

Common Draft Terms of Merger

BETWEEN

BANCO SANTANDER, S.A.

(as absorbing company)

AND

**SANTANDER INVESTMENT BOLSA S.V, S.A SOLE
SHAREHOLDING COMPANY**

(as absorbed company)

Madrid, 23 April 2018

1. INTRODUCTION

For the purposes of articles 30 and 31 *et seq.* and articles 49 and 51 of Law 3/2009 of 3 April on the Structural Modifications of Companies (the “**Structural Modifications Law**”), the undersigned, in their capacity as members of the boards of directors of Banco Santander, S.A. (“**Santander**”) and Santander Investment Bolsa Sociedad de Valores, S.A. Sole Shareholding Company (“**SIBSV**”), respectively, draft and sign these common draft terms of merger (*proyecto común de fusión*) (the “**Draft Terms of Merger**” or the “**Draft Terms**”). The Draft Terms shall be subject to approval by the boards of directors of Santander and SIBSV, respectively, in accordance with articles 51(1) and 49(1)(4) of the Structural Modifications Law.

2. RATIONALE FOR THE MERGER

During the past few years, Santander Group, which SIBSV belongs to, has been carrying out a process of rationalization of its corporate structure, with the purpose of simplifying its management, facilitating an efficient allocation of resources and reducing administrative costs related to its activity. In this context, is debatable whether it makes sense to maintain within the Santander Group an independent entity for the activity of brokerage in the securities markets, such as the one developed by SIBSV. Moreover, when the entry into force of the new regulatory framework for securities clearing and settlement has affected SIBSV’s operations, making more burdensome for SIBSV to meet the applicable obligations to conduct this type of activities.

In this regard, the change to a model of a single central clearing entity, in charge of securing the settlement of all of the transactions, imposes additional burdens to SIBSV’s operations. For instance, in application of this new regulatory framework, SIBSV must (i) provide guarantees in relation to the transactions in which it intermediates, that, in addition, must be in cash and cannot be covered through securities and (ii) have high levels of liquidity available in order to cover the potential risk of delays in the settlement of transactions. This requires SIBSV to maintain a large volume of resources assigned to these guarantees, without being able to allocate them to other activities of its business and, in addition, generating significant costs. The effect of these issues would be reduced if the activity of SIBSV were integrated in Santander.

These circumstances make the dissolution without liquidation of SIBSV and the simultaneous transfer of its assets to Santander advisable, so that the latter continue with the activity of the former. Besides, this way, the existing synergies between Santander and SIBSV would be exploited, while, at the same time, the commercial, accounting, fiscal and administrative obligations that SIBSV must comply with as a separate entity will be removed. In sum, the merger seeks to eliminate unnecessary duplicities which, in terms of management, imply the maintenance of companies with independent legal personalities (especially in the case of entities which develop regulated activities).

In this context, it has been considered that the merger to which this Draft Terms refers to, is the more convenient alternative for the achievement of the abovementioned objectives.

3. STRUCTURE OF THE TRANSACTION

The legal structure chosen to integrate the business of SIBSV within Santander is a merger in accordance with articles 22 *et seq.* of the Structural Modifications Law.

The merger shall be carried out by means of Santander (absorbing company) absorbing SIBSV (absorbed company), and the termination of SIBSV by means of its dissolution without liquidation and the *en bloc* transfer of all of its assets and liabilities to Santander, which shall acquire all of the rights and obligations of SIBSV by universal succession (the “**Merger**”).

SIBSV is directly wholly-owned by Santander. Therefore, the simplified procedure set forth in articles 49 *et seq.* of the Structural Modifications Law is applicable. In particular, in accordance with article 49.1.3 of the Structural Modifications Law, in relation to article 26 of the same Law, Santander shall not increase its share capital as a result of the acquisition of SIBSV.

Pursuant to article 49(1) of the Structural Modifications Law, the Draft Terms shall not contain references to (i) the exchange ratio, methods for covering the exchange and exchange procedure; (ii) the date as from which the holders of shares (*acciones*) delivered in exchange for shares (*acciones*) shall have the right to receive Santander profits; (iii) information about the valuation of assets and liabilities of the absorbed company; or (iv) the date of the annual accounts of the merging companies used to determine the conditions of the Merger.

In accordance with article 49(1) of the Structural Modifications Law, the report on the Draft Terms by the directors of Santander or of SIBSV, the report by the independent experts, and the approval of the Merger by the sole shareholder of SIBSV shall not be necessary.

Finally, by virtue of article 51(1) of the Structural Modifications Law, the approval of the Merger by the general meeting of Santander shall not be necessary either unless requested by shareholders representing 1% of the share capital by means of the normal legal channels (see section 14 of the Draft Terms of Merger).

As a consequence of the Merger, the shares (*acciones*) of SIBSV shall be redeemed.

4. IDENTIFICATION OF COMPANIES INVOLVED

4.1 Description of Santander

Banco Santander, S.A. is a Spanish credit institution with registered offices at Paseo de Pereda, números 9 a 12, 39004 (Santander), holding tax identification number A-39000013, and is registered with the Commercial Registry of Cantabria on sheet 286, folio 64, book 5 on Companies, entry 1, and with the Banks and Bankers Registry of the Bank of Spain under number 0049.

The share capital of Santander is EUR 8,068,076,791, which is divided into 16,136,153,582 shares (*acciones*), each with a nominal value of EUR 0.50, with equal voting and economic rights, represented in book-entry form, fully subscribed and paid-up, and admitted to trading on the Madrid, Barcelona, Valencia, and Bilbao Stock Exchanges through the Automated Quotation System (*Sistema de Interconexión Bursátil*) (Continuous Market).

4.2 Description of SIBSV

Santander Investment Bolsa, Sociedad de Valores, S.A. Unipersonal is a Spanish brokerage company (*sociedad de valores*) with registered offices at Ciudad Grupo Santander, Avda. de Cantabria, s/n, 28660, Boadilla del Monte (Madrid), holding tax identification number A-79204319, and registered with the Commercial Registry of Madrid at volume 14,471, folio 71, section 8, page number M-84,8468, and in the Registry of Brokerage Firms of the CNMV with the number 31.

The share capital of SIBSV is EUR 24,881,814, which is divided into 41,400 shares (*acciones*), each with a nominal value of EUR 601,01 with equal voting and economic rights, fully assumed and paid up.

5. DATE OF ACCOUNTING EFFECTS OF THE MERGER

With regard to paragraph 7 of article 31 of the Structural Modifications Law, 1 January 2018 is established as the date from which the transactions of SIBSV shall be deemed to have taken place on behalf of Santander for accounting purposes. Notwithstanding this, if the Merger is registered in financial year 2019, after the formulation of the annual accounts of Santander for financial year 2018, the provisions of section 2(2) of Accounting Standards Rule 19 of the General Accounting Plan (*Plan General de Contabilidad*) approved by Royal Decree 1514/2007 of 16 November (by reference to Accounting and Standards Rule 21) shall apply.

For the appropriate purposes, it is stated for the record that the retroactive accounting effects determined in this manner for accounting purposes is in accordance with the General Accounting Plan (*Plan General de Contabilidad*) approved by Royal Decree 1514/2007 of 16 November.

6. SECONDARY OBLIGATIONS, SPECIAL RIGHTS, AND RIGHTS OTHER THAN THOSE REPRESENTING CAPITAL

For the purposes of articles 31(3) and 31(4) of the Structural Modifications Law, it is stated for the record that there are no secondary obligations (*prestaciones accesorias*), special preferred shares (*acciones especiales privilegiadas*) or persons with special rights at Santander or SIBSV other than the simple ownership of the shares (*acciones*). Therefore, there is no need to grant any special right or offer any options.

7. BENEFITS FOR DIRECTORS

Pursuant to article 31(5) of the Structural Modifications Law, it is stated that the directors of Santander or SIBSV shall not receive any benefits.

8. AMENDMENT OF THE BYLAWS OF SANTANDER

The bylaws of Santander shall not be amended as a result of the Merger. Consequently, upon completion of the Merger, Santander, as the absorbing company, shall continue to be governed by its current bylaws, the text of which appears on its corporate website (www.santander.com) (and a copy of which is attached to these Draft Terms of Merger as **Annex** for the purposes of article 31(8) of the Structural Modifications Law).

9. MERGER BALANCE SHEETS

For the purposes of article 36.1 of the Structural Modifications Law, the balance sheets of Santander and SIBSV as at 31 December 2017, formulated by the boards of directors of Santander and SIBSV, respectively, duly verified by their auditors and approved by their respective general shareholding meeting or sole shareholder, as the case may be, shall be deemed to be the merger balance sheets.

10. IMPACT OF THE MERGER ON EMPLOYMENT, IMPACT ON GENDER EQUALITY WITHIN THE MANAGEMENT BODIES, AND IMPACT ON CORPORATE SOCIAL RESPONSIBILITY

10.1 Possible impact of the Merger on employment

In accordance with the provisions of Article 44 of the Consolidated Text of the Law on the Workers' Statute, approved by Royal Legislative Decree 2/2015, of October 23, which regulates the succession of a business due to a merger, Santander will be subrogated to the rights and labor obligations of SIBSV workers.

The entities participating in the Merger will comply with their information obligations and, where appropriate, will consult the legal representation of the employees of each one of them, in accordance with the provisions of labor legislation. Likewise, the projected Merger will be notified to the public bodies to which it is due, in particular to the General Treasury of Social Security.

In any case, the integration of the workforce will be carried out in accordance with the legally established procedures in each case, and especially with regard to the information and consultation rights of the workers' representatives.

10.2 Possible impact on gender equality within the management bodies

It is not expected that the Merger shall produce changes in the composition of the management body of Santander.

10.3 Impact of the merger on corporate social responsibility

It is expected that the Merger shall not have an impact on the corporate social responsibility policy of Santander.

11. APPROVAL OF THE MERGER

Pursuant to articles 51(1) and 49(1)(4) of the Structural Modifications Law, it shall not be necessary for the general meeting of Santander or the sole shareholder of SIBSV, respectively, to approve the Merger. Thus, the Merger shall be approved by the boards of directors of Santander and SIBSV, provided that, in Santander's case, it is not necessary to convene a general meeting at the request of 1% of the share capital of Santander in the terms established in article 51 of the Structural Modifications Law, as described in section 14 of the Draft Terms.

12. TAX RULES

Pursuant to article 89(1) of Law 27/2014 of 27 November on Corporate Income Tax, the Merger is subject to the tax rules established in chapter VII of title VII, and additional provision two of the said Law, as well as in article 45, paragraph I(B)(10) of Royal Legislative Decree 1/1993 of 24 September, approving the Consolidated Text of the Asset Transfer and Documentary Stamp Tax Law. These rules provide for the possibility of carrying out company restructurings under tax neutrality conditions, provided that the said transactions are effected for economically valid reasons, such as those set out in the Draft Terms.

Notice of the transaction shall be given to the Tax Authority within three months of the registration of the deed of merger in accordance with the terms established in articles 48 and 49 of the Corporate Income Tax Regulations approved by Royal Decree 634/2015 of 10 July.

13. CONDITIONS PRECEDENT

The effectiveness of the Merger is subject to the following conditions precedent:

- (i) the authorisation of the Merger by the Ministry of Economy, Industry and Competitiveness, pursuant to additional provision twelve of Law 10/2014 of 26 June on the Regulation, Supervision and Solvency of Credit Entities; and
- (ii) the authorization by the Spanish Securities and Exchange Commission, in accordance with article 149, by reference to article 159, of the consolidated text of the Securities Market Law, approved by Royal Legislative Decree 4/2015, of 23 October.

14. COMPLIANCE WITH THE DISCLOSURE AND INFORMATION OBLIGATIONS OF THE BOARD OF DIRECTORS OF SANTANDER AND SIBSV IN CONNECTION WITH THE DRAFT TERMS

In compliance with the obligations set out in article 32 of the Structural Modifications Law, these Draft Terms of Merger shall be included on Santander's corporate website. A certificate of the inclusion of the Draft Terms in the website shall be filed with the Commercial Registry of Cantabria so that the inclusion of the Draft Terms of Merger can be published in the Official Gazette of the Commercial Registry with a reference to Santander's corporate website (www.santander.com), as well as to the date on which it was included.

SIBSV shall, in turn, deposit a copy of the Draft Terms with the Commercial Registry of Madrid. The fact that it has been deposited and the date thereof shall be *ex officio* published in the Official Gazette of the Commercial Registry.

Additionally, in compliance with article 51(1) of the Structural Modifications Law, the Draft Terms shall be announced (i) on Santander's corporate website (www.santander.com) and (ii) in the Official Gazette of the Commercial Registry. This announcement shall state the right of the shareholders of the absorbing company and the creditors of the merging companies to examine, at the registered offices of Santander and SIBSV, as well as to be delivered or sent a copy of the full text, cost-free, of (a) the Draft Terms; (b) the annual accounts and the management report for the last three financial years (including the respective balance sheets), with the corresponding audit reports of Santander and SIBSV required by law; and (c) the merger resolutions adopted by the boards of directors of Santander and SIBSV, respectively. The announcement shall also mention the right of the shareholders of Santander representing at least 1% of the share capital to submit a request for the general meeting of the absorbing company to be convened in order to approve the Merger, in accordance with article 51(1) of the Structural Modifications Law, as well as the right of the creditors of the merging companies to oppose the Merger within one month from the date of the publication of the Draft Terms, by virtue of article 44 of the Structural Modifications Law.

The inclusion of the Draft Terms on Santander's corporate website, SIBSV's deposit of the Draft Terms at the Commercial Registry of Madrid, the publication of these facts in the Official Gazette of the Commercial Registry, and the publication of the abovementioned announcement in the Official Gazette of the Commercial Registry and on Santander's corporate website shall take place at least one month in advance of the date established to formalise the merger deed. The information added to the website shall stay there for at least the time required by article 32 of the Structural Modifications Law.

In turn, it is stated for the record that pursuant to article 49(1)(2) of the Structural Modifications Law the Merger shall be effected without any report by the directors on the Draft Terms.

The documents referred to in paragraph 3 of section 14 of the Draft Terms shall be included on Santander's website in advance of the date established for the formalisation of the merger deed, and be able to be downloaded and printed. These documents shall also be available at the registered offices of Santander and SIBSV and be able to be delivered or sent free of charge.

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Pursuant to article 30 of the Structural Modifications Law, the directors of Santander and SIBSV, whose names appear below, sign and endorse these Draft Terms of Merger, which have been approved by the board of directors of Santander and SIBSV at their respective meetings held on 23 April 2018.

BOARD OF DIRECTORS OF SANTANDER

Ana Patricia Botín-Sanz de
Sautuola y O'Shea
Chairman

Bruce Carnegie-Brown
Vice-chairman

Rodrigo Echenique Gordillo
Vice-chairman

Guillermo de la Dehesa Romero
Vice-chairman

José Antonio Álvarez Álvarez
Chief Executive Officer

Homaira Akbari
Director

Ignacio Benjumea Cabeza de
Vaca
Director

Francisco Javier Botín-Sanz de
Sautuola y O'Shea
Director

Sol Daurella Comadrán
Director

Carlos Fernández González
Director

Esther Giménez-Salinas i
Colomer
Director

Ramiro Mato García-Ansorena
Director

Belén Romana García
Director

Álvaro Antonio Cardoso de Souza
Director

Juan Miguel Villar Mir
Director

BOARD OF DIRECTORS OF SIBSV

Ignacio Domínguez-Adame
Bozzano
Chairman

Gabriel Omar Alonso Savarino
Vice-chairman

Victor Colino Blasco
Director

Jesús Gómez Domínguez
Director

Javier Andrés Lizán Fernández
Director

ANNEX
Bylaws of Santander