FINANCIAL REGULATION: 2014 Q4

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Introduction

The financial legislation approved in the fourth quarter of 2014 is summarised below.

The European Central Bank (ECB) enacted several pieces of legislation relating to: 1) the obligation to separate monetary policy and supervision functions within the ECB; 2) the guidelines for the calculation of supervision fees applicable to credit institutions and the collection procedure therefor; 3) the review of certain temporary measures relating to Eurosystem refinancing operations and the eligibility of collateral; 4) obtaining statistical information on money markets and the financial activities of insurance companies in euro area Member States, and updating the information which the euro area monetary financial institutions (MFIs) must provide to the ECB, and 5) amendment of the regulations on the minimum reserves of credit institutions.

The Banco de España published two circulars. The first of these amends the financial reporting and statistics regulations for credit institutions and the Central Credit Register, in order to adapt them to recent European Union legislation. The second circular sets out guidelines for the assessment and payment of the fees charged for tasks relating to comprehensive assessments of credit institutions.

In the area of securities markets, several regulations were approved, as follows: 1) updating the accounting standards of investment firms; 2) adapting the statistical reporting requirements for collective investment institutions (CIIs), securitisation SPVs and bank asset funds to European Union regulations, and 3) transposing European legislation on venture capital entities and their management companies into Spanish law.

The article concludes with comments on: 1) the urgent measures adopted in relation to the refinancing and restructuring of corporate debt; 2) changes made to the legislation on limited companies to improve their corporate governance; 3) certain clarifications of the recent urgent measures for growth, competitiveness and efficiency; 4) tax reform developments, especially with regard to direct taxes, and 5) the most relevant financial and fiscal aspects of the State Budget Law for 2015.

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

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

ECB: separation between the monetary policy and supervision functions

Decision ECB/2014/39 of 17 September 2014 (OJ L of 18 October 2014) on the implementation of separation between the monetary policy and supervision functions of the ECB, was published, and came into force on 18 October 2014.

Specifically, the Decision contains provisions on the obligation of separating the ECB's two functions, as required by Council Regulation (EU) 1024/2013,[1] in particular concerning professional secrecy and the exchange of information.

1 Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the ECB concerning policies relating to the prudential supervision of credit institutions, established a Single Supervisory Mechanism (SSM), comprising the ECB and the national competent authorities (NCAs) of the participating Member States. See "Financial regulation: 2013 Q4", *Economic Bulletin,* January 2014, Banco de España, pp. 71-74.

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TABLE 1

GENERAL PRINCIPLES

The ECB's supervisory tasks should not interfere with its tasks relating to monetary policy or any other tasks, and shall be articulated in a way which does not lead to distorting the finality of either of these functions.

The ECB shall maintain autonomous decision-making procedures for its supervisory and monetary policy functions. All work units of the ECB shall be placed under the managing direction of the Executive Board. Staff involved in carrying out supervisory tasks shall report to the Chair and Vice-Chair of the Supervisory Board, and shall be organisationally separated from other ECB staff, the only exception being that the ECB may establish shared services providing support to both functions, in order to ensure that these support functions are not duplicated, thus helping to guarantee the efficient delivery of services.

PROFESSIONAL SECRECY

Those required not to disclose information of the kind covered by the obligation to professional secrecy[2] include: 1) members of the Supervisory Board, of the Steering Committee and of any substructures established by the Supervisory Board; 2) ECB staff and staff seconded by participating Member States carrying out supervisory duties, even after their duties have ceased; 3) persons having access to data covered by Union legislation imposing an obligation of secrecy; and 4) individuals who provide any service, directly or indirectly, permanently or occasionally, related to the discharge of supervisory duties.

Confidential information that such persons receive in the course of their duties may be disclosed only in summary or aggregate form in such a way that individual credit institutions cannot be identified, without prejudice to cases covered by criminal law.

EXCHANGE OF CONFIDENTIAL INFORMATION BETWEEN THE MONETARY POLICY AND SUPERVISORY FUNCTIONS

The exchange of confidential information between the two policy functions shall be subject to the governance and procedural rules set out for this purpose. The interested party may request such information, on a need to know basis, and it shall be disclosed in aggregate form containing neither individual banking information nor policy-sensitive information related to the preparation of decisions. In the event of conflict between the two policy functions, the access to confidential information shall be determined by the Executive Board, in compliance with Council Regulation (EU) No 1024/2013.

It should be noted that neither of the two policy functions shall disclose confidential information containing assessments or policy recommendations regarding the other policy function, except upon request on a need to know basis,[3] and where such disclosure has been expressly authorised by the Executive Board. However, in an emergency situation (such as adverse developments in markets which potentially jeopardise the stability of the financial system) the ECB's two functions shall exchange, without delay, confidential information where that information is relevant for the exercise of its tasks in respect of the particular emergency at hand.

ECB: supervisory fees applicable to credit institutions

Regulation (EU) No 1163/2014 of the ECB (ECB/2014/41) of 22 October 2014 (*OJ L* of 31 October 2014, coming into force on 5 November 2014) was published, in connection with the supervisory fees applicable to credit institutions, as stipulated in Council Regulation

2 The rules on professional secrecy are contained in 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.

3 Such situations are described in Article 114 of Directive 2013/36/EU as adverse developments in markets which potentially jeopardise the market liquidity and the stability of the financial system.

(EU) 1024/2013 of 15 October 2013 conferring specific tasks on the ECB concerning policies relating to the prudential supervision of credit institutions.[4]

This Regulation establishes: 1) the rules for calculating the total amount of the annual supervisory fees to be levied on supervised entities and groups; 2) the methodology and criteria for calculating the fees, and 3) the procedure for the collection by the ECB of these above-mentioned fees. The total amount of the annual supervisory fees shall encompass the annual supervisory fee in respect of each significant supervised entity or group and each less significant supervised entity or group and shall be calculated by the ECB at the highest level of consolidation within the participating Member States.

ECB: additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral

Guideline ECB/2014/46 of 19 November 2014 (*OJ L* of 4 December 2014) (hereafter, the Guideline), was published, amending Guideline ECB/2014/31 of 9 July 2014[5] on additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral.

According to Guideline ECB/2014/31, the Eurosystem's credit quality threshold[6] shall not apply to marketable debt instruments issued or fully guaranteed by the central governments of euro area Member States under a European Union/International Monetary Fund programme,[7] and these instruments can therefore be accepted as collateral in Eurosystem credit operations, subject to the specific haircut scheme.

In light of the overall improvement in market conditions for Greek marketable assets, the Governing Council of the ECB reduced the valuation haircut applicable to marketable debt instruments issued or fully guaranteed by the Hellenic Republic.

The Guideline came into force on 4 December 2014 and has applied since 15 December 2014.

ECB: monetary and financial statistics

Regulation (EU) No 1333/2014 of the ECB (ECB/2014/48) of 26 November 2014 (*OJ L* of 16 December 2014) concerning statistics on the money markets (hereafter, the Regulation) was published together with *Regulation (EU) No 1374/2014 of the ECB (ECB/2014/50) of 28 November 2014* (*OJ L* of 20 December 2014) on statistical reporting requirements for insurance corporations, and *Guideline ECB/2014/15 of 4 April 2014* (*OJ L* of 26 November 2014) (hereafter, the Guideline), containing further amendments to Guideline ECB/2007/9 of 1 August 2007 on monetary, financial institutions and markets statistics.

The main new developments are highlighted below.

REGULATION (EU) NO 1333/2014 OF 26 NOVEMBER 2014

Under this Regulation, the collection of statistical information on certain money market operations which must be provided to the ECB to enable it to fulfil its tasks,[8] is regulated

4 Under Article 30 of this Regulation, the ECB shall levy an annual supervisory fee on credit institutions established in the participating Member States. These fees shall cover expenditure incurred by the ECB in relation to the tasks conferred on it under Regulation (EU) 1024/2013, and they shall not exceed the expenditure relating to these tasks.

5 See "Financial regulation: 2014 Q3", *Economic Bulletin,* October 2014, Banco de España, p. 9.

6 The credit quality thresholds are established in the credit assessment standards set out in Annex 1 of Guideline ECB/2011/14 of 20 September 2011 on monetary policy instruments and procedures of the Eurosystem.

7 Currently Greece and Cyprus.

8 In particular, the data required under this Regulation will provide information which will be useful for the purposes of analysing the transmission mechanism of monetary policy decisions. It will also help to provide analytical and statistical support to the Single Supervisory Mechanism (SSM), and to support the ECB's tasks in the field of financial stability.

for the first time. This obligation is on the reporting agents,[9] who shall report to the national central bank of the Member State where they are resident, on a consolidated basis, daily statistical information relating to money market instruments, detailed on a transaction-by-transaction basis, as specified in Annexes of this Regulation.

These transactions are undertaken by the reporting agent with other MFIs, other financial intermediaries (OFIs), including insurance corporations, pension funds, general government or central banks for investment purposes, and non-financial corporations classified as "wholesale". Intra-group transactions are excluded.

Where the reporting agent conducts transactions via a central clearing counterparty (CCP), the CCP legal entity identifier must be provided. Where transactions are undertaken with non-financial corporations, OFIs, insurance corporations, pension funds, general government, and central banks and for any other reported transaction for which the counterparty legal entity identifier is not provided, the counterparty class must be provided.

In order to minimise the potential reporting burden of MFIs, the ECB will initially require the reporting population to consist of the euro area MFIs with total main balance sheet assets larger than 0.35% of the total main balance sheet assets of all the euro area MFIs. In the case of this group of MFIs, first reporting under this Regulation shall start with data for 1 April 2016.

From 1 January 2017 the Governing Council of the ECB may expand the number of reporting MFIs by also taking into account other criteria, such as the significance of the MFI's activities in the money markets and its relevance to the stability and functioning of the financial system. The ECB will ensure that there are at least three reporting MFIs for each euro area Member State, to ensure a minimum level of geographical representation. In the case of this group of MFIs, first reporting under this Regulation shall start on the date communicated to the reporting agent by the ECB or the relevant NCB, not earlier than 12 months after the adoption of the Governing Council decision.

NCBs may also collect data from MFIs which are not part of the actual reporting population based on their national statistical reporting requirements, in which case such data will be reported and verified pursuant to this Regulation, which came into force on 1 January 2015.

REGULATION (EU) NO 1374/2014 OF 28 NOVEMBER 2014

The Regulation regulates for the first time the collection of statistical information on the financial activities of insurance corporations in euro area Member States required by the ECB to perform its tasks.

The entities with a reporting obligation are: 1) insurance corporations incorporated and resident in the territory of the relevant euro area Member State, including subsidiaries whose parent entities are located outside that territory; 2) branches of insurance corporations specified above that are resident outside the territory of the relevant euro area Member State; and 3) branches of insurance corporations that are resident in the territory of the relevant euro area Member State but whose head office is outside the European Economic Area (EEA).[10]

9 The reporting agents are the MFIs resident in the euro area, with the exception of national central banks (NCBs) and certain money market funds (MMFs).

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

These corporations shall provide the following information to the relevant NCB, either directly or via the relevant NCA:

1) On a quarterly basis, end-of-quarter stock data on their assets and liabilities, in line with revaluation adjustments specified in the Regulation, and on non-life insurance technical reserves broken down by line of business.

2) On an annual basis, end-of-year stock data on non-life insurance technical reserves broken down by line of business and geographic area.

In addition, insurance corporations incorporated and resident in the territory of a euro area Member State shall provide, on an annual basis, information on premiums written, claims incurred and commissions paid.

Finally, the minimum reporting standards are included, as specified in the Annexes of this Regulation, which entered into force on 9 January 2015.

GUIDELINE ECB/2014/15 OF 4 APRIL 2014

The Guideline specifies the additional information that MFIs in the euro area must provide to the ECB, for compiling statistics on the aggregated balance sheet of the MFI and the relevant monetary aggregates. Specifically, in the following sections: 1) MFI loans to non-financial corporations, by branch of activity, to better analyse developments in this type of operation; 2) MFI credit lines broken down by institutional sector, to complement the analysis of credit developments; 3) the reserve base of credit institutions; 4) interest rates applied by MFIs to deposits and loans vis-à-vis households and non-financial corporations; 5) assets and liabilities of investment funds (IFs) and financial vehicle corporations engaged in securitisation transactions (FVCs); 6) balance of payments statistics for the euro area, specifying the international investment position and international reserves, and 7) developments in euro area payment systems and monitoring of their degree of integration.

Finally, this Guideline specifies the provisions governing how NCBs report the required data to the ECB, for statistical purposes, through the Register of Institutions and Affiliates Database (RIAD).[11]

The Guideline came into force on 26 November, and NCBs of euro area Member States shall apply its provisions, with certain exceptions, from 1 January 2015. The remaining provisions shall be applied from 1 January 2016.

ECB: new rules on minimum reserves for credit institutions

Regulation (EU) No 1375/2014 of the ECB (ECB/2014/51) of 10 December 2014 (OJ L of 20 December 2014), amending Regulation (EU) No 1071/2013 of 24 September 2013 concerning the balance sheet of the monetary financial institutions sector, and *Regulation (EU) No 1376/2014 of the ECB (ECB/2014/52) of 10 December 2014 (OJ L* of 20 December 2014), amending Regulation (EC) No 1745/2003 of 12 September 2003 on the application of minimum reserves, were both published.

Both Regulations, which came into force on 21 December 2014, extend the reserve maintenance periods[12] from four to six weeks, as a consequence of the decision of the

11 The ECB maintains the RIAD, a central repository of reference data on institutional units relevant for statistical purposes. RIAD stores, inter alia, the lists of MFIs, investment funds, financial vehicle corporations and payment statistics relevant institutions.

12 The periods over which compliance with reserve requirements is calculated and for which such minimum reserves must be held on reserve accounts.

ECB's Governing Council to change the frequency of its monetary policy meetings from a four-week to a six-week cycle from 1 January 2015. To adapt to these changes, the reserve base of institutions which have been granted a derogation ("tail institutions") will be calculated for two consecutive maintenance periods (compared with three previously).

Banco de España: change to financial reporting and statistics regulations for credit institutions and the CCR

Banco de España Circular 5/2014 of 28 November 2014 (BOE of 23 December 2014) (hereafter, the Circular) amending Banco de España Circular 4/2004 of 22 December 2004[13] on public and confidential financial reporting rules and formats, Banco de España Circular 1/2010 of 27 January 2010[14] on statistics on interest rates applied to deposits and loans vis-à-vis households and non-financial corporations, and Banco de España Circular 1/2013 of 24 May 2013[15] on the CCR, was published.

The Circular has two main aims: to incorporate the new statistical and supervisory reporting requirements relating to the information that the Banco de España has to provide to the ECB, in accordance with the latest EU legislation; and to adapt the content of the public and confidential financial reporting to the criteria as to preparation, terminology, definitions and formats of the FINREP financial reporting statements in European legislation. These are compulsory statements established in Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014[16] for consolidated supervisory financial reporting based on the international financial reporting standards adopted by the European Union or similar national accounting rules.

In addition, the data to be reported to the CCR have been modified to adapt to the new financial statements. These data have been designed to facilitate the use of a comprehensive and integrated model in the preparation and control of the public and confidential financial information that credit institutions must provide to the Banco de España. This model, based on the data point model developed by the European Banking Authority (EBA) for modelling supervisory reporting, not only enhances the quality of the information but also reduces the cost of preparing and handling it.

The Circular came into force on 31 December 2014, save for certain provisions which will be phased in by 31 March 2016.

Banco de España: rules for the assessment and payment of the fee for comprehensive assessment of credit institutions

Banco de España Circular 6/2014 of 19 December 2014 (BOE of 29 December 2014) (hereafter, the Circular), approving rules for the assessment and payment of the fee for comprehensive assessment of credit institutions, was published and came into force on 30 December 2014.

The nineteenth additional provision of Law 10/2014 of 26 June 2014 on the regulation, supervision and solvency of credit institutions created a fee for performance by the Banco de España of the tasks related to the comprehensive assessment of credit institutions, in accordance with the provisions of Council Regulation (EU) No 1024/2013 of 15 October

13 See "Financial regulation: 2004 Q4", *Economic Bulletin,* January 2005, Banco de España, pp. 3-7.

14 See "Financial regulation: **2010 Q1", *Economic Bulletin,* April 2010, Banco de España, pp. 154-156.**

15 See "Financial regulation: **2013 Q2", *Economic Bulletin,* July-August 2013, Banco de España, pp. 70-74.**

16 **Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014, laying down implementing technical standards with regard to supervisory reporting of institutions according to 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, and 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.**

2013, payable by the credit institutions.[17] This is a one-off fee, chargeable on 31 December 2014. The Banco de España will be responsible for assessing and collecting the fee in the voluntary payment period, and the State tax revenue service in the enforcement period.

The additional provision authorised the Banco de España to implement the necessary provisions for assessment and payment of the fee.

The fee will be assessed by the Banco de España by 31 January 2015, in accordance with the information at its disposal on the total assets of the consolidated groups to which the credit institutions belong, reported to the Banco de España as of 31 December 2013, using the template included in the Annex to the Circular.

Reporting by financial institutions supervised by the CNMV

Several circulars of the Spanish National Securities Market Commission (hereafter the CNMV, by its Spanish abbreviation) updating the reporting requirements for institutions under their supervision have been published and are discussed in brief below.

INVESTMENT FIRMS

CNMV Circular 3/2014 of 22 October 2014 (*BOE* of 7 November 2014) amends CNMV Circular 1/2010 of 28 July 2010[18] on confidential reporting by investment firms, and CNMV Circular 7/2008 of 26 November 2008[19] on accounting rules, annual accounts and confidential returns of investment firms, management companies of collective investment institutions and management companies of venture capital entities.

The Circular updates the information to be provided in the confidential returns established in Circular 1/2010, with a view to achieving greater efficiency in early and preventive supervisory action. Thus, institutions (basically those that have a high volume of retail business or are most active in the sale of complex instruments) must now submit certain confidential returns (relating to the placement, receipt, transmission and execution of orders) not only annually but also quarterly.

In addition, the obligation to submit certain quarterly returns on corporate data and contact persons and on discretionary portfolio management and complaints has been extended to include securities brokers and dealers and portfolio management companies. Securities brokers and dealers must also provide information on instruments held for customers.

The Circular came into force, with certain exceptions essentially relating to the confidential reporting content and timelines, on 8 November 2014.

COLLECTIVE INVESTMENT INSTITUTIONS

CNMV Circular 4/2014 of 27 October 2014 (*BOE* of 8 November 2014) amends CNMV Circular 1/2007 of 11 July 2007[20] on European Union statistical reporting requirements for collective investment institutions (CIIs), which in turn partially amended Circular 2/1998 of 27 July 1998 on euro area statistical reporting requirements for CIIs.

The aim is to adapt the statistical information on the balance sheets of CIIs that are considered to be monetary financial institutions (MFIs) to the requirements laid down in

17 Specifically, the credit institutions included in the Spain section of the Annex to the Decision of the ECB of 4 February 2014 (ECB/2014/3) identifying the credit institutions that are subject to the comprehensive assessment. In the case of the savings banks included in the list, the fee will be payable by the bank to which they transferred their financial business.

18 See "Financial regulation: 2010 Q3", *Economic Bulletin*, October 2010, Banco de España, p. 149.

19 See "Financial regulation: 2008 Q4", *Economic Bulletin*, January 2009, Banco de España, pp. 11-13.

20 See "Financial regulation: 2007 Q3", *Economic Bulletin*, October 2007, Banco de España, p. 157.

Regulation (EU) No 1071/2013 of the ECB (ECB/2013/33) of 24 September 2013 concerning the balance sheet of the monetary financial institutions sector.

CNMV Circular 5/2014 of 27 October 2014 (*BOE* of 8 November 2014) amends CNMV Circular 5/2008 of 5 November 2008 on European Union statistical reporting requirements relating to assets and liabilities of CIIs. As in the previous case, the aim is to adapt the statistical information to the requirements laid down in Regulation (EU) No 1073/2013 of the ECB (ECB/2013/38) of 18 October 2013 concerning statistics on the assets and liabilities of investment funds.

Moreover, venture capital entities and other types of CIIs that may be created as a consequence of any subsequent legislative changes are included as reporting agents, provided they meet the definition of investment fund contained in Article 1 of Regulation (EU) No 1073/2013.[21]

Both Circulars came into force on 9 November 2014.

SECURITISATION SPVS AND BANK ASSET FUNDS

CNMV Circular 6/2014 of 27 October 2014 (*BOE* of 8 November 2014) partially amends CNMV Circular 2/2009 of 25 March 2009[22] on accounting rules, annual accounts, public financial statements and confidential statistical returns of securitisation SPVs. In turn, *CNMV Circular 7/2014 of 27 October 2014* (*BOE* of 8 November 2014) amends CNMV Circular 6/2013 of 25 September 2013[23] on accounting rules, annual accounts, public financial statements and confidential statistical returns of bank asset funds.

The purpose of both Circulars, which came into force on 9 November 2014, is to adapt the accounting formats to the ECB's new reporting requirements contained in Regulation (EU) No 1075/2013 of the ECB (ECB/2013/40) of 18 October 2013 concerning statistics on the assets and liabilities of financial vehicle corporations engaged in securitisation transactions, to adapt to the new European System of National and Regional Accounts of the European Union (ESA 2010).

Venture capital entities and collective investment institutions: legislative amendments

Law 22/2014 of 12 November 2014 (BOE of 13 November 2014) (hereafter, the Law), which regulates venture capital entities and other closed-end collective investment institutions (CECIIs) and their management companies (CECIIMCs) and amends Law 35/2003 of 4 November 2003 on CIIs, was published.

The grounds warranting review of the existing legislative framework were threefold:

1) The need to transpose Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011[24] on alternative investment fund managers (AIFMs), which laid down the first regulations on fund managers of this kind.

2) The publication of Regulation (EU) No 345/2013 on European venture capital funds and of Regulation (EU) No 346/2013 on European social entrepreneurship

21 Article 1 of the Regulation defines an investment fund as a collective investment undertaking that invests in financial and/or non-financial assets, within the meaning of Annex II, to the extent that its objective is investing capital raised from the public, and that is constituted pursuant to European Union law. The definition of investment fund includes: 1) undertakings whose units or shares are, at the request of the holders, repurchased or redeemed directly or indirectly out of the undertakings' assets; and 2) undertakings that have a fixed number of issued shares and whose shareholders have to buy or sell existing shares when entering or leaving the fund. It does not include pension funds or money market funds.

22 See "Financial regulation: 2009 Q1", *Economic Bulletin*, April 2009, Banco de España, pp. 197-198.

23 See "Financial regulation: 2013 Q4", *Economic Bulletin*, January 2014, Banco de España, pp. 90-91.

24 See "Financial regulation: 2011 Q3", *Economic Bulletin*, October 2011, Banco de España, pp. 183-187.

funds, both of 17 April 2013. Although both Regulations have direct effect, they have served as a guideline for the regulation of a new concept: SME venture capital entities.

3) The advisability of reviewing the venture capital framework to boost the volume of funds raised to finance small and medium-sized firms in their initial development and expansion.

The most significant changes are set out below.

VENTURE CAPITAL ENTITIES: LEGAL FRAMEWORK

The main new features include a speedier and less onerous administrative process for the creation of venture capital entities, as the administrative authorisation by the CNMV is virtually eliminated, being replaced by registration with the CNMV once it has been confirmed that all the documentation required by law[25] is complete.

As regards the investment policy of venture capital entities, the financial arrangements are more flexible, with various adjustments made to facilitate their modus operandi, such as greater use of equity loans and of investment in shares or units of other venture capital entities, more flexibility for calculating the dates for compliance with the mandatory investment ratio, and the possibility that venture capital funds may distribute profits on a periodic basis.

The Law also allows venture capital entities to invest in securitisations where the originator retains at least 5%, subject to the limits on securitisation positions envisaged in Commission Delegated Regulation (EU) No 231/2013[26] with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision.

SME VENTURE CAPITAL ENTITIES: LEGAL FRAMEWORK

SME venture capital entities ("ECR-Pyme" by their Spanish acronym) are created. They may take the legal form of either SME venture capital companies (hereafter, SME-VCCs) or SME venture capital funds (hereafter, SME-VCFs). SME-VCCs will have minimum subscribed capital of €900,000 (compared with €1.2 million for ordinary VCCs), while SME-VCFs will have minimum committed equity capital, upon formation, of €1.65 million (the same as for all other VCFs).

The Law requires SME venture capital entities to hold at least 75% of their eligible assets (in comparison with 60% for all other venture capital entities) in financial instruments that provide financing to companies that are eligible to receive it.

In order to be eligible to receive SME venture capital financing, companies must meet the following requirements: 1) they must not be CIIs or financial or real estate companies; 2) they must not be admitted to listing in a regulated secondary market or multilateral trading facility; 3) they must have fewer than 250 employees and annual assets of no more than €43 million or annual turnover of no more than €50 million; and 4) they must be established in EU Member States or in third countries that comply with certain conditions laid down in the Law.

In terms of diversification of their investments, SME venture capital entities cannot invest more than 40% of their eligible assets at the time of the investment in a single company (in

25 Pursuant to European Union law, the authorisation is maintained for management companies, while closed-end investment funds and firms that are managed by a management company will simply need to be registered.

26 Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council.

comparison with 25% for all other venture capital entities), or more than 40% in companies belonging to the same group of companies (in comparison with 35% for all other venture capital entities).

CLOSED-END COLLECTIVE INVESTMENT INSTITUTIONS: LEGAL FRAMEWORK

Closed-end collective investment institutions (CECIIs) are CIIs which, having no commercial or industrial purpose, raise capital from investors, through marketing, in order to invest it in all kinds of financial or non-financial assets, in accordance with a defined investment policy.

CECIIs must be registered with the CNMV. They will be managed by management companies authorised in accordance with the provisions of the Law and may be organised as closed-end collective investment funds or companies. Their legal framework is similar to that envisaged for venture capital entities, with certain singularities laid down in the Law.

They are likewise allowed to invest in securitisations where the originator retains at least 5%, subject to the limits on securitisation positions envisaged in Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012.

VENTURE CAPITAL ENTITIES AND CLOSED-END COLLECTIVE INVESTMENT INSTITUTIONS: MARKETING

The marketing activity of Spanish venture capital entities and CECIIs is confined to investors that are considered professional clients.[27] Nonetheless, it may also include non-professional investors, provided that they meet two conditions: 1) that they commit to investing at least €100,000; and 2) that they state in writing, in a document separate from the commitment to invest, that they are aware of the risks associated with the envisaged commitment. In this case, prior to subscription or purchase, they must be provided with the prospectus which will include, among other documents, the management rules or articles or association and the annual report.

Shares and units of venture capital entities and CECIIs may be freely marketed across EU Member States provided that the management companies possess a European passport.[28] This passport grants them the freedom of cross-border marketing and management in EU Member States. Venture capital entities and CECIIs formed in third countries or managed by management companies that do not have their registered office in the EU will have to be authorised by the CNMV, for which purpose they will need to evidence compliance with certain requirements established in the Law.

SUPERVISION, INSPECTION AND PENALTY REGIME

The supervision, inspection and penalty regime entrusted to the CNMV is extended to CECIIs and their management companies. The CNMV's supervisory functions focus basically on management companies and consist particularly of surveillance of leverage limits and of the suitability of credit assessment processes.

The Law regulates the exchange of information and cross-border cooperation on supervision with the competent authorities of other EU Member States, the European Securities and Markets Authority and the European Systemic Risk Board to facilitate the performance of their functions.

The penalty regime is set out, classifying infringements as minor, serious and very serious, listing the related penalties and specifying that the management companies will

27 According to Article 78.bis of Securities Market Law 24/1988 of 28 July 1988, professional clients are those with the necessary experience, knowledge and expertise to make their own investment decisions and properly assess the risks they incur.

28 For which purpose they must have been authorised by the competent authority of the relevant Member State, as provided for in Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on AIFMs.

be held responsible for any failure to comply with this Law and its implementing regulations in respect of the entities managed by them. Finally, the powers to impose penalties for very serious infringements are transferred to the CNMV (previously held by the Ministry of Economic Affairs and Competitiveness, which acted at the proposal of the CNMV).

CLOSED-END COLLECTIVE INVESTMENT INSTITUTION MANAGEMENT COMPANIES (CECIIMCS)

CECIIMCs are public limited companies whose corporate purpose is to manage the investments of one or more venture capital entities or CECIIs and to control and manage the related risks. Each venture capital entity and CECII has to have a single manager, which must be a CECIIMC.[29]

Much the same as in Law 25/2005, the requirements for taking up business are set forth,[30] and it is stipulated that the CNMV must be provided with the information necessary to verify that those requirements are met. Notably, the powers of authorisation y revocation are transferred to the CNMV (previously held by the Ministry of Economic Affairs and Competitiveness at the proposal of the CNMV).

Before authorisation is granted to a CECIIMC which is a subsidiary of another management company or of the parent of another management company authorised under Directive 2009/65/EC, the supervisory authority of the related EU Member State must be consulted.

Certain requirements regarding structure and organisation are established to ensure control of risks and of conflicts of interest. This includes, among other things, the requirement to apply a remuneration policy which deters excessive risk-taking.

Finally, a special regime which waives certain administrative burdens derived from taking up business[31] is established for CECIIMCs whose assets under management are below certain thresholds.[32]

AMENDMENT OF LEGISLATION ON CIIS

The Law amends Law 35/2003 of 4 November 2003 so as to transpose into Spanish law the regime for AIFMs envisaged in Directive 2011/61/EU. Accordingly, from the entry into force of the Law, the following institutions, among others, fall within its scope:

1) CIIs formed in another EU Member State and managed by management companies authorised in a Member State in accordance with Directive 2011/61/EU, when marketed in Spain to professional investors.

29 In the case of VCCs and closed-end collective investment companies (CECICs), the company itself may act as the management company if its governing body decides not to designate an external manager. It thus becomes subject to the regime laid down in the Law for CECIIMCs, except in those cases in which the Law envisages a different regime for these self-managed companies.

30 The minimum share capital is €300,000 for self-managed CECICs and €125,000 for CECIIMCs (previously €300,000). Additionally, when the total value of the portfolios under management exceeds €250 million, the management companies have to increase the own funds by 0.02% of that amount, up to a ceiling of €10 million. They must also have, inter alia, the following: 1) sound administrative and accounting procedures; 2) an internal code of conduct, and 3) recognised commercial, business and professional integrity of directors and of general managers or similar officers, a majority of whom must have sufficient knowledge and experience of finance or business management.

31 Such as the management of risks and conflicts of interest, remuneration policies and transparency requirements, among others.

32 The thresholds are: 1) they only manage investment institutions whose assets are below €100 million, including assets acquired using leverage, or 2) €500 million if the investment institutions under management are not leveraged and have no financial claims exercisable for a period of five years from the initial investment date.

2) CIIs formed in third countries and managed by management companies authorised in a Member State in accordance with Directive 2011/61/EU, when marketed in Spain to professional investors.

3) CIIs managed by management companies without a registered office in the EU when marketed in Spain to professional investors, the requirements being similar to those in 2) above.

As regards CII management companies, the powers of authorisation and revocation are transferred to the CNMV (previously held by the Ministry of Economic Affairs and Competitiveness, which acted at the proposal of the CNMV). Also, the cross-border management and marketing of CIIMCs authorised in Spain in accordance with Directive 2011/61/EU are regulated in the same way as envisaged for CECIIMCs. Further, implementing regulations establishing, inter alia, certain obligations specified in Delegated Regulation (EU) 231/2013[33] are envisaged.

Finally, the supervisory powers of the CNMV are broadened to include, inter alia, surveillance of the leverage limits and of the suitability of the processes of credit assessment of CII management companies managing CIIs regulated by Directive 2011/61/EU.

OTHER NEW DEVELOPMENTS

The consolidated text of the Law regulating pension schemes and pension funds enacted by Royal Legislative Decree 1/2002 of 29 November 2002 was amended in order to transpose recent EU legislation.[34] As regards the investment regime of pension funds, provision is made for regulations establishing the obligations of management entities so as to ensure proper risk management.

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 was published and came into force on the day after its publication.

This Law writes into Insolvency Law 22/2003 of 9 July 2003 the text of Royal Decree-Law 4/2014 of 7 March 2014,[35] which substantially amended Law 22/2003, particularly regarding the regulation of refinancing agreements able to be entered into by companies and the extension of their terms to dissenting creditors.[36] The main amendments are as follows:

COMMUNICATION OF NEGOTIATIONS AND STAY OF ENFORCEMENT

The submission of notification of commencement of negotiations may be accepted as cause for staying judicial enforcement proceedings against assets required for the continuity of the debtor's professional or business activity.

Also permitted is the stay of any other individual enforcement proceedings at the initiative of financial creditors, provided that not less than 51% of the creditors holding financial

33 Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision.

34 Regulations will determine the conditions under which pension fund managers may procure the management of the investments of pension funds managed by them with third parties authorised pursuant to Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities, Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments and Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on alternative investment fund managers, and with other authorised pension fund managers.

35 See "Financial regulation: 2014 Q1", *Economic Bulletin*, April 2014, Banco de España, pp. 67-70.

claims have expressly supported the initiation of negotiations aimed at entering into the related refinancing agreement. Any proceedings arising from public law claims are excluded, in any event, from this stay.

APPROVAL OF REFINANCING AGREEMENTS

Changes are made to the judicial approval system. Specifically, the range of parties able to enter into refinancing agreements is broadened to include all types of creditors holding financial claims except for trade creditors and public law creditors.

Also, provision is made for the extension to dissenting or non-participating creditors of deferrals and, when a larger percentage of claims is in favour, of other measures, such as partial acquittance, conversion of debt to equity or transfer of assets in or for payment.

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 the due precautions and assurances, a presumption of culpability of any debtor that, without reasonable cause, refuses to enter into a recapitalisation agreement.

REGIME GOVERNING INSOLVENCY ADMINISTRATION

Certain additional requirements for acting as an insolvency administrator are introduced to ensure that the persons carrying out such functions have sufficient skills and knowledge.

Another new development is the creation of a fourth section of insolvency administrators and delegated assistants (*auxiliares delegados*) in the Insolvency Public Register (*Registro Público Concursal*), in which all natural and legal persons meeting the requirements have to register, specifying the territories in which they are willing to act as insolvency administrators.

The system for designating insolvency administrators is reformed, and the details of its functioning will be specified in implementing regulations. In the specific case of insolvency of credit institutions, the judge will appoint the insolvency administrator from among those proposed by the Fund for the Orderly Restructuring of the Banking Sector ("FROB" by its Spanish acronym) (previously proposed by the Deposit Guarantee Fund). The judge will appoint administrators from among those proposed by the CNMV when the insolvent entity is subject to CNMV supervision, or by the Insurance Compensation Consortium ("CCS" by its Spanish abbreviation) when the insolvent entity is an insurance undertaking.

Finally, the grounds on which a judge may remove insolvency administrators from office or revoke the appointment of delegated assistants are spelled out.

OTHER CHANGES

The first additional provision charges the Banco de España with establishing and making public uniform criteria for deciding when to classify as standard the risk associated with loans refinanced or restructured under court approved refinancing agreements.

36 The main purpose of Royal Decree-Law 4/2014 was to increase the effectiveness of pre-insolvency refinancing so that firms could reschedule their debt more flexibly without having to apply for insolvency proceedings. For this purpose various aspects of Insolvency Law 22/2003 of 9 July 2003 were amended. The measures adopted included most notably the following: 1) the possibility of staying or halting judicial enforcement proceedings against assets required for the continuity of the debtor's professional or business activity; 2) clarification of the conditions to prevent the termination of refinancing agreements, as well as their extension to legally recognised agreements or those reached between the debtor and one or more creditors provided that they signify a clear improvement in the debtor's financial position and, at the same time, do not entail a reduction in the rights of the other creditors which do not participate; 3) establishment of more flexible conditions for entering into judicially approved refinancing agreements, and 4) more favourable tax treatment of refinancing agreements.

Finally, the third additional provision includes a mandate to the Government to promote the development of a code of good practice for the viable restructuring or refinancing of the debt of SMEs and the self-employed with credit institutions.

Improved corporate governance of Spanish limited companies

Law 31/2014 of 3 December 2014 (BOE of 4 December 2014), amending the Spanish Limited Companies Law[37] in order to improve corporate governance, was published. The changes can be divided into two categories: those referring to the annual general meeting and those concerning the board of directors. They are briefly described below.

ANNUAL GENERAL MEETING (AGM)

The AGM's powers to deliberate and resolve on matters are broadened in respect of the director remuneration policy and transactions having an effect equivalent to that of winding up the company, such as acquisition, sale or transfer to another company of essential assets.[38]

So-called "minority rights" in listed companies are strengthened by lowering from 5% to 3% the minimum share capital needed for shareholders to be able to exercise their rights. Also, the articles of association cannot require ownership of more than 1,000 shares to be eligible to attend the AGM (previously there was no such limit).

The legal treatment of conflicts of interest is reformed and its application extended to public limited companies (by broadening the applicability of the existing regime for private limited companies).

Shareholders' right to information is enhanced, particularly for listed companies, where the period during which shareholders can exercise their right to information prior to the AGM is extended to five days before it is held (compared with seven previously). As a new development, valid requests for information, clarifications and written questions, as well as written replies from directors, must be placed on the company's website.

All cases of the challenging of corporate resolutions (void and voidable resolutions) are unified under a general regime of voidance, for which an expiration period of one year is set, the only exception being challenges to resolutions contrary to public order for which there is no expiration period. For listed companies, the expiration period is reduced from one year to three months, so as to safeguard the efficacy and flexibility particularly required in the management of these companies.

As regards the capacity to challenge corporate resolutions, to avoid situations of abuse of rights, a lower limit is set such that the only shareholders eligible to challenge corporate resolutions will be those representing, individually or jointly, at least 1% of capital for unlisted companies and 0.1% for listed companies, although the Law permits these thresholds to be lowered in the articles of association. Finally, for these purposes the concept of corporate interest is broadened, such that it is now deemed to be prejudiced if a resolution is imposed unfairly by the majority.[39]

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37 The consolidated text of the Spanish Limited Companies Law was enacted by Royal Legislative Decree 1/2010 of 2 July 2010 and subsequently amended by Law 25/2011 of 1 August 2011 partially reforming the Limited Companies Law and transposing Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies, by Law 1/2012 of 22 June 2012 on simplification of reporting and documentation requirements in the case of mergers and divisions of limited companies, and by Law 14/2013 of 27 September 2013 on support for and internationalisation of business.

38 The assets are deemed to be essential if the transaction amount exceeds 25% of the value of the assets included in the latest approved balance sheet.

39 A resolution is deemed to be imposed unfairly if, while not meeting a reasonable need of the company, it is adopted by the majority in their own interest and unjustifiably to the detriment of other shareholders.

BOARD OF DIRECTORS

The Law assigns to the board of directors, as a non-delegable duty, the taking of decisions relating to core management and supervision activities. It is thus stipulated that the board has to meet at least once a quarter so as to maintain a constant presence in the dealings of the company.

The Law introduces a number of significant changes intended to contribute to the proper functioning of the board, particularly in listed companies. Thus directors are required to attend board meetings in person, the non-delegable powers of the board are listed exhaustively and director categories are stipulated, defining those who are executive, non-executive, nominee and independent directors.

The appointment and re-election of directors are regulated, the different categories of directors are defined, and the maximum period of office is set at four years, compared with the former maximum of six years generally in force.

Provision is made for the board of directors to set up specialised board committees, it being compulsory to have an audit committee and a nomination and remuneration committee, although the latter may be split into two separate committees.

REMUNERATION OF DIRECTORS

New obligations regarding remuneration policy are established for all limited companies. Thus the maximum amount of total annual remuneration of all directors taken together must be approved by the AGM and will remain in force so long as it is not changed. Also, remuneration must be reasonably consistent with the importance of the company, its economic situation at each point in time and the market standards of comparable companies.

Additionally, in listed companies, the director remuneration policy must conform, wherever applicable, to the remuneration system set out in the articles of association and must be approved by the AGM at least every three years as a separate item on the agenda. Any change to or replacement of the director remuneration policy during that three-year period must have prior approval from the AGM.

OTHER MATTERS

Among the reporting obligations of listed companies, the Law states that the average supplier-payment period must be published on their website. Also, listed companies are required to publish annually two reports: one on corporate governance, which must provide a detailed explanation of the structure of the company's system of governance and of how it works in practice; and the other on the remuneration of the directors.

Finally, Securities Market Law 24/1988 of 28 July 1988 is amended, to confer on the CNMV the necessary powers to enable it to supervise some of the aspects introduced or modified in this Law, which are applicable to listed companies.

The Law entered into force, with certain exceptions, on 24 December 2014.

URGENT MEASURES FOR GROWTH, COMPETITIVENESS AND EFFICIENCY

Law 18/2014 of 15 October 2014 (BOE of 17 October 2014) (hereafter, the Law) was published and entered into force on 17 October 2014. It gives the status of law to Royal Decree-Law 8/2014 of 4 July 2014[40] approving urgent measures for growth, competitiveness and efficiency.

40 See "Financial regulation: 2014 Q3", *Economic Bulletin*, October 2014, Banco de España, pp. 95-6.

The Law makes a number of clarifications of Royal Decree-Law 8/2014. The most important of these, from a financial and fiscal point of view, are highlighted below.

CARD PAYMENT TRANSACTIONS

New exemptions are introduced for the caps on the interchange fees charged in payment transactions carried out at point of sale terminals located in Spain, using debit or credit cards. They relate specifically to transactions with cards that can only be used within a limited network designed to satisfy specific needs, either because they allow their holder to acquire goods or services at the premises of the issuer only or within a limited network of suppliers linked directly through a commercial agreement with a professional issuer, or because they can only be used to acquire a limited range of goods or services.

Payment service providers have been under an obligation to report to the Banco de España the interchange fees[41] and merchant service charges[42] received for payment services in card transactions. The Law now requires that this information be available on the website of the payment service provider, as well as on that of the Banco de España.

In addition, Law 22/2014 of 12 November 2014 (mentioned above) incorporates certain changes into the Law with regard to credit and debit-card payment transactions. In particular it grants powers to the Banco de España to require of payment service providers all such information as may be needed by the Electronic Card Payments Unit *(Observatorio de Pagos con Tarjeta Electrónica*),[43] which was set up within the Ministry of Economic Affairs and Competitiveness by a resolution of the Council of Ministers of 2 June 2006.

FISCAL MEASURES

Pursuant to Royal Decree-Law 8/2014, with effect from 1 January 2014 and for taxable events prior to that date that are not time-barred, transfers of the principal residence of the mortgagor, or of the guarantor thereof, taking place as a consequence of a deed in lieu of foreclosure or a mortgage foreclosure proceeding for the payment of debts secured by a mortgage thereon have been exempt from the tax on the increase in the value of urban land. The Law has now clarified that this exemption is only applicable to transfers made by natural persons.

Fiscal reform and other financial changes

Law 26/2014 of 27 November 2014[44] *(BOE* of 28 November 2014) amending, inter alia, personal income tax (IRPF, by its Spanish initials) and *Law 27/2014 of 27 November 2014 (BOE* of 28 November 2014) on corporate income tax were published. Both Laws entered into force, with certain exceptions, on 1 January 2015.

CHANGES TO IRPF

Various changes were made to IRPF that will lead to a decline in the tax burden starting in 2015. This decline will become more pronounced in 2016, and will especially benefit

41 Interchange fees are the fees or charges paid for each transaction between the payment service providers of the payer and of the payee party to a card payment transaction. Any net fee, charge or compensation received by a payment service provider that issues payment cards, in respect of these transactions or ancillary activities associated with them, will be considered part of the interchange fee.

42 Merchant service charges are the commissions or fees paid by the payee of the payment transaction to its payment service provider for each transaction carried out using a card, comprising the interchange fee, the payment scheme and processing fee and the acquirer margin.

43 The Electronic Card Payments Unit monitors the application of the interchange fee caps in card payment transactions, and in particular their effects on small transactions. It also monitors the effect of the capping of the interchange fees established for costs charged by payment service providers on business and on payment service users.

44 Law 26/2014 of 27 November 2014 amending Law 35/2006 of 28 November 2014 on the personal income tax, the consolidated text of the Law on the income tax for non-residents, approved by Royal Legislative Decree 5/2004 of 5 March 2004, and other tax legislation.

taxpayers with fewer resources or more dependants. In addition, certain measures were taken to stimulate the generation of long-term savings, with the tax treatment of savings income being made more neutral.

The following are the most notable changes:

1) A new rate schedule applicable to the general net tax base was established, with a reduction in the number of tax bands, from seven to five, and a reduction in the marginal rates applicable to such bands for 2015, and again for 2016. The lowest rate was reduced from 24.75% to 20% in 2015, and to 19% in 2016. The top rate was reduced from 52% to 47% in 2015, and to 45% in 2016.

2) The maximum limit for the reduction in taxable income for social welfare system contributions, including pension contributions, was lowered from €10,000 to €8,000 per taxpayer.

3) To stimulate the generation of savings, a number of supplementary measures were adopted: 1) a new rate schedule applicable to the net tax base for savings income was established, with a reduction in the marginal rates for each of the tax bands and, as in the case of the general net tax base, a further reduction for 2016; 2) a new long-term saving scheme (*Plan de Ahorro a Largo Plazo*) aimed at small investors was introduced, with the income generated by a deposit account or life insurance, through which such saving is channelled, being tax exempt, for amounts paid in of less than €5,000 per annum over a period of at least five years; and 3) capital gains and losses, however long the related asset has been held by the taxpayer, were included in the net tax base for savings income, while capital gains and losses can be progressively offset against returns in such base, subject to certain limits.

4) The percentage reduction applicable to income generated over a period of more than two years or obtained with a highly irregular frequency was reduced from 40% to 30%.

CHANGES TO CORPORATE INCOME TAX

Law 27/2014 made important changes to corporate income tax, regulated by the consolidated text of the Corporate Income Tax Law, approved by Royal Legislative Decree 4/2004 of 5 March 2004. These changes are sufficiently important to warrant a new law, with repeal of the existing one.

Notable among the numerous changes are the reduction in the general rate of tax, from 30% to 25%, although the rate for newly formed entities for the first tax period in which they obtain a positive taxable income and for the following period is held unchanged at 15%. Also, the 30% rate for credit institutions and for entities engaged in oil and gas exploration, drilling and production is retained.

OTHER PROVISIONS

The consolidated text of the Law on pension schemes and funds, approved by Royal Legislative Decree 1/2002 of 29 November 2002, was amended to adapt the limits on contributions to pension schemes to the new limits on reduction in the personal income tax base mentioned above. At the same time the possibility was established of gaining early access to vested rights corresponding to contributions made at least ten years previously to certain social welfare instruments, such as pension funds. A transitional provision grants access from 1 January 2025 to vested rights existing as at 31 December 2015.

Finally Law 11/2009 of 26 October 2009 regulating listed real estate investment companies (SOCIMIs by their Spanish initials) was amended. With regard to their tax treatment, no withholdings are made on dividends or distributions of profits when the shareholder receiving them is a SOCIMI subject to the special tax regime and resident for tax purposes in Spanish territory. Also, transfers or redemptions of shares in the capital of SOCIMIs by shareholders that are not resident in Spain but possess a qualifying holding (i.e. 5% or more) are no longer exempt from taxation.

State budget for 2015

As usual in December, the State budget law, in this case *Law 36/2014 of 26 December 2014 (BOE* of 30 December 2014) for 2015, was published.

Notable from the standpoint of financial and tax regulation are the following aspects:

STATE DEBT

The Minister for Economic Affairs and Competitiveness was authorised to increase the outstanding balance of State debt in 2015 by up to €49,503 million with respect to its level at the start of the year (the limit set in the last budget was €72,958 million). This limit may be exceeded during the course of the year upon the authorisation of the Minister for Economic Affairs and Competitiveness. A number of circumstances were established in which it will be automatically reviewed.

In accordance with Law 9/2012 of 14 November 2012 on restructuring and resolution of credit institutions, during the 2015 budget year the FROB's borrowed funds must not exceed €22 billion (€63.5 billion was the limit set in the last budget).

With regard to government guarantees, the limit on the total guarantees granted by the State and other government agencies is €3.5 billion (the limit set in the last budget was €3.725 billion).

Of this amount, €3 billion (the same amount as envisaged in previous budgets) will be earmarked to guarantee fixed-income securities issued by securitisation SPVs, designed to improve the financing of businesses' productive activity. To set up these securitisation SPVs, the credit institutions concerned must transfer loans and credits granted to all types of non-financial firms located in Spain, of which at least 50% must have been granted to SMEs and 25% must be short-term (for less than one year). The liquidity obtained through the securitisation must be reinvested by the credit institutions concerned in loans or credits granted to the types of firms indicated above, of which at least 80% must be SMEs. At least half of the reinvestment must take place within one year from when this liquidity is obtained.

TAX CHANGES

Under personal income tax, compensation is maintained for the loss of tax benefits affecting the recipients of certain income from capital produced over a period of more than two years in 2014, as was the case under the Personal Income Tax Law approved by Royal Legislative Decree 3/2004 of 5 March 2004, that remained in force until 31 December 2006.

In the case of venture capital funds, an exemption is established for all transactions subject to tax under the corporate transactions heading, in order to align their treatment with that of mortgage securitisation SPVs and financial instrument securitisation SPVs.

OTHER MEASURES

In accordance with ECB regulations, the budget law authorises the Banco de España to entrust the production of its share of euro banknotes to a public corporation in which it has a controlling interest, and whose sole corporate purpose is the production of such

banknotes within the European System of Central Banks.[45] However, until 31 December 2017, the Spanish Royal Mint (FNMT, by its Spanish initials) may have a holding of up to 20% in the aforementioned corporation. During this period, these two entities may share any common services required to carry out their activities.

The Banco de España is placed under a duty to inform the Monitoring Commission for Collective Bargaining at Public Enterprises (*Comisión de Seguimiento de la Negociación Colectiva de las Empresas Públicas*) in advance, of the start of collective bargaining processes or of any proposed agreement that is to be submitted to workers' representative bodies, and of any agreements reached.

With effect from 1 January 2015 and for an indefinite term, the General Secretariat of the Treasury and Financial Policy is authorised to make payments, through off-budget operations, corresponding to the financial obligations resulting from the application of negative interest rates by the Banco de España, or the liquidity management operations referred to by Article 108(2) of General Budget Law 47/2003 of 26 November 2003. The General Secretariat of the Treasury and Financial Policy will subsequently apply the payments made to the final budget for the financial period, with the exception of payments in the last quarter, which will be applied to the following year's budget.

The government is required by the law to report to the Spanish Parliament, on a quarterly basis, through its Parliamentary Budgetary Office, on the detailed balance of financial transactions entered into by the State and autonomous state agencies, and on the number of accounts held by the Treasury at the Banco de España or at other financial institutions, as well as the amounts of and changes in the account balances.

Other financial measures relate to the legal interest rate and the late-payment interest rate, which are reduced from 4% to 3.5% and from 5% to 4.375%, respectively.

Financial sustainability measures of regional and local governments, and other economic measures

Royal Decree-Law 17/2014, of 26 December 2014 (Official State Gazette of 30 December 2014), on financial sustainability measures of regional and local governments, and other economic measures, was published and, barring certain exceptions, came into force on 31 December 2014.

On the one hand, it aims to set up new mechanisms which will enable all tiers of government to share financial savings, give priority attention to social spending, continue to assist regional and local governments with greater funding difficulties and give a boost to those which have managed to overcome them. On the other, it is intended to reduce the number of funds set up to finance liquidity support mechanisms and improve the efficiency of their management.

Thus, two funds are set up, the Fund for Financing Regional Governments (FFCA) and the Fund for Financing Local Governments (FFEL). These funds are compartmentalised to adapt them to the financial needs of the aforementioned regional and local governments, and are treated as additional funding mechanisms. A system has been established for integrating existing mechanisms into the new funds and separate compartments have been created subject to conditions and obligations which can be adjusted according to

45 The Banco de España's property, budgetary, recruitment and procurement of goods and services regimes shall apply to this enterprise, even though it is subject to private law. Its budget shall be included as an annex to the budget of the Banco de España.

the financial needs that have to be covered and the degree of target fulfilment with respect to budgetary stability, public debt and supplier payment periods.

Lastly, an electronic register of the agreements signed between regional and local governments is set up. It shall contain information on any agreements entered into entailing financial obligations or payment commitments for the regional governments, and such information shall be provided by the regional financial controller. The minimum information requirements for this register have also been established.

7.1.2015.