



REPUBLIC OF SAN MARINO

DELEGATED DECREE no. 153 of 2 September 2010

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

*Having regard to Article 7, paragraph 2 of Law no. 98 of 7 June 2010;
Having regard to Congress of State Decision no. 34 adopted in its sitting of 31 August 2010;
Having regard to Article 5, paragraph 3 of Constitutional Law no. 185/2005 and to Articles 8 and 10, paragraph 2 of Qualified Law no. 186/2005;
Promulgate and order the publication of the following Delegated Decree:*

PROHIBITIONS ON THE HOLDING AND TRANSFER OF SHAREHOLDINGS

Art. 1

(Establishment of the status of Unfit Person as a result of a final judgement following the incorporation of the company or the acquisition of shareholdings)

- 1 If a shareholder, after the incorporation of the company or the acquisition of shareholdings, becomes an Unfit Person, as defined in Article 1 of Law no. 47 of 23 February 2006 and subsequent amendments, following a final judgement, he shall sell his shareholdings by offering them to other shareholders. If the shareholders do not intend to acquire the shareholdings, the Unfit Person may sell them to others. The sale of shareholdings shall take place within 30 days of the communication to the Commercial Registry of the Single Court referred to in paragraph 5 below of this Article.
- 2 The Unfit Person shall be excluded by right from the company and shall not exercise his right to vote.
- 3 Unsold shareholdings shall be extinguished, with the corresponding share capital reduction. If the capital is not restored within 90 days of the extinction of the shareholdings, the company shall be placed into liquidation.
- 4 If the shareholder who has become an Unfit Person holds the entire shareholding in the company, the licence held by the company shall be revoked *ex officio*.
- 5 The shareholder who has become an Unfit Person shall be obliged to notify his new status to the Commercial Registry of the Single Court within 5 working days of the issue of the judicial order establishing his status as an Unfit Person.
- 6 Failure to make the above notification shall result in the imposition of an administrative sanction of € 5,000.00 by the Commercial Registry of the Single Court.
- 7 In the event that a Public Office, a Notary Public, the Directors or the Auditors, in the performance of their duties, become aware of the status of Unfit Person of the shareholder, they shall immediately notify the Commercial Registry of the Single Court thereof.

Art. 2

(Establishment of the status of Unfit Person in cases other than the issue of a final judgement following the incorporation of the company or the acquisition of shareholdings)

- 1 If a shareholder, after the incorporation of the company or the acquisition of shareholdings, becomes an Unfit Person, as defined in Article 1 of Law no. 47 of 23 February 2006 and subsequent amendments, with the exception of the case of a final judgement provided for in Art. 1, paragraph 1 of this Delegated Decree, the Office for Control and Supervision over Economic Activities shall immediately carry out an investigation on all operations of the company of which the Unfit Person

is a shareholder, on the other shareholders and on the administrative bodies of the company.

2 The shareholder who has become an Unfit Person shall be obliged to notify his new status to the Commercial Registry of the Single Court within 5 working days of the issue of the judicial order establishing his status as an Unfit Person.

3 Failure to notify shall result in the imposition of an administrative sanction of € 5,000.00 by the Commercial Registry of the Single Court. If the notification is made more than 15 days after the expiry of the deadline of 5 days, the Unfit Person shall sell his shareholdings as provided for in Article 1 of this Delegated Decree.

4 In the event that a Public Office, a Notary Public, the Directors or the Auditors, in the performance of their duties, become aware of the status of Unfit Person of the shareholder, they shall immediately notify the Commercial Registry of the Single Court thereof.

Art. 3

(Prohibitions of acquisition of shareholdings)

1. For persons other than natural persons who intend to incorporate companies or acquire shareholdings in San Marino companies, the prohibitions set out in the following paragraph shall be introduced.

2. The following persons shall not acquire shareholdings in the share capital of companies having their registered office in the Republic of San Marino, with the exception of joint-stock companies listed on the Stock Exchange:

- a) Legal persons having their own articles of association and subject to provisions guaranteeing the secrecy of the ownership structure;
- b) Legal persons having their registered office in countries or territories that are not collaborating in the prevention of and fight against money laundering and terrorist financing, according to the list drawn up and updated by the FATF.

3. Acts adopted in contravention of the previous provisions shall be null and void.

4. The verification of the existence of conditions preventing the acquisition or constitution of a shareholding, as well as any other condition provided for by law, shall be the responsibility of the Notary Public who receives the deed of incorporation of the company, pursuant to and for the purposes of Art. 20, paragraph 1 of Law no. 47 of 23 February 2006 and subsequent amendments, or who receives or authenticates the deed of transfer of the shareholding, pursuant to and for the purposes of Art. 26 of the aforesaid Law; if the transfer is made in violation of the prohibitions referred to in paragraph 1 of this Article, it shall also be null and void. In case of shares held in a fiduciary capacity, the verification of the existence of the conditions preventing the acquisition or constitution of a shareholding by the settlors, as well as the verification of the eligibility requirements, shall be carried out under the responsibility of the fiduciary company, without prejudice to the provisions of the anti-money laundering legislation concerning customer due diligence requirements and simplified procedure. The fiduciary company shall file with a San Marino Notary Public the original certificate to be obtained for the above purposes, accompanied by a sworn translation. The name of the San Marino Notary Public shall be communicated to the Register of Fiduciary Investments set up at the Central Bank of the Republic of San Marino, in compliance with Art. 2, paragraph 2 of Law no. 98/2010.

Done at Our Residence, on 2 September 2010/1709 since the Foundation of the Republic

THE CAPTAINS REGENT
Marco Conti – Glauco Sansovini

For the MINISTER OF
INTERNAL AFFAIRS
MINISTER
Antonella Mularoni