Recent key developments in the area of Spanish financial regulation

Prepared by the Regulation and Research Department of the Spanish Confederation of Savings Banks (CECA)

Royal Decree 1086/2024 amending the Pension plan and fund regulation (*Official State Gazette:* 23 October 2024)

Royal Decree 1086/2024 amends the Pension plan and fund regulation enacted via Royal Decree 304/2004 (20 February 2004) in order to foster occupational pension funds. The key changes:

- Pension plan rules may not curtail the provision of benefits for services provided in the event of partial retirement.

- With respect to defined contribution plans that guarantee benefits, the financial-actuarial review requirement is limited to occupational pension funds.

- Pension fund statements regarding their investment policy principles must mention: (i) how sustainability risks are integrated into their investment decisions; and (ii) the results of the assessment of the possible repercussions of the sustainability risks on the returns of the financial products on offer.

  In addition, for the funds contemplated in articles 8 and 9 of the Sustainable Finance Disclosure Regulation, an express reference has been added to the information contained in the fund's general information document and its corresponding sustainability annex.

- Both the Promoting and Monitoring Committee and the Special Control Committee are permitted to ask the Social Security Administration's legal services for legal advice.

- The so-called Special Control Committee shall meet, in full, at the call of the person tasked with presiding the committee, at his or her own initiative or at the request of five of its members, whenever the duties vested in it so warrant and at least once a month.

  It may be called, hold sessions, ratify resolutions and submit meeting minutes in-person or remotely. Session recording is permitted.

- The members of the Special Control Committee will only be entitled to remuneration associated with meeting attendance from when the aggregate assets of the funds reach one billion euros and for so long as assets under management maintain that threshold. The foregoing also applies to application of the additional remuneration corresponding to the members that serve as president, vice-president and secretary of the committee.

  In the case of members nominated by a union or business organisation, the latter may receive the remuneration directly, once received by the members themselves.

- Funds have six months to amend their legal documentation to contemplate the collection of vested pension plan rights in the event of partial retirement and the procedure for applying for those benefits.

New framework for setting the countercyclical capital buffer (Bank of Spain website, 1 October 2024)

The Bank of Spain has approved a new framework for the countercyclical capital buffer (CCyB) with respect to banks' exposures in Spain. As a result of the framework revision, systemic cyclical risks are currently considered to be at standard levels and the banks are required to start to build their

CCyBs up, initially to 0.5%, from the fourth quarter of 2024.

The revised framework for setting the CCyB in respect of exposures in Spain contemplates a positive neutral buffer of 1% when systemic risks are considered standard (intermediate level between low and high risk), to be increased to a higher percentage when those risks are considered high. The banks are being permitted to build their CCyBs to 1% in two 0.5pp stages starting in the fourth quarters of 2024 and 2025 with effect by the fourth quarters of 2025 and 2026, respectively.

The revised framework has been organised into three sections:

- Cyclical systemic risk monitoring framework. This framework draws on a set of 16 key indicators, grouped into four dimensions: macroeconomic indicators (*e.g.*, output gap; unemployment rate); macro-financial indicators (*e.g.*, adjusted credit-to-GDP gap; indicators of real estate price imbalances); financial market indicators (the systemic risk indicator); and banking system financial indicators (*e.g.*, ROE; NPL ratio; NII to total assets); and four complementary indicators as proxies for the state of banks' solvency, liquidity, efficiency and funding costs. In a second stage, the complementary information available, including qualitative information, is analysed in order to ratify or correct the preliminary result obtained previously.

- Setting the level of the CCyB in a standard risk level environment. The level of the CCyB is determined on the basis of the results of multiple simulations of the Spanish economy's response to various adverse cyclical shocks and the associated capital consumption of the Spanish banking system, estimated through stress tests.

- Operation of the CCyB over the macro-financial cycle. This section illustrates how the CCyB would work in practice over a hypothetical complete macro-financial cycle.