FINANCIAL REGULATION: 2015 Q4

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Introduction

This article summarises the financial legislation and regulations adopted in 2015 Q4.

The European Central Bank (ECB) has promulgated various provisions on: 1) changes to the framework of application of Eurosystem monetary policy; 2) new features of the public sector purchase programme by Eurosystem national central banks (NCBs); and 3) the procedure to exclude employees from the presumption that their activities have a significant impact on the risk profile of credit institutions supervised by the ECB.

Rules and regulations of some substance in the financial sphere were also published in the area of European Union legislation: 1) the agreement on the transfer and mutualisation of contributions of participating Member States to the Single Resolution Fund; 2) an update to the legislation on payment services in the internal market; and 3) measures adopted to ensure the transparency of securities financing transactions and of reuse.

Various provisions have been published affecting financial institutions, which: 1) complete the adaptation of Spanish law to European Union legislation on the mechanisms for the recovery and resolution of credit institutions and investment firms (IFs); 2) complete the transposition of European legislation on the regulation of the Credit Institution Deposit Guarantee Fund (DGF); 3) regulate the fees charged for cash withdrawals from cash dispensers (ATMs); 4) establish the obligation to classify and provide information on financial products according to their level of risk; 5) determine the content of certain reports to be published by banking foundations and savings banks; 6) implement the accounting specifications for Sareb (the asset management company for assets arising from bank restructuring); and 7) conclude transposition of the Solvency II Directive into the regulations on insurance and reinsurance entities.

Several pieces of legislation were enacted in relation to the securities market. These comprised: 1) an update to the general conditions applicable to transactions placing balances in remunerated Treasury accounts with institutions other than the Banco de España; 2) the conditions for the issue of State debt in 2016 and January 2017; 3) the consolidation of the Securities Market Law; 4) clearing, settlement and registration of negotiable securities, and the transparency requirements for issuers of securities admitted to trading on regulated markets; 5) amendment of the accounting standards applicable to investment firms, fund management companies, and venture capital management companies; 6) the periodic information from issuers of securities admitted to trading on regulated markets; 7) statistical information on market infrastructure; and 8) information from listed companies, savings banks, and other entities issuing traded securities.

Finally, the main fiscal and financial points of the State Budget Law for 2016 are discussed.

The Spanish version of this article discusses the same legislation in greater detail.

The contents of this article are set out in Table 1.

ECB: changes to Eurosystem monetary policy

ECB Guideline (EU) 2015/1938 (ECB/2015/27) of 27 August 2015 (OJ L 28 October 2015) (hereinafter the Guideline), amending ECB Guideline (EU) 2015/510 on the implementation of the Eurosystem monetary policy framework, was published. Accordingly, *Resolution of*

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TABLE 1

TABLE 1

28 October 2015 of the Executive Commission of the Banco de España (State Official Gazette (BOE) of 31 October 2015) was enacted, amending the Resolution of 11 December 1998 approving the general conditions applicable to the Banco de España's monetary policy operations in order to incorporate the changes introduced by Guideline ECB/2014/27. The changes established by these two instruments have been in effect since 2 November 2015.

The Guideline makes a number of changes to the framework of application of Eurosystem monetary policy, as described below.

ELIGIBILITY CRITERIA FOR COUNTERPARTIES

The eligibility criteria applicable to counterparties in Eurosystem monetary policy operations are defined, so as to ensure they are compatible with the latest legislative changes made to implement banking union. In particular, they must be subject to the Eurosystem minimum reserve system and be financially sound.

The new features introduced by the Guideline include the criteria for evaluating counterparties' financial soundness. The Eurosystem will therefore take into account quarterly information on capital, leverage and liquidity ratios submitted on an individual and consolidated basis, in accordance with supervisory requirements.

The rules governing the use of public debt instruments to recapitalise a counterparty in kind are also defined.[1] Such instruments may only be used as collateral by the counterparty

1 In-kind recapitalisation with public debt instruments is the materialisation of an increase in the subscribed capital of a credit institution where all or part of the consideration is provided through a direct placement with the credit institution of sovereign or public sector debt instruments that have been issued by the sovereign state or public sector entity providing the new capital to the credit institution

or by any other entity with which it has close links if the Eurosystem considers that the issuer's level of market access is adequate, also taking into account the role played by such instruments in the recapitalisation.

NEW CATEGORY OF ELIGIBLE COLLATERAL: DECC

A new category of eligible collateral termed «non-marketable debt instruments backed by eligible credit claims» (DECCs) has been created. DECCs are debt instruments that: 1) are backed, directly or indirectly, by credit claims meeting the Eurosystem's eligibility criteria; 2) offer dual recourse to the credit institution originating the underlying credit claims and to the dynamic cover pool of underlying credit claims; and 3) for which there is no tranching of risk.

The guideline establishes the eligibility criteria for DECCs, which include: 1) the underlying credit claims are to be those granted to debtors established in a Member State whose currency is the euro; 2) the originator must be a Eurosystem counterparty established in a Member State whose currency is the euro and the issuer must have acquired the credit claim from the originator; 3) the DECC issuer is a special-purpose vehicle established in a Member State whose currency is the euro; 4) parties to the transaction, other than the issuer, the debtors of the underlying credit claims, and the originator, must be established in the European Economic Area (EEA);[2] and 5) DECCs must be denominated in euro or in one of the former currencies of the Member States whose currency is the euro. After having carried out a positive assessment, the Eurosystem will approve the DECC structure as being eligible as Eurosystem collateral.

DISCRETIONARY MEASURES ON THE GROUNDS OF PRUDENCE OR FOLLOWING AN EVENT OF DEFAULT

More detail has been added to the regulation of the discretionary measures the Eurosystem may adopt in relation to counterparties for prudential reasons or in response to a default.

Thus, the Eurosystem may suspend, limit or exclude a counterparty's access to Eurosystem monetary policy operations on prudential grounds if it fails to comply with the own funds requirements on an individual or consolidated basis. There is an exception for cases where the Eurosystem considers that compliance can be restored through adequate and timely recapitalisation measures, as established by the Governing Council.

In the context of its assessment of the financial soundness of a counterparty and without prejudice to any other discretionary measures it may adopt, the Eurosystem may suspend, limit or exclude, on the grounds of prudence, access to Eurosystem monetary policy operations by counterparties for which information on capital ratios has not been made available to the relevant NCB and the ECB, or for which information of a comparable standard has not been made available in a timely manner and at the latest within 14 weeks from the end of the relevant quarter.

ECB: Public sector purchase programme

Decision (EU) 2015/2101 (ECB/2015/33) of 5 November 2015 (OJ L 20/11/2015) and *Decision (EU) 2015/2464 (ECB/2015/48) of 16 December 2015* (OJ L 30/12/2015) (hereinafter, the Decisions), amending Decision (EU) 2015/774 (ECB/2015/10) on a secondary markets public sector asset purchase programme (hereinafter, the PSPP) were published. The Decisions came into force on 10 November 2015 and 1 January 2016, respectively.

The main new features of these Decisions are:

1) The general issue share limit on purchases has been raised to 33% per issue. As an exception, the issue share limit is set at 25% for securities containing a collective action clause (CAC) that differs from the euro area standard CAC,

2 The EEA comprises the 28 countries of the European Union, Iceland, Liechtenstein and Norway.

but will be increased to 33%, subject to verification on a case-by-case basis that a holding of 33% would not lead the Eurosystem central banks to reach blocking minority holdings in orderly debt restructurings.

2) The possibility has been provided that euro-denominated marketable debt securities issued by central, regional or local governments of a Member State whose currency is the euro may be eligible for purchases under the PSPP by the Eurosystem central bank of the Member State in which the issuing entity[3] is located in order to add flexibility to the PSPP and facilitate continued smooth implementation of purchases until the intended end date of the programme.

3) Finally, it should be noted that the recitals of Decision (EU) 2015/2464 (ECB/2015/48) refer to the decisions of the Governing Council of 3 December 2015 to: 1) to extend the intended horizon of purchases under the PSPP until the end of March 2017, or beyond, if necessary, and in any event until the Governing Council sees a sustained adjustment in the path of inflation that is consistent with its aim of achieving inflation rates below, but close to, 2% over the medium term; and 2) to reinvest the principal payments of the securities purchased under the expanded asset purchase programme (which includes the PSPP) as the underlying securities mature, for as long as necessary, thus contributing to favourable liquidity conditions and to an appropriate monetary policy stance.

Credit institutions supervised directly by the ECB

Decision (EU) 2015/2218 of the ECB (ECB/2015/38) of 20 November 2015 (OJ L of 1/12/2015) (hereinafter the Decision) on the procedure to exclude staff members from the presumption of having a material impact on a supervised credit institution's risk profile was published, coming into force on 2 December 2015.

The Decision lays down the procedural requirements for both the notification of, and the application for, the prior approval that credit institutions directly supervised by the ECB[4] are to submit in order to exclude staff members or categories of staff members from the presumption of being identified staff based on the quantitative criteria laid down in Delegated Regulation (EU) No 604/2014.

Transfer and pooling of contributions to the Single Resolution Fund

The *instrument ratifying the agreement on the transfer and mutualisation of contributions to a Single Resolution Fund* (hereinafter the Fund), done in Brussels on 21 May 2014 (BOE of 18 December 2014), which came into force on 1 January 2016, was published.

Under this agreement, the participating Member States, which include Spain, undertake to:

1) Transfer contributions collected nationally to the fund under the Directive on banking restructuring and resolution[5] and the SRM Regulation.[6]

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3 Previously, ordinary purchases were limited to eligible debt securities issued by central governments of Member States whose currency is the euro, recognised agencies located in the euro area, international organisations located in the euro area, and multilateral development banks located in the euro area.

4 The ECB directly supervises significant credit institutions and significant supervised groups.

5 Directive 2014/59/EU of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council.

6 Regulation (EU) 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 of the European Parliament and of the Council.

2) Allocate the contributions collected nationally under the aforementioned rules during a transitional period starting on the start date for application of the Agreement (1 January 2016) and expiring on the date on which the Fund reaches the target level set in the SRM Regulation[7] and, in any event, not more than eight years from 1 January 2016 (transitional period), to the various national compartments corresponding to each participating Member State.

Participating Member States are to transfer contributions for each financial year *ex ante*[8] no later than 30 June of the year in question. The first transfer of *ex ante* contributions to the Fund is to take place by 30 June 2016 at the latest. *Ex post*[9] contributions will be transferred immediately after they are collected.

Directive on payment services in the internal market

Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 (OJ L of 23/12/2015) (hereinafter the Directive) on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC, was published.[10] The Directive is due to be implemented by Member States in their national legislation by 13 January 2018 at the latest.

The Directive updates and closes a number of regulatory gaps in Directive 2007/64/EC in the light of the way payment services have evolved in recent years in the European Union.

SCOPE

The main changes as regards scope are:

1) The scope of the exclusion from application of Directive 2007/64/EC of payment operations through a commercial agent on behalf of the payer or the payee has been clarified, such that the exclusion applies when the agent acts only on behalf of the payer or only on behalf of the payee, regardless of whether or not it holds customer funds.

2) It has also been clarified that the limited network exclusion for service providers applies only in certain circumstances, as specified in the Directive.

3) Two new payment services have been added to the Directive's scope: 1) payment initiation services in relation to e-commerce where a software bridge is established between the merchant's website and the online banking platform in order to initiate internet payments on the basis of a credit transfer; and 2) account information services that provide the payment service user with aggregated information giving an immediate overview of his or her financial situation.

PAYMENT INSTITUTIONS

Certain controls have been put in place concerning the purchase of significant stakes in payment institutions' capital. The competent authorities must be notified of such holdings in advance, and may oppose them if they are detrimental to the prudent and sound management of the payment institution.

7 At least 1% of covered deposits at all credit institutions authorised in all the participating Member States.

8 *Ex ante* contributions are to be collected at least annually, and will be pro rata to the amount of liabilities (excluding own funds) less covered deposits, with respect to the aggregate liabilities (excluding own funds) less covered deposits of all the institutions authorised in the territories of all the participating Member States.

9 *Ex post* contributions will be made on an extraordinary basis, and will be collected when the available financial resources are insufficient to cover losses, costs or other expenses incurred in the use of the Fund in resolution measures.

10 Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC.

The supervision and cooperation functions between competent authorities have also been expanded in the case of payment institutions exercising their right of establishment and freedom to provide services in another Member State.

RIGHTS AND OBLIGATIONS IN RELATION TO THE PROVISION AND USE OF PAYMENT SERVICES

Similar rights and obligations as set out in Directive 2007/64/EC have been maintained, incorporating the latest European legislative changes. These include the stipulation that Member States require that for payment transactions provided within the European Union, where both the payer's and the payee's payment service providers are, or the sole payment service provider in the payment transaction is, located in the European Union, the payee pays the charges levied by his payment service provider, and the payer pays the charges levied by his payment service provider.

The Directive incorporates rules on access to the payment account in the case of payment initiation services,[11] such that Member States must ensure that the payer has the right to make use of a payment initiation service provider to obtain such services.

Finally, the rules of access to information on payment accounts and on the use of this information in the case of account-information services have been laid down, such that the payment service user has the right to access account-related information. This right will not apply where the payment account is not accessible online.

OPERATIONAL AND SECURITY RISKS AND AUTHENTICATION

One of the changes introduced by the Directive is the obligation upon Member States to ensure payment service providers establish a framework with appropriate mitigation measures and control mechanisms to manage the operational and security risks relating to the payment services they provide. As part of that framework, payment service providers shall establish and maintain effective incident management procedures, in particular for the detection and classification of major operational and security incidents.

Transparency of securities financing transactions and of reuse

Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 (OJ L of 23 December 2015) (hereinafter the Regulation), on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012,[12] was published, coming into force on 12 January 2016.[13]

The Regulation establishes rules on the transparency of securities financing transactions (SFTs) and of reuse. SFTs consist, primarily, of repurchase transactions; securities and commodities lending or borrowing;[14] buy-sell back (or sell-buy back) transactions or margin lending transactions.[15] They do not include derivatives contracts defined in Regulation (EU) 648/2012, but do include transactions commonly referred to as liquidity swaps and collateral swaps.

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11 Payment initiation is a service enabling a payment order to be initiated, at the request of the payment service user, with regard to a payment account held with another payment service provider.

12 Regulation (EU) 648/2012 of the European Parliament and of the Council of 4 June 2012 on OTC derivatives, central counterparties and trade repositories.

13 Except articles 4.1, 13, 14 and 15, for which various different dates are established on which they are to come into force.

14 Securities or commodities lending or borrowing is a transaction by which a counterparty transfers securities or commodities subject to a commitment that the borrower will return equivalent securities or commodities on a future date or when requested to do so by the transferor. This transaction is therefore considered as securities or commodities lending for the counterparty transferring the securities or commodities and being considered as securities or commodities borrowing for the counterparty to which they are transferred.

15 Margin lending transactions are transactions in which a counterparty extends credit in connection with the purchase, sale, carrying or trading of securities, but not including other loans that are secured by collateral in the form of securities.

Reuse means the use by a receiving counterparty, in its own name and on its own account or on the account of another counterparty, including any natural person, of financial instruments received under a collateral arrangement. This includes transfer of title or exercise of a right of use, but not does not include the liquidation of a financial instrument in the event of default of the providing counterparty.

The main features of the Regulation are:

TRANSPARENCY OF SFTs: TRADE REPOSITORIES

Counterparties are to report the details of any SFTs they have concluded, as well as any modification or termination thereof, to a trade repository registered in accordance the Regulation. Where a trade repository is not available to record the details of SFTs, counterparties shall ensure that those details are reported to the European Securities and Markets Authority (ESMA).

A trade repository must be a legal person established in the European Union that centrally collects and maintains the records of SFTs. Trade repositories are to register with ESMA under the conditions and the procedure set out in this Regulation. The registration of a trade repository will be effective for the entire territory of the European Union.

The procedure for giving notice of application and consultation with the competent authorities, prior to registration or extension of the registration, is also specified, together with the grounds for revocation of registration by the ESMA.

TRANSPARENCY OF REUSE

The right of counterparties to reuse financial instruments received as collateral will be subject to at least the following two conditions:

1) The providing counterparty has been duly informed in writing by the receiving counterparty of the risks and consequences that may be involved in granting consent to a right of use of collateral provided under a security collateral arrangement or concluding a title transfer collateral arrangement.

2) The providing counterparty has granted its prior express consent, as evidenced by a signature, in writing or in a legally equivalent manner, of the providing counterparty to a security collateral arrangement, the terms of which provide a right of use, or has expressly agreed to provide collateral by way of a title transfer collateral arrangement.

Where a trade repository is established in a third country and the account of the counterparty providing the collateral is held in a third country and is subject to its legislation, reuse must be accredited by means of a transfer from the providing counterparty's account or by other appropriate means.

SUPERVISION, COOPERATION BETWEEN COMPETENT AUTHORITIES, AND RELATIONS WITH THIRD COUNTRIES

The Regulation designates and determines the powers of the competent authorities that will supervise compliance with the obligations therein.

The ESMA and the competent authorities will exchange any information necessary for the purpose of carrying out their duties, in particular in order to identify and remedy infringements of this Regulation.

As regards relationships with third countries, the Commission will adopt implementing acts determining that the legal and supervisory arrangements of a third country ensure

that trade repositories authorised in those third countries comply requirements which are equivalent to those laid down in this Regulation, and that they are subject to effective supervision and effective enforcement of their obligations.

Recovery and resolution of credit institutions and investment firms: regulatory implementation

Royal Decree 1012/2015 of 6 November 2015 (BOE 7 November 2015) (hereinafter the Royal Decree), was published, implementing Law 11/2015 of 18 June 2015 on recovering and resolution of credit institutions and investment firms (hereinafter the entities), amending Royal Decree 2606/1996 of 20 December 1996 on deposit guarantee funds, coming into force on 8 November 2015 (the changes to the DGF regulations are discussed in the next section).

The Royal Decree also completes the transposition of the Directive on bank restructuring and resolution begun by Law 11/2015. It will be applied in a way that is compatible with European legislation on resolution, in particular the SRM Regulation, as the provisions of this regulation come into effect.

The main new features concerning the recovery and resolution of entities are described below.

GENERALITIES

The circumstances determining when an entity may require the establishment and application of the obligations, requirements and resolution instruments envisaged in Law 11/2015 are defined, together with the general criteria for the establishment of simplified obligations and exemptions for particular entities when preparing their recovery plans, and when the resolution authority designs resolution plans. Detailed regulations are also set out for the manner in which entities are to be valued by an independent expert appointed by the Fund for Orderly Restructuring of the Banking Sector (FROB) prior to the adoption of any resolution measures.

RECOVERY AND EARLY INTERVENTION PLANS

The content of recovery plans prepared by entities are specified, as are the criteria by which the competent supervisor (the ECB, Banco de España, or CNMV, as applicable) is to evaluate them. The quantitative and qualitative indicators these plans are to include, in accordance with the provisions of Law 11/2015 are also specified. These must include, at least, capital, liquidity, asset quality and profitability indicators, and macroeconomic, market, and other indicators that are relevant to evaluating the entity's financial situation. Under no circumstances may the design of recovery plans assume the availability of public financial aid.

RESOLUTION PLANS

The content of the individual and group resolution plans that are to be prepared by the preventive resolution authority during the preventive phase of resolution, following a report from the FROB (as the executive resolution authority) and the competent supervisor, is specified.

REDEMPTION AND CONVERSION OF CAPITAL INSTRUMENTS, AND INTERNAL RECAPITALISATION

The regulations are defined for certain aspects of the redemption and conversion of capital instruments and internal recapitalisation, in particular: 1) the determination of the minimum requirement for own funds and eligible liabilities; 2) the valuation of liabilities arising from financial derivatives; and 3) the conditions for the conversion and redemption of capital instruments.

FINANCING MECHANISMS

The conditions under which the FROB is to use the financing mechanisms[16] available to it to finance resolution measures are established, and regulations on entities' contributions to the National Resolution Fund (NRF) are defined.

16 The financing mechanisms are: 1) the NRF; 2) alternative means of financing, such as bond issues, loans, obtaining credit, and any other debt transactions, provided that ordinary contributions are insufficient to cover the cost of resolution and the extraordinary contributions are not immediately accessible or sufficient; and 3) the possibility of applying for loans from the financing mechanisms of the other Member States of the European Union. A loan may only be requested from other financing mechanisms if ordinary contributions are insufficient to cover resolution costs, extraordinary contributions are not immediately accessible, and alternative financing mechanisms cannot be used under reasonable conditions.

As provided in Law 11/2015, the financial resources of the NRF are to reach at least 1% of the value of all entities' guaranteed deposits by 31 December 2024. When this percentage is reached, the Minister for Economic Affairs and Competitiveness, at the proposal of the FROB, and following consultation with the preventive resolution authorities, may agree to the suspension of contributions.

The FROB will determine yearly, no later than 1 May each year, the total contribution that obliged entities as a whole are required to make to the NRF and the ordinary contributions each entity is to pay during the year, in the light of the information it has available and that which it may require from entities for these purposes. Contributions will be matched to each entity's risk profile, in accordance with certain criteria.

The annual amount of extraordinary contributions[17] may not be more than three times the annual amount of the ordinary contributions. The FROB may postpone, wholly or partially, the obligation to pay the extraordinary contribution if this obligation were to jeopardise the entity's liquidity or solvency, or its financial position.

As regards loans between financing mechanisms, as provided under Law 11/2015, the NRF may receive and grant loans to financing mechanisms in other Member States at the request of the FROB. In the case of loans applied for jointly with other resolution authorities or financing mechanisms, the interest rate, repayment period, and other conditions of the loan will be those agreed among the loan participants.

RESOLUTION OF GROUPS OF ENTITIES

The resolution of a group of entities operating across borders, and the composition and competences of the colleges of resolution authorities[18] are addressed in a general way with a view to encouraging a coordinated solution to this particularly complex type of situation, given the international character of the entity.

Finally, certain aspects of the mutualisation of national financing arrangements are specified for the case of resolution of groups of entities.

AGREEMENTS WITH THIRD COUNTRIES

The Royal Decree also covers relationships with third countries and the signing of agreements to recognise resolution actions. These agreements will arise, in particular, in cases where the parent entity in a third country has branches or subsidiaries in Spain that are considered significant, or vice versa, i.e. when a parent entity established in Spain has branches or subsidiaries in third countries.

OTHER CHANGES

Other changes introduced by this Royal Decree include: 1) its scope is extended, in certain cases, to other types of legal persons forming part of an entity's group, such as financial holding companies, mixed-activity financial holding companies, and mixed-activity holding companies, and 2) the regulations on the rules for the management, settlement and collection of the levy to which entities are subject in order to meet the administrative costs of the FROB, as the resolution authority, are defined.

17 Law 11/2015 envisaged the possibility of collecting extraordinary contributions when ordinary contributions were insufficient to finance the measures provided for in the Law.

18 The members of the colleges of resolution authorities will include, inter alia: 1) the FROB and the competent preventive resolution authority, as resolution authorities at group level; 2) the resolution authorities of each Member State in which a subsidiary covered by consolidated supervision is established; 3) the resolution authorities of the Member States in which significant branches are located; and 4) the supervisors of the Member States concerned. If the competent supervisor in a Member State is not the central bank, the supervisor may decide to be accompanied by a representative of the central bank, and 5) the EBA, which will be invited to attend the meetings of the college of resolution authorities as an observer.

Credit Institution Deposit Guarantee Funds

Royal Decree 1012/2015 amends Royal Decree 2606/1996 of 20 December 1996 on the DGF in order to implement the changes introduced by Law 11/2015 of 18 June 2015 in Royal Decree-Law 16/2011 of 14 October 2011, which created the DGF. This completes the transposition of Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit-guarantee schemes.

The modifications introduced require the updating of the information that entities and branches belonging to the DGF are to provide to the Banco de España for the purposes of calculating contributions. This has been carried out with the publication of CBE 8/2015 of 18 December 2015 (BOE of 24 December 2015) (hereinafter the Circular), which came into effect on 25 December 2015.

CONTRIBUTIONS

The Royal Decree introduces a change in the calculation basis for contributions to the DGF's new deposit guarantee compartment. Thus, the basis for the calculation of contributions, following the provisions of Directive 2014/49/EU, will not be determined by the total volume of deposits eligible for coverage by the DGF, but only by their effectively guaranteed amount (Table 2 shows a comparative analysis relative to the previous situation).

Moreover, for the purposes of calculating the basis for determining contributions to the DGF, the Circular updates the valuation criteria for deposits of cash and securities and other guaranteed financial instruments, in compliance with CBE 4/2004 of 22 December 2004, addressed to credit institutions, on public and confidential financial reporting rules, and standard formats for financial statements.

Finally, institutions and branches that belong to the DGF are to submit quarterly (previously this was annually) to the Banco de España a statement of «Information for the determination of the basis of calculation of contributions to the Deposit Guarantee Fund», in the format set out in the annex to the circular, with data referring to the end of the relevant quarter. The Banco de España will then forward to the DGF the information from the statements received from each of the entities that is necessary to comply with its obligations, and the aggregated data.

GUARANTEED AMOUNTS

A distinction is drawn between eligible deposits and guaranteed deposits. Thus, credit balances held on accounts, including funds arising temporarily out of transactions that the institution is obliged to repay under the applicable contractual and legal terms, whatever the currency in which they are denominated, provided they have been constituted in Spain or another Member State of the European Union, including fixed-term and savings deposits, will be considered eligible deposits, with the exclusions explicitly listed in the Royal Decree.

By contrast, the following, inter alia, will not be considered eligible deposits: 1) those whose holder has not been identified, pursuant to Law 10/2010 of 28 April 2010 on the prevention of money laundering and terrorist financing, or which originate from transactions giving rise to a criminal conviction for money laundering; 2) those from financial institutions; and 3) those from general government, except local entities with an annual budget of €500,000 or less.

Guaranteed deposits are the portion of the eligible deposits not exceeding €100,000. Also, henceforth, this guarantee also extends to the interest accruing but unpaid up until the date of the events resulting in the exercise of the guarantee, with the proviso that, in no case, may the aforementioned limit of €100,000 be exceeded.

CREDIT INSTITUTION DEPOSIT GUARANTEE FUND

TABLE 2

Royal Decree 2606/1996 of 20 December 1996 and Royal Decree-Law of 16/2011 of 14 October 2011	Royal Decree 1012/2015 of 6 November 2015
Contributions	
The DGF is divided into two separate compartments: the deposit guarantee and securities guarantee. The resources of the deposit guarantee compartment are to reach at least 0.8% of the covered deposits (this may be reduced to 0.5% with the European Commission's authorisation). Planned annual contributions to the securities guarantee compartment may not exceed 0.3% of the value of the securities covered.	Similar terms apply as before, with a limit on contributions. In the case of the deposit guarantee compartment, they may not exceed 0.5% of covered deposits per calendar year, unless authorised by the Banco de España. However, a change has been made to the calculation basis for contributions to deposit guarantee compartment. Thus, the basis for the calculation of contributions will not be determined by the total volume of deposits eligible for coverage by the DGF, but only by their effectively covered value.
Guaranteed deposits	
Credit balances held on accounts, including funds arising temporarily out of transactions, and nominative certificates of deposit that the institution is obliged to repay under the applicable contractual and legal terms, whatever the currency in which they are denominated, provided they have been constituted in Spain or another Member State of the European Union, including fixed-term and savings deposits.	A distinction is drawn between eligible deposits and covered deposits. Eligible deposits are similar to covered deposits under the previous rules.
Exclusions from the DGF include: 1) deposits from other financial institutions; 2)securities issued by credit institutions, including promissory notes and tradable commercial papers; and 3) general government deposits with the institution; 4) deposits made by parties holding directorships or management posts in the entity triggering the fund's intervention, and their proxies holding general powers of representation.	Deposits that will not be considered eligible include: 1) those whose holder has not been identified, pursuant to Law 10/2010 of 28 April 2010 on the prevention of money laundering and terrorist financing, or which originate from transactions subject to a ruling for the crime of money laundering; 2) deposits from financial institutions; and 3) those from general government, except local entities with an annual budget of €500,000 or less.
	A distinction is drawn between deposits and eligible deposits. Thus, credit balances arising in any of the following circumstances will not be considered deposits: 1 Its existence can only be proven by means of a financial instrument, for instance repurchase agreements and bearer certificates of deposit. 2 If the principal is not reimbursable at nominal value. 3 If the principal is only reimbursable at its nominal value with a guarantee or special agreement from the credit institution or a third party.
Guaranteed amounts	
Deposits will be guaranteed up to a limit of €100,000. Other deposits will also be guaranteed irrespective of amount for three months starting from the time the amount was paid in or from when the deposits have become legally transferable.	Covered deposits are the portion of the eligible deposits not exceeding €100,000. The guarantee has also been extended to the interest accruing but unpaid up until the date of the events resulting in the exercise of the guarantee, such that, in no case, may the aforementioned €100,000 limit be exceeded.
The amount guaranteed to investors who have entrusted securities or financial instruments to the entity will be independent of the foregoing and will also be up to a maximum amount of €100,000.	No significant changes.
The DGF is required to reimburse depositors for sums due within twenty working days.	This period will be progressively shortened from twenty working days to seven working days in 2024. Similarly, the DGF's security guarantee compartment should meet investors' claims as quickly as possible and, no later than three months after having determined the position of the investor and his amount.
Information for depositors	
Not provided for.	The legislation introduces obligations upon credit institutions to inform their actual and potential depositors and investors via their offices and website in a readily comprehensible and accessible form. This concerns the information needed to identify the DGF to which the entity belongs.

SOURCES: Boletín Oficial del Estado and Banco de España.

Finally, it is worth noting that the period in which the DGF's deposit guarantee compartment is to reimburse depositors for the amounts due, which will be progressively shortened from the current twenty working days to seven working days in 2024.[19] Similarly, the

19 The maximum period for payment of seven working days will come into effect on 1 January 2024. In the meantime, the maximum payment periods will be: 1) twenty working days until 31 December 2018; 2) fifteen working days from 1 January 2019 until 31 December 2020; and 3) ten working days from 1 January 2021 until

DGF's security guarantee compartment should meet investors' claims as quickly as possible and, no later than three months after having determined the investor's position and its value.

DEPOSITOR INFORMATION

The legislation introduces obligations upon credit institutions to inform their depositors and actual and potential investors so they are able to identify the DGF to which the entity belongs. This information will appear at all its offices and on its website in an easily comprehensible and accessible form, and will at all events include its name, headquarters, telephone number, Internet and e-mail addresses, and the provisions applicable to it, specifying the amount and the scope of the coverage provided. It will also give information about the deposits or securities that are not guaranteed.

OTHER DGF ACTIONS

Under Article 11.5 of Royal Decree-Law 16/2011, exceptionally, when the situation of a credit institution is such that it is foreseeable that the Fund will be obliged to pay out of the deposit guarantee compartment, it may adopt preventive measures and write-downs to prevent the liquidation of the entity. The changes the Royal Decree introduces include: 1) a bar on adopting such measures if the competent resolution authorities consider that the conditions for resolution have been met; and 2) the establishment of limits on the disbursement of resources by the DGF for such actions.

COOPERATION AGREEMENTS

The Royal Decree defines the rules for the DGF's cooperation with deposit guarantee schemes in other European Union Member States, in particular, as regards the reimbursement of deposits at branches operating outside their home country. Thus, for example, the DGF will make payments to depositors at branches of credit institutions of other European Union Member States established in Spain on behalf of the deposit guarantee scheme of the European Union Member State of origin, and vice versa.

Credit institutions: fees for withdrawal of cash from ATMs

Royal Decree-Law 11/2015 of 2 October 2015 (BOE of 3 October 2015) (hereinafter the Royal Decree-Law) was published, regulating the withdrawal of cash from ATMs, coming into force on the day of its publication.[20] Its main objective is to avoid those cases in which, as well as being obliged to pay a fee to the card issuing entity for withdrawing cash from a cash dispenser (ATM), the customer is also obliged to pay another fee to the owner of the ATM as a consequence of this withdrawal.

The Royal Decree-Law establishes that, in the case of a cash withdrawal using a card,[21] the ATM owner may not charge any amount whatsoever to customers of other entities, but may demand a fee from the card issuer. For its part, the card issuer may not charge its customers a fee higher than that the ATM owner charges the card issuer, nor may it charge any additional sums for any other items. Within the foregoing limit, the amount to be charged will be that freely determined in the contract between the card issuer and its customers.

Issuers may charge an additional amount for cash withdrawals, but under no circumstances may this be more than customers are charged for withdrawing cash on credit from the issuer's own ATMs.

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31 December 2023. Up until 31 December 2023, when the DGF is unable to restore the reimbursable amount within seven working days, it will pay depositors an appropriate amount from its guaranteed deposits to cover living expenses within a maximum of five working days from the time of the application.

20 The Royal Decree-Law introduces the new regulation by appending an additional provision (the second) to Law 16/2009 of 13 November 2009 on payment services.

21 This regulation also covers cash withdrawals using other payment instruments.

In order to ensure that transactions are transparent, before proceeding with a debit cash withdraw, the ATM owner must inform users of the fee they are going to be charged by the card issuer for the withdrawal, and of the possibility that all or part of this fee will be passed on to the customer by the ATM owner. In the case of cash withdrawals on credit, the information the customer is given must include the maximum additional amount the card issuer may charge for this type of transaction.

Credit institutions: financial product information and classification obligations

Ministerial Order ECC/2316/2015 of 4 November 2015 (BOE of 5 November 2015) (hereinafter the Order) was published, regarding financial product information and classification obligations, coming into force on 5 February 2016.

The Ministerial Order aims to ensure an adequate level of protection for customers (including potential customers) of financial products by establishing a standardised information and classification system warning customers of the level of risk and enabling them to choose the products that best suit their saving and investment preferences. To this end, financial institutions will provide their customers with a risk indicator and, where applicable, liquidity and complexity alerts.

The main changes are set out below.

SCOPE

The Ministerial Order is applicable to Spanish financial institutions, and foreign financial institutions operating in Spain through a branch, agent, or under the freedom to provide services[22] (hereinafter the entities) providing investment services or marketing certain financial products (such as bank deposits; financial instruments listed in the consolidated text of the Securities Market Law;[23] life insurance products intended for savings, and individual pension plans and associated products aimed at retail customers) to non-professional customers. The Ministerial Order is not applicable to the provision of discretionary management or individualised portfolio services, as in these cases it is the firm that takes investment decisions on the customer's behalf. Certain products are excluded from its scope, including public debt issued by the State, the autonomous regions and local government bodies, given that it is classed as being a highly liquid and solvent asset type.

CLASSIFICATION OF FINANCIAL PRODUCTS

Financial products will be classified according to a risk indicator, and shall also contain, where applicable, an alert on the liquidity and complexity of the product. The indicator and the alerts are to include: 1) specific information about financial products' characteristics and risks in advertising communications; and 2) a general description of the nature and risks of the financial product for customers prior to their purchasing it.

The risk indicator and alerts on liquidity and complexity are to be shown graphically using the figures given in the annex to the Ministerial Order.

Risk indicator

The risk indicator will classify the financial product in question into one of six categories defined in the Ministerial Order. Entities are to prepare the indicator and represent it graphically using the colours defined in the annex for each of the risk categories. To determine the different categories, the financial product ratings issued by external registered or certified rating agencies will be used, or failing that, those of the originator or issuer, or failing that, those of the underwriter.

22 The financial institutions included in the scope of the Order are: 1) credit institutions; 2) investment firms; 3) finance companies; 4) insurance undertakings; and 5) pension fund management entities.

23 Legislative Royal Decree 4/2015 of 23 October 2015 approving the consolidated text of the Securities Market Law.

Liquidity alert

As well as the risk indicator, an up-to-date alert on possible liquidity constraints and on risks of early sale of the financial product, which will be prepared and represented graphically as provided in the Ministerial Order.

Complexity alert

Together with the risk indicator, and where applicable, the liquidity indicator, an updated alert on product complexity will also be included, which will be prepared and represented graphically in accordance with the provisions of the Ministerial Order.

Lastly, as regards the distance selling of financial products, it is expressly stated that, in order to ensure clarity, the risk indicator and liquidity and complexity indicators must be provided to the customer before contracting the financial product remotely.

Banking foundations and savings banks: implementation of certain points

Royal Decree 877/2015 of 2 October 2015 (BOE of 3 October 2015) (hereinafter the Royal Decree), implementing Law 26/2013 of 27 December 2013 on savings banks and banking foundations, regulating the reserve fund to be constituted by certain banking foundations,[24] coming into force on 4 October 2015; *Ministerial Order ECC/2575/2015 of 30 November 2015* (BOE of 4 December 2015) (hereinafter the Ministerial Order), determining the content, structure and publication requirements of the annual corporate governance report, and establishing the accounting requirements for banking foundations, which came into force on 5 December 2015, and *CBE 6/2015 of 17 November 2015* (BOE of 20 November 2015) (hereinafter the Circular) on certain aspects of the corporate governance and remunerations reports of savings banks that do not issue securities admitted to trading on official securities markets, and on obligations of banking foundations deriving from their holdings in credit institutions, which came into force on 21 November 2015, were published.

The main changes are described below.

BANKING FOUNDATIONS

Annual corporate governance report

In accordance with authorisation conferred by Law 26/2013,[25] the Ministerial Order implements the requirements for the content of banking foundations' annual corporate governance reports, and the obligations as to their format, preparation and publication.

Another important element of the corporate governance report is the information on remunerations, which is extensively regulated, and must fully reflect the income received by staff of the governing bodies in the exercise of their functions. Information is also to be provided on the reimbursement of expenses incurred by the trustees in the exercise of their functions,[26] as, from the standpoint of good corporate governance, it is important to achieve as much transparency as possible on this point and to know how big these disbursements are, given the confusion in some cases between remuneration and reimbursable expenses.

Accounting standards

The Ministerial Order establishes that banking foundations will apply the rules adapting the General Accounting Plan to non-profit entities, with the specific features determined by the Banco de España. It also determines the scope of the Banco de España's authorisation

24 Royal Decree 1517/2011 of 31 October 2011, which enacted the Regulation implementing the consolidated text of the Account Auditing Law, enacted by Legislative Royal Decree 1/2011 of 1 July 2011, and amending Royal Decree 1082/2012 of 13 July 2012, enacting the Regulation implementing Law 35/2003 of 4 November 2003 on collective investment institutions, has been amended.

25 Law 26/2013 alluded to the minimum content that, in all events, the report is to contain. This does not prevent its covering other related points that, although not expressly mentioned, may be relevant from the standpoint of good corporate governance.

26 Pursuant to Law 26/2013, the office of trustee may not be remunerated.

to lay down the financial information rules and standard formats for financial statements to be used by banking foundations; in particular, the public and confidential financial statements and their periodicity.

Management protocol and financial plan

The Circular determines the minimum content of the management protocol and financial plan, which pursuant to Law 26/2013, banking foundations are to prepare, individually or jointly, when they own a holding of 30% or more of the capital or a controlling interest in a credit institution.

The management protocol[27] will be prepared by the trustees of the banking foundation, and will be sent to the Banco de España within not more than two months of its constitution. The Banco de España will evaluate it in the framework of its powers as the authority responsible for the supervision of the investee credit institution, and will assess in particular the banking foundation's influence on the sound and prudent management of the entity.

Banking foundations are to include their estimates of the own funds needs of the investee credit institution in various different scenarios as an essential part of their financial plan,[28] and they are to specify the way in which they would meet these needs should they materialise.

Enhanced financial plan

The Circular defines the content of the enhanced financial plan, which pursuant to Law 26/2013, banking foundations are to prepare, individually or jointly, when they own a holding of 50% or more of the capital or a controlling interest in a credit institution. In such circumstances, the financial plan envisaged in the foregoing section must also be accompanied by: 1) an investment diversification and risk management plan, and 2) the setting aside of a reserve fund (the initial regulatory implementation for which was set out in the Royal Decree) to meet potential own funds requirements the investee entity is unable to meet from other resources, and which, in the Banco de España's judgement, may jeopardise compliance with its solvency obligations.

Other changes

The Circular addresses the case of banking foundations acting in concert,[29] and finally, it envisages the case of a credit institution that is considered to be a significant entity (such that the ECB is responsible for its prudential supervision) that is part owned by one or more banking foundations.

SAVINGS BANKS

Standard formats both for the content and structure of the annual corporate governance report and for the annual report on remunerations of the members of the board of directors and the oversight committee have been established for use by savings banks that do not issue securities admitted to trading on official securities markets. These formats are given in Annexes 1 and 2 of the Circular, respectively.

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27 Under Law 26/2013 the management protocol will govern at least the following points: 1) the basic strategic criteria governing the management by the banking foundation of its holding in the investee credit institution; 2) the relationships between the banking foundation's trustees and the credit institution's governing bodies, referring, among other things, to the criteria governing the election of directors, who must comply with the principles of good repute and professional competence; and 3) the general criteria for the conduct of transactions between the banking foundation and the investee entity, and the mechanisms envisaged to avoid possible conflicts of interest.

28 Pursuant to Law 26/2013, the financial plan is to determine the way in which foundations will meet possible capital needs the investee entity may face and the basic criteria of its strategy for investment in financial institutions.

29 Different foundations with a holding in a single credit institution will be considered to be acting in concert when there are written or verbal shareholders' agreements between them, whether express or tacit, or agreements between them in the articles of association that, although allowing for the occasional vote against specific aspects of the management of the investee entity, represent the assumption of certain basic common criteria as to the entity's management strategy.

Sareb: accounting aspects

CBE 5/2015 of 30 September 2015 (BOE of 2 October 2015) (hereinafter the Circular), implementing specific accounting aspects concerning the Sareb, was published, coming into effect on the day of its publication.

The Circular governs the asset units, in accordance with the five categories described in Article 48 of Royal Decree 1559/2012 of 15 November 2012, establishing the legal framework for asset management companies, value corrections for asset value impairment subsequent to their initial recognition, and the relevant criteria for the implementation of the Sareb's valuation methodology.

For the purposes of the Sareb's valuation methodology, the criteria have been established to estimate the value of: real estate assets; financial assets representing debt, including those issued by bank asset funds, and equity instruments issued by companies and own equity instruments issued by bank asset funds.

The General Accounting Plan and its implementing provisions will apply on all points not specifically regulated in the Circular.

Organisation, supervision and solvency of insurance and reinsurance undertakings

Royal Decree 1060/2015 of 20 November 2015 (BOE of 2 December 2015) (hereinafter the Royal Decree), on the organisation, supervision and solvency of insurance and reinsurance undertakings was published.

The Royal Decree implements Law 20/2015 of 14 July 2015 on the organisation, supervision and solvency of insurance and reinsurance undertakings (hereinafter LOSSEAR), and completes the transposition of the Solvency II Directive,[30] also known as the Omnibus II Directive, begun by LOSSEAR.

The main changes are set out below.

ACCESS TO THE ACTIVITY OF INSURANCE AND REINSURANCE

Aspects such as the procedure for application and approval, documentation to provide, or the effects of authorisation are regulated in detail. These points include in particular the fact that authorisation granted to a Spanish insurance and reinsurance undertaking to operate in Spain means that it can also do so throughout the European Union (known as the single licence or community passport).

SYSTEM OF GOVERNANCE

The general requirements that the system of governance must meet in order to ensure a sound and prudent management of the activity have been established, as have the requirements that partners holding significant shareholdings in the undertaking[31] and those exercising effective management or key roles within the system of governance be fit and proper.

SOLVENCY REGIME

A new solvency regime has been put in place, establishing the rules for the correct calculation of technical provisions, the determination, classification and eligibility of own funds, and the calculation of obligatory solvency capital, using both the standard formula

30 Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009, on the taking-up and pursuit of the business of Insurance and Reinsurance, amended mainly by Directive 2014/51/EU of the European Parliament and of the Council of 16 April 2014, amending Directives 2003/71/EC and 2009/138/EC and by Regulations (EC) No 1060/2009, (EU) No 1094/2010 and (EU) No 1095/2010 in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority.

31 A significant shareholding exists when the proportion of voting rights or share of capital is equal to or greater than 10%.

and by means of internal models. The general principles established in LOSSEAR have been applied to govern the special solvency regime for those entities that do not conduct activities under the right of establishment or freedom to provide services in other Member States of the European Union, provided they do not exceed the established limits, and for mutual insurance companies that comply with the relevant requirements.

SUPERVISION OF GROUPS

The requirement for close collaboration between supervisory authorities under whose jurisdiction different entities belonging to the same group operate has been strengthened. This has resulted in the emergence of new roles, such as the college of supervisors or the group supervisor.

Other aspects of this section are the regulation of groups with centralised risk management; the supervision of the concentration of intragroup risks, and the supervision of intragroup operations.

OTHER CHANGES

The additional and final provisions also regulate, inter alia, the following aspects: 1) assignment to the Insurance Compensation Consortium of the management of the public register of obligatory insurance, created ex novo by LOSSEAR, in compliance with the Solvency II Directive; 2) modification of the Regulation of mutual insurance companies, enacted by Royal Decree 1430/2002 of 27 December 2002, in order to raise the professional standards of the administrative bodies of these entities; and 3) amendment of the Regulation on pension funds and plans, enacted by Royal Decree 304/2004 of 20 February 2004, to implement specific points regarding information and investment in open pension funds and pension plans' external guarantees of profitability.

Public Treasury: transactions placing balances in accounts of financial institutions other than the Banco de España

Resolution 23 December 2015 (BOE of 29 December 2015) (hereinafter the Resolution), of the General Secretariat for the Treasury and Financial Policy (hereinafter the Treasury) was published, establishing the general conditions applicable to transactions placing balances in remunerated treasury accounts at institutions other than the Banco de España with which the Treasury has entered into arrangements for the management of its treasury operations. The Resolution has been in force since 30 December 2015.

The Resolution replaces Resolution of 16 June 2015,[32] which, in turn introduced a series of amendments to the preceding texts in order so as to adapt to the reality of operations and the market situation. The aforementioned resolution established, inter alia, that: 1) the interest rate on transactions would always be fixed; and 2) the date of monthly interest payments would be the first working day of the following month. It also introduced new regulations on the regime for non-compliances.

In the same vein as the rules it replaces, in order to adapt to the current market situation, the Resolution makes the percentage required for the minimum bid with the highest rate submitted by each bidding entity[33] more flexible by reducing it from 10% to 5%.

State debt: issuing conditions in 2016 and January 2017

Ministerial Order ECC/2847/2015 of 29 December 2015 (BOE of 31 December 2015) (hereinafter the Order) was published, providing for the creation of State debt in 2016 and January 2017 and authorising State treasury management operations, coming into force on 1 January 2016.

32 The Resolution of 16 June 2015, of the General Secretariat for the Treasury and Financial Policy, establishing the general conditions applicable to transactions placing balances in remunerated treasury accounts at institutions other than the Banco de España and regulating the procedure for entering into such arrangements.

33 Financial institutions that have a cash account in the Banco de España's TARGET2- payment module may participate in the auction if they are either: 1) counterparties of the Banco de España in its monetary policy fine-tuning operations; or 2) entities authorised by the Treasury, upon application, in view of their high level of solvency and technical and human means and adequate operational capacity to operate in short-term financing markets.

The Ministerial Order incorporates the basic content of Ministerial Order ECC/4/2015 of 13 January 2015, providing for the creation of State debt in 2015 and January 2016, and like this previous Ministerial Order, keeps the standardised collective action clauses in force. These were set out in the annex to Order ECC/1/2014 of 2 January 2014, which in turn incorporated them from Ministerial Order ECC/1/2013 of 2 January 2013, such that these clauses have been applied to all issues of public debt with maturities of over one year since January 2013.

The limit on the issue of debt in 2016 is established in Law 48/2015 of 29 October 2015, on the General State Budget for 2016 (discussed in more detail below), such that the outstanding balance at the end of the year may not exceed the balance on 1 January 2015 by more than €52.9bn.

In general, the issue mechanisms and instruments in force are maintained;[34] these include syndicated issue, which was first provided for and referred to by this term in Ministerial Order ECC/4/2015, and consists of ceding some or all of an issue at an agreed price to a number of financial institutions that ensure its placement.

Finally, as in previous years, the Treasury has drawn up an annual calendar of auctions of bills and bonds, which will be published in the State Official Gazette (BOE) no later than 1 February 2016.

New Securities Market Law

Legislative Royal Decree 4/2015 of 23 October 2015 (BOE of 24 October 2015) (hereinafter the Legislative Royal Decree) enacting the consolidated text of the Securities Market Law was published, coming into force on 13 November 2015.

The Legislative Royal Decree integrates the amendments made to Law 24/1988 of 28 July 1988, on the Securities Market, since it was passed. In particular, this includes the changes introduced by: 1) Law 37/1998 of 16 November 1998, reforming Law 24/1988 of 28 July 1988, on the Securities Market; 2) the third additional provision of Law 41/1999 of 12 November 1999, on payment and securities settlement systems; 3) certain provisions of Law 44/2002 of 22 November 2002 on financial system reform measures; of Law 9/2012 of 14 November 2012 on restructuring and resolution of credit institutions, and of Law 11/2015 of 18 June 2015 on the recovery and resolution of credit institutions and of IFs; and 4) Law 47/2007 of 19 December 2007, incorporating various European Directives into Spanish legislation, particularly Directive 2004/39/EU of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments, also known as MIFID.

In order to facilitate application of the Legislative Royal Decree a table of correspondences with the precepts of Law 24/1988 will be published on the Treasury's website.

Securities market: securities clearing, settlement and registration, and transparency of securities issuers

Royal Decree 878/2015 of 2 October 2015 (BOE of 3 October 2015) (hereinafter the Royal Decree) on clearing, settlement and registration of traded securities represented as book entries, on the legal framework for central securities depositaries and central counterparties, and the transparency requirements for issuers of securities admitted to trading on an official secondary market, coming into force on 3 February 2016, with certain exceptions mentioned below.

34 In other words, auction, simple sale transactions, syndication procedure or any other technique deemed appropriate in view of the type of operation concerned.

First of all, the Royal Decree continues the transposition of European legislation, inter alia, on the system for the clearing, settlement and registration of securities begun by Law 32/2011 of 4 October 2011, amending Law 24/1988 of 28 July 1988 on the Securities Market, and certain minor changes introduced by Law 11/2015 of 18 June 2015 on the recovery and resolution of credit institutions and of IFs. Furthermore, it also completes the transposition into Spanish legislation of Directive 2013/50/EU of the European Parliament and of the Council of 22 October 2013,[35] on transparency and information requirements in relation to issuers, begun by Law 11/2015.

The main regulatory changes are discussed below.

REPRESENTATION OF TRADED SECURITIES BY MEANS OF BOOK ENTRIES

The same system of book entries established in Royal Decree 116/1992 of 14 February 1992 on representation of securities by means of book entries and clearing and settlement of stock market transactions has essentially been left unchanged. The amendments refer to adjustments made by the first final provision of Law 11/2015 in relation to the reversibility of the representation of securities by means of book entries, which must be authorised by the CNMV.

REFORMS TO THE SECURITIES CLEARING, SETTLEMENT AND REGISTRATION SYSTEM

One of the main pillars on which the reform of the securities clearing, settlement and registration system is based is the substitution of the current equity registration system, based on registry references, by a system based only on securities balances, and the establishing of alternative control procedures.

The legal and economic framework for central counterparties and other central securities depositaries has also been implemented. The members of the boards of directors of central counterparties and central securities depositaries, and their managing directors and other similar officers, must obtain prior authorisation from the CNMV, for the purposes of verification of compliance with the applicable legal rules, and in particular, that the persons concerned comply with the reputation and experience requirements laid down in Regulation (EU) No 648/2012 of 4 July 2012 and Regulation (EU) No 909/2014 of 23 July 2014.[36]

Finally, the control mechanisms necessary to consolidate the change from a system based on so-called «registration references» to one based on securities balances are provided for, with checks on detailed records and checks on the system's balances.

TRANSPARENCY OF ISSUERS OF SECURITIES TRADED ON REGULATED MARKETS

The Royal Decree introduces a series of amendments to Royal Decree 1362/2007 of 19 October 2007 implementing the Securities Market Law in relation to the transparency requirements concerning information on issuers whose securities are admitted to trading on an official secondary market or any other regulated market in the European Union.

The information obligations under Royal Decree 1362/2007 regarding significant shareholdings are extended to other financial instruments including not only those conferring on their holder

35 Directive 2013/50/EU of the European Parliament and of the Council of 22 October 2013 amending Directive 2004/109/EC of the European Parliament and of the Council on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market, Directive 2003/71/EC of the European Parliament and of the Council on the prospectus to be published when securities are offered to the public or admitted to trading, and Commission Directive 2007/14/EC laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC.

36 Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012.

the right to acquire shares allocating voting rights (as was previously the case), but also those with a similar economic effect on account of their being referenced to such shares.

The rules on the calculation of the number of voting rights attributable to a financial instrument are also clarified, and the obligation to report aggregate voting right positions is introduced.

The new obligations to report significant shareholdings came into effect on 27 November 2015.

Amendment of the accounting regulations applicable to certain financial institutions

CNMV Circular 4/2015 of 28 October 2015 (BOE of 17 November 2015) (hereinafter the Circular), was published, amending Circular 7/2008 of 26 November 2008 on accounting standards, annual accounts and confidential reporting returns for IFs, management companies of CIIs and management companies of venture capital companies, and Circular 11/2008 of 30 December 2008 on accounting rules, annual accounts and confidential reporting statements of venture capital firms (VCFs), coming into force on 18 November 2015.

The aim of the Circular is to update the information collected in the confidential returns established in Circular 7/2008 and Circular 11/2008, as established in Law 22/2014 of 12 November 2014.[37] In particular, the new features introduced by the CII Regulation[38] that affect fund management companies.

The confidential reports venture capital management companies are due to file have been changed to reflect: 1) the broader range of investment services that entities of this type may provide; 2) the requirement that they make contributions to the Investment Guarantee Fund; and 3) the new definition of own funds. Additionally, the frequency with which periodic information is to be sent has been increased from annual to six-monthly, in order to ensure confidential information is available with the same frequency for all management entities.

The statement of own funds to be filed by fund management companies has been modified in line with the new definition of the CII Regulation.

In both cases, the obligation to report the number of claims received and processed by customer care services has been established.

Securities market: periodic information from issuers of securities admitted to trading on regulated markets

CNMV Circular 5/2015 of 28 October 2015 (BOE of 19 November 2015) (hereinafter the Circular) was published, amending Circular 1/2008 of 30 January 2008, on the periodic information from issuers of securities admitted to trading on regulated markets regarding six-monthly financial statements, intermediate management statements, and where applicable, quarterly financial reports. The Circular came into force on 20 November 2015.

The Circular has two aims: firstly, it implements the requirements for new information from issuers in their financial statements established in the European regulations. These requirements were incorporated into Spanish legislation by Law 11/2015 of 18 June 2015, and Royal Decree 878/2015 of 2 October 2015.[39] Secondly, it adapts the standard formats

37 Law 22/2014 of 12 November 2014 regulating venture capital entities and other closed-end collective investment institutions and their management companies, and amending Law 35/2003 of 4 November 2003 on CIIs.

38 The CII Regulation was enacted by Royal Decree 1082/2012 of 13 July 2012, enacting the Regulation implementing Law 35/2003 of 4 November 2003, on collective investment institutions, and amended by Royal Decree 83/2015 of 13 February 2015.

39 Royal Decree 878/2015 of 2 October 2015 on clearing, settlement and registration of securities represented in book-entry form, on the legal framework and transparency requirements of central securities depositories and central counterparties, and on transparency requirements upon issuers of securities traded on an official secondary market.

to be used by credit institutions established in Annex II of Circular 1/2008 to the new standard formats provided by CBE 5/2014 of 28 November 2014[40] (just as the standard formats in Circular 1/2008 were adapted to those of CBE 4/2004 at that time).[41]

Securities market: statistical information on market infrastructure

CNMV Circular 6/2015 of 15 December 2015 (BOE of 26 December 2015) (hereinafter, the Circular), amending Circular 1/2015 of 23 June 2015, on market infrastructure data and statistical information, was published, coming into force on 3 February 2016.

The Circular aims to adapt the statistical information that entities managing, administering or controlling market infrastructure are to provided to the CNMV in line with the changes introduced by Royal Decree 878/2015 of 2 October 2015;[42] in particular, these changes are a consequence of the substitution of the current system of equities registration based on registration references by a system based solely on securities balances.

Securities market: information from entities issuing traded securities

CNMV Circular 7/2015 of 22 December 2015 (BOE 30 December 2015) (hereinafter the Circular) was published, amending Circular 5/2013 of 12 June 2013 and Circular 4/2013 of 12 June 2013. It came into force on 31 December 2015.

The objective of the Circular is to adapt the standard formats of the annual corporate governance report and annual remunerations report mentioned above to the changes introduced by Law 31/2014 of 3 December 2014, amending the Share Capital Companies Law[43] to enhance corporate governance, and by the Code of Good Governance in Listed Companies, approved by resolution of the board of the CNMV on 18 February 2015.

The main changes introduced by Circular 5/2013 comprise: 1) new recommendations from the Code of Good Governance in Listed Companies; 2) elimination of certain sections referring to the former recommendations of the Uniform Code of Good Governance for Listed Companies; and 3) the inclusion of information on the various committees entities have set up pursuant to the Share Capital Companies Law and their articles of association.

State Budget for 2016

Law 48/2015 of 29 October 2015 (BOE of 30 October 2015) on the State Budget for 2016 was published.

The key points from the fiscal and financial regulatory viewpoint are:

STATE DEBT

The Minister of Economic Affairs and Competitiveness has been authorised to increase the outstanding balance of state debt in 2016 by up to €52.9bn from its level at the start of the year (the limit set in the previous budget was €49.5bn). This limit may be exceeded over the course of the year with the Minister of Economic Affairs and Competitiveness's prior authorisation, and a series of situations in which it is automatically reviewed has been established.

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40 CBE 5/2014 of 28 November 2014, amending Circular 4/2004, 22 December 2004, to credit institutions, on public and confidential financial reporting rules, and standard forms of financial statements, CBE 1/2010, 27 January 2010, to credit institutions, on statistics on interest rates applied to deposits and lending to households and non-financial corporations, and CBE 1/2013 of 24 May 2013 on the Bank of Spain's central credit register.

41 CBE 4/2004 of 22 December 2004 on public and confidential financial reporting rules, and standard formats for financial statements.

42 Entities managing, administering or controlling market infrastructure comprise: official secondary market governing bodies, multilateral trading facility governing bodies, central counterparties and central securities depositaries (excluding the Banco de España), and the Sociedad de Bolsas (the Spanish stock exchange operating company).

43 Legislative Royal Decree 1/2010 of 2 July 2010 approving the consolidated text of the Share Capital Companies Law.

CHANGES IN TAX LEGISLATION

In the case of personal income tax, as of 1 January 2016 the maximum deduction applicable for health insurance premiums when the insured person is disabled has been raised from €500 to €1500.

Two main changes have been made affecting corporation tax. Firstly, as of 1 July 2016 the way in which the tax incentive allowing the income from certain intangible assets to be reduced is calculated has been changed in order to align it with European and OECD standards. Secondly, in relation to the conversion of certain deferred tax assets into a credit vis-à-vis the tax authorities, as of 1 January 2016 new conditions have been established for deferred tax assets arising to acquire the right of conversion.

OTHER MEASURES

Other financial measures concern the legal interest rate and the late-payment interest rate, which have been reduced from 3.5% to 3% and from 4.375% to 3.75 %, respectively.

8.1.2016.