



REPUBLIC OF SAN MARINO

DELEGATED DECREE no. 110 of 31 August 2018

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

*Having regard to Article 10 of Law no. 104 of 8 August 2018;
Having regard to Government Decision no. 4, adopted during its sitting of 30 August 2018;
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:*

PROVISIONS ON INVESTOR-COMPENSATION SCHEMES TRANSPOSING DIRECTIVE 97/9/EC

Art. 1 *(Purposes)*

1. This Delegated Decree, issued pursuant to Article 10 of Law no. 104 of 8 August 2018, implementing the provisions of the Monetary Agreement signed by the Republic of San Marino with the European Union on 27 March 2012 and enforced through Parliamentary Decree no. 120 of 7 August 2012, is aimed at transposing into San Marino legal system Directive 97/9/EC on investor-compensation schemes provided for in the Annex to the Monetary Agreement.

Art. 2 *(Amendments and integrations to Law no. 165 of 17 November 2005)*

1. The heading of Chapter IV "GUARANTEE SYSTEMS" of Title II, Part II of Law no. 165 of 17 November 2005 shall be changed to "DEPOSIT-GUARANTEE AND INVESTOR-COMPENSATION SCHEMES".
2. After Article 100 of Law no. 165 of 17 November 2005, Article 100 bis shall be included as follows:

"Art. 100 bis

1. San Marino investor-compensation fund shall be established for the protection of clients' claims against entities authorised to provide the investment services referred to in letter D of Annex 1 and the ancillary service of safekeeping and administration of financial instruments for the account of clients.

2. The San Marino investor-compensation fund referred to in paragraph 1 above shall be managed by the Central Bank of the Republic of San Marino and shall be an independent asset fund. The assets of San Marino investor-compensation fund shall be autonomous and separate for all purposes from the assets of the Central Bank of the Republic of San Marino, being it subject to the regime of separation of assets.

3. The provision by authorised entities of the investment services referred to in letter D of Annex 1 and of the ancillary service of safekeeping and administration of financial instruments for the account of clients shall be subject to their belonging to an investor-compensation scheme, such as the fund in paragraph 1. Entities authorised to provide the investment services referred to in letter D) of Annex 1 to Law no. 165 of 17 November 2005 and the ancillary service of safekeeping and administration of financial instruments for the account of clients shall be required to belong to San Marino investor-compensation fund referred to in paragraph 1 above, with the exclusion of branches established in the Republic of San Marino of foreign authorised entities having their registered office in a country of the European Union or in a non-EU country, which belong to an investor-compensation scheme considered equivalent by the Central Bank of the Republic of San Marino.

4. San Marino investor-compensation fund shall intervene following the adoption of the administrative compulsory liquidation measure referred to in Chapter II of this Title against an authorised entity belonging to the fund, also pursuant to Article 98, paragraph 3.

5. Schemes which make payments in order to compensate investors shall subrogate to the rights of investors in administrative compulsory liquidation proceedings for amounts equal to their payments.

6. The supervisory authority shall govern through its own regulation:

- a) cases, arrangements and timing of compensation by the schemes, as well as the circumstances of exclusion;
- b) the characteristics of the claims on which compensation is made and the minimum and maximum limits on compensation by the schemes;
- c) the management and financing of compensation schemes, as well as the contribution by authorised entities belonging to the schemes;
- d) the communications and information that the authorised entities shall provide regarding the compensation schemes to which they belong;
- e) the coordination of the activity of compensation schemes with the provisions set forth in Chapter II of this Title;
- f) the coordination between investor-compensation schemes and deposit-guarantee schemes referred to in Article 100, in the case of claims against a bank that are subject to the protection of both schemes;
- g) the sanctions for failure by member entities to pay the contributions provided for by the compensation schemes;
- h) any other matter relating to compensation schemes.”.

Art. 3

(Transitional provisions)

1. Pending the issuance of the Regulation by the Central Bank of the Republic of San Marino referred to in Article 100 bis of Law no. 165 of 17 November 2005, the authorised entities that, at the entry into force of this Delegated Decree, are already authorised to provide the investment services referred to in letter D) of Annex 1 to Law no. 165 of 17 November 2005 or that already provide the ancillary service of safekeeping and administration of financial instruments for the account of clients, may continue to provide these services without being immediately required to belong to San Marino investor-compensation fund.

2. For the authorised entities referred to in the previous paragraph, the arrangements to belong to San Marino investor-compensation fund shall be defined in the regulation of the Central Bank of the Republic of San Marino referred to in Article 100 bis of Law no. 165 of 17 November 2005.

3. The first contribution to San Marino fund by the authorised entities required to belong to the fund shall be regulated by the Central Bank of the Republic of San Marino within the framework of the implementing regulation referred to in Article 100 bis of Law no. 165 of 17 November 2005.

Done at Our Residence, on 31 August 2018/1717 since the Foundation of the Republic

THE CAPTAINS REGENT
Stefano Palmieri – Matteo Ciacchi

THE MINISTER OF
INTERNAL AFFAIRS
Guerrino Zanolini