

Delegated Decree no. 50 of 16 March 2010

REGISTRATION AND KEEPING OF THE TRUST REGISTER AND PROCEDURES FOR THE AUTHENTICATION OF THE BOOK OF EVENTS

as amended by Law Decree no. 36 of 24 February 2011

UNOFFICIAL TEXT

NOTICE

It is not an official text, and the Central Bank of the Republic of San Marino assumes no liability for any errors or omissions. The official text of the Laws of the Republic of San Marino can be found in the *Bollettino Ufficiale* or on the Internet website, www.consigliograndeegenerale.sm.

CHAPTER I
GENERAL PROVISIONS

Art. 1.
(Definitions)

1. All terms used in this Delegated Decree, already defined by Law no. 42 of 1 March 2010 (Trust Act), shall have the meaning set forth in the aforesaid Law.
2. “Abstract” of the trust instrument means the “certificate” of the trust referred to in Art. 7 of the above-mentioned Law n. 42 of 1 March 2010.

CHAPTER II
TRUST REGISTER

Art. 2.
(Trust Register)

1. The Office of the Trust Register of the Republic of San Marino shall be established for the registrations envisaged by law.
2. The Trust Register shall be kept with the Supervisory Authority.
3. Registration in the Trust Register shall certify the existence of the deeds and instruments which, under Law no. 42 of 1 March 2010, shall be registered, thus ensuring their maintenance.
4. The Trust Register shall not be subject to any limitation with respect to searches carried out or ordered by the Judicial Authority, the Financial Intelligence Agency and the Law Enforcement Authorities performing the functions of judicial police.

Art. 3.
(Registration in the Trust Register)

1. Trusts established under Law no. 42 of 1 March 2010 can be registered according to the procedures, terms and conditions laid down in this Delegated Decree. In accordance with the above-mentioned Law and subject to Article 11 below, the following documents shall be registered in the Trust Register:
 - i) under Article 8, paragraph 4 of the aforesaid Law, the abstract of the trust instrument. The registration of the abstract in the Trust Register shall exempt obliged parties from the obligation to register the relevant trust instrument, provided that the latter has been drawn up in the form of a written document with authenticated signature. Otherwise sub-point (i), paragraph 2 of Article 11 shall be applied.
 - ii) under Article 13, paragraph 3 of the said Law, the amendments to the trust instrument relating to the elements specified in the abstract; as well as
 - iii) under Article 8, paragraph 6 of the said Law, the request for the cancellation of the trust; finally
 - iv) any other deed or acts which shall be registered in the Trust Register pursuant to the aforesaid Law.
2. The trust instrument and the relevant abstract which are requested to be registered shall be drawn up in Italian and, if in a foreign language, they shall be accompanied by the relevant sworn translation into Italian.
3. Registration in the Trust Register shall be requested to the parties obliged by law and shall be carried out by the Office of the Trust Register in the five working days following the request.

Prior to the registration, the Office of the Trust Register shall check that the conditions requested by the Law are met, including the payment of the sanction referred to in Article 8, paragraph 8 of the said Law if the registration takes place with some delay.

4. The Office shall carry out the registration, by transcribing the authenticated abstract of the trust instrument.

5. The Office shall hand over the certificate confirming the registration of the trust to the party applying for the registration.

6. Refusal to register shall be timely notified by means of a registered letter sent to the applicant. The applicant shall appeal against this decision within thirty days to the Judicial Authority, which shall issue a relevant order.

7. Under and by virtue of Article 56 of the said Law, the Office of the Trust Register shall maintain a relevant section of the Trust Register for foreign trusts administered and managed in the Republic of San Marino. The provisions of this Delegated Decree shall be fully applied to this relevant section, without prejudice to the fact that the parties requested to apply for the registration of the trust shall specify at the time of the request if the trust can be qualified as a foreign trust under above-mentioned Article 56 of the said Law.

Art. 4

(Keeping of the Trust Register)

1. The Trust Register shall be kept in a way ensuring the completeness and accuracy of registrations.

2. The Trust Register shall be kept in a hardcopy format. Subject to special regulatory provisions, the Trust Register can also be kept in an electronic format.

3. The Trust Register, kept in a hardcopy format, shall not contain spacing, transfers to margins and erasures. Any word cancelled shall be readable.

4. The Trust Register, kept in a hardcopy format, shall be authenticated through stamping on each sheet, with progressive numbering on each paper and signed by the person responsible for the Trust Office.

5. If the data of the electronic register are inconsistent with and/or differ from those in the hardcopy format, the latter shall always prevail.

Art. 5.

(Certificates)

1. The Trust Office shall issue certificates on the data and information contained in the Register only to the trustee applying for them.

2. By way of derogation from the preceding paragraph, certificates shall be issued to parties other than the trustee when authorized by the Judicial Authority.

3. Certificates shall be issued, in accordance with the provisions on the stamp duty, within 5 working days from the request. Compliance with the original of the documents transmitted shall be certified by the person responsible for the Office of the Trust Register.

3. When fees, taxes or duties have to be paid, certificates shall be issued upon payment of such fees, taxes or duties and the collection thereof shall be confirmed in the certificate itself.

Art. 6

(Amendments and cancellation from the Trust Register)

1. Any amendment referred to in Article 13, paragraph 3 of the aforesaid Law, subsequent to the registration, shall be registered in the Register, in the same forms and according to the same procedures envisaged for the registration of the trust instrument.
2. The resident trustee or the resident agent shall be required to notify in writing such amendments to the Office of the Trust Register, while paying, where necessary, the corresponding fees, duties or taxes. The Office shall update, in the 5 working days following the notification, the Trust Register, by introducing the amendments specified and issuing the relevant certificate to the notifying party.
3. If one of the events provided by Article 15 of the said Law occurs, the resident trustee or the resident agent shall request the trust to be cancelled from the Register and shall also return the certificate confirming the registration.
4. The Office shall cancel the registration of the trust, requesting the relevant certificate to be returned or, in its absence and for its replacement, the delivery of an authenticated statement by the resident trustee or the resident agent, which shall certify the loss, destruction or stealing of the certificate.

Art. 7.

(Ex officio cancellation)

1. If registration has been made without meeting the conditions requested by law, the Judicial Authority shall order the registration to be cancelled after having heard the parties involved.

Art. 8.

(Appeal of voluntary jurisdiction)

1. An appeal against the measures may be lodged with the Judicial Authority.
2. The appeal shall suspend the effectiveness of the measure contested, unless otherwise decided by the Judicial Authority.
3. The document containing the appeal shall be deposited by a lawyer with the Judicial Authority, together with the grounds and the documents proving the interest of the appellant and the grounds of appeal, within thirty days of notification of the measure.
4. The appeal referred to in this Article shall be subject to the tax for appeals of voluntary jurisdiction.
5. Additional or other appeal procedures shall not be allowed for the measures referred to in this Article.
6. Any other contentious litigation shall be regulated by ordinary rules relating to litigation.

Art. 9.

(Tax provisions)

1. The provisions referred to in Article 9 of Law no. 38 of 17 March 2005 shall be applied.

Art. 10.

(Temporary provisions)

1. Until a competent Judicial Authority is established, its powers and functions shall be exercised by the Single Court, by adopting the procedures envisaged in preceding Article 8.

Art. 11.

(Coordination provisions)

1. Under and by virtue of the combined provisions referred to in Article 9 of Law no. 38 of 17 March 2005 and Article 8 of Law no. 42 of 1 March 2010, the registration in the Trust Register, solely for the deeds and instruments subject to it, shall replace the registration provided by Law no. 85 of 29 October 1981 and subsequent amendments to all intents and purposes.

2. The provision set forth by preceding paragraph 1 shall not apply when:

(i) the trust instrument was drawn up as a public deed, in accordance with Article 6, paragraph 1 of Law no. 42 of 1 March 2010. In this case, the Notary Public or the obliged parties, if the notary fails to provide the service, shall register not only the relevant abstract but also the public deed referred to in Law no. 85 of 29 October 1981 and subsequent amendments in the Trust Register. The registration of the public deed establishing the trust shall not be subject to taxation, in accordance with Article 9, paragraph 2 of Law no. 38 of 17 March 2005;

(ii) it refers to any other deed, even if produced in the context and/or in execution of the trust, which is different from those referred to in Article 3, paragraph 1 above. In the case of the deeds referred to in Article 3, paragraph 1 above, the provisions mentioned in said Law no. 85 of 29 October 1981 and subsequent amendments shall be fully applied, without prejudice to the application of Article 9, paragraph 2 of Law no. 38 of 17 March 2005 also in this case.

3. The registration in the Trust Register shall not exempt the competent parties from the obligation to disclose actions or deeds of purchase, loss or disposal of rights in rem in immovable property, as specified by Law no. 87 of 29 October 1981 and subsequent amendments. To this end, the provisions set forth by said Law no. 87 of 29 October 1981 and subsequent amendments, as well as the relevant taxes shall be fully applied.

4. The Trust Register, referred to in Decree no. 86 of 8 June 2005, shall be handed over to the Head of the Supervisory Authority by the Head of the Office of Industry, Handicraft and Trade, within 30 days of the entry into force of this Delegated Decree.

CHAPTER III

BOOK OF EVENTS

Art. 12.

(Book of Events)

1. The resident trustee or the resident agent shall create, update and keep the Book of Events, where he registers any event relating to the trust as envisaged by the law and the trust instrument, as well as any other event relating to the trust the registration of which is considered to be important and relevant.

2. Any event shall be registered in chronological order and a complete and detailed collection thereof shall be kept by the trustee.

Art. 13.

(Authentication of the Book of Events)

1. The Book of Events shall be kept in a hardcopy format, so that the data and information contained therein are complete, accurate and available.

2. The Book of Events shall be authenticated by the notary public, through stamping on each sheet and with progressive numbering on each page. The Notary shall certify the total number of sheets of which the Book of Events is composed on the last authenticated page.

Art. 14.

(Consultation of the Book of Events)

1. The Book of Events shall be made available to the parties mentioned in paragraph 4 of Article 28 of Law no. 42 of 1 March 2010, upon their request.

2. The Book of Events shall also be available to the Financial Intelligence Agency, upon its request.

3. The Book of Events shall also be made available to the parties to which the trust instrument recognises the relevant right and according to the manners and forms envisaged, if any.

**CHAPTER IV
FINAL PROVISIONS**

Art. 15.

(Repeal)

1. Decree no. 86 of 10 June 2005 shall be repealed.