



DIVISION OF
TRADING AND MARKETS

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

January 6, 2015

Nicholas A. Kronfeld, Esq.
Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, NY 10017

Re: Banco Santander, S.A.
File No. TP 15-07

Dear Mr. Kronfeld:

In your letter dated January 6, 2015, as supplemented by conversations with the staff, you request on behalf of Banco Santander, S.A., a bank organized under the laws of the Kingdom of Spain (“Santander Spain”), an exemption from Rules 101 and 102 of Regulation M under the Securities Exchange Act of 1934 (“Exchange Act”) in connection with transactions by Santander Spain and its affiliates in or relating to the ordinary shares of Santander Spain (including depositary receipts representing such ordinary shares, the “Santander Spain Shares”) during the distribution of Santander Spain Shares in connection with a proposed offering by Santander Spain (the “Offering”), as described in your letter. We have attached a copy of your letter. Each defined term in our response has the same meaning as defined, directly or by reference, in your attached letter, unless we note otherwise.

On September 18, 2014, the Securities and Exchange Commission (“Commission”) granted Santander Spain an exemption from Rules 101 and 102 of Regulation M to permit Santander Spain and its affiliates to conduct specified transactions (“Market Activities”)¹ in or relating to Santander Spain Shares during the distribution of Santander Spain Shares, in the form of Santander Spain American Depositary Shares and Santander Spain Brazilian Depositary Shares, in connection with the exchange offers described in your September Request.² In your attached letter, you state that you seek the same exemptive relief from Rules 101 and 102 of Regulation M, as granted in the September Relief, to permit Santander Spain and its affiliates to continue to engage, in the ordinary course of business

¹ The specified Market Activities, which primarily occur outside the United States, include the derivatives market-making and hedging activities, the asset management activities, the insurance activities, and the unsolicited brokerage activities, as described in the September Relief and September Request.

² Santander Spain’s September Request and the Commission’s September Relief are available on the Commission’s Website at: <http://www.sec.gov/divisions/marketreg/mr-noaction/2014/bancosantander-091814.pdf>.

and in accordance with applicable local law, in the Market Activities for which relief was granted in the September Relief in connection with the Offering.

In your attached letter, you reiterate the facts and representations set forth in the September Request and confirm that there has been no material change in any of the representations, Market Activities, and other matters set forth in the September Request, other than the details of the Offering, for which relief was previously granted.

Response

Based on the facts and representations that you have made in your letter, but without necessarily concurring in your analysis, the Commission finds that it is necessary or appropriate in the public interest, and is consistent with the protection of investors, to grant, and hereby grants, Santander Spain an exemption from Rules 101 and 102 of Regulation M to permit the Market Making Subsidiary, Derivatives Market Participants, the Asset Managers (including the Puerto Rico Asset Manager and Banco Santander International), the Insurance Company, the Non-U.S. Brokerage Units, and the U.S. Brokerage Units, to continue to engage in the transactions described in your letter, subject to the undertakings set forth in conditions 1 to 8 of the September Relief.

This exemption is based solely on the facts presented and the representations made in your letter. Any different facts or circumstances may require a different response. In the event that any material change occurs with respect to any of those facts or representations, transactions in the Santander Spain Shares must be discontinued, pending presentation of the facts for our consideration. In addition, your attention is directed to the anti-fraud and anti-manipulation provisions of the Exchange Act, including Sections 9(a) and 10(b), and Rule 10b-5 thereunder. Responsibility for compliance with these and any other applicable provisions of the federal securities laws must rest with the participants in the various transactions. We express no view with respect to any other questions that the proposed transactions may raise, including, but not limited to, the adequacy of disclosure concerning, and the applicability of any other federal or state laws to, the proposed transactions.

For the Commission,
by the Division of Trading and Markets,
pursuant to delegated authority,³



Josephine J. Tao
Assistant Director

Attachment

³ 17 CFR 200.30-3(a)(6).

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CONFIDENTIAL

January 6, 2015

Re: Banco Santander, S.A. Request for Exemptive Relief from Rules 101 and 102 of Regulation M

Josephine J. Tao
Assistant Director
Division of Trading and Markets
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Dear Ms. Tao:

We are writing as counsel to Banco Santander, S.A. ("**Santander Spain**"), a bank organized under the laws of the Kingdom of Spain, with respect to the application of Regulation M under the Securities Exchange Act of 1934 to transactions by Santander Spain and its affiliates in or relating to the ordinary shares of Santander Spain (including depositary receipts representing such ordinary shares, "**Santander Spain Shares**") during the distribution of Santander Spain Shares in connection with a proposed offering by Santander Spain described herein (the "**Offering**").

We refer to our letter to the Staff of September 18, 2014 (the "**September Request**"), in which Santander Spain sought an exemption to permit Santander Spain and its affiliates to conduct specified transactions in or relating to Santander Spain Shares during the distribution of Santander Spain Shares in the form of Santander Spain American Depositary Shares and Santander Spain Brazilian Depositary Shares in connection with the exchange offers described in the September Request, which were completed on October 31, 2014. Unless otherwise defined herein, capitalized terms in this letter have the same meaning as in the September Request. We also refer to the letter from Josephine J. Tao, Assistant Director, dated September 18, 2014 (the "**September Relief**") granting an exemption from Rules 101 and 102 of Regulation M.¹

In this request letter, on behalf of Santander Spain, we ask the Commission to grant the same exemptive relief from Rule 101 and Rule 102 of Regulation M as granted in the September Relief to permit Santander Spain and its affiliates to continue to engage, in the ordinary course of business

¹ The September Request and September Relief are available on the Commission's website at <http://www.sec.gov/divisions/marketreg/mr-noaction/2014/bancosantander-091814.pdf>. Following discussions with the Staff, Santander Spain undertook the September Offering on the basis of the September Relief.

and in accordance with applicable local law, in the activities for which relief was granted in the September Relief (the "**Market Activities**") in connection with the Offering.

Santander Spain reiterates the facts and representations set forth in the September Request and confirms that there has been no material change in any of the representations, Market Activities and other matters set forth in the September Request. We note that Santander Spain has represented to us that:

- The exchange offers described in the September Request were completed on October 31, 2014.
- Since December 3, 2014, the Santander Spain Shares have been listed on the Warsaw Stock Exchange. The average daily trading volume of the Santander Spain Shares on the Warsaw Stock Exchange has been 14,469 shares during the period from December 3, 2014 to January 5, 2015.
- As of January 5, 2015, there were 12,584,414,659 Santander Spain Shares outstanding and Santander Spain's market capitalization was approximately €84.4 billion.

The availability of the exemption that Santander Spain is requesting would also be subject to the conditions set forth in the September Relief.

The Board of Directors of Santander Spain is expected to resolve on or about January 7, 2015 that Santander Spain carry out the Offering, a proposed capital increase of up to €7.5 billion, which represents approximately 8.9% of Santander Spain's issued share capital based on the January 5, 2015 closing price of the Santander Spain Shares.² Santander Spain expects to enter into an underwriting agreement with one or more underwriters on the same date. The Offering is being undertaken to support Santander Spain's capital levels.

The Offering will be conducted, and the Offering price determined, pursuant to an accelerated bookbuilding process. It is expected that the Offering will be announced on or about January 7, 2015 and priced on or about January 8, 2015.³

The new Santander Spain Shares to be issued in the Offering will be sold outside the United States in reliance on Regulation S ("**Regulation S**") under the U.S. Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder (the "**Securities Act**"), and, on a private placement basis, to a limited number of institutional investors in the United States, all of whom are expected to be qualified institutional buyers ("**QIBs**") as defined under Rule 144A under the Securities Act.

Because Santander Spain will offer and sell Santander Spain Shares to investors who reside in the United States, it may therefore be considered to be engaged in a distribution in the United States for purposes of Regulation M. Pursuant to Rule 100, the restricted period for the distribution (the "**Restricted Period**") will commence one business day prior to the determination of the offering price in the Offering and will end upon completion of the distribution.

² The actual size of the Offering, number of new Santander Spain Shares to be issued and offer price per Santander Spain Share is expected to be approved by Santander Spain's Board of Directors on or about January 7, 2015, and therefore the information herein is subject to change.

³ The actual dates of events in the Offering described herein are subject to change.

Accordingly, the Market Activities of Santander Spain or its affiliates may be subject to Rule 102 throughout the Restricted Period. As such, we request relief for the Market Activities under both Rule 101 and Rule 102.

In connection with the relief requested by Santander Spain in this letter, please note that substantially similar exemptive relief from Rule 101 and Rule 102 of Regulation M was granted by the Staff to Santander Spain with respect to market-making, derivatives, hedging and unsolicited brokerage activities in your exemptive letters dated September 10, 2004, August 18, 2008, November 7, 2008, December 22, 2008 and September 18, 2014. Similar requests for relief have been filed by other European banks and substantially similar relief has been granted to: (1) Banco Bilbao Vizcaya Argentaria, S.A. under your exemptive letter of November 17, 2014;⁴ (2) Barclays PLC under your exemptive letter of May 14, 2014;⁵ (3) Lloyds Banking Group plc under your exemptive letter of March 25, 2014;⁶ and (4) UBS AG under your exemptive letter of October 7, 2014.⁷

Based on the foregoing, Santander Spain asks the Staff to provide the same exemptive relief from Rules 101 and 102 of Regulation M as described in the September Relief in order to allow Santander Spain and its affiliates to continue to engage in the Market Activities involving Santander Spain Shares during the Restricted Period for the Offering.

* * * * *

⁴ See Banco Bilbao Vizcaya Argentaria, S.A., SEC No-Action Letter, File No. TP 15-05 (November 17, 2014). Similar relief was also provided to Banco Bilbao Vizcaya Argentaria, S.A. in your exemptive letter dated October 28, 2010, File No. TP 10-69, and June 25, 2007, File No. TP 07-69.

⁵ See Barclays PLC, SEC No-Action Letter, File No. TP 14-09 (May 14, 2014). Similar relief was also provided to Barclays PLC in your exemptive relief letters dated November 7, 2013, File No. TP 14-04, and July 31, 2013, File No. TP 13-10.

⁶ See Lloyds Banking Group plc, SEC No-Action Letter, File No. TP 14-07 (March 25, 2014). Similar relief was also provided to Lloyds Banking Group plc in your exemptive letter dated September 16, 2013, File No. TP 13-12.

⁷ See UBS AG, SEC No-Action Letter, File No. File No. TP 15-01 (October 7, 2014). Similar relief was also provided to UBS AG in your exemptive letter dated May 16, 2008, File. No. TP 08-52.


Josephine J. Tao

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January 6, 2015

If you have any questions about this request, please do not hesitate to contact me at 212-450-4950.
We appreciate your assistance in this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "N. Kronfeld", written over the text "Very truly yours,".

Nicholas A. Kronfeld