

10-2012  
March, 2012

**AMENDMENT OF PUBLIC AND CONFIDENTIAL FINANCIAL  
REPORTING FORMATS AND MODEL FINANCIAL STATEMENTS FOR  
CREDIT INSTITUTIONS**

**BANK OF SPAIN CIRCULAR 2/2012  
AMENDING CIRCULAR 4/2004 OF DECEMBER 22, 2004**

**1. PURPOSE**

Royal Decree-Law 2/2012, of February 3, 2012, reforming the financial industry (the subject of our "Corporate/Commercial Law Newsletter 5-2012"<sup>1</sup>), was published in the Official State Gazette on February 4, 2012.

The decree has now been implemented by Bank of Spain Circular 2/2012 of February 29, 2012, amending Circular 4/2004 of December 22, 2004 on public and confidential financial reporting rules and model financial statements, published in the Official State Gazette on March 6, 2012.

Besides implementing the provisions of Article 1 of the decree reforming the financial industry, Circular 2/2012 contains other amendments, such as a change to the definition of the transactions that must be treated as having "medium to high risk", designed to reflect the higher risk considered to exist in loans provided for land, property development or construction or property development, even where the real estate assets act as collateral.

**2. PROPERTY DEVELOPMENTS CONSIDERED TO HAVE "MEDIUM TO HIGH RISK"**

In Annex IX (Credit Risk) it is essentially added that loans provided for land for property development, and/or construction or property development must be treated as "medium to high risk" loans (on a par, for example, with consumer loans to individuals that are not recorded on the Register of Installment Sales of Goods), even where the real estate assets act as collateral.

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<sup>1</sup> [http://www.garrigues.com/es/Publicaciones/Novidades/Documents/Updates\\_Corporate\\_5\\_2012.pdf](http://www.garrigues.com/es/Publicaciones/Novidades/Documents/Updates_Corporate_5_2012.pdf)

### 3. VALUE OF FORECLOSED REAL ESTATE ASSETS OR ASSETS RECEIVED IN PAYMENT OF DEBTS

- Circular 2/2012 amends section IV of Annex IX of Circular 4/2004 to the effect that an impairment loss over time (or deterioration over time) must be recognized after 36 months for foreclosed assets or assets received in payment of loan debts, regardless of the loan date, and in addition to the initial adjustment at the time of foreclosure which remains unchanged<sup>2</sup>.

TIME SINCE PURCHASE	% COVERAGE
Over 12 months and up to 24 months	20%
Over 24 months and up to 36 months	30%
Over 36 months	40%

The new circular thus broadens the requirement to recognize impairment losses for foreclosed real estate assets or assets received in payment of debts, to take in assets associated with lending provided after December 31, 2011, whereas the decree reforming the financial industry only determined impairment losses for loans provided before December 31, 2011.

- A new section V has been added to Annex IX of Circular 4/2004, entitled "Treatment of real estate risk exposures existing as of December 31, 2011 (Royal Decree-Law 2/2012)" which is an almost word for word copy of the provision requirements set out in Article 1 of that royal decree-law. In the preamble, the Bank of Spain recalls that *"this provision, which is separate from and, therefore, additional to the general-purpose provisions, cannot be computed as equity, but can be deducted from the values of weighted or limited exposures."*
- Lastly, the preamble also sets out the principle that *"the provisions required for foreclosed assets or assets received in payment of debts cannot be reduced as a result of the entity beginning or continuing with the development of those assets."*

### 4. NEW STATEMENTS AND IMPLEMENTATION PERIOD

New tables are established to be included in Annexes IV and V:

- Quarterly, as part of Annex IV (Individual Confidential Statements to be submitted to the Bank of Spain):
  - **T.17 (1 and 2):** loans to construction or property development (businesses in Spain).

<sup>2</sup> The lower of (a) carrying amount minus at least 10%, and (b) appraisal value minus selling costs (estimated as at least 10% of the appraisal value).

- **T.18:** information on foreclosed real estate assets or assets received in payment of debts (businesses in Spain): assets associated with lending to construction or property development, or to households not classed as normal risk, granted up to December 31, 2011 (businesses in Spain).
- Quarterly, as part of Annex V (Confidential Statements of Consolidated Groups of Credit Institutions):
  - **C.19 (1 and 2):** loans to construction or property development by the credit institution group (businesses in Spain).
  - **C.20:** information on foreclosed real estate assets or assets received in payment of debts by the credit institution group (businesses in Spain): assets associated with lending to construction or property development, or to households not classed as normal risk, granted up to December 31, 2011.

These rules will apply to the preparation of the new (1) **T.17**, (2) **T.18**, (3) **C.19** and (4) **C.20** statements to be submitted not later than the deadline date for submission of the statements as of March 31, 2012.

That is: (a) April 20, 2012 for the T.17 and T.18 statements; and (b) May 10, 2012 for the C.19 and C.20 statements.

The statements up to those of September 30, 2012 can include estimates. If estimates are included, written notice must be given to the Bank of Spain with details of the estimated data. As soon as the accounting records are updated, the statements containing estimated data must be resubmitted to the Bank of Spain with the final figures.

## 5. CHANGES TO ANNEX X (SPECIAL ACCOUNTING RECORD OF MORTGAGE TRANSACTIONS)

A series of changes have been made to the special accounting record of mortgage transactions referred to in Royal Decree 716/2009 of April 24, 2009 implementing certain aspects of Mortgage Market Law 2/1981 of March 25, 1981, to back up the new information requested by the Bank of Spain as a result of the changes made to Annex IX of Circular 4/2004.

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