



**Statement on Corporate Governance in relation  
to the Code of Best Practices for WSE Listed  
Companies**

3 December 2014

## 1. INTRODUCTION

In accordance with § 29 sec. 5 of the Warsaw Stock Exchange Rules, Banco Santander S.A. (“**Banco Santander**” or the “**Company**”) hereby presents a report regarding the level of compliance with the Warsaw Stock Exchange Corporate Governance Rules set forth in the Code of Best Practices for WSE Listed Companies (the “**WSE Code**”).

For information on the Company’s compliance with the Spanish Corporate Governance Code, please refer to the 2013 Report on Corporate Governance and the 2013 Report on the Director Remuneration Policy of Banco Santander, an English version of which is available on the Company’s corporate website: [www.santander.com](http://www.santander.com).

Banco Santander is a company incorporated and operating under the laws of Spain. In this regard, Spanish companies (other than those taking the corporate form of a European company –*sociedad anónima europea*) cannot establish a two-tier board and therefore have a one-tier board consisting of both executive and non-executive directors, whereas the WSE Code assumes that a company will have separate supervisory and management boards. Consequently, it should be noted that in assessing the level of compliance with the WSE Code, references to the supervisory board and the management board have been construed to refer to the board of directors.

## 2. INFORMATION ON COMPLIANCE WITH THE WSE CODE

As of the date of the introduction of the Company’s shares to trading on the WSE, the Company complies with all the corporate governance rules set forth in the WSE Code, except for the practices indicated below, which were not possible to fully comply with due to the discrepancies between the laws and regulations and operational practices of the Company as a foreign entity and the respective practice in Poland.

### (A) Recommendation II.1:

- (i) *Paragraph 7*: Banco Santander does not publish on its website questions regarding issues on the agenda submitted before and during a general meeting. However, a set of frequently asked questions is always published at the time a general meeting is convened and shareholders can share their views on the board’s proposals in the *Foro de Accionistas* (Electronic Shareholders’ Forum) that the Company is required to establish at such time and maintain until the general meeting is held. In addition, any questions submitted during a general meeting are included in the minutes of such meeting, a copy of which can be requested by any shareholder.
- (ii) *Paragraph 9a*: Banco Santander does not currently publish a record of the general meeting in audio or video format. The Company believes that the current information policy applied by it guarantees investors full and comprehensive information on the decisions made at the Company’s general meetings.
- (iii) *Paragraph 14*: The Company does not publish information on the internal rules relating to the change or rotation of its auditors, since it follows the rules set forth in the applicable legislation. In this regard, the Spanish Audit Law (*Ley de Auditoría de Cuentas*) provides for:
  - (a) the competent body of the Company empowered to appoint the auditor (i.e., the general meeting);

- (b) the minimum and maximum term of the auditor's initial mandate (i.e., from three to nine years), which can subsequently be extended for additional periods of up to three years; and
- (c) the need to rotate from time to time the partner responsible for the audit within the appointed auditing firm (i.e., after the seventh anniversary of the initial contract with the auditing firm; such partner will not be allowed to again audit the Company's accounts for at least two years from the rotation).

Banco Santander usually re-appoints its auditor (currently Deloitte) every year at the annual general meeting, following a proposal of the audit committee, and the partner responsible for the audit within such auditing firm rotates as required under applicable law. Moreover, the audit committee supervises the independence of the auditor and the duration of service of the partner who leads the audit team in the provision of such services to the Company (cfr. Article 16.4.h) of the rules and regulations of the board).

- (B) **Recommendations II.3 and III.9:** Certain related-party transactions require the approval of the board of directors (Banco Santander does not have a supervisory board) after a favourable report from the appointments committee<sup>1</sup>. Even though the scope of related-party transactions under Spanish Law (cfr. Article 2 of the Order EHA/3050/2004, of 15 September) is similar to the applicable definition under Polish law, the Spanish *Código Unificado de Buen Gobierno de las Sociedades Cotizadas* (Unified Good Governance Code of Listed Companies) only recommends approval by the board (taking into account the conclusions of a previous report issued by the audit committee or some other committee handling the same function) of transactions entered into, directly or indirectly, with significant shareholders or members of the board. Section D of the 2013 Report on Corporate Governance of Banco Santander and Note 53 to the 2013 Individual and Consolidated Financial Statements provide information on the related-party transactions of Banco Santander and its Group.
- (C) **Recommendation II.8:** The rules and regulations of general meetings of the Company are subject to Spanish legislation, which is similar to the Polish regulations referred to in this recommendation, with the following exceptions:
  - (i) the Company does not have a supervisory board and, therefore, the board is the only corporate body empowered to convene a general meeting (Article 399 § 2); and
  - (ii) shareholders representing 50% of the share capital cannot convene an extraordinary general meeting (Article 399 § 3). However, under Spanish law, shareholders holding at least five percent<sup>2</sup> of the share capital have the right to request the convocation of an extraordinary general meeting (and

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<sup>1</sup> The bill amending the Companies Act (*Ley de Sociedades de Capital*) recently approved by the Spanish Parliament (which will enter into force after a 20-day-period upon its publication in the Official Gazette) will replace the report of the appointments committee with a report of the audit committee. In addition, transactions with the directors of the Company (or with persons related thereto) representing more than 10% of the Company's assets will require the approval of the general meeting.

<sup>2</sup> The aforementioned bill amending the Companies Act (*Ley de Sociedades de Capital*) will reduce such percentage to 3% for listed companies.

such request has to set out the matters to be addressed at such meeting). In such case, the directors must convene a general meeting to be held within two months from the date on which the request is submitted; otherwise, a judge may convene the general meeting. In addition, if the board does not convene an ordinary annual general meeting to be held within the first six months of the relevant fiscal year, a judge may convene such meeting following a request by any shareholder.

- (D) **Recommendation III.8:** The board committees comply with Annex I to the Commission Recommendation 2005/162/EC with the exception of the requirement regarding the description in the terms of reference of the relevant committee of the circumstances in which the chair of such committee may communicate directly with shareholders. As to the renewed membership reference in paragraph 1.2 of such Commission Recommendation, it should be noted that rotation of chairmanship is only required under Spanish law for the chair of the audit committee, who must rotate at least every four years, a provision which is complied with by Banco Santander.
- (E) **Recommendation IV.6:** Banco Santander complies with this recommendation when it pays dividends. However, it should be noted that in recent years Banco Santander has decided to remunerate its shareholders by launching a scrip dividend programme (*Santander Dividendo Elección*), which entitles shareholders to receive a sum equivalent to the dividend in the form of cash or Banco Santander shares, in the traditional payment dates of the three interim dividends and the final dividend relating to any given fiscal year of Banco Santander. The scrip dividend programme entails a rights issue and Spanish law requires that the free allotment rights (*derechos de asignación gratuita*) attributed to the shareholders be traded for at least 15 calendar days; after such period, a number of procedural steps must be taken before the newly issued shares can be delivered. Consequently, the delivery of the newly issued shares or payment in cash of the remuneration to shareholders, as applicable, may take place within several days after the expiry of the 15-business day period.

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