FINANCIAL REGULATION: 2015 Q1

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Introduction

The financial legislation and regulations adopted in the first quarter of 2015 are summarised below.

The new regulations include the implementation of the Law on the regulation, supervision and solvency of credit institutions, which completes the process of adapting Spanish law to European Union legislation on the solvency and supervision of financial institutions.

The European Central Bank (ECB) enacted several pieces of legislation relating to: 1) the creation of an asset-backed securities purchase programme; 2) financial information for the purposes of supervision that supervised entities are to provide to the competent national authorities (CNAs); 3) the powers of the ECB to impose penalties regarding prudential supervision of credit institutions; 4) the methodology for calculating the supervision fees applicable to credit institutions; 5) the adaptation of statistical data to the ECB's new tasks in relation to the prudential supervision of credit institutions, and investment funds' reporting exemptions; 6) the introduction of modifications to the legal framework for accounting and financial information; 7) the creation of a professional ethics committee and its internal regulations; and 8) public access to the ECB's documents.

The Banco de España has defined the information that entities acting as payment service providers are to provide on the interchange and discount fees charged on payment transactions.

Rules and regulations of some substance in the financial sphere were also published in the area of European legislation including: 1) implementation of the rules applicable to credit institutions' compliance with the liquidity coverage requirement; 2) an update to the rules on the leverage ratio applicable to credit institutions and investment firms; 3) the calculation and regulation of the contributions to credit institutions' and investment firms' resolution mechanisms; and 4) implementation of the regulations on credit rating agencies.

Two pieces of domestic legislation concerning the securities market were enacted: 1) the conditions for State debt issuance in 2015 and January 2016, as is customary in this period; and 2) amendment of the regulations on collective investment institutions (CIIs).

The article concludes with the new features of the second chance mechanism, reducing the financial burden, and other social measures, and the new regulations on the de-indexation of the Spanish economy.

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

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

Regulation, supervision and solvency of credit institutions

Royal Decree 84/2015, 13 February 2015 (BOE of 14 February) (hereinafter, the Royal Decree) was published, implementing Law 10/2014, of 26 June 2014[1], on the regulation,

1 See "Financial regulation: 2014 Q2," Economic Bulletin, July-August 2014, Banco de España, pp. 33-42.

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TABLE 1

supervision and solvency of credit institutions. As of its entry into force, any legal provisions of equal or inferior rank that are contrary to it are repealed.[2]

This Royal Decree has two basic aims: firstly, to complete the transposition into Spanish legislation of European Directive 2013/36 of the European Parliament and of the Council of 26 June 2013,[3] which forms part of the CRR/CRD IV package of legislation on credit institutions' solvency and which adapts and implements the Basel III[4] accords in EU legislation. Its second goal is to consolidate and systematise previously dispersed Spanish banking legislation in a single text, adapting it to the requirements deriving from last November's implementation of the Single Supervisory Mechanism (SSM).

The Royal Decree is divided into three titles: rules on access to the activity of credit institutions, solvency rules, and supervision of credit institutions, distinguishing the competences and obligations of the ECB and the Banco de España within the SSM.

INTEGRATION OF THE BANCO DE ESPAÑA INTO THE SSM

The Banco de España's authorisation and supervision competences under this Royal Decree will be exercised in the framework of the competences conferred on the ECB and the SSM under European legislation, in particular, Council Regulation (EU) 1024/2013 of 15 October 2013, entrusting the ECB with specific tasks concerning the policies on the prudential supervision of credit institutions, and Regulation (EU) 468/2014 of the ECB of 16 April 2014, establishing the framework of cooperation in the SSM between the ECB and the competent national authorities and with the designated national authorities.

The ECB will be responsible for authorising credit institutions, revoking authorisation, and opposing (or not) the purchase of qualifying holdings, under the terms of the aforementioned regulations. In these cases, the Banco de España, as the competent national authority (CNA), will submit to the ECB plans for the granting of an authorisation or the acquisition of a qualifying holding, and where applicable, proposals for the revocation of authorisation.

Similarly, under this framework, supervisory competences over credit institutions will henceforth be exercised by either the ECB or the Banco de España, as applicable, as these responsibilities are assigned according to whether credit institutions are deemed to be significant[5] or less significant in nature. Thus, the ECB will directly supervise significant institutions or groups of institutions based in participating Member States, while the Banco

2 In particular, Royal Decree 1245/1995 of 14 July 1995 on the creation of banks, cross-border activity and other issues relating to the legal regime of credit institutions, and Royal Decree 216/2008 of 15 February 2008 on financial institutions' own funds, with the exception of those provisions concerning investment firms.

3 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 of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate, repealing Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006, on the taking up and pursuit of the business of credit institutions and Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions.

4 This adaptation was begun by Royal Decree-Law 14/2013, 19 November 2013, on urgent measures to adapt Spanish law to European Union standards on the supervision and solvency of financial institutions, and Law 10/2014 of 26 June 2014.

5 As indicated in Regulation (EU) No 1024/2013, a supervised entity will be classed as significant based on the following criteria: 1) its size, i.e. when the value of its assets exceed €30 billion or when its total assets are equivalent to over 20% of national GDP, unless, in this latter case, the total value of its assets is less than €5 billion; 2) its economic importance for the European Union or any participating Member State; 3) the significance of its cross-border activities; 4) any request for direct public financial assistance under the European Stability Mechanism (ESM) or its receiving such assistance; and 5) the fact that it is one of the three most significant credit institutions in the participant Member State.

de España will exercise these competences in the case of less significant institutions. However, the Banco de España's supervision will be without prejudice to the power of the ECB to decide in specific cases to directly supervise these institutions when necessary in order to apply solvency and supervisory rules consistently.

LEGAL FRAMEWORK FOR CREDIT INSTITUTIONS

Authorisation, registration and activity of credit institutions

The Royal Decree establishes the requirements for access to the activity only in the case of banks, as savings banks and credit unions will be governed by their own specific regulations. The requirements for the exercise of the activity are similar to those established in the previous legislation (Royal Decree 1245/1995 of 14 July 1995), with greater emphasis on suitability requirements applicable to the board of directors and persons exercising the role of general manager or similar, and the persons responsible for internal control functions and other key posts in the day-to-day running of the institution's business.

As regards the refusal of an application for authorisation, without prejudice to the ECB's powers in this area, the Banco de España may turn down applications if the established requirements are not met, and in particular when, given the need to guarantee healthy and prudent management of the planned entity, the shareholders due to own a qualifying holding or, in the absence of shareholders with a qualifying holding,[6] the twenty largest shareholders, are not considered suitable.

In the case of structural modifications, the Minister for Economic Affairs and Competitiveness will have competence for authorising mergers, carve-outs or the transfer of assets and liabilities,[7] in whole or in part, in which a bank is involved, or any agreement that has similar economic or legal effects to the foregoing, together with the amendments to the articles of association deriving from such modifications.

Rules for qualifying holdings and capital structure

The rules on significant shareholdings and the manner of calculating their computation and contributions to voting rights are implemented in detail. The minimum information the potential acquirer is to provide for evaluation by the Banco de España is also set out.[8]

Rules are also defined for the information on credit institutions' capital structure, which is to be reported to the Banco de España in the month following each calendar quarter. For this purpose, all the shareholders considered to be financial institutions are to be listed. For the remainder, only those with a percentage of share capital in the entity of 0.25% or more in the case of banks or 1% in the case of credit unions will be listed.

Corporate governance measures and remunerations policy

As regards corporate governance, it is worth noting the requirements for the suitability of senior officials,[9] who must comply with requirements of good repute, knowledge, experience and good governance established Law 10/2014 of 26 June 2014, which are implemented in detail in the Royal Decree.

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6 A qualifying holding is understood to be one that reaches, directly or indirectly, at least 10% of the entity's capital or voting rights, or which, while not reaching this percentage, allows a significant influence to be exercised over the entity.

7 For the purposes envisaged in this legislation, the transfer as a block of one or more parts of a bank's capital (each of which forms an economic unit) to one or more newly created or existing companies is considered a partial transfer of assets and liabilities, provided the operation is not considered a carve-out or global transfer of assets and liabilities pursuant to Law 3/2009 of 3 April 2009 on structural modifications to mercantile companies.

8 The Banco de España will issue a circular laying down the minimum information potential acquirers are to provide, announcing its content on its website.

9 Members of the board of directors, managing directors or similar officers, as well as for those in charge of internal control functions and other key posts in the day-to-day running of the credit institution's activity.

In relation to senior officials' financial transactions, credit institutions must apply to the Banco de España for authorisation to grant loans and guarantees to members of the board of directors, managing directors or similar, except under certain circumstances.

The Royal Decree implements the rules on remuneration introduced by Law 10/2014. Without prejudice to the competences of the ECB in this area regarding significant institutions, the Banco de España is authorised, *inter alia*, to lay down the criteria whereby variable remuneration is to be reduced when credit institutions obtain negative financial earnings, or a direct limit is to be placed on variable remuneration as a percentage of total income. These criteria will be even more restrictive in institutions that have received public financial support.

Information on the remuneration accruing to members of the board of directors in each financial year must also be published on the institution's website. This information will reflect the total remuneration accruing, with an individual breakdown by remuneration items with reference to the amount of the fixed components and allowances, and the variable remuneration items. It is to contain all the remuneration items accruing, whatever their nature or the group entity paying them, including remuneration accruing to the members of the board of directors for their membership of the boards of other group or investee companies on which they act in representation of the group.

The regulations governing the appointments committee, the remuneration committee and the risk committee that credit institutions are to create are also defined. These committees are to comprise members of the board of directors who do not have executive functions in the institution.

SOLVENCY OF CREDIT INSTITUTIONS

The Royal Decree requires credit institutions to have the risk-management arrangements, processes and mechanisms established by Law 10/2014, without prejudice to the powers regarding the solvency of significant credit institutions that are exercised by the ECB.

Organisational, risk management and internal control requirements

It also implements the *capital self-assessment* process provided for by Law 20/2014, which will be carried out on an individual, sub-consolidated or consolidated basis, as applicable, in view of the nature, scale and complexity of the entity's activities. *Inter alia*, entities must have appropriate strategies and procedures to cover the main risks[10] to which their activity is subject. These are to be summarised in an *annual internal capital adequacy assessment report*, which is to be sent to the Banco de España by 30 April of each financial year, or earlier if deemed necessary.

Adoption of measures to return to compliance with solvency standards

Similar to the preceding regulations, when a credit institution or consolidable group, or sub-group, of credit institutions presents a deficit of eligible own funds relative to those required by the solvency regulations, the Banco de España will be informed and within one month a programme will be submitted in which the plans for a return to compliance are set out. This programme must be approved by the Banco de España, which may include any modifications or additional measures it considers necessary to ensure the entity returns to the required minimum levels of own funds.

It must also submit a programme for its return to compliance with the solvency regulations when the Banco de España obliges it to maintain additional equity to the minimum required,

10 These risks include: credit and counterparty risk; concentration risk; securitisation risk; operational risk; liquidity risk; interest rate risk on activities unrelated to the trading book; and excessive leverage.

or when the limits for large exposures laid down in Regulation (EU) 575/2013 of 26 June 2013[11] are exceeded, even when this is as a result of an unexpected reduction in eligible own funds.

Capital buffers

Credit institutions must have sufficient Common Equity Tier 1[12] capital to meet the equity requirements laid down in Regulation (EU) 575/2013,[13] and any other requirements that may be imposed by the Banco de España, pursuant to Law 20/2014 of 26 June 2014.[14] Moreover, they must at all times comply with the combined requirement of the capital buffers, understood to be the total Common Equity Tier 1 capital necessary to ensure each of the following buffers: 1) the capital conservation buffer; 2) the specific countercyclical capital buffer; 3) the capital buffer for globally systemically important financial institutions (G-SIFI); 4) the capital buffer for other systemically important financial institutions (O-SIFI); and 5) the buffer against systemic risks.

PRUDENTIAL SUPERVISION

As already mentioned, the ECB has powers of direct supervision over the most significant institutions, and the Banco de España over less significant ones. Notwithstanding, the Royal Decree details the content of the Banco de España's supervisory role, in terms of both its object and the entities to which it applies, the rules for collaboration between the different supervisory authorities, and the Banco de España's and credit institutions' reporting and publication obligations.

In relation to the **object of supervision**, the Banco de España will review the systems, strategies, procedures and mechanisms institutions apply to comply with the solvency standards, and assess: 1) the risks to which institutions and their consolidable groups are or may be exposed; 2) the risks an entity represents to the financial system, bearing in mind the determination and measurement of systemic risk or the recommendations of the European Systemic Risk Board; and 3) any risks that have emerged during stress tests.

In terms of the **entities covered** by the supervisory function, without prejudice to the powers assigned to the ECB, the Banco de España is responsible for supervision, on a consolidated basis, of credit institutions and groups based in Spain, and the branches of credit institutions based in countries outside the European Union. Similarly, where the parent company of one or several credit institutions is a financial holding company or a mixed financial holding company, the Banco de España, as the institution responsible for authorising and supervising the credit institutions, will supervise the aforementioned company with the limits and specificities as may be provided by the Royal Decree. It is also responsible for supervising institutional protection schemes.

As part of its **cooperation with supervisory authorities** in other countries, the Banco de España will provide relevant information either when requested by these authorities or ex

11 Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms amending Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories. See "Financial regulation: 2013 Q2," Economic Bulletin, July-August 2013, Banco de España, pp. 53-61.

12 Common Tier 1 Equity basically comprises capital; current and accrued earnings; and other reserves and funds for general banking risks when available for immediate unrestricted use by credit institutions to cover risks or losses when they arise. Certain items (current losses, intangible assets, treasury stock, etc.) are deducted from the sum of these amounts under the terms of Regulation (EU) 575/2013.

13 Among other points, Common Tier 1 Equity ratio of 4.5%, equivalent to the entity's Common Tier 1 Equity ratio expressed as a percentage of the total risk exposure.

14 This section provides that, under certain circumstances (for example, breach of solvency standards or evidence that they will be breached), the Banco de España may require a quantity of own funds greater than that required under Regulation (EU) 575/2013.

officio, where such information may have a significant influence on the assessment of the financial soundness of a credit institution or financial institution in another State. It will also provide the European Banking Authority with all the information it needs to perform the tasks entrusted to it.

To meet its **reporting and publication obligations**, the Banco de España is to publish the following on its website: 1) general guidelines adopted in the solvency regulations sphere; 2) the manner in which the options and powers offered by European Union; and 3) the criteria and methodology followed by the Banco de España in reviewing the agreements, strategies, procedures and mechanisms applied by institutions and their groups in order to comply with solvency regulations and evaluate the risks to which they are or may be exposed.

For their part, consolidable groups of credit institutions and credit institutions not belonging to consolidable groups shall disclose on at least an annual basis specific information on their financial situation and activity that may be of interest to the market and other interested parties in order to assess the risks facing those groups and institutions, their market strategy, risk control, internal organisation and situation with a view to meeting the minimum common equity requirements envisaged in the solvency regulations. This information will be compiled in a single document, entitled *Prudentially Relevant Information*.

OTHER CHANGES

Only existing credit unions and finance companies are permitted to convert into banks. The requirements laid down in the Royal Decree must be met in order to obtain authorisation. Minimum capital requirements will be deemed to be complied with when the sum of shareholders' equity on the balance sheet (which must be audited) the year prior to the application for conversion, and the cash contributions, come to €18 million.

The distribution of representatives of the member entities on the management committee of the Deposit Guarantee Fund has been changed, as provided in Royal Decree-Law 16/2011 of 14 October 2011, which created the Deposit Guarantee Fund (DGF). The distribution will be between the various associations representing these entities in proportion to the represented entities' guaranteed deposits.

Lastly, Royal Decree 2660/1998 of 14 December 1998 on the changing of foreign currency in establishments open to the public other than credit institutions, has been amended. The main purpose of the amendment was to eliminate all the references to handling transfers, as this is an activity reserved to payment service providers.

ENTRY INTO FORCE AND TRANSITIONAL ARRANGEMENTS

The Royal Decree came into force on the day following that of its publication in the Official State Gazette (BOE), except for entities' obligation to provide information on their corporate governance and remuneration policy on their websites, for which they will have a period of three months starting on the date when the Banco de España publishes the envisaged implementation.

As regards the transitional arrangements, as Spanish legislation does not provide for the creation of a specific macroprudential authority, the Banco de España will be the competent authority for the application of Article 458 of Regulation (EU) no. 575/2013 of 26 June as regards macroprudential or systemic risk observed in a Member State.

Accordingly, until a specific macroprudential authority is created, the increments that the Banco de España may apply to certain risk weightings or limits to major risks, will not exceed 25% and 15%, respectively.

ECB: programme of asset-backed securities purchases

Decision (EU) 2015/5 (ECB/2014/45), of 19 November 2014 (OJ L of 6 January 2015) (hereinafter, the Decision), was published, coming into force on 7 January 2015, on the implementation of the asset-backed securities purchase programme.

The aim of the programme is to improve monetary policy transmission and to stimulate credit in the euro area.

The requirements for asset-backed securities, in addition to the credit quality requirements established in the Decision, include in particular that 90% of the obligors of the cash-flow generating assets backing these bonds must be classified as private sector non-financial corporations or natural persons. Additionally, special requirements will apply when the obligors of the cash-flow generating assets backing asset-backed securities are incorporated or resident in Greece or Cyprus.

Before purchasing an asset-backed security meeting the eligibility requirements, the ECB will carry out a credit-risk assessment and due diligence on it.

The eligible counterparties under the programme, for both outright transactions and securities lending in relation to asset-backed securities, are: 1) counterparties participating in Eurosystem monetary policy operations; 2) counterparties that are used by Eurosystem central banks for the investment of their euro-denominated investment portfolios; and 3) entities deemed to be eligible counterparties for outright transactions by the Governing Council on the basis of a risk assessment by the ECB.

Finally, no more than 70% of the outstanding amount of a tranche of an eligible asset-backed security (with the same or fungible ISIN) may be purchased and held pursuant to this programme at any time. If the eligible asset-backed security (with the same or fungible ISIN) was constituted in Greece or Cyprus, this limit is 30% of the outstanding amount.

ECB: reporting of supervisory financial information

Regulation (EU) 2015/534 (ECB/2015/13), of 17 March 2015 (OJ L of 31 March 2015) (hereinafter, the Regulation), was published, coming into force on 1 April 2015, on reporting of supervisory financial information.

This Regulation forms part of a set of ECB provisions implementing certain aspects of the SSM regulations, set out in Council Regulation (EU) 1024/2013 of 15 October 2013 (known as the SSM Regulation), and in ECB Regulation (EU) 468/2014[15] of 16 April 2014 (known as the SSM Framework Regulation) on the reporting of supervisory financial information to national competent authorities (NCAs) by supervised entities.

Specifically, the Regulation supplements Decision ECB/2014/29 of 2 July 2014, on the provision to the European Central Bank of supervisory data reported to the national competent authorities by the supervised entities, pursuant to Commission Implementing Regulation (EU) No 680/2014.[16] It therefore determines the supervisory financial information[17] the supervised entities and their groups are to provide to the NCAs.

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15 Regulation (EU) 468/2014 (ECB/2014/17) of 16 April 2014 establishing the framework of cooperation between the SSM, the ECB and NCAs. See "Financial regulation: 2014 Q2," Economic Bulletin, July-August 2014, Banco de España, pp. 42-45.

16 Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014 establishes uniform requirements for all entities subject to Regulation (EU) 575/2013 regarding the provision to NCAs of information on certain areas, including consolidated financial information. Decision ECB/2014/29 specifies, among other things, the formats, frequency and timing of such submission of information, as well as the details of the quality checks that national competent authorities are to perform before submitting information to the ECB, pursuant to the Implementing Regulation.

17 In particular, it specifies the formats, frequency and timing of such submission of information.

ECB: powers to impose penalties

Council Regulation (EU) 2015/159 (ECB/2014/18) of 27 January 2014 has been published (OJ L of 3 February 2015) (hereinafter the Regulation), coming into force on 4 February 2014, amending Council Regulation (EC) 2532/98 of 23 November 1998, concerning the powers of the European Central Bank to impose sanctions.

The purpose of the Regulation is to adapt Regulation (EC) 2532/98[18] as regards the imposing of sanctions by the ECB in the case of infringements to its regulations or decisions concerning its role of prudential supervision of credit institutions, conferred upon it by Council Regulation (EU) 1024/2013 of 15 October 2013.

Specific rules have been established on the limits on fines and periodic penalty payments that the ECB may impose in the exercise of these functions, and a series of specific procedural rules have been established for imposing sanctions.

ECB: supervisory fees applicable to credit institutions

Decision (EU) 2015/530 of the European Central Bank of 11 February 2015 (OJ L of 28 March 2015) (hereinafter, the Decision) was published, coming into force on 29 March 2015, on the methodology and procedures for the determination and collection of data regarding fee factors used to calculate annual supervisory fees that credit institutions are required to pay, pursuant to Regulation (EU) 1163/2014 (ECB/2014/41).[19]

Institutions must therefore provide the data on the fee factors to NCAs using the templates given in the annex to the Decision. The frequency and timing with which this information is to be submitted is also specified, along with the types of quality checks the NCAs are to perform before submitting the fee factors to the ECB. Once the ECB completes the relevant verifications, the fee factors will be used to calculate the annual supervisory fees.

ECB: statistical data

Two provisions have been published regarding statistical data: *Council Regulation (EU) 2015/373 of 5 March 2015* (OJ L of 7 March 2015)(hereinafter, the Regulation), which came into force on 8 March 2015, amending Regulation (EC) No 2533/98 concerning the collection of statistical information by the European Central Bank, and *Decision (EU) 2015/32 (ECB/2014/62) of 29 December 2014* (OJ L of 9 January) (hereinafter, the Decision), which came into force on 9 January 2015), concerning the exemptions that may be granted under Regulation (EU) 1073/2013 of 18 October 2013 concerning statistics on the assets and liabilities of investment funds.

CHANGES IN THE WAY STATISTICAL INFORMATION IS OBTAINED

The changes introduced in Regulation (EC) No 2533/98 concerning the collection of statistical information derive from the tasks conferred upon the European Central Bank in relation to the prudential supervision of credit institutions in the European Union and in the various Member States, pursuant to Council Regulation (EU) 1024/2013 of 15 October 2013.

Thus, the European System of Central Banks (ESCB) may transmit confidential statistical information to authorities or bodies of the Member States and of the European Union

18 To date, Regulation (EC) 2532/98 has conferred powers on the ECB to impose sanctions in various areas of its competence, in particular the implementation of European Union monetary policy, the operation of payment systems, and the compilation of statistical data.

19 Regulation (EU) 1163/2014 (ECB/2014/41) of 22 October 2014 on supervisory fees applicable to credit institutions establishes, *inter alia*: 1) the arrangements for calculating the total amount of the annual supervisory fees to be levied in respect of supervised entities and supervised groups; 2) the methodology and criteria for calculating the annual supervisory fee; 3) the procedure for the collection by the ECB of the annual supervisory fees, pursuant to Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions. See "Financial regulation: 2014 Q4," Economic Bulletin, January 2015, Banco de España, pp. 15-16.

entrusted with the supervision of financial institutions, markets and infrastructure, and to the European Stability Mechanism (ESM) solely to the extent and with the level of detail necessary for the exercise of their respective tasks. On transmitting this confidential statistical information, the ESCB shall take all the necessary regulatory, administrative, technical and organisational measures to ensure the physical protection of confidential statistical information.

For their part, authorities or bodies receiving confidential statistical information shall take all the necessary regulatory, administrative, technical and organisational measures to ensure the physical and logical protection of confidential statistical information.

EXEMPTIONS FROM STATISTICAL REPORTING FOR INVESTMENT FUNDS

Regulation (EU) 1073/2013 provides that derogations from statistical reporting requirements may be granted to investment funds (IFs) that are subject to national accounting rules which allow the valuation of their assets less frequently than quarterly.[20] It further provides that the IF categories to which the national central banks (NCBs) have the discretion to grant derogations are to be decided by the Governing Council. This is the goal of Decision (EU) 2015/32, which expressly lists the aforementioned classes of funds of each of the Member States in its annex.

ECB: financial information and accounting

Guideline (EU) 2015/426 (ECB/2014/54) of 15 December 2014 (OJ L of 13 March 2015) (hereinafter, the Guideline), was published amending Guideline ECB/2010/20 on the legal framework for accounting and financial reporting in the European System of Central Banks; together with *Decision (EU) 2015/425 (ECB/2014/55) of 15 December 2014* (OJ L of 13 March 2015)(hereinafter, the Decision), amending Decision ECB/2010/21, on the annual accounts of the ECB. Both instruments, which came into force on 31 December 2014, incorporate certain technical clarifications on the valuation method applicable to securities held for monetary policy purposes, above all arising out of the adoption of Decision ECB/2014/40 of 15 October 2014 on the implementation of the third covered bond purchase programme, and ECB/2014/45 of 19 November 2014 on the implementation of the asset-backed securities purchase programme (mentioned above), as well as introducing other less significant technical changes.

ECB: Ethics Committee and Rules of Procedure

Decision (EU) 2015/433 (ECB/2014/59), of 17 December 2014 (OJ L 14 March 2015) (hereinafter, the Decision), was published, coming into force on 15 March 2015, concerning the establishment of an Ethics Committee and its Rules of Procedure.

ESTABLISHMENT AND COMPOSITION

The Decision establishes an Ethics Committee, which will be composed of three external members, at least one of whom is to be an external member of the Audit Committee.

The members of the Ethics Committee must be individuals of high repute from Member States, whose independence is beyond doubt and who have a sound understanding of the objectives, tasks and governance of the ECB, the ESCB, the Eurosystem and the SSM. They may not be current staff of the ECB or current members of bodies involved in the decision-making processes of the ECB, the national central banks or the national competent authorities.

20 Notwithstanding, these funds must continue to comply with the general statistical information requirements with a frequency compatible with their accounting requirements with respect to the time of valuing their assets.

APPOINTMENT OF MEMBERS

The members of the Ethics Committee will be appointed by the Governing Council. The Ethics Committee will designate its Chair. The term of office of the members of the Ethics Committee will be three years, renewable once. Their remuneration will be fixed by the Governing Council.

RESPONSIBILITIES

The Ethics Committee will advise on questions of ethics in response to individual requests in relation to legal acts adopted by the ECB. It will assume the responsibilities assigned to the Ethics Adviser appointed under the Code of Conduct for the members of the Governing Council and the responsibilities assigned to the ECB's Ethics Officer under the Supplementary Code of Ethics Criteria for the members of the Executive Board. It will report to the Audit Committee on the advice it has given and the extent to which this advice has been followed. It may also perform other activities related to this mandate, if so requested by the Governing Council. Finally, it will report annually to the Governing Council on the work it has undertaken.

Public access to ECB documents

Decision (EU) 2015/529 (ECB/2015/1) of 21 January 2015 amending Decision ECB/2004/3 (OJ L of 28 March 2015) (hereinafter the Decision) was published, coming into force on 4 March 2004, on public access to European Central Bank documents, i.e. documents the ECB issues or holds in relation to the performance of its tasks.

As a consequence of Regulation (EU) 1024/2013,[21] the Decision expands the powers of the ECB under which it may deny public access to documents if their disclosure would be prejudicial to the protection of the public interest in relation to: 1) the European Union's or a Member State's policy relating to the prudential supervision of credit institutions and other financial institutions; 2) the purpose of supervisory inspections; and 3) the soundness and security of financial market infrastructures, payment schemes or payment service providers.

Banco de España: discount rates and interchange fees received by payment service providers

CBE 1/2015, of 24 March 2015 was published (State Official Gazette (BOE) of 30 March 2015) (hereinafter, the Circular), coming into force on 31 March 2015, addressed to payment service providers, concerning information on the discount rates and interchange fees received.

The purpose of the Circular is to determine the content and other aspects relating to the information obligations of entities acting as payment service providers[22] (hereinafter, the entities) with respect to the interchange fees[23] and discount rates[24] applied to transactions conducted via point of sale terminals in Spain, by debit or credit card, pursuant to Law 18/2014 of 15 October 2014[25] promulgating urgent measures for growth, competitiveness and efficiency.

Under the aforementioned law, the Circular's scope of application is limited to entities established in Spain, such that it is not applicable to entities operating in Spain under the principle of freedom to provide services.

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21 Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions.

22 Specifically, credit institutions, finance companies, payment entities, electronic money entities and the branches in Spain of foreign institutions of any of these types, are subject to this Circular.

23 The interchange fee is the commission or remuneration directly or indirectly paid for each transaction between the payment service providers of the payer and beneficiary intervening in a card payment transaction. For these purposes any net commission, remuneration or compensation received by the card issuing payment services provider in respect of payment operations or ancillary activities will be considered part of the interchange fee.

24 The discount rate is the commission or remuneration paid by the beneficiary of the payment transaction to the payment service provider for each card transaction, comprising the interchange fee, the processing and payment system fee, and the acquirer's margin.

25 See "Financial regulation: 2014 Q4," Economic Bulletin, January 2015, Banco de España, pp. 28-29.

These entities are to report quarterly to the Banco de España on their interchange fees and discount rates using the forms included in the Circular's annex.

The Banco de España will published individualised information on its website identifying the entity acting as payment service provider including part of the information received quarterly in the reports, excluding information on the number and value of the payment transactions performed in each calendar quarter and the amount of the fees received. It will also publish all the information received in the reports in aggregated form, excluding the discount rates charged in three-party card payment systems.[26]

Entities will also publish on their websites the information in these reports on transactions conducted in each calendar quarter for the different card profiles and beneficiary activities, excluding information on the number and amount of payment transactions, and the total fees charged. This information is to be updated quarterly, at the same time as it is sent to the Banco de España.

Liquidity coverage applicable to credit institutions

Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 (OJ L of 17 January 2015) (hereinafter, the Regulation) was published, coming into force on 6 February 2015, to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council of 26 June 2013 on prudential requirements for credit institutions.[27]

The formula for liquidity coverage is stated in the Regulation and is equivalent to the ratio of the credit institution's liquidity buffer to the net liquidity outflows over a period of stress of 30 calendar days. Credit institutions are to hold a minimum liquidity coverage ratio of 100%, such that during this period they should be able to rapidly convert their liquid assets into cash, without resorting to liquidity from an NCB or public funds. If the ratio temporarily drops below this level, or it is foreseen that it will do so at any time, the institution must immediately notify the NCA and submit a plan for the timely restoration of compliance without undue delay. Until compliance has been restored, the institution must report on progress of the plan daily by the end of each business day, unless less frequent reporting is authorised. At the same time, the NCA will monitor the implementation of the restoration plan and may require a more speedy restoration if appropriate.

The Regulation also covers the assets making up the liquidity buffer; net outflows of liquidity, calculated as the sum of liquidity outflows less the sum of liquidity inflows, and stress scenarios as regards the liquidity coverage ratio.

Finally, two of its transitional provisions are: 1) the phased application of the liquidity ratio, which will be 60% of the liquidity coverage requirements as of 1 October 2015; 70% as of 1 January 2016; 80% as of 1 January 2017; and 100% as of 1 January 2018; and 2) the description of certain impaired asset management agencies sponsored by Member States,[28] such that the preferential bonds issued by these agencies may be considered tier 1 until 31 December 2023 without the application of a haircut.

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26 There are two payment card systems: three party and four party. In the three-party system there are three agents: the cardholder (payer), recipient merchant, and a single payment system provider for both. The four-party system, in which there are four types of agent, is more common: the cardholder, the payer's payment service provider (card issuing entity), the merchant receiving the payment, and finally, the recipient's payment service provider (entity owning the device allowing its use on the point-of-sale terminal).

27 Regulation (EU) 575/2013 imposed a liquidity coverage requirement on credit institutions, formulated in general terms as the obligation to hold "liquid assets, the sum of the values of which covers the liquidity outflows less the liquidity inflows under stressed conditions."

28 In Spain, Sareb (the asset management company for arising from bank restructuring).

Leverage ratio applicable to credit institutions and investment firms

Commission Delegated Regulation (EU) 2015/62 of 10 October 2014 (OJ L of 17 January 2015) (hereinafter, the Regulation) was published, coming into force on 18 January 2015, amending Regulation (EU) No 575/2013 of the European Parliament and the Council, with regard to the leverage ratio.[29]

The rules for this ratio were revised by the Basel Committee on 14 January 2014 to correct differences in their interpretation by certain credit institutions and investment firms (hereinafter, the entities), as regards the netting of collateral in securities financing and repurchase transactions, and to add further provisions on the measurement and netting in securities financing and repurchase transactions.

The purpose of Regulation is to adapt the provisions of Regulation (EU) 575/2013 to the standards agreed by the Basel Committee to correct these differences, so as to enhance the comparability of the leverage ratio disclosed by entities, and to help avoid misleading market participants as to institutions' real leverage.

Contributions to resolution mechanisms for credit institutions and investment firms

Commission Delegated Regulation (EU) 2015/63 of 21 October 2014 (OJ L of 17 January 2015), was published, coming into force on 6 February 2015, supplementing Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014[30] with regard to ex ante contributions to resolution financing arrangements by credit institutions and certain investment firms (hereinafter, the entities); and *Council Implementing Regulation (EU) 2015/81 of 19 December 2014* (OJ L of 22 January 2014) was published, coming into force on 23 January 2015, specifying uniform conditions of application of Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014,[31] with regard to ex ante contributions to the Single Resolution Fund (hereinafter, the Fund).

Delegated Regulation (EU) 2015/63 is applicable in all Member States, whereas Implementing Regulation (EU) 2015/81 is applicable in participating Member States. These are the euro area Member States and those other Member States that have established close cooperation,[32] pursuant to Council Regulation 1024/2013 of 15 October 2013, conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions.

INSTITUTIONS' CONTRIBUTIONS TO THE RESOLUTION FUNDING MECHANISMS

Directive 2014/59/EU requires Member States to establish resolution funding mechanisms in order to guarantee the effective implementation, by the national resolution authority (NRA), of the resolution instruments and powers. It also requires that, no later than 31 December 2024, the financial resources of the funding mechanisms reach at least 1% of the amount of covered deposits of all the institutions authorised in their territory. The contribution of each institution will be pro rata to the amount of its 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 territory of the Member State. These contributions will be adjusted in proportion to institutions' risk profiles.

29 Pursuant to Regulation (EU) 575/2013, the leverage ratio is calculated as an institution's capital measure divided by that institution's total exposure measure.

30 See "Financial regulation: 2014 Q2," Economic Bulletin, July-August 2014, Banco de España, pp. 52-54.

31 See "Financial regulation: 2014 Q3," Economic Bulletin, October 2014, Banco de España, pp. 73-79.

32 For close cooperation to exist, participating Member States must undertake, *inter alia*, to: 1) ensure that their competent national authority complies with the guidance or requests issued by the ECB; 2) provide full information on credit institutions established in their territory that the ECB may require in order to conduct a comprehensive evaluation of these entities; and 3) adopt any measures requested by the ECB in relation to credit institutions.

Delegated Regulation (EU) 2015/63 establishes rules specifying: 1) the methodology for the calculation of the contributions to be paid by institutions to resolution financing arrangements in a manner proportional to their risk profile;[33] 2) the obligations of institutions as regards the information they are to provide for the purposes of the calculation and payment of the contributions to resolution financing arrangements; and 3) the measures to enable verification by the national resolution authorities that the contributions have been paid correctly.

INSTITUTIONS' CONTRIBUTIONS TO THE FUND

Regulation (EU) 806/2014 establishes and regulates the Fund as a single funding mechanism for all Member States participating in the SSM and the Single Resolution Mechanism (SRM). This Fund must be used in institutions' resolution proceedings when the Single Resolution Board (hereinafter, the Board)[34] considers it necessary to ensure the effective application of the resolution instruments. The Board is also authorised to calculate the individual contributions of all the institutions authorised in the territories of the participating Member States.

Regulation (EU) 806/2014 also establishes that over the period 1 January 2016 to 31 December 2024 the Fund's available financial resources must reach at least 1% of the covered deposits of all the credit institutions authorised in the territories of the participating Member States. Under certain circumstances the Board may extend this period by up to four years. Similarly, the contribution of each institution, which must be collected at least annually, will be pro rata to the amount of its 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 the participating Member States.

Implementing Regulation (EU) 2015/81 describes the calculation method for the annual contributions of each institution to the Fund, establishing a specific phased system for these contributions during the period 2016-2024. This system consists of part of the contributions being calculated on a pro rata basis according to the contribution basis of each institution with respect to the aggregate contribution basis of all the institutions authorised in the Member State (national basis), while the other part is calculated on a pro rata basis relative to the basis of contribution of all the authorised institutions in the participating Member States (SRM basis). It also sets annual contributions of small institutions on a lump sum basis varying according to the volume of assets and liabilities (net of own funds and covered deposits).

State debt: issuing conditions in 2015 and January 2016

Law 36/2014 of 26 December 2014[35] on the State Budget for 2015 authorised the Minister for Economic Affairs and Competitiveness to increase State debt this year with the limitation that the outstanding balance at the end of the year may not exceed that on 1 January 2015 by more than €49.5 million (the previous year's limit was €71 billion).

As usual in January, the Order providing for the creation of State debt in 2015 and January 2016 was published, namely *Ministerial Order ECC/4/2015 of 2 January 2013* (BOE of 14 January 2015), which includes standard collective action clauses (CAC) for the first time. Additionally, *Resolutions of the General Secretariat for the Treasury and Financial Policy*

33 For this purpose, NRAs will assess the risk profile of institutions on the basis of the following four risk pillars, which are elaborated upon in the Regulation: 1) risk exposure; 2) stability and variety of sources of funding; 3) importance of an institution to the stability of the financial system or economy; and 4) additional risk indicators to be determined by the resolution authority.

34 The Board was created by Regulation (EU) 806/2014, which conferred the administration of the Fund upon it.

35 See "Financial regulation: 2014 Q4," Economic Bulletin, January 2015, Banco de España, pp. 31-32.

(the Treasury) of 19 and 20 January 2015 (BOE of 20 and 21 January 2015, respectively) were published, providing for certain issues of Treasury bills and for medium- and long-term government bonds, and publishing the schedule of tenders for this year and January of next year.

The Ministerial Order came into force on 14 January 2015 and the Resolutions on 19 and 20 January 2015, respectively.

As in Order ECC/1/2014, 2 January 2014, providing for the creation of State debt in 2014 and January 2015, the CACs[36] applicable since 1 January 2013 to all public debt issues with maturities of over one year are included.

In general, the issue mechanisms and instruments in force are maintained; these include syndicated issuance, which consists of ceding some or all of an issue at an agreed price to a number of financial institutions that ensure its placement. Given the use of this mechanism in recent years, the Treasury regulates the procedure that is to be followed in these operations, which in general will be as follows: 1) new issues or new tranches of existing issues; 2) the Treasury will select the participating financial institutions, based on financial criteria, commercial capacity, or capacity to foster debt markets, granting them a mandate to lead the issue; 3) the issue price, and other characteristics, including the coupon or maturity date, will be determined by the Treasury, following consultations with the selected institutions; 4) the Treasury will inform the selected institutions of their duty to maintain confidentiality in all phases of the issue process; and 5) the selected institutions will look for investors to cover the issue, and will also have the option to submit applications for their own portfolio. If demand exceeds the envisaged issue volume, the selected institutions will present the Treasury with a proposal for the distribution of the issue. The latter will assess the suitability of the distribution proposed by the selected financial institutions, and may make modifications to improve investor diversification, or improve the conduct of the issue on the secondary market after issue.

Finally, the development and resolution of tenders will be configured in the same way as in 2014.

TREASURY BILLS

As in previous years, the Resolution sets out the schedule of auctions to be held in 2015 and January 2016. This gives the dates of ordinary Treasury bill auctions and their maturities, setting the issues and the auction notices at the same times as the publication of the schedule. Nevertheless, for reasons of demand or issuance policy, the Treasury may hold additional auctions to those announced.

MEDIUM- AND LONG-TERM GOVERNMENT BONDS

The Resolution sets out the schedule of auctions to be held in 2015 and January 2016, indicating the dates and maturities of ordinary tenders, setting the issues and the auction notices at the same times as the publication of the schedule. As in the previous year, with some exceptions, bond auctions will be held on the first and third Thursday of each month and both medium- and long-term government bonds may be offered.

36 The CACs are rules for aggregating representative majorities of holders of certain types of bonds. In the event of a proposed modification of a debt instruments' conditions, they avoid the need to obtain unanimity among all bondholders and thus make it possible to adopt binding modifications, avoiding a minority's being able to block solutions approved by the majority. This allows, for example, the bonds' terms governing their issue or management to be modified with the prior consent of the issuer and 1) a vote in favour by at least 75% of the total principal of the bonds in circulation represented by a duly called meeting of bondholders, or 2) a written resolution signed by or on behalf of the holders of at least 66% of the total principal of the bonds in circulation.

Collective investment institutions: amendment to the regulations

Royal Decree 83/2015 of 13 February 2015 was published (BOE, 14 February 2015) (hereinafter, the Royal Decree), coming into force on 15 February, amending Royal Decree 1082/2012 of 13 July 2012[37] approved the implementing Regulations of Law 35/2003 of 4 November 2012, on Collective Investment Institutions (CIIs).

The Royal Decree's objectives include: 1) completing the transposition of Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers (AIFMs), (already begun with Law 22/2014 of 12 November 2014, regulating venture capital undertakings, collective investment undertakings of the closed-end kind, and amending Law 35/2003 of 4 November 2003 on CIIs); 2) integrating the regulations on depositaries, to improve their consistency, make them more systematic and compliant with the applicable delegated regulation;[38] and 3) incorporate into Spanish legislation the various aspects that reflect the permanent evolution and development of the collective investment market in Spain.

The main changes are set out below.

MANAGEMENT OF INVESTMENT FIRMS

It is established that investment firms may only appoint one CII management company (hereinafter, CIIMC), eliminating the previously existing joint-management arrangements, which allowed the general assembly, or by delegation from it, the board of directors, to decide that the management of the company's assets, either as a whole, or a particular portion of them, be entrusted to one or more CIIMCs or one or more entities authorised to provide investment services in Spain.

STRENGTHENING INVESTOR PROTECTION

The compulsory information that is to be included in the brochure of harmonised CIIs includes, in particular:

1) Detailed and up-to-date information on the management company's remuneration policy, including, at least, a description of the way in which remuneration and profits are calculated, the identity of the persons responsible for these calculations, and the composition of the remunerations committee, where applicable.

2) Description of the CII depositary's tasks and the conflicts of interest that may arise; description of any depositary functions delegated by the depositary; the list of third-party entities to which the depositary function may be delegated, and the possible conflicts of interest that may arise from such delegation.

3) Identification of the relevant CII manager when the latter is managed by a manager of this kind, who must be included in the prospectus and in the key investor information document.

The Royal Decree lays down that in the case of non-harmonised CIIs, the fund management firms managing or marketing them are to include extensive additional information in the prospectus. Fund management firms managing non-harmonised CIIs must provide the CNMV with all such information as the latter requires, in particular, periodic information on

37 See "Financial regulation: 2012 Q3," Economic Bulletin, October 2012, Banco de España, pp. 88-92.

38 Commission Delegated Regulation (EU) 231/2013 and regulations implementing Directive 2014/91/EU of the European Parliament and of the Council of 23 July 2014.

the main markets and instruments in which they trade on behalf of the CIIs they manage. Specifically, they are to provide information on the main instruments in which they trade, on markets of which they are a member or where they actively trade, and on the principal exposures and most important concentrations of each of the CIIs they manage.

INVESTMENT REGIME

Certain modifications have been made to the investment regime for harmonised CIIs. Thus, investments in securitisations are considered suitable assets, provided the originator retain at least 5%, pursuant to Commission Delegated Regulation (EU) 231/2013 of 19 December 2012, and are subject to the limits on securitisation positions envisaged in said Regulation. In relation to derivative financial instruments, the possibility is allowed that the underlying asset be the inflation rate in certain countries or geographical areas, provided that the rules for calculation, transparency and dissemination are equivalent to those established for the European Union's harmonised index of consumer prices.

HEDGE FUNDS

The following modifications are made regarding hedge funds:

1) The minimum initial disbursement of shares or units has been raised from €50,000 to €100,000. As in the previous regulations, this requirement is not applicable to investors deemed to be professional clients.

2) The possibility of marketing hedge funds to (non-professional) retail investors has been opened up, provided they make a minimum initial investment of €100,000 and acknowledge in writing that they are aware of the risks of the investment.

3) Apart from being able to invest in those derivative financial instruments permitted for other CIIs, they are allowed to invest in: 1) commodities for which there is a secondary market; 2) shares or units in hedge funds and similar foreign institutions; and 3) any other underlying asset whose use has been authorised by the CNMV or any combination of the foregoing. They may also invest in securitisations whose originator retains at least 5%, pursuant to Delegated Regulation (EU) 231/2013, and which are subject to the limits on securitisation positions envisaged in the delegated regulation.

4) CIIs that are marketed exclusively to professional clients may invest, without the liquidity principle applying to them, in invoices, loans, commercial paper commonly used in business transactions, and other similar assets, in financial assets linked to investment strategies with a time horizon of more than a year, and in derivative financial instruments, whatever the nature of the underlying asset, provided their liquidation does not result in a non-financial asset being brought onto the hedge fund's balance sheet. They may also grant loans, in which case they shall not be allowed to take on debt.[39]

Hedge fund management companies that invest in this kind of asset must also comply with a series of requirements that are set out in more detail in the Royal Decree.

FUND MANAGEMENT COMPANIES

The requirements for the delegation of the tasks of fund management companies have been updated and the sub-delegation of tasks has been regulated, such that the delegated

39 The limit on the debt of hedge funds that do not grant loans may not exceed five times their equity.

entity may in turn sub-delegate some of the tasks delegated to it, provided certain conditions are met.

In relation to the conditions for access to the activity, the minimum share capital has been reduced from €300,000 to €125,000 for fund management companies, but remains at €300,000 for self-managed investment companies (SMICs). Additionally, when the total value of the managed portfolios exceeds €250 million, fund management companies must increase their own funds by 0.02% of the amount of this value, while not exceeding €10 million. One new feature is that up to 50% of the additional amount of own funds may be covered by a guarantee of this same amount from a credit institution or insurance undertaking.

They are also required to cover possible risks deriving from professional liability in relation to the activities the fund management company managing non-harmonised CIIs, venture capital firms or collective investment undertakings of the closed-ended type may perform, either through additional own funds (equivalent to 0.01% of the assets of this kind of institution managed), or by taking out professional liability insurance.

Certain changes have been made to the application for authorisation to create a fund management company, such as compliance with the suitability requirements applicable to the individuals on the board of directors and serving as managing directors or equivalent, in terms similar to those applicable to investment firms and other entities providing investment services.

CII DEPOSITARIES

The Royal Decree sets out detailed regulations for depositaries, improving on the existing regulations[40] by making them more consistent and systematic, and adapting the functions, obligations and responsibilities to applicable European Union rules, in particular Commission Delegated Regulation (EU) 231/2013 of 19 December 2012. The specificities and exceptions applicable to depositaries for venture capital firms, collective investment undertakings of the closed-ended type, and hedge funds remain to be implemented.

Credit institutions and securities dealers and brokers may be depositaries, but may only use the denomination CII depositary in the context of the exercise of such tasks. The depositary's executives and directors must satisfy the suitability requirements laid down in the specific legislation.

The functions and obligations of the depositary are also updated, as in addition to the asset depositary and management function, and the monitoring and supervisory function, the following are added: 1) the financial asset custody function,[41] including the rules on the reuse of assets under custody; and 2) the registration of other non-custodiable assets, and cash control.

The depositary's intervention in the liquidation of the subscription and reimbursement of holdings is covered in detail. The depositary must ensure that all the income or payments deriving from the subscriptions or reimbursements are effectively made, crediting or

40 Order EHA 596/2008, of 5 March 2008, which will be definitively repealed once the adjustments developed by the CNMV completing the regulations on depositaries come into force.

41 Financial instruments that may be consigned in a financial instruments account, open in the depositary's books, are considered custodiable assets, provided these instruments are transferable between entities and their ownership and trading do not depend on a single central register external to the depositary, and all those that may be physically delivered to the latter.

debiting in the institution's cash accounts held with the depositary. It must also ensure that the subscriptions and reimbursements are made in accordance with the envisaged payment procedures, and in the way specified in the prospectus.[42]

The Royal Decree also lays down the rules for the delegation and sub-delegation of the depositary function, and the liability regime, such that the depositary will be liable for the loss of the instruments held in deposit, unless it can be shown that this loss occurred as a result of an external event beyond the depositary's reasonable control, despite the latter's efforts to avoid it.

RULES OF CONDUCT AND CONFLICTS OF INTEREST

Fund management companies, depositary institutions and those CIIs in the form of a company and whose overall management is not entrusted to a fund management company, marketing institutions, and those persons holding management and executive offices in any of the foregoing, are subject to certain rules of conduct that are updated in this Royal Decree.

It also sets out in more detail the rules on fund management companies' conflicts of interest to guarantee the independence and separation of tasks and responsibilities that may be considered incompatible with one another or which are liable to give rise to systemic conflicts of interest.

OTHER CHANGES

The additional provisions transpose Directive 2011/61/EU of 8 June 2011 in relation to the marketing of CII shares to professional investors with a passport.

Finally, it amends Royal Decree 1310/2005, of 4 November 2005, partially implementing Law 24/1988, 28 July 1988, on the Stock Market, as regards the admission of securities to trading on official secondary markets, public offers of sale or subscription and the prospectus required for these purposes. The amendments have two goals: Firstly, to transpose Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading; secondly, to make minimum adjustments to adapt the aforementioned Royal Decree to Directive 2014/51/EU of the European Parliament and of the Council of 16 Apri 2014, regarding the powers of the European Securities Markets Authority (ESMA).

Credit rating agencies: regulatory implementation

Various Commission delegated regulations have been published implementing various sections of Regulation (EC) 1060/2009 of the European Parliament and of the Council of 16 September 2009,[43] on credit rating agencies, amended by Regulation (EU) 462/2013 of the European Parliament and of the Council of 21 May 2013.

Specifically, these are: *Commission Delegated Regulation (EU) 2015/1, of 30 September 2014* (OJ L of 6 January 2014), supplementing Regulation (EC) No 1060/2009 with regard to regulatory technical standards for the periodic reporting on fees charged by credit rating agencies for the purpose of ongoing supervision by the European Securities and Markets Authority; *Commission Delegated Regulation (EU) 2015/2, of 30 September 2014* (OJ L of

42 Subscriptions are generally made in the form of a non-negotiable cheque payable to the fund, transfer to an account in the fund's name, or a cash deposit made directly to the depositary. Reimbursements are generally made by the depositary following an express order issued by the management company. Reimbursements may be made in the form of a non-negotiable cheque payable to the investor, transfer to an account in the investor's name, or a cash deposit made directly to the investor.

43 See "Financial regulation: 2009 Q4," Economic Bulletin, January 2010, Banco de España, pp. 165-166.

6 January 2014), supplementing Regulation (EC) No 1060/2009 with regard to regulatory technical standards for the presentation of the information that credit rating agencies make available to the European Securities and Markets Authority, and *Commission Delegated Regulation (EU) 2015/3, of 30 September 2014* (OJ L of 6 January 2014), supplementing Regulation (EC) No 1060/2009 with regard to regulatory technical standards on disclosure requirements for structured finance instruments.

These delegated regulations came into force on 26 January 2015.

Second-chance mechanism, reduction of financial burden, and other social measures

Royal Decree-Law 1/2015, 27 February 2015 was published (State Official Gazette (BOE), 28 February 2015) (hereinafter, the Royal Decree-Law), coming into force on 1 March 2015, on the second-opportunity mechanism, reduction of financial burden, and other social measures.

From the fiscal and financial regulatory viewpoint the following sections stand out:

OUT-OF-COURT PAYMENT AGREEMENT

The main changes are: 1) the existing system has been made more flexible, assimilating it to the provisions for legally endorsable refinancing agreements regulated by the fourth additional provision of Law 22/2003, 9 July 2003, on bankruptcy; 2) the expansion of its scope of application to natural persons not considered business people, and with regulations for a simplified procedure; 3) the possibility of extending the effects of the agreement to dissenting secured creditors (previously, these creditors were only subject to the agreement voluntarily); and 4) strengthening the role of the bankruptcy mediator, introducing the possibility that the Official Chambers of Commerce, Industry, Navigation and Services act in this role if the debtor is a business person, or notaries, in the case of natural persons other than business persons.

In relation to the acceptance of out-of-court payment agreements, the same majorities as established for legally endorsable refinancing agreements–albeit calculated on the totality of the liabilities that may be affected by the agreement rather than on the financial liabilities– and the same measures will apply.

Lastly, the tasks and remuneration of the bankruptcy mediator are regulated. The mediator's remuneration will depend on the type of debtor, their assets and liabilities, and the success of the mediation.

DEBT RELIEF SYSTEM FOR NATURAL PERSONS

The Royal Decree-Law establishes a debt-relief system for natural persons in the framework of bankruptcy proceedings. This rests on two fundamental pillars: that the debtor is in good faith and that his or her assets have been liquidated or the bankruptcy proceedings deemed concluded due to insufficient assets.

Debtors will be understood to be acting in good faith provided a series of requirements are met: 1) that the bankruptcy has not been deemed blameworthy; 2) that the debtor has not been convicted by a final judgment for financial crimes, crimes against the socio-economic order, falsification of documents, crimes against the Treasury or social security system, or against workers' rights in the ten years preceding the declaration of bankruptcy; 3) that, meeting the requirements laid down in the law, an out-of-court payment agreement has at least been attempted; and 4) all the credits against the assets, privileged bankruptcy credits, and at least, 25% of the amount of ordinary bankruptcy credits have been satisfied, if no prior attempt has been made to reach an out-of-court payment agreement. The foregoing conditions having been met, if the bankruptcy administration and the creditors

appearing express their agreement with the debtor's application or do not oppose it, the bankruptcy court may grant, on a provisional basis, the benefit of relief of the unmet liabilities.

Debtors not meeting requirement (4) may alternatively be considered to be in good faith if they meet requirements (1), (2) and (3) and agree to be subject to a payment plan, collaborate during the bankruptcy, have not obtained the benefit of relief in the last ten years, have not rejected a job offer suitable to their abilities in the four years previous to the bankruptcy, and accept that, for five years, this benefit is to be stated in the Public Bankruptcy Register. Any bankruptcy creditor will be entitled to apply to the bankruptcy judge for the revocation of the relief on the outstanding liabilities when the debtor, during the five years following its granting: 1) is in any of the circumstances that would have prevented granting of the benefit of cancellation of the outstanding liabilities; 2) fails to meet the obligation to pay the uncancelled debts in accordance with the terms of the payment plan; 3) experiences a substantial improvement in his or her economic situation such that he or she could pay all the outstanding debts without detriment to his or her maintenance obligations; or 4) the existence of hidden income, assets or rights is discovered. Once this period has expired, if the benefit has not been revoked, at the request of the debtor in bankruptcy, the bankruptcy court will issue an order recognising the cancellation of the outstanding liabilities from the bankruptcy to be definitive.

PROTECTION OF MORTGAGE DEBTORS

Certain amendments have been introduced to Royal Decree-Law 6/2012, 9 March 2012, on urgent measures to protect mortgage debtors without resources. Thus, in relation to the code of good practice for mortgage debtors, the subjective scope has been expanded, raising the annual ceiling for beneficiary families, which will be calculated based on the annual multipurpose income indicator (IPREM) in fourteen monthly payments, including as a new situation of special vulnerability that the debtor be aged over 60 –although not meeting the requirements to be considered a household[44]– and a new form of calculating the price limit of the immovable property acquired. Additionally, floor clauses in the contracts of debtors on the new exclusion threshold have been rendered definitively inapplicable.

Law 1/2013 of 14 May 2013 on measures to strengthen the protection of mortgagors, debt restructuring, and rented social housing has been amended to extend from two to four years the suspension of evictions when judicial or out-of-court foreclosure awards the creditor, or person acting in the creditor's name, the principal residence of persons in situations of particular vulnerability and in the economic situations envisaged in the aforementioned law. This extension began with the entry into force of the law, such that it will end on 15 May 2017.

TAX MEASURES

The changes introduced in Law 35/2006 of 28 November 2006 on personal income tax and partially amending the corporate income tax, non-resident income tax and wealth tax laws include the inclusion of the 43rd additional provision establishing the tax exemption of income received by debtors as a consequence of settlements and dation in payment of debts established in: 1) a court-approved agreement; 2) a court-endorsed refinancing agreement; 3) an out-of-court payment agreement; or 4) as a result of cancellation of outstanding liabilities, provided that the debts do not arise out of business activities.

44 Pursuant to Royal Decree-Law 6/2012, 9 March 2012, the household comprises the debtor, his or her spouse (not legally separated) or registered cohabiting partner, and the children, irrespective of age, who live in the family home, including those linked by a relationship of guardianship, custody or fostering.

OTHER CHANGES

The law's additional provisions make the following changes: 1) it allows Official Chambers of Commerce, Industry, Services and Navigation, and the Official Chamber of Commerce, Industry, Services and Navigation of Spain to perform functions of bankruptcy mediation and additional functions to support merchants in their activities; and 2) in relation to the adherence to the "Code of Good Practice of the viable restructuring of mortgage-backed debts on principle residences" it is automatically understood to be applicable to institutions that had adhered to previous versions of the code, unless they give express notice of their not wishing to adhere to the new version of the code within one month.

Deindexation of the Spanish economy

Law 2/2015, 30 March 2015 (hereinafter, the Law) was published (BOE, 31 March 2015), entering into force on 1 April 2015, on the desindexation of the Spanish economy. Its aim is to establish a regime based on the principle that monetary values are not revised in line with price indices or formulas containing them,[45] except in those cases where such a revision is indispensable.

The Law applies to: 1) revisions of any monetary value which the public sector has a role in determining, including all items subject to revision in the existing legislation, including, inter alia, prices of public contracts, levies, regulated prices and charges, subsidies, benefits, assistance, fines and penalties, or reference values; and 2) periodic or non-periodic reviews of income from rural and urban leases, consideration for service leasing agreements, supplies, and annuities or monetary values in any other contract between private individuals.

The Law's scope does not include: 1) collective wage bargaining; 2) pension revisions, revaluations or updates; and 3) financial instruments envisaged in Law 24/1988, 28 July 1988, such as negotiable securities and derivatives.

ARRANGEMENTS APPLICABLE IN THE PUBLIC SECTOR

In this area, the Law establishes: 1) specific arrangements for the predetermined periodic revision of monetary values; and 2) arrangements applicable to the non-predetermined periodic revision, and non-periodic revision of monetary values.

ARRANGEMENTS APPLICABLE IN THE PRIVATE SECTOR

Under the arrangements applicable to contracts between private parties, periodic revision of monetary values will only take place when expressly agreed, i.e. the parties remain free to agree as they see fit. In those cases where there is no such agreement or where the parties have explicitly agreed to apply a periodic revision mechanism, but do not state the reference index or methodology, the Competitiveness Guarantee Index, prepared as set out in the annex to the Law, will apply as the reference index.

07/4/2015.

45 Indexing, or index-linking, is a practice whereby the monetary value of economic variables is modified in line with changes in a price index over the course of a period.