

**MISCELLANY  
OF MEASURES AIMED AT REVIEWING  
THE SUPERVISORY PROVISIONS CURRENTLY  
IN FORCE**

year 2013 / number 06

### **Article 1 – Amendments to Regulation no. 2009-04**

1. The second paragraph of article 9 of Reg.2009-04 is replaced as follows:

*"2. INSURANCE UNDERTAKINGS shall transmit the reports referred to in Article 6 by and no later than 15 March following the closure of the financial year".*

### **Article 2 – Amendments to Regulation no.2007-02**

1. The following letter is added to the first paragraph of article 15 of Regulation no. 2007-02:

*"d) situations incompatible with the maintenance of the registration, such as:*

- the fact that the offices of the INTERMEDIARY are not open to the public;*
- the fact that the INTERMEDIARY is domiciled at the offices of another INTERMEDIARY included in the same register (except where an exclusive cooperation agreement has been entered into with such Intermediary), professional firms or business premises of other persons not involved in the MEDIATION business;*
- the failure to collect the correspondence and, in particular, that coming from the CENTRAL BANK."*

2. The fourth paragraph of article 16 of Reg.2007-02 is replaced as follows:

*"4. The procedure envisaged in this article does not apply to the suspension provided for in art. 12, par. 1, letters b), c) and d), which is ordered as soon as the underlying breach is ascertained, and in particularly urgent cases for which the CENTRAL BANK decides to initiate the proceeding referred to in art. 34, letter f) of Law no. 96 of 29 June 2005."*

3. In paragraph 1 of article 26 of Reg. 2007-02, the words *"for at least eighteen months"* are removed and, consequently, in paragraph 2 of the same article, letter b) is also removed, and letter c) take the place of the previous classification.

4. The following paragraphs are added to article 31 of Reg. 2007-02:

*"2. The insurance undertakings, included in the list referred to in the preceding paragraph, are required to notify, within the following thirty days, to the CENTRAL BANK, each event that modifies their legal status, which implies a change of the details contained in the aforementioned list. If the registered insurance undertakings are involved in extraordinary transactions (such as transformations, mergers, spin-off) that entail their extinction, the notice, within the following thirty days, is made by the undertaking which results as successor in legal relationships.*

3. *The CENTRAL BANK, absent the notice referred to in the preceding paragraph, is in any case entitled to automatically update the information contained in the list when it has become aware of the information in carrying out its supervisory tasks."*

5. Annex C to the Reg.2007-02 is replaced by the annex to this Regulation.

### **Article 3 – Amendments to Regulation no.2010-01**

1. Point 10 of the first paragraph of article I.I.2 of Reg.2010-01 is replaced as follows:

*"10. "Non cooperative Countries or Territories": the countries, jurisdictions or territories for which the GAFI/FATF or other FATF-Style Regional Body (including the Council of Europe's Moneyval Committee) release public statements or other measures (the so-called "Countries, jurisdictions or territories subject to strict monitoring" referred to in the regulations issued by the Financial Intelligence Agency);"*

2. The third paragraph of article IV.I.3 of Reg.2010-01 is replaced as follows:

*"3. The activities required to achieve the annual number of hours of mandatory training are organised at least once a year, and, should a final test be required in order to verify the level of effectiveness of the training initiative in general, the results of the test of each participant shall remain as strictly confidential and shall be notified, upon request, only to the respective PROFESSIONAL TRUSTEES."*

### **Article 4 – Amendments to Regulation no.2013-04**

1. Points 7 and 8 of the first paragraph of article 2 of Reg.2013-04 are replaced as follows:

*"7. "ECB List": list of compliant devices published on the Internet website of the European Central Bank and included, through hyper link, in the specific page of the Internet website [www.bcs.m.sm](http://www.bcs.m.sm);*

*8. "ETSC List": list of compliant devices published on the Internet website of the European Commission European – Anti Fraud Office (OLAF) and included, through hyper link, in the specific page of the Internet website [www.bcs.m.sm](http://www.bcs.m.sm);*

2. In point no. 19 of the M1 report, annex 4 to Reg.2013-04, the term "recapito" is replaced with "address".

3. The third paragraph of article 13 of Reg.2013-04 is replaced as follows:

*"3. The technical instructions about the procedures for the transmission of the reports are included in the "Guide for the Compilation of Cash Handler Statistical Reports" that will be made available to the REPORTING ENTITIES, in its*

*first version, on the Internet website of the CBSM ([www.bcsm.sm](http://www.bcsm.sm)) at least 60 days prior to the coming into effect of the statistic measurement requirements referred to in article 32, paragraph 1 below."*

4. Article 32 of Reg.2013-04 is replaced as follows:

**"Article 32 – Entry into force**

*1. This Regulation enters into force on 31 August 2013, and the reporting requirements referred to in article 16 above are effective as from the second subsequent reference period, which coincides with the second half of 2014.*

*2. Without prejudice to the provisions of paragraph 1 above, taking into account that both the role of Competent National Authority (pursuant to article 2, point 3, of the LAW) and the function of cash handler within the limits of the banking activities performed by the Treasury Department (pursuant to point 13, letter e), of the same article of the LAW), the forms, scopes and procedures for the application to itself of the rules referred to in this Regulation will be defined by the CBSM through a specific internal self-regulation."*

**Article 5 – Amendments to Regulation no.2013-05**

1. Paragraphs 1 and 2 of article 9 of Reg.2013-05 are replaced as follows:

**"Article 9 - Adjustments**

*1. Without prejudice to the notification requirement in favour of its customers, to take place not later than on 15 January 2014, the PSP must, by 31 January 2014, apply to the same customers the changes, where necessary, in line with the provisions referred to in this Regulation, in the contractual conditions related to the execution of WIRE TRANSFERS and DIRECT DEBITS.*

*2. The BENEFICIARY of a national DIRECT DEBIT service must previously inform the PAYER of his/her intention to use, as from 1 February 2014, the DIRECT DEBIT in compliance with the provisions of this Regulation, with a prior notice of at least 15 days from the activation of the service and, in any case, not later than on 15 January 2014."*

**Article 6 – Amendments to Regulations no. 2007-07 and 2011-03**

1. The following paragraph is added to article IV.III.5 of Reg.2007-07 and Reg.2011-03:

*"2. In those cases where only the Director General is appointed, the deadline for the transmission to the CENTRAL BANK, referred to in the preceding paragraph, is calculated as from the date when the final resolution of the Board of Directors was passed."*

2. Point 49 of article I.I.2 of Reg.2011-03 is replaced as follows:

“49. **"gross mediation margin"**: gross intermediate income determined as the algebraic sum of the following items of the profit and loss account in the financial statement format:

GMM= "revenues from sales and services" + "financial revenues" - "securities trading costs" - "financial costs" – "amortisation of tangible fixed assets leased;"

3. Point 24 of article I.I.2 of Reg.2007-07 and Reg.2011-03 is replaced as follows:

"24. **"non-performing loans"**: the entire exposure of cash loans and off-balance sheet loans towards insolvent persons, even if the insolvency has not been ascertained in court, or who are in substantially comparable situations, regardless of the expected losses and any restructuring of such loans. The existence of any guarantees (collateral or personal) to protect the exposure is disregarded. Exposures to public entities in financial distress are included, as well as those resulting from terminated lease agreements, until the new financial leasing of such assets to another renter or the sale of such assets to third parties, with the subsequent recovery of the credit within the limits of the sum collected from the sale or calculated in a new lease agreement, regardless of the repurchase of the full possession of the asset. The entire exposure includes interest recognised and any costs incurred for the collection activities

4. The third paragraph of article VII.II.3 of Reg.2007-07 and Reg.2011-03 is replaced as follows:

"3. With reference to the deduction of the net capital losses on securities referred to in paragraph 2, the capital gains and losses implied in the investment portfolio are off-set taking into account any possible hedging agreement on the securities held for investment. In case of positive overall balance resulting from the off-setting, no deduction is required from the regulatory capital. In case of negative overall balance, this will have to be off-set with the implied capital gains in the trading portfolio. 50% of any negative residual amount (net capital loss) must be deducted from the calculation of the regulatory capital. For the purposes of this paragraph, implied capital gains and capital losses are not calculated when they are related to Government securities of San Marino included in the investment portfolio.”

#### **Article 7 – Amendments to Circular no.2012-03**

1. The fourth subsection of letter c) of paragraph 5.4 of Circular no. 2012-03 is replaced as follows:

"- the proportion of the assets already deducted from the regulatory capital is also excluded from the calculation of the risk positions."

2. In letter h) of paragraph 8.4, in Circular no. 2012-03, the expression "general" is replaced with "generic".

3. The second point of letter d) of paragraph 8.5 of Circular no. 2012-03 is replaced as follows:

*"for the purpose of applying the calculation of the aforementioned depreciation, the quarterly portion (5%) of the annual amount provided for in the regulations (20%) should be considered, applied to reduce the amount of the loan starting as from the quarter in which the period of the last 5 years of residual life of the obligation starts."*

4. The second point of letter a) of paragraph 8.6 of Circular no. 2012-03 is replaced as follows:

*"no shareholding in the capital of the CBSM is taken into account, since the latter is not covered by the definition of "FINANCIAL UNDERTAKINGS". The following are also excluded from the deductions:*

- shareholdings in FINANCIAL UNDERTAKINGS under voluntary or administrative compulsory liquidation. Starting from the REPORTING related to the month when the cancellation from the respective registers or lists is made because of the liquidation, the REPORTING ENTITY shall prudentially apply to the exposures to the FINANCIAL UNDERTAKING under liquidation the same weighing factors provided for the non-financial undertaking;*
- the contributions to the guarantee fund for the protection of the depositors (ex Delegated Decree no. 89/2011 as subsequently amended)."*

#### **Article 8 – Amendments to Regulation no.2006-03**

1. The definitions referred to in letters o) and p), paragraph 1, article 1, of the Regulation no. 2006-03 are replaced as follows:

*"o) **CIS UCITS**: means any UCITS III funds and the foreign CISs which fall within the scope of application of the EU UCITS Directive;*

*p) **Non UCITS type CISs**: means any CIS s other than CIS UCITS;"*

2. By virtue of the provisions of the preceding paragraph, in the Regulation no. 2006-03, the expression "CIS UCITS III" is replaced by "UCIS UCITS", and the expression "NON-UCITS III TYPE CISs" is replaced by "NON UCITS TYPE CISs".

3. The third paragraph of article 163 of Regulation 2006-03 is replaced as follows:

*"3. The notice is not required when the offer referred to in paragraph 1 is related to CIISS UCITS III for which the documentation referred to in article 164, paragraph 2, letter b) is available. The requirements referred to in article 167 remain unprejudiced."*

4. Letter b) of the second paragraph of article 164 of Regulation 2006-03 is replaced as follows:

*"b) documentation in Italian or in English related to the information to the public, and in particular:*

- 1) copy of the Administrative Regulation of the CIS or other equivalent document;*
- 2) the last prospectus or other documents transmitted for the purposes of the offer to the competent authority of the Country of origin, and published, together with the document in Italian containing the key information for investors, prepared pursuant to the provisions of the EU on the matter (also known as KIID);*
- 3) the last annual report together with the following semi-annual report, if published;*
- 4) indication of the sources where the value of the UNITS OF THE CIS and the notices related to the amendments to the Administrative Regulation and to the exercise of the rights related to the investment in the CIS are published (such as, but not limited to, calling of the meetings procedures for the payment of the proceeds)."*

5. Letter d) of the first paragraph of article 167 of Regulation no. 2006-03 is replaced as follows:

*"d) deliver prior to the subscription the following information documents required by the regulations governing the solicitation of investments, including the document prepared in Italian containing the key information for the investors (also known as KIID) prepared pursuant to the provisions of the EU on this matter;"*

6. Letter e) of the first paragraph of article 167 of Regulation 2006-03 is replaced as follows:

*"e) make available to the investors in the CIS the information on any changes made to the Administrative Regulations of the CISS subscribed;"*

#### **Article 9 – Amendments to Regulation no.2008-01**

1. The definitions referred to in letters aa) and bb), paragraph 1, article 1, of the Regulation no. 2008-01 are replaced as follows:

*"aa) **CIS UCITS:** means any UCITS III funds and the foreign CISs which fall within the scope of application of the EU UCITS Directive;*

*bb) **Non UCITS type CISs:** means any CISs other than CIS UCITS;"*

2. By virtue of the provisions of the preceding paragraph, in the Regulation no. 2008-01, the expression "CIS UCITS III" is replaced by "CISS UCITS", and the expression "NON-UCITS III TYPE CISS" is replaced by "NON UCITS TYPE CISS".

#### **Article 10 – Entry into force**

1. This regulation shall enter into force on the date of its issuing.

**Article 11 – Consolidated texts**

1. The texts consolidated to include the amendments introduced by this Regulation, shall be made available on the web site of the Central Bank of the Republic of San Marino ([www.bcsm.sm](http://www.bcsm.sm)).

# **ANNEX**

## **C**

### **Model of report on the activities performed**

**REPORT ON THE ACTIVITIES PERFORMED DURING THE YEAR \_\_\_\_\_**

by the intermediary \_\_\_\_\_  
registered in the Register created pursuant to article 27 of Law no. 165 dated 17 November 2005, under no. \_\_\_\_\_ .

Identification details of the applicant:

The mediation activities were carried out mainly as:

*(please see items no. 1 of the compilation instructions)*

Agent *(specify the Principal Company)* \_\_\_\_\_

Sub agent *(specify the Principal Company)* \_\_\_\_\_

*(specify the Principal Company)* \_\_\_\_\_

Broker

Other *(please specify)* \_\_\_\_\_

Legal representative \_\_\_\_\_

Contact person \_\_\_\_\_ telephone \_\_\_\_\_

Opening hours \_\_\_\_\_

Rules of organisation and conduct (article 17) (only for Sections A and B):

Civil liability insurance policy taken out during the year of reference:

Limit of liability per claim \_\_\_\_\_

Aggregate limit of liability

Procedure for the collection of the premiums for the insurance undertakings:

Payment to the current account open in the name of \_\_\_\_\_

Other *(please specify)* \_\_\_\_\_

Depending on the residence of the contracting party, the mediation activities were carried out on behalf of the following companies: *(if necessary, more than one sheet may be used)*

<b>Insurance contracts entered into with a contracting party RESIDENT in the RSM</b>							
	<b>Name of the insurance undertaking</b> (please see item no. 2 of the compilation instructions)	<b>Branch</b>	<b>Number of existing Policies (total)</b>	<i>of which entered into during the year in question</i>	<b>Total of premiums mediated during the year in question</b>	<i>of which related to the policies entered into during the year in question</i>	<b>Total of premiums mediated during the year in question, net of any fees due to the intermediary</b>
<b>Life Sectors</b>							
<b>Non-life Branches</b>							

<b>Insurance contracts entered into with a contracting party <i>NON RESIDENT</i> in the RSM</b>							
	<b>Name of the insurance undertaking</b> (please see item no. 2 of the compilation instructions)	<b>Branch</b>	<b>Number of existing Policies (total)</b>	<i>of which entered into during the year in question</i>	<b>Total of premiums mediated during the year in question</b>	<i>of which related to the policies entered into during the year in question</i>	<b>Total of premiums mediated during the year in question, net of any fees due to the intermediary</b>
<b>Life Sectors</b>							
<b>Non-life Branches</b>							

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Amounts paid during the year in question: *(if necessary, more than one sheet may be used)*

	<i>Name of the insurance undertaking (see point no. 3 of the compilation instructions)</i>	<i>Amount of Claims / Capitals at maturity / Redemptions paid during the year in question</i>		
		<i>Beneficiaries Resident in the RSM</i>	<i>Beneficiaries Not Resident in the RSM</i>	<i>Total</i>
<i>Life Branches</i>				
<i>Non-life Sectors</i>				



The intermediary declares that, as at 31 December last year, the individuals who exercise the control over the company, directly or indirectly, pursuant to article 2 of Law no. 165 dated 17 November 2005, are the following  
(only Section B):

(if necessary, more than one sheet may be used)

<i>Surname</i>	<i>Name</i>	<i>Place and date of birth</i>	<i>Residence</i>

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

\_\_\_\_\_  
(signature of the legal representative)

### Compilation instructions

- Type of intermediary means:
  - *Agent* : the person who was appointed as insurance intermediary directly from an insurance undertaking;
  - *Sub agent* : the person who was appointed as insurance intermediary from an agent of an insurance undertaking;
  - *Broker* : the person who carries out mediation activities independently from any agency or sub agency agreement with an insurance undertaking;
  - *Other*: other cases which may be related to the insurance or reinsurance mediation activity as defined by the LISF, other than the cases outlined above (to be specified by the interested party).
- Specify the full name of the insurance undertaking on whose account insurance contracts were concluded in San Marino – directly (as agent) or indirectly (as sub agent) – as well as for brokerage activities.
- Specify the full name of the insurance undertaking for the account of which the relevant contracts are mediated and the amounts for capitals at maturity, claims and redemptions (partial or full) have been liquidated directly (by the intermediary) or indirectly (by the insurance undertaking).