

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)

Law 11/2023 transposing EU Directives on accessibility to certain products and services into Spanish law (published in the Official State Journal on 9 May 2023)

This piece of legislation transposes a number of European Directives into Spanish law, notably including, on account of its impact on the financial sector, Directive (EU) 2019/882 on the accessibility requirements for products and services, whose transposition will take effect on 28 June 2025.

Generally speaking, this piece of legislation establishes the universal accessibility requirements for certain products and services needed to optimise their foreseeable and autonomous use by all persons, particularly persons with disabilities. Specifically in relation to the financial sector, its scope of application includes the following products and services: payment terminals, self-service terminals (*e.g.*, ATMs) and consumer banking and financial services. Those services mean the provision of: consumer and mortgage credit agreements; certain investment services and activities; payment account cash lodging and withdrawal services; services linked to payment accounts related with the opening, operation and closure of a payment account, including payment services and transactions; and, electronic money. The websites for those products and services must meet, at least, the average standard required in generally accepted content accessibility criteria.

Other amendments included in this legislation with an impact on the financial sector include:

- Law 10/2014 (supervision and solvency): expands the list of credit institutions to include Spain's official credit institution,

the ICO, and the entities authorised to provide the following investment services: proprietary trading, portfolio management, investment advisory and financial instrument underwriting or placement on a firm basis.

- Royal Decree-law 19/2018 (payment services): modifies certain aspects of the communications and notifications payment service providers must provide to the Bank of Spain.
- Royal Decree Legislative 1/2010 (Corporate Enterprises Act): regulates the incorporation of limited liability companies online.
- Decree of 8 February 1946 (Mortgage Act): regulates the Digital Single Window, the possibility of making registry notifications and announcements electronically and the creation of a registry IT system.
- Law 34/2002 (information society and e-commerce services) and Law 6/2020 (trusted e-commerce services): introduces modifications related with the penalty regime.
- Organic Law 3/2018 (personal data protection) – notably the following: (i) elimination of the warning from the list of penalties that can be imposed on data controllers and processors, replacing it with a requisition; (ii) regulation of the performance of investigations using digital systems; (iii) increase from 9 to 12 months in the maximum duration of disciplinary proceedings and from 12 to 18 months in the duration of the pre-investigation process; (iv) regulation of the substitution

of the head of Spain's competent authority, the AEPD, in the event of absence, vacancy or illness, abstention or disqualification; (v) introduction of a forecast regarding notification of admission to processing in procedures with a high number of claimants; and, (vi) mandatory templates for presenting claims before the AEPD.

Law 12/2023 on the right to housing (published in the *Official State Journal* on 25 May 2023)

This law, which took effect the day after its publication, introduces specific requirements for large-scale landlords, defined as natural or legal persons that own more than ten urban residential properties or a built area for residential use of over 1,500 m² (excluding garages and storerooms). This threshold may be reduced if a residential market is declared as 'tight', in which case landlords with five or more urban residential properties in that market would qualify as large-scale.

The key implications of the new legislation for these landlords are:

- An obligation to accept, in respect of leases over a primary residence, an extraordinary extension of no more than one year when the tenant can certify social or financial vulnerability.
- When the house is located in a tight residential market, they are obliged to collaborate with the competent housing authorities and provide them with information about how the homes they own are being used. In addition, the rent agreed at the start of a new contract may not exceed the last rent in the primary residence lease agreement in force over the same home during the previous five years, after application of the annual rent update clause contemplated in the previous lease or the price limit applicable under the reference price index system.
- Rent increases negotiated for primary residence lease agreements may not exceed the result of applying the annual change in the so-called Competitiveness Guarantee

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- With respect to eviction proceedings involving the primary residence of the affected occupant, if the latter is financially vulnerable and the claimant is a large-scale landlord, suits will not be admitted to processing unless the claimant can certify prior completion of the amicable settlement or intermediation procedure contemplated by the authorities. Likewise, an amicable settlement or intermediation procedure will also be required, so long as the claimant is a large-scale landlord and the defendant is financially vulnerable, prior to the start of the execution procedure for the auction of the foreclosed property.
- The eviction and repossession proceedings suspended under Articles 1 and 1 bis of Royal Decree-law 11/2020 may be resumed from 30 June 2023. However, when the claimant is a large-scale landlord, those proceedings may only be resumed, subject to express request by the plaintiff, following certification of completion of the amicable settlement or intermediation procedure contemplated by the authorities.