



**Statement on compliance with certain detailed
corporate governance principles included in the
Code of Best Practices for WSE Listed
Companies 2016**

16 February 2016

1. INTRODUCTION

In accordance with § 29 sec. 3 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 certain detailed corporate governance principles set forth in the New Code of Best Practices for WSE Listed Companies that entered into force on 1 January 2016 (the “**2016 WSE Code**”).

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, while the 2016 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 2016 WSE Code, references to the supervisory board and the management board have been construed to refer to the board of directors.

Banco Santander’s board of directors is the top decision-making body, except for matters reserved for the general shareholders’ meeting. Its functioning and activities are regulated by the Company’s internal rules, which are based on principles of transparency, efficiency and defense of shareholders’ interests. The board of directors also oversees compliance, taking into account the best international practices.

For information on the Company’s compliance with the Spanish Good Governance Code of Listed Companies, please refer to Banco Santander’s annual corporate governance report for financial year 2015 –prepared in accordance with the applicable Spanish legislation– and to the corporate governance report included in the Group’s annual report, an English version of which is available at the Company’s corporate website: www.santander.com.

2. INFORMATION ON COMPLIANCE WITH THE 2016 WSE CODE

As of the date of publication of this report, the Company complies with all of the detailed corporate governance principles set forth in the 2016 WSE Code, except for the principles indicated below, with which it is not possible to fully comply with due to discrepancies between the laws and regulations and operational practices of the Company as a foreign entity and the respective practices in Poland.

- (A) **Principles I.Z.1.3 and II.Z.1:** As explained above, Banco Santander cannot establish a two-tier board and therefore has a one-tier board of directors consisting of both executive and non-executive directors. Currently there are 15 directors, 4 of which are executive and 11 non-executive. Banco Santander does publish on its website a chart that contains updated information on the composition of the board of directors, the status of each director and the board committees in which each director sits. However, aside from that, there is not an internal division of duties and responsibilities for individual areas of the Company’s activity among the board members.

In spite of the above, it must be noted that the senior management of Banco Santander, which is composed of the four executive directors and senior executive vice presidents and similar officers who are not directors, is currently organized into corporate divisions which are responsible for the daily management of the various business lines and principal markets where the Group operates, as well as the support and control functions, so that the roles,

responsibilities and authority of each division are clearly defined within the group.¹

- (B) **Principle I.Z.1.11:** 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*)² currently in force –applicable to the annual accounts of Banco Santander for fiscal years 2015 and 2016– provides for:
- (i) the Company’s body in charge of appointing the auditor (i.e., the general meeting);
 - (ii) the minimum and maximum term of the auditor’s initial mandate (i.e., from three years to nine years), which can be extended for additional periods of up to three years; and
 - (iii) the need to occasionally rotate the partner responsible for the audit within the appointed auditing firm (i.e., seven years after the initial contract with the auditing firm; this partner may not audit the Company’s accounts again for at least two years following rotation).

Notwithstanding the above, a new Spanish Audit Law³ was passed on 20 July 2015 in order to (a) transpose Directive 2014/56/EU of the European Parliament and the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts into Spanish law and (b) implement some matters regarding which Member States had discretion according Regulation (EU) N° 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC. This new law will generally come into force, with some exceptions, on 17 June 2016, thus its provisions concerning performance of audit work and issuance of audit reports will only apply to the fiscal years beginning after this date. For Banco Santander, this new law will apply to the annual accounts of 2017 and subsequent fiscal years.

Regarding the change or rotation of external auditors and the maximum term of their initial mandate, the new Spanish Audit Law provides for the following:

- (i) a mandatory rotation of the auditing firm in charge of auditing the Company’s annual accounts after 10 years following that firm’s first audit (although such maximum period may be extended for another four years, provided that the same auditor is simultaneously hired with another auditor to act jointly during such additional period). The law also establishes some exceptions and transitional arrangements; and
- (ii) the need to occasionally rotate the partner responsible for the audit within the appointed auditing firm (i.e., five years after the initial contract with the

¹ Section 5 of the Corporate Governance section of the 2015 Annual Report identifies the members of the senior management and the divisions or functions that each of them is responsible for. An English version of this report is available on the Company’s website: www.santander.com.

² Royal Legislative Decree 1/2011, of 1 July, by means of which the consolidated text of the Spanish Audit Law is approved (*Real Decreto Legislativo 1/2011, de 1 de julio, por el que se aprueba el texto refundido de la Ley de Auditoría de Cuentas*).

³ Law 22/2015, of 20 July, on Audit (*Ley 22/2015, de 20 de julio, de Auditoría de Cuentas*).

auditing firm; this partner may not audit the Company's accounts again for at least three years following rotation).

Deloitte has been the external auditor of Banco Santander from 2002 until today. According to the material fact (*hecho relevante*) notified by Banco Santander to the National Securities Market Commission (*Comisión Nacional del Mercado de Valores*) on 6 July 2015, the Company's board of directors has chosen PricewaterhouseCoopers Auditores, S.L. as external auditing firm of the Company and its consolidated group to verify the annual accounts in 2016, 2017 and 2018. This decision has been taken, following a proposal by the Company's audit committee, in accordance with corporate governance recommendations and in a completely transparent procedure. The board of directors has proposed this appointment to the next annual shareholders' meeting.

Finally, it must be noted that the audit committee of Banco Santander 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.c) of the rules and regulations of the board).

- (C) **Principles I.Z.1.15:** Banco Santander complies with this principle, although the information on the Company's diversity policies is scattered around its website. Both the bylaws (Article 42.4) and the rules and regulations of the board (Article 6.1) state that this body must ensure that the procedures to select its members promote diversity of gender, experience and knowledge and are not implicitly biased in that they entail any form of discrimination and, in particular, the procedures shall favour the selection of female directors. Banco Santander promotes equal opportunities for all employees and gender equality at all levels of the Company and its Group worldwide, and over the last few years it has rolled out numerous initiatives aimed at promoting equality and diversity.

In particular, in terms of gender equality, several activities such as "*Sumando Talento*" and "Take the Lead" were carried out and a new edition of the "Women 50 (W50) program" was held in 2015. Furthermore, both the appointments committee and the board of directors of Banco Santander are aware of the importance of promoting equal opportunities for men and women and the benefits of appointing women with the necessary abilities, dedication and skills for the job to the board of directors. Actually, pursuant to the provisions of Article 31.3 of Law 10/2014, of 26 June, on the organization, supervision and solvency of credit institutions (*Ley 10/2014, de 26 de junio, de ordenación, supervisión y solvencia de entidades de crédito*) ("**Law 10/2014**") and Article 529 quaterdecies.3b) of the Spanish Capital Corporations Law (*Ley de sociedades de capital*), the appointments committee has raised to 30% (from the previous 25% target) the target representation of the less well-represented sex on the Company's board of directors.

In addition to the above, the General Code of Conduct of Banco Santander, which extends to all Group employees and is available on its website, brings together the ethical principles and rules of conduct governing the actions of all employees, including equal opportunities and non-discrimination, respect for people, work-life balance, occupational risk prevention, environmental protection and compliance with policies on social and environmental responsibility.

- (D) **Principle I.Z.1.19:** Banco Santander publishes on its website the valid written requests for information, clarifications or questions asked by shareholders exercising their right to receive information as from the date of the publication of the announcement of the call to a general meeting, together with the written responses provided by the directors. However, according to Spanish legislation, Banco Santander is not required to publish on its website questions posed by the shareholders before the call to a general meeting or questions regarding issues that are not related to the items on the agenda for the meeting, the information accessible to the public that the Company has provided to the National Securities Market Commission (*Comisión Nacional del Mercado de Valores*) since the last general meeting was held or the external auditor's reports of the Company.

In addition to the information mentioned above, 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 Electrónico de Accionistas* (Electronic Shareholders' Forum) that the Company is required to establish at such time and maintain until the general meeting is held. Moreover, 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.

Please refer to answer to Principle IV.Z.13 below for further information on the right of information of Banco Santander's shareholders.

- (E) **Principle I.Z.1.20:** Banco Santander will broadcast live on its website the entire general meeting called to be held on 17/18 March, therefore complying with the recommendations set forth in the Spanish Good Governance Code of Listed Companies. Even though the Company does not currently publish a record of the entire general meeting in audio or video format, the resolutions passed at the meeting, together with the voting results, are available on the corporate website within five days from that of their approval. Banco Santander 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.
- (F) **Principle II.Z.2:** The members of the board of directors of Banco Santander shall inform the appointments committee of their other professional obligations, and they must also report the positions held or duties performed by them at any company engaged in a line of business that is the same as or similar or complementary to the business of the Company (cfr. Article 30 of the rules and regulations of the board). However, as a general rule, the Company's directors may sit on the board of directors of another company without the approval of the board of Banco Santander.

Notwithstanding the above, it must be noted that, as a Spanish credit institution, Banco Santander is subject to the provisions of Law 10/2014, which sets forth the eligibility requirements that must be complied with by the members of the board of directors, the executive vice presidents or persons holding similar positions, those responsible for internal control functions and those responsible in key positions for the daily performance of the banking activity of a credit institution. The fitness and propriety of these members shall be continuously monitored by the Company.

In particular, Law 10/2014 and the internal rules of Banco Santander require that directors dedicate the necessary time and effort to their position. The maximum number of boards of directors to which they may belong is established in Article 26 of Law 10/2014 (which derives from article 91 of Directive 2013/36/EU on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms –“**CRD IV**”–), according to which the directors of Banco Santander may not at the same time hold more than: (a) one executive position and two non-executive positions; or (b) four non-executive positions. For such purposes, positions held within the same group (including companies in which Banco Santander has a significant shareholding) will be counted as a single position, and positions held at non-profit organisations or organisations not pursuing commercial ends will not be counted. The European Central Bank may authorise a director to hold an additional non-executive position if it considers that it does not impede the proper performance of the director’s duties at the bank. Also, the European Central Bank⁴ may require the temporary suspension or permanent cessation of the position of a member of the board if the director is considered unable to devote sufficient time to performing its duties.

The appointments committee of Banco Santander analyses directors’ dedication to their position on an annual basis, using information received regarding their other professional obligations and other available information to evaluate whether the directors are able to dedicate the necessary time and effort to complying with the duty of diligent management. Dedication is also taken into account for reelection, since proposals by the appointments committee must contain an evaluation of work and of effective dedication to the position during the latest period of time in which the proposed director has performed his or her duties.

- (G) **Principle II.Z.5:** The independent directors of Banco Santander meet the independence criteria referred to in principle II.Z.4, but they do not self-assess their status of independent directors. The appointments committee of Banco Santander is the body in charge of the evaluation of the status of directors based on the reputation and corporate governance questionnaires completed by them on the occasion of their appointment, their professional background and the suitability reports issued by the Company’s legal affairs and compliance divisions. No director may qualify as an independent director if he/she does not meet the independence criteria set forth by Spanish law, an analysis which is primarily carried out by the appointments committee. Moreover, the status of directors of Banco Santander is reviewed on an annual basis by the board of directors, following verification by the appointments committee, and disclosed in the annual corporate governance report.
- (H) **Principle II.Z.7:** The board committees comply with Annex I to Commission Recommendation 2005/162/EC, with the exception of the requirement regarding

⁴ Banco Santander’s Group is a significant group pursuant to the SSM Regulation (Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions) and the SSM Framework Regulation (Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (SSM Framework Regulation) and it is therefore supervised by the European Central Bank.

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 (other than the audit committee of the Company, which complies with such requirement). 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.

(I) **Principle IV.Z.4:** 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 principle, 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 three percent of the share capital of a listed company have the right to request the convocation of an extraordinary general meeting (and such request has to set out the matters to be addressed at such meeting). In such case, the directors must convene a general meeting within two months from the date on which the request is submitted; otherwise, a court clerk (*secretario judicial*) or a commercial registrar corresponding to the Company's corporate domicile may convene the general meeting. In addition, if the board does not convene an ordinary annual general meeting within the first six months of the relevant fiscal year, a court clerk or a commercial registrar corresponding to the Company's corporate domicile may convene such meeting following a request by any shareholder.

(J) **Principles IV.Z.7 and IV.Z.8:** The rules and regulations of general meetings of the Company do not specifically regulate breaks or extensions of the general meetings. Banco Santander follows the rules set forth in the Spanish Capital Corporations Law, which currently provides for:

- (i) Extension of a general meeting (cfr. Article 195): as a general rule, a general meeting must be held on the day specified in the notice of the call, but it may be extended for one or more consecutive days if approved by the shareholders following a proposal submitted by the directors or by shareholders representing at least 25% of the share capital present at the meeting.
- (ii) General meeting held on second call (cfr. Article 177.3): if a duly convened general meeting cannot be held on first call, and no date for the second call is specified in the notice of the call, the meeting may be held on second call, subject to certain requirements, provided that it is announced within fifteen days as from the date of the meeting not held and at least ten days prior to the date of the meeting that will be held on second call. In any event, the notices of the call of Banco Santander's general meetings provide for such meetings to be held either on first or second call and, therefore, it is unlikely that this provision would apply to the Company.

(K) **Principle IV.Z.13:** The right of information of Banco Santander shareholders' is subject to Spanish legislation (cfr. Articles 197 and 520 of the Spanish Capital Corporations Law) and to the internal rules of the Company, which provide for a similar regime as the Polish regulations referred to in this principle, with the following exceptions:

- (i) From the date of the publication of the call to a general meeting through and including the fifth day prior to the date provided for the meeting to be held on first call, the shareholders may request in writing such information or clarifications as they deem are required, or ask written questions that they deem pertinent, regarding the matters contained in the agenda, the information accessible to the public that the Company has provided to the National Securities Market Commission (*Comisión Nacional del Mercado de Valores*) since the last general meeting was held and the external auditor's reports of the Company.
- (ii) During the course of the general meeting, all shareholders may verbally request information or clarifications that they deem are necessary regarding the same matters described in paragraph (i) above.
- (iii) The directors are required to provide the information requested under the provisions of the two preceding paragraphs in the manner and within the periods provided by Spanish law⁵, except in those cases in which it is legally inadmissible and, in particular, if it is not necessary for the protection of shareholder rights or there are objective reasons to consider that it might be used for *ultra vires* purposes or the publication thereof would harm the Company or related companies. This exception shall not apply when the request is supported by shareholders representing at least 25% of the share capital.
- (iv) If the information requested is clearly, expressly and directly made available to all the shareholders on the Company's website in question-and-answer form, the directors may limit their answers to a reference to the information provided in such form.

In addition to the above, permanent channels of communication between shareholders and investors and Banco Santander are available at the corporate website.

(L) **Principle IV.Z.16:** Banco Santander complies with this recommendation when it pays dividends. However, it should be noted that in addition to a traditional cash dividend, Banco Santander has in previous years remunerated its shareholders by means of 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, on some or all of 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 bonus share 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

⁵ The directors are required to provide the information requested until the date of the general meeting, with respect to the provisions of paragraph (i), and during the general meeting or, if not possible, within seven days as from the end of the meeting, with respect to the provisions of paragraph (ii).

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.

- (M) **Principle V.Z.5:** Certain related-party transactions require the approval of the board of directors (Banco Santander does not have a supervisory board)⁶ after a favourable report from the audit committee. Even though the scope of related-party transactions under Spanish Law (cfr. Article 2 of Order EHA/3050/2004, of 15 September) is similar to the applicable definition under Polish law, the Spanish Capital Corporations Law (cfr. Article 230) and the rules and regulations of the board of directors of Banco Santander (cfr. Article 33) only require approval by the board⁷ (taking into account the conclusions of a previous report issued by the audit committee) of transactions entered into by Banco Santander or other companies of its group with directors of Banco Santander or shareholders who, individually or acting in concert, hold a significant shareholding, including shareholders which are represented on the Company's board or at the board of any group entity or parties related thereto. Section D of the 2015 Report on Corporate Governance of Banco Santander and Note 53 to the 2015 Individual and Consolidated Financial Statements provide information on the related-party transactions of Banco Santander and its group.
- (N) **Principle VI.Z.2:** Banco Santander's remuneration plans do not include the allocation of options or other instruments linked to the Company's shares but the delivery of Company's shares, subject to certain conditions. The accrual and delivery of shares to directors and senior managers under those plans comply with applicable regulations to credit institutions (in particular, Law 10/2014, which transposes in Spain the content of CRD IV, and related provisions and guidelines). In particular: delivery of the shares is subject to deferral requirements; hedging actions prior to such delivery is forbidden and the shares delivered are subject to a one-year retention period.⁸
- (O) **Principle VI.Z.3:** Banco Santander does not have a supervisory board.
- Current remuneration of non-executive directors –who only receive remuneration in their capacity as such– comply with this principle: they receive

⁶ Since 24 December 2014, transactions with directors of the Company (or with persons related thereto) representing more than 10% of the Company's assets require the approval of the general meeting.

⁷ Or, where applicable, by the general meeting (see footnote 6).

⁸ The Director Remuneration Policy for financial years 2016, 2017 and 2018 and the 2015 Annual Report on Directors' Remuneration of Banco Santander, an English version of which is available at the Company's corporate website, provide detailed information on the Company's remuneration policy.

The variable remuneration of executive directors for financial year 2016 includes an "Award", to be received partly in cash and partly in shares, while deferring collection of 60% of the Award for five years such deferred portion being paid annually in fifths, and the last three fifths will be dependent upon the performance of Banco Santander compared with (a) a group of other international banks and (b) Banco Santander's strategic objectives for the period 2016-2018. Such variable remuneration gives recompense for performance in achieving the goals of the Group.

The senior managers of Banco Santander also receive a variable remuneration consisting of an Award. The same remuneration principles that apply to the executive directors and the same configuration of the variable components of their remuneration apply to the senior management, except for the percentages, Award deferral period and dependence upon performance that might apply based on their category.

a fixed annual remuneration composed of an annual allotment and attendance fees.⁹

However, as explained in answer to Principle VI.Z.2 above, the executive directors of the Company are beneficiaries of variable components of remuneration that partly consist of the delivery of shares of Banco Santander.

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⁹ Pursuant to Article 58.3 of the bylaws of the Company the members of the board of directors would be entitled to receive compensation by means of the delivery of shares or share options, or by any other compensation system referenced to the value of shares, provided that the application of such compensation systems is previously approved by the shareholders at the general meeting. As of the date of this report, there are no remunerations systems based on options on shares or shares for the directors of Banco Santander in their capacity as such.