. 92 of 17 July 2008 shall be replaced by the following:

"Art. 61
(Violation of customer due diligence and abstention requirements)

1. Violations of the customer due diligence requirements established by this Law shall be punished with first degree imprisonment or second degree daily fine. A pecuniary administrative sanction from 2,000 to 40,000 euro and third degree interdiction shall also apply.
2. If violations of customer due diligence requirements are perpetrated by using fraudulent means, the punishments envisaged in the preceding paragraph shall be increased by one degree and the pecuniary administrative sanction shall be doubled.
3. Violations of the abstention requirements set forth in Article 24 shall be punished with first degree imprisonment or second degree daily fine. A pecuniary administrative sanction from 5,000 to 50,000 euro and third degree interdiction shall also apply.
4. Except as provided in Article 54, violations of the obligations to provide information necessary to comply with customer due diligence requirements shall be punished with first degree imprisonment or second degree daily fine. A pecuniary administrative sanction from 3,000 to 50,000 euro and third degree interdiction shall also apply.".

Art. 24

1. Article 62 of Law no. 92 of 17 July 2008 shall be replaced by the following:

"Art. 62
(Non-compliance with or delay in meeting keeping and registration requirements)

1. Anyone failing to meet the requirements set forth in Article 34, paragraphs 1, 2 and 3 shall be punished with first degree imprisonment or second degree daily fine. A pecuniary administrative sanction from 2,000 to 40,000 euro and third degree interdiction shall also apply.
2. If violations of such requirements are perpetrated by using fraudulent means, the punishments shall be increased by one degree and the pecuniary sanction shall be doubled.".

Art. 25

1. The following shall be added after Article 62 of Law no. 92 of 17 July 2008:

"Art. 62 bis
(Non-compliance with or delay in implementing the blocking provision)

1. Anyone failing to comply with or delaying the provision with which the Agency orders the blocking referred to in Article 5, paragraph 1, letter d) of this Law shall be punished with first degree imprisonment or second degree daily fine. A pecuniary administrative sanction from 2,000 to 40,000 euro and third degree interdiction shall also apply.
2. If violations are perpetrated by using fraudulent means, the punishments shall be increased by one degree and the pecuniary sanction shall be doubled.".

Art. 26

1. The following shall be added after Article 62-bis of Law no. 92 of 17 July 2008:

"CHAPTER II
ADMINISTRATIVE VIOLATIONS

Art. 62-ter
(Violation of the prohibition to operate with shell banks)

1. Violations of the provision set forth in Article 28 shall be punished with a pecuniary administrative sanction from 2,000 to 50,000 euro.".

Art. 27

1. Articles 66 and 67 of Law no. 92 of 17 July 2008 shall be replaced by the following:

"Art. 66
(Other violations)

1. Without prejudice to the criminal and administrative violations referred to in the preceding articles, violations of other provisions envisaged in this Law shall be punished with a pecuniary administrative sanction from 3,000 to 100,000 euro.

"Art. 67
(Violations of instructions)

1. Unless the fact constitutes a crime or a more serious administrative violation, failure to comply with the instructions issued by the Agency shall be punished with a pecuniary administrative sanction from 3,000 to 100,000 euro.".

Art. 28

1. Article 75 of Law no. 92 of 17 July 2008 shall be replaced by the following:

"Art. 75
(Invalidity of the acts concerning the disposal of property subject to confiscation)

1. Any act – performed at any title – concerning the disposal of property, funds or resources that constitute, directly or indirectly, the price, product or proceeds of an offence shall be invalid if the person who has received such property, funds or resources knew or should have known that they derived from an offence.
2. The Government Syndics shall sue the transferor, the transferee and any successors in title, who shall be jointly sentenced to transfer the property, funds or economic resources to the State, or, if this is not possible, to pay an equivalent amount.
3. It shall be for the transferee and any successors in title to demonstrate their good faith in conformity with the first paragraph of this Article.
4. Any other reciprocal action performed between the transferor, the transferee and any successors in title shall not be affected.
5. All actions performed by the victim of the offence, from which the property, funds or resources derive, shall not be affected.
6. The provisions referred to above shall apply by way of derogation from the general rules concerning contractual invalidity, with a view to preventing and combating money laundering and terrorist financing in a more effective way.
7. In conformity with the aim referred to in the preceding paragraph, the judge shall, upon request of the interested party, give effect to the foreign measure which, in the framework of non-criminal proceedings aimed at confiscating the property, funds or resources envisaged in paragraph 1 above, identifies the same property, funds or resources and orders precautionary measures for their preservation. The judge shall verify the authenticity and enforceability of the foreign measure and that its implementation is not contrary to public order. The requested acts shall not prejudice the Republic's sovereignty, security and other essential interests. As for all aspects not covered, the procedural rules concerning civil judgements shall apply.".

Art. 29

1. Article 1 of the Technical Annex to Law no. 92 of 17 June 2008 shall be modified as follows:

"Art. 1
(Politically exposed persons referred to in Article 1, paragraph 1, letter n)

1. The expression "politically exposed persons" shall mean:
A) natural persons, residing in a foreign State, who are or have been entrusted, during the year preceding the establishment of the business relationship, the carrying out of the transaction or the provision of the professional service, with prominent public functions, including the following functions, even if differently named:
1) heads of State, heads of government, ministers, deputy ministers, assistant ministers, members of parliaments,
2) members of judicial bodies whose decisions are not generally subject to further appeal,
3) members of the board of directors of central banks or supervisory authorities,
4) ambassadors, chargés d'affaires, high-ranking officers in the armed forces,
5) members of the administrative, management or supervisory bodies of State-owned enterprises;
B) immediate family members or persons known to be close associates of the persons referred to in the preceding letter, including the following persons:
1) the spouse or any partner considered as equivalent to the spouse,
2) the children and their spouses,
3) the parents;

C) any natural person who is known to have beneficial ownership of companies or legal entities with a person referred to in letter A);
D) any natural person who has sole beneficial ownership of a company, legal entity or legal arrangement which is known to have been set up for the benefit de facto of the person referred to in letter A) above.
2. The obliged parties shall continue to meet, on a risk-sensitive basis, enhanced customer due diligence requirements even if they have ceased to be entrusted with a prominent public function.".

TITLE II
FINANCIAL ACTIVITY CARRIED OUT ON AN OCCASIONAL OR VERY LIMITED BASIS

Art. 30
(Foreign exchange negotiation carried out on an occasional and limited basis)

1. Legal persons carrying out foreign exchange negotiation on an occasional and limited basis shall not be required to fulfil the obligations envisaged in Title III of this Decree-Law whenever the following conditions are met:
a) the proceeds of this activity do not exceed 250 euro per month and the value of the transactions does not exceed a total of 5,000 euro per month;
b) this activity is limited in terms of transactions and in any case it does not exceed 3 transactions per month for each customer;
c) this activity is not the main activity and in any case it does not exceed 5% of the total proceeds;
d) this activity is merely ancillary to the main activity;
e) the main activity is not connected with the reserved activities referred to in Annex 1 to Law no. 165 of 17 November 2005;
f) this activity is carried out exclusively for the customers of the main activity and not for the general public.
2. Whenever the activity carried out under the conditions envisaged in the preceding paragraph entails money laundering or terrorist financing risks, the Congress of State may change the above conditions, once the opinion of the Technical Commission for National Coordination has been heard.

TITLE III
GAMES THROUGH THE INTERNET AND OTHER ELECTRONIC OR TELECOMMUNICATION NETWORKS

Art. 31
(Games through electronic means)

1. The offer of games, betting or contests with prizes in money through the Internet and other electronic and telecommunication networks without the prior authorisation of the Public Institution for Gaming Activities shall be prohibited.
2. Any violation of the preceding paragraph shall be punished according to Article 16 of Law no. 67 of 25 July 2000.
3. The Public Institution for Gaming Activities shall inform the Agency of any authorisation granted, according to the modalities and time-frames established by the latter.

TITLE IV
ADJUSTMENT OF THE NATIONAL LEGISLATION TO THE PRINCIPLES OF THE COUNCIL OF EUROPE CONVENTION ON LAUNDERING, SEARCH, SEIZURE AND CONFISCATION OF THE PROCEEDS FROM CRIME AND ON THE FINANCING OF TERRORISM (WARSAW CONVENTION OF 16 MAY 2005)

CHAPTER I
AMENDMENTS TO THE LEGISLATION IN FORCE

Art. 32
(Confiscation of proceeds of serious crime)

1. The third paragraph of Article 147 of the Criminal Code shall be replaced by the following paragraphs:

"3. In case of conviction, the confiscation of the instrumentalities that served or were destined to commit the offences referred to in Articles 150, 155 aggravated – ex Article 156, 167, 168, 169, 177 bis, 177 ter, 194, 195, 195 bis, 195 ter, 196, 199 paragraph 1, 199 bis, 204 paragraph 3 number 1, 204 bis, 207, 212, 237, 239, 241, 242, 246, 247, 248, 249, 295, 296, 297, 298, 299, 300, 305 bis, 308, 309, 337 bis, 337 ter, 371, 372, 373, 374 paragraph 1, 374 ter paragraph 1, 401, the felonies for the purpose of terrorism or subversion of the constitutional order, the felony referred to in Article 1 of Law no. 139 of 26 November 1997 and the felony referred to in Article 2 of Law no. 99 of 7 June 2010, as well as of the things being the price, product or profit thereof, shall always be mandatory.
4. When the instrumentalities that served or were destined to commit the offence or the things being the price, product or profit thereof have been intermingled, in whole or in part, with property acquired from legitimate sources, the judge shall order the confiscation of the intermingled proceeds, up to the assessed value of the instrumentalities that served or were destined to commit the offence or of the things being the price, product or profit thereof.
5. In the cases specified in paragraph 3, the judge shall also order the confiscation of money, property and other benefits of which the offender is not able to demonstrate the lawful origin.
6. Where confiscation is not possible, the judge shall impose an obligation to pay a sum of money corresponding to the value of the instrumentalities and things to be confiscated.".

Art. 33
(Punishment of predicate offences committed abroad under the San Marino Law)

1. In the last line of the third paragraph of Article 199 bis of the Criminal Code, the word "also" shall be deleted.

Art. 34

1. The last paragraph of Article 199 bis of the Criminal Code shall be repealed.

Art. 35
(Artificial transfer and possession of unexplained property)

"Article 199 ter
(Possession of unexplained property)

A person sentenced for the offences specified in Article 147, paragraph 3, who is caught in possession of money, property or other benefits of which he is not able to demonstrate the lawful origin, shall be punished by terms of third degree imprisonment or a fine.
The confiscation of the money, property or other benefits of which the offender is not able to

demonstrate the origin shall always be mandatory. Where confiscation is not possible, the judge shall impose an obligation to pay a sum of money corresponding to the value of the things mentioned above".

Art. 36
(Violation of investigation secrecy)

1. After Article 53 of Law no. 92 of 17 June 2008, the following Article shall be added:

"Article 53 bis
(Violation of investigation secrecy)

1. Unless the conduct amounts to a more serious offence, anyone, apart from the cases laid down by law, who discloses the existence and/or the results of investigations, inspections or requests for information by the Judiciary, the Police Authority, the Financial Intelligence Agency or the Central Bank of the Republic of San Marino, concerning this Law or, in any case, covered by official secrecy, shall be punished by terms of second-degree imprisonment and disqualification.
2. If a blocking or seizure order has already been executed, the financial parties referred to in Article 6 of Law no. 92 of 17 June 2008 may inform the customer of the execution of the order, unless the Judicial Authority has placed limitations on such communication.".

Art. 37
(Management of property subject to seizure by the Criminal Judge)

1. If funds or economic resources deposited with authorised parties pursuant to Law no. 165 of 17 November 2005 are subject to criminal seizure, the Law Commissioner shall entrust the Central Bank with the task of ensuring the safe custody of said funds.
2. In funds or economic resources other than those specified in the preceding paragraph are subject to criminal seizure, the Law Commissioner shall inform the Civil Judge. The provisions envisaged by Delegated Decree no. 137 of 31 October 2008 shall apply mutatis mutandis.

Art. 38
(Probatory seizure)

1. By means of a reasoned decision, the Law Commissioner shall order the seizure of the *corpus delicti* and any relevant things that are necessary to ascertain the facts.
2. The *corpus delicti* shall include the things against or through which the offence was committed, as well as the things being the price, product or profit thereof.
3. The Judicial Authority or the personnel of the Judicial Police delegated by the Judicial Authority may examine and obtain copies of deeds, documents, letters, data and information contained in software at financial parties. They may also seize deeds, documents and letters, as well as securities, assets, deposited amounts and any other relevant item, even if contained in safety boxes, when they have reasonable grounds for suspecting that they are relevant to the offence, although they do not belong to the defendant or they are not registered in his/her name.
4. The order under which copies of documents can be obtained shall be notified to the *Procuratore del Fisco* and the financial party at which the documents are examined or acquired.

Art. 39
(Preventive seizure)

1. By means of a reasoned decision, the Law Commissioner shall order the seizure of the things relevant to the offence if there is a danger that the consequences of the offence may be

aggravated or extended, or the perpetration of other offences may be facilitated.
2. The Law Commissioner may also order the seizure of the things liable to confiscation, or the property into which they have been transformed or converted, as well as of the property with which they have been intermingled and the economic benefits obtained.

CHAPTER II
COORDINATION RULES

Art. 40
(Register of notitiae criminis relating to the issue of bad cheques and thefts or damage committed by unknown people)

1. By way of derogation from Article 2 of Law no. 93 of 17 June 2008, the *notitiae criminis* relating to theft and damage offences committed by unknown people, as well as the offence of issuing a bad cheque shall be entered in a separate register in which the provisional legal classification of the facts, the date and place where they occurred and the identity of the offended party shall be registered. If the identity of the offender is established afterwards, the proceedings shall also be entered in the register of *notitiae criminis* referred to in Article 2 of Law no. 93 of 17 June 2008.

Art. 41
(Computerization of registers and records of the Single Court)

1. The registers and records of the Court may also be kept in electronic format.

Done at Our Residence, on 26 July 2010/1709 since the Foundation of the Republic

THE CAPTAINS REGENT
Marco Conti – Glauco Sansovini

THE SECRETARY OF STATE
FOR INTERNAL AFFAIRS
Valeria Ciavatta