

DECREE-LAW no. 174 of 27 October 2011
(ratifying Decree-Law no. 169 of 11 October 2011)

**URGENT MEASURES TO SUPPORT TRANSACTIONS INTENDED TO PROTECT
SAVINGS**

UNOFFICIAL TEXT

NOTICE

It is not an official text, and the Central Bank of the Republic of San Marino assumes no liability for any errors or omissions. The official text of the Laws of the Republic of San Marino can be found in the *Bollettino Ufficiale* or on the Internet website, www.consigliograndeegenerale.sm.

Article 1

This Decree shall establish instruments in support of systems' transactions aimed at protecting savings and the stability of the banking system when banks are subject to administrative compulsory winding-up proceedings.

Credit institutions which, in the context of transactions authorised by the Central Bank, acquire the assets and liabilities of San Marino financial parties subjected to administrative compulsory winding-up, may have access to the tax advantages referred to in Article 2 below, as well as to the credit facilities mentioned in subsequent Article 4.

The maximum amount of the tax advantages for each bank involved in the transaction shall be equal to the amount of the negative balance, if any, resulting from the difference between the assets and liabilities acquired at the time of the acquisition. The aforesaid amount shall be adjusted, upwards or downwards, every year during the period of time specified in Article 3 below, in proportion to the actual losses based on the actual realisation of the assets assigned. With a view to calculating the loss, due account shall be taken of any profits that may accrue to the assignee banks in the context of sale transactions or following actions for damages, even after the final deadline referred to in Article 3.

The State and/or the assignee banks, even independently from each other, for the purposes of this Decree-Law, shall be assimilated to company's creditors in all respects and, therefore, they shall be entitled to exercise the action for damages referred to in Article 56, paragraph 4, of Law no. 47 of 23 February 2006 and subsequent amendments and supplements, without prejudice to the further conduction of the actions, including actions for damages, referred to in Law no. 165/2005.

Article 2

The banks that are involved in the transactions referred to in Article 1 above, without prejudice to the provisions of paragraph 3 of the same Article, shall be entitled to benefit from a tax relief to be used:

- a) to offset the payment of the tax payable by the bank in respect of its income;
- b) to offset the payment to the State of the withholding taxes, applied under Article 39 of Law no. 91 of 13 October 1984 and subsequent amendments, which are collected by the banks in their capacity as withholding agents.

Due account shall be taken of the application of the aforesaid advantages when estimated revenue is calculated with respect to the State Budget.

Article 3

The banks referred to in Article 1 above may rely on the tax reliefs mentioned in Article 2 in the following ways, without distinction:

- for the first 6 tax years, including the year in which the transaction referred to in Article 1 is carried out: up to 15% of the total amount of advantages accruing to them, for each tax year;
- for the subsequent tax years: up to 5% of the total amount of advantages accruing to them and until complete use thereof, for each tax year.

The rates referred to in the paragraph above shall be adjusted on the basis of the corrections, if any, referred to in Article 1, paragraph 3 above.

The use of tax advantages shall be specified in the income tax return and in the withholding agent's return relating to each tax year.

Article 4

In support of the assignee banks referred to in Article 1 and in the event of liquidity stress resulting from reimbursements that the same banks might support because of the liabilities acquired in the context of the transactions mentioned above, the Central Bank may grant credit lines meeting actual liquidity needs against adequate collateral.

Without prejudice to the preceding paragraph, the aforesaid financing shall be supported by State guarantees up to a maximum of 50% of the acquired liabilities and, in any case, up to an amount not exceeding the amount of the financial support provided.

The procedures for issuing the guarantees referred to in the paragraph above shall be laid down in an apposite regulation of the Congress of State.

Article 5

The documents regarding the disposal of assets and liabilities to banks in the context of the transactions referred to in Article 1, as well as any subsequent document on the transfer of the assets to vehicle corporations or mutual funds, shall be exempt from registration taxes, stamp duties, recording taxes and cadastral registration taxes in order to facilitate selling transactions.

The Ministry of Finance and the Budget may establish, through a Circular, specific provisions enforcing this Decree, considering the elements of the contracts for the acquisition of the assets and liabilities referred to in Article 1.

Done at Our Residence, on 27 October 2011/1711 years since the Foundation of the Republic.

*THE CAPTAINS REGENT
Gabriele Gatti - Matteo Fiorini*

THE MINISTER OF
INTERNAL AFFAIRS
Valeria Ciavatta