6 SUPERVISORY REGULATORY CHANGES

6.1 Prudential regime for supervised institutions

6.1.1 REGULATION, SUPERVISION AND SOLVENCY OF CREDIT INSTITUTIONS

In the area of regulation of credit institutions and other institutions supervised by the Banco de España, reform of the regulatory framework continued apace in 2014, aimed at adapting Spanish law to EU legislation on supervision and solvency. This adaptation had begun in 2013 with the publication of Royal Decree-Law 14/2013 of 29 November 2013 which transposed the most pressing changes relating to solvency matters arising from Directive 2013/36/EU[1] which, together with Regulation (EU) No 575/2013,[2] is known as CRR/CRD IV and which adapts European legislation to the Basel III regulatory framework. Thus the essential changes to ensure that the new European legislation on banking regulation and discipline could become operational were made and the Banco de España was authorised to exercise the options granted to national competent authorities in Regulation (EU) No 575/2013.

Pursuant to the powers granted under Royal Decree-Law 14/2013, Circular 2/2014 of 31 January 2014 addressed to credit institutions, on the exercise of various regulatory options contained in Regulation (EU) No 575/2013, was approved at the start of the year, the aim being to establish which regulatory options had to be exercised immediately and the scope thereof.

In the Circular, the Banco de España exercises some of the permanent regulatory options, in general with a view to maintaining the treatment afforded by Spanish legislation to certain matters, justified in some cases by the traditional business model of Spanish institutions. The Circular also determines how institutions should comply with the transitional regulatory options envisaged in Regulation (EU) No 575/2013, to permit gradual adaptation to the new requirements, and specifies the treatment to be afforded to certain matters up to the entry into force of the regulatory technical standards to be prepared by the European Banking Authority (EBA).

Regarding the transitional regulatory options related to institutions' capital items and deductions, the Banco de España has opted, as a general rule, to allow the longest periods and the least demanding correction coefficients, to facilitate adjustment to the new rules. However, where the Spanish rules were more demanding than the EU rules (for instance, the obligation to deduct losses for the current financial year or own shares entirely from own funds), the stricter requirement has been maintained. In addition, the Circular establishes that eligible own funds requirements for 2014 will be CET1 capital of 4.5% and Tier 1 capital of 6%, and includes a transitional period running from 1 January 2014 to 31 December 2017 (with certain exceptions) for the Tier 1 capital requirements to be met.

Subsequently, continuing with the process of adapting Spanish banking regulations to the new EU regulations, Law 10/2014 of 26 June 2014 (BOE of 27 June 2014) on the regulation, supervision and solvency of credit institutions (hereafter, the Law) was approved, in response to the need to regulate certain solvency-related matters that should be maintained in the Spanish regulations and to recast the main rules on the regulation and disci-

1 Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC.

2 Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements of credit institutions and investment firms and amending Regulation (EU) No 648/2012.

pline of credit institutions, repealing laws that had provided the legal framework for credit institutions hitherto. Law 10/2014, together with Regulation (EU) No 575/2013 mentioned above, which lays down the fundamental obligations relating to solvency and risk management of institutions (and which has been in force, with certain exceptions, since 1 January 2014), is the nucleus of the legal system that will govern credit institutions.

With that goal in mind, in terms of regulation of credit institutions, the Law encompasses the regulation of their general legal regime, the functioning of their governing bodies and the supervisory and penalty instruments available to the authorities, including the following aspects:

i. General legal provisions (scope of application, definition of credit institutions,[3] vetted access to activity and name, competences of the Banco de España and customer protection).

ii. Authorisation (authorisation process, refusal, withdrawal and lapse of authorisation, opening of branches, agents of credit institutions and registry with the Banco de España).

iii. Qualifying holdings (the need to report qualifying holdings, evaluation of proposed acquisitions, cooperation among supervisory authorities, effects of non-fulfilment of obligations, reductions in qualifying holdings, etc.).

iv. Suitability and incompatibility of senior officers (suitability requirements and supervision thereof and register of senior officers).

v. Corporate governance and remuneration policies.

The Law made a number of significant changes to corporate governance.[4] It established an incompatibilities and limitations regime for members of boards of directors and managing directors and similar officers of credit institutions; this regime will be set by the Banco de España, which will determine the maximum number of posts that they may hold simultaneously. As a general rule, directors at the larger or more complex credit institutions may not simultaneously hold more posts than (i) one executive position and two non-executive positions or (ii) four non-executive positions, although the Banco de España may authorise an additional non-executive position. Moreover, the post of chairman of the board will be incompatible with that of chief executive officer, unless expressly authorised by the Banco de España.

Boards of directors of credit institutions will have to define a corporate governance system that ensures sound and prudent management of the institution, including an appropriate distribution of functions in the organisation and the prevention of conflicts of interest. In order to ensure that boards of directors play a permanent part in the management and administration of institutions, they are assigned a series of functions that may not be delegated, including the control and regular assessment of the effectiveness of the corporate governance system. In addition, credit institutions are required to disclose public informa-

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3 Banks, savings banks, credit cooperatives and the Official Credit Institute (ICO) are considered credit institutions, but not specialised lending institutions (as established in Royal Decree-Law 14/2013).

4 Changes to the Limited Companies Law relating to corporate governance are discussed in the next section.

tion on corporate governance and remuneration policies and, in particular, the total annual remuneration earned by each board member.

The Law also requires that credit institutions have an appointments committee and a remuneration committee, both made up of board members who do not perform executive functions at the institution; at least one-third of those members, and in any event the chair, must be independent directors. The Banco de España may allow certain institutions, in view of their size, internal organisation, nature, scope or the limited complexity of their activities, to set up a joint appointments and remuneration committee.

The Banco de España will also determine which institutions, in view of their size, internal organisation, nature, scope or the complexity of their activities, must establish a risk committee, made up of board members who do not perform executive functions at the institution. At least one-third of those members, and in any event the chair, must be independent directors. Credit institutions not required to establish a risk committee will set up mixed audit committees that will assume the functions of a risk committee.

Regarding solvency, the Law complements Regulation (EU) No 575/2013 in respect of capital adequacy of credit institutions. It provides that institutions must have in place the procedures needed to conduct a capital adequacy assessment for the risks to which they are or might be exposed, according to their business model and level of risk exposure. In addition, institutions must have CET1 capital buffers, established in the main according to the characteristics of the institutions. The Law envisages four types of capital buffers:

i. Capital conservation buffers, which must be equally in place at all institutions, amounting to 2.5% of their exposure.

ii. Institution-specific countercyclical capital buffers. The percentage, method of calculation, recognition and reporting of these buffers will be established in the implementing regulations.[5]

iii. Capital buffers for systemically important institutions, drawing a distinction between global systemically important institutions (G-SIIs) and other systemically important institutions (O-SIIs). For G-SIIs the capital buffer will be between 1% and 3.5% of their total risk exposure; for O-SIIs the Banco de España may set a capital buffer of up to 2%. The Banco de España will also identify which institutions authorised to operate in Spain are considered G-SIIs or O-SIIs, using methodologies to be established in the implementing regulations.[6]

iv. Systemic risk buffers, which the Banco de España may require of any institution, to prevent structural macro-prudential risks.

If these buffers are not in place, the Law sets restrictions on distributions of CET1 capital and requires that a capital conservation plan be submitted to the Banco de España for approval. If that plan is not approved, the Banco de España may require that the institution

5 Royal Decree 84/2015, mentioned briefly at the end of this section, partly regulates these matters and provides that the Banco de España will complete the regulation of certain aspects.

6 Royal Decree 84/2015 touches briefly on these matters and provides that the Banco de España will determine the method of identification of both G-SIIs and O-SIIs.

increase its own funds within a set period, or it may exercise the powers conferred upon it to impose more stringent restrictions on capital distributions.

The Law also lays down the criteria that the Banco de España should take into account to set possible liquidity requirements, for each institution, in addition to those established in the Regulation. For that purpose, the Banco de España will assess the corporate governance systems, processes and arrangements in place, the supervision results and any possible systemic risk to which each institution may be exposed.

In keeping with current legislation, and without prejudice to the powers conferred upon the European Central Bank (ECB) following the start-up of the Single Supervisory Mechanism (SSM), the Law designates the Banco de España as the supervisory authority of credit institutions, granting it the necessary competences and powers to perform that role, defining the scope of its supervisory action and granting it the power to take measures to ensure compliance with solvency regulations. It also authorises the Banco de España to access any information necessary to monitor the activities pursued and it regulates the obligation of secrecy in respect of the confidential information obtained in the exercise of its supervisory powers.

Insofar as relations with other supervisory authorities are concerned, the Law authorises the Banco de España to enter into cooperation agreements with authorities from other countries and establishes a specific cooperation framework with the supervisory authorities of the other EU Member States. As the national competent authority, the Banco de España forms part of the SSM, along with the other national competent authorities and the ECB, acting with the latter in accordance with the principle of cooperation in good faith and providing it with the assistance needed for the performance of its functions. In cases where it is the consolidating supervisor, the Banco de España will be responsible for establishing colleges of supervisors. In connection with the other Spanish financial authorities, the Law ensures cooperation between the Banco de España, the National Securities Market Commission (CNMV) and the Directorate General for Insurance and Pension Funds, in respect of groups in which credit institutions and insurance and investment firms pursue their activity, and with the Fund for the Orderly Restructuring of the Banking Sector (FROB).

In the area of prudential supervision, the Banco de España may require that institutions take the measures necessary to restore compliance (or to prevent the risk of non-compliance) with the solvency regulations, including liquidity, and measures to adapt their organisational structure or internal risk control. For that purpose the Law sets out a broad range of measures that the Banco de España may adopt, without prejudice to the sanctioning regime also regulated in the Law. In exceptionally serious circumstances, the Banco de España may even assume control of an institution and replace its management bodies.

The sanctioning regime applies not only to institutions but also to persons holding management positions or with qualifying holdings in institutions. The Law confers sanctioning powers upon the Banco de España and aligns the present regime with the new regulations, maintaining the three levels of infringements (very serious, serious and minor) existing to date. Sanctions, which in general are raised, may take the form of fines or other types of measures, such as requirements imposed on offenders, suspension of voting rights or public or private reprimands, and even withdrawal of authorisation. The way in which fines are calculated has been changed, providing the competent body with the following options:

- Calculation as a multiple of the gains obtained from the infringement, where these are quantifiable; the multipliers may run from twice (the minimum for minor infringements) to five times (the maximum for very serious infringements) the amount of the gains.

- Calculation as a percentage of turnover, between 0.5% and 10%, or a fine of between €100,000 and €10 million if the aforementioned percentage were lower, according to the severity of the infringement.

Regarding the reporting obligations of credit institutions established, the following disclosures are noteworthy:

- The financial statements, which must also be furnished to the Banco de España. The Law provides that the Banco de España may be authorised to establish and amend the accounting rules and formats for institutions' financial statements.

- The annual banking report, published as an annex to the financial statements, which includes consolidated data on institutions, broken down by countries where they operate.

- The "Prudential information" document, which must be produced at least once a year and which, pursuant to Part Eight of Regulation (EU) No 575/2013, must contain information on their financial situation and activity that may be of interest to the market, to assess the solvency risks and situation of each institution.

- Information on their corporate governance and remuneration policy, which will be disclosed on a website.

The Law includes a large number of transitional provisions, since the legislation it transposes provides for the phasing-in of various provisions (such as, for instance, capital buffers). It also contains a series of provisions on various matters, among which the most noteworthy are:

i. the system whereby preference shares qualify as capital for the purposes of solvency;

ii. the supervision of institutions not inscribed in administrative registers;

iii. the legal framework for institutional protection systems;

iv. the liability of savings banks' control committee members; and

v. the integration of the Banco de España in the SSM.

In addition, the Law includes an extensive series of amendments to legislation on specific aspects of certain kinds of institutions. It also contains far-reaching amendments, to Securities Market Law 24/1988 of 28 July 1988, extending to investment firms the prudential supervision regime envisaged for credit institutions in Directive 2013/36/EU, and to Law 5/2005 of 22 April 2005 on the supervision of financial conglomerates and which amends other financial sector legislation.

Lastly, the Law repeals the two fundamental pieces of legislation that had governed credit institutions in Spain to date, that is, Law 13/1985 of 25 May 1985 on investment ratios, own funds and reporting requirements of financial intermediaries, and Law 26/1988 of 29 July 1988 on discipline and intervention of credit institutions. It also repeals the Banking Law of 31 December 1946, and other more minor legislation. In consequence, the process of incorporation into Spanish law of the new EU regulations required to be thus transposed is now complete, and the main organisational and disciplinary rules of credit institutions have been recast and enacted into law.

In 2015, continuing with the process of adaptation to the new European CRR/CRD IV legislation, Royal Decree 84/2015 of 13 February 2015 was approved, implementing Law 10/2014 and recasting in a single regulation the organisational and disciplinary rules of credit institutions. The main aspects covered by the Royal Decree relate to:

i. The regime for authorisation, registration and activity of institutions (the authorisation regime relates only to banks).

ii. Qualifying holdings.

iii. Corporate governance and remuneration measures (the area where the most new developments are introduced).

iv. Solvency of credit institutions. Although the bulk of the solvency requirements are contained in Regulation (EU) No 575/2013, the Royal Decree fleshes out certain new features of the Directive, such as the capital buffers.

v. The Banco de España's supervisory powers. The national supervisor is required to exercise special supervision of the internal methods used to calculate own funds requirements, and the cooperation framework with other competent authorities is defined.

vi. Supplementary supervision of financial institutions that belong to a financial conglomerate.

Insofar as credit institutions are concerned, the process of adaptation to the new European legislation will shortly conclude in Spain with the publication of a new Banco de España Circular that is currently on the verge of completion.

6.1.2 LAW 31/2014 OF 3 DECEMBER 2014 AMENDING THE LIMITED COMPANIES LAW TO ENHANCE CORPORATE GOVERNANCE

Law 31/2014 of 3 December 2014 (BOE of 4 December 2014) amending the Limited Companies Law to enhance corporate governance (hereafter, the Law) makes various changes to the consolidated text of the Limited Companies Law approved by Royal Legislative Decree 1/2010 of 2 July 2010. These changes relate: first, to the regulation of the general meeting of shareholders, with the aim of strengthening its role and promoting minority shareholdings; and, second, to the board of directors, with the incorporation of a number of measures designed to contribute to its correct functioning, notable among them being the regulation of directors' remuneration, an especially relevant change.

As regards the general meeting of shareholders, its powers to approve director remuneration policy and operations that have an effect equivalent to that of winding up the company, such as acquisition, disposal or transfer to another company of essential assets, are extended.[7] Also, so-called “minority rights” in listed companies are strengthened: the minimum threshold of share capital necessary to enable shareholders to exercise their rights is reduced from 5% to 3%, and the maximum number of shares that may be required by the articles of association to attend the general meeting is set at one thousand.

The legal treatment of conflicts of interest is reformed, with the regime that had already been established for private limited companies being extended to public companies. First, a specific clause removes the right to vote in the most serious cases of conflict of interest. Second, when a resolution is challenged and the vote of a shareholder or shareholders allegedly subject to a conflict of interest has been decisive in its passing, the company or, as the case may be, the shareholder or shareholders affected by the conflict of interest will be required to satisfy the burden of proof that the resolution is in the company’s interest. Any shareholder or shareholders who challenge the resolution will, in turn, be required to prove that there was a conflict of interest.

Also, the Law makes it compulsory for separate votes to be taken at general meetings on matters that are substantially independent; specifically, even if these matters are included in the same item of the agenda, separate votes must be taken on the appointment, ratification, re-election or removal of each director, and in the case of changes to the articles of association, on each article or group of articles that has its own autonomy. In order to clarify the questions of interpretation that had arisen in practice, it is also expressly established that the criterion for calculating the majority necessary for the valid adoption of a resolution is a simple majority of the votes of the shareholders present or represented at the meeting, the resolution being understood to have been passed when it obtains more votes of the capital present or represented in favour than against. For the passing of resolutions in certain special cases (such as, inter alia, amendment of the articles of association or transformation, merger, division or transfer of all the assets and liabilities), it is provided that, as long as more than 50% of the capital is present or represented, it is sufficient for the resolution to be adopted by an absolute majority.

Also, shareholders’ right to information is expanded, particularly in the case of listed companies, for which the period during which shareholders may exercise their right to information prior to general meetings is extended to five days before they are held (compared with seven previously). Valid requests for information, clarification and written questions, as well as written answers given by directors, must be included on the company’s website. Listed companies must also establish, on their websites, a shareholders’ forum, to which individual shareholders and voluntary associations formed for the purpose of facilitating communication prior to general meetings have access. Likewise, shareholders may form specific and voluntary associations to exercise the rights of representation of shareholders at general meetings and the other rights recognised by law.

The Law brings all cases of challenge of company resolutions (void and voidable agreements) under a single general voidance regime, with the right to challenge expiring after one year. The sole exception to this expiry of the right to challenge is for resolutions contrary to public order, for which the right is deemed never to expire. In the case of listed companies, the expiry period is reduced from one year to three months, so that the efficacy and speed particularly required in the management of such companies is not affected. As for the legal capacity to challenge company resolutions, and with the aim of avoid-

7 Assets are deemed to be essential when the amount of the operation exceeds 25% of the value of the assets in the latest approved balance sheet.

ing situations of abuse of right, a minimum limit is established so that only shareholders representing, individually or jointly, at least 1% of the capital for unlisted companies and 0.1% for listed ones will have legal standing, although the articles of association may lower these thresholds. For these purposes, the concept of the company's interest is also expanded, so that it will be understood that this interest has been damaged when a resolution is imposed abusively by the majority.

Finally, listed companies are required to publish two reports on an annual basis: a corporate governance report, that must offer a detailed explanation of the structure of the company's governance system and its operation in practice, and a director remuneration report.

With regard to the board of directors, the Law assigns to the board, as non-delegable powers, those decisions relating to the essential core of the management and supervision of the company. Also, in order to ensure that it maintains a constant presence in the affairs of the company, the Law provides that the board must meet at least once a quarter.

The attendant regulations include a series of measures aimed at contributing to the proper functioning of the board, especially in listed companies. Directors are thus obliged to personally attend board sittings and, so as to prevent the effective capacity to exercise supervisory power from being weakened, regulations are laid down whereby, in the event of representation for attending a board meeting, non-executive directors may only delegate to another non-executive director. It is further ensured that all directors receive the agenda for the meeting and the necessary information for the deliberation and adoption of resolutions sufficiently in advance. The non-delegable powers of the board of directors are exhaustively detailed, and the different categories of directorship stipulated (these were previously regulated by ministerial order), duly defining executive, non-executive, nominee and independent directors.

The functions of the chairman of the board of directors are expressly envisaged (they may be extended under the articles of association and the board rules) and it is stipulated that, when the chairman is an executive director, the board shall perforce appoint, from among the independent directors, a director-coordinator, who will be especially empowered to request that the board convene or that new items be included on the agenda of a board meeting that has already been called, to coordinate and bring together non-executive directors and, if appropriate, to oversee the periodic assessment of the chairman of the board.

Likewise, the Law regulates the appointment and re-election of directors, limiting the maximum term of their mandate to four years, compared with the six-year term generally envisaged previously. Further, the possibility is provided for the board of directors to set up specialist committees, including necessarily an audit committee and an appointments and remuneration committee (the latter, either as one joint committee or two separate ones). Both the audit committee and the appointments and remuneration committee shall be made up solely of non-executive directors, chaired in each case and at all times by an independent director.

One particularly significant change, as indicated above, is the regulation of directors' pay. At all limited companies the Law requires that the articles of association set directors' remuneration arrangements in terms of their management and decision-making functions, with particular reference to the remuneration regime for directors performing executive functions. The remuneration arrangements established must be geared to promoting the long-term profitability and sustainability of the company and to incorporating the necessary caution so as to avoid excessive risk-taking and reward for poor results. Furthermore, the maximum amount of annual remuneration of the directors as a whole shall be approved by the general meeting, and it shall in any event be reasonably commensurate with the significance of the company, its economic situation at each point in time and the market benchmarks for peer companies.

In addition, the approval of the remuneration policy at listed companies will be put to the general meeting of shareholders, at least once every three years, as a separate item on the agenda. Moreover, it will be for the board of directors to set the remuneration of each of the directors, based on their performance and on the terms and conditions of their contracts with the company. This ensures that it is the general meeting of shareholders that retains control over remuneration (including the various bonuses and supplements envisaged), the parameters for setting remuneration and the main terms and conditions of contracts.

6.2 Other rules completing the legal framework of supervised institutions

Among the regulatory changes affecting the operational framework within which the institutions supervised by the Banco de España pursue their activity, of particular note are a series of measures adopted to help provide for the viable restructuring of corporate debt, to prevent – as far as possible – institutions having to file for insolvency. The measures specifically entail various amendments, both to the regulations governing the pre-insolvency stage and to the insolvency proceeding itself.[8]

6.2.1 LAW 17/2014 OF 30 SEPTEMBER 2014 ADOPTING URGENT MEASURES ON THE REFINANCING AND RESTRUCTURING OF CORPORATE DEBT

Law 17/2014 of 30 September 2014 (BOE of 1 October 2014) adopting urgent measures on the refinancing and restructuring of corporate debt (hereafter, the Law), aims to promote the financial restructuring of companies, making their outstanding debt bearable so that they may continue to meet their trading commitments. To this end, the Law – along with equal-ranking Royal Decree-Law 4/2014 of 7 March 2014 from which it stems – improves the pre-insolvency legal framework governing refinancing agreements, amending, among other provisions, Insolvency Law 22/2003 of 9 July 2003 and Civil Procedure Law 1/2000 of 7 January 2000.

The submission of notification of commencement of negotiations to reach a refinancing agreement is acceptable as cause for staying, during the period envisaged for such negotiations, judicial enforcement proceedings against assets required for the continuity of the debtor's professional or business activity. In turn, any individual enforcement proceedings brought by creditors holding financial claims will also be stayed, provided that no less than 51% of those creditors have expressly supported the start of negotiations aimed at achieving a refinancing agreement.

The Law amends the judicial approval system for refinancing agreements to make such agreements extensive to all types of creditors holding financial claims, excluding trade creditors and public law creditors. Also, provision is made for the extension to dissident or non-participating creditors not only of deferrals, but also, when the percentage of claims in favour is higher, of other measures agreed under the refinancing agreement, such as partial acquittances, the conversion of debt to equity and the transfer of assets in or for payment. Further, a new category of non-rescindable refinancing agreement (given certain conditions) is introduced and it is stipulated that judicially approved financing agreements

8 The next section specifically deals with the insolvency reform.

may not be rescinded either. Various measures are specified to favour the conversion of debt to equity, such as reducing the majorities required under the Spanish Limited Companies Law and establishing, with all due precautions and assurances, a presumption of culpability of any debtor that, without reasonable cause, refuses to agree to the conversion of debt to equity or to issuance of convertible securities or instruments, thereby thwarting any refinancing agreement.

The insolvency administration regime is also reformed, chiefly in the following aspects: (i) certain additional requirements in terms of the skills and knowledge required to act as an insolvency administrator are introduced; (ii) a fourth section of insolvency administrators and delegated assistants is created in the Insolvency Public Register, in which all natural and legal persons meeting the requirements have to register, specifying the territories in which they are prepared to act as insolvency administrators; (iii) the system for designating insolvency administrators has been changed, with the details of its functioning to be specified in implementing regulations; (iv) insolvency administration functions are detailed in both procedural and labour market-related terms, as are the various measures that may affect creditors' claims; (v) the criteria governing insolvency administrators' remuneration are specified, such remuneration being determined by a fee rate based, inter alia, on the number of creditors, the size of the case involved and efficiency, in order to ensure that this remuneration takes into account both the quality and the outcome of the work undertaken; and (vi) the grounds on which the courts may remove insolvency administrators from office or revoke the appointment of delegated assistants are specified.

The Law, reproducing what was previously provided for under Royal Decree-Law 4/2014, included a mandate to the Banco de España requiring that, within one month, it establish and make public uniform criteria for the classification as standard risk of operations restructured as a consequence of judicially approved refinancing agreements. In fulfilment thereof, on 18 March the Executive Commission of the Banco de España approved and sent to credit institution associations a statement addressing these criteria.

6.2.2 ROYAL DECREE-LAW 11/2014 OF 5 SEPTEMBER 2014 ON URGENT INSOLVENCY MEASURES

Completing the foregoing measures set in place for the pre-insolvency stage, Royal Decree-Law 11/2014 of 5 September 2014 (BOE of 6 September) on urgent insolvency measures (hereafter, the Royal Decree-Law) also amends several precepts of Insolvency Law 22/2003 of 9 July 2003 aimed at paving the way for agreements that allow economically viable concerns that are entering into an insolvency proceeding to survive.

With regard to the regulation of the insolvency agreement, certain amendments are made to proposals for agreements geared to helping the company survive. It is thus specified that there is solely scope for including the transfer, in payment to creditors, of those assets or claims that are not necessary for the continuity of professional or business activity and whose fair value is less than or equal to that of the claim being discharged; if fair value is higher, the difference should be included in the assets available to creditors. Furthermore, the quorum for the creditors' meeting has been extended, assigning voting rights to creditors that have acquired their credit claims subsequent to the declaration of insolvency, with the exception in all cases of those with a special link to the debtor (as they will be considered subordinated credits, with no voting rights, and will remain tied to the agreement). The list of persons with special links to the debtor is also extended.

One of the main new features of the rules are, moreover, the changes to votes and majorities for the acceptance of proposals for agreement, extending the possibility of dissident creditors being dragged along in certain circumstances: hence, with the vote in favour of 65% of ordinary claims, acquittances amounting to more than half the credit claims and deferrals of more than five years may now be accepted. An arrangement has also been introduced to allow the measures contained in this Royal Decree-Law to be applied, on a one-off basis, to agreements adopted under the previous legislation, provided that the measures are adopted by enhanced majorities (higher than those required for approval of the agreement) and that this is approved by a court.

As regards creditors whose claims are secured by assets of the company, this special privilege shall only cover that portion of the claim that does not exceed the value of the collateral recorded in the list of creditors, while the portion of the claim that exceeds that value will enjoy no special preference and will be classed according to the nature of the claim. The legislation groups preferred creditors into the following classes, drawing no distinction between generally or specially preferred creditors: 1) labour law creditors; 2) public law creditors; 3) financial creditors; and 4) all others, including trade creditors. Under the previous regulations, the terms of the agreement could not be imposed on preferred creditors against their will. However, the Royal Decree-Law now has it that they will also be bound by the agreements where there are certain majorities within their class.

The aim as regards winding-up proceedings is to ensure, insofar as possible, the continuity of the business activity, basically paving the way for sale of the debtor's establishments and operations, or of any other production units, as a single unit; with this aim in mind, the purchaser becomes subrogated to the seller's contracts and administrative licences and certain mechanisms are set in place relating to exoneration from liability for previous debts.

Lastly, the Royal Decree-Law brings in the legal changes needed to comply with the judgment of the Court of Justice of the European Union of 17 July 2014. To that end, Civil Procedure Law 1/2000 of 7 January 2000 is amended, to allow mortgagors to appeal against rulings dismissing their objection to foreclosure if it is based on the existence of unfair terms that constitute the basis of the foreclosure or the amount payable.

6.2.3 ROYAL DECREE 304/2014 OF 5 MAY 2014 APPROVING THE IMPLEMENTING REGULATIONS OF LAW 10/2010 OF 28 APRIL 2010 ON THE PREVENTION OF MONEY LAUNDERING AND TERRORIST FINANCING

Royal Decree 304/2014 of 5 May 2014 (BOE of 6 May 2014) approving the implementing regulations of Law 10/2010 of 28 April 2010 on the prevention of money laundering and terrorist financing (hereafter, the Royal Decree or Regulation) repeals the previous Regulation,[9] implements the risk-based approach and incorporates the latest recommendations (February 2012) of the Financial Action Task Force (FATF) in this respect. The new Regulation lays down, inter alia, certain obligations for entities obliged by Law 10/2010 to supervise legal transactions or operations in which there are signs or certainty of the involvement of assets from unlawful sources, institutional arrangements relating to the prevention of money laundering and terrorist financing, and international financial countermeasures and sanctions, and establishes the structure and functioning of the register of financial ownership.

The Regulation includes certain rules that some credit institutions were already applying to a greater or lesser extent. In particular, it provides that obliged entities must identify and verify, using reliable documents, the identity of any legal or natural persons that enter into business relationships or are involved in any occasional transactions for amounts equal to or more than €1,000 (previously €3,000), with some exceptions. In general, this identification must be made before the business relationship is established or the occasional transaction entered into; the Regulation lists the documents considered reliable for these pur-

9 The previous Regulation was approved by Royal Decree 925/1995 of 9 June 1995.

poses. In addition, according to the different risk level of the customer, business relationship or transaction, the Regulation stipulates in detail, inter alia, how the beneficial owners, i.e., the natural persons on whose behalf the transaction or activity is being conducted, or the natural persons who exercise a certain degree of control over a legal person, are to be identified.

Regarding the purpose and type of the business relationship, the Regulation requires that the reported activity be verified when the customer or business relationship present higher than average risk, as provided for by law or in view of the risk analysis performed by the obliged entity, and also when monitoring of the business relationship reveals that the customer's asset or liability transactions do not match his/her reported activity or transactions history. The measures used to verify reported professional or business activity will depend on the level of risk and will be taken using documentation submitted by the customer or information obtained from reliable independent sources.

Obliged entities may apply simplified due diligence measures to certain customers and certain products or transactions, according to the level of risk: the Regulation sets out these simplified measures, together with the customers, products and transactions to which they are applicable. In turn, in addition to the normal due diligence measures, obliged entities shall apply enhanced due diligence measures (also set out in the Regulation) to business areas, activities, products, services, distribution and marketing channels, business relationships and transactions that present a higher money laundering or terrorist financing risk.

Obliged entities must have suspicious transaction alerts in place. Entities that conduct over 10,000 transactions a year must have automated alert generating and prioritising models in place, which will be subject to periodic review. In addition, obliged entities must establish internal control procedures to enable their executives, employees and agents to detect transactions susceptible to being linked to money laundering or terrorist financing. Following technical analysis of these transactions, the representative of the obliged entity will decide whether or not they must be reported to the Executive Service of the Commission for the Prevention of Money Laundering and Monetary Offences (SEPBLAC); transactions must be reported without delay if there are signs or certainty of money laundering or terrorist financing.

Another of the new features brought in by the Regulation is the broad implementation of the internal control procedures to be established by obliged entities, in order to identify and evaluate risk by customer type, country or geographical area, products, services, transactions and distribution channels, taking into consideration variables such as the purpose of the business relationship, the customer's asset level, the volume of transactions and the regularity or duration of the business relationship. These internal control procedures will be documented in a money laundering and terrorist financing prevention manual, the minimum content of which is established. Small obliged entities, however, are exempted from this obligation. The Regulation also demands that a specific risk analysis be undertaken and documented before obliged entities launch new products, provide new services or start to use new distribution channels or new technology, requiring them to take the appropriate steps to manage and mitigate any risks identified in the analysis.

To facilitate the prevention of money laundering and terrorist financing, the register of financial ownership is created. This is an administrative register that will be processed by SEPBLAC and will be fed with information from credit institutions' monthly reports on the opening and closing of current accounts, savings accounts, securities accounts and fixed-term deposits in the previous calendar month. SEPBLAC will establish the technical procedures for consultation of the register, through the single-access points designated to that effect at the General Council of the Judiciary (CGPJ), the public prosecution service, the law enforcement authorities, the National Intelligence Centre (CNI) and the State Tax Agency (AEAT). The register must be operational by May 2016.

6.2.4 LAW 3/2014 OF 27 MARCH 2014 AMENDING THE CONSOLIDATED TEXT OF THE GENERAL CONSUMER AND USER PROTECTION LAW AND OTHER SUPPLEMENTARY LEGISLATION, APPROVED BY ROYAL LEGISLATIVE DECREE 1/2007 OF 16 NOVEMBER 2007

Law 3/2014 of 27 March 2014 (BOE of 28 March 2014) amending the consolidated text of the General Consumer and User Protection Law and other supplementary legislation, approved by Royal Legislative Decree 1/2007 of 16 November 2007, transposes into Spanish law Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, which replaced the former Community legislation on consumer protection and amended the regulation of unfair terms in consumer contracts.

Among the main new features of the Law that affect credit institutions are the inclusion in Spanish law of the new harmonised definitions of consumers, users (both natural and legal persons), traders, distance contracts and off-premises contracts, and the change to Law 16/2011 of 24 June 2011 on credit agreements for consumers, adding, as ancillary to injunctions for unlawful clauses or practices, refund of amounts charged and compensation for damages caused by application of those clauses.

The Law increases the information that must be provided to consumers and users, adding to pre-contractual information requirements. The new requirements include informing consumers and users, where applicable, of the existence and the conditions of deposits or other financial guarantees to be paid or provided by them at the request of the trader, including guarantees whereby an amount is blocked on the credit or debit card of the consumer or user. They must also be informed of the existence of a legal guarantee of conformity for goods and, where applicable, of the existence and the conditions of after-sale services and the corresponding commercial guarantees.

Law 3/2014 also lays down formal requirements for distance contracts and off-premises contracts, supplementing the existing provisions of Law 17/2009 of 23 November 2009 on free access to and pursuit of service activities, and of Law 34/2002 of 11 July 2002 on information society and e-commerce services. If contracts are concluded through a means of distance communication that allows limited space or time to furnish the information, the trader shall provide, at least, on that specific means of communication and before the contract is concluded, pre-contractual information on the main characteristics of the goods or services, the identity of the trader, the total price, the right of withdrawal, the duration of the contract and, if it is of indeterminate duration, the conditions for terminating the contract. In addition, in the case of distance contracts and off-premises contracts, the period for exercise of the right of withdrawal is extended to 14 calendar days, unless the trader has not informed the consumer of the right of withdrawal, in which case the withdrawal period will expire 12 months from the end of the initial withdrawal period.

Lastly, the Law adapts Spanish regulations to the case law of the Court of Justice of the European Union on unfair terms in consumer contracts. Under the previous regulations, the courts had the power to change the content of unfair terms in contracts, modifying the part of the contract that was deemed void, in accordance with the provisions of Article 1258 of the Civil Code and with the principle of good faith. Under the present regulations, the courts, after hearing the parties, will declare the unfair terms included in the contract void, but the contract will continue to be binding for the parties upon those terms, provided that it is capable of continuing in existence without the unfair terms.

6.2.5 ROYAL DECREE 579/2014 OF 4 JULY 2014 IMPLEMENTING CERTAIN ASPECTS OF LAW 14/2013 OF 27 SEPTEMBER 2013 ON SUPPORT FOR ENTREPRENEURS RELATING TO INTERNATIONALISATION BONDS AND COVERED BONDS

As part of the legislative process set in motion in previous years to encourage the internationalisation of Spanish firms, Royal Decree 579/2014 of 4 July 2014 (BOE of 16 July 2014) implementing aspects of Law 14/2013 of 27 September 2013 on support for entrepreneurs relating to internationalisation bonds and covered bonds regulated certain aspects of these instruments[10] relating to issuance, secondary market operations and the supervisory powers of the CNMV and the Banco de España.

The Royal Decree establishes the information that internationalisation bond and covered bond issues must include; it also sets out the formula to be used to calculate maximum issuance limits and the mechanisms to be used to restore those limits if they are crossed. In particular, both types of bonds may include accelerated maturity clauses, according to the terms of issue. The Banco de España is responsible for control and inspection of the conditions required of assets that may serve as collateral for internationalisation bond and internationalisation covered bond issues, and the CNMV for supervision of matters relating to public offerings and trading on the secondary market.

With regard to the operation of the secondary market, the Royal Decree regulates in particular the operations that issuers may perform in respect of their own internationalisation and covered bonds. Thus it provides that issuers may trade in own internationalisation bonds or internationalisation covered bonds and, to that end, acquire, sell or pledge own bonds, in order to regulate the correct functioning of their liquidity and market price or to restore the maximum issue limits. They may also acquire and hold own internationalisation bonds and covered bonds in portfolio, in the case of issues offered to the general public up to a limit of 50% of each series. By way of exception, issuers may exceed that limit when they acquire own bonds through an offering addressed to all the bondholders of a single series, for the purpose of redeeming or exchanging the bonds acquired.

The Royal Decree also regulates the special accounting record that issuers of internationalisation or covered bonds must keep of the loans that act as collateral for the issues, of the substitute assets and of the financial derivatives linked to each issue. The record will be continuously updated and will have two clearly separate parts, one for covered bonds and the other for bonds, with the specific respective content to be fleshed out by the Banco de España. The latter will also require the essential data from the record that must be included in the issuers' financial statements and annual reports, accompanied by an express declaration by the board of directors or equivalent management body assuming responsibility for having in place explicit policies and procedures that ensure compliance with the legislation applicable to these bond issues. The Royal Decree refers also to the special accounting record of the loans that act as collateral for territorial covered bond issues, also establishing the minimum content of this record, to be fleshed out by the Banco de España.

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10 Internationalisation covered bonds were introduced into Spanish law by Royal Decree-Law 20/2012 of 13 July 2012 on measures to ensure budgetary stability and promote competitiveness. Subsequently, Law 14/2013 of 27 September 2013 on support for entrepreneurs and internationalisation amended the legal framework of those bonds. It also redefined the assets eligible as collateral and territorial covered bond yields and introduced internationalisation bonds.

Introduction

The outbreak of the crisis in 2008 and its second-round effects revealed shortcomings in the financial stability mechanisms in place, triggering frequent impacts on public finances. In the specific case of the euro area, these impacts revealed marked asymmetries between the national financial markets of the euro area countries.

The design of the new resolution framework – in keeping with the broader moves made under the aegis of the FSB – and the roll-out of Banking Union will provide European resolution authorities with a harmonised and effective model of action and coordination, allowing them to respond to possible crises at a minimum cost to the taxpayer.

The legal restructuring and resolution framework in Europe is structured around three legal texts: Directive 2014/59/EU of 15 May 2014 (the Bank Recovery and Resolution Directive, hereafter, the BRRD) which established a framework for the recovery and resolution of credit institutions and investment firms; Regulation (EU) No 806/2014 of 15 July 2014 on the creation of the Single Resolution Mechanism (hereafter, the SRM), establishing uniform rules and a uniform procedure for resolution in the euro area; and Directive 2014/49/EU of 16 April 2014 on deposit guarantee schemes, repealing Directive 1994/19/EC. Law 11/2015 of 18 June 2015 (published 19 June 2015) on the recovery and resolution of credit institutions and investment firms transposed both the above Directives into Spanish law and will be followed by the corresponding implementing regulations.

Pillars of Directive 2014/59/EU (BRRD)

The BRRD views the resolution of credit institutions in three separate stages and defines the role of a new *administrative resolution authority* exclusively responsible for preparing and carrying out an orderly market exit for institutions.

a) *Prevention stage.* Institutions should prepare recovery plans that envisage measures to restore their financial health in a possible crisis. Competent authorities will make a comprehensive assessment of those plans and may demand that institutions adopt measures that the supervisor considers necessary and commensurate, including tempering the risk profile, adopting timely bail-in measures and reviewing their strategies and organic structure. For their part, resolution authorities will prepare resolution plans for institutions for possible resolution scenarios. If difficulties are identified they will demand that institutions adopt measures similar to those indicated above and will, in any event, require that institutions have an appropriate liability structure to ensure that any resolution process is sustained by their own sources of financing.

b) *Early intervention stage.* The aim is to ensure that competent authorities can take swift action to prevent the resolution of a viable institution as soon as signs of deterioration of its financial and economic situation emerge. Competent authorities may act as soon as an institution faces foreseeable difficulties complying with solvency, liquidity, organisational structure or internal control requirements. The BRRD establishes, inter alia, that competent authorities may require institutions to implement certain measures included in recovery plans, to draw up action programmes to overcome weaknesses detected and a timetable for their implementation or to make changes to their operating or legal structures. It also empowers them to appoint a temporary administrator, to replace or temporarily work with an institution's management body and senior management.

c) *Resolution stage.* Although failing institutions should, in principle, be wound down under normal insolvency proceedings, the new legislation takes into account the fact that this might jeopardise financial stability, the continuity of critical functions for the financial system or the real economy and the protection of depositors or public funds. If there is a public interest concern, an administrative decision ordering resolution measures may be issued if in addition it is considered that the alternative measures provided for in the BRRD would not remedy the situation. It will be for the supervisory authority to determine that an institution is failing, although Member States may also assign that power to the resolution authority, following consultation with the competent authority. The BRRD envisages the following resolution tools: sale of business, creation of a bridge bank to maintain institutions' critical functions, creation of an asset management company to sell or write down non-critical assets, and recapitalisation by means of write-down or conversion of capital instruments and other eligible liabilities. This last resolution tool is accompanied by recovery and reorganisation measures, aimed at assuring the viability of the institution. For exceptional cases, each Member State should have specific funding arrangements or "resolution funds".

SRM Regulation and institutional resolution framework in Spain

The BRRD establishes the first harmonised framework for bank resolution across the EU and for cooperation arrangements between national authorities, although it grants a certain degree of national discretion in its implementation. This degree of national discretion is inappropriate for the correct functioning of the euro area and is thus eliminated in the SRM Regulation.[1] The Regulation also creates the Single Resolution Board (hereafter, the SRB) and the Single Resolution Fund (hereafter, the SRF) and sets out the cooperation framework with national resolution authorities. The SRB will have competence in the case of institutions that are directly supervised by the SSM and other cross-border groups,

1 It should be noted that non-euro Member States may opt to join the Banking Union.

and in all resolution procedures that involve the use of SRF funds. All other institutions will be under the stewardship of the national authorities, although in accordance with the criteria established by the SRB.

The provisions of the SRM Regulation are to be implemented in three phases: the provisions relating to the creation of the SRB came into effect together with the Regulation (19 August 2014); those relating to cooperation between the SRB and national resolution authorities for drawing up resolution plans are in effect since 1 January 2015; and lastly, all other provisions will become effective from 1 January 2016. Accordingly, the SRB will not have full powers until that date.

At a national level, Law 11/2015 on the recovery and resolution of credit institutions and investment firms establishes a model with two national resolution authorities. Thus a distinction is drawn between resolution functions in the preventive stage, entrusted to the Banco de España and the National Securities Market Commission (CNMV), respectively, according to whether they relate to credit institutions or investment firms, and resolution functions in the enforcement stage, assigned to the Fund for the Orderly Restructuring of the Banking Sector (FROB). In any event, areas with resolution functions should operate independently of those with supervisory functions.

Resolution funds

The new resolution framework combines three elements, aiming to ensure that resolution processes have no impact whatsoever on the public purse:

a) *Losses borne internally.* The BRRD requires that shareholders, holders of other capital instruments, subordinated creditors and other non-exempt creditors bear the cost of losses incurred and, where appropriate, the necessary recapitalisation measures. Two new legal constructs are introduced for absorbing losses: write-down or conversion of capital instruments, and bail-in by means of other eligible liabilities. The first of these constructs is mandatory in all resolution processes. In addition, in order to ensure that institutions have sufficient instruments to absorb losses and recapitalise, the BRRD establishes that resolution authorities will set a minimum requirement for own funds and eligible liabilities (MREL) for each institution.

b) *Single Resolution Fund.*[2] The SRF will be funded by contributions by institutions according to their size and risk profile and will become operational in January 2016, by which time it will have initial funding (10% is to be paid in 2015) that will be built up over eight years to reach 1% of the amount of deposits covered by the Deposit Guarantee Scheme (estimated at €55 billion). The SRF may make contributions to resolution processes in lieu of other creditors, subject to specific conditions and, in any event, to the requirement that losses totalling not less than 8% of total liabilities including own funds have already been absorbed. The Intergovernmental Agreement governing the SRF establishes a system of national compartments and of progressive mutualisation for the use of the funds available in those compartments, which will be fully merged by 2023.

c) *Deposit Guarantee Scheme.* The main aim of the new Directive is to establish a single framework for depositor protection throughout the EU, harmonising the maximum amount covered at €100,000 per depositor and payment within seven days. Deposit guarantee schemes will be funded by members' contributions, according to their size and risk profile. Member States will ensure that, by 3 July 2024, the schemes' funds amount to at least 0.8% of the amount of the deposits covered, although a lower level, up to 0.5%, may be authorised, following approval by the European Commission. These schemes may be used as resolution funds if bail-in measures affect guaranteed deposits or if those deposits suffer potential losses as a result of the implementation of any other resolution tool.

2 Beyond the SRM area, the corresponding national funding arrangements (mandatory under the BRRD in all Member States since 2015) will remain.

6.2.6 LAW 18/2014 OF 15 OCTOBER 2014 APPROVING URGENT MEASURES FOR GROWTH, COMPETITIVENESS AND EFFICIENCY

Law 18/2014 of 15 October 2014 (BOE of 17 October 2014) approving urgent measures for growth, competitiveness and efficiency, together with Royal Decree-Law 8/2014 of 4 July 2014 from which it derives, has three essential aims: to encourage competitiveness and efficient market operation, improve access to funding, and promote employment. It also advances a number of measures that were included in the subsequent tax reform.

In the financial sphere the ceilings set on interchange fees[11] are notable. These fees are charged on payment transactions made using debit or credit cards at point of sale terminals in Spain, involving payment service providers established in Spain, irrespective of the sales channel used. In the case of debit card transactions, the interchange fee per transaction may not exceed 0.2% of the transaction value, with a maximum of €0.07. For transactions of €20 or less, the fee may not exceed 0.1% of the transaction value. In credit card transactions the fee may not exceed 0.3% of the transaction value, or 0.2% of the transaction value in the case of transactions of €20 or less. Among others, transactions made with corporate cards and cash withdrawals from ATMs are exempted from these limits. Payees in payment transactions are not allowed to pass on to payers (consumers or payment service users) any expenses or additional charges for using a debit or credit card.

Payment service providers must inform the Banco de España of the interchange fees and merchant service charges[12] received for payment services in card transactions. This information shall be available on the websites of both the Banco de España and the payment service provider. The Law classes these ceilings on fees and charges as organisational and disciplinary rules; any breach of those rules will be considered a very serious infringement, unless it is an occasional or isolated breach in which case it will be considered a serious infringement, all the foregoing in accordance with the provisions of Law 10/2014 of 26 June 2014 on the regulation, supervision and solvency of credit institutions.

In the tax arena, since the tax on deposits with credit institutions[13] was introduced, similar regional taxes have been approved, making it necessary to ensure the existence of harmonised tax treatment of deposits with credit institutions across Spain. To that end, the Law establishes, with effect from 1 January 2014, a tax rate of 0.03%, with the revenue going to the regional governments where the head office or branches of the taxpayers holding the third-party funds subject to the tax are located. Also, technical improvements are made to the design of the tax base.

A final point to note are the changes made to the tax treatment of the transfer of a mortgagor's principal residence as a result of deeds in lieu of foreclosure or of a mortgage foreclosure proceeding ordered by a court or a notary for discharge of debts secured by mortgage on that residence. With effect from 1 January 2014 and for earlier years not statute-barred, any capital gains arising in such cases are tax exempt, for the purposes of personal income tax (IRPF) and of the tax on increase in urban land value (IIVTNU). In order to qualify for both the above exemptions, the owner of the principal residence must have no other assets and rights sufficient to repay the mortgage debt in full at a point when the sale of the residence could be prevented.

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11 An interchange fee is the fee or charge payable, directly or indirectly, for each transaction between the payment service providers of the payer and the payee in a card payment transaction.

12 A merchant service charge is the fee or charge paid by the payee of a payment transaction to its payment service provider for each card transaction, comprising the interchange fee, the payment scheme and processing fee and the acquirer margin.

13 Law 16/2012 of 27 December 2012 adopting various tax measures aimed at consolidating public finances and stimulating economic activity created the tax on deposits with credit institutions, establishing a zero tax rate.

6.2.7 OTHER KEY REGULATORY CHANGES

a) Circular 3/2014 of 30 July 2014 (BOE of 31 July 2014), addressed to credit institutions and licensed appraisal companies and services, establishing measures to promote independence in appraisal activity, amending Circulars 7/2010, 3/1998 and 4/2004, and exercising regulatory options relating to the deduction of intangible assets, amending Circular 2/2014.

   The Circular aims, above all, to facilitate the correct valuation of real estate assets that serve as collateral for mortgage loans granted by credit institutions. For that purpose, a series of measures are implemented designed to ensure the professional independence of the appraisal activity. To that end, Circular 7/2010 of 30 November 2010 is amended to regulate the minimum content of the internal code of conduct to be adopted both by appraisal companies and services and which includes incompatibilities applicable to their managers and management bodies and measures adopted to ensure compliance therewith. In addition, in the area of asset valuation, certain technical improvements are made to the returns envisaged in Circular 3/1998 relating to the information to be provided to the Banco de España by licensed appraisal companies and services.

b) Circular 5/2014 of 28 November 2014 (BOE of 23 December 2014), amending Circular 4/2004 of 22 December 2004, addressed to credit institutions, on public and confidential financial reporting rules and formats, Circular 1/2010 of 27 January 2010, addressed to credit institutions, on statistics on interest rates applied to deposits and loans vis-à-vis households and non-financial corporations, and Circular 1/2013 of 24 May 2013 on the Central Credit Register.

   The Circular incorporates the new statistical and supervisory reporting requirements relating to the information that the Banco de España has to provide to the ECB, pursuant to EU legislation, and adapts the content of public and confidential financial reporting, and of reporting to the Central Credit Register, to the criteria as to preparation, terminology, definitions and formats of the FINREP financial reporting statements. These are compulsory statements for consolidated supervisory financial reporting based on the international financial reporting standards adopted by the EU, or similar national accounting rules.

c) Circular 6/2014 of 19 December 2014 (BOE of 29 December 2014) approving rules for the assessment and payment of the fee for comprehensive assessment of credit institutions.

   This Circular regulates the necessary provisions for assessment and payment of the fee envisaged in the nineteenth additional provision of Law 10/2014 of 26 June 2014 on the regulation, supervision and solvency of credit institutions. The new fee is levied on performance by the Banco de España of the tasks related to the comprehensive assessment of credit institutions envisaged in Council Regulation (EU) No 1024/2013 of 15 October 2013 and is payable by the credit institutions included in the Annex to the ECB Decision of 4 February 2014 identifying credit institutions that are subject to comprehensive assessment. The tax is chargeable on 31 December 2014, based on the total assets of the consolidated groups to which those credit institutions belong.