

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 on consumer and user protection in cases of social and economic vulnerability (Royal Decree-law 1/2021, published in the Official State Journal on January 20th, 2021)

Royal Decree-law 1/2021 modifies the following standards:

- The General Consumer and User Protection Act. The new legislation defines the term “vulnerable individual consumer”. In the context of specific consumer relations, vulnerable consumers refer to physical persons who, individually or collectively, on account of their personal, economic, educational or social circumstances, find themselves, whether on a regional, sector-specific or temporary basis, in a position of particular subordination, defencelessness or vulnerability that prevents them from being able to exercise their rights as consumers on an equal footing.
- Royal Decree-law 11/2020 (March 31th, 2020) adopting complementary urgent measures in the social and economic arenas to mitigate the impact of COVID-19. Article 1 bis is modified to cover situations in which eviction proceedings affect economically vulnerable people without alternative living arrangements, including during criminal proceedings in which the eviction affects individuals who were never legally entitled to live in the houses being repossessed.

Bank of Spain Circular amending the Risk Information Register Circular and the Transparency Circular (Circular 1/2021, published in the Official State Journal on December 30th, 2021)

The key changes to Circular 1/2013 on the Risk Information Circular relate to the following measures:

- Payment institutions, including those that exercise their freedom of establishment and freedom to offer services that provide credit, and electronic money institutions, including those that exercise their freedom of establishment and freedom to offer services that provide credit, have been added to the universe of entities required to submit information to the Register.
- The Circular establishes the scope of the information to be reported by such payment and electronic money institutions, which coincides with the reduced statement template.
- The amount of accumulated risk exposure of an institution’s customer to be included in the information the Bank of Spain passes on to the institutions for the purpose of assessing the creditworthiness of their customers has been reduced from 9,000 to 1,000 euros.
- The maximum amount of time the Bank of Spain has to send its feedback reports to the reporting institutions has been set at 21 calendar days from the date of the last submitted report.
- The Circular adds the new information being requested of the credit institutions as a result of the COVID-19 crisis.

Elsewhere, the changes made to Circular 5/2012 on transparency are related to official benchmark interest rates. Specifically, it stipulates the following:

- It introduces four new benchmark indices based on different EURIBOR tenors (1-week, 1-month, 3-month and 6-month), the euro short-term rate (€STR) and any other index expressly stipulated by means of a

resolution from the General Secretariat of the Treasury and International Financing.

- It also establishes the definitions and calculation methodology for the new indices.
- The process for determining the average rate of mortgages awarded for more than three years for the purchase of unsubsidised homes granted by credit institutions in Spain has been updated.
- The nomenclature of the 1-year EURIBOR rate has been updated and the source used for its calculation replaced with a new source, such that the Bank of Spain will now publish and replicate the information compiled by the EURIBOR's administrator, the European Money Markets Institute (EMMI).
- The source of the data for the IRS at the 5-year tenor has also been changed and the change in the administrator of the underlying index from ISDA to ICE Benchmark Administration has been noted.
- MIBOR has been eliminated from the list of official benchmark interest rates, although it continues to be a valid benchmark for transactions arranged prior to January 1st, 2000, and the Bank of Spain will continue to publish it monthly online and in the official state journal.

Bank of Spain Circular 8/2015 on the information for the entities and branches that pay into the Credit Institutions Deposit Guarantee Scheme (Circular 2/2021, published in the Official State Journal on February 2th, 2021)

Circular 8/2015 has been modified to reflect the changes introduced via Royal Decree 217/2008. It envisages coverage by the Deposit Guarantee Scheme (hereinafter, the "Scheme") in the event of the resolution of a credit institution where the balances are held by investment service providers in special-purpose and temporary cash accounts opened in the name of the investment service

provider on behalf of its customers at an entity declared bankrupt. Specifically Circular 8/2015 was amended in order to:

- Establish the manner in which the credit institutions and branches that pay into the Scheme need to compile the new information for determining the bases for calculating their contributions to the Scheme and how they should submit it to the Bank of Spain and keep records thereof.
- Introduce additional information requirements for institutions and branches participating in the Scheme to enable the latter to cooperate at the European level. Specifically, the Scheme will have to periodically provide the deposit guarantee scheme of the host Member State in which the institutions participating in the Spanish Scheme have established branches with information about the aggregate balance of eligible and secured deposits of each deposit holder.

The Circular will take effect on June 30th, 2021.

Royal Decree-law enacting measures designed to reduce the gender pay gap and other social security and economic matters (Royal Decree-law 31/2021, published in the Official State Journal on February 3rd, 2021)

In relation to the financial matters addressed in Royal Decree-law 3/2021, it is worth highlighting the transposition into Spanish law of the extension of the deadline for applying for the moratoria agreed by the EBA in the revision of its Guidelines on payment moratoria (EBA/GL/2020/15), as a result of the ongoing development of the pandemic Europe-wide. More specifically, the new legislation establishes the following:

- The deadline for applying for payment moratoria on loans, mortgaged or otherwise, has been extended to March 30th, 2021. The deadlines for applying for the moratoria extended to the tourism and road passenger transportation sectors are automatically extended under the terms of the EBA Guidelines.

- Beneficiaries are permitted to request the application of any payment moratoria up to the nine-month limit stipulated in the new EBA Guidelines. What that means is that those who have not previously applied for a payment moratorium or suspension and those who have availed of one or more moratoria or suspensions for a total accumulated period of less than nine months can apply for any of the available moratoria for up to the nine month limit.
- Spain's official credit institute, the ICO, is empowered to obtain individual company credit ratings from the Bank of Spain so as to comply with its obligation to report information about the assistance awarded via the national grants database.