

**REGULATION ON  
FINANCIAL PROMOTION  
AND OUT-OF-OFFICE CANVASSING**

**year 2014 / number 01**

*(Consolidated text as at 01/11/2016 - Update I)*

## TITLE I

### DEFINITIONS GENERAL PROVISIONS ON OUT-OF-OFFICE CANVASSING

#### Article 1 – Definitions

1. For the purposes of this Regulation:

- a) "**Central Bank**": means the Central Bank of the Republic of San Marino;
- b) "**professional clients**": the parties referred to in Article 1, paragraph 1, letter f) of Regulation. no. 2006-03 on mutual investments funds;
- c) "**placement with the general public**": collection by out-of-office canvassing parties of the contractual proposals subscribed by the clients with subsequent forwarding to the authorised party on behalf of whom the same out-of-office canvassing parties are operating;
- d) "**identification document**": a document containing the photograph and all personal details of a natural person, issued by a national or foreign public authority;
- e) "**company members**": the individuals who perform administrative, managerial or supervisory duties in authorised entities as referred to in Article 15 of LISF;
- f) "**Corporations Act**": Law no. 47 of 23 February 2006;
- g) "**LISF**": Law no. 165 of 17 November 2005;
- h) "**out-of-office canvassing**": the promotion or placement with the general public:
  - 1) of financial instruments in a place other than the registered office or the branches of the issuer, the party proposing the investment or the authorised party responsible for the promotion or placement;
  - 2) of investment services in a place other than the registered office or the branches of the authorised party who offers, promotes, and places the service;
- i) "**out-of-office canvassing party**": the financial promoter or the employee of authorised entities who conducts out-of-office canvassing;
- j) "**promotion with the general public**": advertising and customised presentation by the out-of-office canvassing parties to potential clients of contract proposals provided by the authorised party on behalf of whom the same out-of-office canvassing parties are operating;
- k) "**financial promoter**": natural person who, acting as agent or authorised representative, carries out professionally out-of-office canvassing of financial instruments and investment services as referred to in Article 24 of LISF;
- l) "**register**": the public register of financial promoters referred to in Article 25 of LISF, including of the specific section dedicated employees the to authorised parties exercising out-of-office canvassing;
- m) "**authorised parties**": parties who have obtained the authorisation to exercise one or more reserved activities under LISF, including foreign parties approved pursuant to Article 75 of LISF;

2. Except as otherwise specified, for the purposes of these provisions the definitions included in the LISF shall apply.

3. In the following articles of this Regulation, the words that correspond to these definitions are in bold characters.

#### **Article 2 – Scope of application and exclusions**

1. This Regulation governs the professional exercise of the activities of the FINANCIAL PROMOTER and the OUT-OF-OFFICE CANVASSING of financial instruments and investment services on the territory of the Republic of San Marino.

2. An offer toward PROFESSIONAL clients does not constitute OUT-OF-OFFICE CANVASSING. The out-of-office promotion and placement of financial instruments and investment services towards PROFESSIONAL CUSTOMERS other than those referred to in Article 1, paragraph 1, letter f), point 1) of Regulation no. 2006-03, must nonetheless be carried out on behalf of AUTHORISED PARTIES.

#### **Article 3 – AUTHORISED PARTIES who can exercise OUT-OF-OFFICE CANVASSING**

1. AUTHORISED PARTIES may exercise OUT-OF-OFFICE CANVASSING of investment services for whose provision they are authorised. If the authorisations also covered the placement service, financial instruments may also be offered by OUT-OF-OFFICE CANVASSING, alongside INVESTMENT SERVICES provided by other PARTIES AUTHORISED by the CENTRAL BANK.

2. For OUT-OF-OFFICE CANVASSING, AUTHORISED PARTIES must use FINANCIAL PROMOTERS registered in the REGISTER, or to its own employees registered in the appropriate section of the same REGISTER.

3. FINANCIAL PROMOTERS can promote by call-calling also products or services referred to in the following paragraphs 4 and 5, different from investment services and financial instruments, where the party on behalf of whom they operate is authorised to carry out the same.

4. FINANCIAL PROMOTERS can, pursuant to Article 8, paragraph 3, of Regulation no. 2007-02 concerning insurance and reinsurance mediation, be authorised to carry out insurance mediation for the insurance contracts referred to in Articles 116 and 117 of LISF, , subject to registration in section A of the register of insurance and reinsurance intermediaries. The relevant provisions of Regulation no. 2007-02 apply to the insurance mediation carried out by FINANCIAL PROMOTERS, and in particular the provisions of Part III concerning the rules of organisation and conduct.

5. FINANCIAL PROMOTERS may also promote out-of-office services and banking products, in accordance with the rules governing relations with clients referred to in Regulation no. 2007-07 of savings and of banking activities, in particular Articles X.III.3 and X.IV.13; as well as promote out-of-office services or products included within the exercise of the activities referred to under letter B of Annex 1 to LISF, in compliance with the rules on relationships with clients referred to in Regulation no. 2011-03 of loan granting activities (financial companies), and in particular of Articles X.III.3 and X.IV.13.

#### **Article 4 – Effectiveness of insurance contracts**

1. Except as provided for in the regulations implementing LISF, governing the practice of specific reserved activities, the effectiveness of out-of-office contracts is suspended for the duration of eight days from the date of subscription by the client. Within this period, the client may notify the FINANCIAL PROMOTER or the AUTHORISED PARTY in writing about his/her withdrawal at no cost or fee. This option must be indicated in the documents delivered to the client. Non-disclosure of the right of withdrawal involves the invalidity of the relevant contracts, which may be invoked only by the client.

2. The suspension of the effectiveness of the contracts referred to in the preceding paragraph does not apply to orders concerning FINANCIAL INSTRUMENTS arranged by the client in the context of contracts relating to investment services referred to in paragraph D1) and D2) of Annex 1 to LISF.

#### **Article 5 – Responsibility of AUTHORISED PARTY**

1. The activity of FINANCIAL PROMOTER is carried out exclusively in the interests of only one AUTHORISED PARTY.

2. THE AUTHORISED PARTY conferring the appointment is jointly and severally liable for any damages made to third parties by the financial promoter in the exercise of his/her agency or of the appointment received.

3. The damage caused to a third party by the employees of AUTHORISED PARTIES who exercise OUT-OF-OFFICE CANVASSING, is under the responsibility of and is to be borne towards third parties directly by the AUTHORISED PARTY. The monetary sanctions imposed by the CENTRAL BANK to the AUTHORISED PARTY in relation to the operations of the employee who exercises OUT-OF-OFFICE CANVASSING, are to be borne by the same AUTHORISED PARTY, without the right of recourse against the employee.

#### **Article 6 – Rules of conduct, transparency and protection towards clients**

1. OUT-OF-OFFICE CANVASSING must guarantee the application of the rules of conduct, transparency and the protection of clients provided by the provisions on INVESTMENT SERVICES and investment solicitation. The AUTHORISED PARTIES are organised in such a way as to ensure the compliance, even by OUT-OF-OFFICE CANVASSING PARTY, of the rules laid down with regard to the specific INVESTMENT SERVICE or FINANCIAL INSTRUMENT offered.

2. If OUT-OF-OFFICE CANVASSING concerns products or services referred to in Article 3, paragraphs 4 and 5, other than INVESTMENT SERVICES and FINANCIAL INSTRUMENTS, the application of specific rules of conduct, transparency and the protection of clients must also be ensured for these products and services and equally AUTHORISED parties must arrange for their compliance.

3. OUT-OF-OFFICE CANVASSING PARTIES are required to continue their professional development through participation in courses on a periodic basis, upon whose conclusion they are issued certificates of attendance. To this end, AUTHORISED PARTIES implement appropriate procedures to ensure the adequate training and professional development of FINANCIAL PROMOTERS and employees of whom they avail to carry out OUT-OF-OFFICE CANVASSING.

## TITLE II

### REGISTER AND PROVISIONS CONCERNING FINANCIAL OPERATORS AND EMPLOYEES OF OUT-OF-OFFICE CANVASSING AUTHORISED PARTIES

#### Chapter I

##### Creation, content and publication of the REGISTER

###### **Article 7 – Establishment of REGISTER**

1. The PUBLIC register of FINANCIAL PROMOTERS referred to in Article 25 of LISF, including the specific section dedicated to the employees of AUTHORISED PARTIES exercising OUT-OF-OFFICE CANVASSING.

2. The register of FINANCIAL PROMOTERS includes registrations of natural persons residing in the Republic of San Marino who possess the requirements referred to in Chapter II of this Title who exercise professionally OUT-OF-OFFICE CANVASSING.

3. A specific section of the REGISTER is dedicated to the employees of AUTHORISED PARTIES who possess the requirements referred to in Article 10 and the professional skills equivalent to those provided for in Article 11, required for the professional practice of FINANCIAL PROMOTER activities, whose evaluation of equivalence is the responsibility of the same AUTHORISED PARTY exercising OUT-OF-OFFICE CANVASSING. The registration of employees of AUTHORISED PARTIES in the specific section of the REGISTER, as well as the maintenance of such registration, is also subject to the compatibility and relevance of the role played by such employees in the corporate structure of the AUTHORISED PARTY, with the actual performance of OUT-OF-OFFICE CANVASSING. The satisfaction of this requirement, as well as when it is no longer met, should be notified by the AUTHORISED PARTY.

###### **Article 8 – Content of REGISTER**

1. The REGISTER of FINANCIAL PROMOTERS contains the following information with reference to each registered party:

- a) registration number;
- b) registration date;
- c) surname and name;

- d) place and date of birth;
- e) place of residence;
- f) storage place of mandatory documents;
- g) name of the AUTHORISED PARTY on behalf of whom out-of-office canvassing took place;
- h) any measures adopted by the CENTRAL BANK.

2. The section of the REGISTER relating to the employees of AUTHORISED PARTIES exercising OUT-OF-OFFICE CANVASSING contains the following information with reference to each registered party:

- a) registration number;
- b) registration date;
- c) surname and name;
- d) place and date of birth;
- e) name of the AUTHORISED PARTY on behalf of whom out-of-office canvassing took place;
- f) any measures adopted by the CENTRAL BANK.

#### **Article 9 – Publication and maintenance of REGISTER**

1. The CENTRAL BANK is in charge of maintaining and updating the REGISTER referred to in Article 7 above, also through publication on its *website* ( [www.bcsm.sm](http://www.bcsm.sm)).

2. The CENTRAL BANK, in keeping and updating the REGISTER:

- a) carries out registrations and cancellations, by notifying the interested parties, as well as updates the data reported therein;
- b) issues to OUT-OF-OFFICE CANVASSING PARTIES, the certificates of registration and removal, as well as any further certification upon the request of registered parties;
- c) shows timely evidence of the measures taken against the registered parties by the CENTRAL BANK;
- d) checks the permanence of the requirements necessary to continue the registration. AUTHORISED PARTIES cooperate with the CENTRAL BANK, ascertaining that applicants possess the honorability and professionalism requirements to join the REGISTER, EVALUATING its maintenance following registration and timely informing the CENTRAL BANK in the event of loss of the same.

## **Chapter II**

### **Requirements and procedure for REGISTRATION**

#### **Article 10 – Honorability requirements**

1. REGISTRATION is conditional on having the mandatory prerequisite of honorability, which is required of BANK MEMBERS, as stipulated under Regulation No. 2007-07.

2. In order to prove the possession of the requirements specified in the previous paragraph, the application for

registration must be accompanied by the following documents, which shall bear a date not earlier than three months before the date of application:

- a) general criminal certificate, certificate of pending proceedings, civil certificate or certificate of non-bankruptcy, issued by the competent authorities of the place where the person resided for the greatest part of the last five years, in compliance with the criteria of "substantial equivalence" referred to in article 1, paragraph 2 of the CORPORATIONS ACT;
- b) self-certification, as regards to all of the remaining jurisdictions, of the applicant given before a Public Notary of San Marino, using the template set forth under Annex A.

3. With a view to verifying the territorial jurisdiction of the public authorities having issued the certificates referred to in the previous paragraph, said certificates shall be accompanied by a copy of a valid IDENTITY DOCUMENT.

4. The certificates referred to in the second paragraph, letter a), may also result from a single cumulative document.

#### **Article 11 – Professionalism requirements of FINANCIAL PROMOTERS**

1. In order to be registered in the REGISTER of FINANCIAL PROMOTERS, the applicant shall satisfy the following requirements:

- a) education qualification no lower than a high school diploma;
- b) to have carried out, in the five years prior to the request for registration in the REGISTER, work activities with a responsibility role in functions characterising the conduct of INVESTMENT SERVICES for at least three years in total, with an AUTHORISED PARTY in the exercise of one of the activities referred to under letters D, E and F, of Annex 1 to LISF, or with a foreign entity authorised by the respective supervisory authority to exercise equivalent activities;
- c) it must not have undergone in the two years prior to the submission of the application, a measure of removal from the REGISTER referred to in Article 7, or a measure of similar severity or removal from specific registers or equivalents held by foreign supervisory authorities.

2. As an alternative to the requirement provided for in letter b) of the preceding paragraph, shall be considered a suitable requirement:

- a) to have passed the evaluation required for inclusion in the single Register of financial promoters, referred to in Article 31 of Italian Legislative Decree no. 58 of 24 February 1998, or, for registration in the appropriate registers kept by other supervisory authorities or by foreign self-regulation bodies for the practice of activities equivalent to that of FINANCIAL PROMOTER. Foreign certifications produced for the purposes of acknowledging possession of the requirements for professionalism are subjected to the CENTRAL BANK, which evaluates their equivalence;
- b) have professional certifications issued by recognised internationally associations, whose eligibility for the purposes of the necessary requirement depends on assessments of the CENTRAL BANK.

3. In order to verify the requirements mentioned in the previous paragraphs, the following documents must be produced:
- a) education qualification certificate or a certified copy thereof;
  - b) *curriculum vitae*;
  - c) a statement made by the entity or entities where the functions envisaged in paragraph 1, letter b) were performed, certifying the professional experience of the applicant, specifically with regard to the role and tasks actually performed and the period of time in which they were performed, specifying the function characterising the performance of investment services with a role of responsibility, the type of financial products and/or investment services placed or distributed; the CENTRAL BANK reserves the right to assess other certificates, even if not issued by the entity indicated in this letter, from which the same circumstances may be inferred;
  - d) as an alternative to the document referred to under point c):
    - certification of a pass in the evaluation required for the registration in the records or registers referred to in letter a) of paragraph 2 above, or a certificate proving the registration in such records or registers;
    - professional certification in the cases referred to under letter b) of paragraph 2 above;
  - e) a declaration stating that, in the two years before the filing of the application, he/she was not subject to the proceeding specified in paragraph 1, letter c) above.

#### **Article 12 – Professionalism requirements of FINANCIAL PROMOTERS**

1. The following may not be entered in the REGISTER of financial promoters and, if they are registered, are removed ex officio: parties who have lost the requirements for maintaining their registrations in registers or foreign registers referred to in the previous Article 11, paragraph 2, letter a) who were registered in the 24 months prior to the date of submission of the application to register in the REGISTER referred to in Article 7 above. The same effects are produced in the case where the registration in foreign records or registers as referred to in the previous Article 11, paragraph 2, letter a) was carried out after the inclusion in the register referred to in Article 7.

2. The professional practice of FINANCIAL PROMOTER activities is incompatible:

- a) with the practice of the consultancy activities concerning investment in financial instruments, except in the case that the activities are carried out on behalf of the AUTHORISED PARTY for whom the same PROMOTER operates;
- b) in the capacity of director, statutory auditor, manager or internal auditor, employee, employee of an AUTHORISED PARTY or foreign parties authorised by their supervisory authorities to practice reserved activities equivalent to those referred to in LISF;
- c) in the capacity of member, director, statutory auditor or employee of auditing companies in charge of the certification of the annual financial statements of AUTHORISED PARTY or foreign parties authorised by their supervisory authorities to practice reserved activities equivalent to those referred to in LISF;
- d) with every additional task or activity in serious contrast with its orderly execution.

#### **Article 13 – Application for registration**

1. The application for the registration in the REGISTER of FINANCIAL PROMOTERS prepared according to the



model enclosed under Annex B and accompanied by the documents specified in such Annex must be signed by the party concerned and forwarded to the Supervision Department of the Central Bank of the Republic of San Marino.

2. The application for registration in the REGISTER section for employees of AUTHORISED PARTIES exercising OUT-OF-OFFICE CANVASSING, prepared according to the template enclosed under Annex B and accompanied by the documents specified in such Annex, must be signed jointly by the AUTHORISED PARTY and by the employ whose registration is requested and forwarded to the Central Bank of the Republic of San Marino – Supervision Department.

3. The application is deemed to have been received on the date in which it was handed over directly at the offices of the CENTRAL BANK or on the date on which it was received by the CENTRAL BANK, if sent by registered mail with acknowledgement of receipt.

#### **Article 14 – CENTRAL BANKS provisions**

1. Within thirty days from the date of receipt of the application, the CENTRAL BANK, having verified the existence of the requested requirements referred to in this Title, issues a decision for the acceptance or rejection thereof.

2. The period provided for in the preceding paragraph is suspended if the documentation is incomplete or if the applicant sends, on his/her own initiative, new documents to supplement or amend those previously transmitted. The CENTRAL BANK notifies the interested party of the suspension of such period. A new term for a period equal to that interrupted starts as from the date of receipt of the missing documents, supplements or amendments.

3. The period provided for under paragraph 1 is suspended if the CENTRAL BANK requests additional information to supplement the documentation submitted, setting a period for the transmission of such information and warning that failure to provide the additional information required will lead to the application being considered as withdrawn.

4. Should the application for registration in the REGISTER of FINANCIAL PROMOTERS be accepted, the CENTRAL BANK issues a statement in order to allow the applicant to acquire further authorisations provided for under the laws of San Marino to conduct professional activities.

5. Once the documents referred to in the preceding paragraph 4 have been acquired, the applicant shall transmit to the CENTRAL BANK a certified copy of the authorisations attained and a copy of the insurance civil liability policy referred to in Article 23, as well as a copy of the contract for the appointment by the AUTHORISED PARTY. If more than three months have elapsed from issuance of the certificate provided for by the previous paragraph 4, certificates proving the honorability requirements should be renewed.

6. The CENTRAL BANK, having verified the completeness of the supplemental documents provided for by the previous paragraph, registers the applicant in the REGISTER of FINANCIAL PROMOTERS and issues the certificate

of registration referred to in Article 9, paragraph 2, letter b).

7. The CENTRAL BANK notifies the registration of the FINANCIAL PROMOTER to the Public Administration departments involved.

8. In the case of a measure approving the application for registration in the section of the REGISTER dedicated to employees of AUTHORISED PARTIES exercising OUT-OF-OFFICE CANVASSING, the CENTRAL BANK enters the party in the appropriate section of the REGISTER and issues a certificate of registration as referred to in Article 9, paragraph 2, letter b).

### Chapter III

#### Suspension and removal from the REGISTER

##### **Article 15 – Suspension upon request of a party**

1. OUT-OF-OFFICE CANVASSING PARTIES may request suspension from the REGISTER by sending an application to the Central Bank of the Republic of San Marino – Supervision Department. The application with which suspension is required is signed by the FINANCIAL PROMOTER and sent as a copy to the AUTHORISED PARTY on behalf of whom it operates. If the application for suspension concerns an employee of an AUTHORISED PARTY who exercises OUT-OF-OFFICE CANVASSING, the application itself is signed by the employee and sent as a copy to the AUTHORISED PARTY or is signed by the AUTHORISED PARTY and sent as a copy to the employee or is signed jointly by both.

##### **Article 16 – Suspension ex officio**

1. The CENTRAL BANK may order the suspension of the OUT-OF-OFFICE CANVASSING PARTY from the REGISTER for a period not exceeding six months in case of breaches of the law or this Regulation, and in particular in the event of:

- a) breach by FINANCIAL PROMOTER of the provisions referred to in Article 12, paragraph 2, if the incompatibilities can be removed within an adequately limited period;
- b) breach by the FINANCIAL PROMOTER of the general rules of conduct referred to in Article 20, paragraphs 2 and 3;
- c) breach by the OUT-OF-OFFICE CANVASSING PARTY of the rules for presentation and conduct toward clients referred to in Article 21, paragraph 4;
- d) breach by the FINANCIAL PROMOTER OF THE obligations for the storage of the documentation referred to in Article 22;
- e) breach by the FINANCIAL PROMOTER of the provisions on the insurance policy referred to in Article 23.

##### **Article 17 – Removal upon request of a party**

1. OUT-OF-OFFICE CANVASSING PARTY may request the removal from the REGISTER by sending an application

to the Central Bank of the Republic of San Marino, –Supervision Department. The application with which removal is requested is signed by the FINANCIAL PROMOTER and is sent as a copy to the AUTHORISED PARTY on behalf of whom it operates. If the application for removal concerns an employee of an AUTHORISED PARTY who exercises OUT-OF-OFFICE CANVASSING, the application itself is signed by the employee and sent as a copy to the AUTHORISED PARTY or is signed by the AUTHORISED PARTY and sent as a copy to the employee or is signed jointly by both.

#### **Article 18 – Removal ex officio**

1. The CENTRAL BANK may order the removal ex officio from the REGISTER in the following cases:

- a) loss of the requirements for registration, and with reference to FINANCIAL PROMOTERS, including the occurrence of any impediments or incompatibilities as referred to in Article 12, where the situations of incompatibility are not removable within an adequately limited term;
- b) serious violations of the law or the obligations provided for in this Regulation, including:
  - 1) breach by the FINANCIAL PROMOTER of the provision referred to in Article 5, paragraph 1;
  - 2) OUT-OF-OFFICE CANVASSING carried out on behalf of non-authorised parties;
  - 3) soliciting investment in breach of the provisions referred to in Part III, Title I of LISF and its implementing provisions by the OUT-OF-OFFICE CANVASSING PARTY;
  - 4) breach by the FINANCIAL PROMOTER of the rules of presentation and conduct toward clients referred to in Article 21, paragraphs 5, 6 and 7;
  - 5) communication or transmission to the client or potential client or to the CENTRAL BANK of false information and documents by the OUT-OF-OFFICE CANVASSING PARTY;
  - 6) the forging of the signature of the client or potential client by the OUT-OF-OFFICE CANVASSING PARTY;
  - 7) execution of transactions that were not arranged or authorised by the client or the potential client, concerning reports that are relevant to the latter, or nevertheless connected to the same by the OUT-OF-OFFICE CANVASSING PARTY;Seriousness may also result from the reiteration of violations already sanctioned with the suspension under article 16, paragraph 1;
- c) non-payment of the supervision contribution by the FINANCIAL PROMOTERS;
- d) death.

#### **Article 19 – Procedure and effects of suspension and removal orders**

1. The CENTRAL BANK, no later than thirty days from receipt of the request for a suspension or removal upon the request of a party, shall issue an order providing respectively for the suspension or removal.

2. In the cases of suspension or removal ex officio, the CENTRAL BANK notifies to the FINANCIAL PROMOTER in writing or, if the dispute involves an employee of an AUTHORISED PARTY that exercises OUT-OF-OFFICE CANVASSING, the same AUTHORISED PARTY and the employee, of the breaches detected or other assumptions,

specifying the underlying facts and documents, and grants, to the FINANCIAL PROMOTER or, if the dispute relates to an employee, to the AUTHORISED PARTY, a period of thirty days in which to submit the objections.

3. Within thirty days from the expiry of the period indicated in the previous paragraph, the CENTRAL BANK, having assessed the objections, issues an order with which, should it deem that the allegations must not be dismissed or that the findings can be remedied, it orders suspension for a specified period of time, included in the limit referred to in Article 16, paragraph 1, or the removal from the REGISTER.

4. The CENTRAL BANK notifies the suspension and removal orders issued under the paragraphs above. If the measure concerns a FINANCIAL PROMOTER, the notification is issued against the FINANCIAL PROMOTER itself, the AUTHORISED PARTY on behalf of whom it operates and the public administration departments concerned. If the measure concerns an employee of an AUTHORISED PARTY that practices OUT-OF-OFFICE CANVASSING, the notification is issued to the same AUTHORISED PARTY and to the employee.

5. Through provisions for the suspension or removal ex officio, appeal in the Administrative Court is admitted, pursuant to Article 38, paragraph 6 of LISF, in the manner and forms provided for by Law no. 68 of 28 June 1989 as amended.

6. As from issuance of the measure of the CENTRAL BANK with which the suspension is arranged and for the entire period of suspension from the REGISTER, the OUT-OF-OFFICE CANVASSING PARTY is required to complete any transactions for which it had already received the sums to be transmitted to the AUTHORISED PARTY on behalf of whom it operates, and it cannot promote or stipulate new contracts, but it can provide its cooperation in the management or execution of the contracts entered into before the suspension.

7. The suspension procedures and the duration thereof, if defined, are noted in the REGISTER until the end of the suspension period.

8. As from issuance of the CENTRAL BANK measure with which removal IS ORDERED, the OUT-OF-OFFICE CANVASSING PARTY may not promote or enter new contracts and is obliged to complete any operations for which it has already received the sums to transmit to the AUTHORISED PARTY on behalf of whom it operates.

## Chapter IV

### Rules of organisation and conduct concerning OUT-OF-OFFICE CANVASSING PARTY

#### **Article 20 – General rules of conduct concerning FINANCIAL PROMOTERS**

1. FINANCIAL PROMOTERS must operate on the basis of a written contract with the AUTHORISED PARTY who appointed them. This contract must regulate the content of the services to be provided, their execution procedures and the calculation of commissions, and identify the FINANCIAL INSTRUMENTS and INVESTMENT SERVICES to be offered by means of OUT-OF-OFFICE CANVASSING.

2. FINANCIAL PROMOTERS must always behave with due diligence, fairness and transparency and are bound to compliance with the provisions of this Regulation and of the provisions applicable to them in relation to money laundering. FINANCIAL PROMOTERS are also obliged to comply with the provisions ordered by the AUTHORISED PARTY on behalf of whom they operate, and to carry out the duties required on the basis and within the limits of their appointment, in order to ensure, pursuant to Article 6, compliance with the rules of conduct, transparency and the protection of clients regarding the services or instruments offered.

3. FINANCIAL PROMOTERS are required to maintain the confidentiality of the information acquired from clients or potential clients, or which they have by virtue of their activities, except towards the AUTHORISED PARTY on behalf of whom they operate and in any other case in which the law requires its disclosure. However, the use of the above information is prohibited for interests other than strictly professional ones.

#### **Article 21 – Rules of presentation and conduct towards clients**

1. At the time of the first contact, the OUT-OF-OFFICE CANVASSING PARTY:

- a) delivers to the client or potential client, a copy of a declaration prepared by the AUTHORISED PARTY on behalf of whom it operates, showing the identification elements of this PARTY, details of registration in the REGISTER and the ID details of the PROMOTER or employee who practices OUT-OF-OFFICE CANVASSING, as well as the address to which the declaration of withdrawal is to be sent, pursuant to Article 4;
- b) delivers to the client or potential client of a copy of a communication compliant with the template referred to in Annex D.

2. In the case of a change in the data reported on the declaration referred to in paragraph 1, letter a), a new updated version of the declaration must be delivered to the client or potential client.

3. The OUT-OF-OFFICE CANVASSING PARTY carries out the information requirements towards the client or potential client in a clear and comprehensive manner and verifies that the same understood the essential characteristics of the proposed operation.

4. The OUT-OF-OFFICE CANVASSING PARTY must verify the identity of the client or potential client, prior to collecting its subscriptions or provisions, and provide the latter with copies of the contracts, of the provisions and any other instrument or document signed.

5. The OUT-OF-OFFICE CANVASSING PARTY may receive from the client or potential client, for the consequent immediate transmission, exclusively:

- a) cheques, bankers' drafts or postal orders made payable to the AUTHORISED PARTY on behalf of whom it operates or to the party whose services, financial instruments or products are offered, with a non-transferability clause;

- b) wire transfer orders and similar documents whose recipient is one of the parties indicated under the previous letter;
- c) registered or by-order financial instruments, in the name of or endorsed by the party that performing the service on offer.

6. The OUT-OF-OFFICE CANVASSING PARTY cannot receive from clients any cash and any form of compensation or financing.

7. THE OUT-OF-OFFICE CANVASSING PARTY cannot use the data transmission codes to access reports relating to clients or potential clients or in any way connected to them.

#### **Article 22 – Storage of documentation by OUT-OF-OFFICE CANVASSING PARTY**

1. The FINANCIAL PROMOTER must keep in an orderly manner for at least five years in the notified places:

- a) a copy of the contracts signed by clients through the former;
- b) other documents signed by clients;
- c) the correspondence exchanged with the AUTHORISED PARTIES on behalf of whom the PROMOTER has operated over time;
- d) voice recordings that it is required to carry out in the conduct of its business.

2. Except as provided for by legislation on filing books and documents, the contracts and documents covered by this Regulation must be retained for at least five years from the time when they were prepared, also through magnetic media, microfilming, optical or digital media, or other equivalent technical forms ensuring their integrity. Even voice recordings of the orders and telephone authorisations must be retained for at least five years from their execution. Within the aforementioned storage period, the FINANCIAL PROMOTER must make available to the client who requests it, within seven days of request, the documents and recordings in its possession that concern it, against reimbursement of the costs actually incurred.

3. The FINANCIAL PROMOTER must record chronologically in a specific register, also held in a computerised form, the individual transactions concluded with clients.

4. The requirements for storage of the entire documentation relating to OUT-OF-OFFICE CANVASSING activities exercised by employees are the responsibility of and are fulfilled by the AUTHORISED PARTY on behalf of whom the same employees operate.

#### **Article 23 – Insurance policy**

1. Before starting the operations, the FINANCIAL PROMOTER must enter a civil liability insurance policy for the activities carried out with a maximum limit of at least 1 million Euro for each claim and 3 million globally, for all damage caused to third parties for negligence and professional errors.

## Chapter V Supervision

### Article 24 – Powers of the Supervisory Authority

1. The CENTRAL BANK supervises the activities of the FINANCIAL PROMOTERS with the powers provided for in Part II, Title I, Chapter I of LISF.

### Article 25 – Documentation to be sent to the Supervisory Authority by the FINANCIAL PROMOTERS

1. By 31 March of each year, FINANCIAL PROMOTERS must send to the CENTRAL BANK:

- a) the certification provided for by Article 10, paragraph 2, updated to a date no earlier than three months compared to the date of submission;
- b) a report on the activities conducted during the previous year, drawn up according to the format defined by a specific measure published on the *website* of the CENTRAL BANK, [www.besm.sm](http://www.besm.sm);
- c) a copy of the civil liability insurance policy referred to in Article 23.

### Article 26 – Reporting requirements

1. After registration, for the purpose of updating the REGISTER, FINANCIAL PROMOTERS, or the PARTIES AUTHORISED jointly with an employee who exercises OUT-OF-OFFICE CANVASSING ACTIVITIES, must communicate to the CENTRAL BANK every change in the data contained in the REGISTER, within ten days of the date on which the change occurred.

2. AUTHORISED PARTIES communicate to the CENTRAL BANK that, as regards the FINANCIAL PROMOTERS AND employees that they avail themselves of, their registration requirements have expired.

3. AUTHORISED PARTIES shall transmit to the CENTRAL BANK the names of FINANCIAL PROMOTERS and employees of whom they avail themselves for OUT-OF-OFFICE CANVASSING, with whom they have begun or ceased an agency relationship or a mandate or employment contract, during the previous month.

### Article 27 – Sanctions

1. The violation of the provisions contained in this Regulation may be sanctioned under Decree no. 76 dated 30 May 2006.

2. The monetary sanctions imposed by the CENTRAL BANK to AUTHORISED PARTIES pursuant to Article 5, paragraph 3 of this Regulation shall apply towards the parties referred to in Article 22 of Decree no. 76 of 30 May 2006, in accordance with the provisions therein.

### TITLE III CROSS-BORDER OPERATIONS

#### **Article 28 – Operations abroad of FINANCIAL PROMOTERS registered in the REGISTER**

1. The conduct of FINANCIAL PROMOTER activities abroad by the parties entered in the REGISTER is subject to compliance with the provisions in force in the jurisdiction of the foreign country in which one intends to operate, under the right of establishment or free provision of services, and the prior submission of an application for authorisation to the CENTRAL BANK containing the following information:

- a) the foreign Country where they intend to operate;
- b) the organisational measures to be adopted to conduct operations;
- c) the AUTHORISED PARTY on behalf of whom OUT-OF-OFFICE CANVASSING is to take place;
- d) the INVESTMENT SERVICES and the FINANCIAL INSTRUMENTS that one intends to offer by OUT-OF-OFFICE CANVASSING.

2. Within ninety days from the date of receipt of the application, the CENTRAL BANK, having assessed the adequacy of the organisational procedures expressed in relation to the activities to be carried out, issues a decision for the acceptance or rejection thereof. The provisions of article 14 are applied as regards the interruption and suspension of the terms. The term may be interrupted also when the CENTRAL BANK deems it appropriate to involve the Supervisory Authority or any other self-regulating competent entity of the foreign country.

3. After receiving the authorisation of the CENTRAL BANK, the FINANCIAL PROMOTER registered in the Register may forward a request to the Supervisory Authority or any other competent self-regulating entity of the foreign country and must inform the CENTRAL BANK on the outcome of such a request and, in case of positive reply, it must notify the effective date of the commencement of the operations in the foreign country for the purposes of REGISTER RECORDING.

### TITLE IV TRANSITIONAL AND FINAL PROVISIONS

#### **Article 29 – FINANCIAL PROMOTERS already registered in the list of FINANCIAL PROMOTERS held by the CENTRAL BANK**

1. The FINANCIAL PROMOTERS referred to in Article 156, paragraph 5, of LISF, must comply with these provisions within 180 days from the date of entry into force of this Regulation.

#### **Article 30 – Abrogated provisions**

1. Pursuant to Article 157, paragraph 4, of LISF, due to the entry into force of this Regulation, the supervisory provisions



referred to in Uniform Letters no. 39 and n. 94 addressed respectively to financial companies and banks, as well as to financial promoters, issued on 20 July 1998 by virtue of the regulations repealed by LISF, become inapplicable.

**ANNEXES TO THE  
REGULATIONS CONCERNING  
FINANCIAL PROMOTION AND  
OUT-OF-OFFICE CANVASSING  
year 2014 / number 01**

## SELF CERTIFICATION OF COMPLIANCE WITH THE HONORABILITY REQUIREMENTS

I, the undersigned \_\_\_\_\_ born  
\_\_\_\_\_ on \_\_\_\_\_ and a resident  
of \_\_\_\_\_ I.S.S. code/Tax code \_\_\_\_\_, a citizen of  
\_\_\_\_\_, fully aware of the civil and criminal responsibility that I assume concerning  
the truthfulness of the statements listed below

### HEREBY DECLARE

pursuant to Law no. 165 of 17 November 2005 and the implementing measures issued by the Central Bank of the Republic of San Marino, that:

1) in the last five-year period I resided, most of the time, at the following address:<sup>1</sup>

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2) the enclosed certificates, issued by the competent local public authority based on the residence specified in point 1 above, do not evidence any element that might negatively affect the possession of the requirements of honorability as envisaged in the supervisory provisions currently in force;

3) currently, I am not aware of any prejudicial processes/procedures/actions against me, already concluded or still pending with any jurisdiction other than that referred to under point 2 above, likely to jeopardise the possession of honorability requirements provided for by current supervisory provisions and, having never committed any facts that are their prerequisite, I have no reason to believe that they may occur.

### I HEREBY AUTHORISE

the Central Bank of the Republic of San Marino to carry out any relevant and necessary verification with the competent

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<sup>1</sup> Insert: City name (Country name), street/square name and number.

Offices to prove the veracity of my statements in this document.

In witness thereof.

\_\_\_\_\_

Republic of San Marino, \_\_\_\_\_

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*NOTARISATION OF THE SIGNATURE*

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**APPLICATION FORM TO ENROLL  
IN THE REGISTER OF FINANCIAL PROMOTERS**

**To the Central Bank of the Republic of San Marino  
Supervision Department  
Via del Voltone, n. 120  
47890 SAN MARINO**

I, the undersigned (*name and surname*) \_\_\_\_\_  
born in \_\_\_\_\_ on \_\_\_\_\_,  
residing in \_\_\_\_\_,

ASK

to be entered in the register of financial promoters established pursuant to Article 25 of Law no. 165 of 17 November 2005.

For this purpose, I

DECLARE

- that the main place of business, where the relevant documentation will be kept, is located in the Republic of San Marino at the following address: \_\_\_\_\_  
\_\_\_\_\_;

- that I have not undergone in the two years prior to the submission of this application, a measure of removal from the said register of financial promoters or a measure of similar severity or removal from specific or equivalent registers held by foreign supervisory authorities.

To the present application, the undersigned attaches the following documents according to Reg. CBSM no. 2014-01:

- 1) Photocopy of an identity document;
- 2) Certificate of residence;
- 3) Citizenship certificate;

- 4) General criminal records certificate;
- 5) Certificate of pending proceedings;
- 6) Self-certification of honorability requirements;
- 7) Non-bankruptcy certificate or civil certificate;
- 8) *Curriculum vitae*;
- 9) Certified copy of the diploma or certification of educational qualification;
- 10-a) Declaration referred to in Article 11, paragraph 3, letter c);  
*or*
- 10-b) Certification referred to in Article 11, paragraph 3, letter d) first point;  
*or*
- 10-c) Certification referred to in Article 11, paragraph 3, letter d), second point.

San Marino, \_\_\_\_\_

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*(certified signature of the applicant)*

**APPLICATION FORM FOR REGISTRATION IN THE SECTION OF THE REGISTER OF  
EMPLOYEES OF AUTHORISED PARTIES  
PRACTICING OUT-OF-OFFICE CANVASSING**

**To the Central Bank of the Republic of San Marino  
Supervision Department  
Via del Voltone, n. 120  
47890 SAN MARINO**

I, the undersigned (*name and surname*) \_\_\_\_\_,  
legal representative of the authorised party \_\_\_\_\_,  
with registered office in \_\_\_\_\_,  
entered in the register of authorised parties of the Central Bank at number \_\_\_\_\_,  
authorised to exercise the investment services referred to under letter/s \_\_\_\_\_  
of Annex 1 to Law no. 165 of 17 November 2005

ASK, JOINTLY

with the employee (*name and surname*) \_\_\_\_\_,  
born \_\_\_\_\_ on \_\_\_\_\_,  
residing in \_\_\_\_\_,  
for the registration of the above name in the public register of financial promoters and employees of authorised entities  
exercising out-of-office canvassing, employees' section, established pursuant to Article 7, paragraph 3 of the Reg. CBSM  
no. 2014-01,

STATING

that the board of directors of this company has assessed, at the meeting of \_\_\_\_\_, the possession of said  
employee of the honorability requirements referred to in Article 10 of the Reg. CBSM no 2014-01, the possession of  
professional skills equivalent to those provided in Article 11 required for the professional practice of financial promoting  
activities, as well as the compatibility and relevance of the role played by the same employee in the company structure,  
with the actual performance of out-of-office canvassing, being the same employee currently assigned to  
\_\_\_\_\_ (*specify the organizational unit*), with the role of \_\_\_\_\_.

This application is accompanied by a copy of the above-quoted resolution of the board of directors, along with the following documents relating to the name of the above mentioned employee:

- 1) Photocopy of an identity document;
- 2) Certificate of residence;
- 3) Citizenship certificate;
- 4) General criminal records certificate;
- 5) Certificate of pending proceedings;
- 6) Self-certification of honorability requirements;
- 7) Non-bankruptcy certificate or civil certificate;
- 8) *Curriculum vitae*;
- 9) Certified copy of the diploma or certification of educational qualification;
- 10-a) Declaration referred to in Article 11, paragraph 3, letter c);  
*or*
- 10-b) Certification referred to in Article 11, paragraph 3, letter d) first point;  
*or*
- 10-c) Certification referred to in Article 11, paragraph 3, letter d), second point;
- 11) Declaration referred to in Article 11, paragraph 3, letter e).

San Marino, \_\_\_\_\_

\_\_\_\_\_  
(The legal representative of the authorised party)

\_\_\_\_\_  
(The employee of the authorised party)



**INFORMATION NOTICE ON THE MAIN RULES FOR CONDUCT OF FINANCIAL PROMOTERS  
AND EMPLOYEES OF AUTHORISED PARTIES EXERCISING OUT-OF-OFFICE CANVASSING  
ACTIVITIES TOWARDS CLIENTS**

Pursuant to current legislation, the financial promoter or the employee of authorised entities conducting out-of-office canvassing:

1. must deliver to the investor, at the time of the first contact and in every case of a variation of the data mentioned below, a copy of a declaration prepared by the authorised party showing the identification elements of this party, details of registration in the register and the ID details of the promoter or its employee who conducts out-of-office canvassing, as well as the address to which the declaration of withdrawal is to be sent;
2. must deliver to the investor, at the time of the first contact, a copy of this information notice;
3. must ask the investor for information about its experience in the field of financial investments, its financial situation, its investment objectives and its risk appetite;
4. must explain to the investor in a way that is clear and comprehensive, before signing the purchase document or the document for the subscription of financial instruments or the contractual documents for the provision of investment services, the essential elements of the transaction, service, or financial instrument, with particular regard to its associated costs and asset risks and adequacy of the transaction in relation to its situation;
5. must deliver to the investor, before signing the purchase document or the document for the subscription of financial instruments, a copy of the information prospectus or other information documents, if required;
6. must give to the investor a copy of the contracts, of the provisions for investment or disinvestment and any other document signed by the same;
7. can receive from the investor, for its consequent immediate transmission, exclusively:
  - a) cheques or bankers' drafts made payable to the authorised party on behalf of whom it operates or to the party whose services, financial instruments or financial products are offered, with a non-transferability clause;
  - b) wire transfer orders and similar documents that have as their beneficiary owner one of the parties indicated under the previous letter;
  - c) registered or by-order financial instruments, in the name of or endorsed by the party performing the service on offer;

8. cannot receive from the investor any cash and any form of compensation or financing;
  
9. cannot use the data transmission codes to access reports relating to clients or potential clients or in any way connected to them.