

# Recent key developments in the area of Spanish financial regulation

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## **Royal Decree amending the Royal Decree on clearing, settlement and registration of securities (Royal Decree 827/2017, published in the Official Gazette on September 2<sup>nd</sup>)**

Royal Decree 827/2017 was published on September 2<sup>nd</sup> in the Official Gazette, amending Royal Decree 878/2015, which establishes the legal framework for adaptation to the system for clearing and settlement of trading in fixed income securities, as a prior condition for inclusion of Spain's central securities depository (Iberclear) on TARGET2-Securities (T2S). It also strengthens the protection for collateral provided in securities clearing and settlement.

The Royal Decree has the following objectives, to: (i) extend application of the clearing and settlement system implemented by Royal Decree 878/2015 to fixed income securities, (ii) provide greater flexibility for specific rules on holding securities and the use of certain procedures; and, (iii) advance in the reduction of administrative burdens.

In addition to the technical improvements made in the text, the Royal Decree makes the following notable **amendments**, it:

- Establishes and regulates the characteristics of **fixed income securities**, including details of the issuing document and abolishing a procedure relating to specific trading in Public Debt securities with repurchase agreements (“Spanish repo”).
- Allows for the **use of various types of accounts** (proprietary, global third party and individual).
- Abolishes the **securities lending ledger** given that the latter has been harmonised at the European level through Regulation (EU) 2015/2365 on transparency of securities financing transactions and of reuse.
- Eliminates the requirement to provide certain **information to the information system** for supervision of trading, clearing, settlement and registration of securities. This relates to information on the identification and details of transactions that have been executed, the securities concerned and ownership affected.
- Also includes specific requirements on **ownership certificates** issued in favour of the General Deposit Fund (Caja General de Depósitos) and authorisation for the creation of deposits in the Fund for payment of certain public prices.

Full alignment of Royal Decree 878/2015 with the new clearing and settlement regime for trading in fixed income securities will take place in the near future, and in parallel with a reform of the legal regime for Spanish securities markets as a consequence of transposing MiFID II.

## **Bank of Spain Circular amending the Circular on the Central Credit Register (Circular 1/2017, published in the Official Gazette on July 8<sup>th</sup>)**

The AnaCredit Regulation[1], which will apply from December 31<sup>st</sup>, 2017, creates the obligation on reporting institutions[2] to report credit data of the observed agents, or which they manage for third parties, to the ECB via their corresponding national central banks. These requirements apply if at least one debtor is a legal entity and where the

debtor's commitment is equal to or larger than 25,000 euros.

Given that Spain already has a system for sending similar information (Circular 1/2013), the Bank of Spain has opted to **integrate the AnaCredit requirements within the information system of the Central Credit Register (CCR)**. Thus, the CCR will collect the information requested by the Bank of Spain from the reporting institutions for submission to the ECB and subsequent integration with the information provided by other national central banks.

Despite the **similarities between AnaCredit and Circular 1/2013** (reporting is operation by operation and contains similar information on entities, operations, protections and interrelations), implementing AnaCredit requires the above Circular to be amended, including:

- The introduction of **new information requirements** on: (i) entities, (ii) reported operations, (iii) financial data, (iv) protections received, (v) interest rates; and, (vi) the accounting status of the operations.
- **Standardisation** of the set of attributes, concepts and definitions contained in Circular 1/2013 with those in the AnaCredit Regulation.
- Institutions will continue reporting to the CCR – in accordance with Circular 1/2013 – in line with the amendments made by Circular 7/2016:
  - **Until March 31<sup>st</sup>, 2018**, inclusive, on registrations and amendments to information on reportable entities, as well as non-resident code requests.
  - **Until April 30<sup>th</sup>, 2018**, inclusive, on the other modules.

The new information requirements are confined to the **scope defined by the AnaCredit Regulation**, i.e. banks and branches of foreign banks in Spain, legal entities and loans; except for interest rates which will be requested both for loans to private individuals and legal entities.

The Circular includes two **annexes** on the data modules and instructions for preparation.

### **Bank of Spain Circular amending the Circular implementing SAREB accounting specifics (Circular 2/2017, published in the Official Gazette on August 4<sup>th</sup>)**

Circular 2/2017 arises from amendments introduced by Royal Decree Law 4/2016 of December 2<sup>nd</sup> – containing urgent measures on financial issues – to Law 9/2012 on bank restructuring and resolution. Its objective, among other issues, is to introduce new criteria for accounting for impairment of assets belonging to the Sociedad de Gestión de Activos Procedentes de la Reestructuración Bancaria, SA (SAREB).

Accordingly, the Circular incorporates new criteria for **accounting for impairments** as well as specifying **reversal rules**:

- SAREB will recognise value impairments, net of taxes, which will be **charged** to a “Value Adjustment” heading in the equity account. The debit on this account will be attributed to the profit and loss account **during positive financial years**.
- In addition, the Circular specifies how reversal of impairment loss will be undertaken for each “unit of assets”. Reversals will initially appear under the “Value Adjustment” heading of the equity account and, when the balance is zero, will be attributed – as appropriate – to the profit and loss account for the amount of the reversal awaiting recognition.

The effects of the new rule will be treated as a **change in accounting criteria**.

### **Notes**

[1] Regulation (EU) 2016/867 of the European Central Bank of May 18<sup>th</sup>, 2016, on the collection of granular credit and credit risk data (ECB/2016/13).

[2] Resident credit institutions and resident foreign branches of credit institutions.