

# 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-Law amending the Royal Decree-Law containing urgent measures for protecting low-income mortgage holders and the Law on measures for reinforcing mortgage holder protection, debt restructurings and social rent (Royal Decree-Law 5/2017, published in the *Official State Journal (BOE)* on March 18<sup>th</sup>, 2017)**

Royal Decree-Law 5/2017, of March 17<sup>th</sup>, 2017, was published in Spain's *Official State Journal (BOE)* on March 18<sup>th</sup>, 2017. It amends Royal Decree-Law 6/2012, of March 9<sup>th</sup>, 2012, on urgent measures for protecting low-income mortgage holders, and Law 1/2013, of May 14<sup>th</sup>, 2013, on measures for reinforcing mortgage holder protection, debt restructurings and social rent. It has the effect of extending the suspension of mortgage foreclosures for vulnerable households for three years, until March 2020, and changes some of the thresholds and requirements for qualifying as "particularly vulnerable". This Royal Decree-Law took effect the day after it was published in the *Official State Journal*.

The aim of this Royal Decree-Law is to expand the scope of application of the measures in place for protecting "particularly vulnerable" mortgage holders and extending application of the suspension of foreclosures for **another three years**, starting from its date of effectiveness.

Some of the **most significant aspects** of the Decree are itemised below:

➤ **Amendment of Royal Decree-Law 6/2012, of March 9<sup>th</sup>, 2012, on urgent measures for protecting low-income mortgage holders**

The instances in which a household's circumstances are deemed "particularly vulnerable" have been fine-tuned and now constitute the following:

- **Large family** units, as defined in prevailing legislation.
- Family units comprising **single parents with children in their care**.
- Family units including a **minor**.
- Family units in which at least one of its members has a certified **disability of a severity of 33% or more, is dependent or has an illness** that certifiably and permanently prevents him or her from working.
- Family units in which the following live in the same home: one or more people who are removed from the mortgage holder or his/her spouse by a kinship of up to the third degree of consanguinity or affinity and **are disabled, dependent or seriously ill such that they are certifiably temporarily or permanently unable to work**.

- Family units in which there is a **victim of gender violence**.
- **Mortgage holders aged over 60**, even if he or she does not meet the requirements for qualifying as a family unit within the meaning of Royal Decree-Law 6/2012.

The **Appendix on the Code of Good Practices** contained in Royal Decree-Law 6/2012 has been amended as follows:

- **Right to rent in the event of foreclosure of one's primary residence.** A foreclosed mortgage holder whose eviction has been suspended pursuant to Law 1/2013 may request and obtain from the creditor foreclosing the property or the person acting on their behalf to rent the property for an annual rent of no more than 3% of its value at the time of approval of the order, determined by an appraisal provided by the foreclosed party and corroborated by a certified appraisal firm.

➤ **Amendment of Law 1/2013, of May 14<sup>th</sup>, on measures for reinforcing mortgage holder protection, debt restructurings and social rent**

The new legislation amends Article 1 in line with the new wording given to Royal Decree-Law 6/2012, **extending the term of the moratorium on evictions from four to seven years** when such evictions affect the primary residences of persons satisfying one of the instances of "particular vulnerability".

Specifically, it introduces a **new paragraph to the said Article 1 to reference the Appendix on the Code of Good Practices contained in Royal Decree-Law 6/2012** giving a vulnerable foreclosed party the option of applying to rent the foreclosed home.

In turn, it reproduces the following instances of "particular vulnerability":

- **Large family units**, as defined in prevailing legislation.
- Family units comprising **single parents with children in their care**.
- Family units including a **minor**.
- Family units in which at least one of its members has a **disability of a severity of 33% or more** such that he or she will never be able to work.
- Family units in which the mortgage holder is **unemployed**.
- Family units in which the following live in the same home: one or more people who are removed from the mortgage holder or his/her spouse by a kinship of up to the third degree of consanguinity or affinity and **are disabled, dependent or seriously ill such that they are certifiably temporarily or permanently unable to work**.
- Family units in which there is a **victim of gender violence**.
- **Mortgage holders aged over 60**.
- **Acceptance of the "Code of Good Practices for the viable restructuring of loans secured by mortgages over primary residences"**

Additional Provision One introduces a **tacit acceptance** by virtue of which all the financial institutions that have already signed up to the "Code of Good Practices for the viable restructuring of loans secured by mortgages over primary residences" regulated in the Appendix to Royal Decree-Law 6/2012 are deemed to have accepted the said Code as newly worded unless they expressly apply, within one month from its date of effectiveness, to the General Secretariat of Treasury and Finance Policy, to be bound only by the prior version of the Code.

➤ **Complementary measures**

The government is expected to propose measures, designed to **facilitate recovery of ownership of the primary residence by mortgage holders qualifying as particularly vulnerable** within eight months from effectiveness of the new Royal Decree-Law. Those measures will contemplate, among other things:

- The house foreclosure price;
- The scope for discounting a portion of the amounts paid by the foreclosed mortgage holder to repay the original loan secured by the residence;
- Improvements made to the residence and borne by the mortgage holder during the duration of the eviction suspension.