



# **REGULATION ON THE NATIONAL PAYMENT SYSTEM**

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## **PART I**

### **INTRODUCTION**

#### **Title I**

##### **Introduction**

##### **Article I.I.1 – Sources**

1. Regulation no. 2014-04 concerning payment and electronic money issuing services, as well as Regulation no. 2013-05 for entry into SEPA, have their source at the community level respectively in Directives no. 2007/64/EC (so called PSD) of 13 November 2007 and 2009/110/EC (so called EMD) of 16 September 2009, and in the Regulations (EC) no. 924/2009 of 16 September 2009 and no. 260/2012 of 14 March 2012.

2. The transposition of these Community Regulations has allowed the entry of the Republic of San Marino in the list of countries participating in the Single Euro Payments Area (SEPA) since 1 February 2014, with provision for the adjustment of the technical requirements by 1 February 2016:

- of national credit transfers;
- of national direct debits in favour of the Public Administration.

3. The structures of the information to be produced within the flows transmitted in interbank transactions through the Sammarinese Interbank Network - (RIS) shall find their legal sources, as from the date of 1 February 2016, in the *Rulebooks* and in the *Implementation Guidelines* issued by the European Payments Council (EPC), as a replacement for the technical fact sheets currently in force for the RIS.

##### **Article I.I.2 – Definitions**

1. For the purpose of this Regulation, the expressions used herein have the following meaning:

1. “**ABI-CAB**”: Identification code of the bank (ABI) and of the branch of the bank (CAB), which is contained within the IBAN code;
2. “**Central Bank**” or “**CBSM**”: the Central Bank of the Republic of San Marino;
3. “**Creditor Identifier**”: unique standard code of individual creditors for each SEPA country, whose registration is entrusted to the European Payments Council;
4. “**EPC**”: European Payments Council;
5. “**Business day**”: operating day according to the calendar of the National Payment System, published on the website of the Central Bank ([www.bcsm.sm](http://www.bcsm.sm));
6. “**LISF**”: Law no. 165 of 17 November 2005, as subsequently amended;
7. “**IDP-IMEL Regulation**”: Regulation no. 2014-04 as subsequently amended;
8. “**SEPA Regulation**”: Regulation no. 2013-05 as subsequently amended;

9. “**RIS**”: Sammarinese Interbank Network transporting messages of a financial nature within the National Payment System;
10. “**Rulebook**”: Technical-regulatory guide, from time to time in force, defining the rules and operating standards of the SEPA credit transfer and SEPA-based direct debit schemes;
11. “**SCT**”: credit transfer pursuant to art. 3 of Reg. 2013 -05;
12. “**SDD**”: direct debit pursuant to art. 3 of Reg. 2013 -05;
13. “**SDD SMAC - merchants**”: daily SDD mass transactions for each merchant, in relation to SMAC recharging operations for the application of the discounts provided for by SMAC regulations;
14. “**SDD SMAC - holders**”: SDD transactions on the current account for SMAC recharging operations;
15. “**SEPA**”: area including all the countries listed in the official list published periodically by the EPC, whose citizens, businesses and other economic operators can make and receive payments in euro, both within the national borders and at the cross-border level, according to basic conditions, as well as standard rights and obligations, regardless of their location;
16. “**SMAC**”: prepaid debit card issued by the State and governed by specific SMAC regulations published on the website [www.sanmarinocard.sm](http://www.sanmarinocard.sm), which, with regard to the National Payment System, generates mass debiting and crediting transactions to the accounts of merchants, respectively via SDD and SCT;
17. “**SWIFT**”: Society for Worldwide Interbank Financial Telecommunication, with registered office in Belgium.

2. In this document, the use of the terms included in the definitions is evidenced by SMALL CAPS CHARACTERS.

3. For all terms not defined in paragraph 1, reference should be made to the definitions and details provided for in the articles of the LISF, of the SEPA REGULATION and of the IDP-IMEL REGULATION.

## Title II

### Objectives and Preparation

#### Article I.II.1 – Purpose

1. The main purpose of this measure is to review the current legislation governing the management of the National Payment System, and specifically as regards the use of the Standard ISO 20022 XML in interbank transactions for the exchange of cash flows to pay SCT and SDD in line with SEPA standards and in compliance with the continuity and specific characteristics provided for the management of the instruments for SCT, SDD, SDD SMAC - HOLDERS and SDD SMAC - MERCHANTS.

2. The procedures for settling payment instruments on interbank accounts are contextually defined by adopting the principle of gross settlement for individual SCT orders and for the value of individual SDD flows exchanged on RIS within the National Payment System.
  
3. When updating the regulations concerning the National Payment System, corrections were also made to the provisions in force both in the IDP-IMEL REGULATION and in the SEPA REGULATION.

**Article I.II.2 – Consultation**

1. The Regulation, consistently with the provisions of Article 38 paragraph 5 of LISF and the implementing Regulation no. 2006-02, was subjected to prior consultation.

## **PART II**

### **MANAGEMENT OF THE NATIONAL PAYMENT SYSTEM**

#### **Title I**

#### **General Provisions**

##### **Article II.I.1 – Participation in the National Payment System**

1. The parties authorised to provide payment services request their participation in the National Payment System by signing the form for membership in the various application families of RIS.
2. Participation in the National Payment System involves:
  - acceptance of the rules from time to time in force, including the monetary settlement system on mutual accounts and centralised accounts;
  - signing of the contract pursuant to the following article II.I.4 paragraph 2.
3. Transactions to and from the CENTRAL BANK are settled on the centralised account maintained with the Bank by the participating parties.
4. Participants undertake to maintain the necessary liquidity in the centralised account held with the CENTRAL BANK so that the transactions arranged or received can be settled.

##### **Article II.I.2 – Interbank settlement system**

1. Each SCT order, mass-exchanged in the specific SCT flows within the National Payment System through RIS is settled on the settlement date on the mutual accounts if payment service providers (Payer's PSP and Payee's PSP) are involved, i.e. on centralised accounts held by the latter with CBSM, when cbsm is the party concerned with the order (as the Payer's or Payee's PSP).
2. The SDD collection orders, issued by the Public Administration, are mass-exchanged via the specific SDD flows within the National Payment System using the RIS.
3. The orders of the preceding paragraph are settled on the date of expiry and settlement by the CENTRAL BANK (Payee's PSP) on the on centralised accounts entertained by national PSP (Payer's PSP) paying for the value of every individual SDD flow exchanged.



### **Article II.I.3 – Management costs of the National Payment System**

1. The costs of managing the National Payment System are borne by the CENTRAL BANK in relation to the systemic developments and the structural adjustments with the international requirements required.
2. The CENTRAL BANK has the right to recover the costs referred to in the preceding paragraph from participants in the system; the contribution share of each participant will be calculated proportionally to the levels of use of the system, verified on the basis of the available data.
3. The costs connected to participation in the various application families managed by the National Payment System, the costs arising from the use of message transmission services and the required infrastructure are by contrast paid directly by the participating parties, through payment of the charges quantified by the RIS technical manager.

### **Article II.I.4 – Sammarinese Interbank Network - (RIS)**

1. The RIS is currently managed by the CENTRAL BANK by using, in accordance with Article 38 of Law no. 96/2005, an infrastructure technical manager, by virtue of the contractual agreements involving, inter alia, the obligation for the aforementioned manager to implement and use adequate security systems and procedures, without prejudice to the confidentiality regime referred to in Article 29 of the above-mentioned Law.
2. As a result of the provisions of the preceding paragraph:
  - a) participants in the RIS are required to sign a specific service contract with the RIS technical manager;
  - b) the RIS technical manager is required to provide the services requested by the participant, also applying the same conditions already practiced in relation to participants in the National Payment System.

### **Article II.I.5 – Direct debit mandates**

1. The Payer's consent to carry out an SDD transaction or series of transactions is issued to the Payee, and such authorisation is to be transmitted by the Payer to its Payment Service Provider.
2. The SDD Mandates of the Public Administration are not subject to management within the Payment System.
3. Storage of the mandates conferred by the Payer in the context of an SDD service is under the Payee's responsibility. Their storage does not constitute a payment service and is not an activity reserved for payment service providers.

### **Article II.I.6 – Creditor Identifier**

1. In the SDD messages, the Payee is coded in accordance with the CREDITOR IDENTIFIER standard provided for the national system, whose publication is available on the EPC website.

#### **Article II.I.7 – International Bank Account Number (IBAN)**

1. The SCT and the SDD settlement accounts are identified according to the IBAN standard and these details are always transmitted in the SCT and SDD orders.
2. The Payment System verifies the compliance of the IBAN by validating its content in line with the rules for checking the NIC (Numeric Identification Code).
3. The IBAN format used by the Republic of San Marino is published on the IBAN Registry by SWIFT, as the registration authority indicated by ISO 13616.

#### **Article II.I.8 – Bank Identifier Code (BIC)**

1. SCT and SDD Payment Service Providers are not required to ask Users of these services for the Bank Identifier Code (BIC) as they can infer this code from the IBAN supplied by the User.
2. To this end, the PSP keep the ABI-CAB reference tables of the payment infrastructures (SIA tables) constantly updated, as well as the BIC codes and details of SWIFT, or any additional tabular systems that allow for the management of the routing of SEPA payments.

#### **Article II.I.9 – Impediments due to force majeure**

1. In cases featuring the occurrence of force majeure, the parties participating in the National Payment System can extend the terms under their responsibility, expiring in the period between the date of occurrence of the impediment and the date in which resumption of activities is declared, for as many days as the duration of the impediment.
2. In this regard, the party that is faced with the impossibility to meet the required terms must immediately inform the CENTRAL BANK.

## **Title II**

### **Specific Characteristics of the National Payment System**

#### **Article II.II.1 – National Payment System (NPS)**

1. The National Payment System is managed by the CENTRAL BANK and allows for the channelling of payment instruments such as national credit transfers, direct debits of the Public Administration, as well as domestic

cheques, collections and payments of the State Treasury and redemptions for the State Tax Department, within the scope of the service of exchange of daily paper instruments.

#### **Article II.II.2 – Sepa Credit Transfers (SCT)**

1. SCT are transmitted by 10:00 PM of the BUSINESS DAY prior to the settlement date (D-1) by the Payer's PSP to the National Payment System by using the RIS infrastructure and in compliance with the RULEBOOKS.
2. The SCT are delivered by 08:00 AM on the settlement date (D) envisaged by the National Payment System to the Payee's PSP by using the RIS infrastructure.
3. The Payee's PSP settles the transactions on the Payee's Payment Accounts within the settlement date (D) of the SCT order.

#### **Article II.II.3 – Sepa Direct Debits (SDD)**

1. The SDD are transmitted by the CENTRAL BANK, as the Payee's PSP, to the National Payment System by 10:00 PM of the BUSINESS DAY prior to the expiry and settlement date (D-1), except as hereinafter envisaged for the SDD SMAC - MERCHANTS and SDD SMAC - HOLDERS, by using the RIS infrastructure and in compliance with the RULEBOOKS.
2. The SDD are delivered by 08:00 AM on the expiry and settlement date (D) envisaged by the National Payment System to the Payer's PSP by using the RIS infrastructure.
3. The Payer's PSP governs the transactions on the Payer's Payment Accounts within the same expiry and settlement date (D) of the SDD order.
4. The characteristics of the SDD, based on SEPA standards, provide for the possibility of returning the unpaid amount or the cancellation of the collection order, and for this reason the Payer's PSP can enter in the National Payment System any transactions concerning unpaid amounts or cancellation of SDD, by 4:00 PM on the fifth BUSINESS DAY after the expiry and settlement date (D+5).

#### **Article II.II.4 – SDD SMAC - Merchants**

1. The SDD SMAC - MERCHANTS are transmitted by the CENTRAL BANK, as the Payee's PSP, to the National Payment System by 3:00 PM on the expiry and settlement date (D) by using the RIS infrastructure and in compliance with the RULEBOOKS.
2. The SDD SMAC - MERCHANTS are delivered by 3:00 PM on the expiry and settlement date (D) by the National Payment System of the Payer's PSP by using the RIS infrastructure.

3. The Payer's PSP governs the transactions on the Payment Accounts of the Payer within the same expiry and settlement date (D) of the order concerning the SDD SMAC - MERCHANTS.

4. The characteristics of the SDD SMAC - MERCHANTS, based on the contractual agreements, do not provide for the possibility of returning the unpaid amount or the cancellation of the collection order, and for this reason the Payer's PSP may not enter in the National Payment System any transactions concerning unpaid amounts or cancellation of SDD SMAC - MERCHANTS.

#### **Article II.II.5 – SDD SMAC - Holders**

1. The SDD SMAC - HOLDERS are transmitted by the CENTRAL BANK, as the Payee's PSP, to the National Payment System by 10:00 PM of the BUSINESS DAY prior to the expiry and settlement date (D-1) by using the RIS infrastructure and in compliance with the RULEBOOKS.

2. The SDD SMAC - HOLDERS are delivered by 8:00 AM on the expiry and settlement date (D) by the National Payment System of the Payer's PSP by using the RIS infrastructure.

3. The Payer's PSP governs the transactions on the Payment Accounts of the Payer within the same expiry and settlement date (D) of the order concerning the SDD SMAC - HOLDERS.

4. The characteristics of the SDD SMAC - HOLDERS, based on contractual agreements, provide for the possibility of returning the unpaid amount or the cancellation of the collection order, and for this reason the Payer's PSP can enter in the National Payment System any transactions of unpaid amounts or cancellation of SDD SMAC - HOLDERS, by 4:00 PM on the expiry and settlement date (D).

## PART III

### ADJUSTMENT OF THE REGULATORY FRAMEWORK IN FORCE

#### Title I

#### Amendments to Reg. 2014-04

##### Article III.I.1 – Amendments to Article I.I.2

1. Article I.I.2, paragraph 1, definitions no. 52, 75 and 76 are replaced as follows:

“52. **“PSP”**: banks, payment institutions, electronic money institutions, Bancoposta, Member States or their regional and local authorities, when they are not acting as a public authority, and the central banks, including the ECB, when they are not acting as a monetary authority;”

“75. **“branch”**: a place of business other than the administrative offices, which constitutes a part of an institution, lacks a legal person and carries out some transactions directly, or all the transactions concerning the activities of an institution, on the understanding that all the places of business created in the territory by a foreign institution are considered as a single branch;”

“76. **“distance communication technologies”**: the client-contact techniques other than advertisements, which can be used for concluding a contract for payment and electronic money issuing services, that do not entail the simultaneous physical presence of the client and the institution or representative of the institution;”.

2. The following definitions are added to article I.I.2, paragraph 1:

“1.bis **“agent”**: any natural or legal person providing payment services on behalf of an institution;”

“4.bis **“authentication”**: a procedure that allows the PSP to verify the use of a specific payment instrument, including the personalised security characteristics;”

“22.bis **“value date”**: the reference date used by a PSP for the calculation of interest on the funds debited or credited to a payment account;”

“28.bis **“operating day”** or **“business day”**: the day when the relevant payer’s or the payee’s payment service provider involved in the execution of a payment transaction is operating according to the requirements for the execution of the payment transaction;”

“28.ter **“group”**: a group of companies made up of the parent company, its subsidiaries and the entities in which the parent company or its subsidiaries have holdings, as well as the companies linked together by a relation pursuant to Article 2 of LISF;”

“72.bis **“Member State”**: the member countries of the European Union;”

“75.bis **“durable medium”**: any instrument that allows the user of payment services to store information addressed personally to them, so that it can be used for a period of time adequate for the purposes for which the information is intended, and which allows for the exact reproduction of the stored information;”

“75.ter **“reference exchange rate”**: the exchange rate that is used as the basis for calculating a currency exchange and that is made available by the PSP or comes from a source accessible to the public.”

“75.quarter **“reference interest rate”**: the interest rate that is used as the basis for calculating the interest to be applied and that comes from a source available to the public that can be verified by both parties to a contract for payment services;”.

#### **Article III.I.2 – Amendments to Article I.II.1**

1. Article I.II.1, paragraph 1, is replaced as follows:

“1. This Regulation merges - into a single organic and generally exhaustive measure - the supervisory rules applicable to the exercise in the Republic of San Marino of PAYMENT SERVICES and ELECTRONIC MONEY ISSUING SERVICES, as well as to the INSTITUTIONS as providers of such services.”

#### **Article III.I.3 – Amendments to Article III.III.4**

1. Article III.III.4, paragraph 1, is replaced as follows:

“1. The INSTITUTIONS, pursuant to Article 13, paragraph d) of LISF, must have a share capital, fully subscribed and paid in, of no less than:

- 125,000 Euro (one hundred and twenty-five thousand) for PAYMENT INSTITUTIONS
- 350,000 Euro (three hundred and fifty thousand) for ELECTRONIC MONEY INSTITUTIONS.”

#### **Article III.I.4 – Amendments to Article III.II.8**

1. Article III.II.8, paragraph 3, is replaced as follows:

“3. The suspension of the term shall in no case extend the time-scales for issuing the measure later than the maximum limit of three months from the date of receipt of the application.”

#### **Article III.I.5 – Amendments to Article VIII.II.2**

1. The following paragraph is added to article VIII.II.2:

“3. If changes occur that affect the accuracy of the information and of the evidence provided at the time of obtaining authorisation to establish or operate INSTITUTIONS, the latter must send to the CENTRAL BANK appropriate documentation indicating such variations, without delay and in any case no later than 10 days from the date on which they implement or receive them.”

#### **Article III.I.6 – Amendments to Article II.II.1**

1. Article II.II.1, paragraph 3, letter a) is replaced as follows:

“a) PAYMENT INSTITUTIONS may provide one or more PAYMENT SERVICES in accordance with the content of their authorisation. They can carry out other activities as indicated in this Title. PAYMENT INSTITUTIONS are prohibited from carrying out ELECTRONIC MONEY issuing activities. PAYMENT INSTITUTIONS may hold only PAYMENT ACCOUNTS used exclusively for PAYMENT TRANSACTIONS;”

#### **Article III.I.6 – Amendments to Article VII.IV.17**

1. Letter d) is added to article VII.IV.17, paragraph 1, as follows:

“d) no other conditions to which the INSTITUTION’S authorisation is subjected is suppressed or modified.”

2. The following paragraph 2 is added to article VII.IV.17:

“2. The outsourcing of strategic operational functions cannot materially jeopardise the quality of the internal control of the INSTITUTION, nor prevent the CENTRAL BANK from checking that INSTITUTIONS fulfil all the obligations laid down in this Regulation.”

#### **Article III.I.7 – Amendments to Article V.III.1**

1. Article V.III.1, paragraph 1, letter a) is replaced as follows:

“a) to acquire, for whatever reason, holdings in the share capital of an INSTITUTION that, taking into account also the holdings already possessed (if any), would determine the exceeding of the thresholds of 10%, 20%, 30%, 50% and 66% of the capital;”

#### **Article III.I.8 – Amendments to Article X.II.29**

1. The following letter c) is added to article X.II.29, paragraph 1:

“c) issues electronic money at face value upon receipt of funds.”

#### **Article III.I.9 – Amendments to Article XI.I.1**

1. Article XI.I.1, paragraph 2, is replaced as follows:

“2. Foreign PSP already operating on the San Marino territory on the date of entry into force of this Regulation, on the basis of previous agreements with San Marino financial operators, can continue to provide the aforesaid services as long as, within 24 months from the date of entry into force referred to in the previous paragraph 1, they submit and obtain the necessary authorisation referred to in the preceding Part III, Title VI.”

#### **Article III.I.10 – Amendments to Article III.VI.6**

1. Article III.VI.6, paragraph 2, is replaced as follows:

“2. The opening of further BRANCHES after the first is subject to the same discipline laid down in Part VII, Title V of this Regulation, with reference to the opening of new branches on the territory by San Marino INSTITUTIONS”.

#### **Article III.I.11 – Amendments to Article X.I.3**

1. In article X.I.3, the term “INSTITUTIONS” is replaced by “PSP”.

2. The following paragraph is added to article X.I.3:

“7. If the PSP is a bank, the rules referred to in this Part shall be construed as prevailing over those referred to in Part X of Regulation no. 2007-07.”

#### **Article III.I.12 – Amendments to Article X.I.4**

1. Article X.I.4, paragraph 1, is replaced as follows:

“1. This Part, with the exception of Article X.II.22, is only applicable to PAYMENT SERVICES and, as far as it is compatible with them, to the ELECTRONIC MONEY ISSUING SERVICES for which the individual PSP or both PSP involved in the transaction are based in the Republic of San Marino or one in the Republic of San Marino and the other in a MEMBER STATE. This Part is also only applicable to those services carried out in Euro or in the official currency of a MEMBER STATE not belonging to the euro area.

### **Title II**

#### **Amendments to Reg. 2013-05**

#### **Article III.II.1 – Amendments to Article 7**

1. Article 7 is replaced as follows:

##### **“Article 7 – Application to currencies other than the Euro**

1. This Regulation also applies to the CREDIT TRANSFER and DIRECT DEBIT transactions denominated in national currencies of the Member States of the European Union that have notified the decision to extend the application of Regulation (EC) no. 924/2009.
2. When a Member State of the European Union has notified its decision to extend the application of Regulation (EC) no. 924/2009, a CREDIT TRANSFER or DIRECT DEBIT transaction denominated in the currency of that State is to be considered as corresponding to a CREDIT TRANSFER or DIRECT DEBIT transaction denominated in Euro.”

#### **Article III.II.2 – Relocation of transitional rule**

1. The current article 7 is moved to Part IV (Final and Transitional Rules), taking on the progressive numbering 21.

### **Title III**

#### **Amendments to Reg. 2007-01**

#### **Article III.III.1 – Complaints and out-of-court settlement of disputes**

1. Article 8, paragraph 2, is replaced as follows:



“2. The Supervisory Authority, for each report received and properly drafted, forwards a written communication addressed to the reporting party in which it acknowledges the report and informs the reporting party of the existence:

- of complaint procedures within the supervised party;
- of out-of-court settlements of disputes under San Marino law.”

**PART VI**  
**FINAL PROVISIONS**

**Title I**  
**Transitional Provisions**

**Article IV.I.1 – Entry into force**

1. This Regulation shall enter into force on 1 November 2015, except as indicated in the second paragraph of the following article.

**Article IV.I.2 – Abrogations**

1. The provisions listed below are hereby abrogated:

- a) the Implementing Regulation of Pre-authorised Debiting Transactions (Direct Debits) of the Public Administration, referred to in Circular no. 2005-02 of 9 September 2005;
- b) the Implementing Regulation for the San Marino Card – Merchants, referred to in the note of the CENTRAL BANK of 12 November 2008, prot. 08/7517;
- c) the Implementing Regulation for the Direct Debit San Marino Card – Holders, referred to in the CENTRAL BANK note of 29 October 2012, prot. 12/10448;
- d) the reference technical fact sheets of RIS, for transportation through interbank transactions of the payment instruments of credit transfers and direct debits of the Public Administration, called:
  - o national credit transfers (ST.BONIFDOM.01.09);
  - o pre-authorised debits (Direct Debits) of the Public Administration (ST.ADDPREPA.01.14);
- e) the CENTRAL BANK note of 19 February 2010, prot. 10/1152.

2. Consistent with the provisions of art. I.I.1, paragraphs 2 and 3, the provisions of the preceding paragraph shall continue to be applicable up to 31 January 2016, taking into account that the new replacing provisions, introduced by Part II of this Regulation, shall be applicable as from 1 February 2016.

**Title II**  
**Publications**

**Article IV.II.1 – Consolidated Texts**

1. The texts of Regulations no. 2014-04 and 2013-05, consolidated to include the amendments introduced by this Regulation, shall be made available on the website of the Central Bank of the Republic of San Marino ([www.bcsm.sm](http://www.bcsm.sm)).

**Article IV.II.2 – Official Bulletin**

1. This Regulation shall be published on the Official Bulletin of the Republic of San Marino, on the website [www.bollettinufficiale.sm](http://www.bollettinufficiale.sm)