CONSOLIDATED TEXT
of
Law no. 174 of 27 November 2015
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UNOFFICIAL TEXT
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Law No. 174 of 27 November 2015
as amended by DELEGATED DECREE no. 119 of 26 August 2016 and DELEGATED DECREE no. 44 of 24 April 2017

INTERNATIONAL TAX COOPERATION

TITLE I
GENERAL PROVISION

Art. 1
(Purposes)

1. This Law shall regulate international tax cooperation implemented by the Republic of San Marino to enforce international, bilateral or multilateral agreements concluded with foreign countries or jurisdictions.
2. The Congress of State shall be committed to strengthening cooperation and administrative assistance through the signing of agreements with the relevant States and jurisdictions, with particular reference to agreements to avoid double taxation and for the exchange of information according to OECD standards and models.

Art. 2
(International Agreements)

1. The agreements referred to in Article 1, paragraph 1 shall be the following:
   a) Multilateral Convention on Mutual Administrative Assistance in Tax Matters signed in Jakarta on 21 November 2013 (MAC);
   b) bilateral agreements to ensure exchange of information in tax matters on request according to OECD standards (TIEAs);
   c) bilateral agreements to eliminate double taxation according to OECD standards and including the provisions on exchange of information on request (DTAs);

d) the agreement with the Government of the United States of America (IGA SM) and relevant technical arrangements to implement FATCA tax compliance standard;
e) any other international agreement providing for international tax cooperation, referred to by the ratifying measure in San Marino legal system for the enforcement of this Law;
e-bis) bilateral and/or multilateral agreements between competent authorities relating to the agreements referred to in the preceding letters.

2. This Law shall cover the agreements implementing the aforesaid arrangements, even if the effectiveness thereof is not dependent on ratification.

Art. 3
(Reservations)

1. When concluding international agreements, the Republic of San Marino, if relevant conditions are met and insofar as compatible, may express reservations to harmonise the international instrument with San Marino system.

Art. 4
(International standards)

1. International standards shall constitute criteria and guidelines established and formalised within international bodies, relating to the application of tax cooperation including, but not limited to, the OECD Global Standard for Automatic Exchange of Financial Account Information and the OECD Standard on Exchange of Information on Request (Model Agreement on Exchange of Information on Tax Matter and Article 26 of the Model Tax Convention on Income and on Capital).

2. In implementing international tax cooperation, the Republic of San Marino shall apply the standards mentioned in this Law within the limits established therein.

Art. 5
(Definitions)

1. For the purposes of this Law, the following definitions shall apply:
a) "System administrator"*:* public or private party that keeps the system in operation, deals with its maintenance, extension and operation;
b) "CLO": Central Liaison Office;
c) "Common Reporting Standard (CRS)"*:* rules and procedures for the identification, verification and reporting of financial information on an

automatic basis under the Global Standard;

d) "Competent Authority Agreement (CAA)": agreement between competent authorities;

e) "The like"*:* offences with the same level of wrongfulness as tax fraud under the laws of San Marino. The single cases falling within the categories of "The like" shall be defined in the framework of the international agreements signed by the Republic of San Marino;

f) "Electronic communication"*:* exchange or transmission of information and data to one or more specific parties other than the data subject, the data processor and the person in charge of the processing, through a telecommunications network;

g) "Convention on Mutual Administrative Assistance in Tax Matters (MAC)"*:* Convention on Mutual Administrative Assistance in Tax Matters of 1988, signed by San Marino in Jakarta on 21 November 2013;

h) "Anonymous data"*:* data that originally or following processing cannot be associated to any identified or identifiable data subject;

i) "Personal data"*:* any information relating to identified or identifiable individuals, legal persons or entities;

l) "Rights of data subjects": rights of access to personal data of data subjects and other rights under Article 11 of Law no. 70 of 23 May 1995;

m) "Double Taxation Agreement (DTA)": bilateral agreement for the avoidance of double taxation on the basis of the OECD standard;

n) "Foreign Account Tax Compliance Act (FATCA)": U.S. act for the acquisition of financial information for tax purposes relating to U.S. holders of accounts maintained by foreign financial institutions;

o) "Foreign Financial Institutions Agreement (FFI Agreement)": agreement establishing the requirements for a reporting San Marino financial institution to be considered as compliant with the requirements of the relevant section of the U.S. Internal Revenue Code;

p) "Guarantor": data protection guarantor referred to in Chapter V of Law no. 70/1995;

q) "Global Standard": OECD Global Standard for Automatic Exchange of Financial Account Information in Tax Matters, consisting of the Model Competent Authority Agreement on the Automatic Exchange of Financial Account Information (CAA) and of the Common Reporting Standard (CRS);

r) "Digital Identity"*:* all information and the resources provided by a computer system to a particular user following an identification process. Digital identity consists of two parts: the identity, where the recognition of the individual is a fundamental part, and the credentials, which represent the

attributes of that identity and which can be modified according to authorised activities;

s) "IGA SM": intergovernmental agreement between the Republic of San Marino and the Government of the United States of America for the application of FATCA tax compliance measures;

t) "Person in charge of the processing"*:* the individual authorised to perform processing operations by the data controller or processor;

u) "Communication": All information that the data controller shall provide to the data subject, after the collection of personal data, under Article 8 of Law no. 70/1995 on the purposes and methods of the processing;

v) "Data subject"*:* any individual, legal person or entity to whom the personal data refer;

z) "Internal Revenue Service (IRS)"*:* U.S. tax authority;

aa) "Security measures": set of technical and organisational procedures, electronic devices or computer software used to ensure that data are accessed by authorised persons, are processed for the purposes for which they were collected and in accordance with the law, and to avoid loss or destruction (even accidental) of data;

bb) "Multilateral Competent Authority Agreement (MCAA)": Multilateral Agreement between Competent Authorities;

cc) "AML/CFT Legislation" and "AML/KYC Procedures": all regulatory provisions and instructions of the Financial Intelligence Agency on the prevention and combating of money laundering and terrorist financing, including customer due diligence procedures pursuant to the anti-money laundering or similar requirements to which the Financial Institution is subject;

dd) "OECD": Organisation for Economic Co-operation and Development;

ee) "Data processor"*:* the individual, linked to the controller through the performance of services, or belonging to a third legal person, entrusted by the controller with the processing of personal data;

ff) "Telecommunications networks": set of equipment, software required for their operation and control of connectors, either public, private or mixed, which allow the transmission of information and data between network termination points, transforming data into electromagnetic signals;

gg) "Tax Information Exchange Agreement (TIEA)": agreement on exchange of tax information based on the OECD standard;

hh) "Data controller": the individual or legal person determining the purposes and means of the processing of personal data and the instruments used, including the security profile;

ii) "Beneficial owner": the individual falling within the definition referred to in Article 1, paragraph 1, letter r) of Law no. 92 of 17 June 2008 and subsequent amendments, including in the instructions issued, from time to time, by the Financial Intelligence Agency;

ll) "Processing"*:* any operation or set of operations relating to data collection, recording, organisation, storage, consultation, treatment, alteration, selection, retrieval, use, blocking, disclosure, dissemination, erasure and destruction;

mm) "Wider Approach"*:* the principle contained in the framework of the Global Standard relating to the application of customer due diligence procedures to all non-resident customers, regardless of whether information is exchanged with the customer's jurisdiction of residence.

TITLE II
COMPETENT AUTHORITY AND OTHER STAKEHOLDERS IN INTERNATIONAL TAX COOPERATION

Art. 6
(Central Liaison Office)

1. The Central Liaison Office (CLO), already established by Law no. 95 of 18 June 2008, shall be designated as the Competent Authority to implement and build upon the administrative cooperation and exchange of information in tax matters, in accordance with the international agreements referred to in Article 2.
2. The CLO shall not be responsible for cooperation with foreign authorities involved in the supervision of financial systems.

Art. 7
(Requirements and incompatibilities of CLO staff)

1. The Director shall be appointed by the Great and General Council (Parliament) upon proposal of the Congress of State (Government), which shall determine the relevant remuneration and contractual arrangements. The term of office shall be five years with possible renewal for only a further five-year period.
2. The Official, also acting as Deputy Director, shall be appointed by the Congress of State, which shall determine the relevant remuneration and contractual arrangements. The term of office shall be five years with possible renewal.
3. The Director and the Official shall hold a master degree in law or economic sciences or finance or equivalent degrees pursuant to Law no. 161 of 5 October

2011, including under the former system. They shall also have specific skills and adequate experience.

4. CLO staffing needs shall be defined by the delegated decree referred to in Chapter II, Title V of Law no. 188 of 5 December 2011.

5. The position of CLO Director, Official and staff in general shall be incompatible with the mandate of member of the Great and General Council, as well as with offices in the governing bodies of professional associations and associations of self-employed workers, trade unions and political parties and movements. In this regard, also the provisions laid down by Law no. 41 of 22 December 1972, Law no. 108 of 31 July 2009 and Law no. 141 of 5 September 2014 shall apply.

6. The Director shall independently regulate the organisation and operational functioning of the Office by adopting guidelines and specific operational manuals.

7. The Official shall assist the Director in the performance of his/her functions and, if the latter is absent or indisposed, he/she shall perform the duties as Deputy Director.

8. In order to perform statutory functions, CLO staff shall participate in the work and activities of the international organisations of reference according to the instructions given by the Director.

9. CLO staff shall be required to participate in specific training courses, which are also useful to achieve qualifications and positions within the same international organisations to represent the Republic of San Marino.

Art. 8

(Secrecy requirement)

1. CLO staff and anyone collaborating with CLO in the performance of its functions shall be bound by the strictest secrecy on any matters regarding the activity of CLO and its relations with third parties. Any information, records and data held by CLO in the framework of its activities shall be covered by official secrecy. The staff shall continue to be bound by official secrecy also after termination of the employment or cooperation relationship with CLO.

2. Anyone who, even unintentionally, acquires information regarding the activity of CLO as a result of any relationship established with it shall also be bound by secrecy.

3. Secrecy shall not be invoked against the Judicial Authority when the information requested is necessary in the framework of investigations into criminally punishable tax violations.

Art. 9

(Powers and functions)

1. CLO, as the competent authority for the implementation of the exchange of information based on international standards, shall have access, either directly or through the parties referred to in Article 12, to the information required to establish this form of cooperation.
2. CLO shall also have the power of access to information on the basis of other forms of international cooperation to combat fraud, the like, swindling and distortions in the economic relations with other States and jurisdictions in the field of indirect taxes. In this case, the limitation referred to in Article 8, paragraph 3 shall not apply.
3. The powers referred to in this Article shall be exercised regardless of whether the conduct constitutes an alleged criminal offence.
4. For the performance of its tasks, CLO shall apply the procedures provided for in appropriate guidelines and operating manuals, prepared in line with international standards and regularly adopted by CLO. These measures shall be drawn up also on the basis of the indications provided by the tax administration on international cooperation.
5. CLO shall also be responsible for the issuance of guidelines implementing the provisions of this Law, which shall be complied with by the parties subject to the obligations arising from such provisions.

Art. 10

(Autonomy and independence)

1. CLO shall operate autonomously and independently in the fulfilment of its institutional tasks and shall report on relevant issues to the Minister of Finance and Budget and, if necessary, through the Minister, to the Congress of State.
2. CLO shall be required to annually submit to the Great and General Council, through the Minister of Finance and Budget, a general report on the activities carried out.

Art. 11

(Non-invocability of bank and professional secrecy)

1. Bank secrecy referred to in Article 36 of Law no. 165 of 17 November 2005 and subsequent amendments shall not be invoked against CLO while performing its functions. CLO may also have direct access to information held by financial system operators. Moreover, neither official nor professional secrecy shall be invoked against CLO.
2. As partial derogation from paragraph 1 and in accordance with OECD international standards on limitations to exchange of information, those enrolled in the Register of Lawyers and Notaries Public and those enrolled in the Register of Accountants (holding a university degree or a high school certificate) may invoke against CLO their professional secrecy in relation to information they receive while performing their task of defending or representing their client during judicial proceedings or in connection with such proceedings, including advice on initiating or avoiding proceedings, where such information is received or obtained before, during or after said proceedings.
3. The provisions referred to in Law no. 70/1995 shall not apply in the context of the exchange of information to implement the agreements referred to in Article 2, subject to compliance with the provisions on data confidentiality contained therein and those referred to in Title V.

Art. 12

(Relations with other offices and Authorities)

1. In carrying out its functions, CLO:
   a) may rely on the cooperation of the Tax Office, the Commercial Registry of the Court, the Office for Control and Supervision over Economic Activities, the Office of Industry, Handicraft and Trade, the IT, Technology, Data and Statistics Organisational Unit and other offices of the Public Administration;
   b) may request the cooperation of the Corps of the Police Department, in particular the Fraud Squad of the Civil Police, for the acquisition of information and retrieval of documents held by relevant stakeholders;
   c) may request the cooperation of the Central Bank of the Republic of San Marino and of the Financial Intelligence Agency for a thorough analysis of banking and financial aspects, without prejudice to Law no. 165/2005 and subsequent amendments;
   d) the aforementioned offices and Authorities, as well as any other party, shall be required to process requests in the manner and within the time specified by CLO.

2. Specific memoranda of understanding between the CLO and, respectively, the Office for Control and Supervision over Economic Activities, the Central Bank, the Financial Intelligence Agency, the Tax Office shall define the forms of mutual cooperation and of access to available data and information. Similar memoranda may be concluded with other offices and Authorities.

Art. 13

(Access to information and data)

1. CLO shall have access, including through electronic means, to the integral versions, without any limitations, of the data and information available in records, archives, electronic databases and professional registers kept by public administrations, public entities and professional associations.
2. CLO shall also access data and information available at the Central Bank and the Financial Intelligence Agency, in the form and manner established by the agreements and memoranda referred to in Article 12.
3. CLO shall have access to all information held by the Office of the Trust Register, as is the case for the parties already identified in Article 2, paragraph 4 of Delegated Decree no. 50 of 16 March 2010, moreover, in the exercise of its functions, it may request directly to the trustee to show the Book of Events referred to in Article 28, paragraph 5 of Law no. 42 of 1 March 2010.
4. CLO, in the exercise of public functions, shall have access to the customer register established with the Central Bank by Decree-Law no. 65 of 14 May 2009, in the manner, forms and terms set forth in the memoranda referred to in Article 12.
5. The data and information held by public administrations, public entities and professional associations shall be made available to CLO, upon written reasoned request, in relation to the purposes and powers set out in Article 9.
6. For the same purposes and powers specified in paragraph 5, CLO, upon simple request, may have access to registers, archives, data or information held by the Police Authority and Single Court, including criminal records. The data and information regarding judicial activity shall be provided to CLO, upon prior authorisation by the judge and only for the tasks assigned to CLO.
7. The data and information acquired by CLO may be used exclusively for the exercise of the functions provided for by law.
8. The data acquired by CLO through direct access to the centralised databases of the Public Administration may be exchanged with foreign authorities without any validation by the Office or Entity holding the database.

Art. 14

(Other authorities involved)

1. Subject to the forms of cooperation already provided for in Article 12, in order to comply with the cooperation carried out under the international instruments adopted by the Republic of San Marino, specific responsibilities may be accorded by this Law and the provisions contained therein to other national authorities for their respective tasks connected with the performance of the activities under the agreements referred to in Article 2.

TITLE III
EXCHANGE OF INFORMATION

CHAPTER I
EXCHANGE OF INFORMATION ON REQUEST

Art. 15

(Rules and criteria for exchange of information on request)

1. Exchange of information on request, provided for in the agreements referred to in Article 2, shall apply when a State requests to another State specific tax information relative to a particular taxpayer, provided that such information is foreseeably relevant to the application of domestic law of the requesting State. Before making a request, the State shall be required to pursue and exhaust all means available in its own territory to obtain the information.
2. Sending and receipt of requests for information between the competent authorities shall be in compliance with the following:
   a) the provisions contained in the agreements referred to in Article 2;
   b) indications established by the OECD in the Manual on the Implementation of Exchange of Information Provisions for Tax Purposes - Module 1 on Exchange of Information on Request and subsequent amendments, unless contrary to the provisions of the agreements referred to in Article 2 and those referred to in this Law.
3. The modalities of cooperation through exchange of information on request with the Government of the United States of America, in accordance with IGA SM agreement, shall be established by the provisions of said agreement and by those of Article 20 hereunder.

Art. 16

(Assessment of requests received)

1. Before starting internal procedures to obtain the information requested by a foreign authority, CLO shall verify the elements of the request by assessing whether it is admissible with respect to what established by the agreements, the provisions of this Law and the measures contained therein.
2. In case the request is valid and complete, CLO shall obtain, either directly or indirectly, the requested information for exchange purposes.
3. If CLO deems the request inadmissible on account of incomplete information or for the reasons indicated in Article 17 hereunder, it shall immediately inform the competent authority of the requesting State thereof, which may supplement the request or send a new, correct request.

Art. 17

(Reasons for the decline of a request)

1. CLO shall not provide the forms of assistance regulated by this Chapter when:
   a) it is established that the requesting party has not pursued all means available in its own territory to obtain the information, except where recourse to such means would give rise to disproportionate difficulty;
   b) processing the request and disclosing the information to the requesting party would be contrary to public policy (ordre public);
   c) the requests do not contain sufficient elements to demonstrate the foreseeable relevance of the requested information for the administration or enforcement of the domestic laws of the requesting States or jurisdictions;
   d) the request is not detailed and contains generic references and/or indications according to which the request could be considered a “fishing expedition” (term used in the context of the OECD) or an indiscriminate attempt to obtain information.
2. CLO shall not exchange information:
   a) that would disclose any trade or industrial secret or trade process;
   b) that would reveal confidential communications between a client and a professional referred to in paragraph 2 of Article 11, where such communications contain:
      1) information provided as legal advice;
      2) information provided for the purposes of use in existing or contemplated legal proceedings.
3. CLO may decline a request for information if the information is requested

by the requesting Party to administer or enforce a provision of the tax law of the requesting Party, or any requirement connected therewith, which discriminates against a San Marino citizen as compared with a citizen of the requesting Party in the same circumstances.

4. CLO shall not be required to provide information which is neither held by San Marino authorities nor in the possession or control of individuals or legal persons that are within the Republic of San Marino.

5. In any case, CLO shall not exchange information if the request is not made in accordance with the applicable agreement.

Art. 18

(Measures for the collection of information)

1. Without prejudice to the provisions of Title II**,** CLO may collect information directly from persons holding or controlling the requested information.

2. The collection referred to in paragraph 1 may take place:

a) based on direct request, which shall:
   1) be made in writing and transmitted with appropriate means to verify receipt;
   2) contain useful elements to identify the requested information;
   3) make express reference to any provisions regarding the confidentiality of the request;
   4) indicate any modality and time to process the request;
b) requiring the collaboration of the offices and the authorities referred to in Article 13 according to their respective competence and functions.

3. With reference to paragraph 2, the establishment of time-limits shall take into account the reasonable period of time required to process the request, also considering its complexity.

Art. 19

(Request for information to foreign authorities)

1. A request for tax information to foreign authorities shall be made by CLO:

a) at the request of San Marino competent offices or authorities as part of tax control and assessment activities covered by the agreements referred to in Article 2;
b) on its own initiative;
   1) to perform the tasks of preventing and combating the offences referred to in Article 9, paragraph 2, based on the elements developed by San Marino competent offices and authorities;
   2) to obtain information related to those referred to in letter a) necessary to

the assessment and control activity of the financial administration.

2. The request referred to in paragraph 1 shall contain the elements and be made in the manner envisaged by the agreements and by the provisions of this Law.

Art. 20

(Exchange of information between competent authorities in accordance with IGA SM agreement)

1. In accordance with IGA SM agreement, CLO shall meet the requests made by the competent U.S. authority in the manner envisaged by said agreement.

2. The U.S. competent authority may:

a) make a series of requests to CLO on the basis of the aggregate information provided to the IRS by reporting financial institutions based on the FFI agreement and on the provisions of this Law;

b) make follow-up requests to CLO to those referred to in letter a) for additional information with respect to any non-consenting U.S. accounts, including the account statements prepared in the ordinary course of the reporting San Marino financial institution's business that summarise the activity (including withdrawals, transfers and closures) of the account.

3. CLO shall provide to the U.S. competent authority the information requested by it pursuant to paragraph 2, without regard to whether San Marino financial administration needs such information for its own tax purposes or whether the information relates to the investigation of conduct that would constitute a crime under the laws of San Marino.

4. If the information available to CLO is not sufficient to meet the requests, the latter shall take the necessary measures by exercising the powers envisaged in Title II and applying the provisions of Article 18.

5. With respect to a group request from the U.S. competent authority referred to in paragraph 2, letter a), CLO shall, within six months of the receipt of the group request, provide the U.S. competent authority with all such requested information in the same format in which the information would have been reported if it had been reported directly to the IRS. CLO shall notify any delays in the exchange of requested information to the U.S. competent authority and to the relevant reporting San Marino financial institution. In this case, the provisions of paragraph 7 of Article 33 shall apply to the reporting San Marino financial institution. CLO shall in any case provide the U.S. competent authority with the requested information in the shortest possible time.

6. The arrangement between the competent authorities referred to in Article 4, paragraph 3 of IGA SM may establish rules and procedures to implement the provisions of this Article.

Art. 21

(Exchange of information on request in the framework of agreements for the automatic exchange of information)

1. Without prejudice to the provisions of Article 20, if the agreements referred to in Article 24, paragraph 1, letter b) envisage any forms of exchange of information on request, CLO shall act as the competent authority by applying the provisions referred to in Title III, Chapter I, insofar as compatible.

CHAPTER II
SPONTANEOUS EXCHANGE OF INFORMATION

Art. 22

(Rules and criteria for spontaneous exchange of information)

1. With the spontaneous exchange of information under Article 26 of the OECD Model Convention and Article 7 of the Multilateral Convention (MAC), the competent authorities of a State shall disclose, without any prior request, some information in their possession to the competent authority of another interested State.
2. Sending and receipt of requests for information between the competent authorities shall be in compliance with the formalities and indications established by the OECD in the Manual on the Implementation of Exchange of Information Provisions for Tax Purposes - Module 2 on Spontaneous Exchange of Information and subsequent amendments, unless contrary to the provisions of the agreements referred to in Article 2 and those referred to in this Law.

Art. 23

(Application circumstance)

1. Spontaneous exchange of information, provided for by the instruments mentioned in Article 22, may take place mainly when there are reasonable grounds to believe that there may be a tax loss to the treasury of the other contracting State.

CHAPTER III
AUTOMATIC EXCHANGE OF INFORMATION

Art. 24

(Application)

1. The provisions of this Title III, Chapter III shall govern automatic exchange of information envisaged:

a) in Article 6 of the Multilateral Convention (MAC) implemented in accordance with the Global Standard for Automatic Exchange of Financial Account Information;

b) in the agreement between the European Community and the Republic of San Marino providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments and the relevant Memorandum of Understanding, signed in Brussels on 7 December 2004, as amended by the Protocol initialled on 26 October 2015 in view of the following signing and ratification;

c) in international agreements complying with the Global Standard for Automatic Exchange of Financial Account Information;

c) in the intergovernmental agreement with the Government of the United States of America (IGA SM) relative to the Foreign Account Tax Compliance Act (FATCA);

d)-bis in bilateral and/or multilateral agreements between competent authorities relating to the agreements referred to in the preceding letters.

2. Automatic exchange of information shall take effect from the date indicated in the above-mentioned agreements in relation to the periods indicated therein.

3. For the purposes of this Law, the agreements referred to in paragraph 1 shall be generally indicated as “relevant agreements”.

4. Any reference made in the text to the Global Standard or CRS shall be understood as extended also to the agreement referred to in paragraph 1, letter b), unless otherwise indicated.

Art. 25

(Definitions referred to in the standards)

1. For the purposes of automatic exchange of information, the definitions set out in the standards and in the agreements referred to in Article 24 and included in Annex A to this Law shall be used, insofar as compatible with the terms defined in this Law.

2. San Marino financial institutions shall be authorised, for the purposes of the provisions contained in this Law, of IGA SM and of the FFI Agreement, to use the definitions contained in the regulations of the U.S. Treasury Department, provided this does not prejudice the purposes of this Law and of the above-mentioned agreements.

Art. 26

(Reporting Financial Institution)

1. For the purposes of this Law, "Reporting Financial Institution" shall mean any party falling within the definition of "Reporting Financial Institution" under the relevant agreement.
2. The following parties shall fall within the definition of Reporting Financial Institution provided they do not fall within the definition of "Non-Reporting Financial Institution" under the relevant agreements:
   a) financial businesses;
   b) any other party falling within the definition of financial institution in accordance with the relevant agreement and established in the territory of the Republic of San Marino;
   c) permanent establishments in the territory of San Marino of foreign financial institutions.
3. The requirements provided for in this Law shall not apply to permanent establishments located abroad of financial institutions established in the Republic of San Marino.
4. With reference to FATCA, the parties meeting the requirements for qualifying as "exempt beneficial owners other than funds" and as "funds that qualify as exempt beneficial owners" shall not fall within the definition of Reporting Financial Institution.

Art. 27
(*Reportable Account*)

1. For the purposes of this Chapter III, "Reportable Account" shall mean a financial account that meets the following conditions:
a) the account falls within the definition of financial account under the relevant agreement;
b) the account is held:
   1) with reference to the CRS, in the name of one or more individuals or Entities not residing in the territory of the Republic of San Marino, or of one or more Passive Non-Financial Entities (Passive NFEs), as defined in the relevant agreement, controlled by one or more individuals not residing in the territory of the Republic of San Marino;
   2) with reference to FATCA, in the name of one or more U.S. citizens wherever resident, or of one or more Passive Non-Financial Entities (Passive NFEs), as defined in the relevant agreement, controlled by one or more U.S. citizens wherever resident;
c) the parties referred to in letter b), point 1) reside in a State or jurisdiction falling within the definition of "Participating Jurisdiction" under the CRS, with

which information is exchanged;

d) the account is maintained with the Reporting Financial Institution:

1) with reference to the CRS, as of 31 December 2015 or starting from a date later than the latter;

2) with reference to FATCA, as of 30 June 2014 or starting from a date later than the latter;

e) the account also has the characteristics provided for:

1) with reference to the Global Standard, in Section VIII, letter D of the CRS;

2) with reference to FATCA, in IGA SM Agreement;

f) the account does not fall within the definition of excluded account under the relevant agreement.

2. Due diligence requirements under Article 28 shall not apply to excluded accounts.

3. The Reporting Financial Institution shall identify reportable accounts by applying the due diligence procedure for the purposes of automatic exchange provided for in this Law in accordance with the relevant agreements.

4. The Reporting Financial Institution shall apply the account balance aggregation and currency rules provided for in the relevant agreements in order to determine whether the account falls within the definition of reportable account. The account balance aggregation and currency rules are provided for:

a) with reference to the Global Standard, in Section VII, letter C of Annex B to this Law;

b) with reference to IGA SM, in Section VI of Annex C to this Law.

5. For the purposes of the relevant agreement and of this Law, in applying the account balance aggregation and currency rules, an account balance that has a negative value shall be treated as having a nil value.

6. The list of States and jurisdictions with which automatic exchange of information is active for the purposes of the Global Standard shall be published and updated through Congress of State (Government) Decision.

7. A financial account opened in the name of more than one party shall become a reportable account even if only one of the parties meets the requirements indicated in paragraph 1, letters b) and c).

8. A financial account may be subject to multiple reporting obligations in accordance with different agreements if, based on the definitions of the relevant agreements, it may be qualified both as a reportable account and as a U.S. account. Similarly, an account opened in the name of more than one party, some of whom meet the requirements to be identified as U.S. account and others meet the requirements to be identified as reportable account, shall be an account subject to reporting obligations both under FATCA and under the agreements relative to the Global Standard.

Art. 28

(Due diligence requirements for the purposes of automatic exchange)

1. Due diligence for the purposes of automatic exchange shall consist in the set of operational procedures that Reporting Financial Institutions shall adopt in order to:

a) determine whether a financial account qualifies as reportable account under the relevant agreement and according to the characteristics referred to in Article 27, paragraph 1;

b) obtain data and documents necessary for the fulfilment of reporting requirements.

2. Without prejudice to the following paragraphs, due diligence procedures in relation to the relevant agreements shall be contained in Annex B with reference to the Global Standard and in Annex C with reference to IGA SM. Due diligence requirements shall run:

a) with reference to the Global Standard, from 1 January 2016;

b) with reference to IGA SM, from 1 July 2014.

3. Upon opening of a new financial account by a party not residing in the territory of the Republic of San Marino or by a U.S. citizen wherever resident, Reporting Financial Institutions shall be required to obtain:

a) the Tax Identification Number (TIN) issued by the State of residence, provided that such number is envisaged in said State, and a certificate of tax residence, including as self-certification, as well as, for U.S. citizens wherever resident, the U.S. TIN and a self-certification that the party is or is not a U.S. tax resident;

b) in case of individuals, surname and first name, place and date of birth and address, as well as the documents certifying citizenship for U.S. citizens;

c) for parties other than individuals, business name or trade name and registered office;

d) with reference only to financial accounts falling within the definition of U.S. accounts, a statement authorising the disclosure of data under the FFI Agreement and IGA SM.

4. Upon opening of a new financial account by Passive Non-Financial Entities wherever resident, Reporting Financial Institutions shall obtain, in addition to the information provided for in letters a) and c) of paragraph 3, the information referred to in letters a) and b) of the same paragraph 3 relating to individuals who exercise control over said entities.

5 The requirements to obtain information under paragraphs 3 and 4 for the opening of financial accounts by parties residing in the United States of America

or by U.S. citizens wherever resident, as well as by non-U.S. Passive Non-Financial Entities wherever resident, controlled by one or more individuals residing in the United States of America or by U.S. citizens, shall run from 1 July 2014.

6 The requirements to obtain information under paragraphs 3 and 4 for the opening of financial accounts by parties residing in States other than the Republic of San Marino and the United States of America, as well as by Passive Non-Financial Entities, other than those referred to in paragraph 4, wherever resident, shall run from 1 January 2016.

7. In relation to financial accounts identified as "U.S. accounts" and maintained as of 30 June 2014, Reporting Financial Institutions shall:

a) obtain from these parties the U.S. TIN and their consent to disclose information to the U.S. competent authority under the FFI Agreement and IGA SM;
b) provide customers with the communication referred to in Article 33, paragraph 2.

8. For the purposes of FATCA, financial institutions shall keep track of the annual aggregate amount of payments made to each nonparticipating financial institution for the purposes of disclosing reportable payments as established by IGA SM, by the provisions of Section IV of Annex C to this Law and in line with the requirements of the FFI Agreement.

9. With reference to the Global Standard, in compliance with the "Wider Approach" principle, due diligence requirements set out in this Law, in relation both to new and preexisting accounts, shall apply to all financial accounts, provided they do not fall within the definition of excluded accounts, regardless of whether the jurisdiction of residence of the person in whose name the account is opened falls within the definition of Participating Jurisdiction.

Art. 29

(Reporting requirements)

1. Each Reporting Financial Institution shall, in respect of the first reporting year and every following calendar year, prepare a declaration setting out the information required to be reported under the relevant agreement in relation to each reportable financial account that is maintained with the institution during the calendar year in question.

2. The first reporting year shall be:

a) the calendar year 2016, in relation to an account identified as a reportable account for the purposes of the Global Standard;
b) the calendar year 2014, in relation to an account identified as a reportable account for the purposes of IGA SM and of the FFI Agreement.

3. The reporting shall be made:
a) with reference to the Global Standard: to CLO by 31 March of each year following that to which the information refers, according to the modalities provided for in Article 30;
b) with reference to IGA SM: to the U.S. competent authority within the time-limits and in the manner envisaged by IGA SM and the FFI Agreement.
4. Reportable information shall be:
a) with reference to the Global Standard: the information referred to in Section I, letter A of Annex B to this Law;
b) with reference to FATCA: the information specified in the FFI Agreement.
5. With reference to the provision referred to in paragraph 2, letter a), if the information is destined to jurisdictions that apply automatic exchange in respect of post-2016 years, the first reporting year shall be indicated in the Decision referred to in Article 27.
6. In relation to the Global Standard, if Reporting Financial Institutions have not maintained any reportable account during the reference period, they shall in any case be required to file a nil return, according to the same terms referred to in paragraph 3.
7. In relation to the Global Standard, and only with regard to information relating to 2016 to be reported by 31 March 2017, Reporting Financial Institutions may choose not to report the gross proceeds from the sale or redemption of securities. Reporting requirements applying to the remaining information shall in any case be met within the ordinary time-limits. Starting from 2018, all information listed in Section I, Letter A of Annex B to this Law shall be reported within the time-limits referred to in the preceding paragraph 3 of letter a).
8. With reference to FATCA, regardless of whether a financial account falls within the definition of reportable account, the reporting requirement referred to in this Article shall not apply to Reporting Financial Institutions if the conditions referred to in Annex II of IGA SM are met, namely:
a) Financial Institutions have a small or limited scope and are considered as compliant FFIs;
b) Financial Institutions are investment entities considered as compliant FFIs.

Art. 30

(Global Standard: manner of reporting to the competent authority and exchange of information)

1. Reporting Financial Institutions shall transmit information concerning reportable accounts by the deadline referred to in Article 29 paragraph 3, letter a) through communication technologies for data transmission based on security

protocols and standards as defined in Title V and in the measures contained therein. After receiving the data subject to exchange through the use of dedicated applications, CLO shall:

a) check consistency and regularity of flows;
b) require Reporting Financial Institutions to correct wrong flows or to complete missing data;
c) process the data received and transmit them to foreign competent authorities in compliance with the procedures established under the Global Standard.

2. Data transmission to foreign competent authorities shall take place by 30 September of each year following that to which the information refers. Such data shall be kept by CLO until 31 December of the fifth year following that in which data were exchanged.

Art. 31

(Global Standard: Receiving information from foreign competent authorities)

1. Information on financial accounts relating to reportable tax residents in San Marino transmitted by foreign competent authorities in compliance with the relevant agreements on automatic exchange of information shall be obtained by CLO and kept in the manner and in accordance with security standards defined in Title V and in the measures contained therein.

Art. 32

(Third party service providers)

1. For the purposes of fulfilling due diligence and reporting requirements referred to in Chapter III, financial institutions may use third party service providers under the provisions contained in the following letters, without prejudice to the financial institution's liability for the proper fulfilment of said requirements even if any improper fulfilment thereof is attributable to said third party service providers:

a) in the context of monitoring activities performed by the competent authorities on the proper fulfilment of requirements under the agreements referred to in Article 24, financial institutions shall be required to provide copies of the documents and information obtained from third party service providers;
b) financial institutions shall not trust the validity of the status of the account holder as determined by the third party service provider if they know or have reason to know that such status is unreliable or incorrect.

2. Financial institutions may make the documents and information obtained on

financial account holders, necessary for the fulfilment of due diligence, acquisition and data reporting requirements under Chapter III, available to the service providers mentioned in paragraph 1, or to other financial institutions belonging to the same group.

3. Third party service providers referred to in paragraph 1 keeping documents and information necessary for the fulfilment of the requirements under Chapter III by financial institutions may make the documents and information necessary to fulfil said requirements available to the latter.

4. The measures referred to in Article 52 shall establish the terms and conditions for implementing the provisions of this Article.

Art. 33

(Additional requirements to be met by financial institutions in compliance with IGA SM)

1. Reporting Financial Institutions shall be required to register on the website of the IRS for FATCA registration purposes by 1 July 2014 and to comply with the requirements of the FFI Agreement, including with respect to due diligence, reporting and withholding agent. This provision shall also apply to new Reporting Financial Institutions starting their activities after the entry into force of this Law. Such parties shall comply with the requirements referred to in this paragraph within six months from the date they start their activities.

2. In the context of the due diligence procedure referred to in Article 28 relative to preexisting accounts, Reporting Financial Institutions shall inform in writing U.S. account holders that, in case of refusal to provide the U.S. TIN and the consent to reporting:

a) aggregated information relating to the account will be reported to the IRS;
b) information on the account could give rise to a group request from the IRS for specific information on the account;
c) in the case referred to in this paragraph, information on the account will be transmitted to CLO, which may subsequently provide it to the IRS, in accordance with Article 20.

3. Reporting Financial Institutions shall be required to report to the IRS, on an annual basis and in the form and manner prescribed in the FFI Agreement, aggregated information relative to non-consenting U.S. accounts.

4. With respect to accounts or obligations entered into with nonparticipating financial institutions existing as of 30 June 2014, and in connection with which Reporting San Marino Financial Institutions expect to pay a foreign reportable amount, i.e. a payment of fixed or determinable annual or periodical income that would be a withholdable payment if it were from sources within the United States,

the latter institutions shall be required:

a) with respect to calendar years 2015 and 2016, to require each nonparticipating financial institution the consent to report and at the same time to inform in writing the institution that, in the absence of a consent:
   1) aggregated information on reportable foreign amounts paid to the nonparticipating financial institution will be reported to the IRS:
   2) such information could give rise to a group request from the IRS for specific information on the accounts or requirements;
   3) in the case referred to in point 2), information on the accounts and requirements shall be transmitted to the CLO, which may subsequently provide it to the IRS, in accordance with Article 20;
b) with respect to calendar years 2015 and 2016, to report to the IRS the number of non-consenting nonparticipating financial institutions to which foreign reportable amounts were paid during the year and the aggregate value of all such payments no later than 15 March of the year following that to which the information relates;

5. With reference to the opening of new financial accounts starting from 1 July 2014 identified as U.S. accounts, Reporting Financial Institutions shall be required to refrain from establishing the relationship in cases where the customer does not consent to the reporting of data referred to in Article 28, paragraph 3, letter d).

6. With respect to new accounts opened or obligations entered into with a nonparticipating financial institution on or after 1 July 2014, and in connection with which the reporting San Marino financial institution expects to pay a reportable foreign amount, Reporting Financial Institutions shall be required to obtain from each nonparticipating financial institution the consent to report, in compliance with the requirements of an FFI Agreement, as a condition to open the account or to enter into an obligation.

7. Reporting Financial Institutions shall be authorised to apply to U.S. accounts the withholding taxes provided for in Article 3 of IGA SM in the cases of suspension of rules relating to non-consenting U.S. accounts regulated therein.

8. With reference to nonparticipating financial institutions that are foreign branches or foreign related entities of Reporting San Marino Financial Institutions, the conditions laid down in paragraph 5 of Article 3 of IGA SM shall apply to grant to the Reporting San Marino Financial Institution the status of “Participant FFI”.

Art. 34

(*Requirement to keep information and documents obtained during the due diligence procedure*)

1. Financial Institutions shall keep documents and evidence used in order to fulfil due diligence requirements and requirements to obtain data on financial accounts for the purposes of automatic exchange of information referred to in this Title and Chapter for not less than 5 years following the end of the period within which Reporting Financial Institutions shall transmit such information.

Art. 34-bis

(Anti-avoidance provision)

1. If a Financial Institution, individual, Entity or intermediary enters into any arrangement the main purpose, or one of the main purposes, of which is to avoid or to circumvent the requirements referred to in this Title, such arrangement is deemed not to have been entered into by the Financial Institution, individual, Entity or intermediary and the provisions of this Title shall have effect.
2. In relation to the avoidance referred to in the preceding paragraph the sanctions provided for in Article 45 shall apply.

CHAPTER IV
FINAL PROVISIONS RELATING TO TITLE III

Art. 35

(Agreements in accordance with the Global Standard)

1. Automatic exchange of financial information, in accordance with the agreements referred to in Article 2, paragraph 1, letter e), in line with the OECD standard, shall take place in compliance with the provisions of this Law referring to the Global Standard, insofar as compatible, provided they are not contrary to the provisions of said agreements. Measures implementing such agreements may be included in a delegated decree.

Art. 36

(Use of data for the purpose of tax examinations)

1. The information obtained following the implementation of the forms of cooperation provided for in this Law shall be used exclusively for tax assessment and examinations by the competent offices and in criminal proceedings involving tax offences.

2. The manner in which tax assessment offices shall access the above information shall be established by specific agreements between CLO and the aforementioned offices, within which data confidentiality protection mechanisms are identified in conformity with those laid down in this Law.

TITLE IV
OTHER FORMS OF ASSISTANCE

Art. 37
(Simultaneous tax examinations)

1. The simultaneous tax examination under Article 8 of the Multilateral Convention (MAC) and its commentary, is an arrangement between two or more parties to examine simultaneously and independently, each in its own territory, the tax affairs of a taxpayer or taxpayers in which they have a common or related interest, with a view to exchanging any relevant information which they so obtain.
2. The competent authority for simultaneous tax examinations shall be the office or authority entrusted with the assessment of the tax or duty subject to simultaneous examination.
3. Simultaneous tax examinations shall be initiated by San Marino competent authorities in accordance with the guidelines referred to in the OECD commentary to MAC. The arrangements referred to in paragraph 1 may take the form of bilateral or multilateral memoranda of understanding, working arrangements or other similar instruments, in order to facilitate the efficient conduct of the examinations. Such arrangements shall be signed by the San Marino authorities referred to in paragraph 2 and their foreign counterparts.
4. The authorities referred to in paragraph 2 may exchange with foreign competent counterparts the information obtained in the context of the simultaneous tax examination, in accordance with the procedures defined in the framework of the arrangements referred to in paragraphs 1 and 3 above. Without prejudice to the agreements and MAC, such exchange of information shall take place in accordance with the provisions of this Law.
5. For the purposes of exchange, the authorities referred to in paragraph 2 may rely on CLO's collaboration.

Art. 38
(Tax examinations as provided for in Article 9 of the MAC)

1. The Minister of Finance and Budget may authorise, at the request of foreign authorities, the representatives of the same authorities to be present at the appropriate part of a given tax examination in the Republic of San Marino.
2. The authorisation measure shall lay down the rules and conditions of the participation of foreign competent authorities in the tax examination in San Marino. The authorisation, if granted, shall always refer to a single request.
3. The authorisation referred to in paragraph 1 shall in any case be subject to the following conditions:

a) the authorisation shall not be granted in conflict with the decisions and guidelines adopted by the Government of the Republic of San Marino and notified to the countries signing the MAC, concerning the acceptance of requests for assistance in tax examinations in San Marino;
b) the request shall necessarily follow a request for exchange of information (EOIR) under relevant agreements, for which the admissibility conditions set out in Title III, Chapter I are fulfilled;
c) the foreign authority shall have valid reasons of expediency to solve a tax case of primary importance;
d) the request by the foreign authority shall be duly motivated and include the reasons for which the physical presence of a representative of the foreign competent authority is important.

4. The authorities of the Republic of San Marino, which are responsible for the assessment and examination of the taxes covered by the MAC, may submit to the foreign competent authorities a request for tax examination abroad, in accordance with Article 9 of that Convention, subject to the authorisation of the Minister of Finance and Budget.

Art. 39

(Assistance in recovery of tax claims)

1. If requested by one or more of the States Parties to the Multilateral Convention, San Marino tax administration shall take the necessary steps to recover tax claims of the requesting State, as if they were its own tax claims.
2. San Marino tax administration shall provide the assistance referred to in paragraph 1:

a) in compliance with the conditions, limits and procedures laid down in Articles 11 to 16 of the Multilateral Convention;
b) within the limits of the reserves expressly made while ratifying the Multilateral Convention.

3. The assistance measures referred to in paragraph 1 shall be defined through the provisions referred to in Article 52, which shall harmonise the provisions of the MAC with domestic rules on tax collection.

TITLE V
MESURES FOR DATA PROTECTION

Art. 40
(Purposes)

1. The provisions of this Title shall apply to all personal data processing activities by San Marino competent offices or authorities, in the context of international tax cooperation in the field of automatic exchange of information. They shall also apply to financial institutions insofar as compatible.
2. The activities described above shall be carried out in accordance with the principles referred to in Law no. 70/1995 and, more specifically, with the rights, fundamental freedoms and dignity of individuals, with particular reference to confidentiality and personal identity, as well as by ensuring the rights of legal persons and of any other entity involved in the processing.
3. The provisions on data confidentiality may be extended to other forms of exchange, insofar as compatible, in accordance with international standards, on the basis of appropriate guidelines adopted by CLO.

Art. 41
(Collection and processing)

1. Data and information subject to exchange shall:
   a) be processed in accordance with the purposes referred to in this Law;
   b) be made usable in other processing operations provided that these operations are not incompatible with such purposes;
   c) be collected in a relevant, accurate, complete manner, which is not excessive in relation to the purposes referred to in this Law;
   d) be destroyed at the end of the maximum retention period envisaged in the relevant agreements.
2. Paper-based data and information subject to exchange shall be collected and retained in adequate areas and in an appropriate manner as to ensure secrecy of the documents, in compliance with the requirements referred to in paragraph 1.
3. Information subject be exchange shall comply with international standards on data protection. Moreover, all technical and organisational measures shall be adopted to protect data and information against accidental or unauthorised

destruction, loss or disclosure, unauthorised alteration or access, or against any other unauthorised form of processing.

4. In any case, information subject to exchange shall be disclosed only to authorised persons and to competent authorities under this Law. Only authorised persons and competent authorities may use such information and only for the purposes mentioned above.

5. Information subject to exchange may be used for other purposes when the foreign competent issuing authority authorises such other use. In no event shall information be used for the purposes of a tax included in a category that has been the subject of a reservation. Information subject to exchange may be transmitted to third parties only with the prior approval of the foreign competent issuing authority.

6. With reference to financial institutions the provisions of this Article shall apply only to the collection, processing and transmission of data relevant to the exchange of information; therefore, the existing rules on collection and retention of customer identification data, as well as of data relating to the customer's business relationships, shall continue to apply.

Art. 42

(Regulation)

1. A Congress of State Regulation, to be adopted after the mandatory opinion of the Guarantor for the protection of the confidentiality of personal data referred to in Chapter V of Law no. 70/1995 (hereinafter referred to as the Guarantor), shall govern the following:

a) data controllers;
b) the modalities and criteria for the identification of data processors and persons in charge of the processing;
c) responsibilities, obligations and prohibitions imposed on the persons referred to in letters a) and b) above;
d) competences of the system administrator;
e) systems and procedures to ensure data security and integrity, as well as to allow limited access to data, also with regard to paper-based data;
f) technical procedures for data processing and exchange;
g) communication requirements relating to data collection and processing;
h) procedure for the granting and management of accesses and recognition of the digital identity;
i) procedure for destruction of data after expiry of the retention period.

Art. 43

(Obligations for data controllers, data processors and persons in charge of the processing)

1. Financial institutions acting as data controllers shall:

a) maintain, at their main office, a register of the names of the data processors and persons in charge of the processing authorised for access;

b) check issued authorisations, on a regular basis or at least once a year;

c) transmit to CLO, by 31 December 2016, a list of the names of said data processors and persons in charge of the processing

2. Changes in the communication referred to in paragraph 1, letter c) shall be transmitted to CLO prior to the transmission of data and, in any case, not later than 30 days after the occurrence of the change. Confidentiality obligations shall continue to apply to data controllers also in case of withdrawal of access for termination of the employment or consultancy relationship with the financial institution.

3. CLO shall maintain, at its main office, a register of the names of its own data processors and persons in charge of the processing authorised for access, and shall update it without delay in case of any changes, verifying, on a periodic basis or at least yearly, the authorisations issued. Data controllers, data processors and persons in charge of the processing shall ensure that individual workstations and accesses comply with security policies and that access credentials are authorised and properly monitored.

4. Data processors and persons in charge of the processing shall be properly trained and be made aware of the potential risks associated with data processing, as well as of rules and procedures to guarantee security.

5 Data processors and persons in charge of the processing shall use acquired information only for the purposes provided for by law, in accordance with the principles of relevance, non-excessiveness and indispensability. They shall also ensure that no data are disclosed, communicated, transferred to third parties, or reproduced in any way in cases other than those envisaged by the procedures, establishing the conditions to exclude any risk of unauthorised duplication of data, also through the use of automated search tools.

TITLE VI SANCTIONS

CHAPTER I
SANCTIONS

Art. 44

(Obstacles to CLO's activities)

1. The administrative pecuniary sanction from a minimum of € 1,000.00 to a maximum of € 50,000.00 shall apply to anyone who, having a legal obligation thereto under this Law:
   a) does not meet, in whole or in part, CLO's requests for data and information transmission for the purposes of the exchange of information under Title III;
   b) fails to comply with the provisions issued by CLO under this Law.
2. The sanction provided for in paragraph 1 shall also apply to anyone preventing or opposing verification and control activities carried out by CLO or by other authorities or bodies delegated by CLO.

Art. 45

(Violation of due diligence and reporting requirements)

1. The administrative pecuniary sanction from a minimum of € 15,000.00 to a maximum of € 50,000.00 shall apply to Reporting Financial Institutions not fulfilling due diligence and/or reporting requirements under Title III, Chapter III.
2. The administrative pecuniary sanction from a minimum of € 5,000.00 to a maximum of € 30,000.00 shall apply to Reporting Financial Institutions which, in fulfilling due diligence and/or reporting requirements under this Law, provide inaccurate or incorrect information.
3. The sanctions referred to in this Article shall be applied to each individual violation established. The voluntary settlement provided for in Article 33 of Law no. 68 of 28 June 1989 shall not be allowed.
3-bis. Financial Institutions shall be prohibited to open financial accounts in the name of non-residents for tax purposes in the Republic of San Marino in the event that the holders of such accounts refuse to submit the certificates provided for in Article 28. In the event that the Financial Institution opens the account notwithstanding the above refusal, the sanctions referred to in paragraph 1 shall apply to said Financial Institution.

Art. 45-bis

(Criminal rules)

1. Anyone who, in the cases provided for by this Law, makes false or misleading statements, or draws up or uses false deeds or documents, shall be punished under the criminal rules in force concerning falsification of public and private deeds, statements, certificates, their use and suppression.

2. The submission of a document containing information that is no longer true is equivalent to using false documents or deeds, unless a statement has been made that the data contained in the document have changed.
3. The certificates of tax residence issued pursuant to Article 28 and the statements made in the interest of a minor or of a disqualified or incapacitated person shall always be considered for all purposes as issued to a public official. The statements of a minor, or of a disqualified or incapacitated person shall be made and signed by at least one of the parents exercising parental authority, by the guardian or by the incapacitated person with the assistance of the curator.

Art. 46

(Non-compliance with time-limits for the reporting of information under the Global Standard)

1. The administrative pecuniary sanction of € 10,000.00 shall apply to Reporting Financial Institutions that do not transmit the information referred to in Article 29 within the time-limits specified therein.
2. This sanction shall be reduced by:
   a) 50% for delays equal to or less than 15 days;
   b) 30% for delays exceeding 15 days but less than 30 days.
3. In case information is not reported within 30 June, the sanction referred to in Article 45, paragraph 1 shall apply.
4. The sanctions referred to in this Article shall be applied to each individual violation established.
5. The voluntary settlement provided for in Article 33 of Law no. 68/1989 shall not be allowed.

Art. 47

(Violations concerning data processing)

1. Failure to comply with the requirements to keep and report the names of data processors and persons in charge of the processing of financial institutions, as referred to in Article 43, shall be subject to the application of the administrative pecuniary sanction of € 2,000.00 for each individual violation.
2. In addition to the application of criminal rules, non-compliance with the requirements set out in title V, violation of confidentiality obligations, disclosure to unauthorised third parties, unauthorised duplication, dissemination and destruction, even accidentally, of data by civil servants shall also be subject to the application of disciplinary sanctions under the existing disciplinary rules and the code of conduct for public officials.

3. The violation of confidentiality requirements by persons or authorities of the requesting State shall entail the suspension of the forms of assistance regulated by Title III vis-à-vis said State through a measure adopted by the Congress of State upon proposal of the Minister of Finance and Budget.

Art. 48

(Repeated violation)

1. In the event of repeated administrative violations referred to in the preceding articles, the administrative sanction shall be increased up to two times, both for the minimum and for the maximum amount, depending on the seriousness of the violation.
2. For the purposes of this Law, anyone who, during the three years prior to the last violation, has committed the same administrative violation shall be considered a repeat offender.
3. The voluntary settlement provided for in Article 33 of Law no. 68/1989 shall not be allowed.

Art. 49

(Increase of sanctions for fraudulent behaviour)

1. The sanctions referred to in the preceding articles shall be increased up to two times, both for the minimum and for the maximum amount, if, in addition to unlawful conduct, fraudulent means are used.
2. The voluntary settlement provided for in Article 33 of Law no. 68/1989 shall not be allowed.

Art. 50

(Exclusion of liability)

1. The sanctions provided for in the preceding articles shall not apply if failure to comply with one or more due diligence and reporting requirements is due to force majeure. In any case, for the purposes of this Article, the following shall not constitute force majeure:
a) the lack or insufficient availability of resources to fulfil the requirements;
b) the conclusion that another person should or could have fulfilled the due diligence and reporting requirements provided for in this Law.
2. If any force majeure event exists for the purposes of this Article, but this event subsequently ceases to exist, the sanctions provided for in the preceding articles shall not apply if the person meets the due diligence and reporting

requirements within 15 days from the date on which the force majeure ceases to exist.

Art. 51

(Establishment of violations)

1. CLO shall be responsible for the assessment and establishment of the violations referred to in the preceding articles, as well as for the application of the relevant sanctions.
2. The assessment of violations shall be time-barred after five years following the date on which the violation was committed.
3. The administrative pecuniary sanction shall be settled through payment to CLO of the amount due within the time-limits specified in the payment order.
4. The possibility of settling the sanction through voluntary settlement shall be exercised by paying an amount equal to half the sanction applied, within twenty days following notification of the measure.
5. An appeal against the sanction may be lodged before the Administrative Judge in the manner and according to the time-limits referred to in Title II of Law no. 68/1989, without prejudice to the possibility for the Judge of derogating from Article 18, paragraph 4 of the same Law in the context of appeals against sanctions imposed.
6. If the sanctioned person has failed to pay, CLO shall start the compulsory collection procedure under Law no. 70 of 25 May 2004.
7. The claim shall be registered no earlier than six months following the notification of the sanction for twice the relevant amount.
8. The pecuniary administrative sanctions defined in this Law shall be included in the list annually submitted by the Administrative Judge of Appeal under Article 32 of Law no. 68/1989.

TITLE V
FINAL
PROVISIONS

Art. 52

(Coordination and transitional provisions)

1. Through a delegated decree, it shall be possible:

a) to amend or update the annexes to this Law;

b) to define the sanctions relating to the application of FATCA legislation;

c) to establish technical rules for the detection, transmission and disclosure of information related to reportable accounts;
d) to introduce provisions for the enforcement and coordination of this Law necessary to its implementation and to the settlement of conflicts with other provisions; such procedure shall cease to be effective on 31 December 2017;
e) to introduce implementing provisions following the entry into force of the Protocol amending the Agreement between the European Community and the Republic of San Marino providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments.

2. In the light of the urgent tasks that CLO is required to fulfil for the application of the tax cooperation instruments provided for in Title III, and in particular for the implementation of the automatic exchange of financial information, by enforcing Congress of State decision no. 15 of 23 March 2015 on dynamic staff requirement and special recruitment and training procedures, as well as by implementing the recommendations of the Global Forum on Transparency and Exchange of Information for Tax Purposes – OECD in its Phase 2 Peer Review Report adopted in November 2013, the Congress of State shall be mandated to start the procedures for the recruitment, on an open-ended contract, of 2 experts by issuing a specific competition announcement (titles/titles and interview) under Articles 32 and 33 of Delegated Decree no. 106 of 2 August 2012.

3. With the entry into force of this Law, the two officials, one of whom performing the function of Director, appointed under Law no. 95/2008 and subsequent amendments, shall remain in office, with the corresponding titles referred to in Article 7, until the expiry of the mandate, which, as a result of their respective appointment decisions under the preceding legislation, shall be on 1 April 2018. In any case, they shall be subject, together with the other employees of CLO, to the provisions of this Law, including those relating to duties, requirements and incompatibilities.

Art. 53
(Repeal)

1. Any provision contrary to this Law shall be repealed.

Art. 54
(Entry into force)

1. This Law shall enter into force on the fifteenth day following that of its legal publication.