





1937. Altos Hornos de Bilbao (reverse).

## 7 REGULATORY CHANGES IN SUPERVISORY ISSUES IN SPAIN

### 7.1 Banco de España Circulars

#### 7.1.1 BANCO DE ESPAÑA CIRCULAR 1/2018

A Deposit Guarantee Scheme for Credit Institutions (DGSCI) was set up under Royal Decree-Law 16/2011 of 14 October 2011, which establishes that in order to comply with its functions, the deposits segment of the DGSCI must be funded by, among other sources, contributions by member institutions, and charges the Banco de España with implementing the methods necessary for such contributions to be proportional to institutions' risk profiles. This was implemented in Circular 5/2016 of the Banco de España. Subsequently, under Royal Decree-Law 11/2017 of 23 June 2017 on urgent measures for financial matters, belonging to an IPS became a new factor that the Banco de España will take into account in such calculation methods, since the creation of an IPS strengthens the solvency and liquidity of institutions belonging to it.

In order to comply with this last provision, the Banco de España approved Circular 1/2018 of 31 January 2018 amending i) Circular 5/2016 of 27 May 2016 on the calculation method to be used to ensure that the contributions of institutions belonging to the DGSCI are proportionate to their risk profile, and ii) Circular 8/2015 of 18 December 2015 to institutions and branches belonging to the DGSCI, on information for determining the basis of calculation of contributions to the DGSCI. The changes proposed will be used for the first time to calculate the contributions of DGSCI member institutions to be determined in 2018.

The amendment of Circular 5/2016 adds the new factor to the calculation method for the contributions. As a result, said calculation method is adjusted in such a way that IPS membership of a credit institution affiliated to the DGSCI is reflected in the amount of the contributions based on their risk profile.

The amendment of Circular 8/2015 seeks to obtain information about the ex-ante IPS fund. To this end, credit institutions belonging to an IPS as envisaged in Article 113(7) of the CRR should send certain information to the Banco de España on a quarterly basis.

#### 7.1.2 BANCO DE ESPAÑA CIRCULAR 2/2018

Circular 2/2018 amends Circular 4/2017 of 27 November 2017, to credit institutions, on public and confidential financial reporting rules, and standard forms of financial statements, to adapt it to IFRS 16 on leases. Application of the new standard will be mandatory effective 1 January 2019, which is also the date of entry into force of the new Circular. Thus, the Banco de España continues with its strategy of adapting the accounting regime for Spanish credit institutions to the changes in the European accounting regulations relating to IFRSs.

The main difference with regard to the previous regulation lies in the accounting treatment for lessees, while there are no significant changes in lease contract accounting for lessors. Specifically, until the entry into force of the new standard, lessees distinguished between operating leases (for which they simply recorded an expense over the life of the lease) and finance leases (which were recorded under assets and liabilities in the balance sheet). Under this Circular, as a general principle, lessees are required to recognise an asset and a liability. However, in the case of short-term or low-value lease contracts an expense may be recognised, while the rest of cases are to be recorded in the balance sheet, recognising an asset for the right of use of the leased asset and a liability for the lease payments committed to.



Meeting between the Directorate General Banking Supervision Directors and the Directorate General Banking Supervision staff. Hemiciclo II Auditorium.

Also noteworthy is the new treatment of sale and leaseback transactions, for the purpose of improving the analysis required to determine whether the real estate asset should be removed from the balance sheet of the seller-lessor and of adjusting its recording to the lessor's new treatment.

Lastly, other improvements and clarifications are set out in the accounting Circular, specifically regarding frequency of submission and public and confidential financial reporting formats.

Additionally, this Circular amends Circular 1/2013 of 24 May 2013 on the Central Credit Register, aiming to introduce the clarifications and improvements identified during the first few months of application of the changes implemented by Circular 1/2017 of 30 June 2017. This will permit Regulation (EU) 2016/867 of the European Central Bank of 18 May 2016 on the collection of granular credit and credit risk data (AnaCredit Regulation) to be better aligned.

## 7.2 Draft Banco de España Circulars

### 7.2.1 DRAFT CIRCULAR ON COMPARABILITY OF FEES

On 4 December 2018 the Banco de España initiated the public consultation process for the Draft Circular on the requirements for the information document about fees, fee status and websites for comparing payment accounts, partially amending Circular 5/2012, of 27 June 2012, of the Banco de España to credit institutions and payment services providers, on banking service transparency and responsible lending.

The draft Circular aims to finalise the transposition into Spanish legislation of Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014, also known as the Payment Accounts Directive (PAD), on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features, completing the regulation established by Royal Decree-Law 19/2017 of 24 November 2017 on payment accounts with basic features, payment account switching and comparability of fees.

### 7.2.2 OTHER DRAFT CIRCULARS CURRENTLY IN PROGRESS

The prior public consultation process having been completed, a draft Circular, through which the advertising of banking services and products will be regulated, is currently being prepared and Circular 6/2010 of 28 September 2010 will be repealed. Its main purpose is



to clarify that, following the latest regulatory changes, the advertising activity of electronic money institutions and credit financial institutions continues to be subject to compliance with the regulations relating to advertising of banking services and products. It is also intended to further detail the general principles which should govern the advertising activity and the general criteria relating to the content and format of institutions' advertising messages in order to ensure that customers have sufficient and accurate information on which to base their decisions.

Also completed was the consultation process prior to the drawing up of the draft Circular on the definition of the materiality threshold for past-due credit obligations, for the purpose of compliance with the obligation imposed on the competent authorities by Article 178(2) (d) of the CRR. The ECB has established the aforementioned thresholds for significant institutions in Regulation (EU) 2018/1845 of 26 November 2018. The Banco de España plans to establish these thresholds for less significant institutions using the ECB's decisions as a reference, thus fostering the uniform application of prudential requirements for credit institutions.



Induction ceremony for new bank examiners. Hemiciclo II Auditorium.

The Banco de España, as the accounting regulator of Spanish credit institutions, has maintained since 2004 a strategy of convergence with the International Financial Reporting Standards adopted by the European Union (EU-IFRSs), always in compliance with the general principles of the Commercial Code.

For this reason, the accounting Circular is updated as changes are made to the accounting framework for EU-IFRSs, which are directly applicable in preparing the consolidated financial statements of all security issuer groups in the EU.

This strategy avoids charges which the coexistence of different policies and practices for individual and consolidated accounts would entail. In other words, it permits harnessing the efforts which must be made in any case to apply EU-IFRSs to the consolidated financial statements.

Application of the same accounting criteria to institutions' individual and consolidated financial statements facilitates the analysis, review and understanding of their economic and financial position and their results by accounting information

users, including national supervisors and European supervisors (ECB and EBA).

The foregoing arguments are particularly relevant for the Spanish banking sector, since practically all credit institutions apply EU-IFRSs to their consolidated annual accounts.

Additionally, the strategy of alignment with the EU-IFRS framework permits implementing European accounting developments which have arisen from preparation and adoption procedures involving reflection, discussion and consensus, as well as analysing cost-effectiveness. Thus, the quality of the national standard remains at levels comparable to those of the European accounting framework of reference.

In this respect it should be noted that the Banco de España has set out in Annex 9 of Circular 4/2017 specific credit risk accounting management criteria which increase comparability and consistency of accounting information between institutions, always within the EU-IFRS framework. Hence, the credit risk accounting management policies developed on the basis of this Circular may also be applied to statements drawn up by directly applying EU-IFRSs